



UNITED STATES OF AMERICA  
[REDACTED]

\_\_\_\_\_  
In the Matter of )  
 )  
CHICAGO BRIDGE & IRON COMPANY N.V. )  
 )  
a foreign corporation, )  
 )  
CHICAGO BRIDGE & IRON COMPANY )  
 )  
a corporation, )  
 )  
and )  
 )  
PITT DES-MOINES, INC. )  
 )  
a corporation. )  
\_\_\_\_\_

Docket No. 9300

COMPLAINT COUNSEL'S  
MOTION FOR LEAVE TO DEPOSE

Pursuant to Rule 3.22 of the Federal Trade Commission's Rules of Practice ("FTC Rules"), 16 C.F.R. § 3.22, Complaint Counsel seeks leave to issue a subpoena for a deposition of Mr. Jean Pierre Jolly ("Mr. Jolly") on December 17, 2002, after he arrives in

[REDACTED]

[REDACTED]

faith belief that a discovery request pursuant to a subpoena issued by this tribunal could be

\_\_\_\_\_  
1 Mr. Jolly is represented by Mr. David Halket, Esquire, of Morris, Lindsley, Halket & Snowden in Houston, Texas.

served on Mr. Jolly or on his company in France. See FTC Rule 3.36(b)(4); see also infra note 2.

During discovery and throughout the period preceding trial, Respondents have represented that they intended to call Mr. Jolly by affidavit. However, on November 12,

2002, Respondents informed this tribunal that they expect to call Mr. Jolly, who has never volunteered to testify on behalf of Respondents. See Trial Transcript ("Tr.") at 123:15-124:2.

On December 6, 2002, Respondents informed Complaint Counsel that they intend to call Mr.

Jolly as a live witness on December 18, 2002. Although this discovery request is past the September 6, 2002 discovery cut-off, these representations by Respondents are the first that

we have learned that Mr. Jolly will be in the United States and hence, subject to service of a

subpoena. Mr. Jolly's deposition, Mr. Jolly and his counsel have refused to speak with us voluntarily.

prior to his testifying at trial. Complaint Counsel will be unfairly prejudiced at trial. We have

#### I.

During the discovery phase of this proceeding this Court rejected Respondents' application for foreign discovery, noting that they had not made the requisite showing that such discovery could issue in a foreign jurisdiction. See Order Denying Respondents' Motion for Issuance of Subpoena, dated April 18, 2002. Thereafter, Respondents proceeded voluntarily to obtain information from Mr. Jolly in France. On June 4, 2002, Mr. Jolly

notified Complaint Counsel that they “intend to include Mr. Jean-Pierre Jolly on our witness list to the extent of presenting his testimony through the enclosed declaration, which he signed voluntarily.” Letter to Steve Wilensky from Nada Sulaiman, June 7, 2002, emphasis added (“Attachment 1”).

Complaint Counsel also realized that it could not satisfy the requirements of FTC Rule 3.36(b) of the Commission’s Rules of Practice regarding the applications for subpoenas to be served in France, see Complaint Counsel’s Response to Respondents’ Motion for Foreign Discovery Pursuant to Rule 3.36, dated April 17, 2002, and therefore proceeded voluntarily to obtain information from Mr. Jolly. On August 22, 2002, Mr. Jolly provided Complaint Counsel with a declaration that clarified and explained many of the topics covered in the earlier declaration obtained by Respondents, CX 15, RX 738, and Complaint Counsel

had no further contacts with Mr. Jolly.

At the time of the close of discovery, it appeared that both parties would present the evidence obtained from Mr. Jolly through their respective declarations. Both parties appear to have had equal opportunity to secure information from Mr. Jolly on a voluntary basis, and

neither party could demand discovery from him as long as he was outside the United States

correspondences in October 2002, over one month after the close of discovery, Respondents

Counsel could use the declaration it obtained from Mr. Jolly “because both sides had ample

opportunity to interview Mr. Jolly and each side received an affidavit from the affiant . . . .”

