

APPEARANCES (CONTINUED):

WALTER W. COHEN, Esquire
Obermayer Rebmann Maxwell & Hippel LLP
204 State Street
Harrisburg, Pennsylvania 17101
(For the Philadelphia Gas Works)

STEPHEN J. KEENE, Esquire
CHRISTY M. APPLEBY, Esquire
JAMES MULLINS, Esquire (appearing telephonically)
Fifth Floor
555 Walnut Street
Harrisburg, Pennsylvania 17101
(For the Office of Consumer Advocate)

STEPHEN C. GRAY, Esquire (appearing telephonically)
1102 Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101
(For the Office of Small Business Advocate)

PHILIP A. BERTOCCI, Esquire
Community Legal Services
Fourth Floor
1424 Chestnut Street
Philadelphia, Pennsylvania 19102
(For CEPA, ACORN, TAG and Action Alliance)

CHARIS M. BURAK, Esquire (appearing telephonically)
McNees Wallace & Nurick
100 Pine Street
Harrisburg, Pennsylvania 17108
(For PIGGUG)

MR. VINCE MULLINS
3522 Wellington St.
Philadelphia, Pennsylvania 19149
(Pro se)

MS. LIL HENDERSON
6334 North 10th Street
Philadelphia, Pennsylvania 19141
(Pro se)

Commonwealth Reporting Company, Inc.

700 Lisburn Road
Camp Hill, Pennsylvania 17011

APPEARANCES (CONTINUED):

MS. JESSICA N. WOODS
Second Floor
4628 Spruce Street
Philadelphia, Pennsylvania 19130
(Pro se)

MS. HARRIETTE TAYLOR
5717 Spruce Street
Philadelphia, Pennsylvania 19139
(Pro se)

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Commonwealth Reporting Company, Inc.

700 Lisburn Road
Camp Hill, Pennsylvania 17011

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P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE CYNTHIA FORDHAM: Now is
3 the time and place for a prehearing conference in the
4 matter of the Pennsylvania Public Utility Commission
5 versus Philadelphia Gas Works at Docket Number
6 R-00006042, R-00006042C-00001, et al.

7 I am Administrative Law Judge, Cynthia Williams
8 Fordham.

9 I am in the Philadelphia State Office Building.
10 There are a number of attorneys and some individuals in
11 the State Office Building with me. Other parties are in
12 the Keystone Building in Harrisburg with Chief
13 Administrative Law Judge Christianson.

14 At this time I would ask the attorneys here to
15 enter their appearance, starting with Mr. Keene.

16 MR. KEENE: Good morning, Your Honor. This is
17 Stephen J. Keene representing the Office of Consumer
18 Advocate.

19 JUDGE FORDHAM: And Ms. Appleby?

20 MR. KEENE: And with me today is Christy Appleby,
21 assistant Consumer Advocate.

22 JUDGE FORDHAM: Thank you.

23 Mr. Bertocci.

24 MR. BERTOCCI: My name is Philip Bertocci. I
25 represent four consumer organizations: Consumers

1 Education and Protective Associate, ACORN, the Tenants
2 Action Group and Action Alliance of Senior Citizens.

3 JUDGE FORDHAM: Thank you.

4 Mr. Clearfield.

5 MR. CLEARFIELD: Thank you.

6 Your Honor, I am Daniel Clearfield with Wolf Block
7 Schorr & Solis-Cohen. Together with my colleague,
8 Mr. Cohen, we will be representing PGW.

9 MR. COHEN: My name is Walter Cohen and I am from
10 the law firm of Obermayer Rebmann Maxwell & Hippel,
11 working with Mr. Clearfield representing Philadelphia Gas
12 Works.

13 JUDGE FORDHAM: Thank you.

14 And we also have some individuals here. I would
15 ask them to state their name. And there was a gentleman
16 who has come in after we started. So I would ask Ms.
17 Woods and then we will go down the line. .

18 MS. WOODS: My name is Jessica Woods. I am a
19 resident of West Philadelphia.

20 JUDGE FORDHAM: Okay. That's fine.

21 Sir?

22 MR. SEAWRIGHT: I am Albert Seawright. I am an
23 employee of the Tenant Action Group.

24 JUDGE FORDHAM: Okay.

25 MS. HENDERSON: My name is Lil Henderson.

1 MR. MULLINS: Vince Mullins from northeast Philly.

2 JUDGE FORDHAM: That is who we have here. And the
3 court reporter is also in Philadelphia with me.

4 Chief?

5 CHIEF JUDGE CHRISTIANSON: I just un-muted myself.
6 I was on mute. We can hear you fine. We didn't hear the
7 people in the audience, but that is no problem here.

8 JUDGE FORDHAM: It was Vince Mullins, Lil
9 Henderson, Jessie Woods -- and I'm sorry. Say your name
10 again, sir.

11 MR. SEAWRIGHT: Albert Seawright.

12 JUDGE FORDHAM: Okay. Albert Seawright from the
13 Tenants Action Group.

14 CHIEF JUDGE CHRISTIANSON: Thank you, Judge.

15 I would just mention just preliminarily -- they can
16 speak for themselves here -- we have Johnnie Simms from
17 Trial Staff, Stephen Gray from the Small Business
18 Advocate, Charis Burak from the industrial, I guess you
19 would call them.

20 MS. BURAK: Philadelphia Industrial and Commercial
21 Gas Users Group.

22 CHIEF JUDGE CHRISTIANSON: Okay. The industrial
23 users group. They have a different name for every
24 proceeding it seems. She is associated with Mr.
25 Kleppinger, I believe.

1 And James Mullins, also from the Consumer Advocate.
2 They are represented down in Philadelphia.

3 Do you want to hear from them individually?

4 JUDGE FORDHAM: No. That's fine since you have
5 already indicated. And there are no individuals there,
6 is that correct?

7 CHIEF JUDGE CHRISTIANSON: That's correct. I have
8 a hearing report that I will fax to you after this with
9 the four names on it.

10 JUDGE FORDHAM: Okay.

11 Now, I have received prehearing memoranda from PGW,
12 from OTS, OCA, OSBA, the Philadelphia industrial group
13 and from CEPA, et al.

14 There are a number of things that we need to
15 discuss today and I think each one has outlined what the
16 rate case is about, so I won't go through that. I will
17 just indicate that the base rate filing was filed on
18 January 5, 2001, for an additional \$65 million in annual
19 operating revenues.

20 There has been a petition for waiver of potentially
21 applicable notification and filing requirements and
22 establishment of expedited hearing schedule for base rate
23 proceeding. There were comments filed to that petition
24 by the Office of Consumer Advocate, the Office of Trial
25 Staff, Philadelphia Industrial and Commercial Users Group

1 and ACORN, CEPA, et al.

2 By order entered by the Pennsylvania Public Utility
3 Commission on February 8, 2001, there was an
4 investigation instituted into the lawfulness, justness
5 and reasonableness of the proposed rate increase.
6 Pursuant to section 1308(d) of the Public Utility Code
7 supplement number seven to Tariff Gas Pennsylvania PUC
8 No. 1 was suspended by operation of law until October 6,
9 2001, unless otherwise directed by the order of the
10 Commission. In addition, the Commission ordered that the
11 investigation include consideration of the lawfulness,
12 justness and reasonableness of PGW's existing rate.

13 The matter was assigned to the Office of
14 Administrative Law Judge for resolution by hearings and
15 for issuance of a recommended decision.

16 The petition for waiver of potentially applicable
17 notification and filing requirements and establishment of
18 expedited hearing schedule for base rate proceeding was
19 granted in part and denied in part. PGW's request for a
20 waiver of 52 Pa. Code section 53.45(a), which requires
21 that an utility file with the Commission written notice
22 30 days prior to the filing was granted. PGW's request
23 to provide notice to customers under the alternative
24 method set forth in 52 Pa. Code, section 53.45(b)(4) was
25 granted. PGW's request for waiver from providing the

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1 information provided in 52 Pa. Code sections 53.52 and
2 53.53 was denied.

