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COMMONWEALTH OF PENNSYLVANIA **DEC 4 1985**

PUBLIC UTILITY COMMISSIONARY'S OFFICE
Public Utility Commission

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Pennsylvania Public Utility Commission, et al. :
vs. Philadelphia Electric Company. :
Investigation into a requested \$660 million :
annual rate increase. :

Docket No.
R-850152

Prehearing Conference

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Pages 1 through 46

Hearing Room 1
North Office Building
Harrisburg, Pennsylvania

Tuesday, December 3, 1985

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

BEFORE:

JOSEPH MATUSCHAK, Administrative Law Judge

APPEARANCES:

MARLANE R. CHESTNUT, Esquire
VERONICA SMITH, Esquire
DANIEL P. DELANEY, Esquire
P.O. Box 3265
Harrisburg, Pennsylvania 17120
(For PUC Trial Staff)

WALTER R. HALL, II, Esquire
DAVID B. MacGREGOR, Esquire
Morgan, Lewis & Bockius
One Logan Square
Philadelphia, Pennsylvania 19109
(For Philadelphia Electric Company)

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1 APPEARANCES (Continued):

2 DAVID WERSAN, Esquire
3 SCOTT J. RUBIN, Esquire
4 SUSAN PERKINS WESTON, Esquire
5 1425 Strawberry Square
6 Harrisburg, Pennsylvania 17120
7 (For Office of Consumer Advocate)

8 JOHN HANGER, Esquire
9 Community Legal Services
10 Law Center North Central
11 3638 North Broad Street
12 Philadelphia, Pennsylvania 19140
13 (For Consumers Education and Protective Assoc.,
14 Action Alliance of Senior Citizens,
15 Philadelphia Citizens for Action, and
16 Association of Community Organizations for
17 Reform Now)

18 ALAN R. SQUIRES, Esquire
19 900 Two Penn Center
20 Philadelphia, Pennsylvania 19102
21 (For Pennsylvania Business Utility Users Group)

22 ROBERT A. DiFILIPPO, Esquire
23 555 East Lancaster Avenue
24 St. Davids, Pennsylvania 19087
25 (For Pennsylvania Business Utility Users Group)

RAFAEL CAMINERO, Esquire
Room 1501
600 Grant Street
Pittsburgh, Pennsylvania 15230
(For United States Steel Corporation)

MICHAEL J. ETTNER, Esquire
General Services Administration (LK)
18th and F Streets, N.W.
Washington, D.C. 20405
(For U.S. General Services Administration)

1 APPEARANCES (Continued):

2 DAVID M. KLEPPINGER, Esquire
3 McNees, Wallace & Nurick
4 100 Pine Street
5 Harrisburg, Pennsylvania 17108
6 (For Philadelphia Area Industrial Energy Users
7 Group)

8 ZORI G. FERKIN, Esquire
9 Eleventh Floor
10 300 North Second Street
11 Harrisburg, Pennsylvania 17101
12 (For Governor's Energy Council)

13 CHARLES RAINEY, Esquire
14 Fifth Floor
15 1101 Market Street
16 Philadelphia, Pennsylvania 19107
17 (For City of Philadelphia)

18 MICHAEL L. BROWNE, Esquire
19 J. THOMAS MORRIS, Esquire
20 Reed, Smith, Shaw & McClay
21 1600 Avenue of the Arts Building
22 Broad and Chestnut Streets
23 Philadelphia, Pennsylvania 19107
24 (For SEPTA and AMTRAK)

25 EARLE H. O'DONNELL, Esquire
Suite 800
1666 K Avenue, N.W.
Washington, D.C. 20006
(For Occidental Chemical Corporation)

MARK WIDOFF, Esquire
LARRY SELKOWITZ, Esquire
129 State Street
Harrisburg, Pennsylvania 17101
(For University of Pennsylvania and
Utility Users Group)

C O N T E N T S

WITNESSES

DIRECT CROSS REDIRECT RECROSS

(None.)

E X H I B I T S

NUMBER

FOR IDENTIFICATION IN EVIDENCE

(None.)

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ADMINISTRATIVE LAW JUDGE JOSEPH MATUSCHAK: Good morning. May I have your attention please? This is the time and place for the prehearing conference in the matter of the Pennsylvania Public Utility Commission versus Philadelphia Electric Company at Docket R-850152.

In connection with that filing we have a number of complaints that have been filed; at C001, Philadelphia Area Industrial Energy Users Group; at C002, David M. Barasch, Consumer Advocate; C003, Consumers Education and Protective Association; C004, United States General Services Administration; C005, City of Philadelphia; C006, Utility Users Committee of Philadelphia, Inc. and Board of Trustees of the University of Pennsylvania; C007, National Railroad Passenger Corporation; C-008, Southeastern Pennsylvania Transportation Authority; C-009, Sears Roebuck and Company, John Wanamaker, Philadelphia J.C. Penny Company, Inc., Gimbel Brothers, Inc., Marshalls, Inc.; Individually and as members and representatives of Pennsylvania Business Utility Users Group.

Are there any other complaints that have been filed that we haven't listed?

(No response.)

JUDGE MATUSCHAK: Do the parties agree that these

1 various complaints be consolidated for hearing purposes
2 with the Commission investigation?

3 MR. HALL: The company does, Your Honor.

4 JUDGE MATUSCHAK: Are there any objections to the
5 consolidation of these complaints for hearing with the
6 Commission's investigation?

7 (No response.)

8 JUDGE MATUSCHAK: Hearing none, it is so ordered.

9 We have a petition to intervene on behalf of the
10 Governor's Energy Council staff. We have ruled on that
11 matter. Have the parties' counsel received a copy of that
12 ruling?

13 MS. FERKIN: Yes, we have, Your Honor.

14 JUDGE MATUSCHAK: We ruled in that case that we
15 granted the Governor's Energy Council, as contrasted from
16 the Staff, the right to intervene as a full party in this
17 proceeding.

18 We have a motion for admission pro hac vice for Earle
19 H. O'Donnell and Merrell Kramer, and a motion to intervene
20 on behalf of Occidental Chemical Corporation. Is there any
21 objection to the motion for admission in terms of these
22 counsel?

23 MR. HALL: Your Honor, I have not seen either motion
24 at this point. We received the motion of Occidental only
25

1 yesterday. I have not seen the other motion that you men-
2 tioned. We would like to take the opportunity to review
3 those before you rule, and potentially file an answer.

4 MR. O'DONNELL: Your Honor, they were served last week;
5 both documents were part of a single package. The motion
6 pro hac vice was attached to the motion to intervene.
7 Occidental is a customer of Philadelphia Electric; it is
8 also a prospective cogenerator. I don't believe that there
9 are any unusual issues. It is a routine intervention and
10 that we request an opportunity to have a decision today.

