

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ORIGINAL

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SBG Management Services Inc. :
: :
v. : C-2012- 2304167
Philadelphia Gas Works : C-2012 -2304183
: C-2012-2304215
Various Disputes : C-2012-2304303
: C-2012-2304324
Prehearing Conference : C-2012-2304324
-----x C-2012-2308454
C-2012-2308462
C-2012-2308465
C-2012-2334253

Pages 1 through 51 Fourth Floor
State Office Building
801 Market Street
Philadelphia, Pennsylvania 19107

Tuesday, August 13, 2013

Met, pursuant to notice, at 2:00 p.m.

BEFORE:

ERANDA VERO, Administrative Law Judge

APPEARANCES:

LAURETO A. FARINAS, Esquire
800 West Montgomery Avenue
Philadelphia, Pennsylvania 19122
(For Philadelphia Gas Works)

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Abington, Pennsylvania
(For SBG Management Services Inc.)

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P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE

1
2
3 ERANDA VERO: Good afternoon. This is the time for the
4 second prehearing conference in the consolidated cases
5 of SBG Management Services Inc./Marshall Square Realty
6 Company LP versus the Philadelphia Gas Works, at
7 docket number C-2012-2304303; SBG Management Services
8 Inc./Family Manor Realty Company LP versus
9 Philadelphia Gas Works at docket number
10 C-2012-2304215; SBG Management Services Inc./Aria
11 (Ph.) Garden Realty Company LP versus Philadelphia Gas
12 Works at docket number C-2012-2304167.

13 And the consolidated cases of SBG
14 Management Services Inc./Simon Garden Realty Company
15 LP versus Philadelphia Gas Works at docket number
16 C-2012-2304324; and SBG Management Services Inc./
17 Colonial Garden Realty Company LP at docket number
18 C-2012-2304183; SBG Management Services Inc./Colonial
19 Garden Realty Company LP at docket number
20 C-2012-2334253. And the consolidated cases of SBG
21 Management Services Inc./Elkland Court Realty Company
22 LP versus the Philadelphia Gas Works at docket number
23 C-2012-2308462; and SBG Management Services Inc./Fund
24 Rock Walk Realty Company LP versus the Philadelphia
25 Gas Works at docket number

1 C-2012-2308465. SBG Management Services Inc./Larchwood
2 (Ph.) Realty Company LP versus the Philadelphia Gas
3 Works at C-2012-2308454.

4 Okay. During this prehearing
5 conference I'm going to refer to these case as group
6 1,2, and 3 respectfully, and counsel is welcome to do
7 the same.

8 My name is Eranda Vero, I'm the
9 Administrative Law Judge assigned to preside over
10 these proceedings and issue an initial decision on
11 this complaint.

12 Present here this afternoon is
13 Francine Thornton Boone, Esquire -- is she?

14 MR. FARINAS: Your Honor, I'm
15 sorry I thought you assumed -- no, they are not here.

16 JUDGE VERO: I'm sorry, I never
17 met Ms. Boone. Okay. Let's go off the record for a
18 moment.

19 (Recess.)

20 JUDGE VERO: We are back on the
21 record. During that brief recess the counsel for the
22 complainant, Ms. Francine Thornton Boone, did come in
23 to the prehearing conference room along with I
24 understand two witnesses, representatives from that
25 company. For PGW I have here, Laureto Farinas,

1 Esquire, representing the respondent, along with
2 several potential witnesses?

3 MR. FARINAS: Four.

4 JUDGE VERO: Four potential
5 witnesses from your company.

6 Now, everyone is aware on
7 December 10th, 2012 SBG filed amended complaints on
8 eight of the nine complaints that I've mentioned
9 earlier. Those complaints involved 27 separate PGW
10 accounts, raised a variety of billings issues as well
11 as the dispute, a total of \$1,416,083.04. This
12 complaint -- there's eight complaint's plus the ninth
13 complaint that was filed by Mr. Pulley on November the
14 2nd, 2012 at docket number C-2012-2334253 has been
15 scheduled for an initial hearing as follows: Marshall
16 Square Reality Company LP at docket number
17 C-2012-2304303; Family Manor Reality Company LP at
18 docket number C-2012-2304215; Aria Garden Realty
19 Company LP at C-2012-2304167. They have been scheduled
20 for a hearing in August 26th, through the 28th. Simon
21 Garden Realty Company LP at docket C-2012-2304324;
22 Colonial Garden Realty Company LP at docket number
23 C-2012-2304183; and the ninth complaint it's also
24 Colonial Garden Realty Company LP at C-2012-2334253.
25 Those three complaints have been scheduled for initial

1 hearings to take place on August 29th and 30th of
2 2013.

3 The remaining three cases, involving
4 Elkland Court Realty Company, and Firm Rock Realty
5 Company, and Larchwood Realty Company at docket
6 number's C-2012-2308462; C-2012-2308465; and
7 C-2012-2308454 respectfully, have been scheduled for
8 initial hearings to occur on September 11th, and 12th.

9 Is everyone one aware of this
10 hearing date?

11 MS. BOONE: Yes.

12 MR. FARINAS: Yes.

13 JUDGE VERO: All right. We are
14 here today to address some of the procedural issues
15 that arise from magnitude of these cases. First, I'd
16 like to address the legal representation in these
17 cases. As you are aware Scott DeBroff, Esquire and
18 Alicia Duke Esquire from Marlton Simon LLP, withdrew
19 their appearance on behalf of SBG Management services
20 Inc. on August 6th, 2013.

21 Ms. Boone, Esquire has informed
22 me that SBG intends to proceed with her, as the sole
23 attorney representing the complainant, yes?

24 MS. BOONE: Yes.

25 JUDGE VERO: Okay. Now, we did

1 have some issues with regards to legal representation
2 at the very beginning of these cases, however, the
3 amended complaints that were filed, they were filed on
4 eight out of nine complaints did cover -- they did
5 discuss a lot of detail, the issue of agency. I am
6 satisfied that SBG can proceed as the agent of all the
7 Realty companies that are involved in this case.

8 So, I would like for you,
9 Ms. Boone to file new notices of appearances as the
10 attorney representing SBG in these complaints.

11 MS. BOONE: Okay.

12 JUDGE VERO: I know that the
13 wording, the first time around was kind've awkward,
14 for a lack of a better word but I think now with the
15 removal of Mr. DeBroff and Ms. Duke as representatives
16 of SBG we can, pretty much, have you represent SBG and
17 the realty companies in these. So, I would like for
18 you to enter a, Notice of Appearance, in all these
19 cases.