3 The matter has been assigned to me.

4 Johnnie E. Simms, Esquire, and Charles F. Hoffman,
5 Esquire, entered notice of appearance on behalf of the
6 Commission's Office of Trial Staff. There have been
7 complaints filed by CEPA, et al., OCA and OSBA. In
8 addition, there have been a number of other complaints
9 filed. The total at this point is 123.

10 I sent out a prehearing order and indicated that we
11 would discuss a number of things, including the
12 discovery, the possibility of settlement, any issues, the
13 amount of hearing time needed, witnesses' schedules for
14 submission of testimony, hearings and brief, public input
15 hearings and any other matters.

16 In the various prehearing memoranda most parties
17 did indicate the witnesses that they would have. And
18 there seems to be some outstanding discovery that OCA has
19 sent in and I know that there have been some objections
20 to some discovery from a number of the parties. So let's
21 deal with the discovery issue first.

22 First I will ask Mr. Clearfield if there are any
23 issues that he has and then I will go to each of the
24 other parties.

25 MR. CLEARFIELD: Your Honor, the only issue is to

1 update you on where we stand on discovery. We have
2 received almost 500 questions. Of course, many of them
3 have subparts. We are working diligently to try to
4 respond to all those questions.

5 There are two issues with respect to responses.
6 One is that the company has up until recently -- in fact,
7 we are still engaging in the process of finalizing the
8 interim rate proceeding and the settlement of that case.
9 And that has taken quite a bit of time of the technical
10 people the PGW.

11 And the second issue, frankly, is this is our first
12 PUC rate proceeding and so there is a process of
13 learning. Most of the information that is requested if
14 it is available it is available in a different form or in
15 a different context. So there is time that has to be
16 taken to translate it, if you will, in PUC-ese.

17 Having said that, that is not an excuse as much as
18 an explanation that we are late on some of the responses.
19 We are working very hard to get as many of those in as
20 possible. We expect to have a substantial chunk of them
21 in Monday and through the rest of next week, those that
22 are overdue. And we have spoken with the parties
23 informally about that. We also intend to offer to them
24 and we do the potential for informal discovery to try to
25 expedite their receipt of information and to prioritize

1 the information that they need so that they can prepare
2 their direct case.

3 JUDGE FORDHAM: Mr. Clearfield, you mentioned the
4 interim rate proceeding and I know that in your
5 prehearing memoranda you reference that and there was
6 some action yesterday. How does that impact on this
7 proceeding?

8 MR. CLEARFIELD: It impacts in two ways, Your
9 Honor. First, the interim rate request that PGW made was
10 made with the express promise that there would be a
11 permanent rate proceeding that would follow that interim
12 rate award and that whatever happened in the permanent
13 rate proceeding would then modify the interim rate award
14 if, for example, the PUC were to award less. So in
15 essence this is a continuation of that interim rate
16 proceeding.

17 This base rate proceeding that we filed is on the
18 same basis generally as the interim rate case that we
19 filed previously. So the test year, for example, or the
20 budget year, is the same. The base information is the
21 same that we had submitted in the interim rate case. And
22 that had been litigated by all the parties that are here
23 and some others.

24 JUDGE FORDHAM: Okay.

25 MR. CLEARFIELD: The decision yesterday -- I guess

1 it was Wednesday -- by the Commission to adopt the
2 settlement that was entered into between PGW and the Law
3 Bureau, if it goes into effect will allow PGW to raise
4 its rates by \$18 million on an annual basis starting, you
5 know, as soon as we get those rates -- as soon as we can
6 put them into effect.

7 CHIEF JUDGE CHRISTIANSON: This is Judge
8 Christianson from Harrisburg. Something is moving there
9 that is interfering with the conversation.

10 JUDGE FORDHAM: Okay.

11 MR. CLEARFIELD: Do you want me to move closer?

12 JUDGE FORDHAM: Yes. Maybe Mr. Clearfield can come
13 a little closer.

14 JUDGE CHRISTIANSON: Has that order from Wednesday
15 been entered yet? Do you know?

16 MR. CLEARFIELD: I received a copy via E-mail from
17 the Commission. But I cannot say because it is an E-mail
18 whether it has actually been formally entered. It is my
19 understanding it was entered yesterday afternoon.

20 JUDGE CHRISTIANSON: I would expect so. I will
21 check on that a little bit. They gave you \$18 million?

22 MR. CLEARFIELD: It is an \$18 million increase. It
23 would be \$11 million in an increase in the customer
24 charge temporarily and the continuance of which is
25 specifically going to be considered in this proceeding.

1 And then a \$7 million increase in the GCR in a new
2 category of non-gas cost recovery. And the bad debt
3 expense that is covered there would also be considered,
4 the appropriate level of that, would also be considered
5 in this proceeding in terms of the permanent level that
6 would be awarded to PGW.

7 CHIEF JUDGE CHRISTIANSON: And the results of those
8 two proceedings from last fall would impact on this
9 proceeding, essentially?

10 MR. CLEARFIELD: Yes. They would impact. In other
11 words, the 65 million that we requested here is in place
12 of the 18 million, if you will. That is, it would not be
13 in addition to. If there was an award of, well, 20 then
14 the 20 would go into effect and there would only be an
15 additional \$2 million in effect that the rates would have
16 to go up.

17 CHIEF JUDGE CHRISTIANSON: But to repeat for
18 Harrisburg, the presumption is that whatever result we
19 get here would include the results from the two things in
20 the fall. Is that true for the purchased gas cost
21 proceeding as well as the base proceeding?

22 MR. CLEARFIELD: Well, the purchased gas -- are you
23 talking about the \$7 million? Yes. The \$7 million under
24 the terms of the settlement would be transferred back to
25 base rates and with the proper level would be considered

1 in base rates along with everything else.

2 CHIEF JUDGE CHRISTIANSON: Okay. I see that.

3 Seven million. Thank you.

4 MR. CLEARFIELD: The issue, though, is I received
5 the order literally about five o'clock last night and we
6 have not had a chance to study it and study the text.
7 The settlement the was expressly conditioned on the
8 Commission not making material changes to the settlement.
9 So we need to look at some of the text of the order to
10 make sure that it in fact is consistent with the order or
11 in our interpretation it does not stray from what we had
12 agreed to. And that process is going on right now. We
13 obviously will tell you about that once that decision is
14 made.

15 CHIEF JUDGE CHRISTIANSON: Just for the record,
16 this is appellate litigation?

17 MR. CLEARFIELD: Yes. Appellate litigation before
18 the Commonwealth Court.

19 CHIEF JUDGE CHRISTIANSON: Thank you.

20 MR. CLEARFIELD: If and when that order is adopted
21 or accepted and the rates go into effect, I expect that
22 we will file supplemental testimony or a revision to the
23 schedules that indicate our financial condition this
24 year. Because that 18 million would have to be
25 superimposed so that the parties and Your Honor and the

1 Commission can see what the actual effect would be or
2 what the projected effect would be of the increase.

3 CHIEF JUDGE CHRISTIANSON: As I recall originally
4 there were some strings tied to that and I guess that has
5 been modified in this settlement.

6 MR. CLEARFIELD: That's correct. And we are
7 looking at the modifications and considering those --
8 well, I'm not, but others are as we speak.

9 CHIEF JUDGE CHRISTIANSON: At the moment others
10 are, yes.

11 I would say for the Judge, I am just an
12 administrator here. I will try to get you a copy of that
13 decision as soon as I can. That is held pretty tight
14 here at the Commission and I gather it is entered by now.

15 JUDGE FORDHAM: Thank you, Chief.

16 MR. CLEARFIELD: Well, they gave me one but they
17 would not give me one until it was entered.

18 CHIEF JUDGE CHRISTIANSON: Yes. That is the
19 standards practice here as you all know. The Judge
20 deserves to get her own. I will try to get one soon to
21 you.

