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C O N T E N T S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Gerald S. Farber				
By Mr. MacGregor	1954	--	1967	--
By Mr. Kleppinger	--	1955	--	1969
Thomas C. Stathos				
By Mr. MacGregor	1970	--	--	--
By Mr. Simms	--	1972	--	--
Michael J. Berish				
By Mr. Gadsden	2009	--	--	--
By Mr. Simms	--	2012	--	--
By Ms. Kenney	--	2015	--	--
By Mr. Epstein	--	2017	--	--
Ronald J. Bernini				
By Mr. MacGregor	2025	--	--	--
By Mr. Simms	--	2027	--	--
By Ms. Kenney	--	2029	--	--
Ronald J. Bernini				
By Mr. MacGregor	2031	--	--	--
Joseph J. Sivulich				
By Mr. Mickens	2034	--	--	--
Thomas S. Catlin				
By Ms. Kenney	2038	--	--	--
By Mr. Gadsden	--	2040	--	--
Michael J. Berish				
By Mr. Gadsden	2044	--	--	--
By Ms. Kenney	--	2051	--	--

E X H I B I T S

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
<u>PP&L Statement</u>		
✓ 10-R (Farber - Rebuttal)	1954	1955
✓ 11-R (Stathos - Rebuttal)	1970	1971
✓ 12-R (Berish - Rebuttal)	2009	2011
✓ 13-R (Bernini - Rebuttal)	2024	2027
<u>PP&L Exhibit</u>		
✓ MJB-9 through MJB-15 (Berish)	2009	2011
✓ Future 1-Revised	2024	2027
✓ MJB-16 (Susquehanna Outage History)	2046	2051
✓ MJB-17 (Supplemental Response to OCA-IV-59)	2048	2051
<u>OTS Statement</u>		
✓ SR-4 (Weakley - Surrebuttal)	2033	2033
✓ SR-2 (Sivulich - Surrebuttal)	2035	2035
<u>Revised OTS Surrebuttal Exhibit</u>		
✓ 1 (Federal Reserve statistical release)	1951	1952
<u>OCA Statement</u>		
✓ 6A (Catlin - Surrebuttal)	2038	2039
<u>OCA Cross-Examination Exhibit</u>		
20 (OCA-IV-46)	2055	--

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P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE ROBERT A. CHRISTIANSON:

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3 Let's be on the record. We're here for the second of four
4 days concerning rebuttal, basically, and we are more or less
5 on schedule, so I guess we'll finish on schedule, although
6 Friday may be a little longer than we had hoped, the way
7 things seem to be working out.

8 One thing I have here, I'll mention preliminarily, I
9 passed out copies of a letter. This came to my desk this
10 morning. I sent the original downstairs.

11 It is just an indication of interest in basically the
12 nuclear issues, you might call it, and the letter is pretty
13 well self-explanatory. It's from the Lehigh Pocono
14 Community of Concern. It is basically in support of Mr.
15 Epstein's position taken in his complaint.

16 But again, I'm just making copies available to the
17 parties here, to counsel here. I think I made six copies,
18 so we can get more of course if necessary.

19 I have no particular comment on that. I just thought
20 it should be shared with the parties, and I'm bringing it
21 here to this hearing.

22 There is nothing else much. We'll worry later about
23 questions Mr. Epstein has for the one witness from PP&L
24 yesterday, Chappellear, I guess it was. We'll just get to
25 that as it becomes appropriate, but again, the company has

1 talked to Mr. Epstein about it.

2 We have one preliminary which we might as well get
3 out of the way at this point from Trial Staff. I have now a
4 double-sided copy with the footnotes on the back.

5 MR. SIMMS: That's correct, Your Honor. If you
6 recall yesterday, Mr. Gadsden had no objection to the
7 admission of OTS Surrebuttal Exhibit No. 1, except that the
8 exhibit did not contain the footnotes.

9 I'd like for the record for it to be noted that I
10 have provided copies to all the parties present here today,
11 and also two copies to the court reporter, and I ask that it
12 be marked for identification as Revised OTS Surrebuttal
13 Exhibit No. 1. May it be so identified?

14 JUDGE CHRISTIANSON: So identified as revised, yes.

15 (Whereupon, the document was marked as Revised
16 OTS Surrebuttal Exhibit No. 1 for
17 identification.)

18 JUDGE CHRISTIANSON: I guess the original is
19 stapled together with the statement.

20 MR. SIMMS: With the statement, that's correct. And
21 I ask that it be admitted into the record.

22 JUDGE CHRISTIANSON: Yes. The company again wanted
23 the footnotes to be more complete, so this revised exhibit,
24 schedule, is now accepted into the record with the 18-odd
25 footnotes included.

1 (Whereupon, the document marked as Revised
2 OTS Surrebuttal Exhibit No. 1 was received in
3 evidence.)

4 JUDGE CHRISTIANSON: Then we can check, for the
5 company, do you want to just go to the witness or do you
6 have more business to transact?

7 MR. MacGREGOR: No, I think we'd like to proceed with
8 the witnesses, Your Honor. We had a brief discussion before
9 we went on the record, and would like to proceed with Mr.
10 Farber first and then Mr. Stathos. I'm not sure we got to
11 the order after that.

12 JUDGE CHRISTIANSON: We can always revise this as we
13 go along. Again, it's for the convenience of the parties
14 and everybody involved, more than anything else.

15 MR. MacGREGOR: Right. Mr. Farber has a flight out
16 of town, and we're trying to get him on and off. I think
17 there's fairly limited questions for him, at least.

18 JUDGE CHRISTIANSON: At some point, we should check.
19 I sort of promised I would call counsel or somebody would
20 call counsel. Do we need anybody for Brubaker, do you know?
21 At one point, we thought we may not need the Bethlehem Steel
22 witness.

23 MS. KENNEY: We have no cross, Your Honor.

24 JUDGE CHRISTIANSON: Yes. Small Business was the one
25 concern.

1 MS. MOURY: We don't, Your Honor.

2 JUDGE CHRISTIANSON: I'll try to call Brandeis
3 sometime during the morning and let her know that we are not
4 going to have any cross for her witness. Again, if somebody
5 can think of something, we'll hear about it in the next hour
6 or so. I'll hold that out, so the telephone call we
7 expected to make this afternoon we probably will not make,
8 and we'll just stipulate it in. Maybe we can call counsel
9 and have her on the line to stipulate it in.

10 But go ahead, let's call your first witness.

11 MR. MacGREGOR: Yes, Your Honor. We would like to
12 call Mr. Gerald S. Farber at this time.

13 JUDGE CHRISTIANSON: I think the witness has been
14 sworn and I remind the witness that he continues to be under
15 oath.

16 Whereupon,

17 GERALD S. FARBER

18 having previously been duly sworn, testified further as
19 follows:

20 JUDGE CHRISTIANSON: Then proceed.

21 MR. MacGREGOR: Your Honor, we have previously
22 distributed to the parties and I have just handed to the
23 court reporter two copies of a document entitled,
24 Pennsylvania Power & Light Company Rebuttal Testimony of
25 Gerald S. Farber. I would ask that it be marked for

1 identification as PP&L Statement No. 10-R.

2 JUDGE CHRISTIANSON: So identified, 10-R.

3 (Whereupon, the document was marked as PP&L
4 Statement No. 10-R for identification.)

5 DIRECT EXAMINATION

6 BY MR. MacGREGOR:

7 Q. Mr. Farber, do you have a copy of Statement 10-R
8 before you at this time?

9 A. Yes, I do.

10 Q. Is this a copy of your rebuttal testimony in
11 this proceeding?

12 A. Yes, it is.

13 Q. Was it prepared either by you or under your
14 direct supervision?

15 A. Yes, it was.

16 Q. Do you have any additions, changes or
17 corrections to make to Statement 10-R at this time?

18 A. No, I do not.

19 Q. If I were to ask you the same questions
20 contained in Statement 10-R again today, would your answers
21 be the same as those contained therein?

22 A. Yes, they would be.

23 Q. And would those answers be true and correct to
24 the best of your knowledge?

25 A. Yes.

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MR. MacGREGOR: Your Honor, I would like to move the admission of Statement 10-R subject to cross and motion.

JUDGE CHRISTIANSON: Yes. Subject to the standard conditions, 10-R is now accepted into the record.

(Whereupon, the document marked as PP&L Statement No. 10-R was received in evidence.)

MR. MacGREGOR: Mr. Farber is available for cross-examination.

JUDGE CHRISTIANSON: Once again, the normal pecking order is perhaps first Trial Staff.

MR. SIMMS: No questions, Your Honor.

MS. KENNEY: No questions, Your Honor.

JUDGE CHRISTIANSON: Small Business?

MS. MOURY: No questions, Your Honor.

JUDGE CHRISTIANSON: Federal?

MR. McCORMICK: No questions, Your Honor.

JUDGE CHRISTIANSON: Mr. Kleppinger is here?

MR. KLEPPINGER: Thank you, Your Honor.

JUDGE CHRISTIANSON: And you have questions?

MR. KLEPPINGER: Yes, I do.

JUDGE CHRISTIANSON: Go ahead.

CROSS-EXAMINATION

BY MR. KLEPPINGER:

Q. Good morning, Mr. Farber.

A. Good morning, Mr. Kleppinger.

1 Q. Let's start with page 2 of your testimony --
2 excuse me, page 1. At line 26, you use the term "region"
3 and then later in your testimony on page 4, you mention the
4 northeast and mid-Atlantic states.

5 Is that also how you define the term "region" as used
6 at line 26 on page 1?

7 A. Yes, it is.

8 Q. Now, you've had the occasion by now, have you
9 not, to view the testimony submitted by the individual
10 company witnesses that are PPLICCA members in this case?

11 A. Yes, I have.

12 Q. And do you recall that at least in the testimony
13 submitted by Armstrong World Industries, R.R. Donnelley and
14 Thomson Consumer Electronics that sister plants were listed
15 in that testimony which would lie outside of the region as
16 you have defined it?

17 A. Yes.

18 Q. Do you dispute that within those three
19 companies, at least, they need to compete for product and
20 business among themselves as sister plants?

21 A. I'm sure they do. I'm sure they need to look at
22 their total product cost, regardless of where it's produced.

23 Q. Now, within the region as you've defined it,
24 have you conducted an analysis of the rate levels that would
25 be paid by your large industrial customers and each of the

1 utilities within that region?

2 A. On an individual basis --

3 Q. Yes.

4 A. -- for each of the customers? No, we have not.

5 Q. Line 27, you make reference to 1991 rate levels.

6 Why did you select 1991?

7 A. 1991 was the year prior to the introduction of
8 our interruptible rate.

9 Q. Of the current optional interruptible rate?

10 A. Of the current optional interruptible rate, yes.

11 Q. Now, you indicate at lines 27 and 28 that in a
12 sense, the increase to the interruptible rates in this case
13 does not constitute a rate increase.

14 Have you spoken to any current interruptible customer
15 who is not interpreting this as a rate increase to
16 interruptible service in this case?

17 A. No, I have not.

18 Q. So from the customers' perspective, they do view
19 a 28 percent change in their rate as a rate increase?

20 A. Yes, they do.

21 Q. Now, do you believe that customers who could
22 potentially receive that increase budgeted for that level of
23 a rate increase, if you know?

24 A. I'm not aware whether they budgeted or not.

25 Q. Do you believe that any of those customers knew

FORM 2

1 that a 28 percent rate increase was going to be filed prior
2 to December 30, 1994?

3 A. We had not discussed with any of those customers
4 the fact that we were going to file that rate increase. We
5 have not told them that.

6 Q. So at least prior to December 30, 1994, it's
7 highly doubtful that anyone budgeted for a 28 percent rate
8 increase?

9 A. Yes, that's true.

10 Q. Page 2 of your testimony beginning at line 22,
11 you discuss two new options, and I think these were included
12 in your direct testimony as well. So these questions are
13 more in the nature of updates.

14 Can you tell us as of this date how many customers
15 are purchasing service pursuant to the experimental price
16 response service tariffs?

17 A. We currently have five customers on that rate
18 that have signed contracts. There are an additional ten
19 companies that contracts are being prepared for and who are
20 very seriously considering going on the PRS program.

21 Q. Of the five signed contracts, are any of those
22 customers currently purchasing service pursuant to the
23 optional interruptible power provisions of Rate Schedule
24 LP-5?

25 A. Yes. Two of them are.

1 Q. Now, so the record is clear on price response
2 service, am I correct that within that rate schedule, the
3 company establishes a base line bill for that customer under
4 existing consumption characteristics and existing rates that
5 they are paying?

6 A. Yes.

7 Q. And that the price response service component,
8 which will be charged at a real time pricing approach, will
9 only apply to load which is shifted by a customer from a
10 high cost to a low cost period or incremental load above the
11 base line?

12 A. That is correct.

13 Q. So we are not talking about a rate that's
14 applied to 100 percent of a user's consumption?

15 A. Correct.

16 Q. Now, for the two customers you mentioned that
17 are on the LP-5 optional interruptible power provision,
18 their base line would have assumed their existing rate as
19 LP-5 optional interruptible power, would it not?

20 A. Yes.

21 Q. And the price response service then would only
22 be applied from a rate application standpoint, as we said
23 previously, to incremental load or load shifts?

24 A. Correct.

25 Q. Now, the second rate that you discuss is on

1 page 3 of your testimony, the competitive rate rider. Has
2 the company executed a contract with any customer pursuant
3 to the terms and conditions of the competitive rate rider?

4 A. No, we have not.

5 Q. Now, you mention in response to the question at
6 line 12 your belief that the price response service and
7 competitive rate rider are superior to interruptible service
8 in that there's higher level of reliability, correct?

9 A. Yes.

10 Q. Now, will that higher level of reliability come
11 at a price, namely a price that will exceed the prices
12 available to customers under the LP-5 optional interruptible
13 rate?

14 A. I'm really not certain how that price will
15 calculate out. In the competitive rate rider, certainly
16 that would be a negotiated price.

17 That would be the type of situation you were
18 referring to with Armstrong World Industries, where they
19 might have competitive alternatives.

20 Q. To your knowledge, has the company presented any
21 offers to customers under the competitive rate rider at a
22 price which would be less than the price that the same
23 customer could receive under the LP-5 optional interruptible
24 tariff?

25 A. I am not aware that we have presented any offers

1 to customers under that competitive rate rider.

2 Q. Turning to page 4 of your testimony, you
3 conclude at lines 9 and 10 that an increase in electric
4 rates will not have a negative impact on economic
5 development.

6 Now, your selection of the word "will" connotes to me
7 that it is a definite. It intrigued me, quite honestly,
8 that that word "will" is there as opposed to "should."