20 MS. BOONE: Okay.

21 JUDGE VERO: All right.

22 Next, I would like to cover the
23 witness examination metrics. On April 10th 2013, that
24 attorney for SBG, Mr. DeBroff, submitted a witness
25 examination metrics in accordance with my prehearing

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1 order that were dated March 26th, 2013.

2 Now, I don't know if you have a
3 copy of the witness metrics. This is what Mr. DeBroff
4 submitted. I would like to suggest some improvements
5 and maybe we can discuss what else we can do or what
6 the counsel can do to make these metrics more
7 user-friendly.

8 First, I thought that maybe
9 submitting the witness examination metrics for each
10 group of cases would be will facilitate the use of
11 these metrics since we're going to have these case in
12 define groups, then maybe the parties can submit one
13 metric -- one witness metrics per group of cases.

14 There is a good chance that the
15 '03 metrics will be identical, or maybe there will be
16 some differences.

17 Also, I think it would be
18 beneficial if --

19 MS. BOONE: I should be removed
20 from this list.

21 JUDGE VERO: Yes. Of course. I
22 think it would be beneficial if each metrics indicates
23 the issue that each witness will cover in his or her
24 testimony. If possible I think the metrics can
25 organize the witnesses by order of testimony, so who's

1 going first and who's going next. Okay.

2 Of course, we will have Ms. Boone
3 removed from SBG's witness list and if this list is to
4 be updated because as I said it has been submitted in
5 April of this year, please reflect any changes into
6 the new metrics list -- into the new witness metrics.
7 I'd like to have it maybe five days before the
8 hearings, rather five days before each hearing. I
9 don't have anything else with regards to the metrics,
10 any other suggestions?

11 MR. FARINAS: So, Your Honor,
12 you're saying that five days before the hearings, or a
13 group of hearings, so five days before April 26th you
14 want the witness cases for --

15 JUDGE VERO: For that first week,
16 yes.

17 MR. FARINAS: -- and five days
18 before the 29th?

19 JUDGE VERO: Yes. Now, if it's
20 easier for you to submit it all at once, by all means,
21 do so but if you think that as the witnesses are
22 testifying or if they're going on holiday, or they are
23 no longer needed, or they're not available you can
24 reflect those changes and you can make them more
25 up-to-date, it's up to you how you want to proceed.

1 But -- yes?

2 MS. BOONE: Based on what we
3 received from PGW we may want to amend our witness
4 list. Will we have a chance to do that or is it pretty
5 much set for the five days?

6 JUDGE VERO: I don't understand.

7 MS. BOONE: In terms of we may
8 want to call some people for cross-examination, based
9 on what witness they assigned to a particular issue.

10 MR. FARINAS: How do you call
11 somebody on cross-examination if --

12 MS. BOONE: Not cross, but there
13 may be some of their witness we want to call that they
14 may not identify until five days before the hearing.

15 MR. FARINAS: Like, tell me who
16 they are and you agree or do you want to subpoena
17 them?

18 JUDGE VERO: How do you want to do
19 it Ms. Boone? Do you want to subpoena them or do you
20 want --

21 MS. BOONE: I'm just saying, in
22 terms of notice of who will be testifying. If we have
23 any time --

24 JUDGE VERO: Mr. Farinas, do you
25 think that this PGW witness list is a reliable one or

1 are you going to make changes?

2 MR. FARINAS: We're going to make
3 changes.

4 JUDGE VERO: Okay. Well, I hope
5 the parties will communicate with each other, as we
6 usually do in those cases because those are the big
7 kind's of cases with a lot of witnesses. We give the
8 task of preparing and submitting the witnesses and
9 each metrics to the complainant. So, Ms. Boone that's
10 your task.

11 MR. FARINAS: Your Honor,
12 Mr. DeBroff and I did work on this together.

13 JUDGE VERO: That's very good. I
14 do understand it because I do see the PGW's list, so
15 I'm assuming he got that from communicating with you
16 but Mr. DeBroff was the one who submitted the first
17 metrics and it's all on you Ms. Boone to submit the
18 updated one, of course, after you communicate with
19 Mr. Farinas.

20 All right. Anything else? Any
21 other improvements, any ideas on how you want to use
22 the witness examination metrics to organize the
23 hearings?

24 MS. BOONE: Yes. There are
25 over -- there are hundreds of transactions that are

1 involved in this matter. What we did in March is that
2 we submitted a binder to PGW, that took all the
3 transactions and analyzed them and then put them into
4 categories of issues. I'll just submit, basically
5 what's an updated list. It's pretty much what you had
6 before.

7 Then we went and analyzed the
8 information a little further and we broke it down into
9 what issues arrised based on the particular property
10 or complaint so that any amount -- what would be
11 considered inside the Statute would be considered
12 outside the Statute, so, that you would have an idea
13 of what's involved.

14 What I would suggest is that at
15 the hearing we will pretty much present -- for example
16 if you look at this and you see EL Ray (Ph.), for EL
17 Ray there are a total of 225 transactions. But the
18 issues that are involved in EL Ray, really come down
19 to three issue types. There are nine cases under issue
20 'B, which is late penalty charges assessed when a
21 payoff amount was agreed upon. 79 transactions, 'F,
22 which are late payment charges that we dispute. And
23 137 transactions which are 'J, disputed meter reads.
24 So, you could sit there and have a hearing, we just
25 want you to know that in each of these cases there are

1 specific issues at risk. So, we want you to understand
2 what these issues are.

3 We understand that the
4 complainant has the burden of showing that PGW has
5 violated the Tariff and the rules. I am prepared to
6 submit a trial brief that would cover why these
7 particular issues represent violations of the Tariff,
8 if you would like that. But all of these issues are
9 relevant and they need to be addressed.

10 With all do respect, PGW does
11 many wonderful things. Everything from, making special
12 allowances for people who are subject to abuse orders,
13 to helping people who are sick or elderly and I have
14 the greatest respect for the work that PGW does in
15 those areas. But when I looked at the history of PGW's
16 behavior with these particular property owners there
17 are some real violations of the Tariff that have
18 occurred and these transactions explore and explain
19 how the Tariff has been violated. That will be the
20 crux of our case.