11 Part of the reason why it came in late, Your Honor,
12 was that Occidental has on several occasions requested a
13 copy of the rate filing from Philadelphia Electric. At a
14 meeting on October 16th they requested it. They requested
15 it in writing on October 21. They followed up with a phone
16 call in early November. They still haven't received the
17 rate filing; and is largely because the material has not
18 been furnished by PECO that the intervention was filed as
19 late as it was. Hearing schedules will commence shortly,
20 and counsel has the document. It is a short document, and
21 he's had a chance to at least briefly review it, and we would
22 ask for a decision, Your Honor, and a position from PECO.

23 JUDGE MATUSCHAK: We will take them separately. Is
24 there any objection to out-of-state counsel appearing for
25

1 Occidental in this proceeding?

2 MR. HALL: No, Your Honor, there is not.

3 JUDGE MATUSCHAK: Very well; the motion for appearance
4 of counsel is granted.

5 MR. O'DONNELL: Thank you, Your Honor.

6 JUDGE MATUSCHAK: What is the other objection, Mr.
7 Hall?

8 MR. HALL: Your Honor, the other objection is that
9 we have not had the opportunity to review the petition that
10 has been filed. I am not sure, based upon the limited
11 review that I have done, that it is a simple petition. As
12 I understand some of the issues that this cogenerator wishes
13 to raise, it relates to the questions of Commission cogenera-
14 tion policy and rates to be provided to cogenerators. I
15 am not, in my own mind, confident that those are appropriate
16 issues to be raised in a rate case of this nature, and I
17 would note that the Commission's rules do provide 20 days
18 for responses to petitions for intervention. Therefore,
19 we had not planned to deal with this matter at this time,
20 and we would very much appreciate, and believe would be
21 appropriate, for Your Honor to provide us with the opportu-
22 nity to respond on writing.

23 JUDGE MATUSCHAK: Very well. We will give you an
24 opportunity to respond, Mr. Hall, and we will defer ruling
25

1 on the matter.

2 MR. HALL: Thank you, Your Honor.

3 JUDGE MATUSCHAK: Are there any other preliminary
4 matters; any other motions to intervene or any other pre-
5 liminary matters?

6 (No response.)

7 JUDGE MATUSCHAK: If not, we can proceed. I would
8 like to hear from the parties concerning the discovery in
9 this matter. What are the wishes of the parties?

10 MS. CHESTNUT: Your Honor, Staff has attached a pro-
11 posed prehearing order to its memorandum which sets forth
12 Staff's suggestions for discovery matters. While we basi-
13 cally follow the procedures set forth in the Commission's
14 Rules of Procedure, there is one change which I would like
15 to bring to Your Honor's and the parties' attention. That
16 is paragraph number 5 which is on page 2 of the proposed
17 prehearing order.

18 The Rules provide that objections to discovery should
19 be filed within ten business days after receipt, and this
20 prehearing order, Your Honor, shortens that period and
21 allows five business days because of the compressed litiga-
22 tion schedule that we have in this case.

23 In addition we have discussed certain procedures to
24 make the discovery process more expeditious, such as
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1 requiring that work papers be attached to the testimony and
2 that work papers be attached to replies to interrogatories,
3 which would help to streamline the process. We understand
4 that this is an unusual case in terms of the number of wit-
5 nesses and the complexity of the issues, and we are concerned
6 that if the normal time limits for discovery are followed
7 there won't be a chance to adequately address the matters
8 in litigation.

9 Otherwise, our proposed hearing order is pretty
10 standard.

11 JUDGE MATUSCHAK: What change were you proposing?

12 MS. CHESTNUT: That objections to interrogatories be
13 filed in five days rather than ten.

14 I would like to add, Your Honor, that the Rules do
15 provide that that can be changed at the Judge's discretion,
16 and we respectfully request that Your Honor exercise that
17 discretion in this instance.

18 MR. HALL: Your Honor, we at the company do not object
19 to the Staff's request if it is understood that the five
20 business days should be from the date of receipt: in other
21 words, if we have five business days from the day that we
22 receive the interrogatory to deliver to the other side our
23 objections.

24 JUDGE MATUSCHAK: How would five working days be?
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MS. CHESTNUT: That's fine, Your Honor.

JUDGE MATUSCHAK: So then we won't get into the hassle of weekends or holidays.

I want to state that we don't intend to rule on any objections to any discovery procedures because we anticipate that upon those objections the parties can either agree or work something out. We don't intend to rule on any objections unless there is a motion to compel, because otherwise it would seem to me that we would be doing a lot of paper shuffling for an unnecessary resolution that the parties, themselves, can resolve or agree upon. So we will not rule upon any objections on interrogatories or discovery unless there is a motion to compel.

The parties have a copy of the suggested prehearing order?

MS. CHESTNUT: Yes, Your Honor. It was distributed to the parties at this prehearing conference this morning.

JUDGE MATUSCHAK: Have the parties been able to peruse the proposed order of the Staff?

MR. HALL: If Your Honor will give us just a second, we will quickly go through it.

JUDGE MATUSCHAK: We will give you time to review it. We will take a short recess of five minutes or so.

(Recess.)

1 JUDGE MATUSCHAK: On the record. May I state also
 2 that on the motion to compel that we will expect the parties
 3 to restate the interrogatory and the response, so we won't
 4 have to look around to try to find the references to interro-
 5 gatory responses. We expect you to attach the interrogatory
 6 and response to the motion.

7 MS. CHESTNUT: Your Honor, I would like to clarify.
 8 Is it correct that Your Honor does not wish to receive copies
 9 of interrogatories?

10 JUDGE MATUSCHAK: While we have in the past requested
 11 that interrogatories be served upon us, our files have become
 12 so thick that we would just as soon dispense with that. But
 13 we will require on a motion to compel that the interroga-
 14 tories and the response be restated so that we don't have
 15 to seek out those interrogatories.

16 I would also state, as you all know, the interroga-
 17 tories and their responses are not part of the evidence in
 18 this case, and if any party wishes an interrogatory and
 19 response to be a part of this proceeding and in evidence,
 20 it will be incumbent upon them to offer to have it admitted
 21 as an exhibit to this proceeding.

22 MR. HALL: Your Honor, if I may, I would simply like
 23 to offer three comments which I think are in clarification
 24 of the Staff's motion, and one which I think is a suggested
 25 amendment.

1 In paragraph 5 we have already requested, Your Honor,
2 and it was granted without Staff objection, that the time
3 period for objections to interrogatories shall be five
4 business days after the date that they are received. We
5 are answering interrogatories at this point after consulta-
6 tion with the major parties within 15 days after the date
7 of their receipt by us, and we would ask Your Honor to accept
8 that as the appropriate standard in terms of the time period
9 for this case.

10 Secondly, in paragraph 6 of the Staff motion I note
11 that there is no provision made for the filing of answers
12 to motions to compel. If any such motions were to be filed,
13 we would, on behalf of the company, expect to answer them
14 in writing and provide Your Honor an answer in a timely
15 fashion to permit resolution of the matter.