22 JUDGE FORDHAM: Thank you.

23 MR. KEENE: Your Honor.

24 JUDGE FORDHAM: Mr. Keene has a question.

25 MR. KEENE: Your Honor, just for the record, the

1 OCA has not seen that order yet and I'm not sure if any
2 of the other parties have, either.

3 CHIEF JUDGE CHRISTIANSON: I suspect not. It may be
4 in the mail. I may walk out in a few minutes and try to
5 get a copy here so that we physically have it present in
6 this hearing room in Harrisburg. But I guess Dan
7 Clearfield has the only copy down there right now.

8 MR. CLEARFIELD: No. Actually my copy is sitting
9 next to my car in Harrisburg because I left it in my bag.

10 CHIEF JUDGE CHRISTIANSON: It is just as well left
11 there because it has to be developed as we go along.

12 MR. CLEARFIELD: Yes. We have not had a chance to
13 analyze it.

14 CHIEF JUDGE CHRISTIANSON: Okay. We will get
15 copies available. I will check on that as soon as we are
16 done here and maybe even before we are done here.

17 JUDGE FORDHAM: Thank you, Chief.

18 Let's go back to the discovery. Mr. Clearfield has
19 indicated on behalf of PGW his position on the discovery.
20 Mr. Simms, does OTS have anything?

21 MR. SIMMS: Good morning, Your Honor.

22 JUDGE FORDHAM: Good morning.

23 MR. SIMMS: With respect to Mr. Clearfield's
24 statements regarding discovery, we have submitted a
25 number of interrogatories and have received responses to

1 some. There are some that are late. The company did
2 file objections to about 33 of our interrogatories.

3 It is my hope that I can have some discussion with
4 Mr. Clearfield on Monday regarding those interrogatories
5 and hopefully be able to reach some type of agreement on
6 those. If not, I possibly will be filing a motion to
7 compel with Your Honor and I guess Your Honor will have
8 to make a decision regarding those interrogatories.

9 JUDGE FORDHAM: Thank you.

10 MR. CLEARFIELD: We will be happy to have that
11 discussion and try to work it out informally.

12 JUDGE FORDHAM: Did you hear Mr. Clearfield?

13 MR. SIMMS: Yes, I did, Your Honor.

14 JUDGE FORDHAM: Okay.

15 Mr. Keene?

16 MR. KEENE: Thank you, Your Honor.

17 Your Honor, to date the OCA has served a total of
18 126 interrogatories in three different sets. Our Set 1
19 consisted of 44 interrogatories. It was served on
20 January 26. Answers were due on February 12 and to date
21 we have received answers to only eight of those.

22 Our Set 2 consisted of 31 interrogatories. It was
23 served on January 29. Answers were due on February 13
24 and to date we have received five answers to those 31
25 interrogatory. The company did file an objection on

1 February 12 to one of the interrogatories in OCA Set 2.

2 Our third set of interrogatories consisted of 51
3 interrogatories. It was served on February 6 and
4 responses were due February 21. Again, the company filed
5 objections on or about February 20 to 20 of those
6 interrogatories.

7 We have initiated discussion with the company over
8 the objections and we will attempt to work out resolution
9 of those objections informally. If that fails then we
10 will be filing a motion to compel.

11 JUDGE FORDHAM: Thank you.

12 MR. CLEARFIELD: Your Honor, just for the record,
13 and this is a minor matter, but our counting of the due
14 dates of those interrogatory isn't consistent with the
15 OCA's count. Reasonable people can differ about that.
16 But we don't see that third set is due until next week
17 and we are working hard to try to provide that
18 information. The bottom line is we are going to work as
19 hard as we can to get as many questions answered as
20 quickly as we can.

21 JUDGE FORDHAM: Okay.

22 Mr. Gray, does OSBA have anything on discovery?

23 MR. GRAY: Not yet. We have filed one additional
24 set of discovery but the clock is still running and we
25 have received no response at this time and no objection.

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1 JUDGE FORDHAM: He indicated that the clock is
2 still running. So you have no problems with that?

3 MR. CLEARFIELD: We are still working on those. I
4 don't believe we have objections that we are going to be
5 submitting to any of his discovery in the second set,
6 subject to check.

7 JUDGE FORDHAM: Okay.

8 Ms. Burak?

9 MS. BURAK: Good morning, Your Honor. This is
10 Charis Burak.

11 JUDGE FORDHAM: Good morning.

12 MS. BURAK: We have two sets of interrogatories
13 outstanding. Set 1 was filed February 6 and Set 2 was
14 filed February 13.

15 Additionally, we have received an objection from
16 the company with respect to Set 1, No 7. We would be
17 more than happy to attempt to work this out informally
18 with the company. If that would not be possible then we
19 would most likely be filing a motion to compel.

20 Additionally, we have spoken with the company with
21 respect to some of our outstanding interrogatories and
22 hope to work towards resolution to receive answers to
23 those in the near future.

24 JUDGE FORDHAM: Thank you.

25 Mr. Bertocci.

1 MR. BERTOCCI: Can everyone hear me okay in
2 Harrisburg? I'm sort of in the back of the room?

3 JUDGE FORDHAM: Can you hear him?

4 MR. SIMMS: Yes, Your Honor.

5 CHIEF JUDGE CHRISTIANSON: Not easily but we can
6 here.

7 JUDGE FORDHAM: Okay. He's coming closer.

8 MR. BERTOCCI: I will step up a little bit.

9 CEPA filed about 55 interrogatories toward the end
10 of January. We have received objections to about 40 of
11 those. Like everyone else we are prepared to discuss
12 trying to work out some kind of solution for the
13 objections. I'm not myself very optimistic because think
14 it goes to the theory of the case and we will probably
15 have to file a motion to compel and have the Judge
16 decide.

17 The company is basically taking the issue that it
18 is irrelevant for us to talk about the subsidization of
19 the PGW cafeteria, about company cars, about purchased
20 services. We believe that this is the core of the case.
21 It is the core of the case in part because the PUC has
22 said that the issues in this case involve both the
23 justness and reasonableness of existing rates as well as
24 the rate that is being proposed.

25 MR. CLEARFIELD: Well, Your Honor, that is just a

1 misstatement. The law that is applicable to PGW
2 indicates that primarily the PUC must meet the bond
3 requirements, the covenants, there are in the law and
4 that we absolutely have to meet or else our bonds -- we
5 default on our bonds. The company has certain expenses
6 that have been okayed by the PGC, the Philadelphia Gas
7 Commission, for the last 20 years and is incurring those
8 expenses. If the PUC does not give us those dollars by
9 definition we will not be able to make our bond covenants
10 and we will default and the company will stop being able
11 to provide service to customers. So this is a very
12 fundamental issue because the shows a misunderstanding of
13 what the law requires.

14 That is why we have objected to those questions,
15 because even if we gave the information if the Commission
16 made an adjustment and took away, you know, whatever
17 small amount there is for a company cafeteria, if we
18 don't have those dollars to pay for the company
19 cafeteria, which is something that the PGC has said is
20 something we should have in our budget, then we will
21 default on our bonds.

22 MR. BERTOCCI: I'm not sure you want to hear
23 argument on this right now.

24 JUDGE FORDHAM: No. You can do that in writing.

25 MR. BERTOCCI: But I think the ramifications of

1 what Mr. Clearfield is saying is that the PUC is here to
2 rubber stamp whatever the Gas Commission puts forward. I
3 don't think that is the intent of the statute and I don't
4 think that is even the law.

5 JUDGE FORDHAM: Thank you.

6 I think I have everyone with respect to discovery.
7 Have I omitted anyone?

8 (No audible response.)

