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C O N T E N T S

WITNESSES

DIRECT    CROSS    REDIRECT    RECROSS

(None.)

E X H I B I T S

NUMBER FOR IDENTIFICATION IN EVIDENCE

(None.)

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## P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE

MARLANE R. CHESTNUT: On the record.

This is the prehearing conference at Docket P-00072260, petition of PECO Energy Company for approval of, one, a process to procure alternative energy credits during the AEPS banking period and, two, a Section 1307 surcharge and tariff to recover AEPS costs.

For the record let me state that I am Administrative Law Judge Marlane R. Chestnut. I would like the parties present to identify themselves by stating your name and on whose behalf you are appearing.

And we will start with you, Ms. Newall.

MS. NEWALL: Adrian Newall, here on behalf of PECO Energy Company.

MR. KULAK: Kenneth Kulak on behalf of PECO Energy Company.

JUDGE CHESTNUT: Ms. Kaster?

MS. KASTER: Allison Kaster on behalf of the Office of Trial Staff.

JUDGE CHESTNUT: Thank you.

Ms. McCloskey.

MS. MCCLOSKEY: Tanya McCloskey on behalf of the Office of Consumer Advocate.

JUDGE CHESTNUT: Thank you.

1 Ms. Appleby.

2 MS. APPLEBY: Christy Appleby on behalf of  
3 the Office of Consumer Advocate.

4 JUDGE CHESTNUT: Ms. Webb.

5 MS. WEBB: Sharon Webb on behalf of the  
6 Office of Small Business Advocate.

7 JUDGE CHESTNUT: Ms. Mincavage.

8 MS. MINCAVAGE: Charis Mincavage on behalf  
9 of the Philadelphia Area Industrial Energy Users Group.

10 JUDGE CHESTNUT: And Mr. Jugovic.

11 MR. JUGOVIC: George Jugovic on behalf of  
12 Citizens for Pennsylvania's Future.

13 JUDGE CHESTNUT: Does anybody have any  
14 different contact information than the information that we  
15 already have? Does anybody have a new address or a new  
16 phone number or anything?

17 (No audible response.)

18 JUDGE CHESTNUT: All right. Good.

19 Let's talk about the procedural issues we  
20 need to address here.

21 As always I am going to be following my  
22 standard prehearing order in terms of issues. If you have  
23 something that you wish to raise that we don't discuss  
24 feel free to do that at the end. But I will be issuing a  
25 written order that discusses the decisions reached at this

1 prehearing conference.

2 First, let me state that I did receive  
3 prehearing memoranda from all parties.

4 Second, the petition to intervene filed by  
5 PAIEUG on April 5, 2007, is there any objection?

6 MS. NEWALL: No objection.

7 JUDGE CHESTNUT: That petition is granted.

8 How about the petition to intervene filed  
9 on April 19, 2007, by PennFuture? Is there any objection?

10 MS. NEWALL: No objection.

11 JUDGE CHESTNUT: That petition is granted.

12 Let me state generally that in the future  
13 petitions to intervene and motions for admission pro hac  
14 vice if not defective on their face shall be deemed  
15 granted if not objected to within three business days  
16 after filing. If objected to such pleadings will be  
17 addressed by order.

18 Does anybody that have a problem with  
19 that?

20 MS. NEWALL: No, Your Honor.

21 JUDGE CHESTNUT: Okay.

22 As you will note, most of these are pretty  
23 standard but if you do have a question or a comment feel  
24 free to let me know.

25 Next, pursuant to 52 Pa. Code, Section

1 1.55 each party shall be limited to one entry on the  
2 service list, although there can be more than one name  
3 listed. Each party if it has not yet done so is directed  
4 to provide the e-mail address, fax number, telephone  
5 number and address of the person or persons they wish to  
6 have listed on the service list within five days of the  
7 date of the order -- you know what, let's forget that.  
8 Let me just ask you directly, Ms. Newall, who do you want  
9 to have served?