16 In paragraph 7 I would note that the Staff discovery
17 procedures state that a party's due date of testimony in
18 the event that interrogatories are late shall be postponed,
19 thus suggesting that that should be an automatic matter.
20 In past cases it has been my understanding that that is a
21 matter for the Judge to rule upon based upon whether the
22 delay really affects the party's ability and time to prepare
23 their responsive testimony, and I think that should be the
24 rule in this case, and I would suggest it.

25 Finally, I note in paragraph 8 that the Staff procedure

1 requires that all work papers be filed in support of written
2 testimony. The company doesn't have any objection to that,
3 but I would note that I would think that would apply to all
4 the testimony that the opposing parties would be filing in
5 this case, as the paragraph is written.

6 MS. SMITH: Your Honor, if I might add, that para-
7 graph is outside of what we normally present in these
8 various PECO proceedings, and that was based on the schedule,
9 and there is a comment on the attached schedule which directs
10 that the work papers must accompany the testimony. That
11 was basically in agreement among the different parties when
12 we were constructing the schedule, and I did insert that
13 as one of the ordering paragraphs, and it was intended to
14 apply to all parties.

15 JUDGE MATUSCHAK: What was your objection to 5, Mr.
16 Hall?

17 MR. HALL: In paragraph 5, Your Honor, I would ask
18 that Your Honor accept what has been the practice that we
19 have been following to date, with the agreement of the
20 parties, which is that interrogatory answers should be
21 provided by the company to the other parties such that they
22 are received by the other parties within 15 days after the
23 interrogatories are received by the company.

24 MS. CHESTNUT: Your Honor, the Rules of Procedure refer
25 to days after date of service, and in view of the compressed

1 time schedule, Your Honor, we don't think it is appropriate
2 to extend the already generous time for responses to inter-
3 rogatories. We think 15 days after service is sufficient
4 time.

5 MR. HALL: Your Honor, I would note that this is
6 kind of a meaningless argument. If, in fact, we do not pro-
7 vide the interrogatories to the other parties within 15
8 days after receipt, all that means is we mailed them so
9 the parties will get the interrogatories at the same time.
10 What we are committing to do, and asking that Your Honor
11 accept, is that 15 days after we receive the interrogatory
12 -- and sometimes it can take four or five or six days for
13 us to get interrogatories by mail from Harrisburg -- 15 days
14 after we get the interrogatory we will commit to getting
15 it into the other parties' hands. Otherwise, we will simply
16 mail it out, which is all the Rules provide for.

17 MS. CHESTNUT: Your Honor, I'm a little concerned in
18 this instance because of the fact that the company is
19 represented by numerous counsel and there have been problems
20 in this case already about addressing interrogatories to
21 the appropriate person, and how that person would deal with
22 it and distribute it. That's why we are concerned. We
23 don't want to make a big issue out of this, as long as we
24 get the interrogatories in a timely fashion.

25 JUDGE MATUSCHAK: Not only that, but we don't want to

1 go to the company to find out when they got it or when they
2 didn't get it, and who got it and who didn't get it. We
3 don't want to get into that hassle. We are going to provide
4 that interrogatories may be responded to within the 15 days
5 of service.

6 MR. SELKOWITZ: Your Honor, on that same point, on
7 behalf of the University of Pennsylvania and the Utilities
8 Users Group, I have a little problem with the 15 days, not
9 so much with rate structure witnesses because there is enough
10 time to formulate interrogatories, serve them and have them
11 answered before we have to cross-examine those gentlemen,
12 but on issues having to do with Limerick there already are
13 not 15 days left for most of those witnesses, and if the
14 company takes the full 15 days after service and mails them
15 back those fellows will be long gone before we have gotten
16 the answers to the interrogatories asking questions that
17 might be followed up on cross-examination or that they might
18 be in preparation for. I understand it has been the practice
19 in prior cases where if there are interrogatories for specific
20 witnesses that are going to be on the stand within a period
21 of less than 15 days that some arrangement is made to get
22 those responses to the questioning party in time to utilize
23 them for the cross-examination. I'm wondering if we can
24 have some sort of agreement as to that here.

25 JUDGE MATUSCHAK: We would suggest that counsel try

1 to respond even before the 15 days in the event that any
2 witness is to be cross-examined. We are not going to pre-
3 clude anybody from presenting their side of the case. If
4 the company should not respond in time for the cross-examina-
5 tion we are going to permit a response to that and ask the
6 company to present their witnesses for further cross-examina-
7 tion upon the interrogatory that is filed after the original
8 cross-examination. We are not going to preclude anybody
9 from developing their case.

10 MR. SELKOWITZ: Thank you.

11 JUDGE MATUSCHAK: We will find some way to resolve
12 that.

13 MR. HALL: Your Honor, if I could respond briefly to
14 Mr. Selkowitz' point: we will seek, to the extent that people
15 provide us with questions for witnesses who are going to
16 come up within 15 days, certainly to respond to those in
17 a fashion that would permit the cross-examination to go
18 forward. I would only ask that where that does occur you
19 note it in a cover letter or in some process or a telephone
20 call to those within my law firm who are working on that,
21 and we will certainly try to expedite that.

22 MR. SELKOWITZ: Thank you.

23 JUDGE MATUSCHAK: We would expect the parties to cooper-
24 ate with each other and save a lot of inconvenience of
25 recalling witnesses for other cross-examination, to try to

1 work something out.

2 MR. HALL: Your Honor, if I could ask the Staff and
3 Consumer Advocate and other parties in Harrisburg for one
4 other comment: in light of Your Honor's ruling that the
5 company shall respond to interrogatories within 15 days from
6 service, could I ask that the parties in Harrisburg serve
7 by delivery to our Harrisburg office? That would greatly
8 facilitate us in terms of getting the interrogatories and
9 responding to them. The parties should understand that we
10 can receive hundreds of interrogatories in a day, and it is
11 a very major process for the company to try to answer all
12 of these appropriately and correctly.

13 We have already received some 900, and in trying to
14 get timely answers out every little bit that we can get does
15 help us.

16 MR. KLEPPINGER: Mr. Hall, should those interrogatories
17 still be directed to Mr. Zeiter?

18 MR. HALL: Yes, but deliver them to our Harrisburg
19 office, and that will give us notice several days in advance
20 of their coming.

21 MS. SMITH: We have no objection.

22 JUDGE MATUSCHAK: Very well. We will expect counsel
23 to cooperate so that there is no misunderstanding.

24 MR. KLEPPINGER: Your Honor, I have further comment
25 on the prehearing order proposed by the Staff. On behalf

1 of the Philadelphia Area Industrial Energy Users Group,
2 in paragraph 9 I note that the other parties must respond
3 to PECO's interrogatories within seven days of the date of
4 service. I understand we are on a compressed hearing
5 schedule, but that becomes difficult with consultants located
6 out of town. I would like to see it expanded to ten days
7 and specify that it is ten business days from the date of
8 service. Business days are not specified in paragraph 9.

