

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

**ORIGINAL**

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 :  
 Pennsylvania Public Utility Commission, :  
 et al. v. Equitable Gas Company : Docket Nos.  
 :  
 Petition to request waiver of 120-day : R-2008-2029325  
 filing period under 52 Pa. Code 53.52 for : C-2008-2026350  
 an extension of time to file a general : C-2008-2055860  
 rate increase based upon an historic test : C-2008-2059011  
 year ended December 31, 2007, and a future : C-20066800  
 test year ending December 31, 2008. : C-2008-2058992  
 : C-2008-2059017  
 Hearing :  
 :  
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Pages 264 through 312      Hearing Room No. 2  
                                  Commonwealth Keystone Building  
                                  Harrisburg, Pennsylvania

Wednesday, November 19, 2008

Met, pursuant to notice, at 1:05 p.m.

BEFORE:

JOHN H. CORBETT, JR., Administrative Law Judge

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C O N T E N T S

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WITNESSES

DIRECT      CROSS      REDIRECT      RECROSS

(None.)

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1                                    P R O C E E D I N G S  
2                                    ADMINISTRATIVE LAW JUDGE

3                                    JOHN H. CORBETT, JR.: We are on the  
4 record at this time.

5                                    This is the time and place scheduled for a  
6 hearing on the matter involving the Pennsylvania Public  
7 Utility Commission et al. versus Equitable Gas Company.  
8 This matter is docketed with the Pennsylvania Public  
9 Utility Commission lead Docket No. R-2008-2029325. There  
10 are other complaints also docketed and consolidated with  
11 this main docket number but I will not review those at  
12 this point.

13                                   I am Administrative Law Judge  
14 John Corbett. I have been assigned to hear this case and  
15 to render a recommended decision.

16                                   We have in the hearing room this afternoon  
17 Charles Thomas Jr., representing the Equitable Gas  
18 Company, together with Thomas Niesen, Regina Matz and  
19 Charles Thomas III; also Chad Cicconi representing  
20 Equitable Gas Company. For the Office of Trial Staff we  
21 have Richard Kanaskie. For Dominion Retail we have Todd  
22 Stewart. For Equitable Industrial Intervenors and The  
23 Techs Industries, Incorporated we have Barry Naum. We  
24 have Sharon Webb for the Office of Small Business  
25 Advocate. John Povilaitis represents Hess Corporation.

1 For the Office of Consumer Advocate we have Candis Tunilo,  
2 Darryl Lawrence, Darlene Wong and Tanya McCloskey.  
3 Louise Knight represents ERG Energy Center Pittsburgh LLC.  
4 And Kevin Moody represents the IOGA, Independent Oil and  
5 Gas Association of Pennsylvania.

6 Is there anyone that I have not  
7 acknowledged at this point?

8 (No audible response.)

9 JUDGE CORBETT: Just to bring us up to  
10 date, we were scheduled to begin hearings yesterday at  
11 9:30. I received a call last week, I believe it was, from  
12 Mr. Thomas indicating that the parties were working on a  
13 settlement and they needed additional time to negotiate  
14 and talk about possible settlement of the matter and  
15 requested that the first day of hearing be cancelled in  
16 order to facilitate those discussions. That request was  
17 granted and the hearings were then to begin at 9:30 this  
18 morning.

19 I received a call yesterday at ten minutes  
20 to five indicating that the parties were closer to  
21 settlement, they were negotiating further and they needed  
22 additional time and requested that the hearings beginning  
23 at 9:30 this morning be postponed until one o'clock this  
24 afternoon. That request was also granted and accordingly  
25 we are beginning the hearing this afternoon at one

1 o'clock.

2 At this point, Mr. Thomas, I will turn to  
3 you, sir. Can you bring us up to date as to what the  
4 status of this matter is?

5 MR. THOMAS: Thank you, Your Honor.

6 We conducted settlement discussions, very  
7 intensive ones, last week for several days. We continued  
8 on Monday. We were able to use yesterday's hearing date  
9 that got cancelled to continue those discussions as well  
10 as the morning today, and at 12:20 we were able to reach a  
11 settlement between Equitable, the Office of Trial Staff,  
12 the Office of Consumer Advocate and the Office of Small  
13 Business Advocate.

14 Earlier on Friday late of last week  
15 Equitable and Hess were able to reach a settlement. That  
16 settlement document involving Hess and Equitable was  
17 circulated by Mr. Povilaitis to the parties I think  
18 yesterday.

19 We do not yet have reduced to writing in a  
20 form that we could share with Your Honor and other parties  
21 the settlement accord that was achieved at 12:20 this  
22 afternoon with the statutory parties and the company, but  
23 we are working to do that.

24 We believe the focus now would change to  
25 discussions between Equitable and IOGA. There are still a

1 couple of other parties in the case in addition to IOGA.  
2 Dominion Retail, we will talk to Mr. Stewart and explain  
3 to him the settlement. We've got NRG. Ms. Knight is here  
4 today. We don't think Equitable has any disagreement with  
5 NRG and I don't think NRG will be upset with the  
6 settlement that is reached.

7 In addition to those parties that were not  
8 part of the settlement discussion we've got the Equitable  
9 Industrial Intervenors consisting, I believe, of the  
10 United States Steel Corporation and also The Techs, not  
11 part of the EII group but still a participant in the  
12 proceeding. We believe that the settlement that was  
13 achieved today will not impact their positions in the  
14 case.

15 Having said all of that it would be our  
16 proposal that any witness that was not intended for  
17 cross-examination by any of the non-settling parties have  
18 their testimony put into the record by stipulation,  
19 stipulation as to the authenticity, and that we might be  
20 able to do that today and then hopefully cancel the  
21 remainder of today's hearing so that we can reach an  
22 accord first with IOGA but also considering the wishes of  
23 the other parties, that would be Dominion Retail, NRG,  
24 U. S. Steel and The Techs.

25 JUDGE CORBETT: All right.

1 Does anyone else wish to be heard?

2 Yes, Mr. Povilaitis?

3 MR. POVILAITIS: A point of clarification.  
4 I think Mr. Thomas said stipulate into evidence the  
5 testimony of the non-settling parties. Would that by any  
6 chance have been intended to mean the settling parties?