9 In order for "will" to be the correct word, would not
10 the company have had to engage in a rather detailed study
11 confirming that such an increase in rates in fact will not
12 have a negative impact on economic development?

13 A. That may be a strong word, strong statement
14 there. It's really based on the fact that as we have looked
15 at economic development prospects so far this year in 1995
16 compared to previous years, we have not seen a drop-off in
17 economic development interest and activity by prospects in
18 our service area.

19 And they are aware, obviously we're informing all
20 prospects of the potential of a rate increase and what that
21 proposed rate increase could be, the level of that proposed
22 rate increase.

23 So that we have not seen any decline in economic
24 development interest in our service area so far.

25 Q. In those discussions, do you actually state to

1 prospective industrial customers who inquire about
2 interruptible service that you are in fact proposing in this
3 case a 28 percent increase to that service?

4 A. We review with them what the proposed rates
5 would be for them under any applicable rates.

6 Q. Now, you referred to business activity in terms
7 of a new customer coming into the service territory. Your
8 statement at line 9 and 10 would also imply that the 28
9 percent increase we've heard throughout this case on
10 interruptible rates would also not have a negative rate on
11 the existing customers. Is that a correct implication from
12 that statement at line 9 and 10?

13 A. Well, it's certainly our intention to work with
14 our existing industries and to do whatever we can to help
15 lower their product costs, including electric costs if
16 possible, to have them stay in our service area. And I
17 think, in that context, perhaps use of the word "will" may
18 be strong.

19 Q. And you use the word "will" again at line 18 of
20 your testimony, and in this context you're referring to the
21 competitiveness, I believe, of PP&L rates to those of other
22 electric utilities in the region as you define it.

23 Again, has the company conducted a detailed economic
24 study to confirm that increase in this case to your
25 interruptible class of customers will not negatively impact

1 upon the economic health and competitiveness of PP&L's
2 service territory?

3 A. We have not done a detailed study in that
4 regard. We have looked at the interruptible rate and
5 compared it to comparable rates of other utilities in the
6 region, in the mid-Atlantic states, northeast U.S.

7 And the interruptible rate, even with the increase,
8 will be somewhere in the middle of available rates that
9 customers could choose.

10 Q. Did you compare it directly to PECO Energy
11 Company's large interruptible load rider, "it" being your
12 interruptible rate at present and proposed levels?

13 A. We looked at a variety of -- all of the rates of
14 all of the utilities. I don't have the documentation
15 specifically on what we did look at.

16 I would like to perhaps defer that question to Mr.
17 Kasper, who will be on tomorrow.

18 Q. I'm not sure if I provided you a copy last time
19 you appeared or not of PPLICA Cross-Examination Exhibit No.
20 5. That exhibit was PP&L's Economic Development
21 Initiatives, Phase IV filing of June 1, 1992.

22 And I'd like you to refer to page 3 of that document
23 under "Background" and verify for me that at least when
24 presented to the Commission -- let me take a step back.

25 The EDI-IV program included the optional

1 interruptible power provision of LP-5, correct?

2 A. Yes.

3 Q. Now, when presented to the Commission, in the
4 background information, didn't the company refer not only to
5 regional competition as you have discussed in your rebuttal
6 testimony but also to national and global competition? And
7 you'll see that in the "Background" paragraph on page 3 of
8 the document I handed you.

9 A. Yes.

10 Q. And do you have any reason to believe that
11 national and global competition for your industrial
12 customers is any lesser today than it was in June of 1992?

13 A. No. I don't believe it is any less.

14 Q. Now, page 4 of this same PPLICA Exhibit No. 5
15 mentions that without these actions, and I quote,
16 "businesses with significant levels of electricity usage may
17 leave PP&L's service territory or forego locating in PP&L's
18 service territory in favor of other locations." Do you see
19 that reference on page 4?

20 A. Yes.

21 Q. Now, do you agree with me that the actions being
22 proposed by PP&L in this case with respect to the
23 interruptible power effectively undo the action that was
24 taken in June of 1992 when optional interruptible power was
25 first introduced?

1 A. Yes, I do. That, however, is looking only at
2 the interruptible rate in itself and not looking at the
3 other rate initiatives that we have put in place since then
4 which are both potentially options for our existing
5 customers as well as economic development prospects coming
6 in from other areas.

7 Q. You don't dispute, do you, Mr. Farber, that your
8 statement or PP&L's statement in PPLICA Exhibit 5 that
9 businesses with significant levels of electric usage may
10 leave PP&L's service territory or forego locating in PP&L's
11 service territory are risks you still face today as a
12 company?

13 A. Yes.

14 Q. Finally, at page 11 of PPLICA Exhibit No. 5, the
15 company states, and I quote, "PP&L's large industrial
16 customers have expressed keen interests in ways to reduce
17 their operating costs, improve their competitive position
18 and increase competitiveness in the future."

19 Do you see that reference at page 11 of this
20 document?

21 A. Yes.

22 Q. Do you have any reason to believe, Mr. Farber,
23 that the keen interest that you describe that your large
24 industrial customers had on June 1st of 1992 is any
25 different today than it was in 1992?

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A. No, I don't believe it's any different.

MR. KLEPPINGER: Thank you, Mr. Farber. That completes my cross-examination.

JUDGE CHRISTIANSON: Fine. Anybody with further cross?

(No response.)

JUDGE CHRISTIANSON: I hear no volunteers. Let me just try a quick follow-up. On the price response service and competitive rate rider, can you just amplify a little bit about how much of those have been used? Are the contracts in force yet?

THE WITNESS: I'm sorry, Your Honor?

JUDGE CHRISTIANSON: Where are you with those two provisions? How much have they been used so far?

THE WITNESS: On the price response service, we have five customers that have signed up for that, signed contracts.

From a timing standpoint, I believe the first one was -- well, they've all been in '95, so it's a new --

JUDGE CHRISTIANSON: Basically a new thing?

THE WITNESS: They're absolutely new things.

JUDGE CHRISTIANSON: That's essentially what I wanted to check.

THE WITNESS: They are experimental rates. It's a pilot program, price response, so that we can learn more

1 about real time pricing and the customers can, how to
2 benefit from it.

3 JUDGE CHRISTIANSON: Did you just go into the tariff
4 filing late last year?

5 THE WITNESS: Yes, we did.

6 JUDGE CHRISTIANSON: That's enough for me, unless you
7 want to follow up.

8 MR. KLEPPINGER: No, Your Honor.

9 JUDGE CHRISTIANSON: Thank you. Let's be off the
10 record briefly for possible redirect.

11 (Discussion off the record.)

12 JUDGE CHRISTIANSON: Let's be back on.
13 Go ahead.

14 REDIRECT EXAMINATION

15 BY MR. MacGREGOR:

16 Q. Just a couple of clarifying points, Mr. Farber.
17 The competitive rate rider is not an experimental or pilot
18 rate as filed in PP&L's tariff; is that correct?

19 A. The competitive rate rider is a pilot rate, 25
20 customers on that rate as a pilot program.

21 Q. This is the competitive rate rider, not the
22 price response service?

23 A. Oh, I'm sorry. The competitive rate rider is
24 not an experimental rate. The price response service is.

25 Q. Mr. Kleppinger asked you a series of questions

1 as to whether the interruptible customers in this case view
2 PP&L's proposal as a price increase, and I believe you
3 indicated that in their view, it is a price increase.

4 I would take it the converse would be true, that when
5 those customers received decreases in their rates
6 previously, that they viewed those as rate decreases?

7 A. Yes, certainly.

8 Q. And you were asked a series of questions
9 regarding the company's EDI-IV filing. Just so the record
10 is clear, the EDI-IV filing included items in addition to
11 the proposed interruptible rider; is that correct?

12 A. Yes, that is correct.

13 Q. And the general statements which Mr. Kleppinger
14 read to you from PP&L's filing applied to the package of
15 EDI-IV programs and not solely to the interruptible power
16 provisions?

17 A. Yes, that's true.

18 MR. MacGREGOR: That's all I have, Your Honor.

19 JUDGE CHRISTIANSON: We can pause, in case there's
20 need for further cross. I hear no volunteers, and the
21 witness is excused --

22 MR. KLEPPINGER: Wait.

23 JUDGE CHRISTIANSON: You've got to be quick, Mr.
24 Kleppinger.

25 (Laughter.)

1 MR. KLEPPINGER: I had to check something, first.

2 JUDGE CHRISTIANSON: I didn't finish my sentence, so
3 you can go ahead.

4 RE-CROSS-EXAMINATION

5 BY MR. KLEPPINGER:

6 Q. Just one point, Mr. Farber: With respect to the
7 last quotation I had to read or that I read from PPLICA
8 Exhibit No. 5, which is the company's EDI-IV filing, will
9 you agree with me that the "keen interest" quote that I
10 discussed is under the heading on page 10, Item C, "New
11 Interruptible Rates for Large Customers"?

12 A. It is under that heading, yes.

13 MR. KLEPPINGER: Thank you. That's all I have.

14 JUDGE CHRISTIANSON: Then at that point, I think we
15 can probably be done with the witness and the witness is
16 excused, and we can go ahead with the next witness.

17 (Witness excused.)

18 JUDGE CHRISTIANSON: Let's be off the record briefly.

19 (Discussion off the record.)

20 JUDGE CHRISTIANSON: Let's be back on the record.

21 Again, we can go off the record if there are
22 housekeeping things as we see fit. We checked on a witness
23 or two.

24 We might as well go ahead with the next PP&L witness.

25 MR. MacGREGOR: Yes, we'd like to call Thomas C.

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Stathos, Your Honor.

JUDGE CHRISTIANSON: I remind the witness he continues to be under oath.

Whereupon,

THOMAS C. STATHOS

having previously been duly sworn, testified further as follows:

JUDGE CHRISTIANSON: Counsel can proceed.

MR. MacGREGOR: Your Honor, I am providing to the court reporter and have previously distributed to the parties a copy of the document entitled, "Pennsylvania Power & Light Company Rebuttal Testimony of Thomas C. Stathos," S-T-A-T-H-O-S.

I would ask that that be marked for identification as Statement 11-R.

JUDGE CHRISTIANSON: So marked.

(Whereupon, the document was marked as PP&L Statement No. 11-R for identification.)

DIRECT EXAMINATION

BY MR. MacGREGOR:

Q. Do you have a copy of Statement No. 11-R before you at this time, Mr. Stathos?

A. Yes, I do.

Q. Was this document prepared either by you or under your direct supervision?

1 A. Yes, it was.

2 Q. Do you have any changes, additions or
3 corrections to make to Statement 11-R at this time?

4 A. No.

5 Q. If I were to ask you the questions contained in
6 Statement 11-R again today, would your answers be the same
7 as those contained therein?

8 A. Yes, they would.

9 Q. Would those answers be true and correct to the
10 best of your knowledge?

11 A. Yes, they would.

12 Q. And with respect to the two attachments to
13 Statement 11-R, Attachments 1 and 2, is the information
14 contained in those attachments true and correct to the best
15 of your knowledge?

16 A. Yes, they are.

17 MR. MacGREGOR: Your Honor, I would like to move the
18 admission of Statement 11-R, subject to cross or motion.

19 JUDGE CHRISTIANSON: Yes. Under the standard
20 conditions, 11-R is now accepted into the record.

21 (Whereupon, the document marked as PP&L
22 Statement No. 11-R was received in evidence.)

23 MR. MacGREGOR: Mr. Stathos is now available for
24 cross-examination.

25 JUDGE CHRISTIANSON: Once again, we can start with

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Trial Staff.

DIRECT EXAMINATION

BY MR. SIMMS:

Q. Good morning, Mr. Stathos.

A. Good morning, Mr. Simms.

Q. According to my notes, Mr. Stathos, I cross-examined you on March 29, 1995; do you recall that?

A. Yes, I do.

Q. Did you have an opportunity to review the transcript from that cross-examination?

A. Yes, I did.

Q. Do you recall a series of questions regarding the company's implementation plans for social programs that have been proposed in this filing?

A. Yes, I do.

Q. Now, in your rebuttal testimony, you have included Attachment No. 1, have you not?

A. Yes.

Q. When was that particular attachment prepared?

A. That would have been in April.

Q. That was in April?

A. I believe. I can't tell you exactly when, Mr. Simms. It would have been in April, though.

Q. So at the time that you were cross-examined by myself, that implementation plan did not exist, did it?

FORM 2

1 A. That's correct.

2 MR. SIMMS: Your Honor, at this time, I'm going to
3 request that Mr. Stathos' testimony beginning with the
4 question and answer on page 13 at line 9 through 25; page
5 14, lines 1 through 6; and Attachment 1, which is entitled,
6 "Implementation Plan and Timeline" be stricken from
7 admission from the record pursuant to Title 52, Section
8 5.243(e) of the Commission regulations which provides that
9 no participant will be permitted to introduce evidence
10 during the rebuttal phase which is repetitive, which should
11 have been included in a participant's case in chief, or
12 which substantially varies from a participant's case in
13 chief, unless the evidence is introduced in support of a
14 proposed settlement."

15 Obviously, we do not have a proposed settlement
16 regarding this particular issue. Clearly, if the company
17 had an implementation plan, they could have or should have
18 filed it in its case in chief.

19 This case was filed in I believe December. Mr.
20 Stathos was not cross-examined until March 29, 1995.
21 Clearly, this is inappropriate rebuttal testimony and should
22 be stricken from the record.

23 JUDGE CHRISTIANSON: Could you just mention again
24 your page and line numbers?

25 MR. SIMMS: Yes, page 13, lines 9 -- strike that

1 -- yes, it's at page 13, again, the question on line 9
2 through line 25 of page 13, and line 1 through 6 of page 14,
3 and Attachment 1 in its entirety.

4 JUDGE CHRISTIANSON: Okay. So basically then most of
5 page 13 and the top of page 14, and the whole attachment?

6 MR. SIMMS: That's correct.

7 JUDGE CHRISTIANSON: Okay, we'll give the company a
8 chance to think about it.

9 MR. MacGREGOR: No, I'm prepared to respond, Your
10 Honor.

11 JUDGE CHRISTIANSON: Go ahead.

12 MR. MacGREGOR: Your Honor, obviously we could not
13 have filed this with our direct case because, as Mr. Stathos
14 just indicated under cross-examination, the implementation
15 plan did not exist when the case was filed. It was prepared
16 in April and May of this year.

17 The company did not believe that an implementation
18 plan of the detail set forth in Attachment 1 was required in
19 order for its claim to be approved.

20 In the testimony of the Office of Consumer Advocate,
21 they raised a potential challenge to the company's claim on
22 the ground that we did not have and had not presented an
23 implementation plan of sufficient detail.

