

WATER, SEWER AND STORM WATER RATE BOARD  
TECHNICAL HEARING

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Technical Hearing, taken at 1515 Arch  
Street, Finance and Contracts Division, 17th Floor,  
Philadelphia, Pennsylvania, 19102, beginning at  
10:02 a.m., on Friday, May 11, 2018, before Karen A.  
Stevens, Court Reporter and Notary Public, there  
being present:

\* \* \*

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1 \* \* \*

2 P R O C E E D I N G S

3 \* \* \*

4 MS. BROCKWAY: Good morning. My name is  
5 Nancy Brockway. I'm the Hearing Officer in  
6 this case. With me is the Chair of the  
7 Philadelphia Water, Sewer, Waste Water Rate  
8 Board, Sonny Popowsky. This morning we are  
9 going to start with a public hearing component.  
10 We have with us the Commissioner of the fire  
11 department, and the water department asked that  
12 he be allowed to make a statement on the  
13 record. We are going to take that as a public  
14 input hearing. Mr. Dasent?

15 MR. DASENT: Your Honor, please. We have  
16 the written testimony of Commissioner Adam K.  
17 Thiel of the Philadelphia Fire Department.  
18 We'd like to mark it as an exhibit and move its  
19 admission into the record. Commissioner Thiel  
20 is here and may have some brief remarks to  
21 make, but he appreciates your accommodation in  
22 getting him on the record early in the day so  
23 he can attend to a lot of other business. I  
24 will hand up the testimony of Fire Commissioner

1 Thiel for the court reporter.

2 MS. BROCKWAY: As you're coming up, these  
3 are going to be public input hearing exhibits,  
4 so they don't need to be marked as part of the  
5 technical transcript. Everybody in agreement  
6 about that?

7 ALL: Yes.

8 MR. DASENT: And if they're attached to  
9 the transcript they will be scanned and  
10 available to the public as well, as opposed to  
11 Cody posting them separately.

12 MS. BROCKWAY: Yes.

13 MR. DASENT: Thank you. With that, will  
14 Fire Commissioner Thiel come up?

15 MS. BROCKWAY: In these hearings we don't  
16 swear people in. We are somewhat informal, but  
17 we take everybody's testimony very seriously.

18 MR. THIEL: Good morning. On behalf of  
19 the men and women of the Philadelphia Fire  
20 Department, we appreciate your accommodation of  
21 my schedule and also your consideration of the  
22 written testimony submitted this morning.

23 Thank you.

24 MR. DASENT: Thank you, Your Honor. And

1 consistent with our agreement the Fire  
2 Commissioner is testifying in the capacity as a  
3 fire commissioner as opposed to a rate expert.

4 MS. BROCKWAY: Yes. So you did not want  
5 to have a verbal statement, and that the  
6 written statement is going to be....

7 MR. DASENT: Yes. We stand on the written  
8 statement indicating the importance of the  
9 matter, and that's why the Fire Commissioner is  
10 in attendance as well.

11 MS. BROCKWAY: We appreciate your  
12 attendance. We'll get to record requests when  
13 we open the regular hearing.

14 Do you have any questions?

15 MR. POPOWSKY: Thank you for coming. No.

16 MS. BROCKWAY: Thanks for taking your  
17 time.

18 That concludes the public input portion of  
19 today's hearing. We'll now turn to the second  
20 day of the technical hearings in the 2019-21  
21 Philadelphia Water Department rate case.  
22 Before we get back to other witnesses, we had a  
23 discussion about some technical matters that  
24 the fire department could help us with.

1           And, Rob, did you have some record  
2 requests on that?

3           MR. BALLENGER: Yes. Thank you, Madam  
4 Hearing Officer. This is Robert Ballenger for  
5 the Public Advocate. And I just had two  
6 questions which really could be written as one,  
7 but let's make it one transcript request in two  
8 parts. The first part is, what types of  
9 services does the fire department provide that  
10 are funded through user-based charges. The  
11 second portion of that transcript request would  
12 be, please explain how any existing fire  
13 department user-based charges are recovered.

14          MS. BROCKWAY: Can you do both of those  
15 more slowly?

16          MR. BALLENGER: Yes. I'm sorry, I might  
17 not get it exactly the same this time around.  
18 The first part of the request is what type of  
19 service does the fire department provide that  
20 are funded through user-based charges. The  
21 follow-up question is to please explain how any  
22 fire department user -- pardon me, how existing  
23 fire department user-based charges are  
24 recovered.