21 MR. FARINAS: You mentioned at the
22 beginning of this, that some of them are inside the
23 Statute then outside. Are you referring to the Statute
24 of Limitations?

25 MS. BOONE: Well, I'm going to

1 talk about that. There is case Law that says, for
2 example, when it comes to back billing, the Statute
3 runs when it's discovered. So, there are cases that
4 have allowed -- that have said that if in fact the
5 customer made complaints or took some actions to
6 complain about certain billing issues then the Statute
7 runs from when those complaints were made. But if the
8 customer didn't do anything then the Commission will
9 not look at that. And I have the cases here, I can
10 certainly submit them.

11 In this case we have certain
12 transactions that are considered beyond the three year
13 period. But we have -- we're prepared to present and
14 we will, documentary evidence, and testimony that
15 prior to the three year period the employees of SBG
16 contacted PGW and said (we think something's wrong).
17 We have questioned, we have concerns, but that PGW
18 despite what the Tariff requires -- the Tariff says
19 that if a customer has a complaint PGW is to go out
20 and investigate and to provide a written response.
21 There is no response there. So, they didn't satisfy
22 them.

23 MR. FARINAS: I think what you're
24 referring to is the volumes of emails that have gone
25 back and forth. Now, we can go though that but I

1 thought that you had an understanding that there is at
2 some point you should've said I have to file,
3 not --

4 MS. BOONE: I think you're talking
5 about Mr. DeBroff. I think you're talking about --

6 MR. FARINAS: -- still sending
7 another email. You're still talking about sending
8 another email. You could keep it running. At some
9 point you have to --

10 MS. BOONE: Well, okay. I am --

11 JUDGE VERO: Just a moment.

12 If you Ms. Boone have case law
13 where the Commission has indicated that just filing or
14 contacting the company, the Utility company with a
15 complaint opening a dispute directly with the company
16 without filing a informal complaint with the
17 Commission's BCS, it's efficient to toll the Statute
18 of Limitations, I'd like to see it.

19 As far as I'm aware, I'm not
20 saying it's not out there, but as far as I'm aware the
21 Commission has held that the filing of informal
22 complaints with BCS successfully tolls the Statute of
23 Limitations and also of course when the complainant
24 becomes aware of the issue. That's also taken into
25 consideration when we address the Statute of

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1 Limitations and the possibility of the event that
2 tolls it.

3 Personally, as I said I'm not
4 aware of just initiating the dispute directly with the
5 public utility company, it's efficient act to
6 toll -- it's an efficient act to toll it but --

7 MS. BOONE: There is a case where
8 the Commission said that there wasn't any proof in the
9 record that the complainant had taken any prior
10 actions or had done anything to follow up. So, the
11 Commission would only consider the Statute of
12 Limitations to run when the complaint was filed. But I
13 also think this is a case where equity has to
14 intervene.

15 One of the things that we're
16 going to present is a pattern of behavior of treating
17 these particular property owners in bad faith. I don't
18 want to go into the details of what will be presented
19 but we have a clear pattern that extends many, many
20 years.

21 One of the things we want to
22 respectfully request of the Commission is that if the
23 Commission rules that we can not go back and actually
24 obtain or address these matters that are considered
25 beyond the three year Statute of Limitations, that we

1 still put this evidence in as showing as demonstrative
2 evidence of bad faith by PGW. Some of the things --

3 MR. FARINAS: I would object to
4 that.

5 MS. BOONE: But it's relevant.
6 It's relevant to show patter. And it is your
7 responsibility, as a utility company, to provide
8 service --

9 MR. FARINAS: It is your
10 responsibility to make payments, and you withheld
11 payments in some sort of --

12 MS. BOONE: And I would object to
13 that statement. You know what, I'd actually like to
14 pursue that, if you would indulge me for a second.

15 JUDGE VERO: Yes.

16 MS. BOONE: This I find is a very
17 fascinating issue. I think it could be a law school
18 exam, I'm going to tell you why. When you look at the
19 law of Pennsylvania, it says that post judgement
20 interest incrules at six percent. If you look at the
21 Tariff it says that until the dispute is paid -- well,
22 it says that LPC is accrued at 18 percent per amp.
23 Right?

24 We are going to show you in this
25 case that we have made payments that have not been

1 credited. We have payments that were not credited as
2 of that date that those payments were made. If you
3 were actually complying with the Tariff, then they
4 would no longer be accruing at a 18 percent interest.

5 MR. FARINAS: And we'd like to see
6 those specific examples.

7 MS. BOONE: We will.

8 MR. FARINAS: So they can be
9 addressed.

10 MS. BOONE: We will.

11 MR. FARINAS: So, they can be
12 addressed because they never were.

13 MS. BOONE: Yes, they were. We
14 told you about transfers but they were not. So, what
15 happens is, and I'm going to give you a good example.

16 MR. FARINAS: Okay.

17 JUDGE VERO: Just -- go ahead.

18 MS. BOONE: I'm going to give you
19 an example.

20 JUDGE VERO: Let me -- please be
21 careful not to testify.

22 MS. BOONE: Yes. Okay.

23 I'll give you an example. Let's
24 say hypothetically. Okay. We'll say hypothetically so
25 it isn't testimony. There is a payoff, the title

1 company calls up PGW and says how much does this
2 customer need to pay, PGW says \$10,000 and everything
3 is clean. Usually when you do a refinancing it's by
4 wire transfer, so the date that, that payment is made
5 that account should zero out. In our investigation and
6 even in our meeting with PGW in April -- again, I'm
7 sorry, I don't want to testify, we found out that it
8 may be that these payments were not put on record
9 immediately --

10 MR. FARINAS: And when you say "it
11 may be", we've requested additional information.

12 JUDGE VERO: Just a moment. I just
13 want to clarify the purpose of this prehearing
14 conference. The purpose of this prehearing conference
15 is to find out how to make the initial hearings go as
16 smoothly as possibly, considering the magnitude of the
17 accounts and transactions involved. We are -- I don't
18 want the parties to think that any of the issues that
19 were raised in the amended complaints will go
20 unaddressed.

21 MS. BOONE: Thank you.

22 JUDGE VERO: Okay. Everything will
23 be addressed. Okay.

24 MS. BOONE: Okay.

25 JUDGE VERO: Nothing is off the

1 table. I don't know what discovery you have done, what
2 the settlement discussions were involved, etcetera,
3 etcetera. What I have in front of me are the
4 pleadings, the amended pleadings. Everything that was
5 raised in those amended pleadings is up on the table
6 to be addressed by the parties.

