

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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In the matter of: :

: Docket Nos.

Application of UGI Penn Natural Gas, Inc. :  
for expedited review and approval of the :  
transfer by sale of a 9.0-mile natural :  
gas pipeline, appurtenant facilities and :  
right of way, located in Mehoopany, PA, :  
and a related affiliated interest :  
agreement. :

: A-2010-2213893

: G-2010-2213894

(Initial Hearing.) :

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Pages 20 through 75

Hearing Room Four  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17105

Wednesday, March 16, 2011

Met, pursuant to notice, at 10:12 a.m.

BEFORE:

DENNIS J. BUCKLEY, Administrative Law Judge

APPEARANCES:

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W I T N E S S I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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Robert F. Beard, Jr., P.E.

(By Mr. MacGregor)	30	--	--	--
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(By. Mr. Shields)	--	41	--	--
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(Examination by Judge Buckley at Pages 38 & 42.)

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## E X H I B I T I N D E X

NUMBER FOR IDENTIFICATION IN EVIDENCEALJ's

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Penn Natural Gas'

Statement No. 1	(Direct Testimony of Robert F Beard, Jr, PE)	31	38
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Statement No. 1-R	(Prepared Rebuttal Testimony of Robert F Beard, Jr, PE)	31	35
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Statement No. 1	(Direct Testimony of Michael Gruber)	69	69
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Office of Small Business Advocate's

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Statement No. 2 (Surrebuttal Testimony Proprietary Version of Robert D Knecht) 71 71

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Statement No. 1 (Direct Testimony of Jerome D Mierzwa) 70 70

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FORM 2

P R O C E E D I N G S

1  
2 ADMINISTRATIVE LAW JUDGE BUCKLEY: Good  
3 morning. This is the date and time and place for the  
4 hearing in the matter of the Application of UGI Penn  
5 Natural Gas, Inc. for expedited review and approval of  
6 transfer by sale of a nine-mile natural gas pipeline,  
7 appurtenant facilities and right of way, located in  
8 Mehoopany, Pennsylvania and a related affiliated interest  
9 agreement. And the Docket Numbers on this are A-2010-  
10 2213893 and G-2010-20213894.

11 I am Administrative Law Judge Dennis  
12 Buckley. And counsels for the parties are present here  
13 today. I would ask that they identify themselves for the  
14 record. Why don't we start with you, Mr. Wright?

15 MR. WRIGHT: Christopher T. Wright. I am  
16 here on behalf of UGI Penn Natural Gas.

17 JUDGE BUCKLEY: Thank you.

18 MR. MURPHY: Kent Murphy, UGI Corporation on  
19 behalf of UGI Penn Natural Gas.

20 MR. MacGREGOR: David MacGregor, Post and  
21 Schell for Penn Natural Gas.

22 MR. SHIELDS: Yes, good morning, Your Honor.  
23 My name is Charles Daniel Shields. My title is senior  
24 prosecutor with the Commission's Office of Trial Staff.

25 MR. MULLINS: Good morning, Your Honor.

1 James A. Mullins on behalf of the Pennsylvania Office of  
2 Consumer Advocate.

3 MS. WEBB: Good morning, Your Honor. Sharon  
4 E. Webb on behalf of the Office of Small Business Advocate.

5 JUDGE BUCKLEY: Good morning to all of you.  
6 And we also have a witness present today on behalf of UGI,  
7 who will be identified on the record. Before we actually  
8 proceed to the examination of the witness, Mr. MacGregor,  
9 did you have a statement that you wanted to put on the  
10 record at this point?

11 MR. MacGREGOR: Should I summarize the  
12 statement regarding the stipulation?

13 JUDGE BUCKLEY: Yes.

14 MR. MacGREGOR: Yes, Your Honor. As we  
15 discussed previously off the record, three other parties in  
16 this proceeding accompanied the Office of Trial Staff and  
17 the Office of Consumer Advocate, have reached a stipulation  
18 in settlement of their respective issues in this  
19 proceeding. We have not reached a settlement to date with  
20 the Office of Small Business Advocate. So, we have  
21 proposed, and the parties, I believe, Your Honor, have just  
22 agreed that we will proceed on the established litigation  
23 schedule of this case.

24 Mr. Beard will be presented this morning to  
25 answer questions posed by Your Honor. The other parties,

1 through stipulation and settlement, or separate  
2 stipulation, have worked out issues regarding cross  
3 examination so that there will be no cross examination of  
4 the various witnesses in this case, other than Mr. Beard by  
5 Your Honor. And their testimonies will be entered by  
6 stipulation of the parties.

7 The proposal of the parties to Your Honor,  
8 subject to OSBA review, is that we will file the formal  
9 stipulation and settlement as soon as possible and that the  
10 parties who wish to file briefs will address both the open  
11 OSBA issues and the issued addressed in the stipulation and  
12 settlement, and their briefs will be filed with Your Honor.

13 JUDGE BUCKLEY: All right, thank you. Do  
14 any of the counsel for the other parties have a statement  
15 they wish to make at this point?

16 MR. SHIELDS: Yes.

17 JUDGE BUCKLEY: Mr. Shields?

18 MR. SHIELDS: Thank you, Your Honor. Just  
19 to follow-up on Mr. MacGregor's remarks. We -- our office  
20 will endeavor to work out all of the language of the three-  
21 party stipulation that he referred to and submit it to Your  
22 Honor as early as possible. And given the fact that all of  
23 issues have been addressed with the substantial terms and  
24 conditions in the stipulation that will be presented to  
25 Your Honor, we will likely be submitting a statement in



1 support of that stipulation, and may not necessarily be  
2 briefing the issues that remain between OSBA and the  
3 company.

4 That's all I have, Your Honor. Thank you  
5 for you opportunity to make some remarked.

6 JUDGE BUCKLEY: Certainly. Mr. Mullins?

7 MR. MULLINS: Thank you, Your Honor. The  
8 OCA does not intend to brief this proceeding either. And I  
9 guess, for Your Honor's determination, we would also submit  
10 a statement in support of the final settlement agreed upon  
11 by the company, OCA and at this point the OTS.

12 JUDGE BUCKLEY: Ms. Webb?

13 MS. WEBB: Good morning, Your Honor. The  
14 OSBA has come to an agreement on some stipulated factual  
15 issues and going forward with the brief. In terms of the  
16 settlement, or stipulation, between the company and the  
17 other two parties, I'm happy to let them know, as soon as  
18 we get a final document, whether or not we would be  
19 briefing any issues.

20 But I want to make sure that the final  
21 document isn't going to be issued on the -- or filed on the  
22 29th. I mean, if the briefs are due on the 30th, I would  
23 like a couple of days to be able to work through the final.  
24 There wasn't a date -- I didn't hear a date--

25 MR. MacGREGOR: I did not provide a specific

1 date, but I am hopeful that we will have it by the end of  
2 the week or very early next week.

3 MS. WEBB: Thank you.

4 JUDGE BUCKLEY: Okay. Mr. MacGregor, let's  
5 start -- I do have a question here now. This is a request  
6 for expedited treatment. Can you explain to me why  
7 expedited treatment is necessary here? Is there something  
8 that's going to happen if you don't get this by a day  
9 certain?

10 MR. MacGREGOR: Your Honor, we would very  
11 much like a decision from the Commission in this matter on  
12 or before June 1st, if possible. It relates to the  
13 financing of the transaction by Citrus Energy and relates  
14 to equipment that's been ordered. They are ready to drill  
15 wells and ready to frac wells and they would very much like  
16 to proceed with that, you know, during the summer  
17 construction season and would like to be able to get  
18 started on or about June 1st.

19 And Commission approval is one of the  
20 regulatory requirements that is needed in order to finish  
21 the financing and to allow things to move forward. I can  
22 not say that things are going to fall apart and the deal is  
23 going to go away if we don't start by June 1st, but it  
24 would be highly desirable for the parties, and particularly  
25 for Procter and Gamble and Citrus Energy is the project

1 could be started as soon as possible.