Letter from Greg Miarecki to Steven Wilensky, dated October 8, 2002 (“Attachment 3”):

Based on these discussions, the parties stipulated that the declarations would be entered into evidence without objection. See JX 3 (stipulating into evidence RX 202 and RX 738,

the close of discovery, Respondents’ counsel stated that they “expect” to call Mr. Jolly “happily” the week before Christmas. Tr. at 123:15-124:0. This appears to be the first time Respondents mentioned that Mr. Jolly may appear live as a witness in their defense case. It was mentioned only as a possibility in opening statements, and it was mentioned only after

that Mr. Jolly, an employee of one of CB&I’s biggest competitors outside the U.S., would voluntarily testify on behalf of Respondents on December 18.

Shortly after learning that Mr. Jolly may appear as a witness, Complaint Counsel requested an opportunity to interview Mr. Jolly prior to his possible trial appearance. Letter to David Hollrah from Cecelia Waldeck, dated November 26, 2002 (“Attachment 5”). This request was denied. Letter to Cecelia Waldeck from David Hollrah dated December 3, 2002 (“Attachment 6”). Because Complaint Counsel has not been afforded the opportunity to speak with Mr. Jolly since August 22, 2002, it has been unable to discover the contours of Mr. Jolly’s knowledge relating to the topics about which he may testify, including his

company's argument failed bid to quantify LNC tender to Demco, which occurred after he

provided his voluntary declarations.

## II.

Good cause is demonstrated if a party seeking to extend a deadline demonstrates that a deadline cannot reasonably be met despite the diligence of the party seeking the extension. Bradford v. Dana Corp., 249 F.3d 807, 809 (8<sup>th</sup> Cir. 2001); Sosa v. Airprint Systems, Inc., 133 F.3d 1417, 1418 (11<sup>th</sup> Cir. 1998). Complaint Counsel did not seek issuance of subpoenas to Mr. Jolly or his employer Technigaz prior to the close of discovery for two primary reasons. First, significant obstacles exist for obtaining foreign discovery, particularly in France.<sup>2</sup> Due to these obstacles relating to the service of compulsory process in France,

basis.

Second, each side had interviewed Mr. Jolly, and he voluntarily provided each party with a declaration that memorialized those discussions. Because neither party could compel

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<sup>2</sup> France has limited its participation in the Hague Convention on Taking of Evidence Abroad in Civil or Commercial Matters, 23 U.S.T. 2555, T.I.A.S. No. 7444 (Mar. 18, 1970), codified at 28 U.S.C. § 1781, which provides for the transmittal of Commission subpoenas

States Under the Hague Evidence Convention, France at A-88-90. Additionally, France has enacted a blocking statute that can limit or prohibit subpoenaed parties from producing evidence in connection with a foreign legal proceeding. Law Relating to the Communications of Economic, Commercial, Industrial, Financial, or Technical, Documents or Information to Foreign Natural or Legal Persons, Law No. 80-520 (1980) Journal Officiel, printed in 1 Demco

supra at 3- 4. Now that Respondents have obtained an agreement by Mr. Jolly to appear voluntarily at trial for Respondents, Complaint Counsel wishes to use the discovery tools available to it to learn of any information Mr. Jolly possesses that is relevant to this matter and that is not otherwise known to it. With leave of this Court, Complaint Counsel will be able to avail itself of a discovery deposition, as Mr. Jolly will become subject to service of process under FTC Rule 3.34 once he enters the United States to testify at this hearing.<sup>4</sup>

III.

depose Mr. Jolly prior to his trial testimony. Mr. Jolly's sudden reluctance to cooperate with Complaint Counsel suggests that recent developments, occurring after August 22, 2002, may have affected Mr. Jolly's position with respect to this litigation. One of these developments

depose Mr. Jolly about these recent developments, Complaint Counsel will be unduly prejudiced at trial.

tank projects. Because Respondents argue that competition from Technigaz replaces the competition lost from CB&I's acquisition of PDM, information on Technigaz's pricing and

<sup>3</sup> Respondents' counsel in his opening statement confirmed that Mr. Jolly is not subject to

