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

- - -

TECHNICAL HEARINGS
VOLUME III

- - -

August 14, 2008
10:15 a.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

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2 THE HEARING OFFICER: Day 3 of the
3 technical hearings in the matter of the
4 Water Department rate increase shall be
5 declared open.

6 Mr. Dasent, do you have a witness
7 that you want to present, sir?

8 MR. DASENT: Yes. We would like to
9 call this morning Commissioner Keith
10 Richardson, our Revenue Commissioner for
11 the City of Philadelphia. He will be
12 addressing customer service issues.

13 THE HEARING OFFICER: Okay. You may
14 proceed.

15 - - -

16 ...KEITH RICHARDSON, called...

17 - - -

18 DIRECT EXAMINATION

19 - - -

20 BY MR. DASENT:

21 Q. Commissioner, I have before me a
22 multipage document entitled "Direct Testimony
23 of Keith Richardson." Is this your testimony
24 or was it prepared under your direction and
25 supervision?

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2 A. It was.

3 Q. Your testimony is in
4 question-and-answer format. If I were to ask
5 you these questions today, would your answers
6 be the same or substantially so?

7 A. Yes, they would be the same.

8 Q. Do you have any corrections to make
9 to your testimony at this point?

10 A. No, sir.

11 MR. DASENT: Now, with
12 Mr. Richardson this morning, Your Honor,
13 also is Deputy Commissioner Michelle
14 Bethel and she is a new appointment at
15 the Water Revenue Bureau, and I wanted to
16 introduce her to you also as she will be
17 overseeing the Water Revenue Bureau and
18 the customer service issues that we're
19 addressing today.

20 THE HEARING OFFICER: A formidable
21 responsibility. Good luck with it and
22 congratulations on your appointment.

23 MS. BETHEL: Thank you very much.

24 MR. DASENT: Mr. Richardson is
25 available for cross-examination.

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2 We would ask, with Your Honor's
3 permission, that the statement of the
4 "Direct Testimony of Keith Richardson" be
5 marked as PWD Statement 6 and admitted
6 into evidence.

7 THE HEARING OFFICER: It will be so
8 admitted.

9 - - -

10 (Whereupon the document was marked,
11 for identification purposes, as PWD
12 Statement 6 and admitted in evidence.)

13 - - -

14 THE HEARING OFFICER: Mr. Bertocci?

15 - - -

16 CROSS-EXAMINATION

17 - - -

18 BY MR. BERTOCCI:

19 Q. Good morning, Mr. Richardson.

20 A. Good morning, sir.

21 Q. I am going to begin by just making a
22 few remarks to say that we appreciate already
23 the interest that you have shown in this
24 proceeding, including the fact that you were
25 here on the first day of this hearing, even

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2 though you weren't being called to testify on
3 that particular day, and that you also,
4 through counsel, arranged a meeting with the
5 Public Advocate and the Water Department even
6 prior to the time that the Hearing Officer
7 made a formal request that you put in
8 testimony in this case concerning the adequacy
9 of the service provided by the Water Revenue
10 Bureau. From our perspective, we appreciate
11 that show of interest and concern and we see
12 that as the possible beginnings of a new day.

13 THE HEARING OFFICER: While we're on
14 the kudos here, let me say the same thing
15 with regard to your testimony. I found
16 the testimony very interesting and very
17 refreshing and with an attitude that
18 probably is consistent with the attitude
19 we are going to look for from this
20 administration, help, can do, a
21 want-to-please attitude and approach. I
22 don't really choose generally to embrace
23 testimony, but lots of that I did
24 embrace.

25 I was very pleased to see the

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2 approach with regard to that and
3 certainly I will make special note of
4 that in my hearing report with regard to
5 that. I am very pleased to see that.

6 Any other kudos?

7 All right. Let's go to work.

8 MR. DELANEY: We have one, too.

9 Great testimony.

10 THE HEARING OFFICER: From
11 Harrisburg even.

12 BY MR. BERTOCCI:

13 Q. I also want to say, this is not
14 going to be the usual type of
15 cross-examination. The basic rule of
16 cross-examination, most lawyers will tell you,
17 although not all observe it, is that you never
18 ask a question that you don't already know the
19 answer to, unless you have nothing to lose.

20 You do that because you are trying
21 to bring out the implication of facts that are
22 already on the record that perhaps the other
23 participant or opposing party would prefer not
24 to bring out with the same emphasis and in the
25 same light.

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2 In this case it's a little
3 different. You have given us some general
4 assurances here of what you want to do in the
5 future in five specific areas and our task
6 here, we think, is essentially to look at your
7 testimony and, to the extent possible, to give
8 you a chance to elaborate on that testimony
9 and give us a chance to gauge essentially what
10 these assurances mean.

11 Do they reflect, recognizing that
12 you are new in this position, good intentions?
13 One possibility, but good intentions that
14 don't have very much chance of being fulfilled
15 in the near future? Or do they represent, at
16 the other end, a willingness to fight for and
17 to give a priority to these changes within the
18 Revenue Bureau which we believe are extremely
19 necessary?

20 One thing I want to say is it's not
21 a question here in our minds of trying to
22 judge your good faith. That's not the issue.
23 We're not here to judge you. We believe
24 people should have a chance to show what they
25 can do and we do not think that you're here

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2 telling us something so that we will just go
3 away.

4 THE HEARING OFFICER: So do we have
5 a stipulation as to good faith?

6 MR. BERTOCCI: As to good faith?

7 THE HEARING OFFICER: Yes.

8 MR. BERTOCCI: Oh, I would stipulate
9 as to his good faith.

10 MR. DASENT: Agreed.

11 THE HEARING OFFICER: I also embrace
12 stipulations, so I am glad that we have
13 been able to all agree upon that.

14 So we have a stipulation as to the
15 good faith of the Commissioner, that you
16 are honest in what you intend to do, and
17 the query is going to be do you think
18 you'll be able to do it and why, and
19 that's what we're going to have some
20 cross-examination about.

21 MR. BERTOCCI: Absolutely. But what
22 we are really trying to do is elaborate a
23 little on what the assurances here mean
24 and what the omissions or the things
25 which at this point he is not ready to

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2 make assurances on will mean.

3 BY MR. BERTOCCI:

4 Q. So referring to your testimony --
5 and you have it in front of you, I think --
6 and PA Exhibit 3 -- has your counsel given
7 that to you? I will give you a copy -- do you
8 generally recognize that document?

9 A. Yes, sir, I do.

10 Q. You recognize that it contains in a
11 way sort of three parts. The part that you
12 probably have not worked with is Exhibit A and
13 that is simply attached, as explained in the
14 first bold paragraph, for reference. It's
15 meant kind of as a whereas, kind of as a
16 history as to how we arrived at the document
17 you have in front of you, the main document,
18 which is a four-page document.

19 The main document that you have in
20 front of you is essentially divided into seven
21 parts really. Some of it is in bold and some
22 of it is not in bold. The parts that are not
23 in bold, you recognize those to be essentially
24 the first five provisions which you have in
25 your own testimony starting on Page 4?

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2 A. Yes, sir.

3 Q. As to the points on which you have
4 given assurance, the first one is "Provision
5 of straight-forward, understandable
6 information about a customer bill in response
7 to an inquiry," with further sort of
8 elaboration.

9 We have suggested adding to that
10 assurance language which articulates a
11 standard that "straightforward and
12 understandable" we thought should be qualified
13 by saying it would be something like the
14 account histories which are routinely provided
15 by PECO Energy and the Philadelphia Gas Works
16 in responding to customer inquiries concerning
17 billings, payments, billing histories, all of
18 that sort of thing.

19 Are you generally familiar with
20 account histories that are provided by utility
21 companies?

22 A. Currently I'm not. We plan to
23 engage in a meeting with the Gas Works Company
24 hopefully sometime in September and continue
25 with PECO also in regard to those areas.

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2 Q. We suggested trying to establish
3 whether there was a commitment to develop an
4 automated capacity to provide these account
5 histories as other utilities do, where if you
6 write in or you call, they'll say, "Well,
7 we'll send you an account history," and
8 essentially it's almost a matter of pushing a
9 button. It's a computerized report which is
10 generated. It doesn't take a lot of time by
11 anybody. I do not know if your present system
12 has the capacity to generate such reports.

13 THE HEARING OFFICER: Well, I think
14 "account history" is a more generic type
15 of term without regard to what PGW does
16 or what PECO does.

17 So I think a fair inquiry is if now
18 we know, it is previously of record, that
19 there was no account history of over a
20 year or so or something of that nature --

21 MR. DASENT: It was a confusing
22 screen that was provided and we were
23 trying to correct that by simplifying it,
24 and that's what Mr. Bertocci is trying to
25 probe now, can we give a straightforward,

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2 easy-to-understand version of an account.

3 THE HEARING OFFICER: I guess the
4 question is not can we give it at the
5 moment, but is that a goal and is that a
6 goal that the Commissioner thinks is
7 achievable by the end of 2008.

8 MR. BERTOCCI: That's the time that
9 we asked. He may have a response, "Well,
10 it's achievable, but not within that time
11 frame."

12 THE HEARING OFFICER: Do you
13 understand the question now?

14 THE WITNESS: Yes.

15 THE HEARING OFFICER: And can you
16 respond to that?

17 MR. RICHARDSON: Yes. Do I think
18 it's achievable by the end of 2008? No.
19 I think it's something we can look
20 forward to possibly by the end of this
21 fiscal year.

22 Again, as you see my testimony, my
23 concern is dealing more with the various
24 programs that we have to provide and
25 marketing those to the customers in the

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2 City. So that right now is not A#1 on my
3 list right now, today, but it's something
4 we can do hopefully by the end of the
5 fiscal year.

6 BY MR. BERTOCCI:

7 Q. Moving on to "Access to staff...,"
8 we thought that efficiency itself is of value,
9 but it's not the primary value from the point
10 of view of customers, for ultimately
11 efficiency needs to be oriented toward
12 defining more specifically what it is that
13 customers are going to receive from an
14 efficient process. You can efficiently shut
15 people off left and right, efficiently send
16 them away left and right.

17 We thought in terms of an assurance
18 that we would like to know whether you can
19 recognize the goal of providing high-quality
20 service which shall be to provide customers
21 with reasonably continuous service without
22 unreasonable interruption or delay.

23 That's language that comes from the
24 basic customer service provision in the State
25 Public Utility Code, and of course

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2 "reasonable" is a matter of discussion, as you
3 know, and it would be a subject for mediation
4 at many points. But it does say more than
5 simply "efficient" because it gives an idea
6 of, well, what is the direction that you are
7 moving in.

8 A. Our direction as this administration
9 is to move in the direction of providing
10 high-quality service to the customers of the
11 City. That is our intention. That is why
12 Ms. Bethel has been brought here with her 14
13 years of customer service experience working
14 at the State level.

15 So, again, everything is baby steps
16 first to get there. And we know also within
17 the Department we are currently under the
18 complement that we should be at to provide
19 that quality service. But, again, that is my
20 marching orders and the mandate that I have.

21 Q. Does that include the reasonably
22 continuous service commitment to that?

23 A. Reasonable to me means continuing to
24 provide high-quality service. So we are
25 trying to strive for better than reasonable.

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2 Q. In your view, if you can't accept
3 reasonably continuous service, I mean,
4 reasonably does not contemplate that no one
5 will ever be shut off, although at the current
6 level, 30,000 customers a year --

7 THE HEARING OFFICER: I think the
8 witness is saying that their intent is to
9 go beyond reasonable. Reasonable is one
10 standard. High quality to him is a
11 higher standard. They're not satisfied
12 with a reasonable standard, they're
13 seeking a higher-quality standard than
14 something over reasonable, I think was
15 the essence of your testimony.

16 MR. RICHARDSON: Yes.

17 MR. BERTOCCI: So he is saying that
18 would encompass reasonable.

19 THE HEARING OFFICER: Right,
20 reasonable.

21 THE WITNESS: We are striving to be
22 better than reasonable, sir. Again, we
23 provide reasonable service to our
24 customers today, but we want to strive to
25 be a little bit better than that.

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2 THE HEARING OFFICER: I think there
3 may be a question on the record as to
4 whether or not you are providing
5 reasonable service and I think we may
6 have some testimony on that from someone
7 else. But, in any event, your intention
8 is to provide high-quality service.

9 BY MR. BERTOCCI:

10 Q. What we envision or what we think is
11 desirable obviously -- and I think your
12 counsel also says the same thing and you have
13 said the same thing -- is as you want to move
14 toward essentially a program of continuous
15 improvement, we're looking at this point for
16 steps that can be taken immediately, knowing
17 that for a unit of 200 to 250 people, to make
18 changes takes time, takes training, takes
19 planning, and is not something that you can
20 just snap your fingers and do.

21 You have to, on the one hand, still
22 collect money. You're operating a ship at the
23 same time you're trying to reform it. You
24 have to stay in motion. You have to do the
25 things that you need to do. And yet at the

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2 same time you have to find the energy and
3 resources to make changes while continuing to
4 do the things that you have to do on a
5 day-to-day basis, and that's not easy.

6 But we thought that one thing that
7 you could do almost immediately is provide a
8 one-page summary to customers that come into
9 the Water Revenue Bureau about the payment
10 agreement options that are available under the
11 current Water Department regulations, and is
12 that something that you could do and could do
13 within, say, 30 days?

14 A. I'm not going to say within 30 days.
15 Again, the Deputy just started in the last two
16 weeks. I want to give her a time frame to
17 feel more comfortable with what's going on
18 underneath her operations.

19 However, also we want to look at
20 marketing what the Department offers in regard
21 to the various programs for payment
22 agreements. Again, that's something that
23 probably wasn't done in the past, but we need
24 to do that moving forward, using the outlets
25 of cable television to market, using the

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2 outlets of our web system as well as the
3 billing system, because people don't know
4 about the WRAP program and other programs we
5 probably provide currently today. So those
6 are things that we are going to use as tools.
7 Can I do it within 30 days? Probably not. I
8 would say within the next 60 to 90 days,
9 probably.

10 Q. Moving to the third assurance,
11 "Implementation of an informal dispute/review
12 process...", again, this is an area where an
13 informal dispute process works best if it
14 begins with customers having something that
15 they can understand and look at and say your
16 version of what's going on is not consistent
17 with my bills or my experience.

18 We know that you're trying to move
19 toward, with that foundation sort of
20 statement, a billing account history, but in
21 the meantime, we have people that are trying
22 to raise disputes, and then the issue is,
23 "Well, what about termination of service?"

24 Can you say that there will be an
25 explicit policy and people will be informed

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2 that during the pendency of a dispute, that
3 they can be assured that a termination of
4 service will be stayed while the dispute is
5 being processed, I mean while the supervisor
6 is looking at the account? Sometimes it takes
7 a couple days to figure out just exactly what
8 it is that needs to be done.

9 A. While we're engaging the customer
10 during a disputed issue, we will not do
11 shut-off until we come to a resolution.

12 Q. I am not going to compliment you on
13 all your answers as you go along just for the
14 sake of moving ahead, but obviously we
15 appreciate the affirmative responses you are
16 giving.

17 THE HEARING OFFICER: So instead of
18 a continuing objection, we have a
19 continuing compliment?

20 MR. RICHARDSON: Yes, exactly.

21 THE HEARING OFFICER: That's
22 probably novel.

23 MR. BERTOCCI: Well, it's a novel
24 style for us on cross-examination.

25 MR. DELANEY: It would be another

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2 stipulation, I think.

3 BY MR. BERTOCCHI:

4 Q. One of the things that has concerned
5 us over time is that our general observation
6 is that the Water Revenue Bureau does better
7 with people who are clearly record owners of
8 their homes who come in and have problems
9 because they look at the BRT thing, they know
10 who the owner is, they know who they're
11 dealing with, they know if they enter a
12 payment agreement there is a lien process, and
13 all of that is sort of compact and easy to
14 handle.

15 Our experience -- and we have some
16 testimony also suggesting that it's not just
17 anecdotal, but our experience -- is that
18 people that don't fit into the sort of clear,
19 easy category have much more trouble, and they
20 are people that come in with situations which
21 are often more difficult to figure out legally
22 what their situation is.

23 They are people who are under lease
24 purchase agreements; they're so-called USTRA
25 tenants, they are tenants where the landlord

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2 was supposed to pay for their water service
3 under the lease and did not and then they came
4 in and exercised certain rights or tried to
5 exercise certain rights; intestate heirs,
6 people that are living in houses where the
7 property is in the name of their uncle or
8 their grandparent, or sometimes it goes on for
9 a long period of time, they can't make payment
10 agreements because they're not recognized as
11 being the owners.

12 There are problems in getting past
13 that or understanding what they need to do and
14 in the meantime dealing with the fact that
15 they also need to maintain their water service
16 going forward while they do things like
17 administer an estate, find an attorney to
18 represent them. You know, sometimes there are
19 disputed titles, you have people who they say,
20 "I'm in this house, I own the house," but
21 there's a contrary deed and there is a pending
22 action to acquire title.

23 All those sorts of issues really are
24 more difficult issues and we think that there
25 needs to be more systematic training at least

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2 individuals that you are discussing in a
3 conversation here to see where issues can be
4 resolved and to continue to try to move
5 forward the agenda of servicing them
6 professionally and diplomatically.

7 I think our supervisory staff --
8 again, we have a lot of folks that are new in
9 place -- have to know the nuances of USTRA,
10 dealing with tenants that are living in
11 situations that you are discussing also.

