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IN THE MATTER OF
THE PHILADELPHIA WATER DEPARTMENT'S
PROPOSED INCREASE IN RATES
FOR WATER AND WASTEWATER UTILITY SERVICES

- - -

PRE-HEARING CONFERENCE

- - -

June 6, 2008
1:30 p.m.

- - -

Philadelphia, PA
18th Floor - 1515 Arch Street

- - -

BEFORE: HARRIS T. BOCK, ESQ.
Hearing Officer

- - -

VERITEXT NATIONAL COURT REPORTING COMPANY
KNIPES COHEN
1801 Market Street - Suite 1800
Philadelphia, Pennsylvania 19103

APPEARANCES:

ANDRE C. DASENT, ESQ.
Counsel to Philadelphia Water Department

COMMUNITY LEGAL SERVICES, INC.
BY: PHILIP A. BERTOCCHI, ESQ.
THU TRAN, ESQ.
Counsel to Public Advocate

McNEES, WALLACE & NURICK, LLC
BY: CHARIS MINCAVAGE, ESQ.
SHELBY A. LINTON-KEDDIE, ESQ.
Counsel to Philadelphia Large Users Group

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ALSO PRESENT:

MICHAEL L. GALBRAITH, ESQ.
The Dispute Resolution Institute

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1 THE HEARING OFFICER: Good
2 afternoon. My name is Harris Bock and I
3 have been appointed in accordance with
4 the rules and regulations and statute as
5 the Hearing Officer to preside over the
6 rate increase that has been filed by the
7 Philadelphia Water Department regarding
8 the requested rate increase for fiscal
9 years 2009 through 2012.

10 We're here today pursuant to the
11 Hearing Officer's Order No. 1 setting a
12 pre-hearing conference for today, Friday,
13 June 6, 2008, at 1:30 in the Philadelphia
14 Gas Commission hearing room.

15 Notice of this pre-hearing
16 conference was published in various
17 papers, including The Philadelphia
18 Inquirer, as of Monday, June 2, 2008.

19 It is my desire, as outlined in my
20 order, to try and set the procedural
21 background, some scheduling, and other
22 items that would be pertinent to the
23 orderly and just presentation of this
24 case for all parties involved in this

1 proceeding.

2 This proceeding, by its nature, is
3 intended to be relatively informal,
4 although all of it will be a matter of
5 record for myself and the public to view.

6 I would also note that in connection
7 with discovery and other aspects of this
8 matter, it's the intention of the Hearing
9 Officer to have as much accomplished on
10 an informal basis as needed and that the
11 Hearing Officer will make himself
12 available to assist on a priority basis
13 throughout the pendency of this case to
14 make sure things are done in a reasonable
15 and just way and to ensure that things
16 that are wasteful and really accomplish
17 little are not done in that fashion.

18 I have asked for submission of some
19 pretrial memoranda from the parties. I
20 think that I received just one or maybe
21 two.

22 But before that, I would like the
23 counsel who are representing parties here
24 today to state their names and formally

1 enter their appearance on this record on
2 behalf of their client.

3 MR. DASENT: If Your Honor please,
4 Andre Dasent for the Philadelphia Water
5 Department.

6 MS. MINCAVAGE: Your Honor, Charis
7 Mincavage and with me is Shelby
8 Linton-Keddie on behalf of the
9 Philadelphia Large Users Group.

10 MR. BERTOCCI: Philip Bertocci and
11 Thu Tran of Community Legal Services on
12 behalf of the residential customers of
13 the Philadelphia Water Department and we
14 serve as the Public Advocate.

15 THE HEARING OFFICER: Anyone else
16 here representing any party to the
17 proceeding?

18 MR. DASENT: The others in the room
19 to a person are Philadelphia Water
20 Department or Water Revenue Bureau
21 personnel.

22 THE HEARING OFFICER: Okay. I don't
23 think we need them to appear on the
24 record.

1 MR. DASENT: That's right. And, I'm
2 sorry, the Revenue Commissioner as well.

3 THE HEARING OFFICER: Okay. Let us
4 start, Mr. Dasent, by your giving us your
5 idea of what a proposed and reasonable
6 schedule would be as well as the issues
7 involved generally with regard to the
8 rate matter.