9 JUDGE FORDHAM: Number two, possibility of
10 settlement. I guess that is something that we don't need
11 to discuss in detail. But have any settlement
12 discussions taken place, Mr. Clearfield?

13 MR. CLEARFIELD: No. Not with respect to the base
14 rate case.

15 JUDGE FORDHAM: Okay.

16 MR. CLEARFIELD: But I will make it very clear that
17 we are very interested in having discussions about
18 settlement. We welcome them. And, you know, we will do
19 whatever the parties would need to have done so that we
20 can put in a position where we can start discussing that.
21 That would be in the best interests of everybody for
22 obvious reasons.

23 JUDGE FORDHAM: Is anyone interested in setting up
24 -- I mean, you don't have to set up settlement
25 discussions through me but it might impact on our

1 schedule if you want to set up some time for settlement
2 discussions.

3 MR. CLEARFIELD: Your Honor, we fully intend to
4 raise these issues with all of the parties and whatever
5 way the parties feel most comfortable doing it, it is
6 really their call. So I would defer to them. In the
7 past I have always found that if we do it among the
8 parties and it is scheduled so that it is convenient for
9 them when they feel they can discuss, you know, an
10 alternative proposal or settlement position then that is
11 the most productive way to handle it. But I will defer
12 to the parties or Your Honor.

13 JUDGE FORDHAM: Does anyone in Philadelphia have
14 anything on that?

15 MR. KEENE: Your Honor, the OCA is willing to
16 participate in any settlement discussions that take
17 place. I think at this time if we do decide to pick a
18 date or set a date for a settlement meeting it would be
19 better to wait until after the parties have filed at
20 least their direct testimony. By then we will have
21 fleshed out the issues and be in a better position to
22 negotiate.

23 JUDGE FORDHAM: Mr. Bertocci?

24 MR. BERTOCCI: CEPA, et al. basically think the
25 same thing. We are not opposed to discussions. We are

1 always open to discussions. But we think at the same
2 time we need to develop the record before settlement
3 discussions would be fruitful.

4 JUDGE FORDHAM: Does anyone in Harrisburg have any
5 comments on that?

6 CHIEF JUDGE CHRISTIANSON: I will just mention
7 briefly if the parties desire help from a settlement
8 judge or our mediation people the help is forthcoming.
9 I'm not demanding that you use that resource but I would
10 just mention that it is available.

11 JUDGE FORDHAM: Thank you, Chief.

12 With respect to the issues, I think the issues have
13 been mentioned in most of the prehearing memoranda.
14 There seems to be a major issue regarding the ratemaking
15 methodology and compliance with some of the PUC
16 regulations and the February 8 filing order and filing
17 requirements for PUC base rate proceedings. And there
18 were some other issues that were mentioned. But I
19 believe that all of them have been mentioned in the
20 prehearing memoranda.

21 MR. KEENE: Your Honor.

22 JUDGE FORDHAM: Mr. Keene.

23 MR. KEENE: I don't know if this is the correct
24 time to go into this, but in the Commission's February 8
25 order they denied PGW's request for a blanket waiver of

1 the Commission's regulations requiring them to submit
2 information in accordance with the Commission's filing
3 requirements. It's 15 days later. We still have not
4 seen any information submitted in the way of filing
5 requirements.

6 I just found out today in a discussion that the
7 company has interpreted the February 8 order as requiring
8 the parties to make specific requests of the company to
9 comply with those filing requirements. We believe the
10 order is clear that there was no blanket waiver granted
11 and that the burden is still on the party to submit
12 information pursuant to those filing requirements.

13 JUDGE FORDHAM: Mr. Clearfield?

14 MR. CLEARFIELD: Well, Your Honor, we are not going
15 to submit responses to the filing requirements because
16 the order does not require us to. What we asked for was
17 to recognize that the filing requirements don't apply to
18 PGW because their tariffs and prior tariffs and policies
19 and programs applied under the statute section 22.12(d).
20 The Commission decided not to give us a blanket waiver
21 and denied the blanket waiver that we requested.

22 But they said in the order on page ten that to the
23 extent that PGW has failed to comply with certain filing
24 requirements it must either promptly respond to requests
25 for such information from the parties or seek a specific

1 waiver from the Commission regarding that particular
2 requirement.

3 I believe the order is clear. The order indicated
4 that we were under an obligation to either provide the
5 information if a party requested it. Presumably they
6 would request if it were relevant to their case.

7 There are hundreds of filing requirements that are
8 applicable to a Category 1 gas company like ours, many of
9 which don't apply. We would all agree they don't apply.
10 For example, there are scores of requests for information
11 about rate of return, cost of equity. We are not
12 regulated on a rate of return basis, as everybody agrees.
13 We are regulated on a cashflow methodology which has no
14 rate of return because we have no investors. We don't
15 pay a profit to anybody. There is a set fee that is paid
16 to the city every year by statute.

17 Obviously it would be illogical for the Commission
18 to have insisted that all of these filing requirements,
19 that we answer all of them since many of them are
20 completely irrelevant.

21 We would be happy to deal with specific requests.
22 If there are specific requests for information that the
23 OCA or any other party wants to make in specific areas
24 that they would like us to respond to. And we would do
25 the following: first of all, we would see if we have the

1 information. If we have it we obviously will provide it.
2 If we can get it, considering all of the hundreds of
3 interrogatories we are trying to respond to and the other
4 burdens, we will provide it. And if that doesn't work
5 then we will have to ask for a waiver if we can't
6 respond.

7 CHIEF JUDGE CHRISTIANSON: This is Judge
8 Christianson. On behalf of the Harrisburg people can you
9 possibly put Dan Clearfield near the microphone?

10 JUDGE FORDHAM: Okay. I'm sorry.

11 MR. CLEARFIELD: I'm sorry. I thought I was -- my
12 wife tells me I am too loud.

13 CHIEF JUDGE CHRISTIANSON: You are pretty, Dan.

14 MR. CLEARFIELD: Thank you, Judge.

15 CHIEF JUDGE CHRISTIANSON: One thing you said
16 before that might get you going again, you are saying
17 that your bonding requirements are dominant and one of
18 the costs mentioned by one of the Counsel earlier is sort
19 of diminimus?

20 MR. CLEARFIELD: I don't recall the diminimus
21 requirement. Our position is that the statute says that
22 the Commission has to set rates to meet our bond
23 covenants. One of the bond covenants is that we have to
24 have enough money to pay our bills when they come due.
25 That is what it says. If you look in the covenants this

1 was thoroughly explored in the interim case. I don't
2 want to get too much into it obviously because --

3 CHIEF JUDGE CHRISTIANSON: And I don't demand that
4 you do.

5 MR. CLEARFIELD: But that is fairly clear in the
6 law and that is the cashflow method that was the prior
7 ratemaking methodology that was used by the Philadelphia
8 Gas Commission. And I understand that it creates a
9 different scheme than we are used to, than I am used to,
10 that all of us are used to. But that is what the law
11 says. So we are struggling with that.

12 Right now we are discussing this in the context of
13 discovery. We are going to make a good faith attempt to
14 work with the other parties to see if we can put that
15 difference aside, perhaps, at least initially and then
16 answer some of the questions that are relevant if they
17 believe there is reason for the information and we can
18 provide it. So we will try to avoid having to deal with
19 that issue in the discovery context. But because
20 Mr. Bertocci took the opportunity to raise his position I
21 wanted to make sure, Your Honor, you were aware of our
22 position.

23 JUDGE FORDHAM: Thank you.

24 Chief, do you have anything else for
25 Mr. Clearfield?

1 CHIEF JUDGE CHRISTIANSON: No. I was just
2 clarifying what he said earlier. I heard almost every
3 word and the four people here didn't hear every word.

4 I guess the basic position is some of the bundled
5 minor issues in rate cases might be jetisoned if PGW has
6 its way. You don't have to respond to that,
7 Mr. Clearfield.