2 JUDGE BUCKLEY: I understand. Thank you.  
3 All right. Let's swear in Mr. Beard. Mr. Beard, raise  
4 your right hand.

5 MR. BEARD: (Complying.)

6 Whereupon,

7 ROBERT F. BEARD, Jr.

8 having been duly sworn, testified as follows:

9 JUDGE BUCKLEY: Would you be seated?

10 THE WITNESS: (Complying.)

11 MR. MacGREGOR: Perhaps I can go ahead and  
12 voir dire Mr. Beard and move his testimony exhibits into  
13 the record and then subject to your cross examination?

14 JUDGE BUCKLEY: Yes, sir.

15 DIRECT EXAMINATION

16 BY MR. MacGREGOR:

17 Q. Mr. Beard, could you state your full name and  
18 business address for the record?

19 A. Yes. My name is Robert F. Beard. I am vice-  
20 president of marketing, supply and rates with UGI  
21 Utilities. My business address is 2525 North Twelfth  
22 Street, Suite 360 in Reading, Pennsylvania 18612.

23 MR. MacGREGOR: Your Honor, we previously  
24 distributed to the parties and to Your Honor, and I believe  
25 to the court reporter or we will distribute to the court

1 reporter, copies of three documents. The first, on the  
2 cover page, is captioned Direct Testimony of Robert F.  
3 Beard. It has been pre-marked and I would ask that it be  
4 marked for identified as PNG Statement Number 1.

5 JUDGE BUCKLEY: It is so marked.

6 (Whereupon, the document was marked as  
7 PNG's Statement No. 1 for identification.)

8 MR. MacGREGOR: And similarly, the second  
9 document is captioned Prepared Rebuttal Testimony of Robert  
10 F. Beard, Junior. And I would ask that it be marked as PNG  
11 Statement Number 1-R.

12 JUDGE BUCKLEY: It is so marked.

13 (Whereupon, the document was marked as  
14 PNG's Statement No. 1-R for identification.)

15 MR. MacGREGOR: And then the third document  
16 is the Prepared Rejoinder Testimony of Robert F. Beard.  
17 And I would ask that that be marked as PNG Statement Number  
18 1-RJ.

19 JUDGE BUCKLEY: And it is so marked.

20 (Whereupon, the document was marked as  
21 PNG's Statement No. 1-RJ for  
22 identification.)

23 BY MR. MacGREGOR:

24 Q. Mr. Beard, do you have before you the three documents  
25 that have been marked for identification as your direct

1 testimony, your rebuttal testimony and your rejoinder  
2 testimony in this proceeding?

3 A. I do.

4 Q. And in regards to your direct testimony, which  
5 consists of nineteen pages of question and answer testimony  
6 and then attached to that a copy of the application to the  
7 Commission of this proceeding and the exhibits that were  
8 attached to that documentation, and then lastly the  
9 document in the upper right-hand corner that says PNG  
10 Exhibit Number RFB-2, which is a response to this  
11 proceeding?

12 A. Yes, sir.

13 Q. And this, in its entirety, comprised as Statement  
14 Number 1, was this document prepared by you or under your  
15 direction?

16 A. It was.

17 Q. And is the information contained in this document  
18 true and correct to the best of your knowledge?

19 A. It is.

20 Q. Thank you. And with respect to your rebuttal  
21 testimony that has been marked as PNG Statement Number 1-R,  
22 is that your rebuttal testimony in this proceeding?

23 A. It is.

24 Q. And is there attached to it a document in addition to  
25 the twenty-one pages of questions and answers, a document

1 captioned Exhibit RFB-3?

2 A. There is.

3 Q. And was this information prepared and assembled by  
4 you or under your direction?

5 A. It was.

6 Q. And is the information contained in this document  
7 true and correct to the best of your knowledge?

8 A. It is.

9 Q. And finally with respect to the document that has  
10 been marked for identification as PNG Statement Number 1-  
11 RJ, is this your rejoinder testimony in this proceeding?

12 A. It is.

13 Q. And does it consist of eight pages of questions and  
14 answers?

15 A. It does.

16 Q. And does the information contained in this document  
17 true and correct to the best of your knowledge?

18 A. It is.

19 MR. MacGREGOR: Thank you. Your Honor,  
20 subject to cross examination, I would move for the  
21 admission of the documents marked as PNG Statement 1, 1-R  
22 and 1-RJ.

23 JUDGE BUCKLEY: Now, Mr. Shields, correct me  
24 if I am wrong, but at the pre-hearing am I correct that you  
25 had an issue with respect to RFB-3, this cover letter from

1 Attorney Paul Zeigler, and then the rest of this as  
2 described and termed as a statement of support for  
3 quarterlies signed by Alex P. -- is it Fried?

4 MR. MacGREGOR: Fried.

5 JUDGE BUCKLEY: HSE and Energy Affairs  
6 Manager of Procter and Gamble Products.

7 MR. SHIELDS: I did, indeed, Your Honor, and  
8 thank you for raising that issue. Had we not entered into  
9 a stipulation, I fully intended to object to the admission  
10 of those documents and the reference in the witness'  
11 testimony. However in the spirit of settlement, I do not  
12 intend to do so today. I am reserving the right to do if  
13 similar documents are similarly offered and referenced in  
14 subsequent proceedings.

15 JUDGE BUCKLEY: All right. Then there is no  
16 person present from Procter and Gamble to authenticate this  
17 letter, is that correct?

18 MR. MacGREGOR: That is correct, Your Honor.  
19 It was filed with the Commission and resides in the  
20 Commission's public files.

21 MR. SHIELDS: It is my understanding, Your  
22 Honor -- this is Mr. Shields, of course -- that there was,  
23 in fact, a signed affidavit attached to that letter. I may  
24 stand corrected, but I think there was. Which I don't know  
25 if it satisfies Your Honor's concerns for authenticity, but

1 if one is to accept the sworn affidavit, that ameliorates  
2 our concerns to some extent.

3 JUDGE BUCKLEY: All right. Well, hearing no  
4 objection, I'm going to admit what has been marked as PNG  
5 Statement No. 1-R and its attachment. However, and as the  
6 day goes on here, I think you'll -- counsel -- will kind of  
7 get your answer to where I am coming from on this. I am  
8 surprised, and frankly a bit concerned, that there is no  
9 witness from Procter and Gamble in this proceeding.

10 A lot of the questions that I am going to  
11 have for Mr. Beard are intended to fill in some of the gaps  
12 of my understanding. I am sure that he can point me to  
13 places in his testimony that will clear up my  
14 misunderstandings or lack of knowledge on some issues with  
15 respect to this application. But it seems to me, having  
16 read the record as it stands, that we're here today  
17 primarily at the instance [sic] of Procter and Gamble, who  
18 want this transaction to take place. Now, if I am wrong  
19 about that, somebody can correct me.

20 (Whereupon, the document marked as PNG's  
21 Statement No. 1-R was received in  
22 evidence.)

23 MR. MacGREGOR: Your Honor, I think it is  
24 clear Procter and Gamble wants this transaction to go  
25 forward. And it does reflect in agreement between Energy



1 Services and Procter and Gamble and Citrus and among the  
2 parties, subject to various agreements.

3 Procter and Gamble approached us regarding  
4 this transaction and these are the terms and conditions  
5 presented to the Commission under which UGI PNG is willing  
6 to undertake that transaction, which we believe for the  
7 various reasons set forth in Mr. Beard's testimony and  
8 exhibits, is in the public interest and advise the  
9 important that is to customers. But yes, certainly Procter  
10 and Gamble desires this transaction to go forward. And the  
11 conversion of the line to gathering services paid primarily  
12 at the request of Procter and Gamble as a way to get its  
13 Marcellus Shale gas to market.