9 MR. DASENT: Yes, Your Honor. We
10 circulated a schedule which outlines what
11 we believe is a reasonable timeline for
12 events that need to take place in this
13 hearing. Our major constraint is an
14 October 1 deadline, which the Department
15 has informed me is a compromise as it is
16 in terms of getting rates in effect in a
17 reasonably expedient manner.

18 We recognize that rate levels may
19 not be as we propose, but at the same
20 time, to get the timeline of the
21 proceeding to a conclusion as early as
22 possible puts us in a position where we
23 know we have our coverage, we have the
24 revenue stream that we need to sustain

1 our operations for the rate period, and
2 we also avoid a problem which is tied to
3 compression, which deals with a situation
4 where if you go on, let's say, until
5 November or sometime longer than the
6 October 1 deadline, every month there is
7 a compression factor that takes into
8 account the fact that we're trying to
9 recover rates over a shorter period
10 because fewer months are remaining in the
11 fiscal year.

12 We would like to avoid that. We
13 would like to be in a position, in fact,
14 to just eat that as a department, as
15 opposed to trying to recover it from
16 customers, because we moved in a speedy
17 manner as a way to avoid any surcharge,
18 let's call it, or penalty because the
19 rate process was tardy.

20 In this particular instance -- and I
21 think we're off to a good start -- the
22 administration, a new administration,
23 gave us authorization to proceed as fast
24 as they could and we got through City

1 Council your appointment, Mr. Bertocci's
2 appointment as Public Advocate, and now
3 we're poised to begin a process which
4 usually takes a few months, not as long
5 as a PUC proceeding normally, and I'm
6 sure Mr. Bertocci will tell us if the
7 timeline last year was longer or shorter
8 than this year. And the timeline before
9 would have been different, but different
10 circumstances were presented in each of
11 those cases.

12 THE HEARING OFFICER: The Hearing
13 Officer is sensitive to the needs of the
14 Water Department with regard to trying to
15 put the rate increase in timely, although
16 also is sensitive to the need that there
17 be a full and fair hearing with regard to
18 the matter. This is a rate increase
19 which is, as I understand it, \$316
20 million.

21 MR. DASENT: That's correct, over
22 four years.

23 THE HEARING OFFICER: And that's
24 certainly adequate time to be given to

1 both parties in terms of developing a
2 proper record for a decision to be made.

3 MR. DASENT: If you look at the
4 regulations which are part of the filing,
5 Binder 5 -- it's a small binder, but it's
6 very potent -- it lays out not only what
7 we're doing in stormwater but our
8 procedural rules. You'll see the
9 timeline that's suggested there. It's
10 much more strident and much more
11 ambitious than any we have proposed.

12 So we have compromised in a number
13 of ways to protect the interests of our
14 customers and to move within the intent
15 and spirit of the regulations, which is
16 to move promptly with reasonable speed to
17 get to a deliberate solution that arrives
18 at just and reasonable rates.

19 Our hearing schedule asks for, I
20 guess fundamentally, hearings in late
21 July. We would like those hearings to
22 take place because we backed in from the
23 October 1 end date for revenue
24 requirements, then we were in a situation

1 where to give enough time for everyone to
2 do the various procedural steps or to
3 accomplish those steps, we didn't see
4 another way to do this.

5 Now, Mr. Bertocci comes up with an
6 alternative which elongates the schedule
7 by a month. If you look at the hearing
8 schedule, however, and try to plan it
9 around the availability of particularly
10 critical witnesses, I note that Mr. Rowe
11 McKinley from Black & Veatch is
12 unavailable during the week that
13 Mr. Bertocci proposes for technical
14 hearings, so at the very minimum we would
15 have to adjust for that.

16 It may mean that you just flip the
17 hearings. He had the public hearings the
18 week of the 11th of August. You could
19 flip those to the next week and have the
20 public hearings afterwards. We usually
21 don't do it that way, but that may be a
22 way to accommodate witnesses' schedules.