12 Again, as we do an audit of the
13 Department and review various policies and
14 procedures and things like this, this is
15 something, again, that we have stipulated that
16 we will try to move forward with. So this is
17 something that we will try to work with and
18 comply with as well.

19 Q. So, I mean, I hear you saying, well,
20 training may be too specific a word, but it's
21 a problem area that you have identified and
22 that you will try to find ways to deal with?
23 Is that what you're saying?

24 A. Yes. And if the person isn't
25 satisfied with their answer, they can go up to

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2 the next level as well.

3 Q. But what we're thinking here is that
4 on the supervisory level, there may be a need
5 for more training on identifying these issues
6 and how to deal with them. That's really what
7 I'm asking here.

8 A. Well, I think if you have a neophyte
9 in a supervisory role, the only way they can
10 identify them is experiencing these things.
11 Again, our work force, as you know, goes from
12 a 35-year employee to a six-month employee.
13 We don't have the in-between to help identify
14 these things.

15 So I think that comes in time as
16 they continue to experience working with the
17 various customers. I think you need to work
18 with us as well with this. It's a process. I
19 think our executive management team on the
20 Water side can identify these things as well
21 as they continue to work with the folks in
22 customer service.

23 THE HEARING OFFICER: I think the
24 Law Department might also have some input
25 with regard to that as well because some

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2 of the issues that appear in some of the
3 items you described I think are beyond my
4 expertise.

5 So when you are talking about
6 supervisory expertise, they can have some
7 expertise with regard to it. Some of the
8 things are very tough to figure out. And
9 there has to be an ability for the Water
10 Department to have a ready source at the
11 Law Department to assist them with regard
12 to knowing what is right or what is not
13 right with regard to those situations.

14 So with regard to the mediation that
15 we discussed, I expect the Law Department
16 to be a party to the mediation at the
17 table to discuss those issues.

18 BY MR. BERTOCCI:

19 Q. In connection with the dispute
20 process, again, I think you have already given
21 some assurances on this, that when there's a
22 dispute, there will be a stay of termination
23 pending the resolution of whether it's a
24 dispute, whether it's an appeal, for a hearing
25 within the WRB or whether it's to the Tax

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2 Review Board, that once a dispute has been
3 articulated, that there will be a stay until
4 the problem is resolved.

5 THE HEARING OFFICER: Resolved or
6 adjudicated one way or the other. It may
7 not be resolved.

8 MR. RICHARDSON: Yes, resolved or
9 adjudicated.

10 THE HEARING OFFICER: Right.

11 BY THE HEARING OFFICER:

12 Q. And, again, even there, it's not
13 unreasonable for the utility to say, "Well, we
14 will give you a stay, but we expect you to pay
15 the current bill going forward pending the
16 resolution of this dispute."

17 I mean, the idea is not that a
18 dispute, from our point of view, is sort of
19 like a vacation from paying your bill. A
20 dispute is a dispute. At least going forward,
21 payments need to continue to be made. On
22 behalf of all customers, those that pay and
23 those that have difficulty paying and
24 everybody in between, we still need to see
25 revenues continue to come in during the time

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2 that there's a dispute.

3 THE HEARING OFFICER: And I think
4 that's what we are looking for with
5 regard to a dispute resolution process,
6 that something be memorialized and
7 codified, and certainly that when someone
8 is given a paper or a document that
9 ultimately is produced as a result of the
10 mediation, that that's clear to them,
11 that the temporary suspension with regard
12 to the bill payment does not affect your
13 ability to pay as you go.

14 MR. DASENT: Right.

15 BY MR. BERTOCCI:

16 Q. I was pleased to see under No. 4
17 that you are committed to the implementation
18 of an appeal process within the WRB, as the
19 regulations provide, a hearing before someone
20 in the WRB, not being sent to the Tax Review
21 Board, for many kinds of customer disputes.

22 And the background of that really is
23 the Tax Review Board does fairly well on
24 issues of how much do they owe and whether to
25 abate penalty and interest, but there are many

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2 interests that arise, like these applications
3 for service and other kinds of questions,
4 which don't seem to be dealt with very well at
5 the Tax Review Board level. It's certainly
6 not dealt in a timely manner and which can't
7 wait.

8 They need to be closer to the
9 experience of the Water Revenue Bureau itself
10 and with the kinds of issues they face every
11 day, it seems to me that that's the place to
12 have, we think, and the regulations require,
13 such a hearing or the opportunity for such a
14 hearing, and I think that you have indicated
15 that that's one of the things that you want to
16 do.

17 Again, I think termination of
18 service when there's an appeal will be stayed
19 at this point goes without saying, I guess,
20 but can you give us an idea of what the time
21 frame would be for implementation of a hearing
22 process within the WRB?

23 A. I can't commit to a time frame right
24 now, today. Again, I think once we are at
25 full complement as a staff, we can proceed to

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2 move forward with this appeal process. Again,
3 I would hope to see something before this
4 fiscal year is over to be in place as we are
5 as a department not following the regulations
6 that are in place currently and I want to make
7 sure that we are in compliance with them.

8 Q. I mean, we put here the middle of
9 next year, leaving it a little vague as to
10 whether it was the next calendar year or the
11 next fiscal year.

12 A. I go on fiscal years so...

13 Q. You go on fiscal years?

14 A. Yes.

15 Q. So by the middle of next fiscal
16 year?

17 A. It would be the third quarter of
18 this fiscal year potentially.

19 Q. Of this fiscal year then you're
20 saying?

21 A. This fiscal year started July, so
22 potentially it would be the third quarter,
23 which would be in the January to March time
24 period potentially. But a lot of things come
25 into play with that as well.

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2 THE HEARING OFFICER: And it's also
3 dependent upon the speed of the mediation
4 because they can't put the process into
5 place until the mediation forms the
6 process. So it's a combination of the
7 inner workings of the Water Department
8 and how well the mediation proceeds.

9 MR. BERTOCCI: That's right.

10 BY MR. BERTOCCI:

11 Q. No. 5 dealt specifically with the
12 Water Revenue Assistance Program, and probably
13 the best observation I can make is that
14 there's some confusion as to what the program
15 itself really covers.

16 I mean, there's kind of the core
17 WRAP program, which involves the suspension of
18 arrears and a grant. Then sometime under WRAP
19 it's provided to customers that have to be
20 150% of poverty or under to qualify, and with
21 an emphasis on people under 100% of poverty.
22 Then we think there are some people that get a
23 grant but no suspension of arrears and other
24 people that get no grant but a suspension of
25 arrears depending on their income.

1 TECHNICAL HEARINGS - VOLUME III

2 Then there are a number of programs
3 which sometimes are classified as WRAP but
4 really are programs where they're more geared
5 toward the disposable income of the particular
6 customer. They don't fit into any particular
7 percentages, but it's a disposable income
8 calculation and a number of different things
9 under the regulations which I think need to be
10 identified.

11 What we're looking for here and we
12 believe it is complex enough that we thought
13 that the Water Revenue Bureau needed to
14 develop, to the extent that it doesn't have it
15 now, we say, a specifically designated
16 appropriate staff specializing in assisting
17 low-income customers to maintain utility
18 service.

19 In other words, we see WRAP as
20 essentially a helping thing. It's not just a
21 collection tool. But many times the people
22 that need this kind of assistance need a staff
23 which is able to appreciate the needs and the
24 abilities of low-income people, who are often
25 in difficult straits and need assistance even

1 TECHNICAL HEARINGS - VOLUME III

2 understanding just what the terms of the
3 program are and those sorts of things.

4 What's your attitude toward that
5 part of our desires?

6 A. First, my concern with WRAP is that
7 we need to make it more user friendly for the
8 customers of this City. It's a program that
9 we do have that we need to readily make known
10 to the citizens of the City.

11 I would like, and my vision is in
12 working with the Department, to market that
13 perhaps to the folks, the various programs we
14 offer, the two grant programs, the City grant
15 and the Utility Emergency Services Fund, along
16 with our WRAP program, because there may be
17 more folks that we need to reach out there.

18 We need to take advantage of looking
19 at the various customers that are getting
20 funded through PGW's programs and LIHEAP and
21 kind of make our program more user friendly;
22 instead of asking for so much documentation,
23 to make it a little bit more readily
24 accessible for them as well.

25 Customer service-wise, a unit is

1 TECHNICAL HEARINGS - VOLUME III

2 great to dedicate, but the entire Department
3 should be focused also on assisting customers
4 with regard to WRAP as well. So that's going
5 to be a continued focus as well.

6 Q. Again, we thought that there would
7 be problems perhaps in defining what kind of
8 processes would be steps that could be taken
9 in the short term, and in trying to gauge your
10 commitment we thought of proposing a target
11 for WRAP enrollment of 20,000 within a year.
12 Right now I think 11,000 is what's listed or
13 what has been said in discovery.

14 How do you feel about a numerical
15 target? I mean, it's not a requirement, but
16 PECO has, for instance, gone from 90,000
17 customers in their program -- they have sort
18 of these flexible caps -- I mean, they have
19 said, well, we're willing to go to 20,000 or a
20 certain number and then we want to pause and
21 consider whether the program needs to be
22 tweaked, changed, et cetera, et cetera, to go
23 further with a further commitment to be made.

24 That's been sort of what other
25 utilities have done. We proposed in a similar

1 TECHNICAL HEARINGS - VOLUME III
2 spirit this 20,000 within a year knowing what
3 the need is out there. How do you feel about
4 that?

5 A. We won't commit to a target number
6 amount. Again, the first thing we need to do
7 is educate the customers in the City, to
8 market this program, whether they be on PSAs,
9 on SEPTA, on a cable station, in the
10 Department. We have to get the word out.

11 As you see a commercial or you hear
12 something, you hear it 15 times, it starts to
13 sink in your head. The citizens of the City
14 need to know more about this program first
15 before we can start making targets.

16 I think 20,000 might be realistic,
17 it may be unrealistic, and I don't want to sit
18 here and commit to you and then if I come
19 short of that goal, I am accountable to you
20 for that, and I am not going to commit to that
21 today.

22 Q. In the bold area, the third item was
23 our way of trying to make sure that the
24 existence of WRAP is made directly available
25 to customers who are under a particular

1 TECHNICAL HEARINGS - VOLUME III
2 jeopardy, and those are customers who, the
3 most important and probably the smallest
4 group, are people who are living in houses
5 which have been listed for sheriff's sale.

6 Our experience at CLS has been that
7 frequently people will come to us or I won't
8 say frequently, but I have a list of about 30
9 different households which were targeted for
10 sheriff's sale and when they tried to go
11 through the normal process, the bills are
12 usually over \$5,000 for a low-income customer
13 that they are being told you have to come up
14 with 50% up-front and no mention is made of
15 the existence of WRAP or the potential that
16 they might be able to apply for WRAP. Some of
17 them are also in heir properties so they can't
18 get on WRAP until the property is in their
19 name, they become the record owner.

20 Water Revenue has been very willing
21 to work with us on individual cases who find
22 their way to our door, but from our
23 perspective, we worry that there are people
24 that never find their way to our door; and we
25 feel that when they come to Water Revenue or

1 TECHNICAL HEARINGS - VOLUME III
2 they call and say, "I have a sheriff's sale
3 notice. What can I do? How can I come up
4 with that kind of money?" that that would be
5 the time for someone to make an inquiry
6 concerning their income status and essentially
7 inform them of the existence of WRAP and,
8 beyond that, I mean, if it's a complicated
9 legal situation, either refer them to CLS or
10 at least say to them "You have to get your
11 estate administered. In the meantime, we will
12 put a stay on the sheriff's sale."

13 That's what is done now, but it's
14 done only through CLS, but it's not done
15 really where we think it should be done. What
16 do you feel about that?

17 A. It's something we can entertain
18 looking at and discussing as a group.

19 Q. You would agree that sheriff's sales
20 for low-income houses for bills of \$5,000 to
21 \$20,000 is not a socially productive thing,
22 low-income residences?

23 A. Yes, I don't think so.

24 Q. I mean, it's not consistent with
25 trying to combat homelessness, for instance.

1 TECHNICAL HEARINGS - VOLUME III

2 A. Yes.

3 Q. We have the same concern for people,
4 say, who get code enforcement complaints.
5 They go down to Municipal Court. The code
6 enforcement complaint is really an effort to
7 shake up a customer, I think, to collect money
8 by the Water Department filing small claims
9 complaints or code enforcement complaints.
10 They already have a lien so the purpose of it
11 is not really to get a lien so much as it is
12 to give some kind of legal process and get
13 someone to come in, and people do come in.

14 Often they come in, however, and the
15 judgment doesn't really work very well, but
16 they need to apply for a WRAP and they need to
17 be informed of the existence of WRAP in that
18 process.

19 And we think that this would be
20 something that you could commit to, that the
21 person that's at Municipal Court would say to
22 them, "Well, are you low income? Well, if you
23 are low income, you can apply for WRAP. Go to
24 the Water Revenue Bureau on the concourse and
25 get a WRAP application."

1 TECHNICAL HEARINGS - VOLUME III

2 A. We have to engage the Law Department
3 with regard to that since they handle
4 Municipal Court cases, so I can't speak on
5 their behalf, but we can talk to them about
6 that and whether this is something that is
7 doable.

8 Q. The Law Department is still your
9 client.

10 A. We're their client. They're not my
11 client. The Law Department takes care of us.
12 They serve us.

13 Q. Yes. You are --

14 A. We are their client.

15 Q. Yes. So the client generally gets
16 to say --

17 MR. DASENT: Not in the City. Wrong
18 place. Talk to the Law Department.

19 THE WITNESS: Again, we will engage
20 and talk to the Law Department.

21 THE HEARING OFFICER: The Law
22 Department has the final say. But I
23 think what the witness is saying is
24 Municipal Court is usually handled by the
25 Law Department and if they have contact

1 TECHNICAL HEARINGS - VOLUME III
2 with the individuals at Municipal Court,
3 that's something that probably could be
4 put in place, but he can't speak for them
5 with regard to that. But it's certainly
6 something that we can put on the table
7 and try to work together to get resolved.

8 BY MR. BERTOCCI:

9 Q. Again, receipt of termination
10 notices, someone calls Water Revenue and says,
11 "I got a termination notice," wouldn't that be
12 an appropriate time for Water Revenue to make
13 some inquiries concerning the person's income
14 status as to whether they should be informed
15 that there is a WRAP program out there?

16 A. That's possible. It depends upon
17 the person's income. We need to sit and talk
18 with them. They perhaps need to come down to
19 one of the two district offices or to the
20 concourse and go over that discussion. So I
21 think on the phone you can have that
22 conversation, but sometimes seeing
23 documentation in front of you will give you
24 more proof of their income level.

25 Q. Yes. We understand that income has

1 TECHNICAL HEARINGS - VOLUME III
2 to be verified. I mean, we are not saying
3 that you can call up over the phone and say,
4 "I'm poor," I can't pay," and then they'll
5 say, "Well, we'll put you on WRAP."

6 But they need to be told that there
7 is a process by which they can demonstrate
8 what their income is and if they show
9 themselves to be eligible, then there is a
10 program that will help people in their
11 situation. Do you subscribe to that?

12 A. If that is the situation, that is
13 available to them.

14 Q. And, again, we thought also with
15 people coming in with high-payment balances,
16 like over \$1,200, and expressing some
17 inability to pay, again, it's appropriate to
18 ask, "Well, what's your income level?" There
19 are some programs that are available for
20 people under 150% of poverty.

21 Wouldn't you think that would be
22 something that could be implemented without
23 having to go through -- I mean, we like the
24 idea of publicizing WRAP in the media, but
25 here you get people's attention at the point

1 TECHNICAL HEARINGS - VOLUME III
2 at which you're threatening to take away their
3 service. That's where you get people's
4 attention, as you know and as Mr. Clare will
5 also insist. Wouldn't this be a time to make
6 inquiries about the eligibility for a
7 low-income program?

8 A. Again, it is our intention that when
9 the bills are going out, we will be putting
10 documentation about the various programs in
11 the bills. It is up to the customers to read
12 those informations when they get their bills.

13 Again, as a customer service rep,
14 when they're doing discovery with a customer
15 in front of them, hopefully they will have an
16 opportunity to reveal our programs as they are
17 trying to divulge information from the
18 customer at the same time.

19 Q. In terms of sort of the time frame
20 for the simplification of the WRAP application
21 and better publicizing the availability of
22 WRAP, we had here three to six months.

23 A. We are on the clock right now.

24 Q. Okay. So do you think you could
25 make substantial progress in three to six

1 TECHNICAL HEARINGS - VOLUME III
2 months given everything else that you have on
3 your plate?

4 A. We are on the clock right now
5 already looking at it.

6 Q. I shouldn't be talking so much. I
7 should send you back.

8 The next category is under 6, and
9 that's not part of your testimony. That was
10 part of a proposal that was interpreted to
11 deal with tenant/occupant policies. The
12 original proposal was to negotiate terms of
13 service for tenant/occupants consistent with
14 the Department regulations.

15 We recognize that probably mediation
16 for a lot of the tenant/occupant issues, there
17 needs to be more procedures and terms of
18 service. That's a legitimate subject, we
19 think, for mediation and for exchange of
20 views.

21 However, we did think that there was
22 one area of the regulations where what the
23 Water Revenue Bureau has been doing as far as
24 we can see for a period of time has been
25 clearly in violation of the regulations.