10 MS. NEWALL: Me, please, Your Honor.

11 JUDGE CHESTNUT: Okay. And I don't think  
12 that is an issue for any other party.

13 Next, the parties shall be limited to  
14 those persons or entities who attended the prehearing  
15 conference and any persons or entities granted  
16 intervention in accordance with the provisions of 52 Pa.  
17 Code, Sections 5.73 to 5.75.

18 Parties will receive all documents and  
19 must serve all other parties -- you know, what, you all  
20 know this. Do I really need to go through this?

21 (No audible response.)

22 JUDGE CHESTNUT: Okay. Why don't I just  
23 hit the high points here. You are all experienced and I  
24 feel it's really not necessarily to bother with this.

25 The next issue is my informal e-mail

1 distribution list. Please be aware that it is informal  
2 and that if you inadvertently get let off it's not going  
3 to be the subject of an order or something like that.

4 So far who I have on my list, for OTS I  
5 have Mr. Eckenrod. Is that okay with you, Ms. Kaster? Or  
6 do you want to be on it too?

7 MS. KASTER: No. Having Rob on it is more  
8 than fine.

9 JUDGE CHESTNUT: Okay.

10 For PECO I have Ms. Newall, Mr. Gadsden  
11 and Mr. Kulak.

12 MS. NEWALL: That's fine, thank you.

13 JUDGE CHESTNUT: For OCA I have  
14 Ms. McCloskey and Ms. Appleby.

15 MS. McCLOSKEY: Yes, that's fine, Your  
16 Honor.

17 JUDGE CHESTNUT: For OSBA I have Ms. Webb  
18 and Ms. Lepkoski.

19 MS. WEBB: Yes, Your Honor, that's fine.

20 JUDGE CHESTNUT: For PAIEUG I have you,  
21 Ms. Mincavage.

22 MS. MINCAVAGE: Yes, Your Honor. Can we  
23 add one more person to that list, please?

24 JUDGE CHESTNUT: Sure.

25 MS. MINCAVAGE: If we could add Barry Naum

1 from our office, his e-mail address is --

2 JUDGE CHESTNUT: Hold on just a second,  
3 please. How do you spell his last name?

4 MS. MINCAVAGE: It's N-a-u-m.

5 JUDGE CHESTNUT: And his e-mail address?

6 MS. MINCAVAGE: bnaum@mwn.com.

7 JUDGE CHESTNUT: Okay.

8 MS. MINCAVAGE: Thank you.

9 JUDGE CHESTNUT: Do you want him added to  
10 the service list too or just for e-mail?

11 MS. MINCAVAGE: The service list would be  
12 wonderful, Your Honor. Thank you.

13 JUDGE CHESTNUT: Okay.

14 And then for PennFuture I have you,  
15 Mr. Jugovic.

16 MR. JUGOVIC: Yes, Your Honor.

17 JUDGE CHESTNUT: Nobody in their  
18 prehearing memoranda asked for modification of the  
19 discovery rules. But I would like to do that anyway  
20 because it is part of my standard order.

21 MS. WEBB: Your Honor, this is  
22 Sharon Webb.

23 In our prehearing memoranda I asked that  
24 our expert be served directly. Would it be possible to  
25 add Mr. Keltic to the service list?

1 JUDGE CHESTNUT: No.

2 MS. WEBB: Okay.

3 JUDGE CHESTNUT: Parties, of course, are  
4 free to serve anybody who has asked and I am sure that the  
5 parties will honor your request.

6 MS. WEBB: But not the official service  
7 list?

8 JUDGE CHESTNUT: Right.

9 MS. WEBB: Okay.

10 JUDGE CHESTNUT: Everybody understands  
11 that? And that's not a problem, I assume.

12 MS. NEWALL: Not a problem.

13 JUDGE CHESTNUT: In terms of discovery, I  
14 have the standard modifications here. Nobody has asked  
15 for it, but is there a problem if we do it?

16 MS. NEWALL: No, Your Honor.

17 JUDGE CHESTNUT: I will go through them if  
18 you wish.

19 MS. NEWALL: Do you typically -- okay. Go  
20 ahead.

21 JUDGE CHESTNUT: You can ask.

22 MS. NEWALL: We were proposing, since we  
23 were asking for an expediting schedule, as having the  
24 responses due within ten calendar days as opposed to the  
25 standard 20 days in the regulations.