23 Another way obviously is just to
24 have the public hearings before the

1 hearings the week of August 11 and be in
2 a position there even because we don't
3 need consultants for those hearings. But
4 I don't know Your Honor's schedule and I
5 suppose that also has to be -- I know
6 that has to be -- factored into our
7 discussion.

8 THE HEARING OFFICER: Generally, and
9 we'll get to the specifics in a minute,
10 after we hear from you generally.

11 MS. MINCAVAGE: Your Honor, I would
12 note that we have not proposed a schedule
13 in this proceeding and we are amenable to
14 working with all of the parties in terms
15 of establishing a schedule.

16 Our preference would lean towards
17 Mr. Bertocci's schedule in that it does
18 give additional time for review of this
19 case. There are a lot of issues herein.

20 In addition, though, we do
21 appreciate the fact that Mr. Dasent has
22 removed the stormwater from the initial
23 phase of this and broken this and
24 bifurcated this, thereby allowing us to

1 focus on one issue at a time.

2 The only other thing I would note,
3 Your Honor, is that in both schedules it
4 looks as though testimony comes in and
5 then a week later hearings occur, and in
6 light of the fact that hearings cover
7 quite a bit, I would suggest that perhaps
8 we could provide a little bit more time
9 in between the receipt of testimony and
10 the hearings themselves just for
11 preparation purposes.

12 My guess would be that once the
13 hearing dates are set, maybe just backing
14 the testimony out a few extra days to
15 work with that.

16 THE HEARING OFFICER: Okay.

17 Mr. Bertocci?

18 MR. BERTOCCI: Yes. For us this
19 case involves multiple witnesses because
20 the standard in a rate case is just and
21 reasonable and it puts the Hearing
22 Officer and the Water Commissioner in the
23 position of having to balance the
24 interests of customers against the

1 interests of the financial integrity of
2 the Philadelphia Water Department.

3 However, the balancing process
4 involves consideration not merely of sort
5 of the technical revenue requirement,
6 which is driven mainly by issues
7 involving debt service, payment for
8 bonds, but also by issues of customer
9 service and also issues, as we've heard,
10 of rate design, rate structure.

11 We have three different expert
12 witnesses that will be testifying in this
13 case. From our perspective, the critical
14 thing is that from the beginning of
15 discovery, that the experts have the time
16 to conduct discovery and put their
17 testimony together to present it as
18 prefiled testimony. That's the thing
19 that was central to the schedule that I
20 proposed.

21 THE HEARING OFFICER: I'm not sure
22 that I received a copy of yours.

23 MR. BERTOCCI: I e-mailed it to you.

24 THE HEARING OFFICER: Okay.

1 MR. BERTOCCI: Let me see if I have
2 another copy here.

3 I'm sorry about that.

4 THE HEARING OFFICER: Thank you.

5 MR. BERTOCCI: So what I proposed is
6 I really put the schedule together with
7 the idea of giving our experts the time
8 to get together their testimony in a
9 proper form with adequate time to prepare
10 and to get the information that they
11 need, and we appreciate the Water
12 Department's past willingness and present
13 willingness to make themselves available
14 to us and to also respond promptly to
15 discovery requests, but still you can
16 only do so much in a limited period of
17 time, and expert witnesses themselves
18 have other things going on.

19 This schedule moves faster than the
20 schedules of most rate cases and
21 basically the experts don't have their
22 schedules set to deal with that type of
23 situation.

24 So trying to stay somewhat within

1 the overall framework of the Water
2 Department, my proposal was that the
3 intervenor testimony be due on August 11
4 instead of July 21, and then after that,
5 within a relatively short period of time,
6 the following week, in the week of
7 August 19 we would have the evidentiary
8 hearings.

9 Mr. Dasent and I agree more or less
10 on what should happen after the
11 evidentiary hearings in terms of the
12 still pretty demanding briefing schedule,
13 reply briefs --

14 THE HEARING OFFICER: Memoranda
15 after that, right.

16 MR. BERTOCCHI: And giving you also
17 the time that Hearing Examiners in the
18 past have had.

19 The last rate case had 72 days
20 between the time that discovery began and
21 the time that the expert testimony was
22 filed. The schedule that I am proposing
23 has only 66.