1 TECHNICAL HEARINGS - VOLUME III

2 That is the situation where a tenant
3 takes possession of a house usually. The
4 lease requires/provides that the tenant is
5 responsible for water service. The tenant
6 goes to the Water Revenue Bureau to apply for
7 service and is told that they can't get
8 service and sometimes is told that there is a
9 shut-off pending due to a bill that the
10 landlord owes for service previously provided
11 to that property.

12 So the tenant essentially is stymied
13 in their efforts to get service in their name
14 and sometimes even to preserve their service
15 by the claim that, well, you go get your
16 landlord, make him pay, et cetera, et cetera.

17 And it's our reading of the
18 regulations that there really is no exception
19 that allows the Water Revenue Bureau to
20 essentially hold the tenant hostage in that
21 way.

22 We would like your acknowledgment of
23 the fact that that particular policy is not
24 consistent with the regulations and at this
25 point we were just asking for that

1 TECHNICAL HEARINGS - VOLUME III
2 acknowledgment. There would be mediation on
3 working out some of the details because we
4 know that the question would be, "Well, what
5 if the tenant comes in after five or six
6 months of being at the property; does the
7 tenant become the customer from that point
8 forward or can you hold the tenant responsible
9 at least for the water that was consumed since
10 the beginning of the tenant's occupancy?"

11 So if a tenant moved in, say, in
12 January and didn't show up at Water Revenue
13 until June and there was a bill going back,
14 you know, 18 months, the tenant would still be
15 responsible for six months of water service
16 and the Water Revenue Bureau arguably -- and
17 other utilities would handle it this way --
18 would say, "Well, we'll give you a payment
19 agreement or we'll require you to make payment
20 of the last six months. We already have a
21 lien on the property against the landlord for
22 all the rest so we're protected in that
23 respect."

24 So I guess the question I have to
25 you is: Would you be willing to acknowledge

1 TECHNICAL HEARINGS - VOLUME III
2 that the regulations themselves do not permit
3 tenants to be essentially prevented from
4 getting service in the specific situation
5 which I have described here where there is a
6 lease and where it's in the lease? Would you
7 acknowledge that the regulations really
8 require the Water Department to provide
9 service without the condition of producing the
10 landlord or paying the landlord's bill?

11 A. I hear your concerns. Currently I
12 cannot acknowledge that because I don't know
13 all the regulations to USTRA and I need to sit
14 down with our counsel and the City to go over
15 it a little bit more to get a better
16 understanding of it today.

17 Q. Can you give us a time frame on
18 that?

19 A. Not yet, no. I would say within the
20 next five to six months, I will tell you that,
21 timeframe-wise.

22 Q. The seventh also I don't think is
23 part of your direct testimony. It is not.
24 But I think it is sort of implicit in what you
25 said, you are committed to a mediation of the

1 TECHNICAL HEARINGS - VOLUME III
2 issues that were in your testimony and you are
3 committed to mediation of the tenant/occupant
4 issues also?

5 A. We as a department are interested in
6 engaging with you in mediation. Again, with
7 the tenant/landlord issues, again, I need to
8 have my counsel to discuss those issues. But
9 on the other four issues we want to engage
10 with you. We want to move forward. Again, we
11 as a department are trying to be more
12 customer-focused and more open in providing
13 services to the citizens of the City.

14 THE HEARING OFFICER: Excuse me. It
15 was my understanding from counsel that
16 the Department was willing to engage in
17 plenary mediation with regard to almost
18 any service issue.

19 MR. DASENT: That's correct, and I
20 think there is sort of a plenary
21 statement at the end of our testimony --

22 THE HEARING OFFICER: That's what I
23 understood.

24 MR. DASENT: -- that we're not
25 excluding anything from consideration.

1 TECHNICAL HEARINGS - VOLUME III

2 But I think the Public Advocate
3 identified those issues that he said
4 would be the appropriate focus because
5 you can't start by looking at the whole
6 waterfront, you have to look at the
7 critical issues first, and he has helped
8 us hone in on those. As a department we
9 have to look at everything because
10 Commissioner Richardson directed us to.

11 THE HEARING OFFICER: And mediation,
12 of course, is mediation and the only
13 results of mediation are by agreement;
14 not to be mandated on anybody.

15 THE WITNESS: Right.

16 MR. BERTOCCI: That's right.

17 BY MR. BERTOCCI:

18 Q. At the end of the document, Item 7,
19 we bracketed some language that was an initial
20 statement that was provided to us by your
21 counsel whereby as part of a stipulation it
22 was stated that "...it is the intention of WRB
23 and the Department to establish a framework
24 for an achievable improvement in customer
25 service. It is not the intention of WRB or

1 TECHNICAL HEARINGS - VOLUME III
2 the Department to adversely affect the revenue
3 requirement with significant new personnel
4 requirements."

5 We have asked that that part be
6 removed for a number of reasons, the first
7 being that we think that this basic compact is
8 like most basic elements of customer service.
9 It's like the chemicals which the Water
10 Department says have to be paid for. This is
11 not a bells and whistles set of proposals
12 here.

13 We specifically instructed our
14 consultant to stay away from anything exotic
15 and to really deal with where the rubber hits
16 the road and to see whether we can get some
17 improvement in areas that we felt took
18 absolutely top priority.

19 So we didn't think at this point,
20 understanding always that cost is a factor,
21 that cost would be a reasonable factor to
22 raise in dealing with the kind of issues that
23 we have raised in this stipulation. So that's
24 why we thought that language should go out.

25 THE HEARING OFFICER: Let me ask the

1 TECHNICAL HEARINGS - VOLUME III
2 question this way. Do you recognize that
3 if you desire to achieve your goal of
4 high-quality service, that you may have
5 to expend additional sums in personnel to
6 achieve that service?

7 MR. RICHARDSON: Potentially; yes.

8 THE HEARING OFFICER: And are you
9 prepared to do that?

10 THE WITNESS: We have to discuss
11 with the deputy of finance at the Water
12 Department, Joseph Clare, about that as
13 well.

14 BY MR. BERTOCCI:

15 Q. And the framework for achievable
16 improvement, again, I mean, "achievable" seems
17 to us to be presented in terms of a limitation
18 when you say "achievable." I mean, obviously
19 what we're asking for is achieved by every
20 other utility -- well, I won't say every other
21 utility, but most utilities. Utilities which
22 provide high-quality service provide the kinds
23 of things that we are presenting here.

24 So "achievable" seemed to be not
25 necessary. It goes without saying that in

1 TECHNICAL HEARINGS - VOLUME III
2 this context its function would be only to
3 somehow limit the scope of what is intended
4 and that's why we thought that should go out.
5 Do you agree with that?

6 A. Sure.

7 Q. I think there is language at the
8 very beginning of this stipulation where --

9 THE HEARING OFFICER: It is not a
10 stipulation.

11 MR. BERTOCCI: Well, we called it a
12 stipulation. It is really a draft
13 stipulation. I am just using the term
14 that we have used all along. We know
15 that it is not a stipulation in the sense
16 that it was more kind of --

17 MR. DASENT: Discussion points.

18 MR. BERTOCCI: It was heading
19 towards an agreement, an identification
20 of issues that we could agree upon that
21 needed work and just what should be done
22 and how. So that's why it was called a
23 stipulation. But it is a draft. It is
24 not something that either party has
25 stipulated to.

1 TECHNICAL HEARINGS - VOLUME III

2 BY MR. BERTOCCI:

3 Q. But we had kind of an initial
4 statement which essentially said, well, okay,
5 here are some assurances, you presented some
6 assurances, and then in addition, we said you
7 agree to adopt certain express standards,
8 which I think we have explored with you the
9 extent of your agreement, what reservations
10 you have in some areas, the time frame. I
11 don't know whether you have read that, whether
12 you can subscribe to what's in that first
13 paragraph.

14 THE HEARING OFFICER: I think he
15 subscribed to it as much as he has
16 testified in his testimony, that he has
17 responded to that. I think we have
18 pretty well explored what we need to
19 explore from that viewpoint.

20 MR. BERTOCCI: That's acceptable to
21 me.

22 THE HEARING OFFICER: Okay.

23 MR. DELANEY: Can I ask a couple
24 questions, sir?

25 MR. BERTOCCI: I would like to mark

1 TECHNICAL HEARINGS - VOLUME III

2 this for the record as PA Exhibit 3.

3 THE HEARING OFFICER: So marked and
4 admitted.

5 - - -

6 (Whereupon the document was marked,
7 for identification purposes, as PA
8 Exhibit 3.)

9 - - -

10 MR. DELANEY: Are you finished?

11 MR. BERTOCCI: Yes.

12 BY MR. DELANEY:

13 Q. Good morning, Commissioner and
14 Deputy Commissioner. My name is Dan Delaney.
15 I have with me Dennis Kalbarczyk, who is our
16 consultant. We represent the Commercial
17 Customer Coalition, which is a group of ten
18 large industrial and commercial customers who
19 receive water and wastewater service from the
20 Department and are participating in the case
21 to ask about differences in certain practices
22 and rate adjustments in the Department's
23 current case.

24 One of the issues that we're here
25 discussing with the Department is improving

1 TECHNICAL HEARINGS - VOLUME III
2 customer service for large commercial
3 customers, and I believe that we are reaching
4 a consensus on that, but I am going to ask
5 Deputy Commissioner Clare this morning some
6 questions about that.

7 But I think we are reaching a
8 consensus on the development of a large
9 customer council, which will meet quarterly
10 with representatives of the Department to
11 discuss concerns, and in the present case a
12 couple of our Coalition members, actually six
13 of them, have sponsored testimony in the case.
14 I just want to read you a couple sentences out
15 of one of the testimonies.

16 It is not necessary for me to name
17 and give you all the details, but this is a
18 person who is a property manager for a large
19 new building that has been constructed and
20 completed within the last year within the
21 City, and if I told you the name of it, you
22 would immediately recognize it. In fact, it
23 probably can be seen out of one of these
24 windows here.

25 THE HEARING OFFICER: Is it a secret

1 TECHNICAL HEARINGS - VOLUME III

2 which building it is?

3 MR. DELANEY: Well, it's actually
4 included in his testimony. He was our
5 BOMA witness. I think it is more
6 mysterious if I don't name the building,
7 but I will do it.

8 BY MR. DELANEY:

9 Q. He is the general manager of the
10 Cira developments in University City. He is
11 an employee of Brandywine Realty Trust.

12 A. All right.

13 Q. At the very end of his testimony he
14 is asked if he has any other observations
15 after making a couple suggestion and he says:
16 "Yes from personal experience we continue to
17 have billing and payment issues on an ongoing
18 basis and find it very difficult to get
19 through to someone for assistance, thus
20 restating the need for customer
21 representatives for the commercial customer
22 base."

23 Now, I am not going to ask you
24 anything particularly about his circumstance,
25 but the large customer council meeting on a

1 TECHNICAL HEARINGS - VOLUME III
2 quarterly basis with the Department, I would
3 like to ask you whether you could commit to
4 us -- and maybe you are not ready to do
5 that -- if you would assign a person from the
6 Water Revenue Bureau to participate in those
7 quarterly meetings who would have the
8 authority to address and try and remedy these
9 kinds of issues for the large commercial and
10 industrial customers that would be members of
11 the Council.

12 MR. DASENT: We should note in this
13 context that the Water Department has
14 already committed to a customer rep. But
15 we certainly welcome anyone at the table
16 that can help us with your concerns.

17 MR. DELANEY: All right.

18 BY MR. DELANEY:

19 Q. Do you think that would be possible,
20 Commissioner? I know I am sort of catching
21 you on point here.

22 A. Sure, we can commit to someone being
23 at those meetings. I will let you know also
24 as a department we are looking at setting up a
25 large account group currently to work with

1 TECHNICAL HEARINGS - VOLUME III

2 commercial customers here in the City.

3 Q. And that would be in the Water
4 Department?

5 A. That would be on the Revenue side.
6 But, again, our sister department will be
7 involved in what we are doing as well.

8 Q. Great.

9 MR. DELANEY: Okay. Thank you.
10 That's all the questions I have. Good
11 luck in your new positions, both of you.

12 MR. RICHARDSON: Thank you, sir.

13 MS. BETHEL: Thank you.

14 MR. DASENT: Nothing more.

15 THE HEARING OFFICER: I just have a
16 couple questions.

17 Commissioner, you are familiar with
18 the audit that was performed by
19 Controller Butkovitz this year and your
20 response thereto?

21 MR. RICHARDSON: Yes, sir.

22 THE HEARING OFFICER: Is there any
23 update on that?

24 MR. RICHARDSON: I would say
25 update-wise, we have been very productive

1 TECHNICAL HEARINGS - VOLUME III
2 in collecting some of the delinquencies
3 with the federal and state accounts.
4 Some other accounts we are working with
5 the Law Department on with some
6 agreements as well currently.

7 THE HEARING OFFICER: Could you
8 provide a written update of that for the
9 record within the next week?

10 MR. RICHARDSON: Sure.

11 THE HEARING OFFICER: Thank you.

12 The witness sponsoring the rate plan
13 for the Water Department testified that
14 the collection rate generally with regard
15 to municipalities is 99%. History shows
16 our collection rate in Philadelphia is
17 97.5% and that's what the rate plan was
18 based upon.

19 Is increasing that something that
20 you are going to be working on as Revenue
21 Commissioner?

22 MR. RICHARDSON: We are going to try
23 to increase our revenue collections,
24 again, with Ms. Bethel being here, her
25 background working in Harrisburg within

1 TECHNICAL HEARINGS - VOLUME III
2 the collections and compliance world, so
3 that's one thing we are going to continue
4 to work on.

5 THE HEARING OFFICER: Great. Thank
6 you very much.

7 Any other questions?

8 MR. DASENT: Nothing more.

9 THE HEARING OFFICER: Thank you very
10 much, Commissioner and Deputy
11 Commissioner. A pleasure to meet both of
12 you today.

13 - - -

14 (Witnesses excused.)

15 - - -

16 THE HEARING OFFICER: Let's stand in
17 recess for about 15 minutes or so.

18 - - -

19 (Whereupon there was a recess in the
20 hearing.)

21 - - -

22 THE HEARING OFFICER: We are going
23 to reconvene.

24 We are going to allow some testimony
25 in from the Housing Authority. Do you

1 TECHNICAL HEARINGS - VOLUME III

2 have a stipulation with regard to that?

3 MR. DASENT: Yes. The Water
4 Department will not need to cross-examine
5 Mr. Dorn, and I believe I'm joined by the
6 others at the table as well in requesting
7 that we enter into a stipulation to
8 authenticate his testimony and allow its
9 admission. That doesn't mean we agree
10 with it. It just means he needn't be
11 proffered for cross.

12 THE HEARING OFFICER: Identify
13 yourself for the record, sir.

14 MR. HINERMAN: Philip Hinerman. I'm
15 counsel for the Philadelphia Housing
16 Authority.

17 THE HEARING OFFICER: Go ahead,
18 please.

19 MR. HINERMAN: So was that on the
20 record or not?

21 THE HEARING OFFICER: Yes, that was.

22 MR. HINERMAN: In that case, I would
23 like to move the admission of PHA
24 Statement No. 1, which is the Statement
25 of Kirk Dorn.

1 TECHNICAL HEARINGS - VOLUME III

2 THE HEARING OFFICER: That will be
3 so admitted.

4 - - -

5 (PHA Statement 1 admitted in
6 evidence.)

7 - - -

8 THE HEARING OFFICER: Does the
9 Public Advocate have another witness?

10 MR. BERTOCCI: Yes.

11 THE HEARING OFFICER: You may
12 proceed.

13 - - -

14 ...ROGER D. COLTON, called...

15 - - -

16 DIRECT EXAMINATION

17 - - -

18 BY MR. BERTOCCI:

19 Q. Mr. Colton, would you please state
20 your name and address for the record?

21 A. My name is Roger D. Colton,
22 C-O-L-T-O-N. My business address is Fisher,
23 Sheehan & Colton, 34 Warwick Road in Belmont,
24 Massachusetts.

25 Q. And what is your profession?

1 TECHNICAL HEARINGS - VOLUME III

2 attention?

3 A. Yes. We have prepared a list, an
4 errata sheet, which documents the lack of my
5 typing ability. So those changes should be
6 made.

7 There are four places where the
8 changes may change the substance of the
9 testimony and I would just like to highlight
10 those.

11 Q. Would you do that, please?

12 A. On Page 7, Line 4, there's a
13 sentence that says: "If a customer does not
14 make payment because of a failure to pay for
15 service that was not delivered...", and I
16 would propose to change the word "failure" to
17 the word "refusal." I think that sentence is
18 hard to understand as it's written. So it
19 should read: "If a customer does not make
20 payment because of a refusal to pay for
21 service that was not delivered..."

22 The second one is on Page 42, Line
23 27, and the word "not" should be inserted
24 before the word "know." So the sentence would
25 read: "She testified that she still does not

1 TECHNICAL HEARINGS - VOLUME III

2 know her agreement status..."

3 On Page 44, Line 15, again, the word
4 "not" needs to be inserted and it should be
5 inserted between the words "does" and "have."
6 So on Page 44, Line 15, the sentence would
7 read: "But to date, WRB still does not have a
8 policy..."

9 Then finally, on Page 23, there is a
10 footnote which indicates how I calculated the
11 number of residential customers and I simply
12 wanted to acknowledge with that footnote that
13 I understand that there are other counts of
14 residential customers that are greater than
15 mine and I simply, in the time that has been
16 available, haven't been able to reconcile my
17 310,000 customers with the other numbers that
18 I've seen, which are upwards in excess of 400
19 or 450 thousand customers. But I have
20 provided the source document for where my
21 number comes from, but I haven't been able to
22 reconcile those two numbers.