1 JUDGE CHESTNUT: Well, if you want why  
2 don't I just go through these quickly just so there is no  
3 misunderstanding.

4 MS. NEWALL: That would be great.

5 JUDGE CHESTNUT: Although I think these  
6 are pretty standard, not just with me but with everybody.

7 The first thing is that pursuant to 52 Pa.  
8 Code, Section 5.342(d), the Commission's regulations  
9 relating to discovery are modified as follows:

10 When an interrogatory or motion is served  
11 after 12:00 p.m. on a Friday or the day before a holiday  
12 the appropriate response period is deemed to start the  
13 next business day.

14 The response period for replying to  
15 written interrogatories is ten calendar days.

16 Objections to interrogatories are to be  
17 communicated orally to the propounder of the interrogatory  
18 within three calendar days of receipt and in writing  
19 within five calendar days of receipt. The parties are  
20 directed to confer by telephone, e-mail or attempt to  
21 resolve the objections.

22 Motions to dismiss objections and to  
23 compel response shall be filed with the Commission and  
24 served on the other parties within three calendar days of  
25 receipt of the objections. Answers to such motions shall

1 be filed and served within three calendar days after  
2 filing of the motion. If the objections are not resolved  
3 Counsel will alert the Presiding Officer by e-mail or  
4 telephone of the need for a ruling and a conference call  
5 will be scheduled. The Presiding Officer will make a  
6 ruling over the telephone and not reduce it to writing  
7 unless requested to do so.

8 Let me add here that I do not want to see  
9 any discovery disputes. I have done lots of major cases  
10 and not had them. At this point you are all very  
11 experienced and highly qualified and you should know what  
12 appropriate discovery is and what appropriate responses  
13 are. So as far as I am concerned, unless it is some kind  
14 of really marginal issue somebody who is filing improper  
15 discovery is acting in bad faith and someone who is  
16 refusing to respond to appropriate discovery is also  
17 acting in bad faith. So I really hope that you resolve  
18 these among yourselves. But if not, then I will do my  
19 part in resolving it.

20 Going on with further discovery items,  
21 interrogatories which are objected to but which are not  
22 made the subject of a motion to compel will be deemed  
23 withdrawn.

24 Pursuant to 52 Pa. Code, Section 5.341(b)  
25 neither interrogatories nor responses are to be served on

1 the Commission or the Presiding Officer, although a  
2 certificate of service may be filed with the Commission  
3 Secretary.

4 Now, this has come up before where since I  
5 am on your e-mail distribution list I get these things.  
6 Please try not to have that happen. Either have two  
7 separate distribution lists with me on it or off it or  
8 just add me to your distribution list for things I need to  
9 get.

10 Related to that, interrogatories and  
11 responses are to be served electronically as well as on  
12 paper. And as Ms. Webb indicated, it is a good idea to  
13 serve the parties' experts as well as, but that is  
14 something you can work out among yourselves.

15 Responses to requests for production of  
16 documents, entry for inspection or other purposes shall be  
17 served in-hand within ten calendar days.

18 Requests for admissions shall be deemed  
19 admitted unless answered within ten calendar days or  
20 objected to within five calendar days of service of the  
21 request.

22 Does anybody have any comments or any  
23 changes they want to make?

24 (No audible response.)

25 JUDGE CHESTNUT: Okay. Like I said, they

1 are standard and I shouldn't think that there would be a  
2 problem.

3 I also urge you to use alternative  
4 discovery such discovery conferences or depositions. And  
5 I think the company has indicated that it is willing to do  
6 that.

7 The next issue that I have on my list,  
8 then, is the schedule. I see that a proposed schedule was  
9 contained in PECO's prehearing memorandum.

10 Have you all had a chance to review that?  
11 Is this the consensus schedule or just one that you came  
12 up with?

13 MS. NEWALL: It is one that I circulated  
14 prior to the filing of our prehearing memorandum, although  
15 it was not consensus. I did not hear back from all  
16 parties prior to the filing of the memo.

17 JUDGE CHESTNUT: Does anybody have  
18 anything they want to say about the schedule?

19 (No audible response.)