24 The schedule that Mr. Dasent is

1 proposing has a substantially smaller
2 number of days. He's proposing only 45
3 days, which I submit is just not enough
4 time to do what needs to be done with a
5 case of this magnitude.

6 After all, it is \$317 million over
7 four years and for a population which,
8 especially in this environment, is not
9 readily able to pay for utility increases
10 which are greater than their increases in
11 wages or public benefits or whatever
12 their source of income is from.

13 Dealing with, as Mr. Dasent
14 mentioned, the issue of the Water
15 Department regulations governing rate
16 cases, the critical provision in those
17 regulations is 300.8, which just says
18 that the Hearing Officer should make a
19 good faith effort to conform to an
20 overall schedule where his report would
21 be submitted within 125 days from the
22 filing of the rate case with City
23 Council.

24 I think that those regulations

1 presuppose that at the time of the filing
2 of the rate filing with City Council,
3 that a Hearing Officer and a Public
4 Advocate would already be in place and
5 ready to go.

6 In this situation we've already had
7 five weeks, maybe almost six weeks, go by
8 before we have been able to have the
9 pre-hearing conference. That really
10 means that we really should be counting
11 from the time of when discovery begins
12 and kind of looking at the reasonableness
13 of this. I think that it is certainly
14 consistent with the idea that we make
15 best efforts.

16 I would point out that the Water
17 Department has known for four years that
18 they would like another rate increase to
19 be in effect as of July 1, 2008. They
20 filed the 1st of May, but nothing would
21 have prevented the Water Department from
22 filing earlier and being in a position
23 where we were not constrained by somehow
24 having to get rates into place by

1 October 1, which is really kind of an
2 arbitrary time to be chosen.

3 I think those are the basic --

4 THE HEARING OFFICER: Yes.

5 MR. BERTOCCI: I think you get the
6 basic idea of what I'm saying.

7 THE HEARING OFFICER: I understand
8 your position.

9 Let's go off the record for a
10 moment.

11 - - -

12 (Discussion held off the record.)

13 - - -

14 THE HEARING EXAMINER: My
15 understanding is that counsel for the
16 parties have worked diligently, with
17 cordiality and accommodation, and they
18 have been able to reach an accommodation
19 among themselves with regard to the
20 tentative schedule that we are adopting.

21 We are going to certainly try to
22 adhere to the schedule but, as we know,
23 things can arise, emergencies can happen,
24 and the Hearing Officer recognizes that

1 and will work with everyone diligently to
2 try and deal with any problems as they
3 occur.

4 Mr. Dasent, would you put on the
5 record the tentative schedule that has
6 been agreed to by counsel for the
7 parties?

8 MR. DASENT: Yes, Your Honor. We
9 spoke previously about technical hearings
10 the week of August 11, so with that
11 starting point, we tried to calculate
12 briefs, reply briefs, and the rest of the
13 proceeding.

14 THE HEARING EXAMINER: Let's start
15 at the beginning, all the way from where
16 we start from, all the dates that are
17 scheduled from today until the conclusion
18 thereof.

19 MR. DASENT: Okay. For formal
20 discovery, which is written
21 interrogatories, the time period for
22 those would be June 6 through July 30.

23 MS. MINCAVAGE: I'm sorry to
24 interrupt, but what if we have any

1 interrogatory questions, for example, for
2 one of Phil's witnesses? Would that
3 preclude us from that? -- because I was
4 agreeing with August 6 thinking that gave
5 us some room in that case.

6 MR. DASENT: I will extend it to
7 August 6 then.

8 MS. MINCAVAGE: August 6 will be
9 great.

10 MR. DASENT: August 6 will be the
11 ending period for formal discovery, which
12 will begin today.

13 Informal discovery conferences to
14 informally discuss issues will start with
15 the June 13 teleconference or conference
16 call and that will also be continued on
17 June 30 through July 1.

18 THE HEARING EXAMINER: Do you
19 contemplate for the local parties to get
20 together or just do that solely by
21 conference call?

22 MR. DASENT: We would hope that all
23 parties would come to the June 30 and
24 July 1 informal discovery session, which

1 will be at the Department or at some
2 venue that we find that will accommodate
3 everyone. And if you could be there in
4 person, that would be ideal.

