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PUBLIC UTILITY COMMISSION

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: Philadelphia Gas Works 1307(f) : Docket No.
: : R-00050264
Pre-Hearing Conference :
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Pages 1 through 17 Hearing Room No. 3
Commonwealth Keystone Bldg
Harrisburg, Pennsylvania
Thursday, March 10, 2005

Met, pursuant to notice, at 10:08 a.m.

BEFORE:

CYNTHIA W. FORDHAM, Administrative Law Judge

APPEARANCES:

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APPEARANCES: (Continued.)

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WITNESS INDEX

WITNESSES:

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(None.)

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EXHIBIT INDEX

NUMBER

FOR IDENTIFICATION IN EVIDENCE

(None.)

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P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE CYNTHIA W. FORDHAM:

This is the time and place for a pre-hearing conference in the matter of the PUC versus Philadelphia Gas Works at Docket No. R-00050264.

I'm Administrative Law Judge Cynthia Williams Fordham. I'm at the Philadelphia State Office Building. There is one party here with me. Mr. Stunder, would you enter your appearance at this time?

Can you hear him?

MR. SIMMS: No, we cannot hear him.

MR. STUNDER: Gregory Stunder for Philadelphia Gas Works.

JUDGE FORDHAM: Thank you.

Would the other parties enter their appearance?

MR. SIMMS: Yes, Your Honor. Johnnie E. Simms, and appearing with me is Allison A. Curtin for the Office of Trial Staff.

JUDGE FORDHAM: Thank you.

MR. BEATTY: Your Honor, Aron J. Beatty with the Office of Consumer Advocate.

JUDGE FORDHAM: Thank you.

MR. LLOYD: William Lloyd with the Office of Small Business Advocate.

JUDGE FORDHAM: Thank you.

1 MS. KARANDRIKAS: Vicki Karandrikas with PICGUG.

2 JUDGE FORDHAM: Okay, could you say your last
3 name again for me?

4 MS. KARANDRIKAS: Karandrikas.

5 JUDGE FORDHAM: Thank you.

6 Is anyone else there?

7 MR. SIMMS: No, Your Honor.

8 JUDGE FORDHAM: Okay, thank you.

9 I had asked Mr. Stunder before we started if Mr.
10 Bertocci was going to participate. He indicated that he
11 would not be participating, so we can delete his name
12 from the service list.

13 This is the history of the proceedings so far.
14 On January 31, 2005, Philadelphia Gas Works ("PGW" or
15 "Respondent") filed the supporting information required
16 to be filed for its annual 2005-2006 Gas Cost Rate
17 Filing.

18 On January 31, 2005, PGW filed a petition for
19 special permission to depart from the requirements of 52
20 Pa. Code ss53.45(b), 53.64(c) and 53.68. PGW requested
21 permission to notify individual customers by bill insert
22 during a one-month billing cycle beginning on March 1,
23 2004 and concluding not later than March 31, 2005.
24 Furthermore, PGW requested permission to provide public
25 notice, in company offices that accept payments, of

1 proposed changes in PGW's 2005-2006 GCR on March 1,
2 2005. It was noted that the Commission's Office of
3 Trial Staff and the Office of Consumer Advocate did not
4 oppose the relief requested in the Petition. The
5 Petition was assigned to the Bureau of Fixed Utility
6 Services.

7 The gas cost rate filing was assigned to the
8 Office of Administrative Law Judge for resolution by
9 hearings and for issuance of a Recommended Decision.
10 The matter was assigned to me.

11 On February 7, 2005, Johnnie E. Simms, Esquire
12 and Allison Curtin, Esquire, entered a notice of
13 appearance on behalf of the Commission's Office of Trial
14 Staff ("OTS").

15 On February 21, 2005, the Respondent filed
16 Statement No. 1, the Direct Testimony of Douglas Moser.

17 On February 22, 2005, the Philadelphia Industrial
18 and Commercial Gas Users Group ("PICGUG"), through its
19 counsel, David M. Kleppinger, Esquire and Charis
20 Mincavage, Esquire, filed a Petition to Intervene.

21 On February 28, 2005, PGW filed its Section
22 1307(f) filing containing the testimony of PGW witnesses
23 Kenneth Dybalski (PGW Statement 2) and Douglas Moser
24 (PGW Statement 3) and supporting data. The Supporting
25 Schedules for PGW's Restructuring and Consumer Education

1 Surcharge were also filed.

2 On March 4, 2005, the Office of Consumer Advocate
3 ("OCA") filed a complaint and a public statement.

4 By Prehearing Order dated March 7, 2005, the
5 Philadelphia Industrial and Commercial Gas Users Group's
6 petition to Intervene was granted.

7 On March 9, 2005, the Office of Small Business
8 Advocate ("OSBA") filed a complaint and a public
9 statement.

10 On March 9, 2005, prehearing memoranda were filed
11 by PGW, OCA, OTS, OSBA and the Gas Users Group.

12 At this point we're ready to discuss the proposed
13 plan and schedule of discovery.

14 Mr. Stunder?

15 MR. STUNDER: Your Honor, Mr. Beatty E-mailed a
16 proposed schedule this morning. Mr. Beatty, did you
17 have an opportunity to provide it to the other parties?