24 In response to that testimony, we prepared such a
25 plan and placed it in Mr. Stathos' rebuttal testimony. I

1 believe it's perfectly appropriate rebuttal testimony,
2 responding to a specific concern raised by the OCA regarding
3 the timing of the implementation of these programs.

4 The regulation has no application here. The
5 implementation plan didn't exist. There's no requirement
6 that we had to prepare such a plan as part of our proposal.
7 We did not believe such a plan was necessary, and did not
8 have one and did not submit it with our filing. I see no
9 basis for striking the testimony.

10 MR. SIMMS: May I respond, Your Honor?

11 JUDGE CHRISTIANSON: Yes, you may.

12 MR. SIMMS: Your Honor, that's the very point I'm
13 making. Implementation did not exist at the time that they
14 filed the testimony or at the time they made their filing in
15 this case.

16 It's up to them to support their claims. One of the
17 things supporting that claim should have been an
18 implementation plan.

19 It's not up to the parties to give regulation or tell
20 the company ahead of time, "In order for us not to make an
21 adjustment to your claim, this is what you need, X, Y and
22 Z."

23 MR. MacGREGOR: Your Honor, we can't guess in advance
24 all the criticisms people are going to make about all the
25 myriad issues in a filing.

1 We are responding to a specific request by the OCA
2 that they had a potential problem with our claim, because it
3 lacked a specific implementation plan.

4 JUDGE CHRISTIANSON: Let me just check --

5 MR. SIMMS: Your Honor --

6 JUDGE CHRISTIANSON: Go ahead.

7 MR. SIMMS: Let me briefly respond.

8 With respect to these programs, the company only
9 said, "Here's the programs we want to implement." It did
10 not put forth one credible evidence of when they're going to
11 implement it or anything.

12 They only put forth, "These are the numbers, this is
13 what we're going to do," no information, no evidence to
14 support their particular claim.

15 JUDGE CHRISTIANSON: Let me check a couple things,
16 and we'll get back to counsel if they want to argue it
17 further.

18 From the witness, this plan that's developed in the
19 attachment or whatever it's called, the 13, 14 page
20 attachment, would this have been developed in the normal
21 course of events, or was it developed because of the
22 litigation?

23 THE WITNESS: You have to put together an
24 implementation plan for any of the programs that you want to
25 implement at PP&L, so we would have been doing that

1 normally, following our normal course.

2 JUDGE CHRISTIANSON: Okay, that's just a factual
3 input to the decision. Now, before we go further, does
4 Consumer Advocate want to comment on it?

5 MS. KENNEY: We have no position, Your Honor.

6 JUDGE CHRISTIANSON: Okay. Given the situation, I'm
7 going to allow it to remain in the record. I agree with the
8 company on two points, that they can't really anticipate all
9 the details of issues which might be raised, so that
10 rebuttal in a rate case because more a matter of right than
11 it would be in a normal case of whether the traffic light
12 was red or green when the car proceeded through the
13 crossing.

14 In that case, we have a factual situation which is in
15 the past and should be thoroughly worked out before the
16 litigation commences. Here, we do sort of have a moving
17 target.

18 I'm also going partly on the witness' statement that
19 the plan was in development, and just a little bit like rate
20 of return testimony. As facts come into existence, they are
21 brought into the record.

22 In fact, in this case, I think we're talking about
23 redemption, using stock to buy back bonds or whatever, and I
24 think we made arrangements to have details provided, the
25 sort of details you can provide and almost take notice of

1 without any real testimony.

2 So for those reasons, although I can see Trial
3 Staff's point in principle, for those reasons I'm allowing
4 it to stand at least at this point.

5 If you have other trouble with it, go ahead and renew
6 your motion.

7 MR. SIMMS: No, I'm prepared to cross-examine.

8 JUDGE CHRISTIANSON: You're prepared to go forward,
9 okay.

10 BY MR. SIMMS:

11 Q. Mr. Stathos, let me refer you to page 5 of your
12 rebuttal testimony and the top of page 6 of your rebuttal
13 testimony.

14 Is it the company's position that in this proceeding,
15 we should consider whether or not LIHEAP funds are going to
16 be substantially reduced or eliminated?

17 A. There's a very strong possibility --

18 Q. No, I'm asking, is it the company's position
19 that the Commission in this proceeding should determine
20 whether or not or give consideration as to whether or not
21 LIHEAP funds are going to be reduced or eliminated in this
22 proceeding?

23 A. I guess to the extent that you're trying to
24 offset what we're writing off on uncollectible, that it has
25 to be considered, because it's a very strong possibility.

1 JUDGE CHRISTIANSON: Again, on that issue, if this
2 federal legislation gets enacted, we can take notice of that
3 fact, but I don't know what the timing is on that. But go
4 ahead with your cross.

5 It's a speculative issue at this point. I agree with
6 counsel on that.

7 MR. SIMMS: And your other comment, that if federal
8 regulation was approved, you'd take consideration of this?

9 JUDGE CHRISTIANSON: If this federal legislation gets
10 passed, we can take notice of it, because it's a simple
11 enough thing to take notice of.

12 If federal legislation passes after I'm done with the
13 case, during the exception period, I would guess the
14 Commission would take notice of that fact, of federal
15 legislation passing.

16 But more details I think aren't the sort of things
17 you can take notice of.

18 MR. SIMMS: That's my question I'm raising to Your
19 Honor. You're saying that if fact after the record closed,
20 if the bill is passed by Congress and signed by the
21 President, that the parties can take notice of that in their
22 briefs?

23 JUDGE CHRISTIANSON: Yes, or even in exceptions,
24 probably, if it comes that late. Again, this is a fact
25 which can easily be noted. Nobody can quarrel about federal

1 legislation getting signed by the President.

2 BY MR. SIMMS:

3 Q. Let me ask this question to you, Mr. Stathos.
4 Do you know at this point where the legislation stands with
5 respect to LIHEAP?

6 A. What I'm aware of is that the House has totally
7 eliminated funding for LIHEAP, and that the Senate has
8 retained some funding for LIHEAP.

9 Q. Now, what fiscal years are we looking at with
10 respect to this particular fund?

11 A. This would be next year.

12 JUDGE CHRISTIANSON: Does the federal year start in
13 September? I seem to recall it does.

14 THE WITNESS: It's October 1st.

15 JUDGE CHRISTIANSON: It's not July 1st?

16 MR. MacGREGOR: I think that's right.

17 JUDGE CHRISTIANSON: Okay.

18 BY MR. SIMMS:

19 Q. Am I not correct that procedurally, when the
20 House and Senate pass budgetary legislation, that that's
21 only a recommendation to their particular committee; isn't
22 that correct?

23 A. Could you state that question again?

24 Q. That when the House or the Senate pass a budget
25 resolution, that is only a recommendation to the particular

1 committee dealing with LIHEAP; isn't that correct?

2 JUDGE CHRISTIANSON: If you know.

3 BY MR. SIMMS:

4 Q. If you know.

5 A. I'm not really sure.

6 JUDGE CHRISTIANSON: There's a lot more strange
7 documents floating around at the federal level than there
8 used to be.

9 But it sounds more like what you're saying, this is
10 not a legislation, exactly, at this point.

11 MR. SIMMS: Well, just so it's clear, for the record,
12 when the House passes a budgetary resolution, that's only a
13 recommendation to the committee which deals with that
14 particular, in this particular instance, LIHEAP.

15 Then it has to come out of the committee and go to
16 the House again for passage, which can be vetoed by the
17 President.

18 JUDGE CHRISTIANSON: I'll accept that as a statement
19 of the law by counsel, and we'll hear otherwise if it is
20 otherwise.

21 MR. MacGREGOR: We'll argue it in the brief if
22 necessary, Your Honor.

23 JUDGE CHRISTIANSON: Yes, okay. It's a lawyer thing,
24 really.

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BY MR. SIMMS:

Q. Now, with respect to your testimony on page 7 and 8, you cite, do you not, a number of Commission orders or policy statements regarding payment troubled customers, correct?

A. Yes.

Q. And on page 9 of your testimony, you indicate on line 6 that the Commission specifically encouraged economic development activities, correct?

A. Yes.

Q. Now, do you know whether or not the Commission has approved for other utilities a Build-A-Neighborhood program, to your knowledge?

A. I'm not aware of it.

Q. Affordable Housing program?

A. I'm not aware of it.

Q. Small Business program?

A. I'm not aware of it.

Q. Now, would I be correct that your testimony suggests that the Office of Trial Staff is somewhat confused about the company's proposal? Would that be a fair summary of your testimony?

A. I'm not sure what you mean by "confused."

Q. Well, look at page 31 of your direct testimony. Do you have that before you?

1 A. Yes, I do.

2 Q. And if you look at your rebuttal testimony, page
3 11, at line 21 through 22 and the top of page 12, do you see
4 that?

5 A. Yes.

6 Q. Where you testified that Mr. Weakley refused to
7 recognize the difference in the types of program
8 expenditures; do you see that?

9 A. Yes.

10 Q. Based upon that, is it your testimony that the
11 Office of Trial Staff was somewhat confused about the
12 different expenditures set forth on page 31 of your direct
13 testimony?

14 A. I think that was in response to Mr. Weakley
15 characterizing these as forced contributions. We indicated
16 that they weren't that, that some of them were appropriate
17 in the rate base and some were not, and that the ones that
18 were not were going to be included as shareowner expenses.
19 So it was a clarification.

20 Q. Am I not correct that the company already has in
21 existence a weatherization program?

22 A. I'm sorry?

23 Q. Am I correct that the company already has in
24 existence a weatherization program?

25 A. Yes.

1 Q. And you also have identified in each one of
2 these programs weatherization; have you not?

3 A. Yes.

4 Q. Now, with respect to on page 31 of your direct
5 testimony -- this is your direct testimony.

6 A. Yes.

7 Q. Where you discuss in your rebuttal regarding the
8 different expenditures --

9 A. Yes.

10 Q. -- am I not correct that if the company was not
11 proposing other costs for Build-A-Neighborhood, that you
12 would not need the expenditures set forth in the left-hand
13 column? Isn't that correct?

14 A. That's incorrect.

15 Q. You're saying that even if you were not
16 requiring other costs, you also would be asking for
17 weatherization for Build-A-Neighborhood?

18 A. That's correct.

19 Q. And the same would hold true for Affordable
20 Housing?

21 A. That's correct.

22 Q. And for Small Business?

23 A. That's correct.

24 Q. So in essence, you're asking for the funding for
25 four weatherization programs?

1 A. What we were doing, Mr. Simms, as part of our
2 social initiatives task force, we met with community leaders
3 and --

4 Q. Mr. Stathos, if you can answer my question,
5 please?

6 A. I'm trying to do that.

7 Q. Well, yes or no. Are you asking for the funding
8 for four weatherization programs?

9 A. I wouldn't characterize it as four
10 weatherization programs, the Build-A-Neighborhood program,
11 the Affordable Housing program and the Small Business
12 program.

13 To characterize them as strictly weatherization
14 programs is inaccurate. I can't agree with that statement.

15 Q. Well, how much of the \$1 million for Build-A-
16 Neighborhood is going towards weatherization?

17 A. \$1 million. For weatherization, did you say?

18 Q. Yes.

19 A. Would you state your question again?

20 Q. How much is weatherization for Build-A-
21 Neighborhood going to cost out of that \$1 million?

22 A. I don't know exactly. In other words, out of
23 the \$1 million, how much is going to be weatherization, how
24 much is going to be the energy usage education, upgrading
25 the street lighting, et cetera, everything that's identified

1 there, I can't tell you what the exact breakdown is of that.

2 Q. So the company has not made an analysis of that,
3 correct?

4 A. I think we had indicated earlier that when we
5 develop these programs, we do this in partnership with the
6 community based agencies, so we try to determine what the
7 best way to do that is in each one of our regions.

8 Q. Well, I understand that, but my question to you,
9 has the company made a determination in this proceeding how
10 much of the \$1 million is going to be used for
11 weatherization?

12 A. No.

13 Q. And the same would hold true for Affordable
14 Housing and for Small Business, correct?

15 A. We do that in partnership with the community
16 based agencies.

17 Q. I understand that, Mr. Stathos. Please answer
18 the question.

19 JUDGE CHRISTIANSON: Yes, again, if you can answer
20 yes or no, try to do it, if counsel wants to insist, and
21 then you can explain your answer after you say yes or no.
22 If he asks a leading question, try to say yes or no.

23 THE WITNESS: No.
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1 BY MR. SIMMS:

2 Q. The \$1 million for Affordable Housing, the
3 company does not know how much is going to be used for
4 weatherization, correct?

5 A. That's correct.

6 Q. And for the \$500,000, the company does not know
7 how much is going to be used for weatherization, correct?

8 A. That's correct.

9 JUDGE CHRISTIANSON: And to clarify, they may have
10 some idea, but they just haven't figured a number, and it's
11 very flexible at this point, I'm understanding.

12 MR. SIMMS: Well, the witness said he didn't know, so
13 I don't know if they have an idea or not.

14 JUDGE CHRISTIANSON: That's his answer, yes. They
15 might have some idea, but they just don't know dollars. I
16 would guess the whole million wouldn't go to one piece, but
17 you just don't know more than that.

18 THE WITNESS: You want to try to do it appropriate to
19 the agencies that you're working with and the community that
20 you're working with, and we think that's a better approach.

21 It has worked well for us in the past, and there's no
22 reason to deviate from that approach, in our estimation.

23 JUDGE CHRISTIANSON: Thank you. Then go ahead,
24 counsel. If you want to have leading questions, I'll try to
25 get yes or no answers out of the witness.

1 BY MR. SIMMS:

2 Q. Staying with that answer, are you suggesting
3 that a community organization is going to tell the company
4 how much it's going to cost for weatherization programs?

5 A. No. I didn't say that.

6 JUDGE CHRISTIANSON: "Influence" might be a better
7 word.

8 THE WITNESS: It's a collaborative process that we
9 try to pursue with them.

10 BY MR. SIMMS:

11 Q. Mr. Stathos, just so we have an understanding,
12 I'm focusing on the dollars.

13 A. Yes, sir.

14 Q. Okay, I'm not focused at this point in time on
15 the policy, so --

16 JUDGE CHRISTIANSON: Well, I guess his basic
17 statement is that it will impact the dollars to some degree,
18 but you've gotten your answers, that he can't tell you what
19 dollars are going where in a definitive sense.

20 Go ahead with your cross. I'll try to butt out for a
21 while. Go ahead with what you want to do.

22 MR. SIMMS: Yes, Your Honor, because -- I mean, if
23 you want to change places, we'll put you over there and have
24 you answer --

25 (Laughter.)