5 In the event you can't come, we will
6 have a telephone conference call link so
7 that you can communicate with us and
8 interact with us as to any questions you
9 may have.

10 THE HEARING EXAMINER: So that's for
11 you. If you can come in, great. If not,
12 we'll make that available by conference
13 call.

14 MS. MINCAVAGE: We're going to do
15 our best to be there in person, but we
16 appreciate the opportunity to be able to
17 call in if the worst-case scenario
18 occurs. Thank you.

19 MR. DASENT: Scheduling Conference:
20 We would hope that Your Honor would hold
21 open the possibility of having a
22 scheduling conference after the
23 completion of discovery or around the
24 time that the discovery is to be

1 completed as a way to work out any
2 glitches. Obviously we will communicate.
3 I don't know that it needs to be on the
4 calendar, but the concept at least is
5 built into our schedule.

6 THE HEARING EXAMINER: The Hearing
7 Officer will make himself available for a
8 scheduling conference upon the request of
9 the parties.

10 And let me say this again: that the
11 Hearing Officer wants to work diligently
12 with all of the parties to try and make
13 sure we have a full and fair opportunity
14 for everyone to be heard and will make
15 himself available for any reasonable
16 purpose that's needed in connection with
17 this rate proceeding.

18 MR. DASENT: Thank you.

19 Intervenor Testimony: We have
20 agreed upon July 30 for intervenor
21 witness testimony, with one exception,
22 Roger Colton, will be due on August 1 to
23 accommodate Mr. Bertocci.

24 We're scheduling public hearings in

1 the week of July 21 and all the way
2 through to July 28. Those dates are all
3 possibilities and we will schedule times
4 in that timeline for public hearings.

5 THE HEARING EXAMINER: Let me say
6 that we should get that done sometime
7 during next week to get those dates
8 locked in, because there has to be
9 advertising of them and other things with
10 regard to scheduling.

11 They are going to be at night, some
12 of them, and we don't want to infringe on
13 people's nights too much, but to the
14 extent we have to, they will have notice
15 of all that.

16 MR. DASENT: Okay. We will
17 circulate a list of venues and suggested
18 times and dates so that this can be
19 accomplished and at least we will have a
20 draft in front of everyone next week.

21 THE HEARING EXAMINER: I want all
22 dates agreed upon and set by the Hearing
23 Examiner ultimately by the end of next
24 week.

1 MR. DASENT: Okay. Thank you.

2 Technical hearings we have scheduled
3 during the week of August 11. They will
4 be August 11 through August 15.

5 THE HEARING EXAMINER: And with
6 regard to the technical hearings, I
7 expect counsel for the parties to work
8 together with regard to scheduling their
9 witnesses when they need them and
10 whatever. I'm hopeful that there won't
11 be any problem with regard to that.

12 To the extent that there is some
13 problem and we have to stay one night
14 late because a witness has to be
15 completed, we will stay one night late.
16 We will do what has to be done to get the
17 job done.

18 MR. DASENT: September 5 we noted as
19 the date for the submission of
20 simultaneous briefs of all parties.

21 September 15 we have agreed as the
22 date for submission of reply briefs of
23 all parties.

24 THE HEARING EXAMINER: And let's add

1 to that September 18 would be oral
2 argument.

3 MR. DASENT: Okay. Your Honor will
4 calculate the days necessary for the
5 formulation of his report and
6 recommendation to the Commissioner. We
7 have it on our schedule as September 29.

8 THE HEARING EXAMINER: Well, let's
9 make that two weeks from the oral
10 argument, so that will be October 2.

11 MR. DASENT: Okay. Somewhere after
12 October 2 we would like to have a
13 scheduling conference to talk about the
14 scheduling for the stormwater portion of
15 the case.

16 I don't know if you need to
17 decompress after writing a report like
18 that. You might want to do it early the
19 following week.

20 THE HEARING EXAMINER: We'll give
21 you a date for that.

22 MR. DASENT: Okay.

23 Then the Water Commissioner will
24 probably need at least ten days to digest

1 all of this and make a final decision,
2 but I don't presume to suggest exactly
3 when that would happen. But I know he
4 would like to promptly get rates into
5 effect so he will be looking at this with
6 all due speed after he receives your
7 report.

