

1. REPORT DATE:	:	2. BUREAU AGENDA NO.:
June 5, 1995	:	JUN-95-L-8*
3. BUREAU:	:	
LAW	:	
4. SECTION(S):	:	5. PUBLIC MEETING DATE:
Office of Counsel	:	June 22, 1995
6. APPROVED BY:	:	
Director: Povilaitis 7-5000	:	
Supervisor: Pankiw 3-3190	:	
7. PERSON IN CHARGE:	:	
Povilaitis 3-3190	:	
8. DOCKET NO.:	:	
R-00943271	:	

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 INFO. CONTROL DIV.  
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9. (a) CAPTION (abbreviate if more than 4 lines)  
 (b) Short summary of history & facts, documents & briefs  
 (c) Recommendation

(a) Photocopying of Transcripts, Docket No. R-00943271.

(b) The Sierra Club, the Commission for Economic Opportunity and Eric Epstein have requested the Commission to provide transcripts for the current PP&L rate case pursuant to the Right-to-Know law. The Commission's current policy, pursuant to Commission regulation at 52 Pa. Code §5.254, requires that all parties obtain transcripts from the court reporter. In addition, the contract with the court reporting firms provides that the transcripts from parties excluding the Office of Consumer Advocate and the Office of Small Business Advocate, will be obtained through the court reporter. To change the policy at this time would require a change in both the regulation and the court reporting contract.

(c) The Law Bureau recommends that the request for free copies of the transcripts should be denied.

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10. MOTION BY: Commissioner Chm. Quain      Commissioner Hanger-Concurring & Dissenting in part  
 SECONDED: Commissioner Crutchfield      Commissioner Rolka-Concurring & Dissenting in part  
 CONTENT OF MOTION: Commissioner Bloom - Yes

Staff recommendation adopted.

Attachment of Commissioner John Hanger attached.

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PUBLIC UTILITY COMMISSION  
SECRETARYS BUREAU



COMMONWEALTH OF PENNSYLVANIA  
 PENNSYLVANIA PUBLIC UTILITY COMMISSION  
 P.O. BOX 3265, HARRISBURG, PA 17105-3265

KJR

IN REPLY PLEASE  
 REFER TO OUR FILE

R-00943271

June 22, 1995

Alan J. Barak, Esquire  
 Mid-Atlantic Energy Project  
 Widener Energy Law Clinic  
 3700 Vartan Way  
 Harrisburg, Pennsylvania 17110-9450

Dear Mr. Barak:

I am responding to your letter dated May 25, 1995 in which you requested copying transcripts associated with the Pennsylvania Power and Light rate case at Docket No. R-00943271. In your letter, you cite the Pennsylvania Right-to-Know Law and request the Commission to change its practice in order to comply with this law.

The Commission's current practice for copying transcripts is dictated by regulation as follows:

- (a) A party or other person desiring copies of the transcript may obtain copies from the official reporter upon payment of the fees fixed therefore.

52 Pa. Code §5.254. The Commission is obligated by law to follow its duly promulgated regulations. Furthermore, the Commission's contract with the court reporting firms, including Commonwealth Reporting, provides that "the Commission will not supply copies to any litigant in a proceeding."

The Commission believes its procedures are within the parameters of the Right-to-Know Law given that our regulations has been approved by the legislature who considered the cost, convenience and efficiency of using a court reporter over Commission staff to supply the transcripts. Furthermore, the Commission is not the only government agency which implements this course of action.

Accordingly, the Commission must deny your request concerning copies of transcripts.

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Very truly yours,

*John G. Alford*

John G. Alford  
 Secretary

Commissioner John Hanger - Concurring & Dissenting in part  
 (Statement attached)  
 Commissioner David W. Rolka - Concurring & Dissenting in part

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Harrisburg, Pennsylvania

1995-1997 STENOGRAPHIC  
COURT REPORTER CONTRACTS  
(RFP 1995-01)

PUBLIC MEETING-  
JUNE 22, 1995  
JUN-95-ALJ-101

PHOTOCOPYING OF  
TRANSCRIPTS

PUBLIC MEETING-  
JUNE 22, 1995  
JUN-95-L-8\*  
DOCKET NO. R-00943271 ✓

STATEMENT OF COMMISSIONER HANGER

ALJ-101 is a recommendation by the Court Reporter Review Committee to select three proposals for court reporting services for 1995-1997.

Petitioners in L-8 are seeking copies of transcripts and exhibits in the PP&L base rate case now pending at a reasonable cost so that they may be used to prepare motions, briefs, oral argument and cross-examination. They allege that the prices charged by the court reporting services are unaffordable. Unfortunately, Petitioners already have submitted their briefs in the proceeding, so the request is somewhat moot. It is quite unfortunate that the Commission was not able to answer Petitioners' May 25 request sooner.

Even if Petitioners receive no relief, they raise some valid concerns. Petitioners request should not simply be denied, and new court reporting contracts should not simply be approved, without considering the ramifications of the issue raised. Providing transcripts without charge is not an unheard of phenomenon. The Pennsylvania House of Representatives provides transcripts upon request free of charge. The Pennsylvania Rules of Judicial Administration provide that all transcripts ordered by a court include copy ordered for the use of a party proceeding in forma pauperis. All such transcripts are paid for by the county of original venue. Rule 5000.2(h).

This Commission has established deliberative processes, which attempt to be accessible to participation by interested parties. Our procedural rules include countless examples of an inclusive process: we require newspaper publication of proposed regulations and provide an opportunity to comment, we give interested parties the right to intervene in proceedings, and we give non-expert parties a great deal of latitude in attempting to prosecute their cases pro se.

Transcripts in a very small number of cases, such as a PP&L rate case, can cost thousands of dollars. For a low-income individual attempting to prosecute a case pro se, a transcript price of several hundred dollars is an admission price to our hall

of justice that is too expensive to bear. Not all pro se low-income complainants want transcripts of their proceedings in order to utilize them in prosecuting their case, but some may. Our rules should not exclude them by means of a high entrance fee in the guise of a procedural rule.

The Commission should investigate the feasibility of including in the court reporting contracts, as they may be amended, the right to provide copies of transcripts at a reduced price or without charge to a narrowly defined class of low-income individuals who need transcripts in order to effectively prosecute their cases. If eligibility is narrowly defined to include only in forma pauperis petitions from individuals in which the transcripts are truly needed, the cost of such transcripts will not be great. The investigation should consider various methods of providing the transcripts to the parties, including directly from the Court Reporter, by Commission reproduction, by participant reproduction, and other means.

June 21, 1995

DATED

John Hanger

JOHN HANGER, COMMISSIONER