

DOCUMENT
FOLDER

1
802

1 COMMONWEALTH OF PENNSYLVANIA
2 PUBLIC UTILITY COMMISSION

3 -----
4 Cindy Parks, :
5 V. : Docket No.: C-00015377
6 Pennsylvania-American Water :
7 Company :
8 Telephonic Prehearing :
9 Conference :
10 -----

ORIGINAL

Eleventh Floor Hearing Room
State Office Building
Pittsburgh, PA 15222

July 30, 2002
Commencing at 11:00 a.m.

11 BEFORE:

12 LARRY GESOFF, Administrative Law Judge

13 APPEARANCES

14 MS. CINDY PARKS, Pro Se
For the Complainant

15 DIANNE DUSMAN, Esquire
16 JOEL CHEASKIS, Esquire
17 555 Walnut Street, Fifth Floor
Forum Place
Harrisburg, PA 17101-1423
For OCA

18 ANTHONY C. DeCUSATIS, Esquire
19 1701 Market Street
Philadelphia, PA 19103
20 For Pennsylvania-American Water Co.

21 SUSAN SIMMS MARSH, Esquire
22 P.O. BOX 888
Hershey, PA 17033-0888

RECEIVED

AUG 27 2002

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

DOCKETED

AUG 28 2002

24 Any reproduction of this transcript
25 is prohibited without authorization
by the certifying agency

32

INDEX TO WITNESSES

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

None.

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

2 JUDGE GESOFF:

3 Let's go on the record.

4 This is the time and place set by the
5 Pennsylvania Public Utility Commission for a further
6 telephonic prehearing conference in the complaint of
7 Cindy Parks against the Pennsylvania-American Water
8 Company at Docket No. C-00015377.

9 I'm Larry Gesoff, the administrative
10 law judge assigned to this proceeding. I note the
11 following appearances. Cindy Parks on behalf of
12 herself.

13 Joel Cheaskis and Dianne Dusman on
14 behalf of the OCA.

15 Anthony C. DeCusatis on behalf
16 Pennsylvania-American Water Company. Susan Simms
17 Marsh on behalf of Pennsylvania-American Water
18 Company.

19 I'm here in the Pittsburgh Hearing
20 Room with a court reporter. I would like anybody,
21 when they are speaking, to identify themselves
22 first. If you're at a speaker phone, please even get
23 very close to the microphone. Speak distinctly and
24 slowly so the court reporter can take down what's
25 being said.

1 Okay.

2 MS. DUSMAN:

3 This is Diane Dusman from the OCA. I
4 just wanted to note, we also have Marilyn Kraus here
5 with us in our conference room.

6 JUDGE GESOFF:

7 Okay. Spell that for the court
8 reporter, please?

9 MS. DUSMAN:

10 M-A-R-I-L-Y-N, middle initial J,
11 K-R-A-U-S. She's a witness for the company. I mean,
12 for the OCA. OCA; yes.

13 JUDGE GESOFF:

14 This matter has been the subject of
15 settlement negotiations between the parties, and I
16 have given many continuances, and the parties' latest
17 attempt did not work. So, we're setting up a
18 litigation schedule for the proceeding.

19 One thing, preliminarily, I want to
20 note is that the matter was in mediation of some
21 kind. And, according to the company's, I think,
22 response to the motion to dismiss, or the motion to
23 consolidate, the OCA held the process in abeyance,
24 pending a decision on the motion to consolidate. I
25 do note that no mediation report was filed.

1 So, I just wanted to straighten that
2 matter out. And the matter was in mediation.

3 MS. SIMMS MARSH:

4 Your Honor, this is Susan Simms Marsh.
5 Actually, the matter had been set for a settlement
6 conference by the Chief ALJ back in June of last
7 year.

8 And at the time that the notice was sent
9 out, the OCA had not intervened in the proceedings.
10 Once they intervened and the OCA filed the motion to
11 consolidate, I, actually, spoke to Bruce Bigelow from
12 the Commission staff and indicated what the status
13 was.

14 And during the course of our
15 conversation, he indicated that we would not do
16 anything and wait to see the outcome of the
17 proceeding.