20 JUDGE CHESTNUT: No?

21 MS. WEBB: Your Honor, this is Ms. Webb.

22 JUDGE CHESTNUT: Yes.

23 MS. WEBB: I had spoken to Counsel for the  
24 company. I'm not sure if what was presented to you  
25 included the settlement conference date.

1 JUDGE CHESTNUT: Yes. Let's go over it.

2 MS. NEWALL: Yes, Your Honor. The parties  
3 that I did hear from, the only problems were with the  
4 settlement meeting dates. So I would propose that if  
5 everyone else agrees to all of the other dates that we  
6 just do not include the settlement meetings.

7 JUDGE CHESTNUT: Well, I wasn't going to  
8 include that anyway.

9 MS. NEWALL: Good.

10 JUDGE CHESTNUT: Because that is something  
11 that the parties do among themselves. I just want you to  
12 be sure that you have settlement discussions.

13 MS. NEWALL: We will.

14 JUDGE CHESTNUT: So in terms of the  
15 precise time nature of those, that is something you can  
16 work out. Okay?

17 MS. NEWALL: Yes.

18 JUDGE CHESTNUT: Now, let's see, according  
19 to this schedule you don't have on here that you filed  
20 your testimony on March 19th. So I did put that in.

21 MS. NEWALL: I appreciate that. Thank  
22 you.

23 JUDGE CHESTNUT: The prehearing conference  
24 is today, obviously.

25 Other parties' direct testimony is due

1 June 4. Is that a problem for anybody?

2 (No audible response.)

3 JUDGE CHESTNUT: All parties' rebuttal is  
4 due June 22nd. Is that a problem?

5 (No audible response.)

6 JUDGE CHESTNUT: Hearings July 10 and 11.  
7 I don't think that is a problem for me.

8 MS. NEWALL: I received your calendar and  
9 you are available on those dates.

10 JUDGE CHESTNUT: And it has changed since  
11 then. This is okay. I do have a hearing scheduled on the  
12 10th but it can be rescheduled.

13 Is everybody else okay with the 10th and  
14 11th for the hearings?

15 MS. KASTER: Your Honor, the Office of  
16 Trial Staff is fine with the hearings on those dates.  
17 Just for clarification purposes, where are you proposing  
18 that the hearings be held?

19 JUDGE CHESTNUT: Well, I would like them  
20 to be here but I assume they will be in Harrisburg. Does  
21 anybody have a preference?

22 MS. KASTER: OTS doesn't have a  
23 preference.

24 JUDGE CHESTNUT: Well, it is easier here,  
25 I think, because the company is located here and I am

1 here. But if that is a problem for you or OCA -- what do  
2 you feel about that, Ms. McCloskey?

3 MS. McCLOSKEY: Your Honor, the OCA does  
4 not have a preference. The only thing I would ask is if  
5 we have them in Philadelphia that we talk a little bit  
6 about the time as we get closer so we can take the train  
7 down.

8 JUDGE CHESTNUT: Sure. Absolutely. No  
9 problem.

10 Okay. Why don't we say they will be in  
11 Philadelphia, then, and we will work out the time and  
12 accommodations. And hopefully they won't be necessary.

13 The next item would be that you file your  
14 main briefs on July 25, reply briefs August 6. Does  
15 anybody have a problem with those dates?

16 (No audible response.)

17 JUDGE CHESTNUT: We will talk specifically  
18 more about filing and dates. But in terms of the schedule  
19 they look okay to me, because I am not doing them. To be  
20 honest I really only care about the hearing dates.

21 You do have recommended decision,  
22 September 14. That is a very short timeframe because I  
23 hope you understand it's not just me writing the decision,  
24 it has to be processed in Harrisburg and it is issued by  
25 another bureau. But I will certainly do my best to comply

1 with that.

2 MS. NEWALL: We appreciate that.

3 JUDGE CHESTNUT: And then of course we can  
4 request a Commission order by October 25 but we can't bind  
5 the Commission to any date.

6 MS. NEWALL: Right.

7 JUDGE CHESTNUT: All I can say is I will  
8 do my part and I will have my bureau do its part to get it  
9 before the Commission as expeditiously as possible.