14 JUDGE BUCKLEY: All right. Thank you. Now,  
15 with Mr. Shield's potential objection in the offing, I had  
16 not read Exhibit RFD-3 and I would just like to take a  
17 minute and read that now, if you will all read with me?  
18 (Judge perusing document.) All right. This answers some  
19 questions. All right. I'll tell you what, Mr. MacGregor,  
20 you had moved PNG's Statement Number 1, 1-R and 1-RJ into  
21 the record?

22 MR. MacGREGOR: And the attached exhibits,  
23 yes, Your Honor.

24 JUDGE BUCKLEY: And the attached exhibits.  
25 Any objections?

1 MR. SHIELDS: Only as counsel represented,  
2 Your Honor, subject to cross examination of Your Honor and  
3 at the risk of -- perhaps, will the other parties be  
4 entitled to cross in response to anything that we hear from  
5 the witness in response to Your Honor's cross examination?  
6 There may be a thing or two that raises a flag with us when  
7 he answers in response to your questions.

8 JUDGE BUCKLEY: Well, I think that's a fair  
9 question. I want to what Mr. MacGregor has to say on that.

10 MR. MacGREGOR: We have no objection.

11 JUDGE BUCKLEY: All right. Provided that it  
12 is limited to my examination, that would be fine. And I  
13 want to make it clear on the record, I am not here to blow  
14 up your settlement. My purpose today is to try to  
15 anticipate some of the questions that the Commission will  
16 have with respect to this matter. And as the  
17 Administrative Law Judge, it is my responsibility to make  
18 sure that they are attested to as we can possibly have. So  
19 with that being said, let's start with this map, which was  
20 attached, I believe, to the original application as  
21 Attachment A or Exhibit A.

22 And I have taken the liberty of posting here  
23 or trying to blow it up. And what I am going to do, is I  
24 am going to ask Mr. Beard to turn to the map, as I have  
25 some specific questions. And Counsel, you are free to

1 gather around.

2 (Whereupon, the documents marked as PNG's  
3 Statements Nos. 1 and 1-RJ were received in  
4 evidence.)

5 EXAMINATION

6 BY JUDGE BUCKLEY:

7 Q. What we are looking at here, I am going to refer to  
8 the larger map. This is the Auburn Line; it runs from  
9 what, Auburn Four Corners to where?

10 A. (Witness perusing document.) It runs the  
11 interconnection at the Tennessee Pipeline.

12 Q. Okay.

13 A. Southward to the Procter and Gamble plant, that's the  
14 terminus.

15 Q. All right. Now, these -- I was trying to read the  
16 legend here. The triangles represent drilled wells, the  
17 circles with apparently a dot in them represent permitted  
18 wells that have not yet been drilled, is that correct?

19 A. Correct, that's correct.

20 Q. Okay. Now, do you know when this was complied?

21 A. I do not.

22 Q. Okay. So, it could be that additional wells have  
23 been drilled since this was -- this exhibits was complied?  
24 Or additional wells may have been permitted?

25 A. Yes, that's possible.

1 Q. Okay. Now -- and I am correct that you said that the  
2 terminus is at the Procter and Gamble plant, and that is  
3 right here, if I am correct, where it says W -- it is  
4 obscured; it says W, and then MIN?

5 A. That's correct.

6 Q. And there is a permitted well right at that point?

7 A. Correct.

8 Q. Okay. And this runs through or past Mehoopany?

9 A. Correct.

10 Q. Okay. Now, I also understand that there are fourteen  
11 other customers who take service?

12 A. That's correct.

13 Q. All right. Do they take service from this line?

14 A. They do, from the Auburn Line.

15 Q. Okay. I see. And there -- I assume that they are  
16 scattered along the length of the line?

17 A. Correct.

18 Q. All right. And right now, of course, this is all  
19 Tennessee gas, that is coming and being piped south through  
20 the line?

21 A. That's correct.

22 Q. Your proposal is that you are going to replace the  
23 Tennessee gas with gas -- Marcellus Shale gas? And you are  
24 going to reverse the direction of the flow so that it is  
25 going from south to north?

1 A. Correct. What will happen, is that UGI Energy  
2 Services will have to establish another interconnect with  
3 Tennessee Gas Pipeline, because this is not sufficient to  
4 take the volumes of gas from production back to the  
5 pipeline.

6 A. Oh.

7 Q. You are correct. What will happen here, is  
8 production gas will come in -- if I may?

9 Q. Sure. Well, I'll tell you what. Let me give you a  
10 marker, that way we don't have to look for another pen.  
11 Here, this will work. Why don't you use the blue marker?  
12 (Item handed to witness.)

13 A. Thank you. Sure. Approximately a half-mile from the  
14 Procter and Gamble plant, there is a regulator station that  
15 will cut the pressure. All of the production will come in  
16 upstream relative to Procter and Gamble.

17 Q. Okay. That plant is current there? (Indicating.)

18 A. It is, let's say here. (Indicating.) Right.

19 Q. Okay.

20 A. And the regulator station is here, also.

21 Q. The regulator station is there right now?

22 A. It is.

23 Q. Okay.

24 A. All production will come in upstream relative to the  
25 location of Procter and Gamble. And some gas will go

1 south, will have the pressure reduced and will go south to  
2 the Procter and Gamble plant. And the remainder of the gas  
3 will go northward, back onto the Tennessee Pipeline and to  
4 a new interconnect that will have to be established with  
5 the Tennessee Pipeline.

6 Q. All right. That was my understanding, but I just  
7 wanted to make absolutely sure that I was understanding  
8 this correctly. Now, that line that is current in place,  
9 that's a twelve-inch line?

10 A. It is.

11 Q. Do you know when that was put in?

12 A. I don't specifically. Service to the plant, I  
13 believe, began in 1966, so somewhere around 1966.

14 JUDGE BUCKLEY: I see, all right. Does  
15 anyone -- does counsel -- do any of you have any questions  
16 with respect to the map?

17 MR. SHIELDS: Just one follow-up question,  
18 Your Honor, just to clarify his last statement.

19 JUDGE BUCKLEY: Sure.

20 CROSS EXAMINATION

21 BY MR. SHIELDS:

22 Q. Am I correct that the line will go, for all intents  
23 and purposes, to provide service to Procter and Gamble?

24 A. That's correct.

25 MR. SHIELDS: That's all I have, Judge,

1 thanks.

2 JUDGE BUCKLEY: Okay.

3 FURTHER EXAMINATION

4 BY JUDGE BUCKLEY:

5 Q. You may not be qualified to answer this, but, do you  
6 know the extent of Procter and Gamble's property? Do you  
7 know how many wells we are talking about there?

8 A. I do not. I know that they are a significant  
9 landowner, but I don't know the exact acreage or the number  
10 of permits that they have received or even applied for.

11 Q. Okay, all right.

12 A. But they do have a substantial land holding.

13 Q. All right. I think that those are the only questions  
14 that I have about the map.

15 A. Okay, thank you.

16 Q. All right. So let me also clarify what we are  
17 talking about here is, again, we are replacing the  
18 Tennessee Gas with Marcellus Shale gas, correct?

19 A. Correct. But I want to be clear that the  
20 interconnection that exists that feeds Tennessee gas will  
21 stay in place. So, we're not retiring, we're still  
22 maintaining the ability to take Tennessee gas.

23 Q. Right, understood. Does reversing the flow on this  
24 line -- obviously I am not an engineer. But does this  
25 raise any kind of operational or safety considerations? I

1 mean the line has been in place for, what, fifty years or  
2 so and it has always in one direction. Can you conceive of  
3 any potential problem when you are suddenly -- well not  
4 suddenly -- but you are going to change the configuration  
5 of the line, you are going to reverse the flow. Could that  
6 potentially lead to any issues?