1 MR. SIMMS: -- because I'm getting off track here
2 with you answering the questions for him.

3 BY MR. SIMMS:

4 Q. Hypothetically, start a business program. You
5 have in the right hand column, "Other Costs," is that
6 correct?

7 A. The Small Business program, you're referring to?

8 Q. Yes.

9 A. Yes.

10 Q. You have \$750,000 for making funding available
11 for start-up, minority owned businesses, and providing a
12 mentoring service; isn't that correct?

13 A. \$750,000 shareowner, yes.

14 Q. Now, would I be correct, hypothetically, that if
15 an individual starts a business pursuant to your Small
16 Business program, that a certain percentage of the \$500,000
17 of weatherization, energy efficiency services and forgiving
18 demand charges would be allocated to that person? Would
19 they not?

20 A. It's a possibility. I can't say absolutely.

21 Q. You say it could not be said absolutely. Under
22 what criteria would that not happen?

23 A. I think you have to look at what we're trying to
24 do as a comprehensive approach, and in certain instances
25 weatherization may be required in a structure, and maybe in

1 other cases it would not be required.

2 We want to do what's appropriate. At the same time,
3 you may want to provide mentoring services for that business
4 that's getting started, even though they don't require
5 weatherization services or demand charge forgiveness. It
6 depends.

7 Q. Now, if it is in fact required, would it not be
8 correct that \$500,000 will be used for that particular
9 individual or company?

10 A. I don't think it would be used for an
11 individual. It would be used --

12 Q. For the business.

13 A. It would be used across the system, so I can't
14 imagine it being used for one business, the way you're
15 characterizing it.

16 Q. I'm not saying -- I'm talking about a certain
17 portion of this \$500,000.

18 A. Okay, I'm sorry. You said \$500,000. That's why
19 I wasn't sure what --

20 Q. Okay. A certain portion of this \$500,000 would
21 in fact be allocated toward that business; would they not?

22 A. If it required weatherization.

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1 Q. Small Business, is this for new businesses or
2 old businesses?

3 A. It could be both.

4 Q. So I understand your testimony with respect to
5 your criticism of Mr. Weakley, is it your testimony that if
6 we look at Small Business and the items in the left-hand
7 column, that this \$500,000 would be needed regardless of
8 whether or not you implemented the funding available for
9 start-up, minority-owned businesses, or providing a
10 mentoring service?

11 A. In our estimation it's needed, yes.

12 Q. So you have these items here in the left-hand
13 column separate and apart and distinct from what you want to
14 do in the right-hand column; is that correct?

15 A. I'm sorry; could you ask that question again?

16 Q. When I look at page 31 of your direct testimony,
17 am I correct, based upon your testimony, that the \$500,000
18 is a request separate and apart from the \$750,000 that the
19 shareholders are going to pay for small businesses?

20 A. We're not requesting \$750,000 from the
21 Commission.

22 Q. No. You're requesting \$500,000, are you not?

23 A. That's correct.

24 Q. To provide free weatherization and energy
25 efficiency services and forgiving demand charges; is that

1 correct?

2 A. Yes.

3 Q. That's put right beside Small Business, right,
4 for a total cost of \$1.2 million; correct?

5 A. That's correct.

6 Q. My question to you is the \$500,000, if you did
7 not have the \$750,000, making funding available for start-
8 up, minority-owned businesses, and providing a mentoring
9 service, that's separate and apart from the \$500,000;
10 correct? Those two don't go hand in hand; is that your
11 testimony?

12 A. No. My testimony is that we want to fund the
13 Small Business program at \$1,250,000. We're trying to take
14 a comprehensive approach to encouraging small business and
15 minority-owned businesses in urban areas, and to the extent
16 that you can provide weatherization as well as mentoring
17 services, you're doing a better job. That reflects the kind
18 of input that we received from the community leaders that we
19 polled, and we think that's the appropriate way to do it.

20 Q. I guess the difficulty I'm having, Mr. Stathos,
21 in your comments here today, your comments and your rebuttal
22 testimony, is that when you look at Small Business -- and
23 this applies to all these programs here, but I'm looking at
24 Small Business as an example -- that the \$500,000 is over
25 here (indicating), and the \$750,000 is over here

1 (indicating), however, when I look at your table on page 31,
2 they seem to go hand-in-hand, because you have \$1.2 million
3 set aside for the total cost for Small Business, \$500,000
4 from the PP&L ratepayers, \$750,000 from the shareholders;
5 correct?

6 A. Yes.

7 Q. And you need both components in order to make
8 the Small Business program work the way the company has
9 outlined; correct?

10 A. It would work better; yes.

11 Q. Not work better. Is that the way that you
12 intend to implement this program?

13 A. Yes. It's going to depend, of course, on the
14 treatment we get on the rate base as far as what we can do.

15 Q. I understand that. But if, in fact, you do not
16 get, hypothetically, the \$500,000, then that means the
17 \$750,000 would have to cover both the funding available for
18 start-up, minority-owned businesses, and the providing free
19 weatherization and energy efficiency services and forgiving
20 demand charges; correct?

21 A. I can't state that categorically.

22 Q. Well, the shareholders would address both of
23 those issues, would they not?

24 A. I can't tell you that for sure. It would
25 depend.

1 JUDGE CHRISTIANSON: Well, that's the only money
2 left. Whether you would fund it to the level --

3 THE WITNESS: But I may not apply it to
4 weatherization, I guess is what I'm saying. I may apply it
5 to mentoring services.

6 JUDGE CHRISTIANSON: You would reexamine your
7 priorities at that point.

8 THE WITNESS: Uh-huh.

9 (Pause.)

10 JUDGE CHRISTIANSON: Just to mention, when you were
11 conversing, I got him to say they would reexamine their
12 priorities at that point if they don't get funding from the
13 ratepayer end of it. He might throw some programs a little
14 different from what he projected.

15 MR. SIMMS: Right.

16 BY MR. SIMMS:

17 Q. I believe you indicated, perhaps I'm wrong, that
18 you intend to implement it for three years regardless of
19 whether or not you get rate case treatment or not.

20 A. That's correct.

21 Q. At what level you do not know; is that correct?

22 A. That's correct.

23 Q. So the Small Business program may be
24 implemented, but it may not be the \$750,000; correct?

25 A. That's correct.

1 Q. And if you receive the \$500,000 from the
2 ratepayers, then you will fully implement the Small Business
3 program, as an example?

4 A. That's correct.

5 Q. Now, on page 13 of your testimony -- I'm looking
6 at lines 6 through 8.

7 A. This is the direct testimony?

8 Q. This is your rebuttal testimony.

9 JUDGE CHRISTIANSON: Page 13, and I think you said
10 line 6.

11 MR. SIMMS: Six, that's correct, Your Honor, through
12 8.

13 BY MR. SIMMS:

14 Q. You testify that PP&L believes that the concrete
15 demonstration of PP&L's commitment to customer and community
16 needs will assist, not hinder, PP&L in a more competitive
17 electric industry, do you not?

18 A. Yes.

19 Q. How would that assist the company in a more
20 competitive environment, Mr. Stathos?

21 A. By establishing a leadership role in the
22 community, which is really an obligation that we feel that
23 we have for the communities we serve. We want to make sure
24 that we're making our service area and our communities
25 better places to live. That's good for the communities we

1 serve, that's good for PP&L, and that's good for the
2 individuals that live in those communities.

3 Q. How does that relate to a competitive electric
4 industry?

5 A. How does it relate to a competitive electric
6 industry?

7 Q. Yes.

8 A. Well, to the extent that our communities
9 prosper, we would attract businesses to those communities,
10 that will bring jobs to those communities, make them more
11 attractive places to live.

12 Q. Have you made a study to support that statement?

13 A. Have I?

14 Q. Has the company?

15 A. No.

16 Q. These programs are dedicated solely to urban
17 areas, are they not?

18 A. Not all of them.

19 Q. The majority of them; is that correct?

20 A. Yes.

21 Q. Has the company made a study over the years as
22 to how many customers in the urban areas leave PP&L's
23 service territory?

24 A. No.

25 Q. Let me now refer you to your Attachment No. 1.

1 Do you have that before you?

2 A. Yes, I do.

3 Q. You have an Implementation Plan and Time Line,
4 do you not?

5 A. Yes.

6 Q. For the month of May, have you identified the
7 community organizations capable of administering the
8 programs?

9 A. That's going on right now, yes.

10 Q. Has that been completed?

11 A. I don't believe that's completed. That's going
12 on now. I think there's a meeting later this week where
13 they're going to review that. That would be the staff that
14 works with me on this.

15 Q. Pardon me?

16 A. That would be the staff that works with me on
17 this, our field organization.

18 Q. Have you already conducted periodic meetings
19 with local groups to develop implementation steps?

20 A. Yes, we've had meetings.

21 Q. I would assume by your answer that you have met
22 with the group from Wilkes-Barre who have testified in this
23 case?

24 A. I have not, and I don't know if anyone from our
25 Northeast Region has met with them.

1 JUDGE CHRISTIANSON: Maybe I can mention to counsel;
2 I think I spoke to the company privately. Those people from
3 Wilkes-Barre called me about the mechanics of maybe coming
4 in rebuttal week, and they weren't sure if they would want
5 to come here to cross-examine. I talked to the guy, he's
6 not a lawyer, and he was worried that their failure to come
7 here during rebuttal week would somehow prejudice their
8 case, and I assured him if he doesn't show up it wouldn't
9 prejudice his case; his case is of record so far. And he
10 thought about making some PP&L charts or something an
11 exhibit. That's why I called PP&L, because there might be
12 some need for cooperation between the two parties.

13 Let me check, has anybody heard from them in the last
14 few days?

15 MR. RUSSELL: No, Your Honor.

16 JUDGE CHRISTIANSON: So I guess they didn't follow
17 up. When they left me, I thought they would not be coming
18 here to cross-examine or present their own testimony, but I
19 just mention for the record that I did talk with the guy --
20 I can't remember which of the two guys; one of the witnesses
21 who was down here earlier -- and just gave him the
22 procedural background on it. So I guess at this point we're
23 not expecting them to be here, but I'm aware, as is counsel,
24 of their earlier participation in the whole thing.

25 Go ahead with your line. I just make that confession

1 for the record; that I did speak to the parties on
2 procedural grounds.

3 BY MR. SIMMS:

4 Q. If I understood your last answer, you indicated
5 that to the best of your knowledge you, nor your staff, has
6 met with the group participating in this proceeding?

7 A. I don't know if they've met with the CEO. I
8 don't know that.

9 Q. Now, as I understand looking at this time line,
10 the company intends to implement these programs, again,
11 September 30, 1995; correct?

12 A. That's correct.

13 Q. If in fact the company receives rate case
14 treatment for its proposal, how long does the company intend
15 to operate these programs?

16 A. We want to implement them for three years and
17 then evaluate them to determine in which direction we're
18 going.

19 Q. If in fact the company determines to terminate
20 the programs in three years, what procedure does the company
21 intend to use with respect to filing with the Commission?

22 A. I'm not sure I understand your question. If
23 we're going to --

24 JUDGE CHRISTIANSON: Well, I guess the rate treatment
25 might be one thing, if it's not a rider we're working with.

1 BY MR. SIMMS:

2 Q. Assume, hypothetically, that you receive rate
3 case treatment for these programs, and the company, after a
4 three-year pilot program -- is it a pilot program?

5 A. I wouldn't necessarily characterize it as a
6 pilot program.

7 Q. Have you had the programs before?

8 A. Not these programs, no.

9 Q. And you've determined that you're going to
10 evaluate the programs after a three-year period; correct?

11 A. To see how effectively they operate.

12 Q. Now, if in fact the company decides after three
13 years to terminate the programs, does the company intend to
14 make a filing with the Commission with respect to rate case
15 treatment?

16 A. I haven't thought about that. I really don't
17 know.

18 JUDGE CHRISTIANSON: I guess one thought is, would
19 you keep spending the money while the review progresses?
20 Maybe you haven't thought about that either.

21 THE WITNESS: No, I have not thought about that.

22 JUDGE CHRISTIANSON: You will sometime, I imagine.

23 THE WITNESS: With all our programs, what we try to
24 do, Your Honor, is evaluate their effectiveness at meeting
25 the objectives that we've established, and to the extent --

1 I mean evaluation really serves a twofold purpose. It not
2 only tells you how effective the programs are, but allows
3 you to fine tune them and improve them, so where you've got
4 some gaps, it's an ongoing monitoring that we're going to
5 try to -- we want these programs to work. We think they're
6 meeting needs that have been identified within the
7 community. And to the extent that we can do whatever we can
8 working with the community-based agencies to make them work,
9 we're going to try to do that. Monitoring them and
10 evaluating them is the only way to do that. It may be in
11 three years that we find out that they are totally off base,
12 that they're inappropriate. I don't know that though. My
13 crystal ball isn't that good.

14 JUDGE CHRISTIANSON: Okay. Well, counsel's going to
15 try to find out how good it is, I think.

16 BY MR. SIMMS:

17 Q. Let me refer you to page 16 of your testimony.

18 A. Of the rebuttal testimony?

19 Q. The rebuttal testimony; that's correct. I'm
20 looking at lines 4 through 6. You testify that "During this
21 evaluation period the company believes it is critical to
22 maintain funding flexibility for the programs." What do you
23 mean by that?

24 A. I think what we're talking about there is to the
25 extent that we move funding from one region to another

1 region.

2 Q. So that in looking at Small Business on page 31
3 of your direct testimony, if in fact you find that the
4 \$500,000 is more than adequate to address the free
5 weatherization and energy efficiency services and forgiving
6 demand charges, you will not move that \$500,000 to provide
7 funding for start-up businesses; is that a correct
8 statement?

9 A. For what, start-up businesses?

10 Q. Yes. If you find out that you have funds
11 available after providing free weatherization and forgiving
12 demand charges for small businesses, would I not be correct
13 that you would not use that reserve for your other costs for
14 that program?

15 A. That's correct. The flexibility that is
16 referred to there was in answer to some questions that Mr.
17 Brady raised about how we allocate funds across the service
18 area, and we like to have the flexibility to move those
19 dollars where they're needed and where it's appropriate. To
20 the extent that a particular program or agency can't spend
21 the money or doesn't need the money in a particular year, we
22 shift it to another area that does need it. We did that
23 last year as a matter of fact.

24 JUDGE CHRISTIANSON: You're talking about geography
25 here, not --

1 THE WITNESS: That's correct.

2 BY MR. SIMMS:

3 Q. I understand, but I just want to take it a step
4 further, that flexibility. From the company's perspective,
5 that \$1 million for affordable housing, for weatherization,
6 will remain there for the ratepayers?

7 A. That's correct.

8 Q. On the other hand, if you use more than \$1
9 million for supplying closing costs for homeowners, you
10 would stop the services at that point in time; correct?