8 MR. CLEARFIELD: Okay. Good.

9 JUDGE FORDHAM: Mr. Keene.

10 MR. KEENE: Your Honor, if I could just respond to
11 Mr. Clearfield's interpretation of the February 8 order,
12 we do not read that order as requiring the parties to
13 request information in those filing requirements. They
14 asked for the blanket waiver. That was denied clearly in
15 the order. What they have done now is lose 15 days. We
16 are 15 days later. There has been no progress on
17 responding to those filing requirements and I am sure
18 that if we turn around and ask for specific information
19 out of those filing requirements we are going to be met
20 with a response that it is going to take them time to
21 compile that. They should have been working on this from
22 the date that February 8 order was entered. That is what
23 it said. There is no blanket waiver granted.

24 MR. CLEARFIELD: Well, Your Honor, Mr. Keene never
25 called me and ask me what the order meant. He never

1 asked what PGW's position was on the order. He never
2 asked which filing requirements we could respond to and
3 which we couldn't. It was only this morning that I found
4 out that the OCA was expecting PGW to provide hundreds of
5 pieces of information, a huge portions of which are
6 completely irrelevant to our case.

7 I would like to ask which part of the filing
8 requirements is relevant? What information is in the
9 filing requirements that the OCA needs for its case that
10 they have not used asked in their 126 interrogatories or
11 the 150 interrogatories that we received from the OTS or
12 the 50 interrogatories we received from the industrials?

13 We are working almost literally around the clock to
14 answer these questions, hundreds of questions about every
15 aspect of our company. I have tried to make it clear
16 that we want to be cooperative and we want to answer the
17 questions. Why? Because the parties aren't going to
18 consider settlement until they feel comfortable that they
19 understand what the case is. And we understand we have
20 an obligation to provide the information so that the
21 record will be built. So we are on the same page there.

22 But I am befuddled by this demand that we respond
23 to filing requirements. We don't know which ones they
24 are. We don't know why they would be relevant. And we
25 just got the request today.

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1 JUDGE FORDHAM: Mr. Simms, you also mentioned that
2 in your prehearing. Do you have anything on this issue?

3 MR. SIMMS: Yes, Your Honor. As to the
4 interpretation of the Commission's order of February 8, I
5 would note for the record that OTS's first set, the OTS
6 went through the Commission's regulations and our first
7 set was tailored to PGW and the Commission's regulations.
8 So to the extent that the company can from their
9 perspective answer that first set, we think that will
10 address a number of the Commission's regulations that
11 were in its order of February 8.

12 MR. CLEARFIELD: Well, Your Honor, that is, I
13 think, precisely my point. We are answering the OTS
14 interrogatories that in essence modeled themselves after
15 the filing requirements. They were tailored to the
16 information that would be relevant for this case. And we
17 are responding. We have responded to a bunch of those.
18 We are going to continue to respond.

19 I would just renew my offer that if there are
20 specific parts of the filing requirements that have not
21 been requested in discovery or that the OCA believes are
22 relevant please tell us and we will work on those. And
23 if those are priorities we will try to answer those and
24 provide the information as soon as possible.

25 MR. KEENE: Your Honor, we have not gone through

1 the filing requirements to specifically look at which
2 ones we believe are relevant to this proceeding. We
3 thought under the Commission's February 8 order the
4 burden was on the company to state which ones were
5 irrelevant and that they were going to seek specific
6 waivers to.

7 We are willing to go back and look at those
8 Commission filing requirements and identify the ones that
9 we think the company should respond to. However, since
10 we have already lost 15 days since the date of that order
11 we would request that the company respond to those in a
12 very short turnaround.

13 JUDGE FORDHAM: When are the OTS interrogatories
14 due?

15 MR. CLEARFIELD: Your Honor, the first set, I
16 believe that is what Mr. Simms indicated he was
17 referencing, was already responded to. I don't have the
18 date unfortunately on the schedule that I brought with
19 me. But they were submitted in January and a substantial
20 number of those have been responded to based on my notes.
21 And the rest are on their way.

22 JUDGE FORDHAM: Mr. Simms?

23 MR. SIMMS: That is correct, Your Honor.

24 JUDGE FORDHAM: Okay.

25 Mr. Keene and Mr. Simms, can you work together on

1 that and maybe you wouldn't have to go through each of
2 the filing requirements?

3 MR. KEENE: Yes, Your Honor. To the extent that
4 the company's responses to the OTS's interrogatories
5 respond to the specific filing requirements, we certainly
6 aren't going to ask for those over again. But if there
7 are any in addition to what the OTS asked for, we will
8 get those out to the company as soon as possible.

9 JUDGE FORDHAM: Okay. And at the time that you
10 submit that -- well, first of all, we have not talked
11 about having any changes in the regular requirements.
12 Sometimes we do have less time to respond to
13 interrogatories or to ask for objections in a certain
14 amount of time. No one has asked me to change that
15 schedule. Are we going to maintain the regular schedule
16 that we have set forth in the regulations or are you
17 asking for an expedited schedule?

18 MR. KEENE: Your Honor, we are not asking for an
19 expedited discovery schedule at this time. However, I
20 think to the extent that there are filing requirements
21 that we would ask that that be shortened to ten days.

22 MR. CLEARFIELD: Your Honor, I don't know which
23 filing requirements we are going to be -- I think the
24 better way to deal with this is once they are identified
25 we can try to work with the OCA cooperatively to try to

1 get answers in if possible. You can't get blood out of a
2 stone. We are working as hard as we can to get them
3 through. If you set a ten day deadline and we don't even
4 know what questions are going to be asked --

5 JUDGE FORDHAM: No. At the time that you submit it
6 then it would be due within ten days.

7 MR. CLEARFIELD: But the typical period is 15 days.
8 These are simply interrogatories in a different form. I
9 am just concerned if we set a shorter period of time then
10 that is going to be at the expense of being able to
11 answer other questions that are outstanding.

12 MR. KEENE: Your Honor, I mean, these are filing
13 requirements that they were directed to respond to. If
14 their response was it is not relevant or if they wanted
15 to seek a specific waiver they could have. If the
16 response was see OTS Set 1, No. 12, that would have been
17 responsive. But they have not responded at all. We just
18 found out today that they don't intend to respond unless
19 they are asked for these filing requirements.

20 JUDGE FORDHAM: What I will do is when Mr. Keene
21 makes the request he should put in the request that he
22 wants this done within ten days and send a copy of the
23 cover letter to me, not the interrogatories. And if the
24 company cannot do that, look it over and within three
25 business days if you cannot do that ask me for the 15

1 days instead of the ten days and I will make a ruling on
2 that.

3 MR. CLEARFIELD: Okay. Thank you, Your Honor.

4 JUDGE FORDHAM: Do we need to discuss anything else
5 on issues?

6 (No audible response.)

7 JUDGE FORDHAM: Hearing nothing, the next item on
8 the agenda is the amount of hearing time needed.

9 Now, a number of parties have indicated the
10 witnesses that they have and some parties have indicated
11 that they do not know at this time. PGW has listed five
12 witnesses at this time; OTS has listed six witnesses;
13 OCA, two; OSBA, one; the industrial group, one; and
14 Mr. Bertocci has not listed any.

15 Do you have a ballpark figure?

16 MR. BERTOCCI: It would not be more than one.

17 JUDGE FORDHAM: It would not be more than one?

18 Okay.

19 Now, in terms of days, does anyone have an idea of
20 how many days we would be talking about? Mr. Clearfield?

21 MR. CLEARFIELD: Well, Your Honor, we had prepared
22 a proposed schedule and we had assumed two weeks. I
23 don't believe that two weeks is going to be necessary.
24 Partially I made that request or that suggestion because
25 many of the Administrative Law Judges in my experience

1 want to make sure that there is an excess of days, that
2 we are going to err on the side of having too many
3 scheduled as opposed to too few.