<sup>4</sup> Mr. Jolly informed me that Mr. Jolly will be traveling to Washington D.C. from Asia

estimated costs for LNG tank projects is a material issue that will likely be addressed by Mr. Jolly at trial. Without the opportunity to depose Mr. Jolly on these subjects prior to his trial testimony, Complaint Counsel will be unduly prejudiced at trial because it will not be able to

to trial, Complaint Counsel can more readily develop a concise cross examination of Mr. Jolly at trial and can limit any direct examination that it may decide to present while Mr. Jolly is available.<sup>5</sup> Additionally, advance knowledge of the issues that will be discussed at trial will permit Complaint Counsel to identify with Mr. Hollrah and Mr. Jolly the portions of the testimony for which Mr. Jolly may seek in camera treatment. Finally, the deposition may

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<sup>5</sup> Both parties reserved the right to conduct direct examination of any of the individuals

Conclusion

For the reasons stated herein, Complaint Counsel has demonstrated good cause to  
~~seek leave to issue a subpoena for the deposition testimony of Jean-Pierre Lally~~

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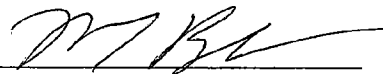
Respectfully submitted,

Morris Bloom  
Cecelia Waldeck  
Commission Counsel  
~~Federal Trade Commission~~

---

Washington, D.C. 20580

By:



Morris Bloom  
Attorney for Plaintiff  
Federal Trade Commission  
601 New Jersey Avenue, N.W.  
Washington, D.C. 20580  
(202) 326-2707

December 9, 2002



**CERTIFICATE OF SERVICE**

Honorable D. Michael Chappell  
Administrative Law Judge  
600 Pennsylvania Avenue, N.W.  
Room H-104  
Washington, D.C. 20580

Jeffrey A. Leon, Esquire  
Duane M. Kelley  
Winston & Strawn

*Cecelia Waldeck*  
Cecelia Waldeck  
Complaint Counsel

*1097*

Dated: December 9, 2002

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

\_\_\_\_\_)  
In the Matter of )  
 )  
CHICAGO BRIDGE & IRON COMPANY N.V. )  
 )  
a foreign corporation, )  
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CHICAGO BRIDGE & IRON COMPANY )  
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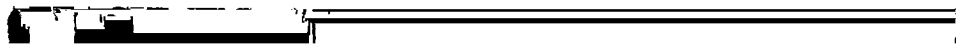
**ORDER**

UPON CONSIDERATION of Complaint Counsel's Motion for Leave to Depose Mr. Jean-Pierre Jolly for his deposition testimony filed on December 9, 2002, and any opposition thereto, and being fully advised in the premises, Complaint Counsel has satisfied the requirements of Rule 3.34 of the FTC Rules of Practice.

IT IS HEREBY ORDERED that Complaint Counsel's motion is GRANTED and that Complaint Counsel be given leave to issue a subpoena to Mr. Jean-Pierre Jolly.

ORDERED:

\_\_\_\_\_  
D. Michael Chappell  
Administrative Law Judge



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WRITER'S DIRECT DIAL NUMBER

202-371-5857  
[nsulaim@winston.com](mailto:nsulaim@winston.com)

**CONFIDENTIAL**

June 7, 2002

**BY HAND DELIVERY**

Steven L. Wilensky, Esq.  
Federal Trade Commission  
601 Pennsylvania Avenue, N.W.  
Room S-3618  
Washington, D.C. 20580

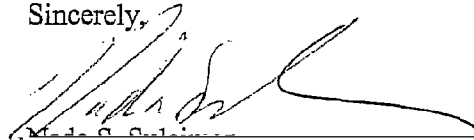
**Re: In the Matter of Chicago Bridge & Iron Company, N.V., et al.  
Docket No. 9300**

Dear Steve:

We intend to include Mr. Jean-Pierre Jolly on our witness list to the extent of

~~presenting his testimony through the enclosed declaration, which he signed voluntarily.~~

Sincerely,



Jeffrey Leon, Esq.  
Gregory Miarecki, Esq.

ATTACHMENT 2



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

MERGERS II

STEVEN WILENSKY  
ATTORNEY

Direct Dial  
202-326-2650

September 16, 2002

Jeff Leon, Esq.  
Winston & Strawn  
35 W. Wacker Drive  
Chicago, IL 60601-9703

Re: *Chicago Bridge & Iron Co. N.V., et. al.*, Docket 9300

Dear Jeff:

Enclosed please find Complaint Counsel's Final Proposed Witness List and Complaint

order.