7 A. That should have no effect.

8 Q. All right. So there should be no safety issues?

9 A. No safety issues whatsoever. And the history of the  
10 line, and I checked, it is a line with a good operating  
11 history and it doesn't cause any pause, whatsoever, as far  
12 as its condition.

13 Q. Okay, thank you. Give me a moment here; I just want  
14 to take a look at some of my notes. (Pause.) All right.  
15 I am looking at your direct testimony, Mr. Beard, page  
16 eight. Now, the question is, once the transfer occurred,  
17 how will PNG be assured that natural gas will be available  
18 for customers that are currently served from the Auburn  
19 Line? Are you with me?

20 A. Yes.

21 Q. Okay. And you say, "Under this," -- line seventeen  
22 -- "Under this agreement, UGIES has undertaken the  
23 obligation to deliver gas to PNG each day on an  
24 instantaneous, no-notice basis in an amount that is equal  
25 to the demand on the Auburn Line." When you referred to



1 this agreement, you were referring to the agreement that  
2 was filed with the Commission; is that correct?

3 A. Yes.

4 Q. Okay. All right. Because I am going to have some  
5 questions about that agreement. You say, "However, in the  
6 unlikely event that that local production becomes  
7 inadequate," -- I'm on line twenty, going into twenty-one  
8 -- "PNG has the right to require UGIES to take gas through  
9 PNG's Auburn Station I on an emergency basis to assure  
10 service to PNG's customers." Flipping over to page nine,  
11 going on lines four through six. "I would note that UGIES  
12 currently undertakes similar obligations for providing  
13 supply services to both UGI and PNG under existing,  
14 Commission-approved peak supply agreements."

15 Now, let's assume that this goes through and  
16 the Commission approves what we have asked for. My  
17 understanding is that there is a contractual obligation on  
18 the part of UGIES to furnish that supply; is that  
19 contractual obligation that is enforceable in the Court of  
20 Common Pleas, or would that be jurisdictional to the  
21 Commission?

22 A. (No response.)

23 JUDGE BUCKLEY: And this might be a bit of a  
24 question for your attorney in this situation.

25 MR. MacGREGOR: I wouldn't want to give a

1 definitive answer; it could be both or either. It would  
2 certainly be enforceable in the Court of Common Pleas. The  
3 Commission might have jurisdiction over that, as well. We  
4 can address that in a brief, if you wish.

5 JUDGE BUCKLEY: Yeah, I would. In fact, on  
6 one hand I am comforted by the fact that you are not giving  
7 me a definitive answer, because you know, I'm sitting up  
8 here and I'm not as slow as I thought I was.

9 (Laughter.)

10 JUDGE BUCKLEY: But on the other hand, it is  
11 not a comfort to me because we're in a new territory here,  
12 and I would like that addressed.

13 MR. MacGREGOR: We will address it, Your  
14 Honor. And I note that one of the remedies under the  
15 agreement, and it will be further detailed in the  
16 stipulation and settlement, is what happens if for any  
17 reason UGIES fails to live up to its obligations under the  
18 agreement, including the obligation to provide service.  
19 Then PNG, as the utility, has the right to automatically  
20 take back ownership of the line.

21 JUDGE BUCKLEY: We are going to talk about  
22 that, too.

23 BY JUDGE BUCKLEY:

24 Q. All right. Some of my questions might already been  
25 considered and might be under discussion with respect to

1 the stipulation, and I understand that. Okay, let's go to  
2 your rebuttal testimony. At the bottom of page four, line  
3 nineteen, you say, "In addition," -- are you with me?

4 A. I am.

5 Q. "In addition, even if some hypothetical additional  
6 value were attributed to the line, customers should not  
7 share in that value because that value is clearly  
8 associated with operating the Line as the gathering line."  
9 Gathering is underlined. "Importantly, the use of the  
10 Auburn Line as a distribution line is not being transferred  
11 to UGIES. It is being retained by PNG and its customers  
12 through the Interconnection, Operating And Emergency  
13 Service Agreement."

14 JUDGE BUCKLEY: Which again, Mr. MacGregor,  
15 am I correct that that's the agreement with UGI which is--

16 MR. MacGREGOR: That's right, Your Honor.

17 JUDGE BUCKLEY: So what is this line, is it  
18 a distribution line or is it a gathering line or can you  
19 enlighten me a little bit; is it both, is it dependant upon  
20 a particular use?

21 MR. MacGREGOR: Just a minute.

22 JUDGE BUCKLEY: Sure, take your time.

23 MR. MacGREGOR: I'm sorry.

24 JUDGE BUCKLEY: That's okay.

25 THE WITNESS: Your Honor, it will be

1 classified on the sale as a gathering line.

2 The function of distribution will still be  
3 retained by PNG. And that really is one of the nuances of  
4 this situation that's interesting, in that we will retain  
5 -- PNG will retain all of the commercial benefit of the  
6 distribution customers that are connected with that line.  
7 And those customers will still be guaranteed service under  
8 PNG's rate schedule.

9 So while the line, itself, will be  
10 classified on the Federal definition as a gathering line,  
11 we will have distribution service offered from it.

12 MR. MacGREGOR: And frankly, Your Honor,  
13 that's probably a better way to state it than it is stated  
14 here in the testimony. I can understand the confusion with  
15 this. The line will be a gathering line, but there are  
16 caps, the farm taps and the Procter and Gamble tap, off of  
17 the line will remain in place and be owned by the utility,  
18 who will continue to provide distribution service through  
19 those taps from the Auburn Line.

20 And it is the agreement that maintains that  
21 additional use of the line, not only to gather gas, but to  
22 distribute gas into the interconnection taps to serve the  
23 fifteen customers.

24 JUDGE BUCKLEY: So then, is it a  
25 distribution line?

1 THE WITNESS: The lines that come off of  
2 this line will be distribution line. Similar to, if you  
3 look at the Tennessee Pipeline, that is a transmission  
4 line.

5 JUDGE BUCKLEY: Right.

6 THE WITNESS: Downstream of that is the  
7 distribution line.

8 JUDGE BUCKLEY: Right.

9 THE WITNESS: This will be a gathering line,  
10 but at the custody transfer point at the tap from the  
11 gathering lien, the utility will retain ownership of those  
12 pipes and those will be distribution pipes.

13 JUDGE BUCKLEY: All right. So let's go back  
14 to the map a bit to make sure that I completely understand  
15 this.

16 BY JUDGE BUCKLEY:

17 Q. All right. So what you are telling me is, let's take  
18 an example here. Here we have the line, the Auburn Line,  
19 that's a gathering line. Are you telling me, let's say, I  
20 am going to mark with an X here, this is one of the  
21 fourteen customers, okay? (Indicating.)

22 A. Mm-hmm. Okay.

23 Q. And are you telling, then, that there is a line that  
24 comes off of the Auburn Line and goes down?

25 A. That's correct.

1 Q. And that's a distribution line?

2 A. Correct.

3 Q. I see. So the distribution line starts where the  
4 connection line is with the Auburn Line, and it stops when  
5 the gas gets to, I would assume, the meter of whoever is  
6 taking it?

7 A. That's correct.

8 Q. I see. Okay. All right. Thank you, that clears  
9 that up. I'm not necessarily agreeing to this, but I do  
10 understand and that's extremely important. All right. I'm  
11 looking at pages eight through ten of your testimony, Mr.  
12 Beard. This is where you are talking about Citrus. And  
13 Citrus -- maybe Mr. MacGregor is going to have to answer  
14 this.