18 In the interim, once, I guess, I took
19 action on the motion to consolidate, at some point in
20 time, I believe you were assigned and we got the
21 notice for a prehearing conference. So, it,
22 actually, never went to mediation. And nor do we
23 have what would have been considered a settlement
24 conference, for purposes of submitting a settlement
25 report.

1 Although, we did, as you know, engage
2 in meetings for the purpose of settlement when we
3 were asking you to hold the litigation schedule in
4 abeyance.

5 JUDGE GESOFF:

6 Okay. Thank you for that update.

7 Do the parties -- I know that the
8 parties have spent quite a bit of time, I think,
9 trying to settle the matter. And, also, it was a
10 Pennvest loan was pending. I don't really know what
11 happened to that.

12 I know that the deadline for filing it
13 or finding out if it was approved was in May, but do
14 the parties, even though we will set a litigation
15 schedule today, do the parties also want to take a
16 stab at mediation?

17 Well, I'll just ask the OCA first, their
18 thoughts on this.

19 MS. DUSMAN:

20 Your Honor, this is Diane Dusman. We
21 have --

22 JUDGE GESOFF:

23 Off the record.

24 (Whereupon, an off-the-record
25 discussion was had.)

1 JUDGE GESOFF:

2 Back on the record.

3 MS. DUSMAN:

4 Again, this is Dianne Dusman. I had
5 honestly not considered mediation after the lengthy
6 settlement discussions that we had.

7 I guess, my first reaction is that it
8 would not be likely to be productive. However, if
9 the company expresses amenability to that idea, I
10 wouldn't oppose, at least a session in mediation.
11 But I hesitate to say we would get into any kind of
12 lengthy mediation process. I just the can't perceive
13 that being productive, at this point.

14 JUDGE GESOFF:

15 And the company?

16 MS. SIMMS MARSH:

17 Your Honor, this is Susan Simms Marsh.
18 I would concur with what Ms. Dusman has indicated.
19 We have had numerous sessions in an attempt to settle
20 this matter. And, at this point, the company is of
21 the opinion that mediation would not result in any
22 resolution of the matter.

23 JUDGE GESOFF:

24 Okay. My understanding, from reading
25 the testimony, is that the OCA believes that the

1 company's formula for coming up, and, I'm sorry, I am
2 not going to use acronyms, for the customer's share
3 of extending the service, should be adjusted such
4 that with a Pennvest loan, they are would be no
5 contribution by the customer and the company
6 disagrees with that.

7 Is that the gist of the main issue in
8 this proceeding?

9 MS. DUSMAN:

10 Your Honor, I would say that it is.
11 This is Dianne Dusman.

12 Your Honor, I would say that it is the
13 gist of the dispute. I would add, however, that the
14 reason that we have proposed a new schedule that
15 involves the filing of supplemental testimony is that
16 we have continued our investigation throughout the
17 months of the settlement discussions and we have a
18 lot to add to the record of the case before we go
19 forward to evidentiary hearing.

20 So, while I don't think our position
21 will change, substantially, I do think that the
22 numbers will change somewhat. And, basically, we
23 feel we have a new case to present to you.

24 JUDGE GESOFF:

25 Okay. I just wanted to make sure that

1 I understood it.

2 But does the company want to add
3 anything?

4 MR. DeCUSATIS:

5 Your Honor, this is Tony DeCusatis. I
6 mean, I just realized I'm a little -- I have not, I
7 have not been involved in this negotiation process,
8 but I have had, obviously, an opportunity to review
9 the testimony. And I think that the other issue
10 that, and it is an issue here as it is in these
11 situations, generally, is how many. How many
12 customers are we talking about?

13 It, obviously, makes a difference in
14 what the number, how the numbers are going to work
15 out. And it's somewhat difficult to get a fix on how
16 many customers are involved. So, that's, that's,
17 also, also, somewhat of an issue. It's very hard to
18 tell. You are looking for expressions of interest.

19 And there's, there's a lot of that
20 goes into that dynamic of when customers, when
21 customers are ready, willing, able to commit to
22 taking water service. And, obviously, their decision
23 turns in part upon whether there is going to be some
24 customer contribution in all or not. You are,
25 obviously, going to get a lot more customers who

1 would be willing to take water service if it doesn't
2 entail making a contribution.