23 Q. Thank you, Mr. Colton.

24 MR. BERTOCCI: The errata has been
25 marked as PA Exhibit 4.

1 TECHNICAL HEARINGS - VOLUME III

2 - - -

3 (Whereupon the document was marked,
4 for identification purposes, as PA
5 Exhibit 4.)

6 - - -

7 MR. BERTOCCI: We present Mr. Colton
8 for cross-examination.

9 MR. DASENT: If Your Honor, please,
10 we have no questions on behalf of the
11 Department.

12 MR. DELANEY: We have no questions
13 either.

14 MR. BERTOCCI: I would then move
15 that the Direct Testimony and Exhibits of
16 Roger D. Colton on behalf of the Public
17 Advocate be admitted into the record.

18 THE HEARING OFFICER: So admitted.

19 - - -

20 (PA Statement 3 admitted in
21 evidence.)

22 - - -

23 THE HEARING OFFICER: Thank you,
24 Mr. Colton, for being available for
25 questions. I appreciate that.

1 TECHNICAL HEARINGS - VOLUME III

2 THE WITNESS: Thank you.

3 - - -

4 (Witness excused.)

5 - - -

6 MR. DASENT: Just a little
7 housekeeping if Your Honor will entertain
8 it.

9 We have marked for identification as
10 PWD Exhibit 31 the Producer Price Index
11 with the revised calculation of the
12 average annual increase and cumulative
13 increase, and we will request pursuant to
14 your direction that it be received in
15 evidence.

16 THE HEARING OFFICER: So received.

17 - - -

18 (Whereupon the document was marked,
19 for identification purposes, as PWD
20 Exhibit 31 and admitted in evidence.)

21 - - -

22 MR. DASENT: We also have pursuant
23 to your request copies of documents from
24 Standard & Poor's and the other rating
25 agencies which were provided with

1 TECHNICAL HEARINGS - VOLUME III
2 Standard Interrogatory 42, but you
3 inquired and we wanted to make them
4 readily available to you, so we have
5 copies of those. The parties already
6 have copies so I needn't mark that as an
7 exhibit.

8 THE HEARING OFFICER: We are still
9 waiting for the newest one?

10 MR. CLARE: Yes. It hasn't been
11 published yet.

12 MR. DASENT: But that should be
13 coming shortly, and I'm hopeful, just to
14 get this thought on the record, that we
15 keep the record open for certain things,
16 including Mr. Richardson's response to
17 the various customer complaints.

18 THE HEARING OFFICER: Let me
19 indicate that as I stated informally, my
20 intention is to have a quasi-hearing --
21 and I am not expecting any testimony but
22 just to address any open record issues or
23 any other issues -- either at the end of
24 next week or the beginning of the week
25 thereafter wherein we'll take care of all

1 TECHNICAL HEARINGS - VOLUME III
2 those things, receive all those things,
3 and close the record at that time. So
4 when we conclude testimony today, I do
5 not intend to close the record.

6 MR. DASENT: Thank you very much.

7 We also have pursuant to your
8 direction Table 11 runs that follow or
9 are in sync with Mr. Bleiweis' testimony
10 and there are several scenarios, and I
11 wanted to call Mr. McKinley as well as
12 Mr. Clare just to make sure, since on
13 Table 11 it isn't necessarily that all
14 its assumptions are readily apparent, we
15 can at least make clear what assumptions
16 were made, and Mr. Bleiweis said that
17 would be helpful also.

18 THE HEARING OFFICER: That would
19 help.

20 MR. DASENT: That would be something
21 very constructive to do right now.

22 - - -

23 ...JOSEPH S. CLARE, III, and J. ROWE
24 McKINLEY, re-called...

25 - - -

1 TECHNICAL HEARINGS - VOLUME III

2 THE HEARING OFFICER: Do we have
3 copies of documents to distribute?

4 MR. DASENT: Yes.

5 THE HEARING OFFICER: Are you going
6 to mark them appropriately?

7 MR. DASENT: Yes.

8 - - -

9 (Whereupon the document was marked,
10 for identification purposes, as PWD
11 Exhibit 32.)

12 - - -

13 DIRECT EXAMINATION

14 - - -

15 BY MR. DASENT:

16 Q. Earlier this week, when Mr. Bleiweis
17 was on the stand, he gave testimony concerning
18 various adjustments that he hadn't quantified.
19 As a consequence, Mr. McKinley ran a scenario
20 with the various adjustments as Mr. Bleiweis
21 proposed.

22 THE HEARING OFFICER: This is using
23 the proprietary model?

24 MR. DASENT: Yes.

25 THE HEARING OFFICER: Right.

1 TECHNICAL HEARINGS - VOLUME III

2 BY MR. DASENT:

3 Q. And Scenario 1, as I understand
4 it -- but we can describe it as we go --
5 reflects Mr. Bleiweis' assumptions. And I
6 would like just to detail on the record what
7 those various assumptions are.

8 A. (Clare) Okay.

9 MR. CLARE: Can I just walk through
10 the exhibits for a minute, Your Honor?

11 THE HEARING OFFICER: Yes.

12 A. (Clare) There are five schedules
13 that are here I have marked #1 through #5.
14 The one marked #1 is Black & Veatch's original
15 Table 11. It shows the basic assumptions and
16 revenue requirements of the rate case.

17 Mr. Bleiweis' adjustments, which we
18 understood to be limited to a two-year rate
19 period, are outlined in Table #2.

20 THE HEARING OFFICER: Just #2, which
21 is titled "Table 11," but says "#2" at
22 the bottom.

23 MR. CLARE: Correct.

24 A. (Clare) The third schedule, which
25 is a landscape schedule, has a #3 at the

1 TECHNICAL HEARINGS - VOLUME III
2 bottom. It says "Revenue Impact" and is the
3 revenue requirement impact. Those are the
4 quantified values of each of the 18 or so
5 adjustments that Mr. Bleiweis recommended
6 either in terms of reduction in revenues or
7 reduction in expenses.

8 Table 11, the item marked #4, is
9 Mr. Bleiweis' assumptions assuming they
10 continue through 2014, what the revenue
11 impacts would be on that.

12 #5 --

13 THE HEARING OFFICER: Let's just
14 look at that for a second. Does that
15 project no revenue increase until 2014?

16 MR. CLARE: No. It shows a 2.3% in
17 fiscal '10 and a 14.3% in fiscal '11.

18 THE HEARING OFFICER: I don't think
19 anybody was advocating no increase after
20 fiscal '11 or looking at that but, okay,
21 I understand what it is.

22 MR. CLARE: And then the last
23 schedule --

24 THE HEARING OFFICER: Emphasis
25 purposes, yes.

1 TECHNICAL HEARINGS - VOLUME III

2 MR. CLARE: -- is Mr. Bleiweis'
3 revenue assumptions assuming that our
4 revenues were limited to what his
5 assumptions were, but continuing with
6 what we believe to be a reasonable level
7 of expenses based on our existing
8 projection.

9 I can kind of summarize the results
10 if you'd like.

11 THE HEARING OFFICER: Well, why
12 don't you go table by table and point out
13 what's important or what's there?

14 MR. CLARE: Okay. In Table #1,
15 obviously there is no change from the
16 original filing.

17 Table #2 indicates the value of the
18 adjustments. They range from zero
19 annually to \$31 million annually. The
20 sum total of those over this particular
21 rate period results in \$10.843 million in
22 revenue requirement as compared with the
23 original rate requirement of \$92.361
24 million, a reduction of some 88.26% if I
25 ran my calculator right.

1 TECHNICAL HEARINGS - VOLUME III

2 This would establish revenue levels
3 approximately 16.62% below the level
4 currently authorized by Council, which is
5 577,384.

6 THE HEARING OFFICER: I'm sorry;
7 where does that figure come from?

8 MR. CLARE: Which figure?

9 THE HEARING OFFICER: The 577.

10 MR. CLARE: That's based on the
11 water fund approved budget as outlined in
12 our appropriation for fiscal '09. I
13 believe it's part of the record, one of
14 the Standard Interrogatories.

15 THE HEARING OFFICER: Okay.

16 MR. CLARE: Table #3 or Schedule #3,
17 Item #3, whatever we want to call it, is
18 basically a codification of Mr. Bleiweis'
19 testimony in terms of what the Water
20 Department and Black & Veatch believes
21 are the revenue impacts, the major two
22 being the assumption that fringes and
23 pensions would not escalate and that
24 wages would not escalate beyond the
25 current \$1,100 raise.

1 TECHNICAL HEARINGS - VOLUME III

2 You can see, for instance, in 2014,
3 if we were lucky enough to get our
4 employees to agree to not have a raise
5 for four or five years, we would save
6 some \$31,226,000 annually.

7 Similarly, with respect to pensions
8 and fringes, if we were lucky enough to
9 maintain those at the current levels, we
10 would save some \$19,747,000 annually.

11 MR. MCKINLEY: By 2014.

12 MR. CLARE: By 2014, correct.

13 And Mr. Bleiweis' recommendations
14 were verbally, he did not price them out.
15 So these are basically our best guess as
16 to what the impact of those were.

17 THE HEARING OFFICER: Well, it's not
18 a guess. It was done --

19 MR. MCKINLEY: It's a mathematical
20 calculation of his assumptions.

21 MR. CLARE: Correct.

22 THE HEARING OFFICER: Right.

23 MR. MCKINLEY: I might make --

24 THE HEARING OFFICER: I mean, you
25 went in and cranked some numbers with

1 TECHNICAL HEARINGS - VOLUME III

2 regard to this.

3 MR. CLARE: Correct. But I'm saying
4 Mr. Bleiweis did not assign a number to
5 it. We took the liberty of doing that.

6 MR. MCKINLEY: I might make one
7 exception. Mr. Bleiweis believed that we
8 had overstated the security cost by not
9 having the grant in the fourth year and I
10 think during the hearing process he
11 understood that we only had the cost --

12 THE HEARING OFFICER: The 833,000 or
13 something like that.

14 MR. MCKINLEY: We had that cost in
15 there. So we didn't put that adjustment
16 in here because there was none to be
17 made.

18 THE HEARING OFFICER: Right. That
19 was the one where he was talking about
20 the 833,000 versus the 3.1 or something
21 like that.

22 MR. CLARE: Correct.

23 Item #4 is really just for
24 illustration purposes. It shows that
25 basically with a maximum rate

1 TECHNICAL HEARINGS - VOLUME III
2 stabilization fund withdrawal, even at
3 the assumed lower levels of expenditures
4 and higher levels of revenues, there's a
5 significant revenue requirement in 2011
6 driven primarily by our coverage
7 requirement to maintain either a
8 \$45 million rate stabilization fund
9 balance or, as recommended by the rating
10 agencies, a higher coverage ratio, which
11 we reverted to our previous coverage
12 ratio of 1.50 for any year in which we
13 dropped below \$45 million in the rate
14 stabilization fund.

15 That has the effect of saw-toothing
16 the rate increases. For instance, in
17 fiscal 2010 there's a 2.3% revenue
18 requirement; fiscal 2011, 14.3; fiscal
19 2012 is zero; and fiscal 2013, 8.5. So
20 because of that 1.50 requirement, it ends
21 up putting money in and pulling money out
22 of the rate stabilization fund in a
23 rather strange way.

24 BY MR. DASENT:

25 Q. Mr. Clare, just before you go on, if

1 TECHNICAL HEARINGS - VOLUME III
2 you are on Item #4, what's the purpose of
3 showing what happens beyond the timeline of
4 Mr. Bleiweis' adjustments?

5 A. (Clare) Well, basically the purpose
6 of this exhibit is to show, one, that there is
7 a significant revenue impact just beyond the
8 second year that was proposed, and it is
9 significant. So all our planning with respect
10 to gradualism and budgeting and planning for
11 big customers, phase-in of stormwater, you
12 know, basically none of that can be
13 accomplished. And on top of that, we're back
14 asking our customers for a significant --
15 double what we're asking for now -- increase
16 in rates.

17 THE HEARING OFFICER: I guess we can
18 say that this is intended to show the
19 shoe-drop effect.

20 MR. CLARE: Correct, absolutely.
21 And keep in mind, by the way, on Table 11
22 the percentages that you see there are
23 revenue requirements; not rates. So when
24 those are converted into rates, a 14.3
25 might be 16, 16.5 --

1 TECHNICAL HEARINGS - VOLUME III

2 MR. MCKINLEY: I would say 18.

3 MR. CLARE: -- because you have to
4 adjust it for lag and collection factors
5 and that kind of thing.

6 If we just go back to Table #4 for a
7 minute, or whatever we call that, #4, the
8 cumulative 2009 through '12 revenue
9 requirement using Mr. Bleiweis'
10 assumption is \$168,164,000 or roughly
11 half of the \$316 million that's been
12 proposed in this case.

13 Table #5 actually I misconstrued.
14 Rowe, perhaps you could describe that
15 better.

16 MR. MCKINLEY: I think on the record
17 when he was going through this the first
18 time, Mr. Clare said that this Table #5
19 reflected the Black & Veatch projected
20 revenue requirements in terms of our
21 assumptions on inflation and those types
22 of things, but it had included
23 Mr. Bleiweis' revenue increases, the
24 percentage increases, that his tables
25 would show. And that was a mistake, that

1 TECHNICAL HEARINGS - VOLUME III

2 last statement.

3 The revenue increases in this table
4 are reflective of what we need, Black &
5 Veatch's assumptions, what they require,
6 but using Mr. Bleiweis' assumption that
7 we use the maximum available transfer
8 from rate stabilization each year as
9 permitted by the 90% rule.

10 So they really aren't his revenue
11 increases. They're the revenue increases
12 reflective of our revenue requirements,
13 inflation rates, et cetera, and using
14 Mr. Bleiweis' maximum use of rate
15 stabilization each year, which creates,
16 when you go below a \$45 million rate
17 stabilization fund balance, the need to
18 increase the coverage amount up to the
19 1.50.

20 THE HEARING OFFICER: Where does
21 that come from?

22 MR. MCKINLEY: Sir?

23 MR. DASENT: The 90% rule?

24 THE HEARING OFFICER: That if rate
25 stabilization goes below \$45 million,

1 TECHNICAL HEARINGS - VOLUME III

2 that you have to increase coverage.

3 MR. MCKINLEY: Because the rating
4 agencies have indicated that if you don't
5 have enough balance in the rate
6 stabilization fund to manage to the 1.20
7 coverage -- in other words, you don't
8 have enough balance to do that -- that
9 they would see the need for higher
10 coverage levels to offset the lack of
11 funds in the rate stabilization fund.

12 That's why we use the higher
13 coverage amount. We have to generate
14 more revenues from rates because we don't
15 have those funds in the rate
16 stabilization fund to manage to the
17 coverage amounts.

18 THE HEARING OFFICER: When you did
19 that estimate a year ago, you didn't
20 require the rate stabilization fund to
21 have those balances.

22 MR. MCKINLEY: There hadn't been a
23 requirement expressed by the rating
24 agencies.

25 MR. CLARE: And that was in those

1 TECHNICAL HEARINGS - VOLUME III
2 2007 reports that are right in front of
3 you there. I can excerpt them if you
4 would like, Your Honor.

5 THE HEARING OFFICER: That would be
6 great.

7 MR. CLARE: Can I grab my notes?

8 THE HEARING OFFICER: Sure. I think
9 it would be good to have that on the
10 record.

11 MR. BERTOCCI: I think that's a
12 matter of dispute as to what is a
13 requirement and you have to read the --

14 THE HEARING OFFICER: I think it can
15 be a matter of dispute, but I think I am
16 entitled to have on the record what
17 management's position is with regard to
18 it.

19 What management feels and how
20 they're acting is very important.
21 Management might feel something about a
22 report that might be a little bit
23 different than the Advocate so I think --

24 MR. BERTOCCI: No. That's okay.

25 THE HEARING OFFICER: -- we are

1 TECHNICAL HEARINGS - VOLUME III
2 entitled to see what management feels and
3 why they act in a particular way, and I
4 am very interested in that.

5 MR. CLARE: Okay. The Moody's
6 March 5, 2007, report, on Page 2 of that
7 report, towards the third paragraph from
8 the bottom, I will quote from that:
9 "Maintenance of the current rating is
10 predicated on the system's ability to
11 either maintain strong cash balances
12 available for debt service or to maintain
13 adequate debt service coverage through
14 growth and net operating revenues while
15 still maintaining adequate reserve
16 levels."

17 On the next page of that report it
18 says: "What could make the rating go
19 down?" And one of the items identified
20 there is "a reduction in cash reserves
21 without improvements in coverage."

22 In the Fitch report, which is dated
23 March 8, 2007, on Page 2, at the very top
24 left-hand paragraph, it says: "Fitch
25 Ratings expects the system to maintain

1 TECHNICAL HEARINGS - VOLUME III
2 its historical practice of actual results
3 outperforming projections and the
4 maintenance of a healthy cushion in the
5 Rate Stabilization Fund."

6 Both these reports talk about the
7 Water Department's current revenue fund
8 balance and the rate stabilization fund
9 balance in terms of a number of days of
10 working capital.

11 For instance, in the Fitch Ratings
12 they talk about, on Page 1, 253 days of
13 cash on hand, and in the Moody's report
14 there's a similar notation, both of which
15 they're noting that the predication of
16 their rating is based on maintenance of
17 cash reserves in or about the levels that
18 they have seen in the past.