7 MR. THOMAS: It sure was meant to be the  
8 settling parties. As I indicated to some of you, it has  
9 been a long couple of days and little sleep. The intent  
10 was that we would stipulate into the record the testimony  
11 of any witness whose cross-examination was not required by  
12 the non-settling parties. And we believe, although we  
13 were not able to present to Your Honor a proposed  
14 cross-examination matrix for all three days, the Equitable  
15 witnesses that were primarily involved with IOGA issues  
16 were intended to be called Thursday and Friday. And the  
17 witnesses today, as I indicated off the record, were rate  
18 base, rate of return, primarily revenue and expense  
19 witnesses and we did not believe that they were the  
20 subject of issues involving IOGA. But I may be wrong on  
21 that.

22 Equitable has its witnesses. I know that  
23 the Office of Trial Staff has its witnesses in the room.  
24 The Office of Consumer Advocate witnesses that were going  
25 to be called today, I guess, perhaps it is just

1 Mr. Morgan, he is in the room. And we have the witnesses  
2 here. Ms. Gras had an emergency in the family and got  
3 permission from the statutory parties that she did not  
4 have to appear today so she is not here. But all of the  
5 revenue and expense people who were originally scheduled  
6 to testify on behalf of the company are here. But if  
7 there would be no cross-examination, again, we would  
8 propose to put their evidence into the record by  
9 stipulation.

10 JUDGE CORBETT: All right.

11 Does anyone else wish to be heard?

12 MR. MOODY: Yes, Your Honor.

13 In case that you accept the proposal and  
14 cancel the rest of the days hearing, just so you are aware  
15 that with respect to the Equitable motion for sanctions  
16 against IOGA that we have reached an agreement to resolve  
17 that matter with Equitable and so there is not a reason  
18 for you to issue an order or address that matter. We  
19 would expect that the company would be withdrawing that  
20 motion with prejudice.

21 MR. NIESEN: If Your Honor please, I  
22 think, yes, we have reached an understanding with IOGA  
23 about how responses to the discovery in dispute will be  
24 submitted and there is a schedule for doing that that we  
25 have come together on. With that, I think that perhaps

1 more accurately we would withdraw the motion without  
2 prejudice to filing it later in the event we need to do  
3 that.

4 JUDGE CORBETT: All right. Would you file  
5 a notice to that effect?

6 MR. NIESEN: Yes, Your Honor.

7 JUDGE CORBETT: Thank you.

8 MR. POVILAITIS: Your Honor.

9 JUDGE CORBETT: Yes, Mr. Povilaitis?

10 MR. POVILAITIS: Just to follow up on one  
11 of Mr. Thomas' other comments, he indicated that the  
12 company proceeded with settlement discussions with  
13 separate term sheets, if you will, being developed with  
14 respect to the public advocates, with Hess, with IOGA.  
15 And it is correct that Hess has executed a settlement term  
16 sheet with the company. There is a caveat, that since we  
17 have not seen the terms of any other settlement and  
18 whereas Hess does support the notion of striving for a  
19 unanimous settlement our support for the individual Hess  
20 term sheet is conditioned on all of the other terms being  
21 reviewed and acceptable to Hess. I expect that will be  
22 the case because we don't anticipate overlap between those  
23 issue and Hess's issues, but I just wanted to place that  
24 caveat, if you will, on the record.

25 JUDGE CORBETT: All right.

1 MR. POVILAITIS: The other issue is that  
2 Mr. Crist is a shared witness as far as his direct  
3 testimony is concerned between IOGA and Hess. Since Hess  
4 has reached an agreement with the company we were going to  
5 inquire of Your Honor as to whether or not you had any  
6 questions for Mr. Crist relative to the Hess issues. If  
7 his testimony is stipulated into the record altogether  
8 without his appearance there is no issue there but we  
9 wanted to make sure that Your Honor did not have separate  
10 independent questions for our witness.

11 JUDGE CORBETT: I have no questions.

12 MR. POVILAITIS: Okay.

13 And finally, Your Honor, with respect to  
14 moving uncontested testimony into the record, we just  
15 wanted to remind you that there is an outstanding motion  
16 to strike by Hess relative to a small portion to  
17 Mr. Quinn's testimony.

18 JUDGE CORBETT: Right. I was going to  
19 address that in a minute when we reach that point.

20 MR. POVILAITIS: Thank you.

21 MR. THOMAS: May it please Your Honor, I  
22 should clarify one thing, and I think that it will provide  
23 some comfort to Mr. Povilaitis. The Equitable/Hess  
24 settlement terms were also made part of the terms for the  
25 settlement between Equitable and the statutory parties.

1 JUDGE CORBETT: Okay.

2 Anyone else wish to be heard?

3 (No audible response.)

4 JUDGE CORBETT: All right. Then,  
5 Mr. Thomas, will you be moving for various portion of your  
6 filing and your testimony into the record by stipulation?  
7 Is that how you wish to proceed?

8 MR. THOMAS: Yes, Your Honor. There are a  
9 number of statements and a number of exhibits. We are  
10 prepared to go through those and have them identified and  
11 admitted by stipulation.

12 JUDGE CORBETT: All right. Why don't you  
13 begin.

14 MR. THOMAS: I am pulling rank again, Your  
15 Honor. I am going to turn it over to Mr. Niesen.

16 MR. NIESEN: Yes, Your Honor.

17 I suppose first if I could I would like to  
18 have marked for identification the company's filing made  
19 back in the summer of this year. There are several bound  
20 volumes.

21 JUDGE CORBETT: Would you pull a  
22 microphone over? The acoustics are bad and the noise in  
23 the main hallway out there is just terrible.

24 MR. NIESEN: There are several bound  
25 volumes that taken together make the total filing.

1 First, if Your Honor pleases, I would like  
2 to have marked for identification as Equitable Exhibit I a  
3 bound volume entitled Exhibit I, Volume 1 of 2, containing  
4 information related to valuation and other matters.

5 If Your Honor pleases, I would like to  
6 have marked as Equitable Exhibit I, Volume 2 of 2, a bound  
7 volume also premarked on the cover Exhibit I, Volume 2 of  
8 2, and containing additional information concerning  
9 evaluation and other matters.

10 If Your Honor pleases, I would like to  
11 have marked as Equitable Exhibit II a bound volume  
12 containing rate of return material and premarked on the  
13 cover page Exhibit II.

14 If Your Honor pleases, I would like to  
15 have marked as Equitable Exhibit III, Volume 1 of 1,  
16 containing balance sheet and operating statement  
17 information. It is in a bound volume with a cover page  
18 designated as Equitable Exhibit III, Volume 1 of 1.