15 JUDGE BUCKLEY: Citrus is a natural gas  
16 supplier?

17 MR. MacGREGOR: No, they are just a  
18 producer, local producer.

19 JUDGE BUCKLEY: They are just a producer?

20 MR. MacGREGOR: Yes.

21 BY JUDGE BUCKLEY:

22 Q. Okay. I see. And part of your argument for approval  
23 of this application is that there are identified risks  
24 associated with Marcellus Shale exploration. In that UGI  
25 is essentially shifting those risks away from itself and

1 putting it on Citrus, which is having to take it, or am I  
2 mistaken?

3 A. At present, UGI has no risk associated with  
4 Marcellus.

5 Q. Okay.

6 A. The risk that would be undertaken would be by Citrus,  
7 as the producer, driller and producer, and by Energy  
8 Services, who would run the risk of success or failure of  
9 the wells and the drilling program in general.

10 Q. All right. Here is where I am going with this. I  
11 was reading along until I got to page eight and then I look  
12 at line seventeen, "Gathering has the same risk profile as  
13 producing since it is entirely dependant upon the drilling  
14 of wells."

15 After that, we get into the full page of  
16 statements, which have been provided from a variety of  
17 sources that make Marcellus drilling look a bit  
18 problematic, which I understand. Where I am going to this  
19 is, when you get to the point in your agreement that  
20 essentially says that if something goes wrong, and goes  
21 badly, then UGI has the option to take all of this back and  
22 to continue to serve the customers, correct?

23 A. That's correct.

24 Q. But it is an option; it is not an obligation?

25 A. Well, we have an obligation to serve the customers

1 that are presently served from the Auburn Line. And in the  
2 event the production gas was not available, we would have  
3 obligation to continue to take gas from Tennessee and  
4 continue to service to those customers.

5 Q. Where is the authority for that? I mean why are  
6 saying -- what does that encompass?

7 MR. MacGREGOR: Well, I mean I think, Your  
8 Honor, we are not -- we would have to file for abandonment  
9 of service to the customers to cease providing. So, we  
10 would undoubtedly exercise the option to take the  
11 distribution line -- to take the line back in order to  
12 fulfill our obligation to provide distribution services to  
13 those customers. Unless we are going to abandon them, I  
14 think we have an obligation to supply them.

15 JUDGE BUCKLEY: So, by virtue of the fact  
16 that you still have this distribution lien that runs from  
17 Auburn to the end user, the obligation to serve continues,  
18 is that your position?

19 MR. MacGREGOR: Yes.

20 JUDGE BUCKLEY: Mr. Shields?

21 MR. SHIELDS: Yeah, that would be my  
22 understanding, Your Honor. And I think you would be  
23 comforted by some of the terms and conditions you are going  
24 to see in the stipulation. As you summarized earlier in  
25 the discussion, you may have anticipated some of the



1 questions. But yes, from our perspective, we wouldn't  
2 expect that the UGI or PNG would do anything but continue  
3 under Commission jurisdiction to provide service. And that  
4 the Commission, were they to fail to do that, fail to  
5 exercise the terms and conditions of the settlement that  
6 embodied an agreement, I think the Commission would be  
7 entirely within its jurisdiction to ensure that they did  
8 live up to their obligation to pursue whatever legal  
9 avenues they have.

10 And I think as I said, that will be more  
11 specifically identified in the stipulation that we intend  
12 to present to Your Honor.

13 JUDGE BUCKLEY: All right. Counsel, do  
14 other counsel have any other questions on the basis of what  
15 I have asked so far?

16 MR. SHIELDS: I have nothing, Your Honor.

17 MR. MULLINS: Nothing. Thank you, Your  
18 Honor.

19 MS. WEBB: No, Your Honor. Thank you.

20 JUDGE BUCKLEY: All right. Give me another  
21 moment here, if you would, please. (Pause.) Okay. Now,  
22 I'm looking at one of your exhibits, Mr. Shields, of the  
23 testimony of Michael Gruber for the Office of Trial Staff.

24 MR. SHIELDS: I have it here.

25 JUDGE BUCKLEY: That's where the questions

1 originated from and I may be taking some of what he said  
2 out of context in preparing my own question. But at page  
3 nine of Mr. Gruber's testimony--

4 MR. SHIELDS: We will be offering his  
5 testimony later today, also, Your Honor.

6 JUDGE BUCKLEY: Understood.

7 MR. MacGREGOR: I'm sorry, Your Honor,  
8 where?

9 JUDGE BUCKLEY: On page nine on the exhibit.

10 BY JUDGE BUCKLEY:

11 Mr. Gruber is stating, "Approval of the present application  
12 will have the gas flowing from the customers locations to  
13 the interstate pipeline, but not from the interstate  
14 pipeline to the customers. Under these circumstances, it  
15 is logistically unclear how the customers would be able to  
16 acquire gas from anyone other than the local Marcellus  
17 Shale producers." And I think that, Mr. Beard, your retort  
18 to that, is that this is the displaced gas?

19 A. That's correct.

20 Q. Could you explain that a little bit further, please?

21 A. Sure. These customers would still be able to shop  
22 and choose the natural gas provider that suits them. Those  
23 volumes would be delivered to the gate Station, at the  
24 Auburn Interconnect.

25 And through our gas control gate, through

1 the displacement, basically, and the paper transaction,  
2 that's how that will take place. The actual molecules of  
3 gas to these customers would likely still come from what we  
4 are producing, there's no other way for it to get there.  
5 But there will be a paper displacement for the volumes, so  
6 that customers will have the appropriate shop.

7 Q. All right. So, if you make an analogy to the  
8 electric side of the house, what we are doing here, is  
9 we're dealing dollars, not necessarily gas molecules?

10 A. Correct.

11 Q. And your position is that the ability of the  
12 customers to shop is unimpaired and unaffected by this?

13 A. That's correct, Your Honor.

14 Q. Okay, thank you. On page twelve Mr. Gruber has a  
15 question posed, "Will the Commission have the same  
16 authority to regulate the operation and safety of the line  
17 if the proposed transfer of ownership from PNG to UGIES is  
18 approved?" And he answered it no and went on to elaborate.  
19 What is your response to the question?

20 MR. MacGREGOR: Do you mind as if I answer  
21 to the legal question?

22 JUDGE BUCKLEY: No, go ahead.

23 MR. MacGREGOR: Our response in the  
24 testimony was that the pipeline would be subject to perhaps  
25 the federal regulations, rather than the state regulation

1 after the transfer. We also noted that there are bills  
2 pending in the Legislature to expand the Commission's  
3 jurisdiction over safety. However, this issue is  
4 specifically addressed in the stipulation. Do the parties  
5 care if I inform him of the outcome in the stipulation?

6 MR. SHIELDS: I think counsel has made a  
7 sufficient representation. I can confirm that the factor  
8 will be a provision in the stipulation that provides for  
9 continued inspection by Commission gas personnel.

10 JUDGE BUCKLEY: All right.

11 THE WITNESS: And Your Honor, just to  
12 clarify, the distribution piping served from this piping  
13 will still be operated and maintained by the utility.

14 JUDGE BUCKLEY: Okay. All right, let's take  
15 a look at Exhibit E. All right. Exhibit E is the  
16 Interconnection Agreement Between UGI Energy Services, Inc.  
17 and UGI Penn Natural Gas. And that has been submitted  
18 statements?

19 MR. MacGREGOR: Yes.

20 JUDGE BUCKLEY: Now, just as a point of  
21 information for me, I assume that this is a stand-alone  
22 document. But I also assume that this was drafted in  
23 conformity with Tennessee Gas Pipeline provisions?

24 MR. MacGREGOR: Yes.

25 THE WITNESS: Referring to page seven, gas

1 quality, those criteria are PNG's criteria, the utility's  
2 criteria, which essentially mirror the requirements of  
3 Tennessee.

4 BY JUDGE BUCKLEY:

5 Q. Okay, that's Article III, paragraph eight, gas  
6 quality?

7 A. Correct.

8 Q. All right. In Article IV, page ten, is the  
9 Interconnection Fee, which I think was the genesis of some  
10 of the complaints or concerns in this proceeding. I take  
11 it that any issues will be addressed in the stipulation?