19 THE HEARING OFFICER: They usually
20 don't give a specific number for the rate
21 stabilization fund.

22 MR. CLARE: No, they don't. We had
23 many discussions with them and I don't
24 even know if they can legally tell us at
25 what level we'll lose our rating.

1 TECHNICAL HEARINGS - VOLUME III

2 With the current discussion -- and
3 since 2007 we've had ongoing discussions
4 with the rating agencies -- we advised
5 them that it was our practice to loan
6 \$45 million from rate stabilization to
7 revenue to provide working capital,
8 adequate working capital, and that it was
9 our intention to maintain at least that
10 balance; and in the current report --
11 obviously I haven't seen the S&P report,
12 the Moody's report we do have -- that
13 seemed at least to satisfy their thirst
14 for adequate reserves.

15 THE HEARING OFFICER: Thirst?

16 MR. CLARE: I don't know how else
17 you would describe it. Their requirement
18 for adequate reserves.

19 THE HEARING OFFICER: I think you
20 were in the middle of finishing up your
21 comment. Did you finish?

22 MR. MCKINLEY: Yes, I did, sir.

23 THE HEARING OFFICER: All right.

24 MR. BERTOCCI: I have one question.

25

- - -

1 TECHNICAL HEARINGS - VOLUME III

2 CROSS-EXAMINATION

3 - - -

4 BY MR. BERTOCCI:

5 Q. Generally speaking, when you are
6 doing these Table 11s and things like that,
7 there also was a principle of trying to
8 levelize over whatever period of time that you
9 were considering as a rate period.

10 Now, when you go beyond 2010 and go
11 through this 2011 to 2014, did you use the
12 levelizing kind of requirement of your model
13 for that?

14 A. (Clare) I think the answer to that
15 is we're no longer afforded that option. Once
16 you gut the rate stabilization fund in '09 and
17 '10, you need significant new revenues in
18 order to spike the rates, because you are
19 basically operating at a loss for any year
20 when you are borrowing or withdrawing from the
21 rate stabilization fund.

22 THE HEARING OFFICER: The schedules
23 were prepared based upon what was needed
24 revenue-wise to satisfy the covenant.

25 MR. CLARE: Correct, correct.

1 TECHNICAL HEARINGS - VOLUME III

2 MR. MCKINLEY: But they were also
3 predicated on maximum use of the rate
4 stabilization fund as permitted under the
5 90% rule, which if you do that every
6 year, again, like Mr. Clare says, you are
7 kind of gutting that revenue requirement
8 fund and you need to build it back up.

9 MR. BERTOCCI: Well, I mean, this is
10 a little bit hypothetical. Mr. Bleiweis
11 does not accept the notion that you can
12 predict out the number of years that you
13 want to predict out.

14 So he wasn't suggesting that you use
15 the maximum rate stabilization fund as a
16 general principle always. I mean, that
17 really wasn't his statement. His
18 statement was he is looking at a
19 situation where for the next two years,
20 given the level of balance that you have
21 in the rate stabilization fund, what
22 would you have. And you have carried it
23 forward.

24 He is not here today so I can't ask
25 him, well, is there any other run that

1 TECHNICAL HEARINGS - VOLUME III
2 you would like to see done assuming that
3 a decision is made or a recommendation is
4 made to have a three-year rate period or
5 a four-year rate period as opposed to a
6 two-year rate period.

7 MR. DASENT: If Your Honor please, I
8 did speak to Mr. Bleiweis before he left
9 and he did ask that perhaps some vehicle
10 be constructed to allow him to respond to
11 Table 11, because I knew that it would be
12 arriving, that we would be producing it
13 after he left.

14 THE HEARING OFFICER: I was just
15 about to say that. Leave is specifically
16 granted herein for you to provide this
17 information that was introduced today and
18 if Mr. Bleiweis wants to submit further
19 testimony or just a memorandum -- it
20 doesn't even have to be in testimonial
21 form, a memorandum will be fine -- in
22 terms of what his position is with regard
23 to that, we will receive it in the
24 record, and we will give you until the
25 end of next week to do that.

1 TECHNICAL HEARINGS - VOLUME III

2 MR. BERTOCCI: Fine. He might
3 request another kind of run to be done.
4 I would request that he be allowed to do
5 that, because I think some assumptions
6 have been imputed to him beyond the first
7 two years.

8 THE HEARING OFFICER: I think he had
9 some problems with regard to giving
10 testimony because he wasn't able to get
11 runs and we are going to try to
12 accommodate that.

13 How difficult is it to plug in
14 numbers and do a run?

15 MR. CLARE: It's not terribly
16 difficult.

17 THE HEARING OFFICER: All right.
18 You will work with Mr. Dasent with regard
19 to that.

20 MR. BERTOCCI: Sure.

21 THE HEARING OFFICER: If an issue
22 arises, the Hearing Officer will be
23 available to assist.

24 MR. BERTOCCI: That's fine. Thanks.

25 MR. DASENT: Very good.

1 TECHNICAL HEARINGS - VOLUME III

2 THE HEARING OFFICER: Did you say
3 you wanted to present Mr. Clare on
4 another issue?

5 MR. DASENT: Yes, we do have another
6 question. Actually, it's more
7 Mr. McKinley.

8 THE HEARING OFFICER: Okay.

9 MR. DASENT: Yesterday Your Honor
10 raised the issue of new stormwater
11 accounts and anticipated revenue from new
12 stormwater accounts, and Mr. McKinley is
13 prepared to answer that question for
14 commercial customers.

15 MR. MCKINLEY: I believe it was
16 actually Tuesday you asked if we had
17 recognized or had we recognized
18 additional revenue from new stormwater
19 accounts that we are anticipating to be
20 added when we go to the new parcel-based
21 system. They are not currently
22 water/wastewater accounts of the
23 Department.

24 So we researched that in our
25 calculations and we haven't really talked

1 TECHNICAL HEARINGS - VOLUME III
2 that much about stormwater, so we weren't
3 prepared at that time, but we do have
4 approximately 40,000 nonresidential
5 customers coming on board under the new
6 stormwater methodology. As I recall,
7 most of those are smaller than 5,000
8 square feet in property.

9 We have kind of categorized
10 nonresidential customers in 5,000 square
11 feet gross area or less or greater than
12 5,000, and I believe most of those are
13 the smaller size.

14 THE HEARING OFFICER: Do you have
15 the breakdown?

16 MR. MCKINLEY: Between those two
17 categories we do. I don't have it in my
18 head. I think it's about 35,000, the
19 smaller; and 5,000, the larger. I think
20 that's the right proportion.

21 But when we phased in the proposed
22 new stormwater rate methodology over
23 three years, the revenue anticipated from
24 those customers in fiscal 2010 would be
25 \$1 million, \$2 million in 2011, and

1 TECHNICAL HEARINGS - VOLUME III

2 \$3 million in 2012.

3 THE HEARING OFFICER: Is that in the
4 rate plan already?

5 MR. MCKINLEY: That's in our
6 proposed rate plan under the alternative
7 stormwater rate methodology.

8 MR. DELANEY: Can you repeat the
9 numbers again?

10 MR. MCKINLEY: \$1 million in fiscal
11 2010, \$2 million from these customers in
12 2011, and \$3 million in 2012, these new
13 commercial, current nonwater/sewer
14 customers.

15 And one other thing I wanted to
16 mention with regard to that, because we
17 kind of have stormwater as the next phase
18 of this process, we have been identifying
19 revenue requirement issues, rate periods,
20 and this type of thing, and collection
21 factors, and just one thing I wanted to
22 mention with regard to the new stormwater
23 methodology, which is bringing in new
24 customers to the system, which are not
25 water/sewer customers, and also as far as

1 TECHNICAL HEARINGS - VOLUME III
2 the nonresidential customers go, the
3 commercial-industrial customers, some
4 customers will be getting higher
5 stormwater bills, some lower stormwater
6 bills when we go to a parcel-based
7 system.

8 But all that speaks to basically
9 impacts or potential impacts on the
10 collection factor, which has been
11 discussed at great length here. The new
12 customers that are not water/sewer
13 customers, we have no methodology for
14 enforcing those customers to pay through
15 a turn-off process because they don't
16 have a water meter, so that is a
17 potential question in terms of
18 collectibility.

19 When current customers go from an
20 equivalent meter basis to a parcel-based
21 system, large impacts on the customers'
22 bills might create payment issues or
23 questions that slow up their payments.

24 So I am just saying that the
25 collection factors which we have been

1 TECHNICAL HEARINGS - VOLUME III
2 talking about could tend to be negatively
3 impacted by some of these customers.

4 That being the case, I think it
5 speaks to another issue that's been
6 talked about a lot, the need for an
7 adequate rate stabilization fund, because
8 should collection factors decrease, the
9 only place that the Water Department has
10 to make up that revenue would be from the
11 rate stabilization fund.

12 THE HEARING OFFICER: But you will
13 admit that the revenue projection that
14 you have made with regard to these new
15 customers is very, very conservative?

16 MR. MCKINLEY: It is conservative
17 because we don't know exactly, of that
18 group, who will pay or who will not pay.

19 THE HEARING OFFICER: You just
20 picked a low number because you have no
21 history with regard to that. It wasn't
22 done on any analysis or anything like
23 that, was it?

24 MR. MCKINLEY: We had to make
25 estimates; yes, sir.

1 TECHNICAL HEARINGS - VOLUME III

2 THE HEARING OFFICER: Right.

3 MR. McKINLEY: But I am just saying
4 that those customers, if our estimate was
5 wrong, or even the existing customers
6 whose bills will go up --

7 THE HEARING OFFICER: Was there an
8 analysis of how many bills were going to
9 go up?

10 MR. McKINLEY: We have that. That
11 would be part of the next process.

12 THE HEARING OFFICER: Okay.

13 MR. DASENT: There are also
14 enforcement issues tied to the new
15 customers because you can't shut them
16 off.

17 THE HEARING OFFICER: He testified
18 about that. But as we pointed out, you
19 can lien the property.

20 MR. BERTOCCI: The City is in that
21 position on all taxes. You can't shut
22 someone off if they don't pay their
23 taxes.

24 THE HEARING OFFICER: You lien the
25 property, exactly. That's what I just

1 TECHNICAL HEARINGS - VOLUME III

2 said, but thanks for the echo.

3 MR. MCKINLEY: That's all.

4 MR. DASENT: We also had open
5 questions concerning policy issues for a
6 two-year versus a four-year rate plan and
7 I'm not sure if Mr. Clare is prepared to
8 deal with that now or not.

9 MR. CLARE: It's up to the Hearing
10 Officer. I'm prepared.

11 MR. DASENT: Okay. I would like to
12 ask, if Your Honor please, that the
13 policy reasons underpinning the four-year
14 rate plan versus some lesser-year rate
15 plan, could you explain those for us,
16 Mr. Clare?

17 MR. CLARE: Sure, sure.

18 MR. BERTOCCI: I'm sorry. Excuse
19 me. I object to this testimony. We went
20 through this yesterday and we went
21 through it very, very thoroughly. I
22 don't think we need to go through this
23 again today.

24 We have heard the arguments on both
25 sides and to come in with documents and

1 TECHNICAL HEARINGS - VOLUME III
2 with a whole series of arguments again
3 seems to me to be just superfluous and
4 there's really not a need for it.

5 THE HEARING OFFICER: I am going to
6 overrule the objection and I am also
7 going to make a statement on the record
8 with regard to an open issue with regard
9 to it.

10 The Hearing Officer asked
11 specifically, not only with regard to the
12 idea potentially of a two-year plan, but
13 a plan wherein the request for two years
14 would be granted with a temporary
15 suspension of the request for Years 3 and
16 4, with part of the process being that
17 the case would automatically return at a
18 point in time, February or March,
19 whatever we agree is a good point in
20 time, and then the next two fiscal years
21 would be considered at that time without
22 the filing of a new rate case, without
23 the advertising, without everything, but
24 that as part of this rate process the
25 record be supplemented so that we could

1 TECHNICAL HEARINGS - VOLUME III

2 do it at that point in time.

3 Mr. Dasent has advised me -- and I
4 think he advised me on the record, or if
5 not, he advised me -- that there may be
6 some legal implications with regard to
7 that and I have asked for input from the
8 Law Department to be made part of the
9 record with regard to that concept and I
10 have given him until next Friday to
11 submit a memorandum from the Law
12 Department in that regard.

13 In so stating, he said that there
14 are certain policy considerations with
15 regard to that that he wanted the Deputy
16 Commissioner to testify to.

17 I quite agree with you that we've
18 heard the policy issues, I think,
19 already. But to the extent that the
20 Deputy Commissioner wants to share them
21 with us to ensure the record is complete
22 with regard to them, we certainly want to
23 afford him that opportunity.

24 MR. CLARE: We appreciate that.

25 THE HEARING OFFICER: Objection

1 TECHNICAL HEARINGS - VOLUME III

2 overruled.

3 MR. CLARE: Well, the four-year
4 proposed rate period was done for many
5 reasons, as we've explained previously.

6 THE HEARING OFFICER: Several times.

7 MR. CLARE: We have a four-year
8 phase-in for the stormwater gross and
9 impervious area charges. If there were
10 no assurance that we had a four-year rate
11 period, we would not be able to do such a
12 phase-in.

13 We also interjected the idea of
14 gradualism and predictability of our
15 rates in our rate plan. The plan as
16 presented provided for reasonably even
17 increases over the four-year period.

18 THE HEARING OFFICER: Well, maybe I
19 am obfuscating my comment with regard to
20 that, but none of those things would
21 necessarily be prevented from the plan
22 that I have hypothesized. The plan that
23 I have hypothesized doesn't necessarily
24 follow the model of Mr. Bleiweis. It
25 follows a model that the case would be

1 TECHNICAL HEARINGS - VOLUME III
2 looked at. So it doesn't necessarily
3 mean because a two-year period is
4 suggested, that there couldn't be all
5 those things that you just said.

6 MR. CLARE: Understood. I think it
7 also provides certainty to our investors
8 and rating agencies.

9 We have a bond sale projected for
10 February 2009. That bond sale, like the
11 one you saw in 2007, will require a bond
12 feasibility study. Mr. McKinley will be
13 hard-pressed to say with any certainty
14 that there will be revenue to cover those
15 bonds without a four-year determination.
16 And our investors will be so disposed.

17 There's also the idea in our
18 regulations that our rate increase
19 process takes in excess of a year
20 currently from start to finish.

21 So doing a two-year rate process,
22 for instance, would require us to be more
23 or less in a perpetual rate filing mode.
24 It is very onerous for us. It would
25 require additional staff. Very

1 TECHNICAL HEARINGS - VOLUME III
2 expensive. This process is going to cost
3 in excess of \$2 million.

4 THE HEARING OFFICER: And you
5 understand under the hypothetical model
6 that I have discussed, it would be a
7 summary-type proceeding that could be
8 accomplished within a 30- to 60-day
9 window.

10 MR. CLARE: I think the timing of
11 that is also very problematic from our
12 standpoint. Basically the City's books
13 and records are only closed once a year,
14 in approximately January. So we're
15 already seven months behind in looking at
16 the books and records. We're almost
17 always in between budget periods.

18 So we would never fully have an
19 up-to-date budget and an up-to-date
20 actual number to work from. We would
21 always be working from some projection.

22 That's pretty much it.

23 The interim financial information
24 that we get is certainly unaudited. It's
25 incomplete. You know, many of the things

1 TECHNICAL HEARINGS - VOLUME III
2 are only done once a year. Our union
3 contracts and our fringe contracts are
4 basically done sporadically as the City
5 and the unions kind of get to them. So
6 it's likely we could look at this in two
7 years and still be in the middle of a
8 union contract or whatever.

9 The other thing is we need bond
10 authorization for a new bond, a \$350
11 million bond, proposed for February 2012
12 this fall, and the authorization for that
13 bond certainly could be delayed or
14 disapproved because we don't have
15 adequate rates in place to proceed with
16 that authorization.

17 That's more than enough, I think,
18 Your Honor.

19 THE HEARING OFFICER: All right.

20 MR. DASENT: Thank you.

21 MR. BERTOCCI: I have a question on
22 that.

23 THE HEARING OFFICER: Please.

24 BY MR. BERTOCCI:

25 Q. You made the statement yesterday and

1 TECHNICAL HEARINGS - VOLUME III
2 today that the phase-in of the stormwater
3 management surcharge over I guess a three-year
4 period would somehow be fatally affected by a
5 rate period that was less than four years, and
6 I don't understand why it would not be
7 possible, if you had a two-year rate period,
8 to begin a phase-in of that.

9 We hear you have a theory underlying
10 it and that in the next rate periods that
11 follow, the two-year rate periods, you would
12 just continue on on a plan that you had set
13 forth. I mean, as it is, you present us with
14 projections that go way beyond your rate
15 period, so it isn't that you have to have
16 rates in place in order to have some kind of
17 plan as to what you are going to do.

18 A. (Clare) Well, there would be no
19 certainty certainly from our standpoint nor
20 from the customers' standpoint as to what we
21 would be doing in terms of stormwater. It
22 would not be reflected in our regulations
23 assuming that it was a two-year order. So
24 basically you would be midpoint in the
25 stormwater implementation process with no

1 TECHNICAL HEARINGS - VOLUME III

2 clarity as to what the next step is.