19 I would like to have marked for  
20 identification as Equitable Exhibits IV and V, Volume 1 of  
21 1, again, a bound volume premarked in that fashion  
22 containing rate structure and additional information.

23 I would like to have marked for  
24 identification as Equitable Exhibit VI, again, a bound  
25 volume premarked in that fashion also titled standard data

1 requests, Volume 1 of 3, containing revenue requirements  
2 interrogatories Part 1 of 2.

3 I would like to have marked for  
4 identification as Equitable VI standard data requests,  
5 Volume 2 of 3, again, premarked in that fashion, and also  
6 containing additional information concerning revenue  
7 requirements interrogatories.

8 And I would like to have marked for  
9 identification as Equitable Exhibit VI, standard data  
10 requests, Volume 3 of 3, also premarked in that fashion,  
11 and contained cost of service interrogatories and rate of  
12 return interrogatories.

13 May those premarked volumes containing the  
14 company's general rate filing be marked in that fashion?

15 JUDGE CORBETT: Yes, they will be so  
16 marked and identified.

17 (Whereupon, the documents were marked as Equitable  
18 Exhibit Nos. I, Volumes 1 & 2; II, Volume 1; III,  
19 Volume 1; IV & V, Volume 1 and VI, Volumes 1 - 3  
20 for identification.)

21 JUDGE CORBETT: You will provide the  
22 necessary copies -- work it out with the court reporting  
23 service. Perhaps you can have them delivered directly to  
24 the Secretary's office in that fashion.

25 MR. NIESEN: We will do that, Your Honor.

1 We do have two copies for the reporter here today. We can  
2 accommodate taking possession of those and taking them  
3 from the courtroom.

4 JUDGE CORBETT: All right.

5 MR. NIESEN: And may they be admitted into  
6 the record by stipulation, Your Honor?

7 JUDGE CORBETT: They will be so admitted,  
8 subject to necessary motions and cross-examination.

9 (Whereupon, the documents marked as Equitable  
10 Exhibit Nos. I, Volumes 1 & 2; II, Volume 1; III,  
11 Volume 1; IV & V, Volume 1 and VI, Volumes 1 - 3  
12 were received in evidence.)

13 JUDGE CORBETT: You may proceed.

14 MR. NIESEN: Your Honor, may we go off the  
15 record for a moment?

16 JUDGE CORBETT: Sure.

17 (Discussion off the record.)

18 JUDGE CORBETT: Back on the record.

19 MR. NIESEN: If Your Honor pleases, I  
20 would like to address first the testimony of  
21 Mr. Jeffrey Mitchell.

22 Mr. Mitchell has prepared a statement of  
23 direct testimony which has been premarked as Equitable  
24 Statement No. 2. Mr. Mitchell also has a statement of  
25 rebuttal testimony which has been premarked as Equitable

1 Statement No. 2-R. Equitable Statement No. 2-R contains  
2 as part of it Schedules JCM-1 through JCM-14.

3 May Mr. Mitchell's statement be identified  
4 in that fashion?

5 JUDGE CORBETT: Yes, they will be so  
6 marked and identified.

7 (Whereupon, the documents were marked as Equitable  
8 Statement Nos. 2 & 2-R for identification.)

9 MR. NIESEN: I would also like to mark for  
10 identification as Equitable Statement No. 3 the direct  
11 testimony of Mr. Robert M. Narkevic. Mr. Narkevic also  
12 has a statement of rebuttal testimony which I would like  
13 to have marked for identification as Equitable Statement  
14 No. 3-R. Statement No. 3-R contains as part of it Exhibit  
15 RNR-1. Statement No. 3 contains an Appendix A and  
16 Appendix B. May Mr. Narkevic's statements be marked in  
17 that fashion, Your Honor?

18 JUDGE CORBETT: Yes, they will be so  
19 marked in that fashion.

20 (Whereupon, the documents were marked as Equitable  
21 Statement Nos. 3 & 3-R and Exhibit RNR-1 for  
22 identification.)

23 MR. NIESEN: Turning to the testimony of  
24 Equitable Witness Carol Gras, Ms. Gras has a statement of  
25 direct testimony with an Appendix A that I would like to

1 have marked as Equitable Statement No. 4. Ms. Gras also  
2 has a rebuttal statement of testimony which includes  
3 Schedules CDG-1 through CBG-4. May Ms. Gras' statements  
4 and testimony be so marked, Your Honor?

5 JUDGE CORBETT: Yes, they will be so  
6 marked in that fashion.

7 (Whereupon, the documents were marked as Equitable  
8 Statement Nos. 4 & 4-R for identification.)

9 MR. NIESEN: Turning to Equitable Witness  
10 Frank Hanley, Mr. Hanley has a statement of direct  
11 testimony along with an Exhibit A and an accompanying  
12 exhibit to be marked as Equitable Exhibit 5A. Mr. Hanley  
13 has also prepared a rebuttal statement of testimony that I  
14 would like to have marked as Equitable Statement No. 5-R  
15 with an accompanying exhibit, Equitable Exhibit 5A-R.  
16 Finally, Mr. Hanley has a statement of surrebuttal  
17 testimony to be marked as Equitable Statement No. 5-SR and  
18 an accompanying exhibit to be marked as Equitable Exhibit  
19 5A-SR. May Mr. Hanley's statements be so identified?

20 JUDGE CORBETT: They will be so marked and  
21 identified.

22 (Whereupon, the documents were marked as Equitable  
23 Statement Nos. 5, 5-R & 5-SR and Exhibit Nos. 5A,  
24 5A-R & 5A-SR for identification.)

25 MR. NIESEN: Next is Equitable Witness

1 Russell Feingold. Mr. Feingold has a statement of direct  
2 testimony and accompanying Appendix A and Appendix B. He  
3 also has a statement of rebuttal testimony to be marked as  
4 Equitable Statement No. 6-R and an accompanying exhibit  
5 Equitable Exhibit No. 6-R, and finally a statement of  
6 surrebuttal testimony to be marked as Equitable Statement  
7 No. 6-SR. May Mr. Feingold's statements and testimony be  
8 so marked?

9 JUDGE CORBETT: Yes, they will be so  
10 marked and identified.

11 (Whereupon, the documents were marked as Equitable  
12 Statement Nos. 6, 6-R & 6-SR and Exhibit 6-R for  
13 identification.)

