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**MEMORANDUM**

TO: Harris T. Bock, Hearing Officer  
FROM: Andre Dasent, Esquire  
RE: Philadelphia Water Department Rate Proceeding – Phase 2  
DATE: February 20, 2009

Enclosed for filing is the Philadelphia Water Department's Response to Sunoco's Motion for Admission of Late Filed Exhibit in Phase 2 of the above referenced rate proceeding. Thank you for your attention to this matter.

cc: Service List

BEFORE THE  
PHILADELPHIA WATER COMMISSIONER

In the Matter of a Proposed Increase in :  
Rates for Water and Wastewater Utilities : FY 2009-2012  
Phase 2 – Stormwater Proceeding :

**PHILADELPHIA WATER DEPARTMENT’S RESPONSE TO SUNOCO’S  
MOTION FOR ADMISSION OF LATE FILED EXHIBIT**

This Response is filed on behalf of the Philadelphia Water Department (“Department” or “PWD”), by the undersigned counsel, in opposition to the Motion submitted by Sunoco, Inc. for the admission of a late-filed exhibit.

**Summary of Motion**

Sunoco moves the admission of the attached schedule as Exhibit G to the prepared testimony of Stephen J. Koczirka, Richard J. Goracy and James Disario. The schedule purports to identify the prior year costs associated with the operation of wastewater treatment plants as well as costs related to the stormwater management programs for the Sunoco Refinery property. Sunoco estimates that approximately five percent of the prior year costs identified in the attached schedule are incurred for stormwater from the Point Breeze, Girard Point and West Yard parcels of the Sunoco Refinery property. The exhibit is indicated to support the statements in Sunoco’s direct testimony concerning the stormwater management practices currently employed by Sunoco.

**Response to Motion**

The above Motion plainly seeks to circumvent procedures provided in the hearing process to vet submissions of the parties through discovery and cross examination. The parties have submitted literally scores of exhibits which have been the subject of hundreds of discovery requests in a very vigorous process that was designed to probe the sufficiency and credibility of the evidence presented. The sponsors of various exhibits have also been subjected to cross examination, if any party wanted to test the sufficiency or credibility of various submissions. Sunoco Exhibit G is apparently the outlier or exception to this process.

The Exhibit in question appears to depict twenty-five budget line-items by sub-account with associated dollars. The total dollars shown are \$12,932,356. From this compilation of line-items and dollar amounts, Sunoco estimates that approximately five percent of same represent the prior year’s operating costs associated with stormwater at its Point Breeze, Girard Point and West Yard parcels. The basis for this five percent estimate is unknown. The Department also does not know the source of the budget line-items depicted or the associated dollars. If these are indeed budgeted amounts, the actual expense levels could be different from those depicted. There is no definitive disclosure as to whether these line-items represent the total universe of budgeted expenses associated with the Sunoco wastewater treatment plants and its stormwater management. It should be noted that the expenditures shown appear to be operating expenses. No capital related charges or associated debt service appear to be shown. It could be there are not any capital related expenses – although that would appear unlikely for a truly representative

period.<sup>1</sup> In any event, the foregoing represent the types of issues that could have (and should have) been probed via cross examination – if the opportunity had been presented.

Presumably, these line-items are associated with Sunoco's fiscal year, but that fiscal year is not disclosed. Columns in the exhibit appear to describe applicable sub-accounts for "Certain Facilities REFID PH" and one column is entitled "Count" -- but no explanation of these columns is provided. This exhibit appears to be proffered to show a representative level of expenses associated with the operation of "certain facilities" including the Sunoco wastewater treatment plants, but without additional years of comparable expenses and an explanation of the expenses presented, the parties have no way to know whether same are representative or not of normal operating expenses. It's difficult to know what this exhibit represents in a vacuum. Exhibit G presents more questions than answers.