3 Q. Well, you would state what your
4 intent is and people would know that this is
5 only the first step of a process which is
6 going toward a shift in the allocation of
7 stormwater among the commercial and
8 industrials. People don't necessarily need to
9 have the road map for four years in advance in
10 their hands to know the direction in which the
11 wind is blowing.

12 A. (Clare) I agree. I mean, I think
13 the other underpinning to the stormwater
14 reallocation that's very important is our
15 long-term control plan is due September of
16 '09. That's a very, very important document
17 for all of us --

18 A. (McKinley) For CSO control.

19 A. (Clare) Right -- and it has an
20 extremely large capital implication. Our
21 regulating agencies are going to want to see
22 some finality with respect to either we're
23 doing stormwater reallocation or we're not and
24 what are the carrots, you know, are we
25 providing incentives for people to deal with

1 TECHNICAL HEARINGS - VOLUME III
2 are ten in number, annual billings if the
3 discount were not applied is \$232,000,
4 the annual discount received is \$58,000,
5 so their net annual billings are
6 \$174,000.

7 THE HEARING OFFICER: For the
8 accounts that comply with the
9 regulation --

10 MR. DASENT: That's right.

11 THE HEARING OFFICER: -- relative to
12 Class 1 accounts.

13 MR. DASENT: Charitable discount
14 accounts, yes.

15 MR. DELANEY: Is this current or
16 proposed?

17 MR. DASENT: As I understand it,
18 that's current.

19 That's basically it in terms of our
20 various exhibits and our testimony at
21 this point in time.

22 I would like, if Your Honor will
23 permit me, to make a global request for
24 all exhibits, all statements, and all
25 items marked for identification in this

1 TECHNICAL HEARINGS - VOLUME III

2 hearing to be moved into evidence.

3 We are also anticipating letters
4 from the Revenue Commissioner and a few
5 other items which I believe you will
6 address through the next pre-hearing
7 conference or hearing, whichever you
8 choose to term it.

9 MR. DELANEY: Well, I still have
10 some questions for Mr. Clare, though.

11 MR. DASENT: Yes.

12 MR. DELANEY: I am not certain how
13 we're going to do that. Also, on the
14 exhibit that was just identified and
15 moved, I would like to show this to
16 Mr. Rossi. If he has some comment on
17 this, could I file that?

18 THE HEARING OFFICER: Absolutely.

19 MR. DELANEY: Okay.

20 MR. DASENT: But I was sort of
21 interrupted in a major thought that all
22 exhibits, statements, and other documents
23 marked for identification be accepted
24 into evidence.

25 THE HEARING OFFICER: Yes, they will

1 TECHNICAL HEARINGS - VOLUME III
2 be so accepted. As I said, the whole
3 idea is that we will meet at the end of
4 next week or early the next week, we will
5 find a time, so that we can make sure the
6 record is in good shape and be
7 comfortable with what's going on.

8 I also might want to at that time
9 address some maybe scheduling for the
10 stormwater. We will take a look at that
11 as well so that we can start getting some
12 dates together and some ideas with regard
13 to that. So I would ask that you give
14 that some thought so that we can address
15 that as well.

16 So there will be a post-hearing and
17 a pre-hearing conference at that point in
18 time.

19 MR. DASENT: Thank you.

20 MR. CLARE: I need to talk to my
21 counsel.

22 THE HEARING OFFICER: Let's take a
23 five-minute break and then we will come
24 back.

25

- - -

1 TECHNICAL HEARINGS - VOLUME III

2 (Whereupon there was a recess in the
3 hearing.)

4 - - -

5 MR. DASENT: I have nothing more for
6 the panel. It is all for Mr. Delaney at
7 this point.

8 MR. DELANEY: I think I just have
9 questions for Mr. Clare, but certainly
10 all of you can respond if you wish.

11 But first I think I have a request
12 to the Hearing Officer that he take
13 either judicial or administrative notice
14 of the prior decisions, which I can give
15 you copies of, because we are going to
16 talk about those just a little bit.

17 THE HEARING OFFICER: The Hearing
18 Officer will take notice of the prior
19 decisions of the Hearing Officers as well
20 as the Commissioner.

21 Is that since 1801, since the Water
22 Department was created, or how far did
23 you want me to go back?

24 MR. DELANEY: 2001.

25 MR. DASENT: Thank you for limiting

1 TECHNICAL HEARINGS - VOLUME III

2 that request.

3 It was 1801, wasn't it, that the
4 Water Department was created? Didn't I
5 read that somewhere?

6 MR. CLARE: That's right. We had
7 our 200th anniversary a little while ago.

8 THE HEARING OFFICER: Off the
9 record.

10 - - -

11 (Discussion held off the record.)

12 - - -

13 THE HEARING OFFICER: It's the
14 Hearing Officer's desire to view the
15 properties of the Water Department, the
16 major operating facilities, so I will
17 advise everybody when I am going to do
18 that.

19 I am not going to take any
20 testimony. I am not going to do
21 anything. I just want to see what we're
22 talking about. So it will be done at odd
23 times schedule-wise and stuff like that,
24 but that's something that the Hearing
25 Officer wants to see.

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2 And the Hearing Officer is also
3 going to take a visit to the municipal
4 concourse as well to see what's going on
5 with the Water Revenue Bureau down there.
6 So I will let you know when I am going if
7 you want to go along or whatever.

8 MR. BERTOCCHI: All right.

9 MR. DELANEY: Okay.

10 Just a little preamble. I asked you
11 to take judicial notice -- and I think
12 you just did -- of the prior Hearing
13 Officer decisions and Water Commissioner
14 decisions from the 2001 and 2004-05 cases
15 and I am going to ask Mr. Clare and I
16 guess the panel about some directions, as
17 I understand them, that are contained in
18 all four of those decisions and the
19 status of their implementation of them.
20 So that's the relevance of all this.

21 I guess I will start first with a
22 request to Mr. Clare.

23 BY MR. DELANEY:

24 Q. Now, I think in the
25 cross-examination of Mr. McKinley yesterday we

1 TECHNICAL HEARINGS - VOLUME III
2 talked about implementation of one of these
3 conditions, and I was going to make a request
4 on behalf of the Intervenors. We do expend
5 resources to make these requests. In some
6 circumstances the Hearing Officer and the
7 Commissioner have found enough value in the
8 request to ask the Department to take further
9 action.

10 Now, we certainly understand that we
11 may have different interpretations of what the
12 request means, but I was going to request on
13 the record that in the next case, that the
14 Department have some witness address the
15 status of either your interpretation of the
16 request and what you did or what you did
17 because you understood what the Commissioner
18 had directed you to do.

19 I think some of the misunderstanding
20 in these cases is the fact that we have to do
21 discovery to understand what occurred and when
22 we just get tables and testimony that doesn't
23 actually mention what the Commissioner
24 directed, it sort of confuses us and maybe
25 makes us suspicious.

1 TECHNICAL HEARINGS - VOLUME III

2 So I think some of the cross that
3 I'm about to ask you may have been or could
4 have been avoided by simply having a Water
5 Department witness in the next case have some
6 part of his testimony addressing prior
7 requests from the other decisions. Do you
8 think that that's possible to do?

9 A. (Clare) Absolutely. It's a
10 reasonable request and certainly to the extent
11 we can address that, we will in the next case.

12 Q. Great. Thank you.

13 THE HEARING OFFICER: And we can
14 provide for something before the next
15 case. The next case may be sooner than
16 some people think. We don't know that.
17 But we can provide that you specify
18 specifically what your request is and the
19 Hearing Officer can direct the Water
20 Department to respond to that in a
21 certain period of time, six months, nine
22 months, to provide an update as to what
23 was done about that request.

24 MR. DELANEY: Well, I think both of
25 the Hearing Officers and the Commissioner

1 TECHNICAL HEARINGS - VOLUME III
2 have made these kinds of directions and
3 so certainly, in my view, precedent would
4 support you having that kind of thing in
5 your own decision right now. But I agree
6 that's a reasonable procedure to address
7 this issue.

8 THE HEARING OFFICER: Provided by
9 the time specified to make the request
10 and make the request in writing and it
11 can become part of something that you
12 have available to you, which I think
13 would be helpful.

14 MR. DELANEY: Great. I just have a
15 couple questions.

16 BY MR. DELANEY:

17 Q. We did, because we didn't see it in
18 your testimony, ask some Interrogatories on
19 this and I am just going to review some of the
20 responses with you.

21 A. (Clare) Sure.

22 Q. And I think it was really in our
23 first Interrogatory, we had a list of them,
24 and I am not going to ask about every one, but
25 we had a Subpart A, B, C, D, all those things,

1 TECHNICAL HEARINGS - VOLUME III
2 and just let me ask you about a couple of them
3 here and then you can explain what your
4 response is.

5 Now, my recollection is on our
6 initial Interrogatory CCC 1, the A part was
7 about what you had done on the Interfaith
8 Coalition on Energy issues, and I just note in
9 your response that what you said was you
10 continued with the right-sizing when you were
11 notified of it and issuing the discounts when
12 you were requested and evaluated them. I
13 think I am paraphrasing what your response
14 was.

15 Now, the actual response, though,
16 doesn't mention ICE. It's a very general
17 statement of what you have done in those
18 areas.

19 A. (Clare) Correct.

20 Q. Do you recollect off the top of your
21 head, since the last case, what you actually
22 did on the ICE congregation members?

23 A. (Clare) Well, I think certainly we
24 met with our operations people and discussed
25 some specific ICE requests. There were other

1 TECHNICAL HEARINGS - VOLUME III
2 requests from ICE that were more general.
3 It's basically our policy that with
4 our customers, we don't talk to any third
5 party with respect to our customers unless
6 we're aware that they're represented
7 otherwise. So to the extent we're contacted
8 by ICE and we don't know that ICE represents a
9 particular party or if ICE requests
10 information about our customers, as a matter
11 of policy, we don't normally provide
12 generalized information or lists, those kinds
13 of things, some of those things that have been
14 requested by ICE. We need a specific
15 authorization to do that.

16 Some of the difference of opinion
17 between us and ICE has centered around whether
18 it's a request from our customer or it's a
19 request from ICE not specifically authorized
20 by a customer.

21 So I think to the extent we get a
22 request from a customer or we have knowledge
23 that ICE represents a customer, we certainly
24 work to resolve that issue, whether it be a
25 discount, whether it be a meter right-sizing,

1 TECHNICAL HEARINGS - VOLUME III

2 whether it be a customer service issue.

3 MR. PALLADINO: If I may add to
4 that, following yesterday's testimony I
5 engaged Mr. Spielvogel and the gentleman
6 from Trigen --

7 MR. DELANEY: Ruppel.

8 MR. PALLADINO: -- outside the
9 hearing room and I pointed out that we
10 stood willing to help right-size any
11 customer meter or address any customer
12 issue.

13 What has historically been the
14 problem, however -- and I think
15 Mr. Spielvogel admitted to it or
16 addressed it in his testimony -- he
17 indicated that there was difficulty when
18 although he had outreach and notified
19 those customers of the need to seek the
20 Water Department, need to seek
21 right-sizing of meters, it often went
22 unheeded.

23 And we expressed a desire on our
24 part that we stood willing to help
25 everyone but that we really needed them

1 TECHNICAL HEARINGS - VOLUME III
2 to direct customers to us, that customers
3 had to come to us either directly or to
4 be directed through ICE to us for us to
5 address the problem, and that we wanted
6 to do better than we've done in the past.

7 We have a reasonable record. We
8 have downsized many meters, and there are
9 only about 25% of charity customers we
10 were discussing, I was discussing with
11 Mr. Hogan, who is the director of field
12 operations, and that a relatively small
13 percentage of these charity customers,
14 these churches, are other than 5/8" or 1"
15 and they are probably therefore
16 right-sized, 5/8" being the absolute
17 minimum and 1" being the next size.

18 So that left a very small number of
19 universe to be addressed, we both agreed.
20 So as I say, we pointed out the problem
21 that if we wanted to do better, even
22 better than we've done in the past, and
23 we think we have reached everyone who has
24 come to us for help, we need the
25 assistance of the ICE community, the

1 TECHNICAL HEARINGS - VOLUME III

2 membership, those affected churches, to
3 come to us, ring our bell, and we stand
4 ready to do right by them.

5 BY MR. DELANEY:

6 Q. Okay. I have a related question on
7 that. The attachment to Mr. Clare's response
8 to our No. 1 Interrogatory had the
9 Interrogatory Answers on the same issues from
10 the 2004 case, and I think the one that
11 responded to that I think indicated that in
12 2001, that the Department had done a mailing
13 to the ICE members telling them about the
14 discount and also the ability or opportunity
15 to right-size their meters.

16 My question is: Would the
17 Department be willing to repeat, in
18 cooperation with ICE, some kind of mailing to
19 the people that they could identify who are
20 ICE members about the availability of the
21 meter right-sizing and the discount?

22 Now, I think in the prior
23 Interrogatory response, I think it said 900
24 mailings that you had done after the 2001
25 case. Would you be willing to take that step

1 TECHNICAL HEARINGS - VOLUME III
2 again? ICE would identify congregations and
3 you would send them some information.

4 - - -

5 (Mr. Palladino confers with
6 Mr. Clare.)

7 - - -

8 A. (Clare) I don't see any reason why
9 we couldn't do that again.

10 MR. PALLADINO: Again, what is
11 really necessary to make this work well
12 is that we be provided with the addresses
13 of those people who are potential
14 downsize customers in need of potential
15 downsizing.

16 MR. DELANEY: Yes, ICE would provide
17 those.

18 BY MR. DELANEY:

19 Q. Okay. Now, going back to this
20 initial Interrogatory we sent you about the
21 status of these outstanding Commissioner
22 matters, I think in Subpart C we asked you
23 about the separate collection factors for each
24 class of customers.

25 A. (Clare) Correct. I recall that.

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2 Q. And maybe I can cut through this by
3 simplifying it a little bit. But, again, you
4 gave us the response from the prior case and I
5 think that both of the responses indicated the
6 Department's position that the user codes are
7 the difficulty with actually doing that.

8 A. (Clare) Correct.

9 Q. Am I correctly capturing that? For
10 the Hearing Officer's benefit, why don't you
11 explain a little bit what that means?

12 A. (Clare) Sure. In our billing
13 system, our new billing system as well as our
14 old billing system, there is a code that
15 identifies the type of user that it is; for
16 instance, residential, commercial, industrial,
17 you know, a charity, whatever.

18 Those user codes were primarily
19 established during the days when we had meter
20 readers that physically visited each property
21 and took note of the particular use of that
22 property. So they had firsthand knowledge of,
23 for instance, when they went to a corner bar,
24 you know, whether it was a bar, an apartment,
25 or whether it was a laundromat or whether it

1 TECHNICAL HEARINGS - VOLUME III
2 was a residence, and they took some obligation
3 to keep those and maintain those.

4 The fact is, I guess, since 1997
5 we've been about the task of fitting all our
6 customers up with AMR devices and virtually
7 none of our customers are visited on a regular
8 basis by any field crews other than those that
9 might deal with a meter problem, perhaps a
10 leak, a shut-off. But there's no regular
11 contact with any customer.

12 So virtually all of those codes that
13 are in the database date back to 1997 or prior
14 and we certainly know they haven't been
15 maintained, we had no confidence in 1997 that
16 they all were correct, but certainly we have
17 less now that there hasn't been any look-see
18 in the last ten years or so.

19 It's a very expensive process to get
20 employees out to every particular site and
21 make note of the use of the property and its
22 current real use, not what it's listed on the
23 books for.

24 Q. Could you explain also the AMR
25 system to the Hearing Officer?

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2 A. (Clare) Sure. The AMR devices that
3 we use are radiofrequency-based. Basically
4 there's a meter, physical meter, device that's
5 in each customer's property or in the case of
6 most large meter places it's generally in a
7 pit or another area that might be remote from
8 the physical connection site.

9 But attached to or tethered to that
10 metering device is what we call an ERT, which
11 is an electronic radio transmitter, I assume,
12 that sends out a radio signal and we have a
13 company, Itron, that drives around the City.
14 We pay them for each meter read. And that
15 truck picks up the signal, records it on a
16 device, and provides it to our billing system.
17 So basically that's how the AMR system works.

18 We're in the process -- we have been
19 for I guess at least the last five years -- of
20 putting AMR devices in virtually every
21 property in the City. The initial efforts
22 were to residential meters, and that was
23 largely completed by the last rate case; and
24 during the last rate case and certainly since
25 the last rate case, we have made large inroads

1 TECHNICAL HEARINGS - VOLUME III

2 to the large meter customers in terms of
3 percentage of AMRs installed.

4 It's our goal to have them done
5 approximately by the end of this calendar
6 year, or at least the ones that we can
7 physically get to in a reasonable way. We are
8 at 99% now of AMR penetration, and that's
9 actually a requirement of the AMR contract.
10 We have to get an accurate read of 99% of the
11 accounts in order for them to get an
12 incentive.

13 Q. I'm sorry; I just want to make sure
14 I understood. 99% of all customers, large and
15 small?

16 A. (Clare) Well, under the AMR
17 contract, 99% of all the AMR meters that are
18 installed, we have to get a good read. It is
19 our goal to have at least 99% penetration, I
20 would say, by the end of this --

21 MS. McCARTY: We have that now. We
22 have 99% now, 99 plus, for large and
23 small meter customers, so all customers
24 total.

25 MR. CLARE: Right.

1 TECHNICAL HEARINGS - VOLUME III

2 BY MR. DELANEY:

3 Q. Okay. Now, I guess I have to ask
4 this question. You actually had to visit all
5 the residences to install the transmitters on
6 these; right?