14 MR. NIESEN: Equitable Witness Sandra  
15 Gagorik has a statement of direct testimony that I would  
16 ask be marked as Equitable Statement No. 7. It includes  
17 an Attachment A and Attachment B. Ms. Gagorik also has a  
18 statement of rebuttal testimony that I would ask be marked  
19 as Equitable Statement No. 7-R. May Ms. Gagorik's  
20 statements be identified in that fashion, Your Honor?

21 JUDGE CORBETT: Yes, they will be so  
22 marked and identified.

23 (Whereupon, the documents were marked as Equitable  
24 Statement Nos. 7 & 7-R for identification.)

25 MR. NIESEN: Equitable Witness David Ross

1 has presented direct testimony. I would ask that be  
2 marked as Equitable Statement No. 8. Mr. Ross has also  
3 presented rebuttal testimony that includes Schedule  
4 DWR-Rebuttal-1 through Schedule DWR-Rebuttal-3. May  
5 Mr. Ross' testimony be marked in that fashion, Your Honor?

6 JUDGE CORBETT: Yes, they will be so  
7 marked and identified.

8 (Whereupon, the documents were marked as Equitable  
9 Statement Nos. 8 & 8-R for identification.)

10 MR. NIESEN: Equitable Witness  
11 James Warren has presented Equitable Statement No. 9,  
12 which I would ask be marked in that fashion.

13 JUDGE CORBETT: Yes, it will be so marked  
14 and identified.

15 (Whereupon, the document was marked as Equitable  
16 Statement No. 9 for identification.)

17 MR. NIESEN: Equitable Witness John  
18 Wiedmayer. Mr. Wiedmayer has presented a statement of  
19 direct testimony. I would ask that be marked as Equitable  
20 Statement No. 10. May Mr. Wiedmayer's statement be  
21 identified in that fashion, Your Honor?

22 JUDGE CORBETT: Yes, it will be so marked  
23 and identified.

24 (Whereupon, the document was marked as Equitable  
25 Statement No. 10 for identification.)

1 MR. NIESEN: Equitable Witness Henry  
2 Rettger has prepared a statement of direct testimony that  
3 has been premarked as Equitable Statement No. 11. May it  
4 be marked in that fashion, Your Honor?

5 JUDGE CORBETT: Yes, it will be so marked  
6 and identified.

7 (Whereupon, the document was marked as Equitable  
8 Statement No. 11 for identification.)

9 MR. NIESEN: Equitable Witness  
10 Wesley Soyster has prepared a statement of direct  
11 testimony that I would ask be marked as Equitable  
12 Statement No. 12. May Mr. Soyster's testimony be so  
13 marked?

14 JUDGE CORBETT: Yes, it will be so marked  
15 and identified.

16 (Whereupon, the document was marked as Equitable  
17 Statement No. 12 for identification.)

18 MR. NIESEN: Your Honor, that completes  
19 the identification and marking of those statements of  
20 direct, rebuttal and surrebuttal testimony on behalf of  
21 Equitable Gas Company which are related to revenue  
22 requirement, revenue and expense, rate of return matters.  
23 I believe by stipulation they may be admitted into the  
24 record at this time.

25 JUDGE CORBETT: All right.

1 Any objections?

2 (No audible response.)

3 JUDGE CORBETT: They will be so admitted  
4 by stipulation.

5 (Whereupon, the documents marked as Equitable  
6 Statement Nos. 2, 2-R, 3, 3-R, 4, 4-R, 5, 5-R,  
7 5-SR, 6, 6-R, 6-SR, 7, 7-R, 8, 8-R, 9, 10, 11 & 12  
8 and Exhibits RNR-1, 5A, 5A-R, 5A-SR & 6-R were  
9 received in evidence.)

10 MR. NIESEN: Your Honor, that leaves  
11 unmarked at this point of the record the statements of  
12 Equitable Witness John M. Quinn. Mr. Quinn has a  
13 statement of direct testimony that we have premarked as  
14 Equitable Statement No. 1. It includes Attachment JMQ-1  
15 and Attachment JMQ-3. Mr. Quinn also has a statement of  
16 rebuttal testimony that is in both public and proprietary  
17 form. Mr. Quinn's rebuttal testimony would be marked as  
18 Equitable Statement No. 1-R (Public). It includes  
19 attachments JMQ-4 through JMQ-12.

20 He also, again, has a statement, the same  
21 statement of rebuttal testimony in proprietary form. That  
22 would be marked as Equitable Statement No. 1-R  
23 (Proprietary). Associated with and accompanying  
24 Mr. Quinn's proprietary rebuttal testimony is a  
25 proprietary and highly confidential exhibit which has been

1 premarked as Equitable Exhibit JMQ-R (Highly  
2 Confidential). And the confidential material, both  
3 Mr. Quinn's Statement No. 1-R (Proprietary) and the  
4 proprietary exhibit, are presented in binders with red  
5 covers and red backing.

6 Perhaps we can mark those things for  
7 identification at this point in the record and address how  
8 they might be appropriately protected in the Commission's  
9 file as well as in the record that is being created in  
10 this case.

11 Let me mark, however, the additional  
12 statements of testimony before we address that. It  
13 includes the statements of Frederick Dalena. If Your  
14 Honor please, I would like to have Mr. Dalena's rebuttal  
15 testimony -- he has only rebuttal testimony -- marked as  
16 Equitable Statement No. 13-R. Mr. Dalena's rebuttal  
17 statement includes Exhibit FKD-Rebuttal-1 and Exhibit  
18 FKD-Rebuttal-2. May Mr. Dalena's statement of rebuttal  
19 testimony be so marked?

20 JUDGE CORBETT: It will be so marked and  
21 identified.

22 (Whereupon, the documents were marked as Equitable  
23 Statement No. 13-R and Exhibits FKD-Rebuttal-1 &  
24 FKD-Rebuttal-2 for identification.)

25 MR. NIESEN: Also presenting testimony is

1 Mr. Steven C. Rafferty. Mr. Rafferty's statement of  
2 rebuttal has been premarked for identification as  
3 Equitable Statement No. 14-R. It includes Attachment  
4 SCR-1 through Attachment SCR-15. May Mr. Rafferty's  
5 testimony be so marked, Your Honor?

6 JUDGE CORBETT: Yes, it will be so marked  
7 and identified.

8 (Whereupon, the documents were marked as Equitable  
9 Statement No. 14-R for identification.)