Sunoco argues that Exhibit G shows that its operating costs related to stormwater management (purportedly five percent of the expenses shown in the exhibit, or approximately \$650,000 annually) for the identified Refinery parcels exceed the gross stormwater management system ("SWMS") charges that it estimates may be assessed against it (\$4.85 million/annually under the proposed parcel area based stormwater cost allocation system). Sunoco Brief at 50. Of course, the gross level of SWMS charges is subject to stormwater management credits (associated with the wastewater treatment facilities) and the NPDES credits. Sunoco therefore is comparing apples and oranges, even assuming the budgeted numbers it presents in Exhibit G are meaningful. The problem is we don't have a clear idea of what the budget data in this exhibit really means.

Taken together, the parties have no way of determining the answers to the numerous questions identified in this Response. The process established by the Hearing Officer with the consensus of the parties had a purpose to vet every submission included in the record. This exhibit should be no exception.

WHEREFORE, the Department opposes Sunoco's Motion for Admission of Late Filed Exhibit and requests that the record be formally closed.

Respectfully submitted,



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Date: February 20, 2009

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<sup>1</sup> Generally accepted accounting statements include depreciation as an annual operating expense. However, depreciation is obviously not an annual out-of-pocket expenditure. Rather, it is a bookkeeping entry, and the annual equivalent dollar amount of annual depreciation expense *should* be expended for capital renewals and replacements of plant and equipment in order to maintain the facility in good operating condition. Whether such annual expenditures were actually made is unknown without having the opportunity to question Sunoco about this list of alleged costs.

**SUNOCO LATE FILED**  
**EXHIBIT G**  
**TO ITS TESTIMONY**

| Sub Account                              | Count | 08 Dollars       |
|--|-------|------------------|
| Certain Facilities, REFID PH             |       |                  |
| 1011 REG SALARIES                        | 168   | \$ 402,284.34    |
| 1014 REG WAGES HOURLY                    | 168   | \$ 1,240,998.44  |
| 1021 OVERTIME SALARIES                   | 40    | \$ 16,561.21     |
| 1024 OVERTIME WAGES - HOURLY             | 281   | \$ 360,967.49    |
| 1090 OTHER PAYROLL ITEMS                 | 28    | \$ 65,785.68     |
| 1200 PAYROLL BENEFITS-SALARY             | 26    | \$ 201,142.24    |
| 1201 PAYROLL BENEFITS-HOURLY             | 13    | \$ 620,499.26    |
| 2311 CONTRACT SERVICES - OPERATIONS      | 502   | \$ 2,281,623.87  |
| 2321 CONTRACT SERVICES - MAINTENANCE     | 6913  | \$ 2,700,149.40  |
| 2346 TANK REPAIRS - CONTRACT             | 83    | \$ 169,847.86    |
| 2357 CO VEHICLE MAINTENANCE - CONTRACT   | 11    | \$ 448.30        |
| 2410 OPERATING SUPPLIES                  | 250   | \$ 111,410.73    |
| 2441 ROUTINE MAINTENANCE - MATERIALS     | 634   | \$ 509,305.53    |
| 2443 EXTRA/PROJECTS - MATERIALS          | 16    | \$ 114,439.21    |
| 2448 OUTSIDE SHOP MATERIAL REPAIRS       | 27    | \$ 268,922.54    |
| 2510 PROCUREMENT CARD PURCHASES          | 12    | \$ 4,685.95      |
| 2820 CHEMICALS                           | 287   | \$ 674,337.83    |
| 3104 P/R REIMB O/T MEALS-HOURLY          | 26    | \$ 2,070.00      |
| 4100 DEPRECIATION                        | 48    | \$ 1,276,662.61  |
| 4106 T/A AMORTIZATION-FUELS              | 12    | \$ 1,002,261.38  |
| 4304 RENTAL - MAINTENANCE EQUIPMENT      | 144   | \$ 287,725.61    |
| 4308 RENTAL - VEHICLES                   | 95    | \$ 34,334.94     |
| 5011 ROUT MAINTENANCE - REDIST LABOR     | 1780  | \$ 559,052.60    |
| 5013 EXTRA/PROJECT - REDISTRIBUTED LABOR | 40    | \$ 25,259.94     |
| 6000                                     | 2     | \$ -             |
| 7000 EXCISE TAX REBATE                   | 10    | \$ 1,578.92      |
| 8500                                     | 3     | \$ -             |
|  | 11619 | \$ 12,932,355.88 |