8 THE HEARING EXAMINER: What is the
9 scope of the stormwater part of the
10 hearing?

11 MR. DASENT: Well, the stormwater
12 part of the hearing proposes to implement
13 new regulations concerning the regulation
14 of rates and charges for stormwater
15 customers. Some of those customers have
16 been -- in fact, all of them have been --
17 regulated on sort of a proxy basis; in
18 other words, equivalent meters as opposed
19 to parcel basis.

20 THE HEARING EXAMINER: I read
21 through that. You're going to find some
22 new customers.

23 MR. DASENT: Yes, there are some new
24 customers to be added, yes, parking lots

1 and others. And there will be some
2 give-and-take in terms of how those
3 should be formulated, how those should be
4 administered. And all of the
5 implications of the regulations will be
6 subject to something like a
7 mini-rulemaking here where we need to
8 sort of look at things to make sure
9 Charis' constituency is not unduly
10 affected.

11 The timeline for the implementation
12 of this will be, I guess, solidified
13 here. We plan on putting stormwater
14 regulations in place to change our system
15 in Year 2 of the rate increase, which has
16 four steps in it, to give us time to do
17 the administrative part of it.

18 So I think we have time to be
19 deliberate on that part of the case. But
20 I wanted to make sure the parties knew
21 that we could sort of focus on that
22 because it's a new area. It's not like
23 anything that we've done before.

24 As a consequence, it would help us

1 to schedule a timeline that's reasonable
2 for everyone and that allows
3 Mr. Bertocci's and everyone's consultants
4 time to sort of review everything,
5 present their testimony, and suggest any
6 changes in the regulations that are
7 necessary.

8 THE HEARING EXAMINER: Excellent.
9 So now we have a schedule agreed upon.
10 We can certainly try to adhere to that.

11 With regard to filing documents and
12 how we're going to accomplish that?

13 MR. DASENT: The parties would agree
14 that we would electronically submit
15 documents on the date that they're due
16 and then FedEx or hand-deliver hard
17 copies.

18 If a party wants to waive that for
19 any particular reason and accept copies
20 by mail, obviously they can. But I would
21 like it in a pretrial order to suggest
22 that unless that standard is waived,
23 particularly for Harrisburg parties, we
24 need overnight delivery for the hard

1 copy.

2 THE HEARING EXAMINER: And for the
3 electronic versions, can we put them all
4 in pdf versions?

5 MR. DASENT: Okay.

6 MS. MINCAVAGE: Yes.

7 MR. BERTOCCI: Yes.

8 THE HEARING EXAMINER: And we will
9 also try to create an on-line docket so
10 you can see the docket on line to show
11 everything because it's my responsibility
12 to act as the clerk of the court as well,
13 so to speak.

14 MR. DASENT: Absolutely. We would
15 do that, but we're afraid documents might
16 go missing.

17 MS. MINCAVAGE: Your Honor, if we
18 could just include the e-mail address
19 that we would serve documents to you at
20 because I don't believe we have that.

21 THE HEARING EXAMINER: My e-mail
22 address is Bock@DisputerI.com.

23 And a copy should also be sent to...

24 MR. GALBRAITH: I'm Michael

1 Galbraith and it's mlg@DisputeRI.

2 THE HEARING EXAMINER: So everything
3 that's sent to me should be sent
4 electronically in duplicate to
5 Mr. Galbraith.

6 MR. DASENT: Discovery Timeline: We
7 request ten days. The parties agree that
8 that gives us enough time for written
9 interrogatories to be answered and served
10 upon the opposing party.

11 THE HEARING EXAMINER: Ten days from
12 receipt?

13 MR. DASENT: Calendar days from
14 receipt, yes.

15 The Department also takes the stance
16 that this proceeding is open for
17 intervention even past the deadline,
18 which would have just passed, for
19 submission of a letter requesting a
20 hearing.

21 In the past -- and Your Honor would
22 have to rule on this -- we have permitted
23 parties to intervene and take the
24 proceeding as they find it. In other

1 words, we obviously wouldn't go back and
2 do anything over, but if they wanted to
3 become a part of the proceeding, that
4 would be fine, at whatever reasonable
5 time that they appear.