18 MR. BEATTY: Yes, Your Honor. We circulated a
19 proposed schedule this morning.

20 MR. STUNDER: The schedule, as it's structured,
21 looks very good to me, except I want to change it in two
22 minor ways. If we could have rebuttal; the date of
23 April 15th looks good for direct testimony. If we could
24 have rebuttal testimony due on May 4th. And with regard
25 to surrebuttal testimony, if we could have that in

1 writing on May 9th; that's a pretty tight turn-around.
2 If we could have surrebuttal testimony in writing May
3 9th, and also the opportunity to provide oral
4 surrebuttal at hearing.

5 Those are my two minor requests to change Mr.
6 Beatty's schedule.

7 JUDGE FORDHAM: Mr. Simms?

8 MR. SIMMS: Your Honor, I'm just looking at the
9 schedule for a moment as revised or recommended by Mr.
10 Stunder.

11 JUDGE FORDHAM: Okay.

12 MR. SIMMS: A point of clarification, am I to
13 understand, Mr. Stunder, you are suggesting that we
14 provide to you on May 9th surrebuttal testimony and the
15 opportunity to present oral surrebuttal, as well?

16 MR. STUNDER: Right. I mean, that would work
17 good for all parties I was thinking, because I know that
18 there's an opportunity for people to provide surrebuttal
19 for other -- I mean, yes. Well, wait. Maybe I got
20 switched around.

21 MR. SIMMS: My understanding is you wanted to
22 revise the proposed schedule that OCA presented to have
23 rebuttal testimony due on May 4th.

24 MR. STUNDER: Right.

25 MR. SIMMS: And surrebuttal testimony in writing

1 due on May 9th, with the opportunity for the parties to
2 present, as well, oral surrebuttal at the hearing on May
3 11th, or were you speaking to rejoinder testimony on May
4 the 11th?

5 MR. STUNDER: I'm sorry; rejoinder. I'm sorry;
6 rejoinder. That's what I was talking about. Pardon me.
7 That's exactly what I was talking about. Yes.
8 Surrebuttal on the 9th in writing, and oral rejoinder on
9 May 11th. Does that work?

10 MR. SIMMS: Well, the Office of Trial Staff can
11 agree that we would attempt or make our best efforts to
12 get to you on May 9th written testimony, but it may very
13 well be that you may not be able to receive it until May
14 10th.

15 MR. STUNDER: Okay.

16 MR. SIMMS: We'll make our best efforts to do
17 that, because you have taken out of the OCA schedule at
18 least two days.

19 MR. STUNDER: Okay.

20 MR. SIMMS: And May 9th is on a Monday. We'll
21 make our best effort, but it very well may be that you
22 may not get surrebuttal testimony until May 10th.

23 MR. STUNDER: Okay.

24 JUDGE FORDHAM: Does anyone have a problem with
25 the hearing on May 11th and 12th?

1 MR. SIMMS: It's not really a problem. But our
2 only problem is that one of our witnesses -- this is the
3 Office of Trial Staff -- is not available on May 12th.
4 But to the extent that we, in fact, will have
5 evidentiary hearings, we would ask that he be presented
6 on May 11th; assuming that we need the two days for
7 evidentiary hearings.

8 JUDGE FORDHAM: Okay.

9 Mr. Lloyd?

10 MR. LLOYD: The changes in the schedule, in the
11 underlying schedule proposed by OCA are agreeable.

12 JUDGE FORDHAM: Thank you.

13 MR. BEATTY: Your Honor, this is Aron Beatty with
14 the OCA. The only request I would have would be that
15 we, if possible, get a written outline of the oral
16 rejoinder, so that we can prepare for that to some
17 extent. I know that's been done fairly frequently.

18 MR. STUNDER: If surrebuttal is going to be on
19 the 10th, it would be something that we would have to
20 distribute on the 11th.

21 MR. BEATTY: I mean, even if we could receive
22 that sort of in the morning before the hearings, that
23 would be acceptable.

24 MR. STUNDER: Right.

25 MR. BEATTY: We just need something so we can

1 look at it and just take a quick look.

2 MR. STUNDER: Kind of like a framework?

3 MR. BEATTY: Yes.

4 MR. STUNDER: Yes. That's fine.

5 JUDGE FORDHAM: Ms. Karandrikas?

6 MS. KARANDRIKAS: Yes, Your Honor. The schedule
7 looks fine to us. By way of clarification, however, I
8 have a question for you. For rebuttal testimony, is
9 that for all parties to submit rebuttal testimony, or is
10 that just for the company?

11 MR. SIMMS: This is Johnnie Simms. I assume it
12 will be for all parties if, in fact, they want to submit
13 rebuttal can do so at that time.