1 MS. BROCKWAY: Just so I understand what  
2 you're asking, and this is an example and no  
3 relation to reality, but for example, if every  
4 time the fire department came to your home and  
5 prevented it from burning down you were charged  
6 a hundred dollars?

7 MR. BALLENGER: That would be one example.  
8 Another might be emergency medical services  
9 that the fire department provides.

10 MS. BROCKWAY: So is that clear what  
11 user-based fees are, Andre?

12 MR. DASENT: Yes.

13 MS. BROCKWAY: Charges. Do you have  
14 those, Andre?

15 MR. DASENT: Yes.

16 MS. BROCKWAY: It's suggested to me that  
17 that's transcript request 4.

18 MR. BALLENGER: Yes, that's correct.

19 MR. DASENT: I think that's correct.

20 MS. BROCKWAY: Where are we this morning?  
21 I've forgotten exactly how much we got through.  
22 Are we completely finished with the panel on  
23 the TAP rider?

24 MR. DASENT: Yes, we are finished with

1           that particular panel. We are ready to present  
2           our second panel, Raftelis Financial  
3           Consultants; Michelle Bethel, RaVonne Muhammad  
4           and Joanne Dahme and Donna Schwartz from the  
5           Water Department.

6           MR. BALLENGER: May I just ask, who from  
7           the department would answer questions about the  
8           fire protection services today? Because we  
9           have fire protection on the agenda as well.

10          MR. DASENT: As you recall, we removed the  
11          fire protection rebuttal testimony that  
12          Commissioner Thiel presented from the rebuttal  
13          statement. As a consequence, we were not  
14          prepared to -- he was to speak to that issue,  
15          and the other issues were briefing issues, as  
16          we discussed off the record.

17          MR. BALLENGER: I believe we agreed to  
18          that with respect to the rebuttal statement,  
19          but my understanding is that there was going to  
20          be some cross of Roger on fire protection, and  
21          I wanted to cross the department on its  
22          original position on fire protection, which is  
23          in its original statement in this case.

24          MS. BROCKWAY: Off the record.

1 \* \* \*

2 (Whereupon, a brief off-the-record  
3 discussion was held.)

4 \* \* \*

5 MS. BROCKWAY: Mr. Ballenger, can you give  
6 us an idea what questions you do have?

7 MR. BALLENGER: I did have a question  
8 directed to the AWWA manual's treatment of fire  
9 protection charges.

10 MR. DASENT: Well, Black and Veatch is in  
11 the room for that.

12 MR. BALLENGER: I have a couple questions  
13 just about fire hydrants and the department's  
14 role in maintaining the fire protection system.

15 MR. DASENT: Deputy McCarty is here for  
16 that also -- Commissioner, sorry.

17 MS. BROCKWAY: I appreciate that. We'll  
18 take a transcript request, but if Commissioner  
19 McCarty is willing to address that we can  
20 address the question to her.

21 MR. BALLENGER: I don't have a lot. I  
22 think three or four questions total.

23 MS. BROCKWAY: Now we'll proceed with the  
24 other panel with Raftelis and department



1 witnesses.

2 MR. DASENT: We have a brief housekeeping  
3 matter. There is an errata sheet we'd like to  
4 exhibit. We'll hand up the errata sheet.  
5 We'll mark that as Rebuttal 4.

6 MS. BROCKWAY: Let's go off the record.

7 \* \* \*

8 (Whereupon, a brief off-the-record  
9 discussion was held.)

10 \* \* \*

11 MR. DASENT: It relates to rebuttal  
12 statement page 10, line 18 and 19. It's the  
13 better part of one sentence.

14 MS. BROCKWAY: May I mark on this hard  
15 copy, Andre?

16 MR. DASENT: Yes. Just so the record is  
17 clear, the errata sheet related to rebuttal  
18 statement number 4 of the water department and  
19 water revenue bureau and its consultants. And  
20 it relates specifically to page 10, lines 18 to  
21 19. It's one sentence, not even a full  
22 sentence.

23 MS. BROCKWAY: I have in the errata  
24 rebuttal statement 4 dash 9 as an attachment.

1 I don't have 10.

2 MR. DASENT: Let me show you mine.

3 MS. BROCKWAY: We'll go off the record.

4 \* \* \*

5 (Whereupon, a brief off-the-record  
6 discussion was held.)