11 A. That's correct.

12 Q. Now, in response to an on-the-record data
13 request, OTS-10 -- do you have that?

14 A. I don't know if I have that.

15 Q. I'll just ask you some questions.

16 JUDGE CHRISTIANSON: You can share it, if necessary.

17 BY MR. SIMMS:

18 Q. Is it my understanding that the company
19 acknowledged the fact that they can in fact receive tax
20 credits for shareholders' money used under the Neighborhood
21 Assistance Act?

22 A. I'm not familiar with that.

23 MR. SIMMS: If I might approach the witness, Your
24 Honor?

25 JUDGE CHRISTIANSON: Yes, go ahead.

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MR. SIMMS: I only have one copy.

(Document handed to witness.)

BY MR. SIMMS:

Q. Does that refresh your recollection?

JUDGE CHRISTIANSON: Let's be off the record very briefly.

(Discussion off the record.)

JUDGE CHRISTIANSON: Let's be back on the record.

It looks like this witness is not the best witness for this line of questioning, and we'll defer to another witness. Bernini is scheduled for later today.

Go ahead.

BY MR. SIMMS:

Q. Just so I understand the company's position with respect to these programs and funding, in your testimony you discuss, do you not, that at the end of a three-year period the company will determine the effectiveness of the programs and may continue, modify or eliminate the programs; correct?

A. Yes.

Q. On page 14 of your testimony I was struck by the fact that you indicated that if adequate rate relief is received, PP&L will continue to spend additional monies in 1997 and 1998; correct?

A. Yes.

Q. At the top of that page you indicated that the

1 company intends to spend \$6.6 million between July 1, 1995
2 and September 30, 1996; is that correct?

3 A. At the top of the page?

4 Q. Yes -- page 14, I'm sorry, at lines 9 through 11
5 in the answer.

6 A. Yes.

7 Q. So beginning July 1, 1995, the company is going
8 to spend money for what, as you look at your Attachment
9 No. 1?

10 A. What will we spend money on?

11 Q. Yes.

12 A. The implementation of these programs.

13 Q. I'm somewhat confused. You indicated the
14 programs are going to begin on September 30, 1995, yet you
15 have July 1, 1995 as a starting date.

16 A. We're just saying we're going to spend the money
17 between that time period.

18 JUDGE CHRISTIANSON: You're just talking about the
19 beginning of the year. You're not going to spend it on
20 July 2, necessarily.

21 THE WITNESS: No.

22 BY MR. SIMMS:

23 Q. Your fiscal year runs from what, July 1 through
24 June 30, 1996?

25 A. No. It's January, January through December.

1 JUDGE CHRISTIANSON: Maybe we can ask this. Do you
2 think you're going to start spending money in September, or
3 earlier?

4 THE WITNESS: Probably earlier.

5 JUDGE CHRISTIANSON: Okay. Go ahead.

6 THE WITNESS: I can't tell you an exact date though.
7 I mean it's going to depend on the region, on the programs
8 that we develop and how we implement those programs.

9 BY MR. SIMMS:

10 Q. The time line indicates the programs are going
11 to start on September 30, 1995; correct?

12 A. Yes. That implementation would be by then.

13 Q. So, in effect, you may begin the programs
14 earlier?

15 A. Yes. In many ways we've -- as part of the
16 development of the implementation plan we've made the
17 contacts with community-based agencies and we're starting to
18 work toward that now.

19 Q. So with respect to the shareholders' funding,
20 you've already started to spend that particular money; would
21 that be correct?

22 A. We did not spend any dollars yet on that.

23 Q. But you intend to by July 1, 1995, start
24 spending the shareholders' money?

25 A. I didn't say that. I said we're --

1 JUDGE CHRISTIANSON: But you'll be spending dollars
2 this summer, probably.

3 THE WITNESS: Probably.

4 JUDGE CHRISTIANSON: Again, before September, most
5 likely.

6 THE WITNESS: Yes.

7 JUDGE CHRISTIANSON: Okay.

8 THE WITNESS: Most likely.

9 JUDGE CHRISTIANSON: Yes. That's why I put the words
10 in.

11 MR. SIMMS: That concludes my cross-examination, Your
12 Honor.

13 JUDGE CHRISTIANSON: Thank you. This obviously is a
14 difficult problem to wrestle with, just what's going on
15 here.

16 Anything from Consumer Advocate?

17 MS. KENNEY: No questions, Your Honor.

18 JUDGE CHRISTIANSON: Small Business?

19 MS. MOURY: Nothing, Your Honor.

20 JUDGE CHRISTIANSON: Federal?

21 MR. McCORMICK: Nothing, Your Honor.

22 JUDGE CHRISTIANSON: And Mr. Kleppinger?

23 MR. KLEPPINGER: No questions, Your Honor.

24 JUDGE CHRISTIANSON: Mr. Epstein?

25 MR. EPSTEIN: No, Your Honor.

1 JUDGE CHRISTIANSON: Then we seem to be done with
2 cross. Let's be off the record briefly at least.

3 (Discussion off the record.)

4 JUDGE CHRISTIANSON: Let's be back on the record very
5 briefly.

6 I understand there is no redirect for this witness,
7 and the witness is excused.

8 (Witness excused.)

9 JUDGE CHRISTIANSON: Let's be off briefly for maybe a
10 ten-minute break or so.

11 (Recess.)

12 JUDGE CHRISTIANSON: Let's be back on the record.

13 We checked again about a few witnesses. Apparently
14 there is no cross for a couple of staff witnesses. We are
15 still working on the questions about that company witness.
16 I talked to Brandeis at the break and pretty well released
17 her witness, and she'll be moving the testimony tomorrow
18 when she's here, physically here in Harrisburg.

19 We can, as we go along, do a bit more housekeeping,
20 I'm sure, about matters like that, but we might as well go
21 ahead with the company's presentation.

22 MR. GADSDEN: Your Honor, the company calls as its
23 next witness Mr. Berish, who testified previously and was
24 previously sworn.

25 JUDGE CHRISTIANSON: Yes. I remind the witness that

1 he continues to be under oath, and counsel may proceed.

2 MR. GADSDEN: Thank you, Your Honor.

3 Your Honor, this morning Mr. Berish will be
4 sponsoring a statement of rebuttal testimony consisting of
5 19 pages of questions and answers and various exhibits which
6 have been attached to that statement, which I'll go through.
7 But preliminarily, if we could have marked for
8 identification as Statement 2-R a document styled "Rebuttal
9 Testimony of Michael J. Berish." and then as Exhibits MJB-9
10 through MJB-15 the various exhibits attached to Mr. Berish's
11 rebuttal testimony.

12 JUDGE CHRISTIANSON: Yes. They are all identified as
13 indicated.

14 (Whereupon, the documents were marked
15 as PP&L Statement No. 2-R and PP&L
16 Exhibits Nos. MJB-9 through MJB-15
17 for identification.)

18 Whereupon,

19 MICHAEL J. BERISH

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

22 DIRECT EXAMINATION

23 BY MR. GADSDEN:

24 Q. Mr. Berish, you testified previously in this
25 case, did you not?

1 A. Yes, I have.

2 Q. At the company's request did you have an
3 opportunity to review the testimony submitted by Mr.
4 Weakley, Mr. Catlin, Mr. Kollen and Mr. Prisco?

5 A. Yes, I did.

6 Q. Have you prepared a statement of rebuttal
7 testimony addressing certain of the issues raised by those
8 witnesses?

9 A. Yes, sir, I have.

10 Q. Do you have a copy before you of what has been
11 marked as PP&L Statement 2-R?

12 A. Yes.

13 Q. Was that statement of rebuttal testimony
14 prepared by you or under your direct supervision?

15 A. Yes, it was.

16 Q. Are there any corrections or revisions to
17 Statement 2-R that need to be brought to our attention?

18 A. No, sir.

19 Q. If I were to ask you the questions set forth in
20 Statement 2-R today, would your answers be as contained
21 therein?

22 A. Yes, sir.

23 Q. And would they be true and correct to the best
24 of your knowledge, information and belief?

25 A. Yes, sir.

1 Q. Mr. Berish, focusing now on what have been
2 marked as Exhibits MJB-9 through MJB-15, was the data set
3 forth in those exhibits compiled by you or under your direct
4 supervision?

5 A. Yes, sir.

6 Q. Is that data true and correct to the best of
7 your knowledge?

8 A. Yes, sir, it is.

9 MR. GADSDEN: Your Honor, at this time, subject to
10 the standard conditions, I would ask that Statement 2-R as
11 well as Exhibits MJB-9 through MJB-15 be admitted to the
12 record.

13 JUDGE CHRISTIANSON: Yes, they are accepted under the
14 standard conditions.

15 (Whereupon, the documents marked as
16 PP&L Statement No. 2-R and PP&L
17 Exhibits Nos. MJB-9 through MJB-15
18 were received in evidence.)

19 MR. GADSDEN: Mr. Berish is available for cross-
20 examination.

21 JUDGE CHRISTIANSON: Again, we can start with Trial
22 Staff.

23 MR. SIMMS: Thank you, Your Honor.
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CROSS-EXAMINATION

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BY MR. SIMMS:

Q. I would like to refer you to Exhibit MJB-9, 2 of 3.

A. Yes, sir.

JUDGE CHRISTIANSON: The press release?

MR. SIMMS: It's the press release; that's correct.

JUDGE CHRISTIANSON: I just reread that myself as I sat here.

BY MR. SIMMS:

Q. Is it your understanding that this press release reflects generally the agreement between PP&L and DER?

A. Yes, sir, it does.

Q. Have you had an opportunity to read the agreement?

A. Yes, sir, I have.

Q. Does the press release differ in any respect from the agreement?

A. Not to my knowledge, no, sir.

JUDGE CHRISTIANSON: It doesn't depart from the agreement is my understanding.

THE WITNESS: No, it doesn't.

JUDGE CHRISTIANSON: Is there more detail in the agreement?

THE WITNESS: I don't know, Your Honor.

1 JUDGE CHRISTIANSON: Okay.

2 BY MR. SIMMS:

3 Q. But the press release that you have attached as
4 an exhibit is, in fact, a pretty accurate description of the
5 agreement?

6 A. As far as I know, yes, sir.

7 Q. Let me now refer you to page 12 of your rebuttal
8 testimony, looking at lines 7 through 11. Is it correct
9 that SFAS 87 recognizes the current interest rate at the
10 time of the accrual report -- I'm sorry; the actuarial
11 report?

12 A. I'm sorry; would you repeat that question?

13 Q. Is it correct that SFAS 87 recognizes the
14 current interest rate at the time of the actuarial report?

15 A. I am not sure what interest rate Mr. Beers used
16 in preparing the actuarial report.

17 Q. Do you know whether or not he used the current
18 interest rate at the time that the report was prepared?

19 A. I don't know, sir.

20 Q. Do you know what the interest rate was at the
21 time that the report was prepared?

22 A. No, sir, I do not. Mr. Beers prepares the
23 actuarial report, and then from an accounting standpoint we
24 use that to book the amount for pension cost under the
25 requirements of SFAS 87, but I don't know specifically what

1 the interest rate was that he used.

2 Q. Would you agree that the interest rate used in
3 an actuarial study will affect the asset values and
4 ultimately the required contribution to the fund?

5 A. Yes, sir.

6 Q. Let me refer you to page 13, lines 4 through 7.
7 Is it your testimony that you believe the Commission's
8 treatment of SFAS 106 and the Commission's recognition of
9 cash contributions for pension expense is inconsistent?

10 A. That's my understanding.

11 Q. Am I correct that both SFAS 106 and pension
12 contributions require a cash payment to a dedicated trust
13 fund?

14 A. It's my understanding that the SFAS 87 and SFAS
15 106 are the statements which require what the company must
16 book from the standpoint of expense. I don't know that it
17 requires any contribution specifically to any fund.

18 Q. So you don't know whether or not it requires a
19 cash payment to a dedicated trust fund?

20 A. No, sir, I don't know.

21 Q. Let me refer you to page 13, lines 16 through
22 19. Has PP&L made a charge to the capital accounts for
23 pension cost?

24 A. Yes, sir, they have.

25 Q. What is the amount of pension cost charged to

1 the capital accounts?

2 A. In response to an interrogatory by the Office of
3 Trial Staff -- and I'm referring to OTS-RE-4-D dated January
4 13, 1995 -- the amount of pension cost that was originally
5 included in the future test year was \$17,898,000, and of
6 that \$11,808,000 was charged to expense accounts; the
7 difference would have been charged to capital accounts.

8 I should point out that the company subsequently
9 updated its actuarial study, and based on the new data that
10 was provided by Mr. Beers the total pension benefit amount
11 was reduced to \$11,867,000, of which the portion that went
12 to expense accounts was \$7,829,000; so again, the difference
13 would have been that portion that went to capital accounts.

14 MR. SIMMS: Thank you. That concludes my cross-
15 examination.

16 JUDGE CHRISTIANSON: Thank you, counsel.

17 Consumer Advocate?

18 MS. KENNEY: Yes. Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. KENNEY:

21 Q. Good morning, Mr. Berish.

22 A. Good morning.

23 Q. My name is Mary Kenney. I represent the Office
24 of Consumer Advocate.

25 I would like to refer you to your rebuttal testimony

1 at page 6, beginning at line 9.

2 A. Okay.

3 Q. Am I correct that the uncollectibles accrual in
4 the future test year is what the company ultimately expects
5 the write-offs related to the future test year revenues to
6 be?

7 A. What it tries to do is it tries to accrue an
8 amount which the company would estimate would be the write-
9 offs applicable to the revenue that it is recognizing on its
10 books.

11 Q. I would like to refer you now to pages 8 through
12 10 of your testimony where you discuss the Susquehanna
13 refueling costs. In your rebuttal testimony you indicate
14 that Reload 6 at Susquehanna Unit No. 2 was not atypical; is
15 that correct?

16 A. Yes. The costs are within a range of what we
17 have experienced as refueling outage costs in the past.

18 Q. During Reload 6, would you agree that there were
19 four accidents involving the breaking of refueling masts?

20 A. I understand we had problems with refueling,
21 yes.

22 Q. Would you also agree that there was also a
23 problem with a jet pump beam which required an unplanned
24 replacement?

25 A. I know we had problems. I can't speak

1 specifically to what those problems were.

2 Q. Would you accept subject to check that there was
3 a problem with a jet pump beam which required an unplanned
4 replacement?