9 MR. HALL: I would object to that, Your Honor. If
10 Your Honor were to grant that provision, and if Your Honor
11 were to look at the schedule in terms of the time period
12 the company has between the dates of submission of opposing
13 party testimony and cross-examination there really is only
14 about 12 or 13 business days. So if the company were to
15 ask some questions and then Mr. Kleppinger were to take ten
16 business days to respond, there is no way the company would
17 have the answers available for cross-examination purposes.

18 JUDGE MATUSCHAK: Do you have any objection, Mr. Hall,
19 to ten days?

20 MR. HALL: I would like to see the provision left as
21 it is with regard to seven calendar days. That provision
22 was developed in discussions with the Staff and I believe
23 some other parties, principally in light of the time period
24 allowed for the company to review and develop cross-examina-
25 tion on the Limerick-related issues. There really is not

1 a lot of time in the schedule for that.

2 JUDGE MATUSCHAK: We will leave the seven days, Mr.
3 Kleppinger, and in the event of any unusual circumstances
4 you can make application for an extension.

5 MS. SMITH: Your Honor, if I may just comment; on that
6 one of the thoughts was that the seven days was based upon
7 any party not receiving an inordinate amount of discovery,
8 for instance getting served 200 interrogatories or something
9 of that nature and be expected to answer 200 in seven days.
10 It was based upon a reasonable amount of discovery done on
11 a particular party, and that if substantial discovery was
12 done that that would be subject to some negotiation between
13 the parties.

14 JUDGE MATUSCHAK: We expect that in all these cases
15 counsel will cooperate with each other as much as possible.
16 We don't want counsel to burden us with any more work than
17 necessary.

18 MR. KLEPPINGER: Does this provision apply only to
19 Limerick issues, or to all issues and all testimony?

20 MR. HALL: We have no difficulty, Your Honor, if you
21 wish to order ten days for other than Limerick issues. The
22 seven days was developed specifically related to the time
23 period for Limerick issues.

24 JUDGE MATUSCHAK: Does Staff have any response?

25 MS. CHESTNUT: Could we have just a moment?

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JUDGE MATUSCHAK: Yes.

(Pause.)

MS. SMITH: Your Honor, what I wanted to do, if I may, was I wanted to review the schedule to see how much time frame there was between the time of presentation by the parties of testimony and when the cross-examination would take place, and there is substantial amounts of time in-between. For instance, on rate structure, which affects most parties, the testimony from the intervenors would be due January 22nd, and the cross-examination wouldn't be until February 18th. I frankly don't see why we can't go back to the regular 15-day schedule for our responding to interrogatories on non-Limerick issues. The compressed schedule applies basically to the Limerick issues, and that is where we have the most problems, and that's where the most substantial discovery comes in. I think perhaps the seven days should be limited only to the Limerick issues, and then go to the normal interrogatory response time under the Rules.

MR. MacGREGOR: Your Honor, the company would have no objection to that provided that the parties cooperate as in other areas in providing answers more promptly if necessary to a particular question.

MS. SMITH: That's all right with us.

JUDGE MATUSCHAK: The seven days would apply only to Limerick, with the Limerick issues, and on non-Limerick

1 issues we would follow the normal rule, which is 15 days.

2 MR. KLEPPINGER: The only remaining point on that,
3 Your Honor, would be whether the seven days are business
4 days or calendar days. The order, itself, does not specify
5 that.

6 MS. SMITH: We put the seven days in not being business
7 days because of the compressed time schedule. When we were
8 counting the seven days on the schedule we looked at that.

9 JUDGE MATUSCHAK: Are there any other matters with
10 regard to discovery?

11 MR. ETTER: Your Honor, one point of clarification: does
12 the requirement that intervenor testimony be supported
13 by work papers apply just to the Limerick-related testimony,
14 or to all the testimony?

15 MR. HALL: Again, the company's request and desire
16 is that it apply to Limerick issues. We don't take a posi-
17 tion as to whether it should be other issues, and in fact
18 I think that might be counterproductive. So really our
19 interest is only that it be Limerick issues. I think there
20 is time for discovery otherwise.

21 MS. SMITH: So then paragraph 8 would be amended to
22 apply to Limerick issues.

23 JUDGE MATUSCHAK: Is it the desire of counsel that
24 the work paper requirement be limited to the Limerick issues?

25 MS. SMITH: Yes.

1 JUDGE MATUSCHAK: Is that your understanding?

2 MR. HALL: I'm sorry, Your Honor.

3 JUDGE MATUSCHAK: That work papers in the requirement
4 in paragraph 8 be limited to Limerick issues?

5 MR. HALL: Yes, but I think I should add one clarifica-
6 tion. In the discussions that we had with Staff and in our
7 concept, Limerick issues include all of the Limerick economic
8 and prudency issues and also the phase-in issue, the level of
9 the phase-in, those three areas of issues.

10 JUDGE MATUSCHAK: Very well.

11 MR. HALL: Your Honor, I think the only other matter
12 that remains under the discovery rules was the company's
13 request that paragraph 7 be amended to rather than say "shall
14 be postponed" with regard to the due date of opposing testi-
15 mony in the event an interrogatory is late --

16 JUDGE MATUSCHAK: Where is that?

17 MR. HALL: Paragraph 7 of the Staff proposed order.
18 That paragraph as it presently reads says that testimony
19 shall be postponed if in fact interrogatories are answered
20 late, and we would like that to read "may be postponed," to
21 give Your Honor the discretion to entertain a motion by the
22 affected party and to evaluate whether there really has been
23 significant harm.

24 JUDGE MATUSCHAK: Yes, we will make that change in that
25 so that we have some control over the situation.

1 MR. SELKOWITZ: One further clarification, if I might,
2 Your Honor. On the question of serving Limerick-related
3 work papers, could we ask all the active parties to advise
4 us as to whether everyone wants copies of all the work papers
5 or just the company or the Staff or whoever wants it. It
6 seems to me that you are talking about a lot of paper going
7 to people who may not care about spending any time working
8 on this. So I would ask that we be advised by the active
9 parties if they want all these work papers. Otherwise, we
10 will provide them to the Staff and the OCA and the company.

11 MS. CHESTNUT: Your Honor, after the prehearing con-
12 ference perhaps the parties could get together and discuss
13 the numbers of copies of discovery and what each party wants
14 in the way of discovery, because I'm sure that there are
15 parties that don't want everything, and we can discuss that
16 among ourselves, if that's agreeable.

17 JUDGE MATUSCHAK: We will leave it this way, Mr.
18 Selkowitz, that all parties are entitled to all copies of
19 any interrogatories, unless you can have that excused.