4 JUDGE FORDHAM: Yes.

5 MR. CLEARFIELD: But the scheduling of the hearing
6 days is actually a subset of a broader issue, and that is
7 what the whole schedule is going to be. One of the
8 things that we suggested was to push the actual hearings
9 farther into the year, if you will, so that we would have
10 more time. We could accommodate to some extent the OCA's
11 request that they have more time to submit their direct
12 testimony. But then we could also give PGW and the other
13 parties the time that they would need to respond to that
14 testimony and then have surrebuttal as well.

15 I guess in our prehearing we had suggested the week
16 of the 21st and then the week of May 28, which, of
17 course, is a bad week.

18 CHIEF JUDGE CHRISTIANSON: Judge?

19 JUDGE FORDHAM: Chief?

20 CHIEF JUDGE CHRISTIANSON: I hate to accuse Dan
21 Clearfield of muttering but we are having trouble hearing
22 him again.

23 Since I broke in, I hate to intrude on a sitting
24 judge but it is almost a truism: the party in a hurry is
25 the one in a hurry and PGW is in a hurry here. If they

1 don't respond to discovery, they will get delayed. There
2 is no question about it.

3 MR. CLEARFIELD: Well, we understand that we have
4 that risk and what we would do is try to put the schedule
5 together in a way that assumes that we are going to
6 respond to discovery and the other parties are going to
7 be able to prepare their testimony.

8 CHIEF JUDGE CHRISTIANSON: You are reading from a
9 schedule in your prehearing memo?

10 MR. CLEARFIELD: Well, we are working on that
11 schedule. We also had discussions with the other parties
12 about a schedule that would have hearings either the week
13 of May 30 to June 5 -- there would be hearings that week
14 and then some hearings the next week, Judge.

15 JUDGE CHRISTIANSON: May 30 to June 5. Okay.

16 MR. CLEARFIELD: Or a schedule that would have
17 hearings May 23rd through 25th and then May 30 through
18 the 1st.

19 CHIEF JUDGE CHRISTIANSON: Again, I'm just trying
20 to clarify for the Harrisburg people. And we will speak
21 up again if we don't hear Clearfield.

22 JUDGE FORDHAM: Okay.

23 Originally I had suggested in my prehearing memo
24 the week of May 14 so that we could close the record by
25 May 29. I know that we have a number of holidays in

1 there, Memorial Day, which is May 28. And then in terms
2 of filing briefs we have Independence Day on July 4,
3 which is a Wednesday, kind of in the middle of the week.
4 That is why I pushed the hearings up a little bit.

5 MR. CLEARFIELD: Well, we have two problems with
6 that week, Your Honor.

7 JUDGE FORDHAM: Okay.

8 MR. CLEARFIELD: We understand and we appreciate
9 you considering those things. One is simply if you
10 schedule the hearings on May 14 it is very hard to
11 accommodate, for example, the OCA's request. We had
12 suggested that the intervenors submit their testimony on
13 March 23rd. The intervenors suggested April 13. Now,
14 obviously we can't have hearings on May 14 if we are
15 going to have the testimony from the intervenors on April
16 13 and have the rebuttal and surrebuttal that needs to be
17 filed in between there. So we wanted to try to get a
18 little more time before the hearings.

19 What we had proposed was that the OCA -- I'm
20 focused on the OCA -- that the other intervenors file
21 their testimony on April 6. Then rebuttal would be May
22 7, surrebuttal May 18, and then we can have the hearings
23 the week after Memorial Day, May 30 through the end of
24 that week and then a couple days the next week. And then
25 we can go through the rest of the schedule.

1 That would give the OCA more time that they had
2 asked for -- not as much as they asked for but more than
3 we had proposed. And that would give us enough time for
4 rebuttal and surrebuttal. We thought that was one
5 possible compromise.

6 JUDGE FORDHAM: You said April 6 for direct
7 testimony, May 7 for rebuttal?

8 MR. CLEARFIELD: Yes.

9 JUDGE FORDHAM: And what was the next date?

10 MR. CLEARFIELD: May 18 for surrebuttal.

11 JUDGE FORDHAM: So that surrebuttal date would
12 still be May 18. That was what OCA requested.

13 MR. CLEARFIELD: Yes, Ma'am.

14 JUDGE FORDHAM: Okay.

15 MR. CLEARFIELD: Now, to accommodate so we would
16 have time to review the surrebuttal and prepare for the
17 hearings, we would move the hearings to after Memorial
18 Day. That is May 30, which I know is a bad week but I
19 couldn't -- we were having trouble figuring out anything
20 else to do considering where we are at on this.

21 JUDGE FORDHAM: Mr. Keene?

22 MR. KEENE: Your Honor, we had proposed a schedule
23 as Appendix A in our prehearing memor which maintained
24 Your Honor's close of record date and briefing dates and
25 we also thought that was achievable. That called for the

1 intervening parties to file direct testimony on April 13,
2 the company to file rebuttal on May 4, surrebuttal on May
3 18 and then we also agreed to slipping the hearings a
4 week from your proposed schedule to May 22 through the
5 24th. I think we are in agreement that we probably do
6 not need two weeks of hearings to do cross-examination of
7 the witnesses in this proceeding. That also avoids
8 pushing it into the holiday week of Memorial Day week.

9 MR. CLEARFIELD: Your Honor, the problem with that
10 schedule from PGW's standpoint is it does not give us
11 enough time for rebuttal testimony and it also gives us
12 virtually no time after the other parties would submit
13 their surrebuttal before we would go to hearings. The
14 surrebuttal would be submitted on May 18 and we would be
15 in hearings four days later. So if there is a
16 substantial surrebuttal in response to our rebuttal
17 testimony prepared we would be in a position of having to
18 try to get ready for the hearings and review the
19 surrebuttal. There would be no time to do informal
20 discovery, for example. And in a case of this magnitude
21 we usually expect and see a substantial amount of
22 surrebuttal that has to be responded to.

23 So we understand OCA's and the other parties'
24 interest in getting some more time for their direct but
25 we need to accommodate our time for rebuttal and for time

1 after the surrebuttal is submitted.

2 MR. KEENE: But, Your Honor, using the April 6 date
3 for direct testimony that the company has proposed here,
4 that is just six weeks from now. We have received so far
5 13 responses to our interrogatories out of over 120. We
6 don't know what is in the filing requirements that we may
7 also have to request. There is a whole slew of
8 objections that are pending and may not be resolved and
9 may have to go to Your Honor for disposition. Therefore,
10 I don't see how we can be expected to sit around and
11 haggle over these objections, wait for the company's
12 responses and still prepare our case by April 6.

13 JUDGE FORDHAM: Mr. Clearfield, didn't you indicate
14 that once you reviewed the settlement order that the
15 Commission just entered that you might submit revised
16 testimony?

17 MR. CLEARFIELD: We have some schedules which show
18 the financial condition of the company for this year.
19 They would have to be updated to include the settlement.
20 But those would be -- there is a handful of schedules
21 that are being sponsored by one witness, Mr. Bognodavage,
22 that would be updated. Presumably the parties would want
23 to see what that looks like.

24 I would prefer if we didn't have to have this
25 discussion on the schedule on the record. Maybe we can

1 go off the record. But I would mention, as I said in my
2 opening comments, this is a continuation of a case that
3 the OCA and its witness has already tried. You know, we
4 are using the same budget year. We specified the changes
5 in the testimony in the budget. There is about a half a
6 dozen. So it is not as if we are starting brand new with
7 this company. And OCA's witness has actually been a
8 witness at the Philadelphia Gas Commission for 20 years,
9 around -- well, ten years. Mr. Bertocci can give you the
10 precise timing.