7 MS. BOONE: Okay.

8 JUDGE VERO: If you fail to
9 address it, specifically the complainant, if you fail
10 to address it, it will be dropped of course because
11 they have the burden of proof. If you fail to address
12 it, it's immediately off the table because the burden
13 of proof has not been carried.

14 Okay. So, I don't want the
15 parties to go in details with regards to meter
16 accuracy or late payment charges or interest accrued,
17 etcetera. Not now, not at this prehearing conference.
18 However, I do expect the parties to bring everything
19 that they have collected in a lot of details at the
20 hearings that are scheduled in this matter. That's why
21 we have three hearings -- three hearing dates for
22 three complaints because of we think there are a lot
23 of details. And of course, if you recall Ms. Boone
24 there was an idea to have all eight of them at the
25 time consolidated but it's impossible because of all

1 the minor details that go into every single account.
2 As I -- maybe you were not here when I did my
3 introduction but what I have in front of me right now
4 nine complaints, eight of them have been amended. My
5 question to you, as the complaint in this, are there
6 any changes to those or do you foresee raising any new
7 issues, are there any changes to the issues that those
8 complaints raised. And I'm talking about the exhibits,
9 exhibit D, that's attached to those complaints.
10 Exhibit B, I understand is a table that summarizes the
11 issue raised in every single complaint.

12 It was very helpful of the
13 previous or the former counsel to present it in a
14 table format and -- I didn't appreciate the code but I
15 made it work. So, I have spelled out the codes, the A,
16 B, C, D, etcetera, codes that they have assigned to
17 each claim. So, I do have them but I need to know
18 whether there are new issues that the discovery
19 sort've revealed and the complainant feels that they
20 need to be addressed. Just so it gives SBG -- I'm
21 sorry, you give PGW a heads up in terms of preparing
22 the defense.

23 MR. FARINAS: We have received in
24 March a binder of 40 tabs which covers, I believe,
25 pretty much what Francine has already handed out. I

1 have a preliminary question about it. I guess I'm
2 asking the same question that Your Honor is asking,
3 does this constitute the more detailed support for the
4 complained category?

5 MS. BOONE: That's a great
6 question and it actually deserves a two part answer.
7 It distills the information into more detail, but we
8 will now back that up with testimony and with
9 documentary evidence.

10 So, for example, where we say
11 that there are meter reads -- actual meter reads that
12 were done incorrectly we will have the witness come in
13 and testify. They'll look at the history of what the
14 meters have read in the past versus the meter read
15 that was given. So, what we have there is we pretty
16 much distilled all the information that you provided
17 to us into those categories and then we'll provide
18 documents and testimony to follow up.

19 MR. FARINAS: Okay. My preliminary
20 matter with this is tabs, 1, 2 and 3 are for Abnural
21 which are not among the properties that's --

22 MS. BOONE: Right. We've decided
23 not to raise those, so you can disregard those.
24 Abnural and Aspen. So, those are out.

25 MR. FARINAS: So, now all that we

1 have for the tabs is no narriatitive but simply what
2 looks like backup sheets. So, I think we're entitled
3 to more hint of what it is that you're actually
4 complaining about rather than -- this represents a
5 tab, there is no narriatitive --

6 MS. BOONE: I am happy to
7 answer that, that's a great question and I'll explain
8 it to you.

9 MR. FARINAS: Thank you.

10 MS. BOONE: One of the reasons why
11 we brought this law suit was because my client
12 repeatedly asked PGW for explanations for bills they
13 had in question. They didn't get the information. In
14 discovery we received some of this information. We
15 took that, our accountants, took that and converted it
16 into the tabs that you see. So, what we did is we
17 looked at the transactions and we said which are the
18 ones that we want to dispute. The ones that we wanted
19 to dispute we ended up making a summary of it. Would
20 you like to elaborate Kathy?

21 MS. TREADWELL: Okay. In response
22 to your question, that binder has been updated and it
23 is in a similar format. Each account or each
24 transaction that is disputed is highlighted just as it
25 is in the binder that you have in front of you and

1 along with that it has a code which tells you the type
2 of dispute it is. So, yes that binder has been updated
3 and we will provide that updated binder to you but it
4 will be in the same format.

5 MS. BOONE: Now, I'm going to
6 followup on that if you don't mind. Now, one of the
7 issues that came up in discovery, and I talked to
8 Laureto, Mr. Farinas, about this is the fact that even
9 though we met with PGW, we had questions about how the
10 charges were calculated. We asked PGW to do their
11 stator duty to follow the Tariff and when a customer
12 asked a question about a charge or rate PGW, as a
13 utility, is to come back in to explain it. The
14 response we received from PGW is you calculate it
15 yourself. Now --

16 MR. FARINAS: I have to disagree
17 with that.

18 MS. BOONE: Okay.

19 MR. FARINAS: Your bringing up a
20 discover matter in which you asked for a total up on
21 late payment charges and total gas charges for all the
22 accounts. I informed you that we gave you all of the
23 account information and you can add up late payment
24 charges as they are identified.

25 MS. BOONE: No, that's not -- I

1 apologize. Maybe there was some missed communication
2 but I'll clarify it. I didn't ask for you to add up
3 the late payment charges --

4 MR. FARINAS: Okay.

5 MS. BOONE: I asked for you to
6 explain the calculation. I'll tell you why this is
7 key, because you can not justify late payment charges
8 at 18 percent per adm (Ph.) unless you can tell me
9 when you received the payment, when you zeroed out the
10 account, and when you started the new charges if any.
11 Giving us just the line (late payment charges,
12 \$500.00) does not explain how you calculated. This is
13 a very critical issue. That's why I say this is a
14 fascinating case, a great law school case --

15 MR. FARINAS: Let me ask you a
16 question --

17 MS. BOONE: Let me finish please.
18 On 13th -- on May 22nd, of 2013, you have a case
19 before the PUC where, you know, accentually they just
20 told the customer, here's your credit, without any
21 evidence. The Commission came back and said, no, you
22 have to calculate it. When they went through the
23 calculations it turned out there were a lot of things
24 about the way that credit was calculated that did not
25 comply with the Tariff.