3 So, I think that's a variable and it's
4 present, if you read through the testimony, in terms
5 of customer count.

6 JUDGE GESOFF:

7 Yes. Okay. I understand that.

8 Okay. Will there be any need for
9 discovery.

10 OCA?

11 MS. DUSMAN:

12 This is Dianne Dusman speaking.

13 I really don't think that we will need
14 further opportunity for, for discovery. We may need
15 updates of some of the discovery we got in the past.

16 Can I ask you to hold one moment?

17 JUDGE GESOFF:

18 Sure.

19 MS. DUSMAN:

20 This is Dianne Dusman, again.

21 Joel just pointed out to me, at the
22 time that he commenced negotiation, and after the
23 stay in January, we did have a round of discovery
24 interrogatories outstanding that had not been
25 answered. So, there is discovery outstanding.

1 And as I said a little earlier, we may
2 need updates to some of the discovery we got in the
3 past. And we'll proceed to do an assessment of that
4 and, now, I guess, await answers to the outstanding
5 discovery that we served in January.

6 JUDGE GESOFF:

7 Okay. When will the company be
8 providing the outstanding answers to the outstanding
9 interrogatories?

10 MS. SIMMS MARSH:

11 Your Honor, we have, we have taken a
12 look at the outstanding interrogatories, and the
13 staff here is, with the company, in the process of
14 preparing responses. I would anticipate that those
15 response, we, at least some of the responses will
16 begin to be available and will be given to the OCA --
17 let me just look at the calendar here.

18 Some of responses could be available
19 to the OCA the week of August 5. There were, I mean,
20 the questions were fairly lengthy. A somewhat number
21 of questions. The staff is working on that, as we
22 speak.

23 JUDGE GESOFF:

24 When will all of them be in the hands
25 of the OCA?

1 MS. SIMMS MARSH:

2 This is Susan Marsh.

3 We could have all of them in the hands
4 of the OCA by August 12.

5 JUDGE GESOFF:

6 Okay. Will that affect the date the
7 OCA wants to set for their supplemental direct
8 testimony?

9 MS. DUSMAN:

10 No, Your Honor. I think that we won't
11 have a problem with that if we have all the responses
12 in August.

13 JUDGE GESOFF:

14 Okay. Does the company need any
15 discovery?

16 MR. DeCUSATIS:

17 This, Your Honor, is Tony DeCusatis.
18 It would be hard to tell, but I wouldn't, I, just
19 from my perspective, wouldn't be willing to waive it
20 off, only because of the OCA indicating that they
21 have got substantially new material that's going to
22 be coming in in supplemental testimony. So, I don't
23 know that we would really be able to say, one way or
24 the other, until we took a look at that testimony.

25 JUDGE GESOFF:

1 Okay. We'll build that into the
2 schedule. Then why don't we go off the record, set
3 a schedule? We'll then come back on the record and
4 we'll state what it is?

5 Okay. We are off the record.

6 (Whereupon, an off-the-record
7 discussion was had.)

8 JUDGE GESOFF:

9 We're back on the record.

10 While we were off the record, we
11 discussed the schedule, preliminarily. And Ms. Parks
12 said she wanted to make some comments on the record.
13 Go ahead, Ms. Parks.

14 MS. PARKS:

15 Okay. First off, I want to apologize
16 for my ignorance in understanding a lot of this.

17 My last impression was that everything
18 was set for water to come to our town. We had a town
19 meeting several months ago. There was a huge
20 turnout. We had it at the Mount Pleasant Fire Hall.
21 OCA was there. The Water Company was there.

22 The whole town was extremely excited,
23 because of the water company's statements to all of
24 us citizens that water was coming through. They were
25 going to get loans. They had blueprints showing what

1 areas were going to be first, second, third, the
2 different phases. And I don't understand what
3 happened.

4 I mean, is the water company putting
5 the almighty dollar before human needs? We need
6 water in this town, bad. The quality of my water is
7 going down hill every day. This is 2002 and I, I
8 think it's horrible that I can't even drink the water
9 that comes out of my faucet. I have to take my
10 clothes to a laundromat, because my water is ruining
11 my clothes.