20 MR. SELKOWITZ: I would agree with that suggestion
21 to meet afterwards and try to work that out.

22 JUDGE MATUSCHAK: Yes.

23 MR. SELKOWITZ: Thank you.

24 JUDGE MATUSCHAK: One other thing; what was the five
25 days that you referred to in paragraph 5 before, Ms. Chestnut?

1 MS. CHESTNUT: Your Honor, that referred to objections
2 = to interrogatories.

3 JUDGE MATUSCHAK: Very well.

4 If there is nothing further with discovery, we have
5 a motion --

6 MR. HANGER: Your Honor, can I raise one other pre-
7 liminary matter?

8 JUDGE MATUSCHAK: Very well.

9 MR. HANGER: My name is John Hanger. I represent the
10 Consumers Education and Protective Association. I have
11 attached to the prehearing statement of my client a proposed
12 bill insert that we request that you order Philadelphia
13 Electric Company to include in its monthly billings. I have
14 brought a copy of that insert to the company, and I read
15 it to Mr. MacGregor yesterday, the proposed language.

16 JUDGE MATUSCHAK: Who do you represent?

17 MR. HANGER: Consumers Education and Protective
18 Association, Your Honor, C003.

19 JUDGE MATUSCHAK: What is it you want us to do at this
20 time?

21 MR. HANGER: I would request that you order the Phila-
22 delphia Electric Company to include in its monthly billings
23 the proposed bill insert, and that proposed bill insert
24 is attached to our prehearing statement. The purpose of
25 the insert is to inform members of the public of the dates,

1 times and places of the public hearings that will be
2 scheduled to give the public a chance to make input into
3 these proceedings. We believe it is imperative that the pub-
4 lic have every opportunity to know about those public
5 hearings and to participate in those hearings, and we also
6 believe that this is the best method to inform the public
7 of those hearings.

8 MR. MacGREGOR: Your Honor, the company would object
9 to CEPA's billing insert proposal for two reasons. The
10 company in general supports broad notice to customers of
11 public input hearings and shares CEPA's concerns in that
12 regard. However, the company does not believe that the bill
13 insert is an effective or useful way to accomplish that goal.

14 First, we do not believe that it is effective in that
15 the company's residential billing cycle occurs on a 20-day
16 cycle, and if we serve the bill insert through the bill some
17 customers will receive notice far in advance of the hearings
18 and other customers will not receive notice until a date
19 very close to the public input hearing.

20 The company tried the bill insert as an experiment
21 in the Limerick II investigation, and I believe the Commis-
22 sion Staff performed a study during the course of that case
23 to determine the effectiveness of the bill insert. Based
24 upon that study and the turnout at the public input hearings
25 in the Limerick II case, Judge Turner in her recommended

1 decision concluded that the bill insert method of notice of
2 public input hearings may not be particularly useful in
3 large well-publicized cases of this type.

4 Secondly, and of equal importance, the use of the bill
5 insert significantly reduces the flexibility in scheduling
6 the public input hearings. It takes at least 30 days, if
7 not more, for the company to prepare the inserts, have them
8 stuffed in the bills and sent out on the 20-day billing cycle
9 in providing those to the customers, and once those dates
10 are set neither the time, place or location of the hearing
11 can be changed.

12 The company ran into a significant problem in that
13 regard in the Limerick II investigation in the Doylestown
14 hearing where the location of the hearing had been changed
15 after the notices had been printed up and distributed in
16 the bills. That led to substantial customer confusion about
17 the location of the hearing. Buses had to be hired to drive
18 people from one location to the other. It was not a produc-
19 tive situation for ratepayers or for the company or for the
20 Commission.

21 We believe that newspaper ads and other advertisements
22 for the public input hearings provide substantial notice
23 to customers and produce as substantial turnout at the public
24 input hearings as the bill insert. There has been concern
25 in several recent cases that Commission news releases would

1 not be picked up or published by the media. To alleviate
2 that concern the company is willing to undertake the expense
3 and the effort of publishing newspaper notices with respect
4 to public input hearings, using a form of notice that can
5 be negotiated among the parties. But we don't think the
6 bill insert is a good idea in this case.

7 JUDGE MATUSCHAK: Does Staff have any comment?

8 MS. SMITH: Your Honor, Mr. MacGregor is correct. We
9 did try a bill insert program in the Limerick II proceeding,
10 and he is also correct that a problem did develop with
11 respect to Doylestown where there was a change of location
12 at the last minute, and there was some bad feelings by some
13 individuals who showed up at the public input hearing.

14 As a whole, I am not opposed to a bill insert. The
15 only thing we would have to do is ensure that those dates
16 and places are firm.

17 JUDGE MATUSCHAK: We don't think that's the most
18 efficient way of giving notice to the public for two reasons.
19 In the first place, we don't want to be precluded from
20 responding to requests for public input hearings on very
21 short notice; and, secondly, we have a Bureau of Consumer
22 Services and we have the complainants, themselves, and with
23 the agreement of counsel for the Philadelphia Electric
24 Company to provide for advertising in newspapers of any
25 public input hearing we think that that should suffice.

1 MR. HANGER: Your Honor, we are very concerned that
2 the company's placement of those advertisements is out of
3 their control.

4 JUDGE MATUSCHAK: We would suggest that the counsel
5 confer with the Philadelphia Electric Company and see if
6 they can arrive at a suitable public notice advertisement.

7 MR. HANGER: The point is not the content of the
8 notice. The point is that the newspapers, themselves, often
9 have discretion as to where those newspaper ads are placed,
10 and often, unfortunately, those ads are placed in very
11 inconspicuous locations.

12 JUDGE MATUSCHAK: In addition to the advertisements,
13 I think that this matter will engender enough public sentiment
14 to the media that they will provide prominent free space
15 on any proposed public input hearing. At least that would
16 be our observation, from our experience in a case of this
17 kind, that the media would be eager to provide some news
18 response to the public input hearings.

19 MR. WERSAN: If I may, Your Honor, I am David Wersan
20 from the Office of Consumer Advocate. I recognize that Your
21 Honor has ruled, but I would like to go on record that the
22 Office of Consumer Advocate supports the motion for a bill
23 insert. I would note that Judge Turner stated in her opinion
24 that the bill insert was the single largest source of notifi-
25 cation listed in the survey that was taken, but felt that,

1 considering the notoriety of the case, it may not have added
2 significantly. However, on the second point, I think the
3 fact of the flexibility in scheduling hearings could be
4 dealt with in the bill insert stating that there will be
5 public input hearings and that the company will be publish-
6 ing them in the newspaper, and to watch for them, because
7 I don't think that most people know to look for them, and
8 I do know in the previous Philadelphia Electric rate case
9 that the company agreed to put in the newspaper ads on this
10 and they were placed in the business section of the paper
11 initially, and there was some complaint about that in that
12 their notification wasn't very effective, at least from the
13 Consumer Advocates' point of view.

14 JUDGE MATUSCHAK: We will suggest to counsel for
15 Philadelphia Electric Company that the advertisements inso-
16 far as possible be placed in the general news portion of
17 the paper rather than on the sports page or the business
18 page.