7 A. (Clare) We did not. Most of the
8 transmitters were installed by Itron.

9 MS. McCARTY: Well, someone had to
10 visit them.

11 A. (Clare) Yes, somebody did have to
12 visit them. Most of them were done by
13 registered plumbers.

14 Q. I have to ask, why didn't you use
15 that opportunity, since you seemed to be in
16 everyone's house or residence, to update your
17 user codes?

18 A. (Clare) I think certainly it would
19 be one more thing we would have to put on that
20 vendor and another thing we just would not
21 have the ability to maintain. So from our
22 standpoint it really wasn't an opportunity.
23 You know, it would have been just creating
24 another kind of administrative burden for us
25 to keep up with data that we had no ability to

1 TECHNICAL HEARINGS - VOLUME III

2 do.

3 Q. Now, my understanding of your prior
4 response -- and maybe I'm misunderstanding, if
5 you can explain that to me -- this connection
6 between the user code and I guess now the AMR,
7 which gives you the size of the meter, as I
8 understand it, and the actual meter reading
9 that you have automated the collection of the
10 data through Itron --

11 A. (Clare) Uh-huh.

12 Q. -- now, am I correct that the user
13 code update doesn't allow you to identify the
14 particular AMR reading as one type of customer
15 or another? Is that what you're telling me?

16 A. (Clare) It does not. We get an AMR
17 meter reading by basically there's an
18 electronic identifier that's associated with
19 each meter.

20 Q. And that gives you the meter size?

21 A. (Clare) Correct.

22 Q. Well, let me ask you, now, your rate
23 filing has many of your documents breaking
24 your customers down into classes, and if you
25 can't rely on your user codes to give you that

1 TECHNICAL HEARINGS - VOLUME III

2 information, how do you actually do that?

3 A. (Clare) Well, I guess Rowe could
4 probably deal with that better.

5 A. (McKinley) We have used user codes
6 as a surrogate for identifying general service
7 customers into residential, commercial,
8 industrial groups. But they still have the
9 same level of inaccuracy or accuracy that Joe
10 is describing with regard to the user code.
11 That's the only information we have. That's
12 all we have to use in order to identify
13 customers by class.

14 Q. So you are using the user codes in
15 doing your four-year rate plan?

16 A. (McKinley) In terms of identifying
17 customers and consumption by the different
18 categories within the general service group:
19 residential, commercial, industrial.

20 Q. Okay. But doesn't that raise an
21 issue with the accuracy of the rate plan then,
22 I mean, if you don't know how many people are
23 in the group?

24 A. (McKinley) The only alternative
25 would be to have a uniform rate for everybody,

1 TECHNICAL HEARINGS - VOLUME III
2 general service there's a Code 41 which means
3 water and sewer service. But it's the general
4 service category which includes residential
5 nonsenior citizens, residential, commercial,
6 industrial, whereby the only identifier is the
7 user code.

8 Q. And what you've just described to me
9 is the service code?

10 A. (McKinley) The service code
11 identifies, like I say, between general
12 service, senior citizens, charities and
13 schools, Philadelphia Housing Authority.

14 MR. PALLADINO: Colleges, hospitals,
15 universities.

16 A. (McKinley) So we do have that
17 demarcation.

18 Q. Okay. But what you told me, if I
19 understand it, is it's not specific in the
20 general service class to break out commercial,
21 industrial, and residential.

22 A. (McKinley) That's correct. That's
23 only identified by this user code that we have
24 been discussing.

25 Q. Okay. And as we discussed in your

1 TECHNICAL HEARINGS - VOLUME III
2 cross-examination yesterday, the issue that we
3 have on this is if they cannot with accuracy
4 identify the revenues collected by the
5 customer classes, then when Mr. McKinley
6 identifies the adjusted cost of service
7 number -- and this is on I believe Table 23 of
8 your testimony -- he then calculates a
9 percentage increase of revenues required by
10 class to meet the now newly calculated
11 adjusted cost of service, and if the
12 collection on the left side of Table 23 does
13 not accurately reflect the actual collections
14 from the class, then I believe our position is
15 the percentage increase required to meet the
16 adjusted cost of service number is higher than
17 it should be. I mean, this is what this is
18 all about in a capsule here.

19 Let me return now to this issue
20 about identifying your customers. Now, in
21 your Standard Interrogatory responses, I mean,
22 it suggests to me that you do know the
23 identity of some of your industrial and
24 commercial customers because I think No. 4 of
25 your Standard Interrogatory response actually

1 TECHNICAL HEARINGS - VOLUME III
2 identifies your ten largest customers. So you
3 do have some association with accounts and
4 identity of customers because you bill them;
5 right?

6 A. (Clare) Correct.

7 Q. So you have addresses, you have
8 names. And then you actually have a list in
9 your filing of your ten largest customers,
10 which include a number of different kinds of
11 customers. They include the City, the Housing
12 Authority, the School District, but also a
13 couple of our group are identified in that
14 list, which include the University of
15 Pennsylvania and Trigen and companies that had
16 been in the group before, Sunoco. So there is
17 some identity that you have information about
18 about who is commercial and who is industrial;
19 right?

20 A. (Clare) Well, that list is a list
21 of our top-ten customers of all classes and
22 certainly our IT folks have been able to query
23 our billing database and figure out who the
24 top-ten customers are based on the name of the
25 account or some other identifier that they're

1 TECHNICAL HEARINGS - VOLUME III

2 able to associate with.

3 Q. Would this other identifier be

4 because of the recorded service

5 characteristics, the volumes, the size of the

6 meter, things of that nature?

7 A. (Clare) No. I think primarily

8 they're querying it by name. They're looking

9 for all accounts with the School District, for

10 instance, or University of Pennsylvania.

11 Q. Okay. Would it be possible for you

12 to do that kind of inquiry on your customer

13 database to refine it to try and pick up

14 similar customers, whatever they did, Trigen,

15 and then after you have identified them

16 through a query to your database, then examine

17 by meter what their consumption is, things of

18 that nature, to identify them as large

19 customers?

20 I mean, it seems to me that you have

21 the ability to do specific searches of your

22 customer names and then look at these other

23 unique characteristics of the account to

24 identify them as either industrial or

25 commercial customers. I mean, you have done

1 TECHNICAL HEARINGS - VOLUME III

2 it in your filing here.

3 A. (Clare) Well, certainly if you
4 wanted to take enough time and expense, you
5 could do that for many of the 40,000 or so
6 large meter customers. The further down you
7 go in terms of meter size and consumption and
8 billing, the harder it's going to get, the
9 more staff, the more resources it's going to
10 take.

11 So, for instance, to do the top ten
12 might take us a couple of days, I'm guessing.
13 To do the top hundred might take us a couple
14 of weeks. To do 40,000 would probably take us
15 a couple of years. So you are talking a lot
16 of resources.

17 Q. Okay. I have to ask you, the top
18 ten of each group or what? When you say "top
19 ten," what do you mean?

20 A. (Clare) I am talking about the top
21 ten for the entire Water Department.

22 THE HEARING OFFICER: In revenue.

23 BY MR. DELANEY:

24 Q. But I looked at all of these
25 financial documents. Don't you routinely list

1 TECHNICAL HEARINGS - VOLUME III

2 your top customers in those reports to the
3 financing/rating agencies?

4 A. The top-ten customers; absolutely.

5 Q. Okay. Well, my suggestion to you --
6 and you can tell me your reaction to it -- is
7 if the user codes are a problem, you have the
8 ability to develop some form of proxy, in our
9 view, that doesn't require all these expenses
10 to reflect the unique characteristics of these
11 customers.

12 My suggestion to you is -- and we
13 will try and probably put this in our brief --
14 there is a substantial cost to these
15 commercial-industrial customers if you are
16 understating their class income. You are
17 putting too much revenue on them when I
18 believe that they have a larger factor in
19 terms of the collection, that they are paying
20 more than 97%, which is your composite
21 collection factor, you are probably receiving
22 that from that customer class, yet you are not
23 recognizing it in your rate allocations and
24 they are paying more than they should in terms
25 of having a higher percentage put on them to

1 TECHNICAL HEARINGS - VOLUME III
2 meet the adjusted cost of service. I mean,
3 that's the whole beef on this.

4 THE HEARING OFFICER: That's
5 argument so you don't have to answer
6 that.

7 MR. DELANEY: I am trying to explain
8 it so it's clear on the record what we
9 are talking about.

10 MR. CLARE: Understood. I don't
11 know that we can confirm or deny the fact
12 that the large customers are a better pay
13 or worse pay.

14 BY MR. DELANEY:

15 Q. Well, let me ask your thoughts about
16 that.

17 THE HEARING OFFICER: We know the
18 Housing Authority is not. We know that
19 already.

20 MR. DELANEY: We are not
21 representing them in this case so I am
22 not going to talk about them so much.

23 BY MR. DELANEY:

24 Q. But let's just get your opinion.
25 Maybe all the panel can give me their opinion

1 TECHNICAL HEARINGS - VOLUME III
2 on this. My view of this is that the large
3 corporations that are in business who rely on
4 water service to stay in business have a lot
5 of incentive to timely pay their bills. Would
6 you agree with that? Do any of you disagree
7 with that?

8 MR. DASENT: Can you repeat that
9 question?

10 THE HEARING OFFICER: That large
11 customers have an incentive to pay their
12 bills timely as a general rule.

13 MR. DASENT: All customers have
14 incentives to pay their bills timely as a
15 general rule, all customers do. I am not
16 sure what your point is.

17 MR. DELANEY: My point is that the
18 large users, both commercial and
19 industrial, that have to pay their bills
20 to stay in business, to stay in
21 operations, I guess have additional
22 incentives to make timely payments.

23 THE HEARING OFFICER: If you want to
24 take the people you represent, if you
25 want to put a schedule forth that says

1 TECHNICAL HEARINGS - VOLUME III
2 what their bills were for the last five
3 years, what the dates of the bills were,
4 the amounts of the bills, and when they
5 paid their bills, you might be able to
6 show something with regard to that. You
7 should have that data more available than
8 they would with regard to that. You
9 might find that some of them don't pay as
10 quickly as you might think they do.

11 BY MR. DELANEY:

12 Q. Well, let me ask a question about
13 one of the things that we talked about
14 yesterday was the shut-off periods and the
15 ordinance that changed them. Did that
16 extension of the nonshut-off periods where you
17 were prohibited from doing it extend to
18 commercial and industrial customers?

19 A. (Clare) No, it did not. It applied
20 only to residential. But to the extent we
21 serve clients that are in apartment buildings
22 that are covered by USTRA, it would cover
23 them.

24 Q. We are talking about apartment
25 dwellers; right?

1 TECHNICAL HEARINGS - VOLUME III

2 A. (Clare) Correct.

3 Q. Which could have some impact on
4 people that own apartment buildings?

5 A. (Clare) Correct.

6 Q. We asked you an Interrogatory which
7 was No. 7 about how your shut-off policies
8 applied to commercial and industrial
9 customers, and I can just paraphrase it here.
10 The question asked you how did it apply to
11 commercial and industrial customers, the
12 residential policies, and your response was:
13 "The only identified distinction in the
14 shut-off policy is in connection with the
15 winter moratorium on shut-offs and the
16 prohibition on shut-offs on Fridays,
17 Saturdays, Sundays, and holidays, which do not
18 apply to commercial and industrial customers."

19 So would it be correct, with those
20 prohibitions not applying, that you have the
21 ability to actually curtail service to these
22 kinds of customers with no limitation on your
23 ability to do it in terms of these shut-off
24 prohibition periods? Is that correct?

25 A. (Clare) That's correct.

1 TECHNICAL HEARINGS - VOLUME III

2 Q. And would you agree with me that
3 that provides these customers with an
4 additional incentive to either pay their bills
5 promptly or have their service cut off?

6 A. (Clare) Certainly it puts them in a
7 different standpoint than somebody that is
8 subject to the moratorium.

9 Q. Okay. Now, yesterday you responded
10 to an answer of the Hearing Officer that got
11 my ears up a little bit here at the very end
12 of the day when you were asked, I think -- and
13 maybe I am going to not state this correctly
14 so you can correct me on it -- that you
15 thought that the customers of the Water
16 Department overall or in some period had a 99%
17 payment factor?

18 A. (Clare) 97.6 I believe is the data
19 that we collected for our long-term collection
20 analysis.

21 Q. 97.6 over what period?

22 A. (Clare) That was a 15-year
23 collection factor.

24 Q. 15 years. And I know that's the
25 period of the statute of limitations.

1 TECHNICAL HEARINGS - VOLUME III

2 A. (Clare) Correct.

3 Q. Now, do you have any information on
4 what the collection factor might be for your
5 large customers in a single year?

6 A. (Clare) I do not.

7 Q. How about the ones that are on the
8 list here that you have collected, the
9 financial reporting to your rating agencies?

10 A. (Clare) The only one I have
11 firsthand knowledge of is PHA.

12 Q. That's the Housing Authority, which
13 is not really commercial or industrial
14 customers.

15 A. (Clare) No, I do not.

16 Well, I have some specific knowledge
17 with respect to Trigen. We have had a few
18 disputes with Trigen about some particular
19 properties down in their campus. I am hoping
20 those have been resolved.

21 MS. McCARTY: I believe they have
22 been.

23 MR. PALLADINO: Anecdotally, it's
24 been my experience -- and I don't deal
25 with customer service issues directly,

1 TECHNICAL HEARINGS - VOLUME III
2 but -- the larger customers have the
3 ability to contest bills and many of
4 them, especially surcharged customers but
5 not just exclusively customers who pay a
6 sewer surcharge, which is based upon who
7 deliver wastewater of excessive strength,
8 but they have the resources and the
9 ability to question bills. Before they
10 pay bills, they have to reconcile them.
11 And they have more accounting services,
12 more professional people, if you will, to
13 question bills when they feel they are
14 out of order.

15 So it may tilt. I'm not saying I
16 know this because certainly I am not
17 saying we have made a study of it, but
18 anecdotally they have the resources to
19 question bills, not pay bills, delay
20 paying bills, when they are disputing
21 them perhaps more effectively than
22 residential customers do.

23 BY MR. DELANEY:

24 Q. Okay. And those kinds of situations
25 are not calculated in or not accounted for, I

1 TECHNICAL HEARINGS - VOLUME III
2 should say, in your current 97% collection
3 factor matters in dispute.

4 Under my understanding, typically,
5 at least under the PUC requirements, if you
6 dispute a bill, you pay what's due, and then
7 the disputed amount is then subject to some
8 kind of review and is not considered
9 immediately due. Is that your practice, too?

10 A. (Clare) No, it's not.

11 Q. So you can be still liable for
12 something even though you dispute it?

13 A. (Clare) Well, certainly in terms of
14 our billing system, you know, once we've
15 rendered a bill, until we render a corrected
16 bill, that bill is due and payable.

17 THE HEARING OFFICER: But the 97.6%
18 is based upon the cash method so it
19 represents cash received.

20 MR. CLARE: Correct, correct. For
21 instance, part of that 97.6% represents
22 balances that are billed to WRAP
23 customers that are suspended, that are
24 put in arrears. So the fact is many
25 utilities would just not even account for

1 TECHNICAL HEARINGS - VOLUME III
2 initial response because it says it does not
3 use a user code but actually uses a meter
4 code, I understood, to identify the customer
5 as residential, commercial, or industrial.
6 That's the answer to Subpart A of No. 1 there.

7 A. (Clare) CCC-II-1?

8 Q. Yes.

9 A. (Clare) I think my intention in
10 this answer was to say that the new billing
11 system has both a billing code and a meter
12 code in it. Since we don't believe the user
13 code is reliable, we basically bill on the
14 tariff based on the size of the meter. So
15 although it's in there, we don't rely on it
16 for any billing purpose.

17 Q. All right. Let me ask you, why
18 don't you go to our initial set, No. 5? I
19 think we asked you an Interrogatory to explain
20 the new billing system to us.

21 The new billing system, as I
22 understand, is called Basis2 --

23 A. Correct.

24 Q. -- and there's a long history of how
25 it was developed. I think we asked you as the

1 TECHNICAL HEARINGS - VOLUME III
2 second part of that Interrogatory, CCC First
3 Set, No. 5: "Will the new billing system
4 permit the Department to develop collection
5 factors by customer class? Please explain."

6 And I think the very last part of
7 your response is: "Although the Basis2 system
8 can likely provide the data to calculate
9 separate collection factors, without accurate
10 user codes we do not believe that such rates
11 will be accurate or useful."

12 Now, did I correctly state your
13 answer?

14 A. (Clare) Yes.

15 Q. But based on what Mr. McKinley said
16 a moment ago, you are actually using those
17 user codes in the current case to establish
18 your class receipts and do your rate study;
19 right?

20 A. (McKinley) We use those user codes
21 to identify residential/commercial customers
22 for purposes of separating them into classes
23 for usage and number of meters by size.

24 Q. Okay. So you are using that data,
25 and you could also access what their receipts

1 TECHNICAL HEARINGS - VOLUME III

2 were as part of that; right? The user codes
3 would allow you to do that?

4 A. (Clare) Actually, I asked the Water
5 Revenue Bureau that question and I was
6 informed they did not have that current
7 capability.

8 Q. Okay. But you just told me that the
9 new billing system by account contains both
10 the meter code and the user code; right?

11 A. (Clare) Correct.

12 Q. So my understanding of what you just
13 said was that you could query the system,
14 because each one contains both the user code
15 and the meter code, to actually do what you
16 suggested here in the answer to No. 5, which
17 was provide the data to calculate separate
18 collection rates.