10 Does anybody have a problem with any of  
11 these dates or the structure of the schedule so far?

12 (No audible response.)

13 JUDGE CHESTNUT: Okay. Good.

14 Let's talk about specifics. Let's talk  
15 about testimony, then.

16 These are due dates for testimony. That  
17 means they are to be received electronically -- well,  
18 technically to be received in-hand by the parties, but  
19 what we usually do is it is okay with me if it is served  
20 electronically by those dates and received the next day by  
21 hard copy.

22 Is that okay with everybody?

23 MS. NEWALL: Yes, Your Honor.

24 JUDGE CHESTNUT: And I'm sure you all know  
25 this but I'm going to say it again: Do not file your

1 testimony with the Commission, although you may file a  
2 certificate of service.

3 I think I indicated earlier that the staff  
4 people assigned to this would like to get a copy of your  
5 testimony, Ralph Wax and Dave Schrader. I will send you  
6 another e-mail but I think I did let you know that. They  
7 would like it electronically and by hard copy too.

8 MS. WEBB: Your Honor, when you say next  
9 day service do you want overnight mail or is it if we mail  
10 it first class mail?

11 JUDGE CHESTNUT: Overnight mail. Do not  
12 put it in the mail. Who knows when it will get here.  
13 Seriously, in a case I had the company did that and it  
14 took 11 days for it to come from Bryn Mawr.

15 And of course if you have a problem with  
16 your testimony just let me know. But I'm sure as you all  
17 know me by now, I am very strict about deadlines. I give  
18 the parties a lot of latitude to come up with things but  
19 once you agree on it I expect you all to comply with it.  
20 So if it is going to be a problem don't take it on  
21 yourself just to send it a day later. You have to ask me.  
22 And of course I will say yes, but I really don't like  
23 being treated like that.

24 Speaking of testimony -- I will go through  
25 this although I'm sure you all know it -- testimony should

1 be pre-marked with numerical sequential statement numbers.  
2 All statements must list on the cover sheet the issues  
3 addressed.

4 And I did want to put a date in here where  
5 you all have to notify me and the parties who your  
6 witnesses are going to be if they are going to be  
7 different from what you have in your prehearing  
8 memorandum. So since the hearings will be -- well, I  
9 guess you will know by the time that your direct will be  
10 due, right? You should know before that. So we can do  
11 this before the testimony is due. I usually have in here  
12 it is before the hearing, but on the other hand --

13 MS. MINCAVAGE: Your Honor, this is  
14 Charis Mincavage.

15 Can I just make one comment with respect  
16 to the direct testimony?

17 JUDGE CHESTNUT: Sure.

18 MS. MINCAVAGE: There is the odd event  
19 that occasionally someone raises something in direct  
20 testimony that a party other than the company needs to  
21 respond to in rebuttal. It would obviously just be  
22 responsive to the direct testimony, it would not be  
23 outside the realm of raising new issues. But we have on  
24 occasion -- and I would hope this would not occur here,  
25 but out of an abundance of caution -- we have on occasion

1 not submitted direct testimony but have had to submit  
2 rebuttal testimony. So that would be my only, perhaps,  
3 request, that if we were to pick a date we could make it  
4 after the direct testimony just to give time for that  
5 analysis and decision.

6 JUDGE CHESTNUT: Okay. That's fine with  
7 me.

8 MS. NEWALL: Yes, Your Honor. We may have  
9 the same issue, if we decide that we see something in  
10 direct testimony that we may need to add another rebuttal  
11 witness.

12 JUDGE CHESTNUT: No -- well, actually  
13 another rebuttal witness is fine. But I did want to talk  
14 about paragraph seven of your prehearing memo because I  
15 don't agree with that at all. Supplement your initial  
16 case in chief? No. You can't do that. Your case is  
17 filed already. You can submit rebuttal and surrebuttal.

18 MS. NEWALL: Right.

19 JUDGE CHESTNUT: And, of course, your  
20 point is a good one, Ms. Mincavage.

21 MS. MINCAVAGE: Thank you, Your Honor.

22 JUDGE CHESTNUT: So why don't you give me  
23 a date, then, that would work for everybody about when you  
24 are going to let me know what your witness lineup is going  
25 to be. Or if you are going to be adding people, really,

1 is the question.