19 In addition to that, our observation has been that
20 many times these inserts that you put into bills -- I have
21 gotten them myself and you know what I do with them. So
22 I don't think they are as effective as they probably should
23 be. I think they should be effective, but I don't think
24 as a practical matter that they get the response.

25 I would encourage the Consumer Advocate and the counsel

1 for the other consumer groups to contact, themselves, the
2 media and make certain that the appropriate information is
3 furnished to the public.

4 MR. O'DONNELL: Your Honor, may I ask for a clarifica-
5 tion of your earlier order with respect to Occidental
6 Chemical's intervention?

7 JUDGE MATUSCHAK: I can't hear you.

8 MR. O'DONNELL: I would like to request a clarification
9 of your order respecting the motion to intervene of Occi-
10 dental Chemical Corporation.

11 JUDGE MATUSCHAK: We deferred that until we get the
12 response.

13 MR. O'DONNELL: Yes, Your Honor. I understand that.
14 I was seeking to have a date set for responses. As the
15 parties have noted, this is an extremely compressed time
16 schedule, and were the normal 20 days to elapse before a
17 response was filed we might be well towards the end of
18 Decmeber before a decision was made.

19 JUDGE MATUSCHAK: I will ask Mr. Hall if he can
20 expedite his response.

21 MR. HALL: Your Honor, we will do our best to get the
22 response in, shall we say, by next Wednesday, and we will
23 treat any requests made by Occidental as though they were
24 a party until Your Honor rules.

25 JUDGE MATUSCHAK: Is that satisfactory?

1 MR. O'DONNELL: Yes, Your Honor.

2 There is one other issue, and I'm not sure if this is
3 the appropriate time to raise it. The issues raised in our
4 motion to intervene were primarily retail rate issues. They
5 relate to the retail rates that cogenerators pay. Given the
6 fact that no decision on our intervention will be decided
7 and the nature of that issue, would it be appropriate for
8 that to be addressed, if it is properly within the scope of
9 this hearing, in the rate structure phase of the hearing,
10 which is the last step in the process?

11 What I am requesting is there are four different dates
12 for filing of testimony, depending on the issue, and the
13 last one in all cases is rate structure. We believe that
14 it belongs in the rate structure phase, and that also is
15 important given the fact that we plan on hiring consultants
16 but can't really do so until the intervention has been acted
17 upon, and that will naturally be --

18 JUDGE MATUSCHAK: Do you have any objection, Mr. Hall,
19 to the issue being considered in the rate structure portion
20 of the hearing?

21 MR. HALL: If the issue as it has been defined by
22 counsel for Occidental is simply a question of given a given
23 level of revenue requirement for the company, and none of
24 Occidental's positions challenging that revenue requirement,
25 however; but simply how much should Occidental pay as compared

1 to residential customers or industrial customers or what-
2 have-you, or how much should a cogenerator pay given its
3 usage characteristics, then, yes, that is a rate structure
4 issue and I have no objection.

5 If Occidental is going to challenge such issues as
6 the company's capital costs, the cost of Limerick, whether
7 Limerick should be in rate base, whether Occidental should
8 have to pay costs associated with Limerick, then that is
9 not a rate structure issue and should be in other areas of
10 the case.

11 MR. O'DONNELL: Your Honor, perhaps we could leave
12 it this way, that the issues relating to the rate design
13 and other elements of cost as they are to be passed through
14 in this particular tariff would be considered rate structure;
15 and if Occidental is going to address the other issues that
16 have been enumerated we will address them in the appropriate
17 phase of the hearing.

18 MR. HALL: I'm sorry; I didn't catch that.

19 MR. O'DONNELL: What I'm saying is that to the extent
20 that we go beyond issues related to the allocation of costs,
21 the rate design and the like, as part of our case, we will
22 do so in some other phase.

23 MR. HALL: That is all right.

24 JUDGE MATUSCHAK: I think that is satisfactory. Very
25 well.

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We have a motion filed by Commission Staff.

MR. DELANEY: Your Honor, I'm Dan Delaney. I represent the Trial Staff in this case. We filed the motion several weeks ago. This morning Mr. Hall informs me that the company plans to file an answer at the end of the week. If you wish to entertain oral argument on this, I suggest that perhaps we could do it the morning of the first hearing day. I would note to the other parties that we served the motion on the parties that we could identify at the time it was prepared. We will be glad to provide additional copies to those parties interested in receiving this.

MR. HALL: That is a correct statement.

JUDGE MATUSCHAK: We have not ruled on it because we have not gotten your answer.

MR. HALL: Your Honor, we will file the answer on Thursday, and I will be happy to be available for oral argument on Tuesday morning.

JUDGE MATUSCHAK: We do note that in the Limerick hearing there were 39 hearing dates, and we certainly don't want to get involved in a prolonged investigation of that matter.

However, we will wait to get the answer, and I think at the first hearing date we will expect counsel to argue that.

MR. HALL: I would note, Your Honor, that we strongly

1 object to the motion. We believe that it is based upon very
2 erroneous legal assertions and grounds.

3 MR. DELANEY: Your Honor, if you wish to entertain
4 oral argument, we would like to have the hearing day start
5 at 9:30 rather than at 10:00. I would have a very brief
6 oral argument.

7 JUDGE MATUSCHAK: We haven't taken up the schedule
8 yet. Let's wait until we confirm the schedule to see about
9 that.

10 MR. SQUIRES: If Your Honor please, I have a preliminary
11 matter. I am Alan Squires, here on behalf of the Pennsylvania
12 Business Utility Users Group. Our complaint was just filed
13 on November 27th, and as such we have had no knowledge of
14 Your Honor's order with regard to the filing of a pretrial
15 memorandum. Our participation in the case would be limited
16 to the rate structure issue, and as such we would just like
17 a minimal amount of time in which to file such a pretrial
18 memorandum indicating what issues we want to attack and any
19 witnesses that we wish to present.

20 JUDGE MATUSCHAK: How soon can you have your memorandum?

21 MR. SQUIRES: Within five days.

22 JUDGE MATUSCHAK: Very well. We will give you five
23 days to file that memorandum.

24 Have all parties been able to check the proposed
25 schedule that Staff has presented?

1 Let's go off the record.

2 (Discussion off the record.)

3 JUDGE MATUSCHAK: We will take a ten minute recess
4 to allow counsel to consult with each other about the
5 schedule.

6 (Recess.)

7 JUDGE MATUSCHAK: Do counsel have any comments to make
8 on the proposed schedule?

9 MR. MacGREGOR: Your Honor, the schedule that is
10 attached to the Staff's prehearing memorandum is one that
11 was negotiated with the company, the Consumer Advocate and
12 some of the other parties, and it is I believe identical
13 to the schedule that is attached to the company's prehearing
14 memorandum. At least my rough check of it showed it to be
15 the same. So the company has no objection.