19 A. (Clare) I would suspect that the
20 billing system could be queried in that
21 fashion. I'm not sure it would be relevant
22 and the report certainly doesn't exist today.

23 Q. Well, okay. But what about the
24 service code that Mr. McKinley just explained
25 to us; how would that figure into that?

1 TECHNICAL HEARINGS - VOLUME III

2 A. (Clare) Well, that's what I'm
3 saying, there are no collection factor reports
4 by service code or anything other than
5 combined.

6 Q. But the service code, as I
7 understood Mr. McKinley's information on this,
8 would allow you to segregate some of the
9 information because the service code would
10 code the customers in the general class.

11 Tell us again what the service code
12 does.

13 A. (McKinley) The service code, part
14 of it identifies between general service,
15 senior citizens, Housing Authority, charities
16 and schools. Another part of it, the
17 numerical part of it, or I guess it's a letter
18 code, is meter size. R is a 5/8" customer.

19 Q. Okay. So would it be correct then,
20 using the service code information, you could
21 exclude the classes that are identified in the
22 service code from your search, right, from
23 your query?

24 A. (Clare) Yeah, provided we had that
25 capability. Certainly I would think from an

1 TECHNICAL HEARINGS - VOLUME III
2 IT standpoint that's theoretically possible.

3 Q. Okay. Excuse me for a second.

4 - - -

5 (Mr. Delaney confers with
6 Mr. Kalbarczyk.)

7 - - -

8 BY MR. DELANEY:

9 Q. Let me ask another one or two
10 questions on this area and then I will have
11 another one and we'll be finished.

12 A. (Clare) Sure.

13 Q. Would it be correct since 2001 this
14 has been a request of the large commercial and
15 industrial intervention group in these cases?
16 It's in the 2001 decision.

17 A. (Clare) It has been.

18 Q. And at least for that period you
19 have known the identity of the group of
20 companies and possibly their classification
21 that were requesting this at least in the last
22 two cases; right?

23 A. (Clare) Correct. And as we stated,
24 we haven't looked at those codes since at the
25 very latest 1997.

1 TECHNICAL HEARINGS - VOLUME III

2 Q. Okay. But in both cases you had at
3 least, I think, maybe it was ten customers in
4 each case whose testimony identified whether
5 they were commercial or industrial and so you
6 had a number of identified large customers
7 requesting the development of this
8 class-specific contribution?

9 A. (Clare) We have.

10 Q. Yes.

11 A. (Clare) We have.

12 Q. Let me ask you: You could have, my
13 understanding is -- maybe now you'll tell me
14 you couldn't -- used that information from
15 those prior cases to actually construct a
16 class-specific collection factor because you
17 had the identity of large customers and rather
18 than relying on some user code, you had sworn
19 testimony from them saying who they were and
20 what they wanted and possibly in their
21 testimony whether they were commercial or
22 industrial, or you would know that reading the
23 testimony. Why didn't you do a proxy
24 collection factor just using the information
25 that was presented to you in the case?

1 TECHNICAL HEARINGS - VOLUME III

2 A. (Clare) Well, they represented an
3 extremely small portion of our database. I
4 mean, you know, to use a handful of customers
5 and apply that to 500,000 customers is just --

6 Q. But you actually don't have 500,000
7 commercial and industrial customers; right?

8 A. (Clare) Correct.

9 Q. Did you say 40,000 earlier?

10 A. (Clare) Well, there are 40,000
11 large meter customers. One of the big
12 problems with identifying people by user code
13 comes when you hit the 5/8" meter where you
14 have a lot of these hybrid properties where
15 you have a corner bar or a laundromat or
16 apartments. So those are identified in our
17 system as 41R, they're identified as
18 residential, but in fact they are not.

19 Q. And of the 40,000 that you just
20 identified of the larger meter customers, how
21 many of them have the 5/8" meter, do you know?

22 A. (Clare) None. Those 40,000 are
23 larger than 5/8" meters. I'd have to get data
24 from our stormwater people, but I'm going to
25 say there's probably 40 to 50 thousand of our

1 TECHNICAL HEARINGS - VOLUME III

2 430,000 5/8" customers that are
3 nonresidential.

4 Q. Now, in one of the responses you did
5 give me some partial description of the GIS
6 system that you are going to have to implement
7 for the revised stormwater allocation. Would
8 that system provide you any opportunity to
9 perform --

10 A. (Clare) It does give us some. What
11 we intend to do on the stormwater side -- am I
12 allowed to talk about this?

13 Q. Are you waiting for an objection?

14 A. (Clare) -- we're going to use the
15 BRT code, BRT service code, to identify
16 between nonresidential and residential
17 properties for small meter customers. So
18 we're basically looking to other arms of the
19 City that might have databases with respect to
20 those customers to help us in that respect
21 because we don't trust our user codes.

22 Q. Okay. So that may provide an
23 opportunity to actually do a collection factor
24 by customer class or to verify your user
25 codes?

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2 A. (Clare) I would think it's
3 certainly theoretically possible over the long
4 run that we would have that data, particularly
5 after we got gross and impervious data for
6 each of those nonresidential customers.

7 Q. Okay. I just have a couple more
8 questions here for you and really it's on the
9 CCC witness testimony, the individual
10 recommendations of the clients, and I don't
11 know that you have to get them. I will tell
12 you what they are.

13 I think one that we talked about
14 both yesterday and today, which was another
15 proposal or suggestion in the prior
16 Commissioner decisions, was establishing the
17 large users group to meet and discuss issues
18 of importance on a quarterly basis.

19 Now, I will acknowledge that you did
20 give us an Interrogatory response which
21 indicated that you had had some meetings since
22 the last case, and thank you for that.

23 My understanding, though, was
24 reading the supplemental attachment, that most
25 of those were on the proposals for wastewater

1 TECHNICAL HEARINGS - VOLUME III

2 allocation using a parcel-based system.

3 I guess the recommendations that are
4 in the current testimony are a large user
5 group meeting quarterly to talk about issues
6 of interest to both sides and doing that on a
7 continuing basis.

8 Now, I was going to ask you what the
9 Department's position was on actually
10 implementing that.

11 A. (Clare) I think it sounds fine. We
12 actually reached out to your predecessor,
13 Mr. Melia, several times in between the last
14 rate cases and inquired about any areas of
15 interest, not just stormwater. Stormwater
16 happened to be the most important on his
17 agenda and it happened to coincide with ours.
18 But we certainly have an interest in meeting
19 regularly with any customers that would like
20 to meet with us.

21 Q. Okay. I think the way that it's
22 stated in the witness testimony, I think it
23 would put some responsibility on the
24 Department to actually organize these and
25 maybe select the large customers that would

1 TECHNICAL HEARINGS - VOLUME III
2 participate or invite participation of some of
3 them. Would you be willing to do that?

4 A. (Clare) Sure, we would be willing
5 to do that.

6 Q. And that would be on a quarterly
7 basis. I don't know. We would have to work
8 it out. But you would be willing to do that?

9 THE HEARING OFFICER: A reasonable
10 basis.

11 A. (Clare) I would say certainly on a
12 reasonable regular basis. I don't know that
13 we'd necessarily have matters of interest
14 quarterly. But we certainly would be willing
15 to meet on a regular basis.

16 Q. And could it be held at the
17 restaurant at the Art Museum?

18 A. (Clare) We have no control over
19 that restaurant. But it could certainly be
20 held at the Water Works. We did, in fact,
21 have a large customer event down there where
22 we welcomed everybody there and we had
23 cocktails and hors d'oeuvres and such, and it
24 was really a meet-and-greet for the executives
25 of the Department. We had PGW there. We had

1 TECHNICAL HEARINGS - VOLUME III

2 PECO there. I certainly wouldn't want to
3 volunteer that quarterly, but...

4 Q. Semiannually I think would be okay.

5 All right. One of the other
6 requests was assign customer representatives
7 to large users who they can call if there are
8 issues with their service. Now, what's your
9 present practice with these large customers?
10 Do you actually have representatives assigned
11 to them?

12 A. (Clare) We do not. We have some
13 people on my staff and in Water Revenue and in
14 our call center that have been designated for
15 kind of special customers, as we call them,
16 and certainly any large meter customer or
17 anybody with a significant complaint would be
18 in that class.

19 Q. Are the identity of these people
20 communicated to the large customer?

21 A. (Clare) When they make a complaint,
22 certainly; yes.

23 Q. Because their inquiry is directed to
24 that person or what?

25 A. (Clare) Yes.

1 TECHNICAL HEARINGS - VOLUME III

2 Q. Okay. Now, I think the customers
3 that filed testimony are looking to the model
4 that PECO uses --

5 A. Understood.

6 Q. -- where they have an identified
7 person who probably comes by and sees them
8 occasionally and is known to them and is
9 immediately available, and I think if you read
10 the testimony, I think that they are looking
11 for something like that.

12 A. (Clare) I understand.

13 Q. Do you think that that's possible?
14 Now, I know you may have limitations on visits
15 at the site.

16 A. (Clare) I think it's possible. I
17 think it's a question of resources. Certainly
18 we always look to keep a cap on our number of
19 employees and any new hires and that kind of
20 thing. And we're aware that it is a practice
21 in many utilities in the City. I believe
22 Verizon has reps, PECO has reps, PGW has reps,
23 and we're kind of off the mark in that
24 respect. But it would require some staff and
25 it's certainly something we're willing to look

1 TECHNICAL HEARINGS - VOLUME III

2 at.

3 Q. Well, my suggestion on this, as an
4 interim step, is it might help simply to
5 identify a contact person they could call. It
6 sounded like you, for at least some customers,
7 already have done that internally. It may
8 satisfy them as a transitional step for you to
9 identify that person to these large customers
10 so they don't have to go through a switchboard
11 to try and find someone who can connect them,
12 they would know who to call.

13 A. (Clare) That would be fine.

14 Q. Would that be possible for you to
15 do?

16 A. (Clare) I think even in the interim
17 we could provide my contact information to
18 them.

19 Q. Would that be the number that you
20 don't answer or what?

21 No. That would be one that you
22 would answer and respond to them?

23 A. (Clare) Correct.

24 Q. I just have one or two more areas to
25 quickly ask you about.

1 TECHNICAL HEARINGS - VOLUME III

2 A. (Clare) Mr. Palladino directly
3 handles some of our large meter complaints.
4 Another woman on our staff, Nancy Weissman,
5 handles certain inquiries. And any complaints
6 that make their way up to the Commissioner's
7 office, either to Debbie or I or to
8 Commissioner Brunwasser, are always logged in,
9 they're dealt with, and they're resolved.

10 I think even the one you mentioned,
11 the Cira Center, I have had contact with him
12 about AMR problems, et cetera, because he
13 tried to reach out and could not kind of find
14 the right answer.

15 So I think certainly we have a way
16 of addressing that. It could probably be done
17 better, but we have addressed it in the past.

18 Q. And you are committing to do it
19 prospectively, too?

20 A. (Clare) Correct.

21 Q. All right. The last thing I want to
22 ask you about or next-to-the-last thing is the
23 request to encourage conservation programs for
24 larger customers.

25 Now, I know your Interrogatory

1 TECHNICAL HEARINGS - VOLUME III
2 Answers indicated that you do have a program
3 provided by a vendor for small residential
4 customers and some of the large customers that
5 filed testimony asked that they have some
6 program available to them, possibly guidance
7 on practices from the Department. Is that
8 doable?

9 A. (Clare) Well, I think it's somewhat
10 diametrically opposed to our declining block
11 method. In other words, in our declining
12 block method we're kind of signaling to
13 customers that we're a proactive utility, we
14 want to encourage them to use water and the
15 more water they use, the cheaper it's going to
16 be.

17 So to the extent we put those
18 economic signals out in a declining block
19 method and then also spend money on
20 conservation programs, I'm not sure how
21 philosophically you could reconcile that.
22 Would we consider it? We would certainly
23 consider anything that's brought to us by our
24 large users.

25 Q. Okay. Mr. Clare, Mr. Kalbarczyk

1 TECHNICAL HEARINGS - VOLUME III
2 showed me something here and maybe
3 Mr. McKinley can correct me on this. One of
4 your workpapers, which is Units 4, actually
5 has a listing of meters by customer class,
6 numbers of meters by customer class, and the
7 numbers don't seem to be the same as the ones
8 that you were suggesting looking at this.

9 MR. DASENT: The ones that are like
10 microscopic in dimension? Those are the
11 ones we are referring to?

12 MR. DELANEY: I certainly can't read
13 them.

14 BY MR. DELANEY:

15 Q. You list industrial total number of
16 meters 2,013 broken down by size, as I
17 understand, across the spreadsheet. So there
18 seems to be actual pretty specific numbers on
19 meter size and classification in the filing.
20 And this is Units 4.

21 A. (McKinley) I think what you're
22 looking at there basically takes the total
23 general service number of accounts by meter
24 size and distributes it to the various
25 categories of industrial,

1 TECHNICAL HEARINGS - VOLUME III
2 commercial-industrial, and those are based on
3 a distribution that goes several years back of
4 of these accounts based, again, on the user
5 codes.

6 So it was a proration of the
7 existing number of accounts within the general
8 service category back to industrial,
9 commercial-industrial, from a prior year
10 distribution, which was user code-based.

11 Q. And how did you use this in
12 designing the present rates?

13 A. (McKinley) We used it to
14 identify --

15 Q. I'm sorry; the proposed rates, I
16 should say.

17 A. (McKinley) We used it to identify
18 the classes within the general service
19 category into residential, commercial,
20 industrial, which have different types of
21 demand factors, but the use of that data goes
22 back to the user codes which were in the
23 system, and it dates back to several years ago
24 on a distribution that we had from a prior
25 study.

1 TECHNICAL HEARINGS - VOLUME III

2 Q. And I guess what you just told me is
3 you relied on those user codes in doing the
4 rate design of the proposed rates?

5 A. (McKinley) We were forced to use
6 something other than having a uniform rate for
7 all classes, which we don't think would be
8 appropriate.

9 MR. DELANEY: All right. Very good.
10 Thank you. That's all the questions
11 I have.

12 THE HEARING OFFICER: One question.
13 Do we have an ability to find out what
14 the total charitable discount was that we
15 gave in a typical year?

16 MR. DASENT: Its impact systemwide?

17 THE HEARING OFFICER: Yes.

18 MR. CLARE: That's in the record.

19 It's in the cap statistics.

20 THE HEARING OFFICER: Okay.

21 MR. CLARE: I can get that for you.

22 THE HEARING OFFICER: And what does
23 the Department do to make sure that the
24 charitable discount is only going to the
25 portion that should be getting it, like

1 TECHNICAL HEARINGS - VOLUME III

2 an institution?

3 MR. DASENT: How do we verify their
4 status?

5 THE HEARING OFFICER: Like the
6 person at St. Joe's says we only have ten
7 of our buildings. Is there an update
8 that somebody goes out and finds out what
9 buildings are which?

10 MR. CLARE: Basically we have
11 customer service people that review every
12 application they apply for and --

13 THE HEARING OFFICER: Oh, there is
14 an application process?

15 MR. CLARE: Right. There's also a
16 disqualification process for people that
17 don't keep up with their bills or
18 whatever, they could lose their discount.
19 So when somebody applies for a charitable
20 discount, for a new building, say, they
21 list the purpose as either a dormitory or
22 an educational facility or, in St. Joe's
23 case, a new gym or whatever, and our
24 customer service people make a
25 determination as to whether it either is

1 TECHNICAL HEARINGS - VOLUME III
2 discount or it's not. We generally don't
3 prorate it.

4 THE HEARING OFFICER: Okay.

5 - - -

6 (Witnesses excused.)

7 - - -

8 THE HEARING OFFICER: Andre,
9 anything further?

10 MR. DASENT: Only one final thing.
11 Mr. McKinley indicated in his testimony
12 various errata and changes that I
13 neglected to mark as an exhibit, and when
14 the court reporter brought it to my
15 attention, or actually Mr. Clare, I would
16 like to address that by marking for
17 identification as PWD Exhibit 34 a
18 document that was circulated previously,
19 an errata sheet plus accompanying
20 schedules of Mr. McKinley, and I ask that
21 that would be received in evidence.

22 THE HEARING OFFICER: It will be so
23 received.

24 - - -

25 (Whereupon the document was marked,

1 TECHNICAL HEARINGS - VOLUME III
2 for identification purposes, as PWD
3 Exhibit 34 and admitted in evidence.)

4 - - -

5 MR. DELANEY: Mr. Dasent, you will
6 circulate a revised exhibits list at some
7 point when you can?

8 MR. DASENT: Yes, and it will have
9 everything up to date and everyone can
10 sort of verify that I have gotten
11 everything.

12 MR. DELANEY: Thank you.

13 THE HEARING OFFICER: We will stand
14 in recess until further order of the
15 Hearing Officer.

16 MR. DASENT: Thank you.

17 MR. DELANEY: Thank you.

18 MR. BERTOCCI: Thank you.

19 - - -

20 (Whereupon the hearing recessed at
21 1:30 p.m.)

22 - - -

23 Reported By: Susan Marie Migatz, RMR, CRR

24 - - -

25

CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence and objections are contained fully and accurately in the stenographic notes taken by me on August 14, 2008, and that this is a true and correct transcript of same.

SUSAN MARIE MIGATZ
Registered Professional Reporter
Certified Realtime Reporter
Notary Public

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