7 \* \* \*

8 MR. DASENT: With that, Your Honor, we  
9 authenticated all the statements represented  
10 this week, yesterday, by stipulation, if you  
11 recall. So without any further authentication  
12 or by motion we would proffer these witnesses  
13 for cross-examination.

14 MS. BROCKWAY: Thank you, Mr. Dasent.  
15 Does the court reporter have the names of the  
16 witnesses?

17 MR. DASENT: Yes.

18 MS. BROCKWAY: Mr. Ballenger?

19 MR. BALLENGER: Thank you, Madam Hearing  
20 Officer, and thank you to the witnesses for  
21 being here today. As with yesterday, I think  
22 most of you were here, maybe not all of you,  
23 but I ask that one witness respond to the  
24 question and that we not have a bunch of

1 different witnesses jumping in, so I can  
2 understand the position clearly from the  
3 perspective of the witness who is sponsoring  
4 the section of the testimony we are going to  
5 talk about today. Is that okay?

6 MR. DASENT: Well, the lead on the panel  
7 will respond, and that's Michelle Bethel, and  
8 if it's necessary to hand off --

9 MR. BALLENGER: Then Miss Bethel will so  
10 indicate. Thank you. We did that yesterday.

11 \* \* \*

12 C R O S S

13 E X A M I N A T I O N

14 \* \* \*

15 BY MR. BALLENGER:

16 Q I wanted to start by following up on one  
17 thing from yesterday. I asked a question of the  
18 earlier panel about how the department identified,  
19 quote, the most vulnerable low income customers  
20 during the launch of the TAP program, and  
21 specifically I asked what criteria were used. Miss  
22 Bethel, could you illuminate that discussion  
23 somewhat and tell us what criteria were used to  
24 determine the most vulnerable low income customers

1 for TAP outreach?

2 A So on the basic level, the most vulnerable  
3 customers were determined by household size and  
4 income, and arrearages were not factored into  
5 determining vulnerability.

6 Q Okay. Did you take into account any known  
7 information about the household, such as the age of  
8 its members or any known illnesses or medical  
9 conditions in the household?

10 A The age in reference to if they didn't  
11 have income or not, that would be factored in,  
12 because we wouldn't be looking for income for a  
13 child. But we are using the household income and if  
14 there is a special hardship that otherwise would --  
15 they wouldn't have been income qualified for TAP,  
16 yes, we would have taken that into consideration.

17 MS. BROCKWAY: Before we go further, it  
18 would be helpful for the record to be very  
19 clear about what stage of the actions of the  
20 department or the board we are talking about.  
21 Are we talking about advertising and so forth?  
22 Are we talking about once an application has  
23 been filed how do you weigh what's in and  
24 what's out and so forth?

1 MR. BALLENGER: Thank you.

2 BY MR. BALLENGER:

3 Q In case the answer's any different, in the  
4 first instance I was referring to the June 2017  
5 outreach. Does that change any of the answers in  
6 terms of how the department identified the most  
7 vulnerable low income customers?

8 A Yes, that does change the answer.

9 Q Okay. Thank you.

10 A So the answer for who we did outreach to,  
11 we did it to our existing WRAP customers and  
12 previous WRAP customers that were in prior fiscals.  
13 So people that may have paid in full that may not be  
14 active WRAP customers, but we wanted to catch the  
15 population that we knew had recently been.

16 MS. BROCKWAY: WARP.

17 THE WITNESS: WRAP. Water Revenue  
18 Assistance Program, that's what WRAP stands  
19 for.

20 BY MR. BALLENGER:

21 Q Thank you. So did you take into account  
22 or look at all at the customers who may have  
23 submitted medical certificates to delay a shutoff in  
24 determining who were the most vulnerable customers

1 for that outreach?

2 A No.

3 Q Aside from the two groups that you talked  
4 about, the current WRAP and former WRAP, did you  
5 look at customers based on where they might be in  
6 the collection process?

7 A No.

8 Q So, for example, if someone had a pending  
9 sheriff's sale they would not have received an  
10 outreach just because of that potential sheriff's  
11 sale?

12 A Correct.

13 Q Did you cross check at all with customers  
14 who would have an existing owner-occupied payment  
15 agreement for their back taxes for purposes of that  
16 outreach?