10 MR. THOMAS: Finally, Your Honor, we have  
11 the testimony of Mr. Thomas Wiggers. Mr. Wiggers has  
12 presented a statement of rebuttal testimony that has been  
13 premarked as Equitable Statement No. 15-R. In addition,  
14 Mr. Wiggers has presented a statement of surrebuttal  
15 testimony to be marked as Equitable Statement No. 15-SR.  
16 Mr. Wiggers' surrebuttal testimony includes an Exhibit  
17 15A-SR. May Mr. Wiggers' testimony be so marked, Your  
18 Honor?

19 JUDGE CORBETT: It will be so marked and  
20 identified.

21 (Whereupon, the documents were marked as Equitable  
22 Statement No. 15-R & 15-SR and Exhibit 15A-SR for  
23 identification.)

24 MR. NIESEN: Your Honor, I don't remember  
25 if I asked for you to mark Mr. Quinn's --

1 JUDGE CORBETT: You did not.

2 MR. NIESEN: May they be so marked in that  
3 fashion?

4 JUDGE CORBETT: Yes, they may be so marked  
5 and identified.

6 (Whereupon, the documents were marked as Equitable  
7 Statement Nos. 1, 1-R (Public) & 1-R (Proprietary)  
8 and Exhibit JMQ-R (Highly Confidential) for  
9 identification.)

10 MR. NIESEN: May we have a moment?

11 JUDGE CORBETT: Sure.

12 (Pause.)

13 MR. NIESEN: If Your Honor pleases, with  
14 your permission I think what we would like to propose is  
15 that we move into the record at this time subject, of  
16 course, to cross-examination and motion as appropriate  
17 depending on the resolution of IOGA issues the testimony  
18 of Mr. Quinn, Mr. Dalena, Mr. Rafferty and Mr. Wiggers,  
19 again noting the significant need to properly protect the  
20 confidential material presented by Mr. Quinn in both his  
21 proprietary statement of testimony and in his highly  
22 confidential exhibit.

23 JUDGE CORBETT: All right. They will be  
24 so admitted subject to proper cross-examination and  
25 motions.

1                   There is an outstanding motion of Hess  
2 Corporation to Equitable Statement 1-R. That is to page  
3 50, lines one through nine, Equitable Attachment JMQ-11,  
4 Equitable Statement 1-R, page 51, lines 14, 16, 20 to 22.

5                   I believe that is your basis for your  
6 motion to strike, is that correct, Mr. Povilaitis?

7                   MR. POVILAITIS: Your Honor is correct.

8                   JUDGE CORBETT: All right.

9                   I have not received a response from  
10 Equitable to that motion to strike. Under the rules there  
11 is a 20 day response period. I believe the 20 days has  
12 not yet run, but at this point are you prepared to respond  
13 to the motion to strike?

14                   MR. NIESEN: Your Honor, I am wondering if  
15 we might have a day to take a look at the material cited  
16 in the motion and see what our position might be with  
17 respect to it. Frankly, we have not had an opportunity to  
18 devote attention to the motion with other matters going  
19 forward.

20                   JUDGE CORBETT: All right. Since we are  
21 going to be back tomorrow I think that would be a  
22 reasonable time to do that. When were you proposing to  
23 have Mr. Quinn available?

24                   MR. NIESEN: He would be on the stand  
25 tomorrow, I believe, Your Honor.

1 JUDGE CORBETT: All right. Then you would  
2 be able to respond to the motion by the time he testifies  
3 tomorrow?

4 MR. NIESEN: We will, yes.

5 JUDGE CORBETT: All right. Then at that  
6 point we will take it up at that point, Mr. Povilaitis.  
7 You will remind me if I forget to bring it up before he  
8 begins to testify.

9 MR. POVILAITIS: I will do so, Your Honor.  
10 Thank you.

11 JUDGE CORBETT: Thank you.

12 All right. I believe you moved for the  
13 admission of those statements, Mr. Niesen.

14 MR. NIESEN: Yes, I did, Your Honor.

15 JUDGE CORBETT: All right. They will be  
16 admitted subject to proper motions and cross-examination.

17 (Whereupon, the documents marked as Equitable  
18 Statement Nos. 13-R, 14-R, 15-R, 15-SR, 1, 1-R  
19 (Public) & 1-R (Proprietary) and Exhibits Nos.  
20 FKD-Rebuttal-1, FKD-Rebuttal-2, 15A-SR & JMQ-R  
21 (Highly Confidential) were received in evidence.)

22 JUDGE CORBETT: One moment, please.

23 (Pause.)

24 JUDGE CORBETT: Anything further, then,  
25 Mr. Niesen?

1 MR. NIESEN: There is nothing further,  
2 Your Honor.

3 JUDGE CORBETT: All right. Would you make  
4 arrangements with the court reporter to have the necessary  
5 copies supplied or delivered the to the Secretary's  
6 office?

7 MR. NIESEN: We will do that, Your Honor.

8 JUDGE CORBETT: Thank you.

9 Then we will turn to OTS.

10 Mr. Kanaskie.

11 MR. KANASKIE: Thank you, Your Honor.

12 Your Honor, I have previously distributed  
13 to the parties and I will be providing the court reporter  
14 two copies as well as yourself 18 documents that have been  
15 preliminarily identified in the following manner: OTS  
16 Statement No. 1, OTS Exhibit No. 1, OTS Statement No. 1-SR  
17 and OTS Exhibit No. 1-SR, these documents representing the  
18 direct and surrebuttal testimony of Witness Robert Plonski  
19 and accompanying exhibits.

20 In addition we have preliminarily  
21 identified OTS Statement No. 2, OTS Exhibit No. 2 and OTS  
22 Statement No. 2-SR. These preliminarily identified  
23 documents include the direct and surrebuttal testimony of  
24 Debra Backer with an exhibit with her direct testimony.

25 In addition we have distributed and

1 identified OTS Statement No. 3, OTS Exhibit No. 3, OTS  
2 Statement No. 3-S, OTS Exhibit No. 3-S, OTS Statement No.  
3 3-SR and finally OTS Exhibit No. 3-SR. These documents  
4 represent the direct testimony, supplemental direct and  
5 surrebuttal testimony of Witness Amanda Gordon and it also  
6 includes accompanying exhibits.

7 We have also identified OTS Statement No.  
8 4. Statement No. 4 consists of the direct testimony of  
9 OTS Witness Michael J. Gruber.