5 A. Subject to check, yes.

6 Q. In total, is it correct that the shutdown was 23
7 days longer than planned?

8 A. I think from the data that I had, it was 18
9 days.

10 MS. KENNEY: Thank you very much, Mr. Berish.

11 I have no further questions, Your Honor.

12 JUDGE CHRISTIANSON: We might as well just continue
13 on.

14 Small Business?

15 MS. MOURY: No questions, Your Honor.

16 MR. McCORMICK: No questions, Your Honor.

17 JUDGE CHRISTIANSON: Mr. Kleppinger?

18 MR. KLEPPINGER: No questions, Your Honor.

19 JUDGE CHRISTIANSON: Mr. Epstein?

20 MR. EPSTEIN: Yes. I have a couple questions.

21 CROSS-EXAMINATION

22 BY MR. EPSTEIN:

23 Q. Mr. Berish, how are you doing?

24 A. Fine.

25 Q. I'm Eric Epstein, representing myself, although

1 I'm sure there are legions of people that support my
2 position.

3 I just want to speak to the press release that is in
4 your exhibit and had a couple of questions on it. Do you
5 know if the document itself is available? I would like to
6 request a copy of the document you have signed with the
7 Department of Environmental Resources. Is that proprietary
8 or is that available to the public?

9 A. I don't know, but I wouldn't see why it would
10 not be available to the public.

11 MR. EPSTEIN: Maybe I can ask counsel if I can get a
12 copy of that.

13 MR. GADSDEN: Certainly.

14 MR. EPSTEIN: Thank you.

15 BY MR. EPSTEIN:

16 Q. Do you know if that's a legally binding
17 document?

18 A. I don't know.

19 JUDGE CHRISTIANSON: I guess from the state end of it
20 there might be complications of enforceability.

21 BY MR. EPSTEIN:

22 Q. That's my next question. If it's not a legally
23 binding document, what recourse does the Department of
24 Environmental Resources have in the event PP&L does not
25 maintain its commitments? Do you have any idea if there's

1 any redress that is afforded to the state?

2 A. I don't know if there's any specific
3 commitments, but I know that the company in good faith has
4 anticipated spending \$5 million annually, or somewhere
5 thereabouts, on remediation.

6 MR. EPSTEIN: Your Honor, I don't know if it's
7 appropriate, but I would like to make an on-the-record data
8 request for, obviously, the document we've agreed to, but if
9 there's any kind of legal rendering that counsel can provide
10 whether or not this is a legally binding document, I would
11 appreciate it.

12 JUDGE CHRISTIANSON: That's the request. Whether
13 there is any document to that effect or not, I don't know.

14 MR. GADSDEN: We'd be happy to provide the document,
15 but I don't think we're in a position to provide Mr. Epstein
16 with a legal opinion letter as to its legally binding
17 nature.

18 JUDGE CHRISTIANSON: Well, the firm couldn't provide
19 it to him because you'd end up with a conflict, I guess; you
20 can't advise him.

21 MR. GADSDEN: I think the document speaks for itself.

22 JUDGE CHRISTIANSON: Yes. If you'd like to volunteer
23 some interpretation, go ahead, but I'm not requiring it
24 necessarily.

25 MR. EPSTEIN: I would appreciate getting the

1 document, and it's always good to make counsel happy.

2 BY MR. EPSTEIN:

3 Q. I was wondering if you have listed in rank the
4 134 sites that need to be cleaned up.

5 A. I don't have it with me, but I know our
6 environmental people have provided a listing, a prioritized
7 listing, of those that are the more potentially
8 environmentally hazardous; yes, sir.

9 Q. Would it be possible to get a copy of that also?

10 A. I would think so, yes.

11 Q. In addition to that ranking or listing, is there
12 specific criteria listed as to how you weighted and ranked
13 these sites?

14 A. I'm sure there is some specific criteria, I just
15 can't speak to what they are right now.

16 Q. If that's available, if you could get a copy of
17 it, I would appreciate it.

18 Do you know if any of the sites contain PCBs?

19 A. In response to an interrogatory of the Office of
20 Trial Staff -- and I'm referring to OTS-RE-13-D dated
21 January 13, 1995. As an attachment to that document there
22 was listed what's titled here "1995 Estimated Environmental
23 Assessment Remediation Payments" by some detail, and there
24 was a category here that said "PCB Poll Sites," and there
25 was also a category here that said "PCB Substations," so I'm

1 assuming that, yes, PCBs were --

2 Q. I may not have a copy of that because I don't
3 think I was an official party at that time, but if I could
4 get a copy of that, I would appreciate it.

5 A. Sure.

6 JUDGE CHRISTIANSON: As a courtesy, I would ask the
7 company to provide a copy.

8 MR. GADSDEN: That's no problem.

9 MR. EPSTEIN: My concern would be that some of those
10 stations that are contaminated with PCBs might have fallen
11 under the jurisdiction of EPA, of which Mr. Seif was head of
12 in that region, and I'm concerned there may be a conflict of
13 interest. So if you could provide that, I can investigate
14 on my own.

15 MR. GADSDEN: Sure.

16 BY MR. EPSTEIN:

17 Q. I noticed in your press release on page 2 you
18 noted that there was no apparent imminent risk, and then
19 again on page 4, lines 8 through 10, it appeared the primary
20 reason you hadn't remediated the sites was the weather
21 conditions. Would that be an accurate assessment, that
22 weather, that is the thawing, was the primary reason why you
23 hadn't cleaned or addressed these environmental problems at
24 an earlier date?

25 A. Well, I think it was partly for two reasons.

1 One, we were waiting for the agreement to be signed; and
2 secondly, remediation deals with, as part of the
3 investigation, digging up the soil and testing it, and it's
4 much easier to dig up the ground when it's not frozen. So,
5 yes, sir.

6 Q. So that would have been, if not the primary
7 reason, one of the major reasons for delaying the clean-up.

8 I'm wondering, in your assessment, if this agreement
9 should be treated as an investment rather than an
10 environmental clean-up cost?

11 A. From basic accounting regulation, I'm sure that
12 all of these costs are what would be considered normal
13 operating expenses.

14 Q. Because I noticed in the press release that Mr.
15 Seif had noted, "This agreement will not only provide for a
16 cleaner environment, but there is a good chance some of
17 these properties can be made available again for economic
18 development use." So you believe then it would be under
19 normal operating expenses that these monies could be
20 deducted?

21 A. That's how we are booking the charges, as normal
22 operating expenses.

23 Q. I have just one final question. Are you related
24 to Dave Berish?

25 A. Yes.

1 Q. Just interested.

2 A. He's my brother.

3 Q. Do you play shortstop also?

4 A. No.

5 MR. EPSTEIN: That's it.

6 JUDGE CHRISTIANSON: So we seem to be at the end of
7 cross for the witness. Let's be off the record briefly.

8 (Discussion off the record.)

9 JUDGE CHRISTIANSON: Let's go ahead and be back on
10 the record.

11 I understand there is no redirect for the witness,
12 and the witness is excused.

13 (Witness excused.)

14 JUDGE CHRISTIANSON: Again, we made some revisions
15 for the witnesses, which we don't have to repeat for the
16 record.

17 We have Mr. Bernini on the stand. I remind the
18 witness that he continues to be under oath, and counsel may
19 proceed.

20 MR. MacGREGOR: Yes, Your Honor. I have provided to
21 the court reporter and to the parties and to Your Honor
22 copies of a document entitled "Pennsylvania Power & Light
23 Company Rebuttal Testimony of Ronald J. Bernini," and I
24 would ask that it be marked for identification as PP&L
25 Statement 3-R.

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JUDGE CHRISTIANSON: So identified, your 3-R.

(Whereupon, the document was marked
as PP&L Statement No. 3-R for
identification.)

MR. MacGREGOR: Your Honor, we have also provided to
the parties and to the court reporter copies of a document
entitled "Pennsylvania Power & Light Company Exhibit Future
1 - Revised, Summary of Measures of Value & Rate of Return,"
which is the company's final accounting exhibit, which I
would ask be marked for identification as Exhibit Future 1 -
Revised.

JUDGE CHRISTIANSON: Yes, Exhibit Future 1 - Revised.
My copy is in a grey binder.

MR. MacGREGOR: Yes; that's correct, Your Honor.

JUDGE CHRISTIANSON: So that's been identified, with
various witnesses noted on the cover page.

MR. MacGREGOR: That's correct.

(Whereupon, the document was marked
as PP&L Exhibit Future 1 - Revised
for identification.)

Whereupon,

RONALD J. BERNINI

having previously been duly sworn, testified further as
follows:

DIRECT EXAMINATION

1
2 BY MR. MacGREGOR:

3 Q. Mr. Bernini, do you have a copy of PP&L
4 Statement 3-R before you?

5 A. Yes, I do.

6 Q. Is this a copy of your rebuttal testimony in
7 this proceeding?

8 A. It is.

9 Q. Was it prepared either by you or under your
10 direct supervision?

11 A. It was.

12 Q. Do you have any additions or corrections to make
13 to that document at this time?

14 A. I have a correction on page 7, line 4. December
15 4, 1992 should be changed to May 6, 1993.

16 JUDGE CHRISTIANSON: May 6, '93.

17 BY MR. MacGREGOR:

18 Q. With that correction, if I were to ask you the
19 questions contained in Statement 3-R again today, would your
20 answers be the same as those contained therein?

21 A. They would.

22 Q. Would those answers be true and correct to the
23 best of your knowledge?

24 A. Yes.

25 Q. Mr. Bernini, were you also responsible for the

1 preparation of Attachment 1 and Attachment 2 to PP&L
2 Statement 3-R?

3 A. Yes.

4 Q. Is the information contained in those
5 attachments true and correct to the best of your knowledge?

6 A. Yes.

7 Q. Mr. Bernini, were you also responsible for
8 assembling the company's final accounting exhibit, PP&L
9 Exhibit Future - 1 Revised?

10 A. Yes.

11 Q. Are you responsible for certain portions of that
12 document as indicated by your name appearing in the upper
13 right-hand corner of the page?

14 A. I am.

15 MR. MacGREGOR: Your Honor, I would like to move the
16 admission at this time of PP&L Statement 3-R.

17 JUDGE CHRISTIANSON: 3-R then is accepted, carrying
18 with it the two schedules that are appended there.

19 MR. MacGREGOR: That is correct. And unless the
20 parties object, so I don't forget later, I guess I would
21 like to go ahead and move Exhibit Future 1 - Revised into
22 the record even though there are some witnesses yet to
23 appear who are responsible for certain pages.

24 JUDGE CHRISTIANSON: We'll leave it open for cross of
25 those witnesses. Speak up before the end of business on

1 Friday if you have any trouble with Exhibit Future 1 -
2 Revised. So that is now accepted into the record subject to
3 the standard conditions.

4 (Whereupon, the documents marked as
5 PP&L Statement No. 3-R and PP&L
6 Exhibit Future 1 - Revised were
7 received in evidence.)

8 MR. MacGREGOR: Mr. Bernini is available for cross-
9 examination, Your Honor.

10 JUDGE CHRISTIANSON: Again, we might have discussed
11 it; I'm not sure. Does Staff have some questions?

12 MR. SIMMS: I just have a question that was deferred
13 to Mr. Bernini.

14 JUDGE CHRISTIANSON: Oh, that's right. Go ahead.

15 MR. SIMMS: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SIMMS:

18 Q. Mr. Bernini, did you co-sponsor the company's
19 response to Office of Trial Staff Data Request 10?

20 A. I did.

21 Q. Am I not correct that in that response the
22 company indicated that it will attempt to receive
23 Neighborhood Assistance Act tax credits to the extent
24 possible?

25 A. It would.

1 Q. And that to the extent that those tax credits
2 are received by the company, they would relate to the
3 shareholder-provided costs for the social programs discussed
4 in this proceeding?

5 A. The answer to that question is yes. I believe
6 the interrogatory that was responded to, or the data request
7 that was responded to, related solely to the shareowner-
8 supplied funds, if I'm not mistaken.

9 Q. That's correct. And that provides for -- there
10 is no tax credit to ratepayer-provided costs; would that be
11 correct? Ratepayer-provided costs cannot utilize the tax
12 credits under the Neighborhood Assistance Act; would that be
13 correct?

14 A. I'm not sure of that.

15 JUDGE CHRISTIANSON: One would suppose so.

16 THE WITNESS: It would be my opinion that both the
17 shareowner-supplied funds and the ratepayer-supplied funds,
18 to the extent they become an item of expense, and to the
19 extent they would meet all the requirements of the
20 Neighborhood Assistance Act, either could be suitable for
21 obtaining the tax credit, Pennsylvania tax credit. In all
22 likelihood, the probability of getting credits for those
23 expenditures are probably fairly slim because of all the
24 requirements associated with it.

25

1 BY MR. SIMMS:

2 Q. I understand that. But just to refresh your
3 memory, if I can --

4 MR. SIMMS: May I approach the witness, Your Honor?

5 JUDGE CHRISTIANSON: Yes. Go ahead.

6 BY MR. SIMMS:

7 Q. If you could just read the last sentence in that
8 response?

9 (Document handed to witness.)

10 A. "To the extent that such credits are received
11 for any of the \$2 million in shareholder-provided costs,
12 they would be related to the shareholder-provided costs, not
13 to any ratepayer-provided costs." And that's a true
14 statement; if, in fact, we use shareowners' funds and obtain
15 a credit, that credit should go to the shareowners.

16 MR. SIMMS: Thank you. I have no further cross.

17 JUDGE CHRISTIANSON: That was a little more
18 complicated than I thought. Tax credits are always
19 complicated, I think.

20 Then anything from Consumer Advocate?

21 MS. KENNEY: Yes.

22 CROSS-EXAMINATION

23 BY MS. KENNEY:

24 Q. Just one question related to something that Mr.
25 Berish said, Mr. Bernini. He related that as a result of

1 revision to the actuarial report there was a revision in the
2 pension costs that were in the company's original filing,
3 and I was looking at Attachment 1 to your rebuttal testimony
4 and I did not see the pension costs, the revision to the
5 pension costs, reflected there.

6 A. You are correct. That was excluded. It's my
7 error. It was in fact reflected in the Revised Exhibit
8 Future 1. I neglected to put it in this list, but it was
9 reflected.

10 Q. So I am correct that the company is intending to
11 reduce its pension expense claim in this proceeding to
12 reflect that?

13 A. We have done so in the revised future exhibit.

14 MS. KENNEY: Thank you. I have no further questions.

15 JUDGE CHRISTIANSON: Anything from Small Business?

16 MS. MOURY: Nothing, Your Honor.

17 JUDGE CHRISTIANSON: Federal?

18 MR. McCORMICK: Nothing, Your Honor.

19 JUDGE CHRISTIANSON: Mr. Kleppinger?

20 MR. KLEPPINGER: No, Your Honor.

21 JUDGE CHRISTIANSON: Mr. Epstein is gone. He'll be
22 back tomorrow morning about 10:20.

23 Then we seem to be done with cross for the witness,
24 and we might as well be off the record very briefly.

25 (Discussion off the record.)