1 So, to tell us to add up our late
2 payment charges without explaining when you started
3 the four calculation of it --

4 MR. FARINAS: I'm sorry, this is a
5 different issue --

6 MS. BOONE: No. Okay.

7 MR. FARINAS: -- then what you had
8 raised before.

9 MS. BOONE: No. This is exactly
10 the issue.

11 MR. FARINAS: And what has been
12 explained to you before is how they are calculated
13 according the Tariff, and how to read the Statement of
14 Account, to show what in fact was done.

15 MS. BOONE: I'm not an accountant
16 but my accountant has look at this.

17 JUDGE VERO: Okay.

18 MR. FARINAS: We have provided
19 that for you.

20 JUDGE VERO: All right. That's
21 enough!

22 Ms. Boone and Mr. Farinas, that's
23 enough.

24 I understand you've done
25 extensive discovery, okay, it's been almost a year

1 since these complaints were filed. It's the
2 complainant's duty to start discovery, as well as the
3 respondent's but it's the parties duty to start
4 discovery as soon as reason to believe so. All right.
5 So, I'm assuming the moment they were filed the time
6 starts for the parties to conduct discovery.

7 I think from what I see has been
8 extensive discovery, you know what issues are
9 remained. Okay. You know what issues remain, you know
10 what issues you want to litigate at the initial
11 hearings. So, it doesn't -- it's not productive to
12 litigate them right now.

13 MS. BOONE: Absolutely.

14 JUDGE VERO: Or to argue about
15 them or do an opening statement, or whatever you guys
16 are trying to do. Okay. You'll have all the
17 opportunity you will need at the initial hearings.

18 My concern is that, at least with
19 this spreadsheet, first of all I'm not sure I know how
20 to read it. Second of all -- and I will need some
21 help, second of all, I see that you have, I think you
22 have totaled a number of transactions that go with
23 each, each property and each issue, am I correct?

24 MS. BOONE: Yes.

25 JUDGE VERO: That will not do, at

1 the, the initial hearing. Okay.

2 MS. BOONE: Okay.

3 JUDGE VERO: At the initial
4 hearing whoever is going to testify on behalf of the
5 complainant and then the company will present their
6 witnesses, whoever is going to testify needs to go
7 into more details.

8 MS. BOONE: Sure. Absolutely.

9 JUDGE VERO: So, this totaling of
10 transactions doesn't help me. I understand that it
11 sheds some light into the magnitude of the issues and,
12 etcetera and etcetera, and two as you said
13 a pattern maybe, but other than that this is not
14 helpful. I can not use this.

15 MS. BOONE: Okay. All right.

16 JUDGE VERO: All right.

17 I need details, that's why these
18 cases are so big because I need detail. Every single
19 transaction would be determined on it's on. We can not
20 just do a big one and say, oh, the meter readings were
21 all in there. Unless, it turns out that the meter was
22 inaccurate. You can not say that all the meters were,
23 all 65 or 30 were inaccurate. I can not do that. I
24 have to go one by one.

25 MS. BOONE: Okay.

1 JUDGE VERO: Do we have -- well,
2 in the complaints there is the list of issues that are
3 presented as Exhibit-B in the amended complaints.
4 There is something that reads meter readings, meter
5 reads, I think the last one probably this 'J. Is the
6 complainant disputing meter accuracy, or is it just
7 disputing just the accuracy of the reading? So, like
8 I go in and this is the number I see. Is it disputing
9 whether or not the meter is functioning properly or is
10 it just someone didn't read these when they said they
11 read it.

12 MS. TREADWELL: And these are
13 actual reads at normally high meter reads.

14 JUDGE VERO: Okay. All right.

15 Let's see, do I have any further
16 questions that I need to address. So, we're saying
17 that Aspen Realty and Abnural Court are not included
18 in the complaint, right? They are not as of today,
19 unless --

20 MS. TREADWELL: When we gave our
21 discovery request to PGW they provided us with that
22 account statement, that's why we went with the binder.

23 JUDGE VERO: Okay.

24 MS. TREADWELL: We will remove the
25 complaint filed for Abnural Court, which I referred to

1 the transactions.

2 JUDGE VERO: Okay. Was the account
3 number included in the complaint?

4 MS. TREADWELL: It was not.

5 MR. FARINAS: Your request was all
6 ten properties and that's what we provided to you as a
7 service so you can get the books together.

8 MS. TREADWELL: And I kept it the
9 same organization it was not part of the request --

10 MS. BOONE: This virtue was done
11 just to make it simpler because of the volume of
12 documents that were exchanged to provide kind've a key
13 to it, or all of that.

14 JUDGE VERO: Okay. I see that
15 there are a lot of transactions that are in dispute. I
16 need the parties to figure out the best way to address
17 them. If they are crucial enough and varied enough I
18 have no problem just going one by one but I would
19 appreciate if maybe the parties would pick the most
20 egregious one or pick a few as examples and just go on
21 and indicate the rest of them in some sort've of
22 spreadsheet or exhibit.

23 I see that there are 262
24 transactions concerning Fairmount property, and it's
25 under (G) the code. What is it?

1 MS. TREADWELL: Tenant charges.

2 JUDGE VERO: What is it?

3 MS. TREADWELL: It's the tenant
4 charges.

5 MR. FARINAS: And actually that's
6 another issue --

7 JUDGE VERO: Okay. Tenant charges.

8 MR. FARINAS: So, when you say
9 "tenant charges" are you referring to charges that
10 stem from tenants bills that are the subject of liens,
11 or please tell me how you are disputing charges to
12 tenants in which you have no standing to dispute?

13 MS. TREADWELL: Can I speak?

14 MS. BOONE: Yes.

15 MS. TREADWELL: I'm prepared to
16 testify that PGW has the meter located at 702 North
17 Market Street, or at least it's listed and billed at
18 702 North Market Street, but the meter is actually
19 located at 615 North Market Street, Unit G4. So, you
20 are billing us for a tenant who is not there.

21 JUDGE VERO: All right. Okay.
22 Going back to my original question. My question was in
23 paragraph five, what would the amended complaint state
24 and discovery is ongoing as PGW preserves it's right
25 to update the attached exhibit-B with information

1 on further dispute accounts as it receives such
2 information from PGW. Has there been -- is there an
3 updated version of Exhibit-B?