16 JUDGE MATUSCHAK: Do any other parties have any
17 comments?

18 (No response.)

19 JUDGE MATUSCHAK: If not, we will direct the schedule
20 as proposed by Staff be provided as the working rules in
21 this investigation.

22 MR. MacGREGOR: Your Honor, I also have, based upon
23 conversations with certain of the parties, developed a
24 schedule of which company witnesses will appear upon which
25 hearing dates for the first two weeks of hearings. That

1 is the hearings on the 10,11, 12 nd 13th, and the 16th through
2 the 20th, and also the hearings on January 6th through the
3 9th. I could review those now with the parties so that every-
4 one knows which witnesses will appear on which days.

5 JUDGE MATUSCHAK: You might do that so that the parties
6 will know whether they want to be present for particular
7 hearings.

8 MR. MacGREGOR: Thank you, Your Honor. On January
9 10th we have scheduled Mr. Brennan, Mr. Solecki, and Mr.
10 Smith, and Mr. Hill will be available to the extent that
11 we are able to get to him on that day.

12 JUDGE MATUSCHAK: Is that January the 10th?

13 MR. MacGREGOR: December the 10th, Your Honor.

14 On December the 11th we have Mr. McLeod, Mr. Wright,
15 Mr. Wroblewski, and again Mr. Hill is available throughout
16 this week on the 10th, 11th, 12th and 13th to the extent
17 that we have time to get to his cross-examination.

18 On the 12th we have scheduled Mr. Carroll, Mr. Cotton,
19 and Mr. Sileo.

20 On the 13th we have Mr. Farling, Mr. Williams on the
21 phase-in portion of his testimony, and again Mr. Hill will
22 be available to the extent we have not completed him earlier.

23 On the week of the 16th we will begin on the 16th with
24 Dr. Hieronymus, then Mr. Rush, Dr. Perl, Mr. Wile; on the
25 17th Mr. Hoch, Mr. Guth, Mr. Boyer; on the 18th Mr. Kemper,

1 Mr. Soppet, Mr. Clary, Mr. Sproat and Mr. Helwig.

2 On the 19th will be the witnesses from Theodore Barry
3 and Associates, Mr. Mattson; and on the 20th Mr. Paquette
4 and Mr. Abrams.

5 The days of December 30th and 31st are reserved for
6 carry-over witnesses primarily. If during the first weeks
7 of hearings if we don't finish with the non-Limerick portion
8 of the case witnesses can carry over into those two days,
9 and then certain witnesses, if necessary, on the Limerick
10 issue can carry over into that time frame as well.

11 On January 6th through the 9th is the rate structure
12 cross-examination of Mr. Williams, and the cross-examination
13 of Mr. Sundermeir.

14 That covers all of the company witnesses, Your Honor.

15 JUDGE MATUSCHAK: Very well.

16 MR. HALL: Your Honor, if I might, I have three
17 comments, one about the schedule and about some of the
18 witnesses.

19 JUDGE MATUSCHAK: Go ahead.

20 MR. HALL: The witnesses of Theodore Barry and
21 Associates are available on the 19th and 20th. In other
22 words, they would not be available to carry over to the 30th
23 and 31st, simply so the parties are aware of that. We would
24 need to deal with them on those two days, the 19th and 20th.

25 JUDGE MATUSCHAK: Very well. The parties will please

1 note that.

2 We have the matter of public input hearings. we have
3 received a request from Senator Bell to have a public input
4 hearing in Media on a Thursday or Friday afternoon.

5 Primarily we would like an understanding as to just
6 how we should proceed with the public input hearings. We
7 would like to have somebody who would be responsible, and
8 all requests could be directed to that person so we can keep
9 a tab on this issue. Would Staff agree to receive the
10 public input requests of any interested parties, and to make
11 suggestions as to time and place for those public input
12 hearings?

13 MS. SMITH: Your Honor, I would be willing to accept
14 that on behalf of Staff. I would note that the suggestions
15 should come in very quickly, and that one of the things that
16 they have to realize is that suggestions have to be submitted
17 to the Commissioners, themselves, for verification of whether
18 or not they would be attending and what days they would
19 prefer also.

20 JUDGE MATUSCHAK: We would request the Staff, together
21 with Consumer Services, to cooperate to the extent of merging
22 and consolidating any requests so that all parties can have
23 an opportunity to have their interested parties become
24 involved in this proceeding; and also for the Commission and
25 Consumer Services to inform the Commission and get the

1 Commission's viewpoint before suggesting hearing dates,
2 so then in the event the Commissioners want to attend the
3 dates may be fixed for a time appropriate for their appear-
4 ance.

5 Will all the consumer groups especially note that and
6 keep in touch with the Staff in trying to arrange some
7 satisfactory schedule; as early as possible, I might suggest,
8 early in the hearing before we get too far into the hearings
9 process.

10 MS. SMITH: That is all right.

11 MR. WERSAN: We will do that.

12 JUDGE MATUSCHAK: We would want the benefit of public
13 input before we go too far into the hearing process.

14 MS. SMITH: Your Honor, a related issue is the location
15 of the evidentiary hearings. Staff would suggest, as a
16 general matter, that on the days when there will be public
17 inputs scheduled in the evenings in the Philadelphia Electric
18 Company service territory that the hearings, if possible,
19 be held in Philadelphia on those days.

20 JUDGE MATUSCHAK: We will expect Staff to consult with
21 the other consumer groups and other parties that might be
22 interested in public input hearings, and Legislative Repre-
23 sentatives and Senators who may be interested, as well as
24 the Commission, itself, and then propose dates and places
25 for the hearings.

1 If there is any difficulty then the parties can come
2 back to us with any further arrangements.

3 MR. WERSAN: Your Honor, have you established where
4 the hearings for cross-examination of the company witnesses
5 will be?

6 JUDGE MATUSCHAK: What is the wish of counsel in this
7 matter? Staff is probably going to suggest that all the
8 hearings be held in Harrisburg.

9 MS. CHESTNUT: No, Your Honor.

10 MS. SMITH: Your Honor, may we have a moment to consult
11 on that?

12 JUDGE MATUSCHAK: Yes.

13 (Discussion off the record.)

14 JUDGE MATUSCHAK: Back on the record.

15 After some off the record discussion it has been agreed
16 among counsel that the hearings on December 10th through
17 the 13th and December 16th through the 20th and December
18 30th and 31st be held in Harrisburg, and that the hearings
19 of January 6th through the 9th and the 21st and 22nd be held
20 in Philadelphia, and that we defer the location of the
21 subsequent hearings until we have more information on the
22 location and the dates of the public input hearings.

23 Does that meet the concensus of counsel?

24 (No response.)

25 JUDGE MATUSCHAK: Very well.

1 With the first notice of the hearings we will have
2 the staff of the Office of Administrative Law Judges issue
3 a hearing schedule which will include hearings from December
4 10th through the 22nd, so that counsel will know what the
5 schedule is. However, for the other dates we will issue
6 a schedule after we determine the locations.