10 Finally, Your Honor, we have preliminarily  
11 identified OTS Statement No. 5, OTS Exhibit No. 5, OTS  
12 Statement No. 5-SR, and OTS Exhibit No. 5-SR. These  
13 identified documents consist of the direct testimony and  
14 surrebuttal testimony of Witness Jeremy Hubert with  
15 accompanying exhibits.

16 Your Honor, at this time I ask that these  
17 preliminarily identified documents be marked for  
18 identification.

19 JUDGE CORBETT: Yes, they will be so  
20 marked and identified.

21 (Whereupon, the documents were marked as OTS  
22 Statement Nos. 1, 1-SR, 2, 2-SR, 3, 3-S, 3-SR, 4, 5,  
23 & 5-SR and Exhibit Nos. 1, 1-SR, 2, 3, 3-S, 3-SR,  
24 5 & 5-SR for identification.)

25 MR. KANASKIE: Thank you, Your Honor.

1                   If necessary, the OTS witnesses are  
2 available to authenticate the documents. In lieu of that  
3 we will swear or affirm that the documents indeed contain  
4 the direct, supplemental direct and surrebuttal testimony  
5 with accompanying exhibits. They were prepared by each  
6 individual witness directly or under their supervision.  
7 There are no corrections. Questions repeated again or  
8 asked again today would be answered in the same manner and  
9 they would be true and correct to the best of their  
10 knowledge and belief. With that, Your Honor, we would  
11 offer the identified statements into the record subject to  
12 timely motions and cross-examination by any party.

13                   JUDGE CORBETT: All right. They will be  
14 so marked and identified and they will be admitted subject  
15 to any proper motions or cross-examination.

16                   MR. KANASKIE: Thank you, Your Honor.  
17                   (Whereupon, the documents marked as OTS Statement  
18                   Nos. 1, 1-SR, 2, 2-SR, 3, 3-S, 3-SR, 4, 5,  
19                   & 5-SR and Exhibit Nos. 1, 1-SR, 2, 3, 3-S, 3-SR,  
20                   5 & 5-SR were received in evidence.)

21                   JUDGE CORBETT: Thank you, Mr. Kanaskie.  
22                   We will turn to the OCA.  
23                   Ms. Tunilo.

24                   MS. TUNILO: Good afternoon, Your Honor.

25                   JUDGE CORBETT: Good afternoon.

1 MS. TUNILO: We have previously  
2 distributed and marked several statements to the parties  
3 and Your Honor. We have the direct testimony, the  
4 corrected direct testimony and surrebuttal of  
5 Lafayette K. Morgan that has previously been marked as OCA  
6 Statement 1, OCA Statement 1 (Corrected), OCA Statement  
7 1-S, and then today we also provided revised exhibits that  
8 we have marked as OCA Statement 1-S (Revised) which  
9 contains just schedules. We distributed those to the  
10 parties today and Your Honor today. And we previously  
11 provided copies to the court reporter today as well.  
12 These all contain accompanying exhibits.

13 Also provided to the parties previously  
14 are OCA Statement 2, OCA 2-S, of David C. Parcell.

15 Also previously provided to the parties  
16 and Your Honor is OCA Statement 3 and OCA Statement 3-R  
17 and OCA Statement 3-S with accompanying attachments and  
18 exhibits of Glenn A. Watkins.

19 And lastly we have previously provided to  
20 the other parties and Your Honor OCA Statement 4, OCA  
21 Statement 4 (Corrected) and OCA Statement 4-S. These are  
22 the direct testimony and the corrected direct testimony  
23 and the surrebuttal of Roger D. Colton.

24 At this point the company and other  
25 statutory parties have previously agreed to stipulate to

1 the authenticity of this testimony and waive cross. We  
2 would request that Your Honor admit these exhibits into  
3 the record at this point.

4 JUDGE CORBETT: All right.

5 MS. TUNILO: And the testimony.

6 JUDGE CORBETT: These documents will be so  
7 marked and identified.

8 And do we have any objection to the motion  
9 for admission.

10 (No audible response.)

11 JUDGE CORBETT: Hearing none, they will be  
12 so admitted.

13 (Whereupon, the documents were marked as OCA  
14 Statements Nos. 1, 1 (Corrected), 1-S, 1-S  
15 (Revised), 2, 2-S, 3, 3-R, 3-S, 4, 4 (Corrected) &  
16 4-S for identification, and were received in  
17 evidence.)

18 JUDGE CORBETT: One moment, please.

19 (Pause.)

20 JUDGE CORBETT: Then, Ms. Webb, we will  
21 turn to you for the Office of Small Business Advocate.

22 MS. WEBB: Thank you, Your Honor.

23 May I have just a moment?

24 JUDGE CORBETT: Sure. Off the record.

25 (Discussion off the record.)

1 JUDGE CORBETT: Back on the record.

2 MS. WEBB: Thank you, Your Honor.

3 Your Honor, the Office of Small Business  
4 Advocate had previously distributed what is premarked as  
5 Office of Small Business Advocate Statement 1, the direct  
6 testimony of Brian Kalcic and exhibit, OSBA Statement 2,  
7 which is the rebuttal testimony of Mr. Kalcic, and OSBA  
8 Statement 3, which is the surrebuttal testimony of  
9 Mr. Kalcic.

10 Two copies of each of those have been  
11 previously distributed to the parties, and I ask that they  
12 be marked for identification.

13 JUDGE CORBETT: Yes, they will be so  
14 marked and identified.

15 (Whereupon, the documents were marked as OSBA  
16 Statement Nos. 1, 2 & 3 for identification.)

17 MS. WEBB: The Office of Small Business  
18 Advocate has reached a settlement in principle with the  
19 company on its issues and it is unclear at this point  
20 whether -- there are some IOGA issues involved in our  
21 testimony so I would like to move them in subject to  
22 cross-examination.

23 JUDGE CORBETT: All right. They will be  
24 admitted into the record subject to any proper motions and  
25 cross-examination.

1 MS. WEBB: Thank you.

2 (Whereupon, the documents marked as OSBA Statements  
3 Nos. 1, 2 & 3 were received in evidence.)

4 JUDGE CORBETT: One moment.

5 (Pause.)

6 JUDGE CORBETT: Are there any other  
7 parties at this point that are moving or what want to  
8 identify their statements?