12 I'm not the only one. There is a lot
13 of people in this town. This drought that we have
14 been having, there's water trucks in the town every
15 day because people are, are running out of water.

16 And I think it's awful that the water
17 company, it can't make, you know, a few concessions
18 towards getting us water. There's a lot of interest
19 in this town. There's a lot of people that want
20 water. And this litigation, to be going on for this
21 long, this is absurd in this day and age. This is
22 totally absurd.

23 I just would like some answers as to
24 what happened? What fell through?

25 JUDGE GESOFF:

1 Does the company want to respond to
2 that?

3 MS. SIMMS MARSH:

4 Your Honor, this is Susan Simms Marsh.

5 Yes. Yes, it is true that the company and the
6 Office of Consumer Advocate, along with certain
7 members of the authority, engaged in conversations
8 and in meetings, trying to see whether or not we
9 would be able to settle the matter with the company
10 providing water service to the residents of the
11 township.

12 And we did work with the Office of
13 Consumer Advocate and the commissioners for the
14 authority to try to develop a footprint. During the
15 process of trying to negotiate a settlement on the
16 matter, the parties, that is, were not able to come
17 to a final resolution on all of the terms and
18 conditions, which resulted in settlement negotiations
19 being halted and the request to resume the litigation
20 schedule.

21 JUDGE GESOFF:

22 I think Ms. Parks was asking that it
23 seemed like, at the meeting, things were going
24 through and then nothing happened.

25 MS. PARKS:

1 Right.

2 MS. SIMMS MARSH:

3 The meeting that some of the
4 associates of Pennsylvania-American attended was at
5 the request of the authority, to provide at that
6 point what the proposed footprint would be if, in
7 fact, we were able to resolve all issues related to
8 litigation.

9 And it was not a commitment on behalf
10 of the company to actually move forward with the
11 project, because we had not actually reached a
12 complete settlement on the matter.

13 JUDGE GESOFF:

14 Was that made clear at the meeting?

15 MS. SIMMS MARSH:

16 I was not present at the meeting, but
17 its my understanding that that was made clear. But I
18 cannot attest to that because I was not present at
19 the meeting.

20 MS. PARKS:

21 This is Cindy Parks, again.

22 No, it was not made clear at the
23 meeting. Everyone that was at the meeting, we all
24 left there on a high because we were, we thought we
25 were going to get water.

1 They showed blueprints, diagrams.
2 Told us what areas were going to be first, second,
3 and so on. How they were going to connect into all
4 of the lines that are surrounding this township.
5 Everybody around this township has water. I don't
6 see where it's going to be that big of a problem to
7 just connect on to these lines and bring it on
8 through.

9 But the water company did not tell us
10 at the meeting this is all going to be pending.

11 JUDGE GESOFF:

12 Okay. It sounds like the water
13 company should have had a lawyer there to caution
14 everyone not to be euphoric. Unfortunately, that
15 seems not to have happened. There is nothing I can
16 do about that. That's sort of a, for lack of a
17 better term, a PR issue. Public relations issue.

18 And I'm sure we'll hear more about
19 that at the hearings in Mount Pleasant Township.

20 Ms. Parks, was there anything else you
21 wanted to say before we go back to talking about the
22 schedule?

23 MS. PARKS:

24 They really -- she really didn't give
25 an answer as to what fell through.

1 JUDGE GESOFF:

2 Well, that's the settlement fell
3 through. And why that is, I don't know. Let me ask
4 a question. Was there a Pennvest loan approved?.

5 MS. SIMMS MARSH:

6 No, there was no Pennvest loan
7 approved. We did not file for a Pennvest
8 application to date. That was part of the terms and
9 conditions of the settlement. And since that fell
10 through, at this point, we have not filed.

11 JUDGE GESOFF:

12 Okay. Because I thought that the
13 deadline was in May and, I guess, the negotiations
14 weren't successful at that point. And, so, no
15 application was filed.

16 MS. SIMMS MARSH:

17 Actually, there are several deadlines.
18 The deadline, I believe we were working with was,
19 at that time for settlement discussions, was a
20 September deadline.

21 JUDGE GESOFF:

22 This September.

23 MS. SIMMS MARSH:

24 Yes.

25 JUDGE GESOFF:

1 Oh, I see. Okay.

2 All right. Let's -- that might not be
3 satisfactory to Ms. Parks, but I think that's the
4 best we can do, at this point.