14 JUDGE FORDHAM: Okay.

15 MR. STUNDER: Direct will be for all parties
16 except for PGW. Then the rebuttal for the other parties
17 direct.

18 JUDGE FORDHAM: Okay. The way it's set up right
19 now; the direct testimony on April 15th is for everyone,
20 except for PGW, so that's the other parties. And then
21 rebuttal would be rebuttal testimony to any direct
22 that's been given.

23 Are there any other questions regarding the
24 schedule?

25 (No response.)

1 JUDGE FORDHAM: There have been proposed changes
2 for discovery. PGW and OCA have recommended those
3 changes. Are there any disagreements with those
4 changes, or are they agreeable to everyone?

5 MS. SIMMS: Your Honor, for the Office of Trial
6 Staff, they are consistent with what we have done in
7 previous 1307(f) cases and we have no objection.

8 JUDGE FORDHAM: Thank you.

9 MR. LLOYD: For the OSBA, we have no objections.

10 JUDGE FORDHAM: Thank you.

11 MS. KARANDRIKAS: For PICGUG, we have no
12 objection.

13 JUDGE FORDHAM: Thank you.

14 Most of the parties have outlined the issues
15 either in their pre-hearing order or in their complaint.
16 I don't think there are any other issues that we need to
17 discuss. Mr. Stunder?

18 MR. STUNDER: I don't have any further issues.

19 MR. SIMMS: Your Honor, this is Johnnie Simms.
20 Just to the extent that we reserve the right to present
21 additional issues if, in fact, they are determined to be
22 necessary after our discovery period.

23 JUDGE FORDHAM: Thank you.

24 OCA?

25 MR. BEATTY: No, Your Honor.

1 JUDGE FORDHAM: OSBA?

2 MR. LLOYD: We would make the same reservation
3 that OTS has made. If something develops during the
4 course of discovery or if an issue is raised by another
5 party, we would reserve our right to pursue that issue
6 or to respond to that issue.

7 JUDGE FORDHAM: Thank you.

8 PICGUG?

9 MS. KARANDRIKAS: Your Honor, we also reserve the
10 right to respond to anything that may come up in
11 testimony. But otherwise, no further specific issues.

12 JUDGE FORDHAM: Thank you.

13 Most of the parties have either indicated their
14 witnesses in their pre-hearing order or have indicated
15 that they would let us know if they will have additional
16 witnesses.

17 We've already dealt with the schedule. Are there
18 other issues that we need to deal with, Mr. Stunder?

19 MR. STUNDER: As far as witnesses, Your Honor, I
20 would just like to reserve the right (inaudible). Your
21 Honor, the only thing, as I stated, was the pre-hearing
22 memorandum is that PGW would like to reserve the right
23 to modify its witness list upon the submission of
24 testimony. Nothing further.

25 JUDGE FORDHAM: Okay. Anyone else on witnesses?

1 (No response.)

2 JUDGE FORDHAM: Does anyone else have any other
3 issues?

4 Mr. Simms?

5 MR. SIMMS: No, Your Honor.

6 JUDGE FORDHAM: Mr. Lloyd?

7 MR. LLOYD: No, Your Honor.

8 JUDGE FORDHAM: Ms. Karandrikas?

9 MS. KARANDRIKAS: Your Honor, I just wanted to
10 clarify, because I was having difficulty hearing you,
11 that PICGUG's motion to intervene was, indeed, granted?

12 JUDGE FORDHAM: Yes. In the pre-hearing order,
13 yes.

14 MS. KARANDRIKAS: Okay, thank you.

15 JUDGE FORDHAM: Mr. Beatty?

16 MR. BEATTY: No, Your Honor.

17 JUDGE FORDHAM: Okay. Thank you for
18 participating in today's pre-hearing. I will send out a
19 pre-hearing order which outlines the schedule that we
20 have discussed today.

21 If there is there any motion to compel or any
22 problems with discovery, let me know. I think I have
23 everybody's E-mail correct, and we can E-mail each other
24 documents that need to be addressed in a quick manner.

25 Mr. Stunder?

1 MR. STUNDER: Your Honor, if I could just address
2 one last issue on the calendar? Mr. Simms, on the
3 surrebuttal testimony on May 10th?

4 MR. SIMMS: Yes.

5 MR. STUNDER: Could we put a time period that's
6 workable for you, say 1:00 p.m.? Would that work for
7 you on May 10th?

8 MR. SIMMS: Yes, that's fine.

9 MR. STUNDER: Okay. Because that would give us
10 work hours in that day. Okay, thank you.

11 MR. SIMMS: Sure.

12 MR. LLOYD: Your Honor, I did not hear the time
13 limit.

14 MR. STUNDER: 1:00 p.m.

15 MR. SIMMS: 1:00 p.m.

16 MR. LLOYD: 1:00 p.m., thank you.

17 MR. STUNDER: Thank you.

18 JUDGE FORDHAM: Thank you very much.

19 (Whereupon, at 10:20 a.m., the hearing was
20 adjourned.)

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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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BY: Valorie H. Rosi

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