1 JUDGE CHRISTIANSON: Let's be back on.

2 I guess there's no redirect, but there's some
3 rejoinder.

4 MR. MacGREGOR: That's right, Your Honor.

5 (Witness excused.)

6 Whereupon,

7 RONALD J. BERNINI

8 having previously been duly sworn, testified further as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. MacGREGOR:

12 Q. Mr. Bernini, I just want to explore one area
13 briefly regarding the cash working capital treatment of the
14 Clean Air Act Amendment permit fees. I would like to refer
15 you to a portion of Mr. Catlin's surrebuttal testimony,
16 which I think will at some point today be offered as OCA
17 Statement No. 6-A, and particularly the very last page of
18 that document marked in the upper right-hand corner as
19 Catlin Exhibit 1, which is the company's response to OCA
20 Interrogatory Set IX, No. 9.

21 Do you have that?

22 A. I do.

23 Q. In the response under the heading "Period," in
24 each of the August '93, '94 and '95 dates that appear there,
25 in parentheses after that appears the designation "For

1 1992," "For 1993" and "For 1994." Can you, for the record,
2 explain your understanding of that reference?

3 A. Yes. I think those references should be "Based
4 on the year 1992," "Based on the year 1993," and "Based on
5 the year 1994." It's my understanding that the DER, as a
6 state agency, has a fiscal year which runs from July 1
7 through June 30 of the following year; and, in fact, on or
8 about August 26, near the end of August, a payment is made
9 to the DER based on the prior year's emissions. That prior
10 year is a calendar year. The DER, it is my understanding,
11 deposits this into a fund and it is utilized for their
12 fiscal year, which runs July 1 through June 30. That's my
13 understanding of that payment.

14 MR. MacGREGOR: That's all I have, Your Honor.

15 JUDGE CHRISTIANSON: Then we can pause. Any follow-
16 up?

17 MS. KENNEY: No, Your Honor.

18 JUDGE CHRISTIANSON: Then it seems we're done with
19 the witness, and the witness is excused.

20 (Witness excused.)

21 JUDGE CHRISTIANSON: I guess we might as well take
22 Sivulich.

23 MR. SIMMS: That's correct, Your Honor. While Mr.
24 Sivulich is making his way to the witness stand, if it's
25 okay with the parties, my understanding is that there is no

1 cross-examination by the company of Mr. Weakley's
2 surrebuttal testimony.

3 MR. MacGREGOR: That is correct.

4 MR. SIMMS: I would ask that a multi-page document,
5 which is the surrebuttal testimony of Charles T. Weakley, be
6 marked for identification as OTS Statement No. SR-4. May it
7 be so identified?

8 JUDGE CHRISTIANSON: So identified.

9 (Whereupon, the document was marked
10 as OTS Statement No. SR-4 for
11 identification.)

12 MR. SIMMS: I ask that it be admitted into the
13 record.

14 JUDGE CHRISTIANSON: Yes. Without objection, it's
15 accepted into the record.

16 (Whereupon, the document marked as
17 OTS Statement No. SR-4 was received
18 in evidence.)

19 MR. SIMMS: I have provided two copies to the court
20 reporter.

21 JUDGE CHRISTIANSON: Fine. Weakley will not be
22 standing cross on that.

23 (Pause.)
24
25

1 JUDGE CHRISTIANSON: I notice that Mr. Sivulich is in
2 the stand now. I remind the witness he continues to be
3 under oath, and counsel may proceed.

4 Whereupon,

5 JOSEPH J. SIVULICH

6 having previously been duly sworn, testified further as
7 follows:

8 MR. MICKENS: Thank you, Your Honor. With regard to
9 Mr. Sivulich's testimony, we are going to introduce his
10 surrebuttal testimony, and then he will have brief oral
11 surrebuttal testimony.

12 JUDGE CHRISTIANSON: Fine.

13 DIRECT EXAMINATION

14 BY MR. MICKENS:

15 Q. Mr. Sivulich, I have before me a copy of OTS
16 Statement No. SR-2. Was this document prepared by you or
17 under your direction and control?

18 A. It was.

19 Q. Are there any additions or corrections that you
20 would like to make to this document at this time?

21 A. I have none.

22 Q. If I were to ask you the questions that are
23 indicated herein today, would your answers be the same?

24 A. They would be.

25 Q. And are those answers true and correct to the

1 best of your information, knowledge and belief?

2 A. They are.

3 MR. MICKENS: Your Honor, I am going to be providing
4 two copies of OTS Statement No. SR-2 to the court reporter,
5 and I would ask that it be admitted at this time subject to
6 any cross-examination.

7 JUDGE CHRISTIANSON: Yes. SR-2 is now accepted into
8 the record under the standard conditions.

9 MR. MICKENS: Thank you.

10 (Whereupon, the document was marked
11 as OTS Statement No. SR-2 for
12 identification, and was received in
13 evidence.)

14 BY MR. MICKENS:

15 Q. Now, Mr. Sivulich, are there any changes to your
16 testimony because of the changes to PP&L's claim as
17 presented in Attachment 1 of Mr. Bernini's Statement 3-R?

18 A. Yes. Mr. Bernini had revised the company's
19 claim for fossil fuel power production plant decommissioning
20 expense from \$52,818,000 to \$55,570,000. Therefore, I must
21 also revise my recommended adjustment to \$55,570,000 instead
22 of the \$52,818,000 shown in my OTS Statement No. 2.

23 Q. Okay. Let me return you to the statement of
24 your revision. I believe you misstated the amount of the
25 revision. Would you repeat that, please?

1 A. Mr. Bernini has changed his claim to
2 \$55,570,000, and that's the amount of my revised adjustment.

3 Q. Now, were you present for the rejoinder
4 testimony of Mr. Hoch?

5 A. I was.

6 Q. Do you agree with his characterization of your
7 testimony that your life span recommendation is dependent on
8 future additions?

9 A. No. My life span recommendations are based on
10 the company's 1988 depreciation study and the current plans
11 of PP&L as expressed in its 1994 and 1995 resource plans.
12 The fact that PP&L may have to make additions to the plans
13 should not deter it from using reasonable life span
14 estimates that are consistent with management plans. To do
15 otherwise is padding depreciation estimates for unforeseen
16 contingencies.

17 Q. Mr. Sivulich, were you present for the rejoinder
18 testimony of Mr. Krall?

19 A. I was.

20 Q. How does his, quote, "what if economic scenario"
21 affect your life span recommendations?

22 A. Mr. Krall's identification of possible
23 compliance strategies and related capital costs does not
24 change the fact that PP&L is planning to operate these
25 plants well past the year 2003. In addition, Mr. Krall has

1 admitted that another major factor in determining if a power
2 plant is to be retired is reliability of service.

3 It is unquestioned that PP&L is currently relying on
4 these units for the present and future needs of its
5 customers. Mr. Krall's worst case "what if economic
6 scenario" should not be the basis for setting life spans in
7 this case.

8 Q. Do you have any additional oral surrebuttal
9 testimony at this time, Mr. Sivulich?

10 A. I do not have anymore.

11 MR. MICKENS: Your Honor, Mr. Sivulich is available
12 for cross-examination, if there is any.

13 JUDGE CHRISTIANSON: Fine. Then we can take a moment
14 if you have to take notes, but we'll start with the company
15 presumably first.

16 MR. DeCUSATIS: Just a moment.

17 JUDGE CHRISTIANSON: Let's be off the record briefly.
18 (Discussion off the record.)

19 JUDGE CHRISTIANSON: Let's be back on.

20 MR. DeCUSATIS: Your Honor, I have no cross.

21 JUDGE CHRISTIANSON: Does anyone else have cross for
22 the witness?

23 (No response.)

24 JUDGE CHRISTIANSON: Going, going, gone. Then Mr.
25 Sivulich is excused.

FORM 2

(Witness excused.)

JUDGE CHRISTIANSON: I guess if you'd like, we can break for lunch unless there is some reason to stay around.

Let's be off the record.

(Discussion off the record.)

JUDGE CHRISTIANSON: Let's be back on the record.

We have Mr. Catlin in the witness box for the Consumer Advocate. I remind the witness he continues to be under oath, and counsel may proceed.

MS. KENNEY: Thank you, Your Honor.

Whereupon,

THOMAS S. CATLIN

having previously been duly sworn, testified further as follows:

MS. KENNEY: Your Honor, I would like to have marked for identification as OCA Statement 6A the surrebuttal testimony of OCA Witness Thomas S. Catlin.

JUDGE CHRISTIANSON: So identified, 6A.

(Whereupon, the document was marked as OCA Statement No. 6A for identification.)

DIRECT EXAMINATION

BY MS. KENNEY:

Q. Mr. Catlin, do you have before you a copy of your prepared, prefiled surrebuttal testimony in this case

FORM 2

1 consisting of 20 pages of questions and answers, 14 updated
2 schedules, and in addition, it also includes Schedule TSC-28
3 and Catlin Exhibit 1?

4 A. I do have that in front of me.

5 Q. Was this testimony and were these schedules
6 prepared by you or under your direct supervision?

7 A. They were.

8 Q. Do you have any additions, corrections or
9 modifications to your testimony or your schedules?

10 A. I do not.

11 Q. Are the testimony and schedules true and correct
12 to the best of your knowledge, information and belief?

13 A. They are.

14 Q. And if I were to ask you these same questions
15 today under oath, would your answers be the same?

16 A. They would.

17 MS. KENNEY: Your Honor, we ask that Mr. Catlin's
18 testimony marked for identification as OCA Statement 6A be
19 admitted into evidence subject to any timely cross-
20 examination and motions by opposing counsel.

21 JUDGE CHRISTIANSON: Yes. Under that condition, 6A
22 is now accepted into the record.

23 (Whereupon, the document marked as
24 OCA Statement No. 6A was received in
25 evidence.)

1 MS. KENNEY: We have provided two copies of Mr.
2 Catlin's testimony to the court reporter, and Mr. Catlin is
3 available for cross-examination.

4 JUDGE CHRISTIANSON: Fine. We might as well start
5 and perhaps end with the company.

6 MR. GADSDEN: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. GADSDEN:

9 Q. Mr. Catlin, just a few questions with respect to
10 your Statement No. 6A. The first two questions relate to
11 your discussion at pages 2 and 3 of the company's claim for
12 Susquehanna refueling outage costs.

13 You indicate at page 2 at lines 20 through 21 that
14 Mr. Berish's comparison of the costs of Reload 6 for Unit 2
15 to the costs of Reload 8, the estimated costs of Reload 8 of
16 Unit 1 is an inappropriate one because -- and I'll quote you
17 -- "the costs of refueling outages at Unit 1 are normally
18 higher than those at Unit 2." Do you see that?

19 A. Yes.

20 Q. Is that statement based solely on the figures
21 which you present in tabular form at the top of page 3?

22 A. It is based on figures and the information that
23 was provided in several responses to data requests,
24 primarily OCA-IV-46, which I've attempted to summarize at
25 the top of page 3. I think there was some additional

1 information in the data request that was not put into my
2 tabular summary.

3 Q. Did you look at the costs of prior reloads for
4 either Unit 1 and Unit 2? And by prior, I mean prior to
5 Reload No. 5 in the case of Unit 1 and Reload No. 4 in the
6 case of Unit 2.

7 A. No. I was comparing the ones that were nearest
8 to being the same point in time, the same calendar time for
9 each unit, which is the way that I've displayed them on
10 page 3.

11 Q. Can you tell us when Reload No. 7 at Unit No. 2
12 is scheduled to be completed?

13 A. November 13, 1995.

14 Q. Further on in your testimony beginning at page
15 7, you respond to Mr. Bernini's discussion of adjustments
16 proposed to the company's cash working capital claim.

17 Can we agree by reference to your updated Schedule
18 TSC-6 that the reason your proposed cash working capital
19 requirement is negative is because of what is commonly
20 referred to as the offset for accrued interest expense on
21 long-term debt?

22 A. Well, that's certainly the largest negative item
23 is the interest on long-term debt. There are also offsets
24 for income taxes.

25 Q. And if one were to put that particular offset

1 aside, the cash working capital requirement would be
2 positive, would it not?

3 A. It would be. It would also be positive if you
4 removed the one for federal income taxes.

5 Q. On page 11, in discussing Mr. Bernini's
6 testimony regarding early window costs, you indicate that he
7 revised the company's claim to include additional taxes that
8 it incurred in conjunction with the deferrals.

9 We can agree, can we not, just for purposes of
10 clarification of the record that Mr. Bernini brought this
11 particular adjustment to the attention of the parties when
12 he was presented for cross-examination on his direct
13 testimony?

14 A. Yes, I believe he did mention it at that time.

15 Q. Mr. Catlin, finally, if I could direct you to
16 page 14, beginning here you are responding to Mr. Bernini's
17 rebuttal testimony specifically with respect to certain
18 adjustments that you made to taxable income, and you discuss
19 at this portion of your testimony the provision for
20 uncollectibles and bad debt write-offs. Do you see that?

21 A. Yes.

22 Q. Are you familiar with the adjustment which has
23 been proposed by Office of Trial Staff Witness Weakley to
24 the company's expense claim for uncollectibles?

25 A. Yes, I am.

1 Q. If Mr. Weakley's adjustment is adopted, does
2 your proposal here go away or are they stand-alone
3 adjustments in your view?

4 A. I think that if Mr. Weakley's adjustment was
5 adopted, there would be -- my understanding of what the
6 company is claiming is that there would no longer be a
7 difference between what would be reflected as an expense and
8 what would be reflected as a tax deduction. So in that
9 sense, it would go away.

10 MR. GADSDEN: That's all we have for Mr. Catlin, Your
11 Honor.

12 JUDGE CHRISTIANSON: We can check. Any redirect?

13 MS. KENNEY: There is not going to be any redirect,
14 Your Honor.

15 JUDGE CHRISTIANSON: Okay. Then we seem to be done
16 with the witness in about eight minutes or perhaps nine
17 minutes. You're under ten, in any case.

18 The witness is excused unless you have some oral.

19 MS. KENNEY: No, I don't believe we have any. We
20 would do sur-rejoinder. I doubt the company would allow it.

21 JUDGE CHRISTIANSON: I think perhaps not.

22 MS. KENNEY: But I guess the remainder is rejoinder
23 for Mr. Berish.

24 JUDGE CHRISTIANSON: Okay. We'll presumably worry
25 about that after lunch.

1 MS. KENNEY: If it's not --

2 MR. GADSDEN: Your Honor, if --

3 JUDGE CHRISTIANSON: Let's be off the record very
4 briefly.

5 (Discussion off the record.)

