



WITNESS INDEX

WITNESSES

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FORM 2

EXHIBIT INDEX

NUMBER

FOR IDENTIFICATION IN EVIDENCE

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FORM 2

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P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE DAVID A. SALAPA: Let's go on the record.

This is the time and place the Pennsylvania Public Utility Commission has set for a pre-hearing conference and mediation session on the case captioned Pennsylvania Public Utility Commission and Office of Consumer Advocate versus Needmore Water Supply Company, Inc., at Docket Nos. R-2008-2049231 and C-2008-2070289. I am Administrative Law Judge David Salapa. The Commission has assigned me to preside over this case and to render a decision for the Commission to consider. Also present this morning are the Commission's mediators, Mr. Herbert R. Nurick and Cynthia Lehman.

Appearing this morning on behalf of the Office of Trial Staff are Charles Daniel Shields and Carrie Wright; appearing on behalf of the Office of Consumer Advocate is Christine M. Hoover; and appearing on behalf of Needmore Water Supply Company, Inc. is Mr. Edmund J. Berger.

I have some items that I want to cover, and after we cover those items, I will take the information that we get and issue a scheduling order for this case. After we have concluded the pre-hearing conference, the court reporter and I will depart and the parties can commence a mediation session.

1           The first item that I would like to address, I have  
2 only one complaint from the Office of Consumer Advocate.  
3 Are any of the parties aware of any other complainants or  
4 are there any other parties that have filed any notices to  
5 intervene?

6           Mr. Shields.

7           MR. SHIELDS: Your Honor, as far as we know, the  
8 parties here present today are the only ones that are either  
9 statutory parties or filed a complaint.

10          JUDGE SALAPA: Mr. Berger.

11          MR. BERGER: We are not aware of any other  
12 complainants.

13          JUDGE SALAPA: Ms. Hoover.

14          MS. HOOVER: Your Honor, in the Commission's files  
15 there is a complaint that was received October 20 from Tammy  
16 and Jim Ifert, I-f-e-r-t. It's on the formal complaint  
17 form. There's also at least a letter that just says a  
18 formal letter complaint, but it's not on the Commission  
19 form, so I'm assuming that is not being treated as a formal  
20 complaint, but I do have the Ifert complaint.

21          JUDGE SALAPA: I'll have to double-check on that.

22          MR. BERGER: How do you spell that name?

23          MS. HOOVER: I-f-e-r-t, Tammy and Jim, I believe.

24          MR. BERGER: They are customers.

25          JUDGE SALAPA: Are you aware, Ms. Hoover, whether

1 this has a separate C docket number?

2 MS. HOOVER: I did not have a chance to check that,  
3 Your Honor.

4 JUDGE SALAPA: I will double-check that. If that  
5 turns out to be the case, we will add --

6 MR. BERGER: We never received the Commission's usual  
7 cover letter indicating a complaint had been filed.

8 JUDGE SALAPA: That's what concerns me, is that I  
9 don't have anything indicating that the complaint was ever  
10 served on the utility, so --

11 MS. HOOVER: Right. There's no indication when you  
12 look at the Commission's posting on the website either. It  
13 was just by going over to look in the documents folder that  
14 we found it. Interestingly, it has the R docket at the top  
15 rather than a C docket being assigned to it, so I don't know  
16 whether it was just inserted in the wrong part of the file,  
17 but I just wanted to bring that to your attention.

18 JUDGE SALAPA: We'll resolve this one way or the  
19 other and move on.

20 MR. SHIELDS: Your Honor, can I address that issue?

21 JUDGE SALAPA: Yes, please.

22 MR. SHIELDS: Perhaps the OCA or, if not the OCA, the  
23 OTS would volunteer to call the Iferts and explain that they  
24 haven't received a separate complaint docket as of yet,  
25 inquire whether they're interested. If they say no, then no

1 action is required and that would resolve the issue. Just a  
2 suggestion, Your Honor.