17 A No.

18 Q Okay. Did you prioritize customers whose  
19 service had recently been terminated?

20 A No.

21 Q Okay. I just want to be clear. I know  
22 what you said. I just want to make sure, because I  
23 think there's other ways we can define the most  
24 vulnerable, and I wanted to understand your

1 definition a little bit better. I'd like to turn to  
2 the rebuttal statement. And generally I'm going to  
3 go through this as best I can in order, and I'll  
4 indicate where I am in the rebuttal when I ask the  
5 question. To start, on Page 2 of your rebuttal  
6 statement there is a Q and A, Question 4. And in  
7 general, in this section of your rebuttal testimony  
8 it appears to me that you are essentially construing  
9 the law as it relates to what the Board's authority  
10 is. And I just want to confirm that no one on the  
11 panel is testifying as an expert on the law; is that  
12 correct?

13 A That is correct.

14 Q And I suppose in preparing this section of  
15 your testimony, did you utilize any advice from your  
16 counsel?

17 A I did.

18 Q So should I essentially understand that  
19 your answer to this first question, Question 4,  
20 generally I should understand this answer was  
21 provided on the advice of counsel; is that right?

22 A That is correct.

23 Q Can you please identify which counsel  
24 assisted you with this portion of your testimony?

1 MS. BROCKWAY: I'm not sure that's  
2 necessary. If it's on advice of counsel it  
3 will receive the weight it deserves as a  
4 witness testimony and the rest can be briefed  
5 and I don't think it matters who the counsel  
6 was.

7 BY MR. BALLENGER:

8 Q As to the specific statement that you make  
9 in this answer, you say, "The rate board has only  
10 the powers and authority granted in the Philadelphia  
11 Code, Section 13 dash 101, Paragraph 3." Do you see  
12 that statement on line 17 and 18 of Page 2?

13 A I do.

14 Q Presumably your statement is then based on  
15 the words used in Section 13 dash 101, Paragraph 3  
16 of the Philadelphia Code; is that correct?

17 A Correct.

18 Q Would you know whether any specific  
19 language of the Philadelphia Code, Section 13 dash  
20 101, Paragraph 3 authorizes the Board to hire a  
21 consultant like Mr. Marcus?

22 A I don't know that.

23 Q Would you know whether any of the language  
24 in the code authorizes the Board to hire a hearing



1 officer?

2 A I don't know that.

3 Q I'd like to ask you to think about the  
4 Board's authority a little bit differently. I have  
5 a hypothetical, so bear with me. Let's say for the  
6 sake of argument that the Board approved a separate  
7 distinct usage rate that applied only to residential  
8 duplexes. If I was a customer and owner of a  
9 residential duplex, would you agree that I would be  
10 entitled to the rate that the Board approved?

11 A Could you say that hypothetical question  
12 again?

13 Q Certainly. If the Board approved a  
14 specific distinct usage rate for residential  
15 duplexes, and I was an owner and customer of a  
16 residential duplex, would I be entitled to that rate  
17 that the Board approved?

18 MR. DASENT: If the question asks for a  
19 legal conclusion it's objectionable and I note  
20 that objection. If Miss Bethel can answer as a  
21 layperson as someone who administers various  
22 programs for WRB, in that context she should  
23 answer.

24 MS. BROCKWAY: I wouldn't call her a

1           layperson, but I would accept that she's not a  
2           lawyer and is testifying as to her  
3           understanding as an administrator of the  
4           applications that she has.

5                   MR. BALLENGER: I think I can lead up to  
6           the question a little bit differently.

7 BY MR. BALLENGER:

8           Q       Is the Water Revenue Bureau responsible  
9           for billing customers at the approved rates set by  
10          the rate board?

11          A       Yes, we are.

12          Q       If I was entitled to a distinct rate under  
13          the rate board's approved rate schedule, would it be  
14          correct that you would bill me at that rate?

15          A       That is correct.

16          Q       Okay. So again, if there were a specific  
17          rate for residential duplexes you would agree with  
18          me, would you not, that would be the rate you would  
19          charge the customers at residential duplexes?

20          A       If that is the established rate, the Water  
21          Revenue Bureau will bill at the established rate.

22          Q       Then let's say that a study concluded that  
23          there were 10,000 residential duplexes and only a  
24          handful of them were being billed at the Board's

1 approved residential duplex rate. Is it your  
2 testimony that the Board would be powerless to act  
3 upon that failure?

4 A I don't have an opinion on that particular  
5 part of your hypothetical question.

6 Q Okay. But you do agree that those  
7 residential duplexes would have been entitled to the  
8 Board's approved rate?