6 JUDGE CHRISTIANSON: Let's be back on the record.

7 We seem to be close to being done for today, so we
8 might as well just keep it up. I guess it's up to the
9 company to make the next move.

10 MR. GADSDEN: Yes, Your Honor. The company would
11 like to recall Mr. Berish for some brief rejoinder
12 testimony.

13 JUDGE CHRISTIANSON: I don't have to remind the
14 witness he's still under oath, but I have anyway. Go ahead,
15 counsel.

16 MR. GADSDEN: Thank you, Your Honor.

17 Whereupon,

18 MICHAEL J. BERISH

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

21 DIRECT EXAMINATION

22 BY MR. GADSDEN:

23 Q. Mr. Berish, have you had an opportunity to
24 review the surrebuttal testimony submitted by Office of
25 Consumer Advocate Witnesses Catlin and Kahal?

1 A. Yes, sir, I have.

2 Q. Mr. Berish, at page 2 of his surrebuttal
3 testimony, Mr. Catlin indicates that the costs of refueling
4 outages at Unit No. 1 are normally higher than those at Unit
5 No. 2. Are you familiar with that testimony?

6 A. Yes, sir, I am.

7 Q. And he presents certain data on page 3 of his
8 testimony relating to Reloads 5 through 8 at Unit 1 and
9 Reloads 4 through 7 at Unit 2, does he not?

10 A. Yes, sir.

11 Q. And upon reviewing the table which Mr. Catlin
12 presents in his surrebuttal testimony, did you have an
13 opportunity to go back and determine the costs of refueling
14 outages at those two units prior to the ones identified by
15 Mr. Catlin?

16 A. Yes, sir, I have.

17 Q. Did you prepare a table which identifies the
18 costs for all refueling outages at Susquehanna station?

19 A. Yes, sir, I did.

20 MR. GADSDEN: Your Honor, at this time I would like
21 to have marked for identification as Exhibit MJB-16 a one-
22 page table prepared by Mr. Berish.

23 JUDGE CHRISTIANSON: So identified, MJB-16.

24

25

1 (Whereupon, the document was marked
2 as PP&L Exhibit No. MJB-16 for
3 identification.)

4 MR. GADSDEN: Thank you, Your Honor.

5 BY MR. GADSDEN:

6 Q. Do you have what has been identified as Exhibit
7 MJB-16?

8 A. Yes, I do.

9 Q. Was it prepared by you or under your direct
10 supervision?

11 A. Yes. It was prepared under my direction.

12 Q. Am I correct that in Exhibit MJB-16, you have
13 matched up the costs of refueling outages at Unit 1 and Unit
14 2 by outage?

15 A. Yes, sir, I have.

16 Q. As to those six outage numbers for which we have
17 actual data, is it correct that in three instances the cost
18 of the outage at Unit 1 was more than the cost of the outage
19 at Unit 2, and that in three instances the converse was the
20 case?

21 A. Yes, if you look at the particular outage; for
22 example, Outage No. 1 at Unit 1 and Outage No. 1 at Unit 2.

23 Q. Mr. Berish, in his surrebuttal testimony, Mr.
24 Catlin also discusses an adjustment originally proposed by
25 Mr. Kollen, and at page 7 of Mr. Catlin's testimony, he

1 states that "PP&L should not be allowed to defer the costs
2 of the program" -- and here we're talking about the VERP
3 program -- "for future rate recovery without also
4 recognizing that the VERP has produced cost savings which
5 were similarly not reflected in rates."

6 Do you recall that testimony?

7 A. Yes, sir, I do.

8 Q. Do you also recall having sponsored an answer to
9 an Office of Consumer Advocate interrogatory, namely Set IV,
10 No. 59, which asks the company to provide budgeted and
11 actual wage data for the future test year and to update the
12 response on a monthly basis as additional data became
13 available?

14 A. Yes, sir, I do.

15 Q. Have you had an opportunity to update that
16 response now to reflect data through the month of April?

17 A. Yes, sir, I have.

18 MR. GADSDEN: Your Honor, at this time I would ask to
19 have marked for identification as Exhibit MJB-17 Mr.
20 Berish's updated response. Actually, it is marked,
21 "Supplemented 5/19/95."

22 JUDGE CHRISTIANSON: It is identified, a supplemental
23 response.
24
25

1 (Whereupon, the document was marked
2 as PP&L Exhibit No. MJB-17 for
3 identification.)

4 BY MR. GADSDEN:

5 Q. Mr. Berish, do you have what has been marked for
6 identification as Exhibit MJB-17?

7 A. Yes, I do.

8 Q. Was that supplemental response prepared by you
9 or under your direct supervision?

10 A. Yes, sir, it was.

11 Q. Returning to Mr. Catlin's statement at page 7
12 that the implementation of the VERP has produced cost
13 savings, has that in fact been the company's experience to
14 date?

15 A. No, sir, it has not to date. We would
16 anticipate that it would produce savings into the future,
17 but as a practical matter, when 640 people leave the company
18 within a relatively short period of time, the work that they
19 were doing does not correspondingly leave the company.

20 What we are finding out now is that certain work is
21 absolutely critical. For example, a number of the people
22 were linemen. A number of people were operators of power
23 plants. What we have had to do is switch around or move
24 people to fill the critical positions.

25 We would anticipate that over time we would be able

1 to eliminate work by some of the re-engineering efforts that
2 we have, but we have found we can't do this within a
3 relatively short period of time. As a result, we have had
4 to supplement our work force with either additional overtime
5 of the employees that we have, we have had to hire some
6 additional temporary employees, we have had to contract out
7 some work until we get into the position where we can in
8 fact eliminate the work and as a result provide the cost
9 savings that we had anticipated as a result of the voluntary
10 early retirement program.

11 MR. GADSDEN: That's all we have for Mr. Berish.

12 JUDGE CHRISTIANSON: Fine. We can pause for a
13 moment.

14 Do you want to go ahead and move your 16 and 17?

15 MR. GADSDEN: Yes, Your Honor. Thank you. I would
16 ask that Exhibits MJB-16 and MJB-17 be admitted into the
17 record.

18 JUDGE CHRISTIANSON: Let's be off the record just
19 briefly.

20 (Discussion off the record.)

21 JUDGE CHRISTIANSON: Let's be back on the record.

22 There is a little more to do on 17. I have not acted
23 on your motion to get 16 and 17 into the record yet. I'll
24 do that in a minute.

25

1 BY MR. GADSDEN:

2 Q. Mr. Berish, is there a clarification that you
3 would like to make or further explanatory information you
4 would like to provide with respect to Exhibit MJB-17?

5 A. Yes, I would. I'd just like to point out on
6 Exhibit MJB-17 that the actual that you see there from
7 January, 1995 through April are the actual wages that we
8 have incurred which reflects the reduction in employees due
9 to the VERP.

10 The budget is the expected or was the expected budget
11 that we had prepared back in September, and the budget does
12 not reflect any anticipation of the VERP savings. Those
13 VERP savings were put into the rate case as an adjustment.
14 So what we are seeing there is the actual for 1995, which
15 reflects the reduction in people due to the VERP, compared
16 to the budget that we thought we would have, which did not
17 anticipate the reduction.

18 MR. GADSDEN: Thank you, Your Honor.

19 JUDGE CHRISTIANSON: Okay. With that, we can take a
20 minute. The numbers seem to wander a bit month to month. I
21 guess February it goes down because it's a short month, but
22 there is a little wandering on that.

23 Let them take a couple of minutes. Let me act on the
24 exhibits. Sixteen and 17 are now accepted into the record
25 subject to any motion in the next few minutes, but they're

1 now accepted into the record.

2 (Whereupon, the documents marked as
3 PP&L Exhibits Nos. MJB-16 and MJB-17
4 were received in evidence.)

5 JUDGE CHRISTIANSON: Let's be off very briefly.

6 (Discussion off the record.)

7 JUDGE CHRISTIANSON: Let's be back on.

8 There is some examination and we can proceed with it.

9 CROSS-EXAMINATION

10 BY MS. KENNEY:

11 Q. Mr. Berish, I'd like to refer you to Exhibit
12 MJB-16.

13 A. Okay.

14 Q. I would ask you to accept subject to check that
15 the average for Unit No. 1 of the first six outages, the
16 average was \$16,983,000, and that the average for the first
17 six outages at Unit No. 2 was \$13,801,000. Can you accept
18 that subject to check?

19 A. I'll accept that subject to check. The only
20 quarrel that I had with the statement was the blanket
21 statement that the cost of outages on Unit 1 were generally
22 higher than Unit 2, and that's not quite the case.

23 Q. Now I'd like to refer you to Exhibit MJB-17 and
24 in particular to the January, 1995 actual versus budget wage
25 figures.

1 Isn't it correct that one of the reasons the January
2 wages were so high is that January included a large one-time
3 vacation payment to employees who were departing under VERP?

4 A. That is correct.

5 Q. Do you know how much that was?

6 A. I don't know exactly how much that was. My
7 concern with the numbers are the later numbers when we
8 should have been seeing, if the savings were flowing
9 directly through, approximately a \$2 million reduction from
10 the budget figures.

11 JUDGE CHRISTIANSON: December seems down, but April
12 is about equal.

13 THE WITNESS: Yes.

14 (Pause.)

15 BY MS. KENNEY:

16 Q. I'd like to make an on-the-record data request
17 relating to this; for the lump-sum, one-time vacation
18 payments that were paid to any departing VERP employees,
19 whether they were paid January through April, to have those
20 amounts identified for each month.

21 A. Those payments would have been made only in
22 January as a lump sum right as those employees left. They
23 all left effective January 1st.

24 MS. KENNEY: I'd like to make that an on-the-record
25 data request.

1 JUDGE CHRISTIANSON: For that amount?

2 MS. KENNEY: Right.

3 JUDGE CHRISTIANSON: Okay; noted.

4 MS. KENNEY: I'd also like to reserve the right,
5 after reviewing that material, to file it as a late-filed
6 exhibit in this proceeding.

7 JUDGE CHRISTIANSON: I'll reserve the right for you.
8 Again, it's a company thing and they don't quarrel as to
9 authenticity.

10 MR. GADSDEN: I'm sorry?

11 JUDGE CHRISTIANSON: You don't quarrel as to
12 authenticity of the number, but we'll see getting it into
13 the record later. I think we can probably do that.

14 MS. KENNEY: Okay. Thank you, Your Honor.

15 Can I just have a moment, Your Honor?

16 JUDGE CHRISTIANSON: Yes. We can pause for a minute.

17 (Pause.)

18 MS. KENNEY: I have nothing further, Your Honor.

19 JUDGE CHRISTIANSON: Obviously, on that record
20 request, it should come in before the main briefs or with
21 the main briefs at the very latest if we're going to get it
22 accepted late in the record.

23 THE WITNESS: That shouldn't be a problem.

24 JUDGE CHRISTIANSON: You should find it quickly
25 enough and get it to them.

1 Then we seem to be about ready to be done for the
2 day, but we'll pause for a minute.

3 (Pause.)

4 MS. KENNEY: May I just have one more minute, Your
5 Honor?

6 JUDGE CHRISTIANSON: Yes. Let's be shown as off the
7 record.

8 (Discussion off the record.)

9 JUDGE CHRISTIANSON: Let's be back on.

10 MS. KENNEY: I do have a late-filed exhibit or I can
11 bring it in tomorrow. In reference to MJB-16 and questions
12 that were raised regarding the outages, we have identified
13 OCA-IV-46, Interrogatory IV-46, as the reference source for
14 Table 1 in our testimony, and we would ask at this time to
15 submit OCA-IV-46 as a -- I think it would most likely be a
16 cross-examination exhibit or a late-filed exhibit to go
17 along with MJB-16.

18 JUDGE CHRISTIANSON: We can reserve that. You say
19 you'll bring it in tomorrow, presumably?

20 MS. KENNEY: I can make copies. Unfortunately, I do
21 not have copies of that here with me today. I have one copy
22 if the company would like to review it to make any
23 decisions, but I don't have the multiple copies necessary to
24 file it as a cross-examination exhibit. I can certainly use
25 the copy I have here today so the company would have an

1 opportunity to look at it and make any objections and then
2 make multiple copies.

3 THE WITNESS: I have a copy.

4 MR. GADSDEN: Let me just take a look at it.

5 JUDGE CHRISTIANSON: Let's be shown as off again.

6 (Discussion off the record.)

7 JUDGE CHRISTIANSON: Let's be back on.

8 MS. KENNEY: Your Honor, I would like to have this
9 marked for identification as OCA Cross-Examination Exhibit
10 No. 20, the company's response sponsored by Mr. Berish to
11 OCA Interrogatory Set IV, No. 46.

12 MR. GADSDEN: No objection.

13 JUDGE CHRISTIANSON: No objection at this point. So
14 it is identified as No. 20. Maybe we'll wait until tomorrow
15 to bring it in when the copies are made available.

16 MS. KENNEY: Yes; and I will have copies available
17 tomorrow.

18 JUDGE CHRISTIANSON: Okay. So it is identified as
19 No. 20, and we still have 19 pending as well. So we have 19
20 and 20 pending with copies to be provided on No. 20.

21 (Whereupon, the document was marked
22 as OCA Cross-Examination Exhibit No.
23 20 for identification.)

24 JUDGE CHRISTIANSON: I think we're then done with the
25 business to be transacted today.

1 MR. GADSDEN: Your Honor, just a brief reminder.

2 JUDGE CHRISTIANSON: Go ahead.

3 MR. GADSDEN: As I indicated in the memorandum that I
4 distributed to the parties and to you last week, Mr.
5 LaGuardia will have to be cross-examined telephonically and
6 is available beginning at approximately 10:00. He has a
7 window between 8:00 and 10:00 his time, which translates
8 into 10:00 to 12:00 our time, but I did indicate that we
9 would try to chase him down as soon after 10:00 as we could.

10 JUDGE CHRISTIANSON: We'll start at 10:00 or if we
11 can start just a minute or two early. I'll have the
12 telephone here ahead of time and we can just go ahead with
13 him. There will be some cross for him, I'm sure. So we'll
14 be set up as close to 10:00 as we can to get him started.
15 We can call him up and you can talk to him maybe and then
16 get him started on being a witness. So we'll figure on him
17 at 10:00 and hopefully not to take more than two hours.

18 MR. GADSDEN: That certainly would be my hope.

19 JUDGE CHRISTIANSON: Then with that, we'll be done
20 with the record and we'll be off the record to start at
21 10:00 tomorrow morning.

22 (Witness excused.)

23 (Whereupon, at 1:00 p.m., the hearing was adjourned,
24 to be reconvened at 10:00 a.m., on Thursday, May 25, 1995,
25 in Harrisburg, Pennsylvania.)

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.

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