3 MS. HOOVER: I have no problem with contacting them.  
4 Basically, their complaint is related to the size of the  
5 increase. I would characterize it in that way. But I'll  
6 send it to everyone so you can all have it, and I would be  
7 happy to contact them as well.

8 JUDGE SALAPA: If you wouldn't mind. My concern, of  
9 course, is that they filed a complaint and apparently it was  
10 never served on the utility and never given a separate  
11 complaint docket number.

12 MS. HOOVER: And they did file it on the correct  
13 form.

14 JUDGE SALAPA: I'll have to do a little bit of  
15 research on that, find out what the status of that is.

16 The next thing that I have, I believe, Mr. Shields,  
17 you had indicated to me that you were going to make an oral  
18 motion regarding the consolidation of this case with the two  
19 affiliated interest filings, and I believe -- let me just  
20 double-check to make sure I have the correct docket numbers.  
21 Those would be the affiliated interest filings at Docket No.  
22 G-2008-2059942 and G-2008-2059944; is that correct?

23 MR. SHIELDS: Yes, that's correct, Your Honor.

24 JUDGE SALAPA: And you wish to move to consolidate  
25 consideration of those with this proceeding; is that

1 correct?

2 MR. SHIELDS: That is correct, Your Honor. I  
3 provided copies of both those complaints to Your Honor and  
4 the parties -- I should say we; I have OTS co-prosecutor  
5 Carrie Wright on the case. We provided copies to Your Honor  
6 and counsel and copies to the court reporter this morning.

7 It's our understanding that upon filing of the OTS  
8 complaint, that the Commission has not acted on the filing  
9 of the affiliated interest agreements. We deem them  
10 necessary to our review and, in fact, the Commission's  
11 review of the legitimacy of the rates sought in this base  
12 rate proceeding. We consider these issues of affiliated  
13 interest agreements as they relate to the individual claims  
14 of the company in this case to be necessarily required to be  
15 addressed in this proceeding. For that reason, Your Honor,  
16 we request that both complaints at the docket numbers you  
17 identified be consolidated for all purposes in this  
18 proceeding.

19 JUDGE SALAPA: Ms. Hoover, I assume you are joining  
20 in that request; is that correct?

21 MS. HOOVER: We support the OTS's motion, Your Honor.

22 JUDGE SALAPA: Mr. Berger, any comments?

23 MR. BERGER: No. We do not oppose the motion. We  
24 agree to the consolidation.

25 JUDGE SALAPA: Then if there's no dispute, I will

1 consolidate those two docket numbers with this proceeding.

2 The next thing I have involves a litigation schedule.  
3 Let's go off the record for a moment, please.

4 (Discussion off the record.)

5 JUDGE SALAPA: Let's go back on the record.

6 We had a brief off-the-record conversation regarding  
7 scheduling of this matter for litigation. The parties have  
8 agreed to the following schedule that was proposed by  
9 Needmore Water.

10 August 7, 2009, Needmore direct testimony will be  
11 due. August 28, 2009, other parties' direct testimony will  
12 be due. September 10, 2009, the parties' rebuttal testimony  
13 will be due. September 16, 2009, surrebuttal testimony will  
14 be due.

15 Hearings will be scheduled for September 17 and 18,  
16 2009. Main briefs will be due October 2, 2009, and reply  
17 briefs will be due October 9, 2009, with the record closing  
18 October 9, 2009.

19 That resolves the scheduling issue. Let me just  
20 check to see -- I don't see any indication that the parties  
21 wanted to modify any of the Commission's discovery rules or  
22 that there's any need for a protective order; is that  
23 correct?

24 Mr. Shields.

25 MR. SHIELDS: That's our understanding, Your Honor,

1 yes.

2 JUDGE SALAPA: Ms. Hoover.

3 MS. HOOVER: That's correct, Your Honor, although I  
4 do have a response to Needmore's request for other orders  
5 with respect to discovery.