9 A I agree if the rate is set at a specific  
10 point, WRB will bill at the rate that is set.

11 Q If WRB does not bill at the rate that is  
12 set, is it your testimony the Board has no authority  
13 over that issue?

14 A I guess administratively I could appeal  
15 that.

16 Q For an individual customer?

17 A Right, the individual customer would be  
18 able to appeal that.

19 Q But the Board that established those  
20 rates, in your opinion, would not have any authority  
21 on that matter?

22 A I don't know that I have an opinion on  
23 that. I think I've gone a little too far in the  
24 hypothetical.

1           Q     That's the end of the hypothetical, Miss  
2 Bethel. I have several more. No, I'm kidding.  
3 Okay. Let's move on to Q and A 5. Look at Page 4.  
4 And on lines 8 through 12 it appears to me that  
5 you're referring to what's called a zero income  
6 form. Are you familiar with that section of the  
7 testimony?

8           A     I am.

9           Q     And just to check with you about this, are  
10 you aware of ongoing discussions at the PUC  
11 regarding modifications to the zero income form  
12 and/or the abandonment of the use of the zero income  
13 form?

14          A     I am not.

15          Q     So you wouldn't be aware that there was a  
16 meeting on this in Harrisburg on Monday?

17          A     Not at all.

18          Q     As we go down Page 5, I'm turning the  
19 page, sorry. Page 5, lines 4 through 8 you describe  
20 the TAP review process as a two part process, which  
21 you say acts as a form of quality control. Do you  
22 see that?

23          A     I do.

24          Q     On the preceding page, when we were

1 talking about the zero income form, my understanding  
2 is that you were relying upon PUC-approved forms; is  
3 that correct?

4 A Relying on?

5 Q Your testimony describes the use of  
6 PUC-approved forms on Page 4, right?

7 A Yes.

8 Q So regarding your statement on Page 5 and  
9 the two part review process, are you aware of any  
10 PUC regulated utility that employs a two part review  
11 process for customer assistance?

12 A I am not.

13 Q Are you aware of any community-based  
14 organizations that are contracted by utility  
15 companies to administer their assistance programs,  
16 are you aware of any of those organizations using a  
17 two part process?

18 A I am not.

19 Q Does LIHEAP use a two part review process?

20 A I don't know.

21 Q Are you aware of any means tested low  
22 income program that uses a two part review process  
23 for all applicants?

24 A I am not.

1 Q Have you done or reviewed any kind of  
2 analysis of the effectiveness of the two part review  
3 process?

4 A I have not.

5 Q Have you done or reviewed any kind of  
6 analysis of the rate at which customers receive  
7 assistance they are not qualified for under a single  
8 layer review process?

9 A I am not.

10 Q Are there any other rates that the  
11 department provides for which a two part review  
12 process is necessary to access the rate?

13 A Could you repeat the question?

14 Q Are there any other rates that require a  
15 two part review process in order for the customer to  
16 be approved?

17 MR. DASENT: That assumes that she knows  
18 of every possible alternative. I'm not sure  
19 the way you phrased it.

20 BY MR. BALLENGER:

21 Q I'm sorry. Are there any other PWD rates  
22 that require a two part review process for approval?

23 A Not that I'm aware in reference to quality  
24 control.

1 Q I'm not sure I understand the response.  
2 Are you aware of any that require a two part review  
3 process for some other purpose?

4 A No, I am not. I just was trying to  
5 clarify the two-tiered response in reference to  
6 establishing the TAP rate.

7 Q Okay. But just to be clear, there are no  
8 other rates that the department provides that  
9 require a two part review process?

10 A No.

11 Q I'd like to turn the page. I spent so  
12 much time on one page yesterday. On Page 6, lines  
13 16 through 18 of your statement, it says here,  
14 "Customers are never harmed by the timeframe for  
15 review, because they are protected from enforcement  
16 for the full period of time the application is under  
17 review." Do you see that statement?

18 A I do.

19 Q This is referring to the timeframe for  
20 review of a TAP application; is that correct?

21 A That is correct.

22 Q Okay. I'd just like to ask a couple  
23 questions about the process a little bit and the  
24 timeframe for review. When a customer is waiting

1 for their application to be reviewed, they continue  
2 to receive full price bills, do they not?

3 A That is correct.

4 Q If those bills are unaffordable to the  
5 customer, their nonpayment would create or add to  
6 their water debt, would it not?