5 All right. We are going to go off the
6 record and discuss the schedule, again.

7 (Whereupon, an off-the-record
8 discussion was had.)

9 JUDGE GESOFF:

10 Lets go back on the record.

11 We're still waiting for Ms. Marsh to
12 come back to let us know about some of the dates,
13 specifically, for the public input hearing.

14 But while we're doing that, Ms. Parks,
15 before, you had asked about what happened. I mean,
16 at that meeting, it seemed like the water was going
17 to go through and then all of a sudden, it didn't.

18 What happened was settlement
19 negotiations failed to be productive and the parties
20 then decided that they had to go through with the
21 hearings and litigate the matter. And have me make a
22 decision and, ultimately, the Commission.

23 The reason we didn't discuss the
24 settlement is that I cannot, do not want to hear
25 about any offers or any details of the settlement

1 process. The reason for that is the company will
2 have a different position in litigation than they did
3 for purposes of a settlement. Most of the time,
4 those positions are different.

5 And I don't want to know about
6 settlement offers because I don't want to be
7 influenced by that. I have to make my decision,
8 based upon the record, the evidence that the parties
9 put into the record.

10 So, it's inappropriate for the
11 decision- maker to know the terms of settlement
12 offers, unless for some reason, the parties want to
13 get the judge involved in the matter. Of course,
14 that didn't happen in this case; do you understand
15 that?

16 MS. PARKS:

17 I am not really sure what they mean by
18 settlement.

19 JUDGE GESOFF:

20 Well, what happened.

21 MS. PARKS:

22 What they're talking about, customer
23 contribution and such?

24 JUDGE GESOFF:

25 Well, whatever the details are, they

1 are. I mean, in the settlement, lets say, there's a
2 contract dispute. Has nothing to do with this case.
3 One party says, you owe me a million dollars. The
4 other party says, no. We think we owe fifty-five
5 hundred thousand dollars. Then they can negotiate.
6 Maybe they'll come somewhere in the middle where both
7 don't agree, but they can live with the results.
8 Something like that. So, that's what happened here,
9 I'm guessing.

10 I mentioned that in the beginning,
11 that the issue seems to be how the formula for
12 customer contributions works and how it should be
13 applied in this case. That seems to be the major
14 point of difference here.

15 Okay. Is Ms. Marsh back, yet?

16 MR. DeCUSATIS:

17 Yes, I am, Your Honor. September 9
18 will work for the company.

19 JUDGE GESOFF:

20 Okay. So, September the ninth works
21 for me, also. And so does December 4, 5, and 6.
22 There was some concern with the PBIM training
23 session. I'm coming up with the wrong word for -- to
24 describe it. Would be on those dates, but it's not.
25 It's the following week. So, what we're going to do

1 is have the following be the schedule.

2 We will have evidentiary hearings in
3 the Mount Pleasant Township Volunteer Fire Company in
4 Hickory on the ninth of September. The times, most
5 likely, being two p.m. And seven p.m.

6 This is, will be not a public input
7 hearing. It will be evidentiary hearings. The
8 witnesses will be testifying under oath and only
9 under oath. There won't be any statements made or
10 anything like that not under oath, as happens in a
11 public input hearing.

12 The OCA and the company will, however,
13 have the opportunity to make statements. And let me
14 just say that I had a hearing in Kane, Pennsylvania
15 on a Gasco matter, which is a, Gasco, we had two
16 hundred twenty- eight complaints filed. We had about
17 one hundred fifty people at the afternoon session.
18 The company decided to make its statement at the end,
19 when hardly anyone was left.

20 So, let me just mention to the
21 company. If you do plan on making a statement,
22 please consider making it first. And you will have
23 that opportunity. And will you be taking that
24 opportunity, do you know, now? Just so I know?

25 Ms. Marsh or Mr. DeCusatis?

1 MR. DeCUSATIS:

2 I guess I will go for it. Tony
3 DeCusatis. I imagine we will have a statement. But
4 I, given the circumstances, and our usual approach in
5 hearings, I realize this is not a public input, but
6 it's akin to one. But I don't expect that we would
7 have a lengthy statement, by any means.