11 MR. BERTOCCI: Ten.

12 MR. CLEARFIELD: The point is there is a
13 substantial body of background and information that the
14 parties, particularly the OCA, has about PGW and its
15 ratemaking request. We filed exactly the same way as we
16 filed at the PGC. We filed the same information and we
17 have been making every effort to try to give the parties
18 the information that they need to feel comfortable. But
19 essentially they have already looked at this information
20 and they have already submitted testimony and I don't see
21 any reason why they couldn't submit testimony by March
22 23rd.

23 Now, in an effort to be accommodating and to try to
24 work this out I agreed that we could -- I volunteered
25 that we would move from March 23rd to April 6. But I

1 don't think we can have a reasonable schedule if we are
2 going to stick to an April 13 date.

3 MR. KEENE: Your Honor, I have one more point.

4 JUDGE FORDHAM: Before you do that, I agree that
5 maybe we don't need to continue this on the record.
6 Let's go to the other items that we have in there and
7 then we will come back to this.

8 CHIEF JUDGE CHRISTIANSON: Your Honor?

9 JUDGE FORDHAM: Yes.

10 CHIEF JUDGE CHRISTIANSON: I just want to note for
11 the record that Small Business wanted to speak up at this
12 point.

13 JUDGE FORDHAM: Okay. Mr. Gray?

14 MR. GRAY: Thank you, Your Honor.

15 Maybe a way of breaking this logjam is to maybe
16 work this backwards. Since we have not exactly even
17 agreed upon hearing dates maybe the first question is
18 actually to you.

19 If I am looking at what the OCA proposed and
20 looking at what Mr. Clearfield sent around this morning
21 in E-mail, they had two different reply brief dates. My
22 suggestion is we should work backwards from there and
23 maybe that way once we get the reply and main brief dates
24 we can pick hearing days and we can keep working
25 backwards that way.

1 For example, the OCA suggests a June 28 reply brief
2 date. Mr. Clearfield suggests a July 9 reply brief date.
3 If you have a distinct preference maybe we can nail those
4 dates down and then keep working backwards from there.

5 JUDGE FORDHAM: Okay. That is a good idea.

6 The suspension period ends October 6 and there is a
7 Commission meeting on September 27 and then the next one
8 isn't until October 12. So that is why I pushed it up.
9 And I think even Mr. Clearfield mentioned the week of
10 September 24 as the week for the Commission to discuss
11 this.

12 However, in terms of the recommended decision, the
13 Commission needs more time. If my recommended decision
14 went in on August 20 there would not be enough time to
15 actually have a decision by the week of the 24th.
16 Basically we try to give them 60 days from the date that
17 my decision goes in. So we are basically talking about
18 the week of the 23rd of July that my discussion would
19 have to get to the Commission.

20 MR. GRAY: I guess the question is how much time do
21 you need behind that to have the reply briefs in hand?

22 MR. CLEARFIELD: Well, Your Honor, in our
23 alternative or compromise we had suggested pretty much
24 the same dates, one day subsequent to what you had
25 suggested in your prehearing order, that is, June 29 for

1 the reply briefs.

2 JUDGE FORDHAM: Okay. I had July 9. So it was
3 June 29 for the reply briefs?

4 MR. CLEARFIELD: In our prehearing we said July 9.
5 But we had made a compromise proposal to the other
6 parties and we had suggested we could have the reply
7 briefs in on June 29.

8 JUDGE FORDHAM: Okay. That would be good.

9 MR. CLEARFIELD: So you want to ink that in and
10 work backwards?

11 JUDGE FORDHAM: Yes. But we can still do that
12 afterwards. But those are the parameters.

13 We do have some individuals here and I don't think
14 we need to keep them here while we go through the
15 schedule. But I know they are interested in the public
16 input hearings so we need to discuss that.

17 Mr. Bertocci has indicated that we should have at
18 least two public input hearings.

19 MR. BERTOCCI: That's right, Your Honor. I thought
20 there should be one in the morning and one in the
21 evening, six o'clock or something like that, early
22 evening, so that people who are working can get here.

23 I think it would be good to have them here in this
24 building in part because the PUC is new for PGW customers
25 and it is good to have them associate this building with

1 where the PUC offices are. And we are set up to do that,
2 except I would say that the other hearing room has a
3 divider in it and the last time we had hearings it was
4 kind of cramped because they had not opened up that
5 hearing room to the double space.

6 JUDGE FORDHAM: There is no other space. That is
7 another office there now.

8 MR. BERTOCCI: Oh, okay.

9 JUDGE FORDHAM: That is a problem.

10 CHIEF JUDGE CHRISTIANSON: There is a reconfiguring
11 going on down there.

12 JUDGE FORDHAM: Yes. We are in the smaller hearing
13 room now and as you can see, we don't have enough space
14 in here. There might be another room in this building
15 that we can use, not on this floor. But I was thinking
16 that we would go to another location depending on how
17 many people. We have over 100 individual complaints.

18 And in terms of doing two, I was thinking we would
19 probably need to do more than two.

20 Does OCA have anything on that?

21 MR. KEENE: Your Honor, we would support at least
22 two, a day/night and an evening one. We had not really
23 thought about going to an additional day of public
24 inputs, but I believe that the turnout is going to be
25 very large.

1 JUDGE FORDHAM: Okay.

2 CHIEF JUDGE CHRISTIANSON: These proceedings are
3 limited to the Judge largely. Occasionally the
4 Commissioners get interested in public input hearings.
5 They haven't been very interested in the sense of picking
6 places and dates and stuff lately but they might be
7 interested in this particular case. So anything would
8 have to be subject to approval by the Commission. All
9 the public input hearings are. But I just want to put
10 that caveat in.

11 JUDGE FORDHAM: Okay.

12 Now, we do have some individuals in the room. Let
13 me explain. When we have the public hearings we would
14 basically have written testimony and there would be
15 cross-examination. However, when we have the public
16 input hearings you would be allowed to testify, you know,
17 about your bill, what you think about the rate
18 proceeding, things like that. So it is better for you to
19 participate at that point than to try to participate
20 individually at the hearing level.

21 I'm not asking you not to talk to the either
22 Mr. Bertocci or Mr. Keene because they do have
23 information -- and even our Office of Trial Staff,
24 Mr. Simms. They have information and they want
25 information from the consumers. But in terms of public

1 inputs, I know that you have talked to your relatives,
2 your neighbors and everything. Do you think that there
3 would be a need for more than one day of public input
4 hearings?

5 MEMBERS OF AUDIENCE: Yes.

6 MS. WOODS: Your Honor, I might also suggest --

7 JUDGE FORDHAM: Wait a minute. Say your name.

8 MS. WOODS: Jessie Woods.

9 JUDGE FORDHAM: Yes?

10 MS. WOODS: I would suggest that if it is possible,
11 due to a great number of the individuals that I have
12 spoken to have both work during the day and then evening
13 commitments with their children, if a weekend hearing
14 could be scheduled.

15 JUDGE FORDHAM: Chief, did you hear that?

16 CHIEF JUDGE CHRISTIANSON: Say again. I'm sorry.
17 We heard they want more than one day of public input
18 hearings.

19 JUDGE FORDHAM: Yes. And the last request was that
20 we have it on a weekend as opposed to a weekday.

21 CHIEF JUDGE CHRISTIANSON: We have done that in the
22 past. We have done that in some Poconos cases where the
23 people come up for the weekend. We can take that under
24 advisement. I don't know that there is a great need for
25 that in this instance.

1 JUDGE FORDHAM: Okay. That is something that we
2 will take into consideration. We can't say that we will
3 do that at this point. But we will have evening and
4 daytime.