9 Mr. Povilaitis.

10 MR. POVILAITIS: I could do that on behalf  
11 of Hess at this time.

12 JUDGE CORBETT: All right.

13 MR. POVILAITIS: Your Honor, I would ask  
14 that a document be identified as IOGA Hess Joint Statement  
15 No. 1, the direct testimony of James L. Crist, both in  
16 highly confidential and public versions, consisting of 41  
17 pages of testimony and Exhibits JLC-1 through JLC-4.

18 I also ask that the surrebuttal testimony  
19 of James L. Crist be marked as Hess Statement 1-SR,  
20 consisting of 14 pages of testimony and Exhibit JLC-1-SR.

21 JUDGE CORBETT: Yes, they may be so marked  
22 and identified.

23

24

25

1 (Whereupon, the documents were marked as IOGA Hess  
2 Statement Nos. 1 (Public), 1 (Highly Confidential)  
3 and Exhibit Nos JLC-1 - JLC-4, and Hess Statement  
4 No. 1-SR and Exhibit No. JLC-1-SR for  
5 identification.)

6 MR. POVILAITIS: And Hess moves those  
7 pursuant to the stipulation into evidence at this time.

8 JUDGE CORBETT: Any objections to the  
9 admission by stipulation?

10 (No audible response.)

11 JUDGE CORBETT: They may be so admitted.

12 MR. POVILAITIS: Thank you, Your Honor.

13 (Whereupon, the documents marked as IOGA Hess  
14 Statement Nos. 1 (Public), 1 (Highly Confidential)  
15 and Exhibit Nos JLC-1 - JLC-4, and Hess Statement  
16 No. 1-SR and Exhibit No. JLC-1-SR were received in  
17 evidence.)

18 JUDGE CORBETT: Let me just say that we  
19 have referred to some documents, one is Equitable  
20 Statement 1-R and Exhibit JMQ -- Equitable Exhibit JMQ-R  
21 as highly confidential. There is also the IOGA statement  
22 -- IOGA/Hess Statement 1 of James Crist that contains  
23 highly confidential information. Those documents are to  
24 be handled pursuant to the proprietary order that was  
25 previously issued in this case and separately placed into

1 the confidential folder for the Commission pursuant to the  
2 terms of the protective order.

3 We will just take one moment.

4 (Pause.)

5 JUDGE CORBETT: According to my schedule  
6 the only other statements that have been circulated and  
7 served were Equitable Industrial Intervenors, IOGA and one  
8 statement from The Tech Industries. Those are the only  
9 statements that we have not handled at this point. I am  
10 assuming we are going to handle those later in the  
11 hearings? Is that what we are going to do?

12 MR. MOODY: Yes, Your Honor, for IOGA.

13 JUDGE CORBETT: All right.

14 Any other business that we need to take  
15 care of today?

16 MS. TUNILO: Your Honor.

17 JUDGE CORBETT: Yes, Ms. Tunilo?

18 MS. TUNILO: Your Honor, at this point we  
19 have our Witness Morgan in the room if you have any  
20 questions for him. But as for our other witnesses,  
21 Mr. Parcell, Mr. Watkins and Mr. Colton, they are  
22 scheduled to -- Mr. Watkins is scheduled to appear  
23 tomorrow and Mr. Colton and Mr. Parcell are scheduled to  
24 appear Friday. If you do not have any questions for them  
25 we would ask that you waive their appearance.

1 JUDGE CORBETT: All right. I have no  
2 questions of them. And I believe your witnesses'  
3 testimonies were admitted by stipulation.

4 MS. TUNILO: Correct.

5 JUDGE CORBETT: So their appearance is no  
6 longer necessary.

7 MS. TUNILO: Thank you.

8 JUDGE CORBETT: Thank you very much.

9 MR. NAUM: Your Honor, Barry Naum on  
10 behalf of Equitable Industrial Intervenors and The Techs  
11 Industries.

12 Based on the very limited nature of our  
13 concerns within this case we are prepared to have our  
14 testimony marked and entered into the record today. We  
15 have stipulated with the other parties. We have agreed to  
16 waive cross-examination. However, we have not had an  
17 opportunity to obtain approval from our clients to the  
18 Hess and Equitable settlements. So if there are no  
19 objections from the parties we are prepared to have our  
20 testimony marked as well as and entered into the record  
21 today, or we can wait for another day.

22 JUDGE CORBETT: All right. Why don't you  
23 go ahead and have your testimony identified and we can  
24 admit it subject to cross and proper motions.

25 MR. NAUM: That sounds good, Your Honor.

1 JUDGE CORBETT: All right.

2 MR. NAUM: On behalf of The Techs  
3 Industries, Inc., I have one statement of rebuttal  
4 testimony from Mr. James S. Anderson preliminarily marked  
5 as The Techs Statement No. 1. It consists of five pages  
6 of prepared direct testimony. I request to have that  
7 marked for identification.

8 JUDGE CORBETT: Yes, it will be so marked  
9 and identified.

10 (Whereupon, the document was marked as The Techs  
11 Statement No. 1 for identification.)

12 MR. NAUM: Your Honor, on behalf of  
13 Equitable Industrial Intervenors I have three statements.  
14 The first is the direct testimony of Richard A. Baudino,  
15 which consists of eight pages of prepared direct testimony  
16 and one exhibit. In addition, Your Honor, today I have  
17 one errata statement, which consists of two small  
18 corrections of topographical errors that we have  
19 identified. I will distribute these to the parties. I  
20 would like to have all of this collectively marked for  
21 identification as EII Statement No. 1.

22 JUDGE CORBETT: All right. It will be so  
23 marked and identified.

24 (Whereupon, the document was marked as EII  
25 Statement No. 1 for identification.)

1 JUDGE CORBETT: I will need a copy of your  
2 errata statement.

3 MR. NAUM: Next, Your Honor, we have the  
4 rebuttal testimony of Richard A. Baudino preliminary  
5 identified as EII Statement No. 1-R, which consists of  
6 three pages of prepared testimony. I would request to  
7 have that marked for identification.

8 JUDGE CORBETT: Yes, it will be so marked  
9 and identified.

10 (Whereupon, the document was marked as EII  
11 Statement No. 1-R for identification.)

12 MR. NAUM: Finally, Your Honor, the  
13 rebuttal testimony of Mr. Ronald D. Cerminaro, which  
14 consists of eight pages of prepared testimony. It is  
15 preliminarily marked as EII Statement No. 2-R. I request  
16 to have that marked for identification.