4 MS. BOONE: No. But there is a
5 problem. We keep asking in discovery we asked for an
6 explanation of how the late payment charges were
7 calculated. As you can see, the total late payment
8 charges for all the matters are approximately 744
9 transactions. It is PGW's burden to explain how
10 transactions are calculated --

11 MR. FARINAS: And I believe it has
12 been explained time and time, you just don't accept
13 it. It's calculated under the billing system, whatever
14 amount is outstanding on that account. If it's not
15 subject --

16 MS. BOONE: That's a general --

17 MR. FARINAS: If it is not subject
18 to a payment arrangement it's accessed the 112th of
19 the percent 18 percent ground and that's how it's
20 calculated.

21 MS. BOONE: I have the greatest
22 respect for you, I really do. I hope you understand
23 that I think you and I are having parallel
24 conversations. I'm not asking for a reading of the
25 Tariff, I'm asking you for when if a transfer was made

1 or if a payment was made. When you recorded it, when
2 it was listed at zero and the credit that came
3 afterwards. These should be -- if I can just finish?

4 JUDGE VERO: Yes.

5 MS. BOONE: Let's look at the
6 business tax and -- if the tax authorities say, you
7 owe a principal amount of \$5,000 and there is interest
8 and penalties accruing, they will print out what the
9 interest and penalties are for that particular
10 account. What we've done here is we just got a grand
11 total. We don't know when payments were reflected, we
12 don't know when the interest changed, we don't know if
13 you're giving us 18 percent interest on everything if
14 you ever zeroed it out, whether the credits went to
15 the right account. It's just this great statement to
16 simply tell us what the Tariff says does not explain
17 how in each of these transactions, even when we think
18 the accounts have been zeroed out we still have a
19 balance and we are still being charged 18 percent per
20 amp. That is your burden. That is your responsibility.
21 If you want us -- and a late payment charge by
22 definition is rate, and rates are to be explained to
23 the customer.

24 MR. FARINAS: We have explained it
25 to you --

1 MS. BOONE: But to give me a
2 definition of it --

3 MR. FARINAS: We are not giving
4 you the definition.

5 JUDGE VERO: Just a moment. Late
6 payment charges are in dispute. You can dispute them
7 at the initial hearing and not here. Okay.

8 I expect PGW to come prepared
9 with the right witnesses who have the ability and the
10 knowledge to explain in detail when the payments were
11 received and how they are reflected into the accounts
12 and how much does it take for the payment to be
13 reflected, and how the late payment charges are
14 calculated in a lot of detail. Okay.

15 I just want to let the parties
16 know, if I feel that an area or an issue has not -- if
17 the parties haven't been able to present all the
18 evidence or testimony that they need to present in
19 order to make their case, I have no problem either
20 asking for late filed exhibits that goes specifically
21 to what I need a party to do or to even schedule a
22 further hearing to address that particular matter that
23 either wasn't addressed because of time or it wasn't
24 addressed because you didn't have the correct witness
25 on the stand or it wasn't addressed because the

1 exhibit wasn't prepared, and so on and so forth. If I
2 do not feel comfortable in my decision then I will ask
3 for more from both parties. If I don't feel
4 comfortable in my understanding on how PGW calculates
5 the late payment charges then I will ask for more
6 testimony, more exhibit, more explanation. I can even
7 schedule a further hearing until I am satisfied with
8 that. I understand how they do it, how they did it,
9 (they meaning PGW) did it in this particular case.

10 So, that's not an issue we are
11 going to resolve right now. That's not an answer that
12 you're going to get from PGW today. The prehearing
13 conference goal is not to conduct discovery. If you
14 have an issue -- and I have said this to Mr. DeBroff
15 before you that if you do have an issue with the
16 discovery responses that you got you do have the
17 option of filing the Motion to Compel. However, you
18 can not get what they don't understand.

19 So, it may be upon you to
20 rephrase your request to produce interrogatories that
21 are more detailed, or maybe more limited, more
22 specific, etcetera. But, there is -- anyway this is
23 not the time to address discovery concerns. The motion
24 for production of documents -- the motion to compel
25 have been available to the complainant, so far

1 Mr. DeBroff indicated that he intended to file one but
2 it wasn't timely. The matter wasn't right, he wanted
3 to file a motion for an expedited discovery or
4 expedited production of documents or something like
5 that, it wasn't filed or made in a timely manner. So,
6 he didn't do it but there has been nothing since then
7 with regards to discovery.

8 I am aware that the parties have
9 not seen eye to eye on all of the discovery issues,
10 but I haven't received anything from either party. I
11 haven't received any motions from SBG or any
12 objections from PGW to the discovery request. Okay.
13 So, this is not the time.

14 MR. FARINAS: May I ask you a
15 question?

16 JUDGE VERO: Yes.

17 MR. FARINAS: In order to fulfil
18 the information request that you just spoke about,
19 isn't it necessary for us to have the information that
20 you are disputing. And I believe you had referred to
21 an example we couldn't explain something to you, you
22 made a request for how a particular large payment was
23 distributed, we needed more information, we never got
24 any additional information to tell you. So, I think
25 some of your things are paper tigers (Ph.) that you're

1 blaming us for things that you didn't get complete
2 information for.

3 MS. BOONE: I'm sorry that you
4 thought --

5 JUDGE VERO: Okay. Okay.
6 Mr. Farinas, and Ms. Boone. This is not the time.
7 Okay. It's not the place to do this kind've arguments
8 and this kind've -- raise these kind've of issues. You
9 have done the discovery, you know what you have, you
10 know what you don't have, you know where you disagree,
11 and you know the questions you know you want to ask of
12 each other.

13 So, what I can say is bring all
14 the witnesses that you need to bring in, bring all the
15 exhibits that you need to bring in. To the complainant
16 I'm saying a total of number of transactions that are
17 in question or are problematic is nothing going to
18 work. I need details, however, I would appreciate if
19 your witness can give me an example of egregious
20 occurrence or issue, give me an example or two and go
21 over either highlighting or identifying the other
22 cases where this issue occurred or, the other
23 instances where it occurred.

24 You can pick one of two to
25 highlight the issue, okay. Then go over, or summarize

FORM 2

1 the other issues. You can highlight them, I don't know
2 how you want to do them. You can highlight them in
3 exhibit, I don't know how you want to do it, it's up
4 to you, but you have to make it more efficient. You
5 have to make the hearing more productive, and more
6 efficient, I think we can do it that way.