12 MR. MacGREGOR: This specific issue is  
13 directly addressed in the stipulation.

14 BY JUDGE BUCKLEY:

15 Q. All right. Very good. The -- Article VI, force  
16 majeure, which starts on page thirteen. And again, I'm  
17 going to ask, is this related in some way to the Tennessee  
18 Gas Pipeline force majeure provisions?

19 A. I think force majeure provisions are generally  
20 varied, consistent throughout the industry.

21 Q. The reason I'm asking, because I'm wondering if  
22 Tennessee declares force majeure on its pipelines, is that  
23 going to be is that going to have kind of a prospective  
24 effect with respect to the operation of this gathering line  
25 the way it does with distribution lines?

1 A. As I envision a force majeure event, Your Honor, the  
2 customer -- actually, this project would be beneficial in  
3 that regard. In the event of a force majeure on a  
4 pipeline, where normally service would be curtailed,  
5 customers along this line would continue to have service.  
6 From an operating standpoint, service to these customers  
7 would be transparent and the integrity of the service would  
8 not change but for the fact that we are establishing  
9 another point of delivery, which is, from an operating  
10 standpoint, always a good thing.

11 JUDGE BUCKLEY: Okay. Thank you. This  
12 question is really for counsel, and I'm going to throw it  
13 out as a concern for all of the counsel to consider and I  
14 don't need your answer right now. Again, this is with  
15 respect to larger jurisdictional issues.

16 I think the gathering of minds have somewhat  
17 a checkered history, and I'm not talking about a liability,  
18 I am talking just in terms of jurisdictional issues,  
19 frankly I can remember back in -- somewhere in the mid-'90s  
20 sitting in front of Betsy Moler down in FERC and arguing  
21 why Pennsylvania should -- well, actually, why FERC should  
22 not assume jurisdiction over gathering lines. From a  
23 policy standpoint, in going back to something that Mr. --  
24 Ms. Webb is it Knecht?

25 MS. WEBB: Knecht.

1 JUDGE BUCKLEY: Mr. Knecht said in his  
2 direct, that this case has the potential to set a precedent  
3 for Pennsylvania natural gas distribution companies. Our  
4 we, and again this is a rhetorical, are we looking at  
5 creating a situation here were FERC is going to come back  
6 to us and say, what you are doing is, you is you are  
7 vulcanizing the gas deals. We have a hodgepodge of  
8 regulation, half-in and half-out of federal and state.  
9 That is going to open us up to preemption.

10 I just want you to think about that; you  
11 don't have to reply right now. What I do want you to  
12 address, though, is in talking about your stipulation, have  
13 you made any provisions with respect to the presidential  
14 effect of this case?

15 MR. MacGREGOR: Yes, we have.

16 JUDGE BUCKLEY: You have?

17 MR. SHIELDS: And Your Honor, interesting  
18 that you should say that. First of all, you are absolutely  
19 correct in the somewhat nebulous status of some of these  
20 lines is going to require some creativity. But those very  
21 concerns that you have just expressed and underlined have  
22 been part and parcel of the discussions, in not only this  
23 case, but certainly in some other cases.

24 But yes, in fact, we have -- there is a  
25 provision agreed to in the stipulation that seeks to limit

1 cite-ability the application and it points out the  
2 particular nature of this particular proposal. So yes,  
3 hopefully with an eye towards not contributing further to  
4 the confusion of the nebulous nature of the status of these  
5 types of lines. I don't think there is some way to address  
6 the inquiry.

7 JUDGE BUCKLEY: Mr. Mullins, do you have  
8 anything to say with respect to this?

9 MR. MULLINS: Nothing beyond what Mr.  
10 Shields has stated.

11 MS. WEBB: I have to look at the  
12 stipulation, Your Honor.

13 JUDGE BUCKLEY: Mr. MacGregor?

14 MR. MacGREGOR: I have nothing further right  
15 now, Your Honor. Except--

16 JUDGE BUCKLEY: With respect to this issue.

17 MR. MacGREGOR: I agree with Mr. Shields.  
18 Yes, the stipulation deals with limiting the precedential  
19 value and -- of this proceeding, and particularly with any  
20 jurisdictional determination of this proceeding. We will  
21 address it on the brief. There are specific facts about  
22 this gathering line that make it clear, at least to us,  
23 that the service being provided through our gathering  
24 service, is not to be for the public.

25 So apart from the general jurisdiction or not of



1 the gathering lines, the jurisdiction of the Commission  
2 over any pipeline is still limited to a line that is  
3 providing service to the public for compensation. It is  
4 clear to us, at least on these facts, which we will bring  
5 out in our brief, that this line is not providing service  
6 to the general public as the other lines are.

7 And that's why it may not be of a concern,  
8 at least on our part; we just have to undergo the  
9 proceedings

10 JUDGE BUCKLEY: All right. If it is clear  
11 that that's made in the settlement, then I won't question  
12 on it.

13 MR. SHIELDS: We appreciate your guidance on  
14 that, Your Honor.

15 JUDGE BUCKLEY: All right. Those are my  
16 questions. Thank you, Mr. Beard, for answering mine. I  
17 appreciate your being here today and taking the time to  
18 answer those questions.

19 THE WITNESS: You are welcome.

20 JUDGE BUCKLEY: I think that what I am going  
21 to do is, I am going to have what we have been marking on  
22 with pen identified as ALJ-1. And I will see that copies  
23 are distributed to the parties and that the court reporter  
24 gets copies. I would like to enter that into the record so  
25 that the Commission -- well, I should say when the

1 Commission reviews this, they can see exactly what we were  
2 talking about here. Does anyone have any objection to  
3 that?

4 (Witness excused.)

5 (Whereupon, the document was marked as  
6 ALJ's Exhibit No. 1 for identification, and  
7 was received in evidence.)

8 MR. SHIELDS: How would those documents be  
9 identified, Your Honor?

10 JUDGE BUCKLEY: The document on the left  
11 would be disregarded, because we didn't use that. The  
12 blow-up on the right that Mr. Beard and I marked on, I'm  
13 going to mark as ALJ-1.

14 MR. SHIELDS: Understood.

15 JUDGE BUCKLEY: Any objection?

16 MR. SHIELDS: No, Your Honor.

17 JUDGE BUCKLEY: So, let's sum-up here  
18 procedurally. What we're going to do is, you are going to  
19 go ahead and -- the parties are going to go ahead and you  
20 are going to refine the stipulation, refine the settlement.  
21 Tentatively, we will expect the file in seven -- did you  
22 say this week?

23 MR. MacGREGOR: Well, I'm an eternal  
24 optimist, Your Honor. It is going to most likely going to  
25 be next week.

1 JUDGE BUCKLEY: All right.

2 MR. MacGREGOR: We will do it as soon as  
3 possible, because OSBA wants to have a chance to see it to  
4 try to respond. But the terms and conditions are known  
5 today and have been given -- I mean the OSBA has the draft  
6 and the basic terms and conditions are not going to change.  
7 It is really something boilerplate and precedential  
8 language and that's not going to change. The basic terms  
9 and conditions are in place and known to the parties.

10 MR. SHIELDS: And further, Your Honor, the  
11 OSBA was provided -- it is my understanding that most of  
12 the negotiations were conducted by e-mail. The OSBA was  
13 provided with most, if not all of those e-mails as they  
14 ensued in the last week.

15 JUDGE BUCKLEY: what does the OSBA have to  
16 say about that?

17 MS. WEBB: I can't speak to the e-mail  
18 traffic that went back and forth from the company to all of  
19 the parties. I know what I received. I understand that  
20 there were discussions that we were initially involved; I  
21 do not want to speak to our ability to respond to the final  
22 document until I see the final document.