6 JUDGE SALAPA: Mr. Berger.

7 MR. BERGER: The only request we made was that  
8 initial discovery end -- that additional discovery should  
9 only be filed in response to testimony submitted after June  
10 1 -- I have the wrong date in here. We've had a lot of  
11 initial discovery. We just don't think at this point that  
12 there's a need until after the testimony is filed. I'm  
13 willing to waive that if OCA has other discovery they feel  
14 they need to serve.

15 MS. HOOVER: I don't know whether I do or not, but I  
16 didn't want to be prohibited.

17 JUDGE SALAPA: Okay.

18 MR. SHIELDS: Your Honor, may I address that issue?

19 JUDGE SALAPA: Go ahead.

20 MR. SHIELDS: Philosophically, we're opposed in this  
21 or any other proceeding to some sort of drop dead deadline  
22 for limitation on discovery. Typically, if and when we have  
23 further discovery, it's of a minor nature and it's merely to  
24 pin down particular issues that hopefully would eventually  
25 facilitate the record. In any event, I'm not quite clear

1 what Mr. Berger's current representation is vis-a-vis that  
2 provision, but certainly if Your Honor establishes a date,  
3 we'll adhere to it, but we're not prepared to agree to one.

4 JUDGE SALAPA: My understanding was that Mr. Berger  
5 was withdrawing --

6 MR. BERGER: I'm willing to withdraw it.

7 MR. SHIELDS: Fair enough, Your Honor. Thank you.

8 JUDGE SALAPA: I guess it's a little bit early to ask  
9 what the issues are that are hanging this up, but I'm  
10 assuming from the parties' comments that they are going to  
11 strive mightily to resolve this matter so that it's not  
12 necessary to litigate it completely.

13 As always, parties may serve documents on me by  
14 e-mail with a hard copy to follow, and I assume the other  
15 parties will be serving each other by e-mail with hard copy  
16 to follow as well; is that correct?

17 MS. HOOVER: Yes.

18 MR. SHIELDS: Yes, Your Honor, that's our  
19 understanding, and we would accept electronic service with a  
20 follow-up hard copy by regular first class mail for any and  
21 all documents required to be distributed during the course  
22 of this proceeding.

23 JUDGE SALAPA: All right. I believe that's all that  
24 I have. I want to circle back on the complaint of the  
25 Iferts. OCA is going to contact them and find out what

1 their pleasure is in terms of participation or not  
2 participating. I am going to track down what happened in  
3 terms of why it wasn't assigned a docket number and why it  
4 wasn't served on the utility. You may see something coming  
5 that will indicate that it's been given a docket number and  
6 that it's been served. I don't know why this happened, but  
7 we'll get it straightened out.

8 I don't have anything else.

9 Mr. Berger, do you have anything?

10 MR. BERGER: No, I don't think so, Your Honor.

11 JUDGE SALAPA: Mr. Shields.

12 MR. SHIELDS: Yes. Just one housekeeping matter,  
13 Your Honor. Ms. Wright and I this morning provided  
14 Your Honor, the court reporter and the parties hard copies  
15 of our pre-hearing conference memorandum, which includes  
16 Ms. Wright as a co-prosecutor. That's consistent with an  
17 amended notice of appearance that OTS has filed with the  
18 Commission Secretary today adding her name to the list of  
19 counsel of record for this proceeding.

20 That's all I have, Your Honor.

21 JUDGE SALAPA: Thank you, Mr. Shields.

22 Ms. Hoover.

23 MS. HOOVER: Nothing else, Your Honor.

24 JUDGE SALAPA: I don't have anything else, so at this  
25 point the pre-hearing conference is adjourned and the

1 parties may commence with their mediation.

2 Thank you for your cooperation.

3 MR. BERGER: Thank you very much.

4 MR. SHIELDS: Thank you, Judge.

5 MS. HOOVER: Thank you.

6 (Whereupon, at 10:16 a.m., the pre-hearing conference  
7 was adjourned.)

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14 C E R T I F I C A T E

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

20 COMMONWEALTH REPORTING COMPANY, INC.

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22 By: Judith A. Valencik

23 Judith A. Valencik

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