7 MS. BOONE: Okay.

8 JUDGE VERO: Just a plan roundup
9 number isn't going to do.

10 MS. BOONE: Sure. Absolutely.

11 JUDGE VERO: Okay. Let's see,
12 Mr. Farinas can you tell you because he appears before
13 the Judge's in the Philadelphia office very, very
14 frequently. He can tell you that I am a neat picker
15 when it comes to calculations. And unless I'm
16 satisfied and I understand how they're done I will not
17 let off. Okay.

18 So, that is not something that we
19 need to figure out today, how they do their
20 calculations. Just make sure you have the correct
21 questions and PGW needs to make sure you have the
22 correct answers.

23 All right. Anything else?

24 MR. FARINAS: I'm really not sure
25 how to place this.

1 JUDGE VERO: Okay.

2 MR. FARINAS: For the 262
3 transactions for one of the properties the tenant
4 debt, I heard one example of what you meant by that,
5 it's not actually the tenant debt it's the wrong
6 meter, I guess if you want to say it -- it leaves the
7 other 161 -- or 261 examples, again are you raising
8 that, are you raising an issue for an account for
9 which you have no standing to raise?

10 MS. TREADWELL: We'll see.

11 MR. FARINAS: Okay. And you can
12 identify the tenant who should be there?

13 MS. TREADWELL: That's not my
14 problem. You have the wrong meter associated to the
15 account.

16 MS. BOONE: So, you're billing one
17 party, it's -- you know, the house next door to you,
18 there meter is coming to you.

19 MR. FARINAS: All right.

20 MS. BOONE: It's not the landlord
21 tenant issue.

22 JUDGE VERO: Mr. Farinas, if you
23 think that standing becomes an issue during the
24 hearing depending on the testimony that's presented
25 you are free to make an objection and so is SBG. This

1 is not the hearing.

2 MR. FARINAS: Understood.

3 JUDGE VERO: All right. Next one
4 in my list is Exhibit A that's been attached to this
5 complaint, to the amended complaint. And this is an
6 example of my nitpicking. If you read the complaint,
7 when they discussed the relationship of SBG Management
8 Services Inc. with the varied reality companies, you
9 will see that the complaints -- give me a second.
10 Okay. On the complaint, and I think it's on the second
11 page of complaint under section two it identifies the
12 parties and their relationship to each other. On the
13 second page the complaint -- all eight of them on the
14 complaint state, please see attached letter in Exhibit
15 A, which gives Phil Pulley, the director of operations
16 for SBG the authority to commence legal action against
17 PGW for all the accounting and billing disputes.

18 That is very satisfactory, except
19 the letter that is Exhibit-A, doesn't give Mr. Pulley
20 the authority. It only states that, or rather it
21 informs the reader that these legal entity have
22 authorized Mr. Pulley to commence legal actions. But
23 this is not the exclusive management agreement that
24 gives the agent, which is SBG management in this case
25 the authority to represent property owners admitting

1 some legal proceedings against PGW.

2 MS. BOONE: I understand exactly.
3 What if we were to give you a resolution of the
4 partnership would that be sufficient, because the
5 management agreement for example can say that officers
6 are authorized to take certain actions or to have a
7 resolution. Would that be satisfactory? Because you
8 may not need the management agreement --

9 JUDGE VERO: My issue -- no. I
10 might not need the management agreement but this says
11 that it's pursuant to exclusively exclude the
12 management agreement that SBG has this authority.
13 Okay. This is not the management agreement. This is
14 just a letter from SBG telling me that they have the
15 authority. It's not the realty company saying that
16 they have given SBG authority, it's from SBG saying
17 they have this authority, not the same.

18 MS. BOONE: I understand. Would
19 you like a letter from the properties or a resolution?

20 JUDGE VERO: Yes. I would prefer a
21 letter from the property.

22 Okay. Next on my list -- wait,
23 before I go into the next item on my list Ms. Boone
24 how soon do you think I can have that particular
25 matter clarified?

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MS. BOONE: The metrics?

JUDGE VERO: Not the metrics, the Exhibit-A?

MS. BOONE: I would say probably by the end of the week. Instead of the letter coming from SBG, the letter needs to come from the property.

MR. PULLEY: Friday.

MS. BOONE: Okay. Friday.

JUDGE VERO: All right.

Moving on the next matter is what we addressed before, the Statute of Limitations. Usually the case is -- the eight complaints, usually the billing period review goes from January of 2004 through October of 2012, usually. There was one exception with regards to the Fund Rock property, where the billing period commenced as early as 1999 and it's a good 14 years, The Statute of Limitations is three.

MS. BOONE: Yes.

JUDGE VERO: Okay. So, 8 years is one thing 14 is another. I want the parties to come prepared to address the Statute of Limitations. Both parties need to address it. If we are going to consider issues that arose in 1999, I want the attorney's in particular, since it is a legal issue,

1 as well as a factual issue, so, we will needs
2 witnesses and exhibits to support the counsels
3 argument. I need the parties to be prepared to address
4 the Statute of Limitations if they want those figures
5 to be considered. Okay?

6 MR. FARINAS: Okay.

7 JUDGE VERO: All right. I'm not
8 sure whether my first order on PGW's preliminary
9 objections addressed the issue of, Statute of
10 Limitations. I'm not sure if it did, give me a moment.
11 We're off the record for a second.

12 (Recess.)

13 JUDGE VERO: Back on the record.
14 PGW raised it's original -- I believe answers to the
15 original complaint in their preliminary objections.
16 However, when PGW filed it's amended answer to the
17 amended complaint these issues were not raised.

18 MR. FARINAS: I believe I
19 incorporated --

20 JUDGE VERO: It's okay. I'll take
21 a closer look. But you did not file preliminary
22 objections as you did the first time around. So, the
23 issue was not addressed. So, the Statute of
24 Limitations can be told by the filing of an informal
25 complaint with the Commission, and by the Doctrine of

1 Equitable Estoppel, so I want, which is based on the
2 theory of Estoppel, I want both parties to address it.
3 As far as I'm aware those are the only two grounds
4 which toll the Statute of Limitations.

5 MS. BOONE: I'm sorry, if I could
6 just --

7 JUDGE VERO: Do you want the
8 citations?

9 MS. BOONE: Yes.

10 JUDGE VERO: All right. On the
11 theory of Estoppel, we have the final order issued in
12 Lester Ely, which is Pennsylvania American Water
13 Company; docket number C-2005-5616.