8 JUDGE GESOFF:

9 I understand. But you will be taking
10 advantage of the opportunity, just so I know?

11 MR. DeCUSATIS:

12 Certainly. At least to identify
13 ourself, to let people know we are there, why we are
14 there. Briefly schedule out the nature of the
15 dispute and our position. But it's not going to be a
16 lengthy opening statement.

17 JUDGE GESOFF:

18 We're there to hear from others. Not
19 to talk to them.

20 MS. DUSMAN:

21 The OCA you will probably make
22 something akin to their standard statement, Your
23 Honor, that is what I will anticipate. The
24 statements in Gasco having to do with the merits of
25 the case as opposed to the simple introductions that

1 we generally do.

2 JUDGE GESOFF:

3 You know what happened was the OCA,
4 which is a simple introduction, please testify. We
5 need this information in the record.

6 The company president spoke and said
7 we are happy to be here. We have really good plans.
8 We are going to change the building. We are going to
9 do this. We're going do that. They were short of
10 addressing some of the issues. It wouldn't be under
11 oath. It wouldn't be used by me. So, that -- does
12 that answer your question?

13 MS. DUSMAN:

14 Yes.

15 JUDGE GESOFF:

16 So, that take cares of the public
17 input hearing. September 9, two p.m., seven p.m.,
18 Mount Pleasant Township Volunteer Fire Company, in
19 Hickory.

20 Evidentiary hearings, December 4, 5,
21 6, in Harrisburg -- oh. In Pittsburgh. Sorry. I
22 see Pittsburgh here. Oh. Much better, for me,
23 anyway.

24 So, everyone agrees, it should we
25 here?

1 Here in Pittsburgh?

2 MS. DUSMAN:

3 This is Dianne Dusman.

4 I like Pittsburgh a lot. But if you
5 ask me my preference on hearing, I am probably going
6 to say Harrisburg. But, you know, Pittsburgh's fine.
7 We'll do either one, Your Honor.

8 JUDGE GESOFF:

9 Well, I guess, usually, it saves money
10 to just send me to Harrisburg. Mr. DeCusatis is in
11 Philadelphia. And Harrisburg is closer for him.

12 Certainly, Ms. Simms Marsh is in
13 Hershey. So, it's closer for her. And the OCA is in
14 Harrisburg.

15 On the other hand, we're close to the
16 territory in Pittsburgh. And I don't know if
17 anyone's going to want to come to the evidentiary
18 hearing. They're usually fairly boring, as far as a
19 layman is concerned.

20 But what do you think, Ms. Parks?

21 MS. PARKS:

22 For Harrisburg, I don't think you
23 would get a lot of response.

24 JUDGE GESOFF:

25 I understand. But if it's held in

1 Pittsburgh, people that come aren't going to testify.
2 They're only going to sit and listen. We don't have
3 a huge room.

4 MS. PARKS:

5 I don't think you would get much
6 response for that.

7 JUDGE GESOFF:

8 Okay. Even if it was were in
9 Pittsburgh?

10 MS. PARKS:

11 Right.

12 JUDGE GESOFF:

13 Okay. Let's assume they're in
14 Harrisburg, Pennsylvania, then.

15 The only reason that would change is
16 if my boss says that our budget wouldn't, was
17 exhausted for travel. But I don't think that will
18 happen. He's not here for the rest of the week, and
19 I want to get my prehearing order out. So, we'll
20 just say they're in Harrisburg.

21 MS. SIMMS MARSH:

22 Okay, Your Honor.

23 JUDGE GESOFF:

24 You didn't mind that, Ms. Simms.

25 MS. SIMMS MARSH:

1 Not at all.

2 JUDGE GESOFF:

3 I don't think anybody minds that.

4 Do we need to discuss -- let's see.

5 The time of the hearings. Is it okay to have the
6 first day at nine o'clock or do you want it at ten?

7 MS. SIMMS MARSH:

8 Your Honor, this is Susan Simms Marsh.

9 Nine o'clock is fine.

10 JUDGE GESOFF:

11 Okay. OCA?

12 MS. DUSMAN:

13 Either one is fine with us, Your
14 Honor.

15 JUDGE GESOFF:

16 Okay.

17 MS. DUSMAN:

18 Mr. Cheaskis just pointed out that
19 there has been another complaint filed from someone
20 in the territory. I guess, the best approach there
21 is just to apprise others of it. And I assume that
22 consolidation would not be opposed by Pennsylvania-
23 American?