23 JUDGE BUCKLEY: Understood.

24 MS. WEBB: I hope to be able to do it based  
25 on Mr. MacGregor's representations in brief, but if it is

1 served at the eleventh hour, I may need to request an  
2 opportunity to respond in a separate document.

3 JUDGE BUCKLEY: And assuming that your issue  
4 is not resolved, then I can expect to see a brief on March  
5 30th?

6 MS. WEBB: Yes, sir. The issues that we are  
7 going forward with will be in main brief. My only concern  
8 about not being able to include anything in the main brief  
9 is dependant on when the settlement from the other parties  
10 is resolved. But our -- the OSBA's issues going forward, I  
11 will file a main brief on the 30th.

12 JUDGE BUCKLEY: UGI will also file a brief?

13 MR. MacGREGOR: Yes, Your Honor.

14 JUDGE BUCKLEY: And then reply briefs,  
15 again, are April 7th?

16 MS. WEBB: Yes, Your Honor.

17 JUDGE BUCKLEY: Okay. Now, housekeeping. I  
18 assume you all have exhibits and testimony that you would  
19 like to move into the record?

20 MR. MacGREGOR: I have one, Your Honor, to  
21 finish up some things.

22 JUDGE BUCKLEY: Sure, please.

23 MR. MacGREGOR: Well, it is a stipulation  
24 between OSBA and the company. As I mentioned earlier off  
25 the record, I believe, that this stipulation involves the

1 stipulation between Procter and Gamble and UGI PNG that we  
2 referenced in our testimony. The OSBA had certain  
3 questions about the contract for Mr. Beard, Procter and  
4 Gamble, in particular, and PNG. The agreement has  
5 confidentiality provisions in it and competitive  
6 information.

7 So, we have worked out an agreement and I  
8 appreciate the cooperation of the OSBA in doing this, where  
9 they essentially pre-served their questions and answers and  
10 we refined those and agreed on a stipulation that  
11 essentially answered the questions that the OSBA would have  
12 asked Mr. Beard. We put that into a confidential  
13 stipulation that we would like to move into the record  
14 under seal.

15 And I guess it remains to be seen whether  
16 that would need to be referred to in briefs and whether  
17 there will have to be proprietary and non-proprietary  
18 portions of the briefs. To the extent that we can avoid  
19 that, we will, but if we can't, we can't and we would go  
20 forward with that.

21 JUDGE BUCKLEY: Ms. Webb?

22 MS. WEBB: I agree with Mr. MacGregor. We  
23 will likely need to refer to things in briefs if it gets to  
24 the point -- if I can't do it in such a generic way that I  
25 need to refer to things that are in the stipulation, it is

1 likely that we will file a proprietary brief.

2 JUDGE BUCKLEY: This is a time confidential  
3 stipulation. It is a stipulation that remains confidential  
4 for--

5 MR. MacGREGOR: That's correct.

6 JUDGE BUCKLEY: It is not the contract,  
7 itself?

8 MR. MacGREGOR: No.

9 JUDGE BUCKLEY: That is not part of the  
10 record; it is not being put in under a protective order.  
11 It is not going to be put into the record, correct?

12 MR. MacGREGOR: No.

13 JUDGE BUCKLEY: Okay.

14 MR. MacGREGOR: It is not marked, I didn't  
15 mark it for identification as a PNG exhibit -- hearing  
16 exhibit 1, if that's the case.

17 MS. WEBB: PNG-OSBA stipulation.

18 MR. MacGREGOR: Yes, PNG-OSBA Exhibit Number  
19 1, or stipulation exhibit; however is easiest for Your  
20 Honor.

21 JUDGE BUCKLEY: Why don't we just mark it as  
22 PNG-OSBA 1?

23 (Whereupon, the document was marked as  
24 PNG-OSBA Exhibit No. 1 for identification.)

25 MR. MacGREGOR: Okay. Great.

1 JUDGE BUCKLEY: And I'm just going to hold  
2 onto this sealed copy.

3 MR. MacGREGOR: I -- do we -- if you know,  
4 do we provide -- should I provide copies to the court  
5 reporter, Your Honor?

6 JUDGE BUCKLEY: I believe that you must, but  
7 provided as you provided it to me under seal.

8 MR. MacGREGOR: Okay.

9 JUDGE BUCKLEY: The secretary can put that  
10 exhibit under a confidential file in the docket, I am sure.

11 MR. MacGREGOR: Would it be better if I  
12 leave this with the secretary under seal or--

13 JUDGE BUCKLEY: This document is  
14 prospective, correct? It is if you can come to an  
15 agreement or -- this is an agreement that you have already  
16 reached?

17 MR. MacGREGOR: Yes.

18 JUDGE BUCKLEY: All right. I really think  
19 that it needs to be a record.

20 MR. MacGREGOR: It should.

21 JUDGE BUCKLEY: It should be part of the  
22 record. But what I am going to do, is I will make sure  
23 that the secretary understands that there is a portion of  
24 this record that is highly confidential and access is to be  
25 restricted and in conformity with confidentiality

1 requirements. Obviously it will received by the  
2 Commissions in reviewing this, is that satisfactory?

3 MR. MacGREGOR: Yes, that is correct, Your  
4 Honor. Thank you.

5 JUDGE BUCKLEY: Okay. Mr. Shields?

6 (Whereupon, the document marked as  
7 PNG-OSBA's Exhibit No. 1 was received in  
8 evidence.)

9 MR. SHIELDS: Your Honor, just on the  
10 question of it being offered for the record. Our office  
11 will accept Mr. MacGregor's representation as to what the  
12 document represents. It is our understanding that it is a  
13 separate -- as he indicated, it is a separate stipulation  
14 on a particular finite set of issues between UGI PNG and  
15 OSBA. And perhaps counsel for UGI PNG could indicate what,  
16 if any effect, this document being offered may have upon  
17 the stipulation entered into by the three parties?

18 MR. MacGREGOR: I do not believe that it has  
19 any effect and it does not address or deal with any issues  
20 that are covered in the final stipulation.

21 MR. SHIELDS: With that representation, I  
22 have no objection to its admission, Your Honor.

23 JUDGE BUCKLEY: Do you agree with that  
24 representation, Ms. Webb?

25 MS. WEBB: I -- it was not intended to cover



1 the issues that were -- that would be discussed in terms of  
2 settlement. But having not reviewed the final stipulation,  
3 I can't speak to that.

4 JUDGE BUCKLEY: All right. Mr. Shields, do  
5 you want to go ahead.

6 MR. SHIELDS: I do, indeed, Your Honor. As  
7 previously indicated, as I think by counsel for the company  
8 on the record and in our off the record discussions before  
9 we convened -- Your Honor convened the hearing this  
10 morning, during the course of the proceeding we identified  
11 the OTS witness Michael Gruber and distributed his direct  
12 testimony and an exhibit and a surrebuttal testimony which  
13 I will now proceed to ask be marked for identification. As  
14 OTS Statement Number 1, the direct testimony of Michael  
15 Gruber. As OTS Exhibit Number 1, the exhibit which  
16 accompanied the direct testimony at the time that it was  
17 distributed; a document entitled Exhibit to Accompany the  
18 Direct testimony of Michael Gruber.

19 And finally, and subsequently distributed,  
20 the surrebuttal of Michael Gruber that we ask, along with  
21 the other documents, be marked for identification. This  
22 particular document, we ask be marked as OTS Statement  
23 Number 1-SR. And may those three documents be so marked,  
24 Your Honor?

25 JUDGE BUCKLEY: They will be so marked.

1 They are so marked. Are there any objections to the  
2 exhibits?

3 (Whereupon, the documents were marked as  
4 Office of Trial Staff's Statements Nos. 1  
5 and 1-SR and Office of Trial Staff's Exhibit  
6 No. 1 for identification.)