6 THE HEARING EXAMINER: And certainly
7 I think that's consistent with the
8 opportunity for everybody to be given a
9 full and fair opportunity to be heard.

10 I spoke with Mr. Delaney today, who
11 told me that he plans to intervene, but
12 that he does not have full approval at
13 this juncture; and he certainly
14 understands that if and when he does,
15 that he will be bound by whatever
16 transpires at that time.

17 We are not going to start changing
18 schedules or things of that nature. We
19 will work to accommodate them, but we are
20 not going to be changing things if
21 someone comes in late.

22 MR. DASENT: I think that's pretty
23 much it, Your Honor.

24 THE HEARING EXAMINER: Okay.

1 MR. BERTOCCI: I had a couple
2 points.

3 THE HEARING EXAMINER: Sure.

4 MR. BERTOCCI: I wasn't quite sure
5 whether for the service, we do do service
6 of interrogatories and service of replies
7 and requests for production of documents
8 and those things, but also you serve
9 almost like the court, also if there was
10 going to be a motion or a petition or
11 something like, there ought to be service
12 and filing will be electronic within
13 these time frames, not just service, I
14 think.

15 THE HEARING EXAMINER: That's fine.

16 MS. MINCAVAGE: I'm sorry; I don't
17 quite understand, Phil.

18 MR. BERTOCCI: Well, for instance,
19 maybe it will be clearer with my next
20 point, that if there are objections to
21 interrogatories or there are disputes
22 about whether something should be
23 provided, we ought to have a little bit
24 of a procedure there.

1 I thought we would just follow what
2 was recently done before the PUC in PGW's
3 rate case where if an interrogatory is
4 served and you have an objection to the
5 interrogatory, it should be communicated
6 to the party that's serving the
7 interrogatory within three days, some
8 effort to resolve it.

9 If it's not resolved, if it's
10 unresolved, it should be communicated to
11 the Hearing Officer within five days of
12 the date of the service of the objection.
13 So it gives a couple days for people to
14 work it out on their own and then come to
15 the Hearing Officer.

16 Motions to dismiss objections and/or
17 to direct answering of interrogatories
18 should be filed within three calendar
19 days from the service of the written
20 objections.

21 And then there was something, which
22 probably we don't need to agree to
23 because it's sort of common courtesy, but
24 if discovery is served electronically on

1 a Friday afternoon, I think everybody
2 would agree that the time doesn't start
3 running until the following Monday.

4 MR. DASENT: That's fine.

5 THE HEARING EXAMINER: I think
6 that's fair. Any disagreement with that?

7 MR. DASENT: No, as long as we're
8 flexible because, for example, if you
9 count three days and you're objecting and
10 then there's a written motion, I would
11 just engage Your Honor if we can't work
12 it out, even if it's on the sixth day.

13 MS. MINCAVAGE: Certainly the tenor
14 of the matter is that we want to
15 accommodate each other. We have a
16 relatively small group to deal with. We
17 all have good purposes in mind and we
18 don't want to stand on technical
19 requirements or filing things to preclude
20 or prevent anybody from anything.

21 On the other hand, we have to have
22 some guidelines that we're going to try
23 and follow so that we have order to the
24 proceeding and can fit it in relatively

1 consistent with the time frame that we
2 have.

3 We'll want a copy of the transcript
4 Monday so we can promptly review it and
5 issue an appropriate order and get that
6 out as soon as possible. Make whatever
7 arrangements you have to make with the
8 parties.

9 Any other matters to come before the
10 Hearing Officer at this time?

11 MR. DASENT: Nothing.

12 THE HEARING EXAMINER: We stand
13 adjourned. Thank you all for your
14 cooperation. We look forward to working
15 with all of you in connection with this
16 matter.

17 MR. DASENT: Thank you.

18 MR. BERTOCCI: Thank you.

19 MS. MINCAVAGE: Thank you.

20 - - -

21 (Whereupon the hearing adjourned at
22 2:35 p.m.)

23 - - -

24 Reported By: Susan Marie Migatz, RMR, CRR