Sincerely,

A handwritten signature in black ink, appearing to read "S.L. Wilensky".

Steven L. Wilensky

cc: The Honorable D. Michael Chappell (without exhibits)



**CASE-IN-CHIEF**

**1. Eckhard Blaumueller, Director (retired), Peoples Energy Corporation**

Peoples Energy Corporation is an energy and utility company located in Chicago. Mr. Blaumueller was involved in the construction of a cryogenic processing facility designed to separate refinery gas into its components, a portion of which would have included

tanks and facilities, including but not limited to, the importance of experience and reputation for firms constructing LNG storage tanks and facilities, and the potential anticompetitive effects of Chicago Bridge & Iron Company N.V.'s ("CB&I") acquisition of Pitt-Des Moines, Inc. ("PDM").

**2. Dan Britten, President, Fairbanks Natural Gas, LLC**

Fairbanks Natural Gas provides natural gas to the Fairbanks Alaska area. Fairbanks Natural Gas is currently considering constructing an LNG tank to enlarge its service capacity. Mr. Britten will testify about the subjects contained in his deposition. He will also testify

LIN/LOX tanks.

**4. Robert Davis, General Manager, Air Products & Chemicals, Inc.**

Air Products & Chemicals, Inc. is an international supplier of industrial gases and related equipment and technology, including LNG liquefaction units used in LNG peak shaving plants. Mr. Davis formerly worked with CB&I and has experience in the construction of LNG tanks and peak shaving plants. Mr. Davis will testify regarding the subjects contained in his

and LNG peak shaving plants, entry barriers into LNG tanks and LNG peak shaving plants, and the potential anticompetitive effects of CB&I's acquisition of PDM. Mr. Davis will also testify about competition in the bidding for LNG tanks as a component of LNG peak shaving



5. **Kerry Errington, Project Manager, Black & Veatch Pritchard, Inc.**

Errington will testify regarding B&V's performance on this project.

6. **Philip Fan, Purchasing Agent, Linde Process Plant, Inc.**

Linde is one of the world's largest suppliers of industrial gases. Mr. Fan is

potential anticompetitive effects of CB&I's acquisition of PDM

7. **Cleve Fontenot, Vice President of Supply Management (retired), Air Liquide Process & Construction, Inc.**

Air Liquide is one of the world's largest suppliers of industrial gases. Mr. Fontenot was formerly responsible for procurement of LIN/LOX tanks at Air Liquide. Mr. Fontenot will testify about the subjects contained in his affidavit and deposition. Mr. Fontenot will testify about the characteristics and uses of LIN/LOX tanks, the lack of substitute products for LIN/LOX tanks, the historical lack of foreign competition in the design and construction of LIN/LOX tanks in the U.S., the importance of experience and reputation in choosing a supplier of LIN/LOX tanks, and the potential anticompetitive effects of CB&I's acquisition of PDM.

8. **John Gill, Owner, Howard Fabrication, Inc.**

Howard Fabrication, Inc. is a small manufacturer of shop-built industrial storage tanks and thermal vacuum chambers. Mr. Gill will testify about the subjects contained in his affidavit and deposition. Mr. Gill will testify to the differences between field-erected and shop-

was project manager for an LNG peak shaver that the company constructed in 1995. Mr. Hall will testify about subjects relating to the bidding of that project.

10. **Kent Higgins, President, Process Systems Division, Chart Industries, Inc.**

to the differences between field-erected and shop-manufactured thermal vacuum chambers, the lack of substitute products for thermal vacuum chambers, and the effect on selection of

has held several positions relating to the procurement of LIN/LOX storage tanks and facilities.

importance of reputation and experience for firms constructing LIN/LOX storage tanks, and the potential anticompetitive effects of CB&I's acquisition of PDM.

