

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of)
)
)
CHICAGO BRIDGE & IRON COMPANY N.V.)
)
a foreign corporation,) **PUBLIC RECORD VERSION¹**
)
CHICAGO BRIDGE & IRON COMPANY)
)
a corporation,)
)
and)
)
PITT-DES MOINES, INC.)
)
a corporation.)

Docket No. 9300

To: The Honorable D. Michael Chappell
Administrative Law Judge

**COMPLAINT COUNSEL’S OPPOSITION TO RESPONDENTS’
MOTION FOR LEAVE TO ADD UNIDENTIFIED EXPERT WITNESS**

Pursuant to Section 3.22 (c) of the Federal Trade Commission’s Rules of Practice (“FTC Rules”), 16 C.F.R. 3.22(c), Complaint Counsel file this opposition to Respondents’ Motion to add, five months after the date set by this Court for disclosure of Respondents’ expert witness, an unidentified expert witness to Respondents’ Final Witness List filed September 19, 2002. Respondents have failed to show good cause why a still unnamed expert witness should be added to Respondents’ witness list at

¹ All text in bold and brackets is Confidential subject to the March 5, 2002 Protective Order entered in this case. Pursuant to FTC Rule of Practice 3.45(e), 16 C.F.R. § 3.45(e), a list of the names and addresses of persons who should be notified of the Commission’s intent to disclose in a final decision any of the confidential information contained in this motion is attached.

this time.

Respondents represent that they need to present a new expert witness in order to attempt to reconcile the budget price submitted by CB&I to [

circumstances under which such offers were prepared and presented. Respondents do not need to add an unidentified expert witness in order to inform the Court regarding the relative profit margins in PDM's 1999 bids and in CB&I's 2002 price for LIN/LOX tanks.

CONCLUSION

For the reasons stated herein, Respondents have failed to show good cause why they should be permitted to add an unidentified expert witness at this time. Accordingly, Complaint Counsel request that Respondents' motion be denied.

Respectfully submitted,

Cecelia M. Waldeck
Federal Trade Commission
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Washington D.C. 20580
(202) 326-3669

Counsel Supporting the Complaint

Dated: October 7, 2002

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

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|------------------------------------|---|-----------------|
| In the Matter of |) | |
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| CHICAGO BRIDGE & IRON COMPANY N.V. |) | |
| |) | |
| a foreign corporation, |) | |
| |) | |
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| |) | |
| a corporation, |) | |
| |) | |
| and |) | Docket No. 9300 |
| |) | |
| PITT-DES MOINES, INC. |) | |
| |) | |
| a corporation. |) | |
| |) | |

ORDER

On October 4, 2002, Respondents filed a motion to add an unidentified expert witness to attempt to explain alleged differences between prices offered by Pitt-Des Moines for LIN/LOX tanks prior to the acquisition and Chicago Bridge & Iron's price following the acquisition. Complaint Counsel filed an Opposition thereto on October 7, 2002. The Court having considered the arguments advanced in Respondents' motion and in Complaint Counsel's response thereto,

IT IS HEREBY ORDERED that Respondents' motion for leave to add an unidentified expert witness is denied.

IT IS FURTHER ORDERED that, to the extent not already covered by the statement of expected testimony of Respondents' witnesses, Respondents may, within three days of the date of this Order, supplement their Final Witness List by adding to the statement of expected testimony of any of the witnesses identified therein testimony relating to the computation of the respective bids and budget prices that are the subject of Respondents' motion.

IT IS FURTHER ORDERED that Respondents may, within ten days of the date of this Order, supplement their Final Exhibit List by adding, and providing to Complaint Counsel, contemporaneous documents relating to the computation of the respective bids and budget prices that are the subject of Respondents' motion. Within five days of receipt of such supplemental exhibits, Complaint Counsel may supplement their Final Exhibit List by adding, and providing to Respondents, rebuttal exhibits.

ORDERED

D. Michael Chappell
Administrative Law Judge

Date: October ____, 2002

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of Complaint Counsel's Opposition to Respondents' Motion for Leave to Add Unidentified Expert Witness to be delivered by hand to

The Honorable D. Michael Chappell