14 MS. BOONE: 61?

15 JUDGE VERO: Yes. So, it's 2005,
16 5616.

17 MS. BOONE: Okay.

18 JUDGE VERO: And it's a 'C docket
19 number.

20 The order was entered on July
21 10th, 2006. The case again is Lester Ely, E-l-y,
22 versus the Pennsylvania American Water Company, all
23 right. If you can find any other Commission orders or
24 any case law in order to support your respective
25 positions, by all means.

1 MS. BOONE: And you said --

2 JUDGE VERO: Prepare it yourself
3 and bring it to the initial hearing, but I need this
4 issue addressed.

5 MS. BOONE: And you said there
6 were only two cases?

7 JUDGE VERO: No. Two grounds. One
8 is the filing of an informal complaint and the other
9 is the Doctrine of Equitable Estoppel.

10 MS. BOONE: All right.

11 JUDGE VERO: Okay. I have nothing
12 else that I have on my list as issue that needs to be
13 addressed. What do the parties have? Did they come in
14 with any issues that they want to address?

15 MR. FARINAS: Your Honor, I
16 believe I have covered what I wanted and now I know
17 the direction to take to request additional
18 information.

19 JUDGE VERO: Okay. Ms. Boone?

20 MS. BOONE: Thank you very much,
21 all of our issues have been addressed, we appreciate
22 it.

23 (Discussion off the record.)

24 MS. BOONE: If I could just speak
25 outside with my client for a second?

1 JUDGE VERO: Okay. Sure.

2 (Recess.)

3 JUDGE VERO: We are back on the
4 record. Now, Ms. Boone you handed me over, I
5 understand this is an SBG accounting dispute. A page
6 from the SBG's accounting disputer binder with a code
7 for the issue and the description. I think this
8 description is a little bit more detailed then what
9 was submitted as Exhibit-B and attached to each and
10 every amended complaint. Is this the full description
11 of the issues?

12 MS. BOONE: We can refine those
13 descriptions. What do you think Kathy?

14 MS. TREADWELL: That's the basic
15 premise of the issue.

16 JUDGE VERO: Okay.

17 MS. BOONE: What happens is when
18 you look at the binder you just see numbers and
19 numbers and numbers, so, I didn't think that was fair.

20 JUDGE VERO: Okay.

21 MS. BOONE: So, we created this
22 system, sort've like a map, to explain what each of
23 those categories are, so, it's not all one big block.
24 Then you can actually go back and forth to see what is
25 the issue with each transaction.

1 JUDGE VERO: Okay. I understand
2 that the parties still have some questions for each
3 other that they need to address when they communicate,
4 and that's fine but I would suggest that they address
5 the questions that pertain to the first group first,
6 then the second group, so, they get the answers and
7 are prepared for those complaints. Okay.

8 MS. BOONE: Okay.

9 MR. FARINAS: Okay.

10 JUDGE VERO: All right. My other
11 question is will I be getting a copy of the proposed
12 exhibits ahead of time?

13 MS. BOONE: Yes.

14 JUDGE VERO: Mr. Farinas?

15 MR. FARINAS: Yes.

16 JUDGE VERO: How many days ahead
17 of the hearing should I be expecting a copy?

18 MS. BOONE: Five days? Would that
19 be good or two days? We should say this binder is
20 basically the binder that we gave to PGW months ago.
21 And the real changes are just the late payment charges
22 have continued to accrued. So, that's the major piece
23 there.

24 JUDGE VERO: So, it's just an
25 updated copy, you have updated the numbers.

1 MS. BOONE: Yes.

2 JUDGE VERO: So, you are saying
3 it's just an update of the amounts in dispute, it's
4 not an update of the transactions in dispute or the
5 issues that are raised?

6 MS. BOONE: Correct.

7 MS. TREADWELL: Correct.

8 JUDGE VERO: Okay.

9 MS. TREADWELL: They'll get an
10 updated copy but it's similar to the binder they've
11 received.

12 JUDGE VERO: Okay.

13 MS. TREADWELL: It's the same
14 format.

15 MS. BOONE: Late payment charges,
16 there may be more because more time is increased.

17 JUDGE VERO: I understand.

18 So, do the parities have a date
19 for me.

20 MR. FARINAS: We're discussing a
21 week in advanced, of the 26th?

22 JUDGE VERO: That's fine. As long
23 as I have it at least three business days before the
24 hearings, before the first day of the hearing.

25 MR. FARINAS: Okay.

1 JUDGE VERO: Okay. So, I'm just
2 asking for three business days because I need to
3 familiarize myself with what's going on. Okay.

4 MS. TREADWELL: Excuse me. I have
5 a question.

6 JUDGE VERO: Yes.

7 MS. TREADWELL: Do you want
8 it -- so it's only going to be on those three sets of
9 appearances; right? So, I can make it one, I'm not
10 sure --

11 JUDGE VERO: I'm leaving it up to
12 you. My request is that it comes in three days before
13 each set of hearings. If you can prepare it all at
14 once but of course mark it (this belongs to the first
15 set of cases and this belongs to the second set of
16 cases, and this belongs to the third set of cases) if
17 you are able to submit it all at once, it's so much
18 better for me, but if not just three days before each
19 set of hearings start. It's sufficient time for me to
20 get an idea of what's going on. At least try to
21 understand the layout of the exhibits as they are
22 presented so that I don't have to stop the witnesses
23 during mid testimony and say, hold on a second, what
24 are you looking at and can you explain it to me how to
25 read this. I may still have those questions but it

1 would help us. All right.

2 Okay. I have nothing else.
3 Anything else from you?

4 MR. FARINAS: Now, we have a
5 question about the account thing at 662 --

6 MS. BOONE: We can talk about
7 that.

8 JUDGE VERO: You can even use this
9 conference room to discuss this matter between
10 yourselves but we can not be on the record. It's
11 pointless to have it on the record at this time, but
12 once when we're done with the prehearing conference
13 feel free to use the conference room to further your
14 discussions.

15 MR. FARINAS: Nothing else.

16 JUDGE VERO: Nothing else, all
17 right. Since I have nothing else on my list and the
18 parties indicate that they have no more further issues
19 that they want to address at this prehearing
20 conference, this concludes this conference. Thank you
21 very much for you effort and participation here today.
22 Have a pleasant day everybody.

23 (Whereupon, at 3:29 p.m., the
24 hearing was adjourned.)
25

* * *

C E R T I F I C A T E

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.

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