24 MS. SIMMS MARSH:

25 Your assumption is correct. This is

1 Susan Simms Marsh.

2 JUDGE GESOFF:

3 Well, you probably would want to
4 contact --

5 MS. SIMMS MARSH:

6 About moving to consolidate the
7 complaint?

8 JUDGE GESOFF:

9 Well, no. I'm sorry. I haven't seen
10 the complaint. So, you will just have to file the
11 motion with me. Sorry.

12 MS. SIMMS MARSH:

13 Okay. We'll do that, as we usually
14 do. We file with the secretary, either fax or E-mail
15 you.

16 JUDGE GESOFF:

17 Right. I am sorry. I didn't get much
18 sleep last night. I'm a little fuzzy there.

19 Okay. Anything else?

20 MR. DeCUSATIS:

21 Your Honor, Tony DeCusatis.

22 Just a quick question. I understood
23 your comments about the meeting in Mount Pleasant
24 Township. And you indicated it would be an
25 evidentiary hearing and folks would be told that

1 anybody who wanted to speak would do so under oath
2 and would be part of the record.

3 Do we, in all respects, it would be
4 like a public input, in the sense that there will be
5 notices in the paper and folks invited to attend?

6 JUDGE GESOFF:

7 Yes.

8 MR. DeCUSATIS:

9 Is there a line-up of witnesses that
10 the OCA already has? A witness list that they could
11 share with us? The people that they know are going
12 to be showing up to speak?

13 Is Your Honor --

14 MS. DUSMAN:

15 Your Honor, may I respond to that?

16 JUDGE GESOFF:

17 Yes. Please.

18 MS. DUSMAN:

19 I guess that I am comparing this, in
20 many respects to the type of hearings that we have in
21 the extended area service cases. And some of both
22 occur. There's complexity about the hearing to the
23 extent that we can, we identify people who, who wish
24 to speak, to try to talk with them in advance of the
25 hearing, and know what's going to be said and to some

1 extent. But it really has characteristics of both
2 public inputs and your standard evidentiary hearing.

3 JUDGE GESOFF:

4 Yes. I mean, in the Gasco case, we
5 actually had complainants testify. There were two
6 hundred twenty-eight complainants. And this is a
7 situation where the OCA, really, and Ms. Parks isn't
8 calling them as their witnesses, exactly.

9 And there might be people that testify
10 that the OCA doesn't notice about I know advance and
11 won't know what they're saying until they say it.

12 Is that correct, Ms. Dusman?

13 MS. DUSMAN:

14 That's absolutely correct, Your Honor.
15 We wouldn't seek to keep someone from testifying
16 just because we haven't spoken with them in advance.
17 I mean, that's, to me, in the nature of a public
18 hearing. That it's to permit people to testify.

19 And you're right, we do not call
20 people. We do try to know who's going to come and
21 testify in support of the complaint and what their
22 reasons are for doing so.

23 JUDGE GESOFF:

24 All right. Well, what I suggest you
25 doing, then, is either before or during the hearing,

1 whenever you have compiled sufficient information
2 regarding that, that you share it with the company.

3 MS. DUSMAN:

4 I am sorry, Your Honor. I am not
5 quite sure what you mean.

6 JUDGE GESOFF:

7 Well, if you know, a few days ahead of
8 time, that for some reason people contacted you to
9 say I want to testify, and you get the gist of their
10 testimony or whatever, maybe you can share that with
11 the company.

12 MS. DUSMAN:

13 Your Honor, I haven't been presented
14 with that kind of request before. And, certainly, we
15 have been asked to provide a list of names of people
16 who might testify, but not to provide some reason of
17 what they're intending to say.

18 JUDGE GESOFF:

19 Okay. I won't go that far.

20 MS. DUSMAN:

21 I mean, there is a rule either in the
22 Administrative Procedural Code or in the Public
23 Utility Code itself that said that a party can ask
24 for names of witnesses in advance of the hearing.