7 Are there any other matters to come before us at this
8 time?

9 MR. HALL: Your Honor, I just have a few miscellaneous
10 comments to make about the company's prehearing memorandum.
11 There are a couple of matters in the memorandum that I
12 simply would like to call to the attention of the parties
13 and to correct to a minor degree. In the listing of wit-
14 nesses on PECO Statement Number 8, the testimony submitted
15 by Theodore Barry and Associates, you will note that the
16 witnesses listed are Mr. Kononetz and Mr. Ted K. Osborn
17 and Mr. Thomas J. Madden. The statement that was
18 circulated and filed with the company's direct case listed
19 Mr. Love and Mr. Kononetz. Due to illness, we do not believe
20 that Mr. Love will be available to us. Therefore, we are
21 using two other individuals from Theodore Barry. We will
22 be submitting their credentials, statements and a further
23 description of the need for this change to the parties in
24 the next day or so by letter.

25 In addition, the prehearing conference memorandum

1 lists three witnesses, potential witnesses with respect to
2 the Commission's proposal of a revision to the company's
3 energy cost rate in its ECR-8 order. We have not yet final-
4 ized essentially what our presentation will be with respect
5 to that matter. We may, in addition to the three witnesses
6 that have been presented, present one or more additional
7 witnesses who have not been identified at this time.

8 As soon as they are identified we will alert the parties
9 to that fact.

10 JUDGE MATUSCHAK: In that connection we would request
11 all counsel to consider the manner in which we should treat
12 that ECR matter that has been referred by the Commission to
13 be addressed in this proceeding.

14 MR. CHESTNUT: Your Honor, the Staff reserves the
15 right to amend its prehearing memorandum in response to the
16 testimony submitted by the company on that issue. We are
17 not quite sure who our witnesses will be yet since we haven't
18 seen the company's case.

19 JUDGE MATUSCHAK: We haven't had an opportunity to
20 review the statements.

21 MS. CHESTNUT: Then also there may have to be a change
22 in the hearing schedule to accommodate those issues.

23 MR. WERSAN: Your Honor, on the order on PECO ECR
24 from the Commission the time the order gave the company to
25 file a response, I believe, was 60 days, and that would

1 put it basically to the end of December, really after the
2 cross of most of the main company witnesses. While I
3 recognize that the Commission gave the company the full 60
4 days I would certainly request that the company file its
5 response to that order sooner, especially if they are going
6 to request any changes in the substance or manner in which
7 the ECR is going to be implemented other than what the
8 Commission ordered them to do, because otherwise we will
9 be getting fairly late in the case. There may be a need
10 to bring in additional witnesses if the company is going
11 to challenge the basis or the substance of that Commission
12 order for the ECR in these proceedings.

13 So, therefore, I guess I am asking for you to direct
14 the company to specify on what date they intend to reply
15 to that order.

16 MR. HALL: Your Honor, we intend to reply to the
17 order on December 29th. I'm afraid we will need that time
18 in order to reply to the order.

19 Our interpretation of the order is different from Mr.
20 Wersan's in that we don't believe the Commission has directed
21 a revised ECR as a final matter.

22 JUDGE MATUSCHAK: We are not going to preclude anybody
23 from responding to the company's response to that, so whatever
24 arrangements we have to make we will make. That's all.

25 MR. WERSAN: Thank you, Your Honor.

1 JUDGE MATUSCHAK: Are there any other matters that
2 we have not addressed?

3 MR. HALL: No, Your Honor.

4 JUDGE MATUSCHAK: Very well. On the hearing day
5 scheduled for December 10th, with the exception of December
6 10th, unless otherwise provided we would expect to meet
7 at 10:00. However, on the December the 10th date we would
8 like to meet at 9:30 so that we can argue the matter of the
9 motion of Staff.

10 MR. HALL: Does Your Honor desire oral arguemnt, or
11 is Your Honor only responding to the parties? I don't know
12 that the company feels the need for oral argument, and, of
13 course, the Staff can't determine that at this time until
14 they see our response.

15 JUDGE MATUSCHAK: Does Staff want to respond?

16 MR. DELANEY: That is at your pleasure. If you decide
17 for oral argument we will be glad to provide it. I would
18 like to see the company's response really, which won't be
19 until the end of the week. We might request the opportunity,
20 if they file a memo. or something, to respond to that.

21 JUDGE MATUSCHAK: Let's leave it this way then. We
22 will reverse ourselves and have all hearings scheduled at
23 10:00 unless otherwise advised. And rather than have oral
24 argument, I think it would be more to our benefit if Staff
25 would reply to the answer.

1 MR. DELANEY: All right, Your Honor.

2 JUDGE MATUSCHAK: If you would reply to the answer
3 of Philadelphia Electric to your motion.

4 MR. DELANEY: We will indicate to you the morning of
5 the first hearing our desire to respond to that when we
6 have reviewed the materials.

7 JUDGE MATUSCHAK: We will give you the right to reply
8 to the answer if you wish.

9 MR. DELANEY: Very well.

10 MR. HALL: I would note, Your Honor, that we may,
11 ourselves, wish to ask for oral argument once we see the
12 Staff's reply.

13 JUDGE MATUSCHAK: Very well. Counsel can keep us
14 advised.

15 MR. WESSAN: Your Honor, did you want to set up a
16 briefing schedule at this point, or do you want to wait
17 until later in the case?

18 MS. SMITH: Your Honor, if I may, when we made the
19 schedule we assumed the standard three weeks for main briefs
20 and the standard one week for reply briefs, and at that point
21 it would fall out from there. There are set patterns of
22 the Commission.

23 JUDGE MATUSCHAK: Let's go off the record.

24 (Discussion off the record.)

25 JUDGE MATUSCHAK: Back on the record.

1 I would direct that the main briefs be filed in this
2 proceeding, and will be served, on April 7th; and the reply
3 briefs on April 14th. And I would caution counsel that those
4 are dates of service and not dates of mailing, and we expect
5 to be served with those briefs, and the other parties to
6 be served with those briefs, on the dates mentioned.

7 MR. HALL: Thank you, Your Honor.

8 JUDGE MATUSCHAK: Are there any other matters to come
9 before us at this time?

10 (No response.)

11 JUDGE MATUSCHAK: If not, we will adjourn until 10:00
12 on December 10th, and we would encourage all parties, all
13 counsel, to cooperate in this effort and see that we are
14 able to conclude this matter within the time allotted, and
15 that all parties have an opportunity to present their
16 positions in this matter.

17 We thank all of you for your kind attention.

18 (Whereupon, at 11:45 a.m. the prehearing conference
19 was closed.)
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C E R T I F I C A T E

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

COMMONWEALTH REPORTING COMPANY, INC.

BY: Phyllis Glass

Phyllis Glass