5 Does anybody else have anything on that?

6 Say your name, sir.

7 MR. SEAWRIGHT: Albert Seawright from the Tenant
8 Action Group.

9 I just agree that we definitely need to have at
10 least two, and evenings for sure.

11 JUDGE FORDHAM: Thank you.

12 Is there anything else other than the schedule that
13 we need to discuss at this time?

14 MR. CLEARFIELD: Your Honor, just some statements
15 for the record. I don't believe they are extensive.

16 One is that PGW has been filing formal answers to
17 all of the individual complaints. As of the order on
18 February 8, since the Commission opened up an
19 investigation we have stopped answering them formally
20 under the rule that indicates that they are deemed
21 denied. And that is simply not to reduce the
22 significance of any of those but to reduce the cost to
23 the company in responding to the complaints. So I wanted
24 to note that in case anyone had any concerns about.

25 JUDGE FORDHAM: And I did mention that also in my

1 order. So that's fine.

2 MR. CLEARFIELD: Thank you.

3 MR. BERTOCCI: Your Honor, I had one.

4 JUDGE FORDHAM: Mr. Bertocci?

5 MR. BERTOCCI: This is additional issues, right?

6 JUDGE FORDHAM: Yes.

7 MR. BERTOCCI: In my prehearing memorandum I raised
8 the issue about the notice that PGW has provided to
9 customers. I believe they have not complied with the
10 February 8 order which said that they could use the
11 alternative method which involved a bill insert. But for
12 one thing, on the basis of my inquiries in Philadelphia,
13 at least for cycles 19 and 20, no customers got bill
14 inserts in January giving any notice of this rate
15 increase. So that in terms of using even the minimum
16 interpretation of what the February 8 order was, there
17 has not been universal bill insert notice to customers of
18 a proposed increase.

19 In addition, there are problems having to do with
20 the form of the notice. The notice was supposed to be on
21 distinctly colored paper. It was supposed to be in a
22 billing envelope with no other material except the bill
23 and the outside of the bill is supposed to say important
24 rate increase information inside. No customer, to my
25 knowledge, got any bill at all with that kind of

1 information on the outside, which is clearly required by
2 the regulation 53.45(b).

3 In addition, the notice itself was really outdated
4 within a few days of the time that PGW started sending it
5 out at the beginning of the month because the GCR was
6 changed so that the overall amount of the rate increase,
7 the effect on the bill, all those calculations would have
8 had to be redone to make it accurate for any customer
9 that was receiving the notice after, I think, January 12.
10 PGW may have sent some notices out in the first few days
11 of the month which were accurate at the time they were
12 sent out. They may not have been accurate by the time
13 they were received even. But given the circumstances in
14 that particular month it wasn't enough to send simply a
15 notice that is dated January 5 and sent it to customers
16 throughout the whole month because it became inaccurate
17 and outdated very quickly.

18 At this point we have a situation where obviously
19 we are here today. There have been 100 informal
20 complaints or formal complaints filed. Some customers
21 have gotten individualized notice. But I don't think
22 that it really meets the standards that the PUC has set,
23 or even by the PUC order.

24 So what I would request is that PGW be asked to
25 essentially send out another order which complies as

1 closely as possible with all the requirements of
2 53.45(b)(4), which is the alternate method that the PUC
3 authorized PGW to use.

4 JUDGE FORDHAM: Mr. Cohen?

5 MR. COHEN: Yes, Your Honor. This is the first
6 that I am aware of this. This falls into a part of the
7 case that we would be working on and I will look into it
8 to see what the problem was. Certainly we should comply
9 with what is required.

10 JUDGE FORDHAM: Do you know about the billing
11 cycles? If it is incorrect would you be able to start
12 immediately in terms of submitting the new notice?

13 MR. COHEN: That is what we would attempt to do. I
14 don't know what the cost factors are but we would attempt
15 to do that as quickly as we can.

16 JUDGE FORDHAM: Okay. Could you give me a status
17 report on that? How long do you need for that?

18 MR. COHEN: I think the best I could do is to give
19 you a status report next week after I have talked to the
20 company in terms of what they can do to be responsive.

21 JUDGE FORDHAM: Okay. Thank you.

22 Does anyone else in Philadelphia have any other
23 issues?

24 Mr. Keene?

25 MR. KEENE: No, Your Honor.

1 JUDGE FORDHAM: Mr. Bertocci?

2 MR. BERTOCCI: No.

3 JUDGE FORDHAM: Anyone in Harrisburg?

4 Mr. Simms, do you have any other issues?

5 MR. SIMMS: No, Your Honor.

6 Your Honor, on the issue of the public input
7 hearings, are you going to make the suggested dates? Or
8 how do you want to proceed on this?

9 JUDGE FORDHAM: That is something that we do need
10 to deal with. There was a request, and I think it was
11 Mr. Bertocci, that the public inputs be prior to the
12 filing of the direct testimony. Or the OCA.

13 MR. BERTOCCI: Yes. That was both ours.

14 MR. KEENE: Yes, Your Honor. We would agree with
15 that request.

16 JUDGE FORDHAM: Mr. Simms, are you in agreement
17 with that, that it would be prior to the date for filing
18 the direct testimony?

19 MR. SIMMS: Yes. I have no problem with that. I
20 just wanted to get some suggested dates because I have
21 other hearings.

22 JUDGE FORDHAM: Why don't we do that off the
23 record.

24 MR. SIMMS: Okay. Thank you.

25 JUDGE FORDHAM: Mr. Gray, do you have any other

1 issues?

2 MR. GRAY: Your Honor, I have one very minor
3 housekeeping issue. Angela Jones, another attorney in
4 the OSBA, had done two of the previous PGW cases and I
5 have noticed that some people still are sending her
6 E-mail and sending a lot of the paperwork to her. She is
7 actually not involved in this base rate case. And as a
8 matter of fact one of the parties' distribution lists had
9 us listed as a married couple. While Angela and I are
10 very close, we really have not committed that far. So I
11 just wanted everyone to know that Angela is actually off
12 this case.

13 JUDGE FORDHAM: Thank you very much. And when you
14 decide let us know so we can send a present.

15 MR. GRAY: I will let my wife know too, Your Honor.

16 JUDGE FORDHAM: I'm sorry. We don't want to you
17 commit bigamy.

18 CHIEF JUDGE CHRISTIANSON: That's above and beyond
19 the call of duty.

20 JUDGE FORDHAM: That's right.

21 Ms. Burak, do you have anything?

22 MS. BURAK: I have nothing at this time, Your
23 Honor.

24 JUDGE FORDHAM: Thank you.

25 Since there is nothing else, what we will do is we

1 will have an off the record discussion regarding the
2 dates for the public input and the schedule and then we
3 can go back on the record with the final dates.

4 So we are off the record at this time.

5 (Discussion off the record.)

6 JUDGE FORDHAM: Let's go back on the record.

7 We had an off the record discussion regarding the
8 dates for submitting testimony and the dates for
9 hearings.

10 For the direct testimony of the other parties, that
11 will be submitted on Tuesday, April 10. Rebuttal
12 testimony is due by noon on Tuesday, May 8. Surrebuttal
13 on Wednesday, May 16, as early in the day as possible.

14 The hearings would be held on Tuesday, May 22nd,
15 Wednesday, May 23rd, Thursday, May 24th, and up to noon
16 on Friday, May 25. And the overflow days will be May 30,
17 which is a Wednesday, and May 31, which is a Thursday.
18 And the record would close on May 31.

19 Main briefs will be due Thursday, June 21, and
20 reply briefs will be due Friday, June 29.

21 I believe that is all we have. Does anyone in
22 Harrisburg have anything further?

23 CHIEF JUDGE CHRISTIANSON: No volunteers.

24 JUDGE FORDHAM: Okay. Thank you.

25 No one in Philadelphia?

1 MR. KEENE: No, Your Honor.

2 JUDGE FORDHAM: Do the parties need to talk any
3 more?

4 (No audible response.)

5 JUDGE FORDHAM: I am hearing no response. Thank
6 you very much.

7 (Whereupon, at 11:57 a.m., the prehearing
8 conference was concluded.)

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I hereby certify, as the stenographic reporter,
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By: Robert J. Stonaker

Robert J. Stonaker