25 But I know of no requirement that we,

1 and it would be very difficult to do, by the way,
2 without written testimony or without written
3 statements, to do that in the way that would be, I
4 think, sufficiently accurate.

5 JUDGE GESOFF:

6 I agree with you one hundred percent.
7 I was incorrect in going that far.

8 MS. DUSMAN:

9 To the extent we know of witnesses who
10 have committed to coming to testify, we can provide a
11 list of names of those folks.

12 JUDGE GESOFF:

13 Okay. That's fine. I'll have a
14 sign-up sheet at the hearing and people will sign
15 them. I will swear them in, take their testimony.

16 MS. DUSMAN:

17 I mean, we try, to the extent that we
18 can, to determine, you know, who is available for
19 both hearings. And if people are available for both,
20 to, to try to get them to come on to the afternoon
21 hearing, which is, usually, the least attended.

22 So, we try to do things like that to
23 streamline things and make sure that things keep
24 moving. And it's done in the most effective way that
25 we can do it.

1 JUDGE GESOFF:
2 Thank you. I appreciate that.
3 Anything else, Mr. DeCusatis, on that?
4 MR. DeCUSATIS:
5 No, Your Honor.
6 JUDGE GESOFF:
7 Anything else at all?
8 MS. DUSMAN:
9 Nothing from the OCA, Your Honor.
10 JUDGE GESOFF:
11 Ms. Simms Marsh, can I have your
12 E-mail address?
13 MS. SIMMS MARSH:
14 Yes. It's Marsh, M-A-R-S-H, @PAWC,
15 dot, com.
16 JUDGE GESOFF:
17 And I should have the OCA's. And I
18 have Mr. DeCusatis's. Because I think what I will do
19 is a courtesy E-mail you my prehearing order, when I
20 get it out. You will also receive a hard copy in the
21 mail.
22 You will get one, too, Ms. Parks.
23 MS. PARKS:
24 Okay.
25 MS. DUSMAN:

1 Your Honor, do you have both Joel's
2 and my E-mail addresses on the list?

3 JUDGE GESOFF:

4 Well, I guess I'll take them.

5 MS. DUSMAN:

6 Dusman, D-U-S-M-A-N, @PA, PAOCA,
7 dot,org. JCheaskis.

8 JUDGE GESOFF:

9 Okay. Do you have E-mail, Ms. Parks?

10 MS. PARKS:

11 Yes I do.

12 JUDGE GESOFF:

13 May I have yours?

14 MS. PARKS:

15 CNTRY.

16 JUDGE GESOFF:

17 C-N, as in Nancy?

18 MS. PARKS:

19 Yes. T-R-Y58!@YAHOO, dot, com.

20 JUDGE GESOFF:

21 Right. All right. I don't think
22 there's anything further. Have I left anything out?

23 MR. DeCUSATIS:

24 No, Your Honor.

25 JUDGE GESOFF:

1 Discovery, I'll let the parties up to
2 that. If anyone has any objection to any discovery,
3 I want them to talk to each other over the phone
4 first. If that doesn't work, if they can't resolve
5 the dispute, call me on the phone before filing any,
6 even filing any objections or motions to compel,
7 because I'll just, we'll get on the phone together.
8 I will make my ruling on the phone. It makes it a
9 lot easier.

10 Any objection to that?

11 MS. SIMMS MARSH:

12 No objection.

13 MR. DeCUSATIS:

14 No, Your Honor.

15 JUDGE GESOFF:

16 Okay. There being nothing further,
17 then the second telephone prehearing conference is
18 over. Thanks.

19 MS. PARKS:

20 Thanks.

21 MR. DeCUSATIS:

22 Thank you, Your Honor.

23 MS. SIMMS MARSH:

24 Thank you, Your Honor.

25 MS. DUSMAN:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Thank you, Your Honor.

JUDGE GESOFF:

Bye-bye.

(Whereupon, the hearing was adjourned
at 11:40 a.m. On the thirtieth day of July, 2002.)

C E R T I F I C A T E

I certify that the foregoing is a correct
transcript from the record of proceedings in the
above-entitled matter.

Date: *August 23, 2002* *Sandra Wenger*
Sandra Wenger,
Court Reporter