12. **Jean-Pierre Jolly, Vice President of Marketing for SN Technigaz** by affidavit

Air Liquide is one of the world's largest suppliers of industrial gases. Mr. Kamrath is

14. **Dr. Hans Kistenmacher, Senior Vice President, Linde Process Plant, Inc.**

Linde is one of the largest industrial gas suppliers in the world. Linde Process Plant

builds turnkey processing plants, such as natural gas and air separation plants, on a global basis. Dr. Kistenmacher was involved in an unsuccessful bid for an LNG peak shaving plant

LNG storage tanks and facilities. competition in the design and construction of LNG storage

**15. Zoher Meratla, CDS Research Ltd.**

by affidavit

Zoher Meratla, a resident of Canada, is a principal at CDS Research Ltd., a consulting firm in Vancouver, British Columbia, Canada, that provides engineering services relating to

**16. Barry Millet, Fluor Corporation**

Fluor Corporation is one of the largest engineering and construction firms located in the U.S. Mr. Millet was involved in the construction of an LPG import facility for Sea-3, Inc. in Tampa, Florida. Mr. Millet will testify about the subjects contained in his deposition. Mr. Millet will testify about the characteristics and uses of LPG tanks, the lack of substitute products for LPG tanks, difficulties faced by foreign LPG tank constructors trying to compete in the U.S., the importance of reputation and experience for firms constructing LPG storage tanks, and the potential anticompetitive effects of CB&I's acquisition of PDM.

**17. Patrick Neary, Technical Manager, TRW Space and Electronics**

TRW sells advanced technology products, including satellites, for the aerospace, electronics, communications and informations systems markets. Mr. Neary is Technical contained in his affidavit and deposition. Mr. Neary will testify regarding the characteristics and

**18. John Newmeister, Vice President, Matrix Services Company**

Matrix Services Company is the second largest competitor in the U.S. industrial storage tank market. Mr. Newmeister will testify regarding the subjects contained in his investigational hearing and deposition. Mr. Newmeister will also testify regarding LNG

storage tanks and facilities, LPG storage tanks, LIN/LOX/LAR storage tanks, and thermal vacuum chambers, including the characteristics and uses of these products, the lack of substitute products for these products, competition in the design and construction of these

PROJECT TECHNICAL LIASON ASSOCIATES, INC. is a consulting firm that specializes in working on LNG projects. Mrs. Outtrim will testify about the subjects discussed in her deposition. She will also testify regarding LNG storage tanks and facilities, including but not limited to the characteristics and uses of LNG storage tanks and facilities, the lack of substitute products for LNG storage tanks and facilities, competition in the design and construction of LNG storage tanks and facilities in the U.S., selection of a supplier of LNG storage tanks and facilities, and the potential anticompetitive effects of CB&I's acquisition of PDM.

20. **Greg Proulx, Manager, Boeing Satellite Systems, Inc.**

The Boeing Company is one of the world's leading manufacturers of aircraft and

reputation for firms supplying thermal vacuum chambers, competition between CB&I and PDM

21. **Michael Patterson, M.G. Industries, Inc.**

M.G. Industries is a supplier of industrial gases. Mr. Patterson is responsible for producing LIN/LOX tanks for M.G. Industries. Mr. Patterson will testify about the subjects

Michael Patterson, Contract Manager for Global Procurement and Materials

Boeing Company, Global Procurement and Materials, and a former

of these products in the U.S. the importance of reputation and experience for firms

**23. Brian Price, Vice President of LNG Technology, Black & Veatch Pritchard, Inc.**

Black & Veatch Pritchard, Inc. is one of the largest engineering and construction firms

tanks and facilities, the lack of substitute products for LNG storage tanks and facilities,

**24. Bill Puckett, Vice President, Dynegy Corporation**

by deposition

Dynegy Corporation is a diversified energy company located in Houston, Texas. Mr.

**25. Errol Rapp, Project Director, Bechtel Overseas Inc.**

by deposition

Bechtel Group is one of the world's largest engineering and construction firms. Mr. Rapp is Project Director for the Atlantic LNG export facility, located in Point Fortin, Trinidad and Tobago. Mr. Rapp will testify generally regarding the subjects contained in his affidavit and deposition. In addition, Mr. Rapp will testify regarding LNG storage tanks and facilities, including but not limited to, competition in the design and construction of LNG storage tanks and facilities in the U.S. and factors affecting selection of a supplier of LNG

**26. Ronald Skully, XL Technology Systems, Inc.**

Ronald Skully is President of XL Technology Systems, Inc. XL Technology Systems, Inc. provides thermal control systems for thermal vacuum chambers. Mr. Skully will testify about the subjects mentioned in his deposition. Mr. Skully will also testify to CR&P's purchase

Spectrum Astro, Inc. is a manufacturer of low cost, high performance satellites. Spectrum Astro has recently contracted with CB&I to build a thermal vacuum chamber. Mr. Thompson will testify regarding the subjects contained in his affidavit and deposition. Mr

28. Douglas Thorneycroft, Engineer, Westcoast Energy

Mr. Thorneycroft is an engineer for Westcoast Energy, a large Canadian natural gas pipeline company. Mr. Thorneycroft was project manager for an LNG peak shaving facility

and to the level of their bid.