7 MR. MacGREGOR: No, Your Honor.

8 JUDGE BUCKLEY: Hearing none, they are  
9 admitted into the record.

10 (Whereupon, the documents marked as  
11 Office of Trial Staff's Statements Nos.  
12 1 and 1-SR and Office of Trial Staff's  
13 Exhibit No. 1 were received in evidence.)

14 MR. SHIELDS: I have nothing further, Your  
15 Honor.

16 JUDGE BUCKLEY: All right. Mr. Mullins?

17 MR. MULLINS: Thank you, Your Honor. The  
18 OCA would like to identify for the record OCA Statement  
19 Number 1, the Direct Testimony of Jerome D. Mierzwa, M-i-e-  
20 r-z-w-a, OCA Statement Number 1 consists of six pages of  
21 question and answer testimony.

22 The OCA would also like to identify for the  
23 record, OCA Statement Number 1-S, the surrebuttal testimony  
24 of Mr. Mierzwa. OCA Statement Number 1-S consists of two  
25 pages of question and answer testimony. Both OCA Statement

1 Number 1 and OCA Statement Number 1-S have been provided to  
2 Your Honor and the parties. To the court reporter, copies  
3 will be provided prior to the conclusion of this hearing.

4 Based on previously agreement of the  
5 parties, the OCA would move for the admission of OCA  
6 Statement Number 1 and OCA Statement Number 1-S.

7 JUDGE BUCKLEY: They are so marked. Is  
8 there any objection to their admission?

9 (Whereupon, the documents were marked as  
10 OCA's Statements Nos. 1 and 1-S for  
11 identification.)

12 MR. MacGREGOR: No objections.

13 JUDGE BUCKLEY: They are admitted into the  
14 record. Ms. Webb?

15 (Whereupon, the documents marked as  
16 OCA's Statements Nos. 1 and 1-S were  
17 received in evidence.)

18 MS. WEBB: Thank you, Your Honor. I have  
19 previously distributed to the parties copies of the direct  
20 and surrebuttal testimony of the OSBA's witness Robert D.  
21 Knecht, K-n-e-c-h-t. I would like to identify for the  
22 record OSBA Statement Number 1, which consists of twelve  
23 pages of question and answer, and Exhibit IEC-1 and IEC-2.  
24 And the surrebuttal testimony, which is eight pages of  
25 question and answer testimony; the surrebuttal, I have also

1 distributed proprietary versions. So, I will be giving the  
2 court reporter four pieces of testimony for surrebuttal.

3 And I understand that no one has cross  
4 examination for Mr. Knecht and that the statements can be  
5 entered by stipulation. And I would request that they be  
6 identified and moved into the record.

7 JUDGE BUCKLEY: All right. They will be so  
8 marked. Any objection?

9 (Whereupon, the documents were marked as  
10 OSBA's Statements Nos. 1, 2 Non-Proprietary  
11 Version and 2 Proprietary Version for  
12 identification.)

13 MR. MacGREGOR: No objection, Your Honor.

14 JUDGE BUCKLEY: All right. They are  
15 admitted. Now, I'm not going to close the record. At the  
16 prehearing we had agreed that the record was going to stay  
17 open until the date of filing of reply briefs, which I  
18 believe is April 6th?

19 (Whereupon, the documents marked as  
20 OSBA's Statements Nos. 1, 2 Non-Proprietary  
21 Version and 2 Proprietary Version were  
22 received in evidence.)

23 MR. MacGREGOR: Seventh.

24 JUDGE BUCKLEY: Seventh, okay. Is there  
25 anything further today? Mr. Shields?

1 MR. SHIELDS: Your Honor, I neglected to  
2 indicate for the record that I provided the court reporter  
3 with two copies of the documents from OTS that were offered  
4 and admitted into the record this morning.

5 JUDGE BUCKLEY: All right. So noted. Mr.  
6 MacGregor?

7 MR. MacGREGOR: I guess I move my documents  
8 subject to cross. I can't remember if you admitted them or  
9 not.

10 JUDGE BUCKLEY: They are in.

11 MR. MacGREGOR: Thank you.

12 JUDGE BUCKLEY: All right. Anything else?

13 (No response.)

14 JUDGE BUCKLEY: Okay. Two things. First of  
15 all, when we get to the point where we file the settlement,  
16 I can't stress enough how important the supporting  
17 statements are going to be in this case. And I think I  
18 have given you an indication, sort of, of the issues that I  
19 believe -- well, I know that I am going to be examining,  
20 and I think the Commission, as well.

21 So, I encourage you to go back over the  
22 transcript and to file supporting statements. Of course,  
23 also recognizing that OSBA still have an issue outstanding.  
24 Mr. MacGregor?

25 MR. MacGREGOR: Just to keep the procedural

1 on track, what I propose to do, in order to get the  
2 stipulation filed as soon as possible, go ahead and get  
3 that filed and then have the statement in support filed  
4 simultaneously with the briefs. I mean, we have to wait  
5 for parties to get statements in support together before we  
6 file the stipulation; that might take substantially more  
7 time. I just wanted to make sure that that was okay, that  
8 the statement in support of the stipulation are filed  
9 concurrently with the initial briefs.

10 JUDGE BUCKLEY: Is that all right with you  
11 Mr. Shields and Mr. Mullins?

12 MR. MULLINS: Yes, Your Honor.

13 MR. SHIELDS: Yes, absolutely, Your Honor.  
14 That gives us more time to allow us to focus in on whatever  
15 we need to produce and submit the stipulation to Your  
16 Honor. That facilitates that; it gives us an opportunity  
17 to subsequently have better phrased statements in support  
18 than I think the records allows.

19 JUDGE BUCKLEY: Ms. Webb?

20 MS. WEBB: I'm hoping that the stipulation  
21 will speak for itself and that the statements in support  
22 won't change how the OSBA understands what is proposed. I  
23 am concerned that I won't have an opportunity to respond,  
24 although the statements in support shouldn't modify the  
25 document.

1 MR. MacGREGOR: Well, they can't modify it.

2 MS. WEBB: Right, they can't modify the  
3 document.

4 MR. MacGREGOR: So, I would suggest that --  
5 and I certainly wouldn't object, if there is any concerns  
6 about the statements of support.

7 MS. WEBB: Okay.

8 MR. MacGREGOR: You can do that and reply at  
9 the time of the reply brief, either in the reply brief or  
10 separate. Is that okay, Your Honor?

11 MS. WEBB: I will say that most  
12 communication with the parties, Your Honor, if the concern  
13 is raised, we will address it.

14 JUDGE BUCKLEY: All right. Now, Ms. Webb, I  
15 understand your concern and I'm not seeking to minimize it.  
16 I am hoping that it will not come down to that, but I also  
17 agree with Mr. MacGregor; you will be given an opportunity,  
18 if you feel you need to address something that is raised in  
19 the statement -- in any statement of support, that you will  
20 have that opportunity.

21 MS. WEBB: Thank you.

22 JUDGE BUCKLEY: Okay. Anything else?

23 (No response.)

24 JUDGE BUCKLEY: All right. Finally, I want  
25 to thank Mr. Beard for being here today. I want to thank

1 counsel for your professionalism. For me, this has been a  
2 very productive and informative hearing. I am happy that  
3 we have had the opportunity to go over these issues. I  
4 think it is going to make for a much better grasp of the  
5 issues. Having said that, it is 11:28 and we stand  
6 adjourned.

7 (Whereupon, at 11:28 a.m., the hearing was  
8 adjourned.)

9 \*\*\*

10 C E R T I F I C A T E

11 I hereby certify, as the stenographic  
12 reporter, that the foregoing proceedings were taken  
13 stenographically by me, and thereafter reduced to  
14 typewriting by me or under my direction; and that this  
15 transcript is a true and accurate record to the best of my  
16 ability.

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