2 MS. NEWALL: Right. So it would be after  
3 the direct and before the rebuttal.

4 JUDGE CHESTNUT: Yes. So should we say by  
5 June -- how about June 12?

6 MS. NEWALL: That's perfect.

7 MS. MINCAVAGE: That's fine, Your Honor.

8 MS. McCLOSKEY: That works, Your Honor.

9 JUDGE CHESTNUT: Good.

10 And of course you all know that witnesses  
11 who are not identified in your prehearing memorandum or  
12 not listed in this notice will not be permitted to testify  
13 except by special permission for extremely good cause.

14 Any motions with respect to or objections  
15 to written testimony must be presented in writing no later  
16 than three days prior to the day that the witness  
17 sponsoring that testimony is scheduled to testify. Oral  
18 motions other than for good cause shall not be accepted.

19 And then let me put in a standard  
20 directive here that all parties are directed to comply  
21 with the provisions of 52 Pa. Code, Section 5.243(e) which  
22 prohibits the introduction of evidence during rebuttal or  
23 surrebuttal which should have been included in the active  
24 participant's case in chief or which substantially varies  
25 from the active participant's case in chief unless the

1 evidence is introduced in support of a proposed  
2 settlement. Now, obviously that does not address the  
3 situation you brought up, Ms. Mincavage, but it does  
4 prevent sandbagging and that is the purpose of that.

5 Okay. Is there anything anybody wants to  
6 say about with the testimony then before we talk a little  
7 about hearings and briefs?

8 MS. NEWALL: Your Honor, do you want to  
9 receive your copy of the testimony -- is it sufficient by  
10 e-mail as well and overnight mail or do you want it  
11 in-hand?

12 JUDGE CHESTNUT: Overnight mail is fine.

13 MS. NEWALL: Okay.

14 JUDGE CHESTNUT: And I don't care how you  
15 serve it to me electronically because it is unlikely that  
16 I am to be cutting and pasting from your witness'  
17 testimony. So if you just want to do a PDF that is okay  
18 as opposed to Word Plus PDF or Word only. So whatever  
19 works for you folks is fine with me. But I do like it  
20 electronically as well as hard copy.

21 As we said, hearings will be in  
22 Philadelphia. We will talk about the times. But I will  
23 put in my standard language that the initial day will  
24 commence at 10 o'clock, recognizing that that might be  
25 changed to accommodate people's schedules.

1                   If we get to the point where we are going  
2 to have a hearing I will be requiring you to complete a  
3 daily witness listing and a cross-examination grid.

4                   Okay. That is it for hearings.

5                   Let's talk about briefs. You all know the  
6 filing requirements. Briefly, an original and nine copies  
7 must be filed with the Secretary and one copy received in  
8 in-hand -- actually the regs require two but usually one  
9 is sufficient -- one copy received in-hand by me and the  
10 parties no later than 4:30 on the dates listed. Again,  
11 you can do it electronically with the hard copy the next  
12 day.

13                   I definitely want mine in both a PDF  
14 format and an editable format such as Word. And believe  
15 me, if you want me to cut and paste from your brief you  
16 will make it easy.

17                   Make sure that you include a copy on disk  
18 with the copies that you file with the Secretary. I think  
19 you all know that. You are all very experienced, right?

20                   Content of briefs. Make sure that they  
21 have a table of contents. No matter how short it is, it  
22 is very helpful for me or anybody reading it to have a  
23 context to put this in, to see what the organization is.  
24 A lot of people don't do that for the reply briefs, but  
25 you are required to do it for your reply briefs,

1 especially for your reply briefs.

2 History of the proceedings. Obviously  
3 that is only for your main brief unless there is something  
4 you want to address in the other parties' histories. But  
5 you don't need that for your reply brief.