Fluor Corporation is one of the largest engineering and construction firms located in the U.S. Ms. Warren was involved in the construction of an LPG import facility for Sea-3, Inc. in Tampa, Florida. Ms. Warren will testify about the subjects contained in her deposition. Ms. Warren will testify about the characteristics and uses of LNG tanks, the lack of substitutes available for LNG tanks. Difficulties faced by foreign LNG tank constructors trying to compete

EXPERT WITNESS

Mr. Simpson is a staff economist with the Bureau of Economics at the Federal Trade

of the relevant markets.

**REBUTTAL WITNESSES**

**31. Scott Colby, BOC Group, Inc.**

Carolina. Mr. Colby will testify as to experiences in using American Tank & Vessel, Inc. for this project.

Zachry Construction Corp. is a major U.S. construction firm that has partnered with SN Technigaz, a French company experienced in the construction of LNG tanks and facilities, to construct LNG facilities in the U.S. Mr. Fabel is an engineer who has responsibilities for LNG projects on behalf of Zachry. Mr. Fabel will testify about the subject contained in his deposition. Mr. Fabel will testify to entry barriers in the LNG storage tank and facilities markets and to competitive disadvantages that Zachry may experience in competing against CB&I for U.S. LNG projects.

**33. Devon Hart Raytheon Inc**

by deposition

**34. Sam Kumar, Consultant to SN Technigaz**

Mr. Kumar is a consultant to SN Technigaz for potential LNG projects in the U.S. Mr. Kumar formerly worked for both CB&I and PDM. Mr. Kumar will testify about the subject contained in his deposition. Mr. Kumar will also testify to entry barriers in the LNG storage tank and facilities markets and to competitive disadvantages that SN Technigaz may experience in

**35. Dr. John Simpson, Ph.D.**

Dr. Simpson is a staff economist with the Bureau of Economics at the Federal Trade Commission. Dr. Simpson will provide rebuttal testimony about the product market

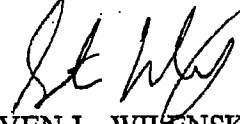
**36. Brad Vetal, President, Matrix Services Company**

by deposition

Matrix Services Company is the second largest competitor in the U.S. industrial storage

tank market. Mr. Vetal will testify to his interest, prior to February 7, 2002, in acquiring the EC Division of PDM.

Respectfully submitted,



STEVEN L. WILENSKY  
CECELIA WALDECK  
MICHAEL A. FRANCHAK  
HECTOR RUIZ  
ERIC SPRAGUE  
APRIL TABOR  
COMMISSION COUNSEL  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580  
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September 16, 2002



ATTACHMENT 3

**WINSTON & STRAWN**

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October 8, 2002

**VIA FACSIMILE**

Steven L. Wilensky, Esq.  
Mergers II – Federal Trade Commission  
Bureau of Competition  
601 Pennsylvania Ave., N.W.  
Room 3618  
Washington, D.C. 20580

Re: In the Matter of Chicago Bridge & Iron Company, N.V. et al.

As promised, I write to provide additional information regarding our current intentions with respect to third-party witnesses named in the above-referenced matter.

We intend to call the following third-party witnesses by deposition: Marek Chudakiewicz, Bob Briggelson, W.T. Cutler, Ernest Hilger, John Kella, Norman Kella, Victor Kella,

- We understand that you plan to call, *inter alia*, the following third-party witnesses live during your case-in-chief: Robert Davis; Moon Fabel; Chung Fan; David Kamrath; Hans Kistenmacher; John Newmeister; Patricia Outtrim; Michael Patterson; and Ron Scully. As you will note, these individuals are also on our witness list. We plan to elicit our affirmative testimony from them immediately after our cross-examination during your

**WINSTON & STRAWN**

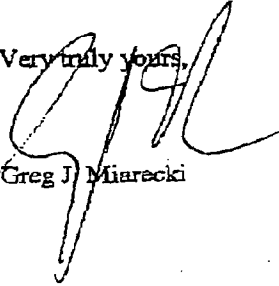
Steven L. Wilensky, Esq.