17 JUDGE CORBETT: Yes, it will be so marked  
18 and identified.

19 (Whereupon, the document was marked as EII  
20 Statement No. 2-R for identification.)

21 JUDGE CORBETT: Are you moving for the  
22 admission of your statements subject to motions or cross?

23 MR. NAUM: Yes, Your Honor, we do so move.

24 JUDGE CORBETT: All right. They will be  
25 admitted subject to proper motions and cross-examination.

1 (Whereupon, the documents marked as The Techs  
2 Statement No. 1 and EII Statement Nos. 1, 1-R  
3 & 2-R were received in evidence.)

4 JUDGE CORBETT: One moment, please.  
5 (Pause.)

6 JUDGE CORBETT: Anyone else?

7 MS. WEBB: Your Honor.

8 JUDGE CORBETT: Yes.

9 MS. WEBB: Your Honor, the Office of Small  
10 Business Advocate submitted testimony subject to  
11 cross-examination and Mr. Kalcic was scheduled to appear  
12 tomorrow. No other parties had indicated that they had  
13 cross-examination for Mr. Kalcic and I'm not sure if Your  
14 Honor requested his presence here, his physical presence,  
15 but IOGA has been kind enough to allow us to request  
16 Mr. Kalcic appear telephonically if Your Honor has no  
17 immediate request for his physical presence tomorrow  
18 should they have any questions.

19 JUDGE CORBETT: All right. I have not  
20 seen a witness matrix. When is Mr. Kalcic scheduled to  
21 appear?

22 MS. WEBB: Tomorrow afternoon.

23 JUDGE CORBETT: Tomorrow afternoon? All  
24 right. I see no problem with that, if I have a telephone  
25 available, for Mr. Kalcic to testify.

1 MS. WEBB: Thank you, Your Honor.

2 MR. KANASKIE: Excuse me, Your Honor.

3 JUDGE CORBETT: Sure. Mr. Kanaskie.

4 MR. KANASKIE: Similarly, my witnesses are  
5 available almost any time. I have not had any indication  
6 of cross from any of the other parties and I am asking  
7 Your Honor if you have cross for my witnesses and if not  
8 may they be excused from appearing?

9 JUDGE CORBETT: I have no cross and they  
10 were admitted by stipulation so their appearance is not  
11 necessary at this point.

12 MR. KANASKIE: Thank you, Your Honor.

13 JUDGE CORBETT: Thank you.

14 MR. THOMAS: May it please Your Honor, may  
15 I approach the Bench?

16 JUDGE CORBETT: You may.

17 MR. THOMAS: I have a schedule of days for  
18 the witnesses. We were unable to give you a matrix  
19 because we had not heard from all the other parties with  
20 respect to the amount of cross but those are the witnesses  
21 on various days. Some of them are no longer needed. But  
22 right now that is the best we can do.

23 If you notice, the IOGA witnesses were  
24 scheduled for Friday. Equitable witnesses addressing IOGA  
25 issues were scheduled for tomorrow afternoon, Equitable

1 Witnesses Soyster and Warren. I don't know if there is  
2 any cross-examination at all for Mr. Warren on taxes but  
3 that was the schedule we were proposing among ourselves.  
4 It is just that, again, with the exception of one or two  
5 parties indicating slight cross for some of them we don't  
6 know how much cross there is. And if we were unable to  
7 settle with IOGA I think those would be the witnesses for  
8 the two remaining days.

9 JUDGE CORBETT: Maybe this is a discussion  
10 that we can have off the record, but is there any possible  
11 way of moving these around so we can get all these  
12 witnesses in tomorrow?

13 MR. THOMAS: May it please, Your Honor, I  
14 don't think -- I think there is plenty of time to -- I  
15 think all of the remaining witnesses that would require  
16 cross, I think, could be done on one day, yes.

17 JUDGE CORBETT: Let's go off the record  
18 for just a minute.

19 (Discussion off the record.)

20 JUDGE CORBETT: Back on the record.

21 While we were off the record we were  
22 discussing the scheduling for the rest of the hearings.  
23 The parties have indicated their intention that they would  
24 like to take some additional time to engage in further  
25 discussions on settlement. And to accommodate that we are

1 going to reconvene tomorrow morning at 11 o'clock. And we  
2 will be taking Equitable's witnesses first and then IOGA's  
3 witnesses after that.

4 Is there any other business that we need  
5 to address before we adjourn for today?

6 MR. NIESEN: Your Honor, if Your Honor  
7 pleases, may I just clarify, please, that with the  
8 exception of Equitable Witnesses Quinn, Dalena, Rafferty  
9 and Wiggers that the other remaining Equitable witnesses  
10 may be released and do not need to be here, then, for the  
11 remainder of the hearing tomorrow and they may go back to  
12 Pittsburgh?

13 MR. MOODY: We may have cross for  
14 Mr. Feingold. I just don't know.

15 MR. NIESEN: With the exception, then, of  
16 Mr. Feingold do you have cross for any other witness?

17 JUDGE CORBETT: We are off the record.

18 (Discussion off the record.)

19 JUDGE CORBETT: We are back on the record.

20 MR. NIESEN: Thank you, Your Honor.

21 My understanding from Mr. Moody is that  
22 IOGA may have questions for Mr. Feingold and with the  
23 exception of Mr. Feingold, Mr. Quinn, Mr. Dalena,  
24 Mr. Rafferty and Mr. Wiggers the remaining Equitable  
25 witnesses may be released. There is no further need for

1 them in the hearings.

2 JUDGE CORBETT: All right. Any objection?

3 (No audible response.)

4 JUDGE CORBETT: Hearing no objection, they  
5 will be released.

6 So to reiterate, unless the parties have  
7 settled we will take the testimony of Mr. Feingold,  
8 Mr. Quinn, Mr. Dalena, Mr. Rafferty and Mr. Wiggers  
9 tomorrow, followed by IOGA's witnesses and we will wrap it  
10 up tomorrow.

11 Anything else? Any other business we need  
12 to address before we adjourn for today?

13 (No audible response.)

14 JUDGE CORBETT: Hearing none, then we are  
15 in recess until 11 o'clock tomorrow morning.

16 Thank you all.

17 (Whereupon, at 2:20 p.m., the hearing was  
18 adjourned, to be reconvened at 11:00 a.m., on Thursday,  
19 November 20, 2008, in Harrisburg, Pennsylvania.)  
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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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