6 Then a discussion would be in reply and  
7 main briefs.

8 Proposed findings of fact, proposed  
9 conclusions of law and proposed ordering paragraphs  
10 obviously with your main briefs and can be addressed in  
11 your reply brief. But make sure you tell me what it is  
12 specifically you want me to recommend to the Commission in  
13 your ordering paragraphs. You would be surprised how hard  
14 it is for me to figure out -- you know, I got the party's  
15 position but then to come up with the ordering paragraph  
16 is sometimes hard and it can come up with a bad result.

17 Also if I can give you a word of advice  
18 about your briefs, you cannot summarize enough, both for  
19 me and for the people who are going to be reading this at  
20 the Commission. Make it simple. Make it clear. Make it  
21 direct. Have lots of white space on page. And for my  
22 purposes it would really be nice if you had a summary of  
23 your position on each issue so that I could then put it in  
24 my decision because I like to have each section kind of  
25 self-contained and sometimes it is very hard to accurately

1 summarize a party's position. So I would rather be able  
2 to cite to what you say your position is than for me to do  
3 that.

4 Obviously you know to comply with the time  
5 deadlines for filing your briefs.

6 With respect to reply briefs, if you don't  
7 file one it is going to be assumed that you do not dispute  
8 the assertions, contentions, arguments, et cetera made by  
9 the other parties in their main briefs. You don't have to  
10 repeat arguments or discussions in your reply brief but  
11 you should note where in your main brief the argument is  
12 located. And don't just say it has been addressed in our  
13 main brief and then expect me and everybody to find it or  
14 assume that we know what it is you meant to be responsive.

15 Are there any questions about briefs,  
16 then?

17 (No audible response.)

18 JUDGE CHESTNUT: My next issue is to  
19 direct you to confer among yourselves in an attempt to  
20 resolve some or all of the issues associated with the  
21 filing. I know that you have that as part of your  
22 schedule and I am glad to see that because you are all  
23 aware this is a policy kind of case and the statute I  
24 think gives very clear directives in terms of what is  
25 allowed and what is not. The details, of course, is what

1 you are going to be arguing over, how to implement that.  
2 And that is something that you are all in a much better  
3 position to address than I am.

4 Frankly, if I were you, I wouldn't want  
5 the Commission addressing it either. So really you should  
6 try to stay in control of this as much as you can. I  
7 would like to see this as a win-win for everybody, because  
8 it seems to me that everybody has a valid interest in this  
9 case and they really do all need to be addressed. And  
10 hopefully they are not in conflict. So I would be very  
11 happy to see you come up with either a settlement of all  
12 the issues or stipulations relating to some of the issues.  
13 Anything you can do to, really, to keep control with  
14 yourselves I would strongly recommend.

15 Finally, I do want to stress to you that  
16 you all know what the file room is like so make sure you  
17 serve me directly with anything that you file.

18 That is the end of my issues.

19 Ms. Newall, do have you have anything else  
20 that you wish to add or comment on?

21 MS. NEWALL: No, Your Honor.

22 JUDGE CHESTNUT: Ms. Kaster, how about  
23 you?

24 MS. KASTER: No, Your Honor.

25 JUDGE CHESTNUT: Ms. McCloskey?

1 MS. McCLOSKEY: Nothing further, Your  
2 Honor.

3 JUDGE CHESTNUT: Ms. Webb?

4 MS. WEBB: No, thank you, Your Honor.

5 JUDGE CHESTNUT: Ms. Mincavage?

6 MS. MINCAVAGE: No, Your Honor. Thank  
7 you.

8 JUDGE CHESTNUT: Mr. Jugovic?

9 MR. JUGOVIC: No, Your Honor. Thank you.

10 JUDGE CHESTNUT: Well, thank you very  
11 much.

12 I have to tell you I was really pleased  
13 when I got assigned this case because seeing who you are  
14 and who you represent I knew it was going to go really,  
15 really well. You are all experienced, you are all  
16 professional, you all act in good faith, at least in my  
17 opinion. So I am really happy that you are all working on  
18 this case.

19 Thank you very much, then. The prehearing  
20 conference is adjourned. Thank you.

21 (Whereupon, at 10:35 a.m., the prehearing  
22 conference was concluded.)

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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 were 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: Robert J. Stonaker *JR*

Robert J. Stonaker

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