October 8, 2002

Page 2

- We plan to call the following third-party witnesses live, subject to their availability: Rich Byers; Nigel Carling; Jim Crider; Volker Eyermann; and Larry Izzo.
- With respect to Scott Colby, currently listed as one of your rebuttal witnesses, we plan to ~~discuss our offering position with him immediately after we cross examine him during~~

Very truly yours,

  
Greg J. Miarecki

GJM:

ATTACHMENT 4

# WINSTON & STRAWN

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October 18, 2002

## VIA FACSIMILE

Steven L. Wilensky, Esq.  
Mergers II  
Federal Trade Commission  
Bureau of Competition  
601 Pennsylvania Ave., N.W.  
Room 3618  
Washington, D.C. 20580

we are in receipt of your Stipulation delivered October 15. We have the following observations:

First, with respect to paragraph 1 (the use of depositions pursuant to FTC Rule of Practice 3.33) the parties by exchange of your letter to me on October 6 and our response on October 7, 2002, have agreed that the deposition of Mr. [redacted] shall be conducted on October 15, 2002, at the offices of Winston & Strawn LLP, 35 West Wacker Drive, Chicago, Illinois 60601-9703.

Mr. [redacted] is a former employee of [redacted] who was part of our proposal to you. We presume therefore that you may have some information regarding [redacted] that is not in the public domain.

deposition.


Second, with respect to paragraph 2 of your Stipulation, we do not object to [redacted]

Steven L. Wilensky, Esq.  
October 18, 2002  
Page 2

~~Third, with respect to paragraph 3, we agree to use the Salomon affidavits~~

Fourth, with respect to paragraph 4, we agree to the use of Mr. Jolly's affidavit only because both sides had ample opportunity to interview Mr. Jolly and each side received an affidavit from the affiant, thereby arguably comporting with Rule 3.43(b). We under no circumstances agree to your use of the other affidavits for any purpose.

Very truly yours,

  
Jeffrey A. Leon

JAL:pn

Enclosures

ATTACHMENT 5

Bureau of Competition

November 26, 2002

Mr. David C. Hollrah, Esq.  
Morris, Lendais, Hollrah & Snowden  
1980 Post Oak Blvd., Suite 700  
Houston, TX 77056

By FAX: (713) 966-7229

Re: Chicago Bridge & Iron Docket #300

Dear Mr. Hollrah:

We would like to talk with you and Mr. Jolly of Technigaz regarding his upcoming testimony in the subject litigation. Mr. Jolly is on our witness list and we plan to ask him questions about Technigaz's activities in the U.S. Do you understand that

Jolly at trial in advance of his appearance. Judge Chappell has requested third parties to file a

We can assist you in filing this motion. I can be reached at (202) 326-3669 or via e-mail at [cwaldeck@ftc.gov](mailto:cwaldeck@ftc.gov).

Very truly yours,

*Cecelia Waldeck*  
Cecelia Waldeck

cc: Morris Bloom



ATTACHMENT 6

MORRIS, LENDAIS, HOLLRAH & SNOWDEN

a Professional Corporation  
Attorneys at Law

tel: 713-966-7200

Tour Framatome - Cedex 16  
92084 Paris La Défense

December 3, 2002

Cecilia Waldorp, Esq.

VIA FAX (202) 326-2071

Re: *[Redacted]*

I have spoken to Jean Pierre Jolly of Technigaz about your request to have further time with  
*[Redacted]*

agency lawyers spoke to him. I concur in his opinion that such time should have been adequate.

It is my understanding that Mr. Jolly will be in Asia until he come to Washington for his  
testimony later this month.

Many thanks for your understanding.

Very truly yours,



DH/de

**Morris, Lendais, Hollrah & Snowden**

a Professional Corporation

Attorneys at Law

1980 Post Oak Blvd., Suite 700

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