7 A That is correct.

8 Q Assuming a customer is after application  
9 ultimately approved for TAP, would the debt they had  
10 accrued during -- let me start over. Assuming the  
11 customer enrolls in TAP, their debt would become  
12 pre-TAP arrears, correct?

13 A Say that one more time.

14 Q Assuming a customer successfully enrolls  
15 in TAP, the debt they owe at that time would be  
16 pre-TAP arrears?

17 A That's correct.

18 Q And that would include any debt that  
19 accumulated during the time period they were waiting  
20 for approval; is that correct?

21 A That is correct.

22 Q If that customer was unable to enroll in  
23 TAP or was denied access to TAP, they would have to  
24 pay that accumulated debt, would they not?



1           A     That is correct.

2           Q     The customer who leaves TAP, they would  
3 also have to pay any accumulated debt, would they  
4 not?

5           A     That is correct.

6           Q     While the customer is waiting for  
7 enrollment, Water Revenue can lien the property for  
8 the debt, can they not?

9           A     We can, but we do not.

10          Q     You do not lien customers who are  
11 applicants for TAP but who have not enrolled in TAP;  
12 is that correct?

13          A     That is correct.

14          Q     At what point in time did that become a  
15 practice of Water Revenue?

16          A     Since TAP's implementation the lien of TAP  
17 customers has been our practice.

18          Q     Okay. So --

19          A     Not lien.

20          Q     Thank you. So an applicant for TAP who is  
21 not yet enrolled for TAP, is not a TAP customer, so  
22 my understanding, please correct me if I'm wrong, is  
23 that applicants for TAP were still subject to liens;  
24 is that correct?

1           A     Prior to submission or once they submit?

2           Q     At any time prior to enrollment in TAP,  
3 isn't it true a customer can be liened for their  
4 debt?

5           A     No, that is not true. They could be, but  
6 we are not lienning, correct.

7           Q     So one second. There was another  
8 statement in your testimony here. Okay. So if I  
9 just look at Page 8, lines 9 through 10, it states,  
10 "However, the WRB has adopted a standard operating  
11 procedure to exempt TAP customers from having their  
12 arrears subject to liens." Do you see that  
13 statement?

14          A     I do.

15          Q     Should that statement be revised to say  
16 that the standard operating procedure exempts TAP  
17 applicants as well as customers from having their  
18 arrears subject to liens?

19          A     Say that again.

20          Q     Should that statement be revised to say  
21 that the procedure exempts TAP applicants as well as  
22 customers from having their arrears subject to  
23 liens?

24          A     Subject to check, I think adding both of

1 those words would be a more inclusive response.

2 MR. BALLENGER: I'd like to ask a  
3 transcript request that the department provide  
4 a copy of its standard operating procedure  
5 regarding the imposition of liens on TAP  
6 applicants as well as TAP customers. I believe  
7 that would be transcript request 5.

8 BY MR. BALLENGER:

9 Q Just to be extra clear, a customer who has  
10 already been liened prior to applying for TAP would  
11 not be protected from that lien; is that correct?

12 A Prior to application?

13 Q Yes.

14 A That is correct.

15 Q Okay. So that lien would remain on the  
16 property?

17 A That is correct.

18 Q And then after enrolling in TAP -- oh,  
19 sorry. I'm getting some help. During the period  
20 between the submission of an application and  
21 enrollment in TAP, is any change made to the lien  
22 status of the customer's property?

23 A No.

24 Q And after approval for TAP and enrollment

1 in TAP is any change made to the lien status on the  
2 customer's property?

3 A The existing liens?

4 Q Yes.

5 A No.

6 Q Okay. Going back to the statement on Page  
7 6 that we were discussing before at line 16 through  
8 18, would you maintain that a customer has not been  
9 harmed by the timeframe for review if the customer  
10 pays their full-priced water bills while waiting for  
11 enrollment in TAP and sacrifices on other  
12 necessities, such as food and medical care?

13 MR. DASENT: Is that a hypothetical?

14 MR. BALLENGER: I think yesterday we  
15 talked a little bit about overall resources  
16 within the household. So I'm just trying to  
17 understand what exactly is meant by the  
18 statement "customers are never harmed," because  
19 I think that asks for a hypothetical.

20 MS. BROCKWAY: Well, whether hypothetical  
21 or not, I'll allow the question.

22 THE WITNESS: Can you repeat the question?

23 BY MR. BALLENGER:

24 Q Sure. Would you maintain that a customer

1 has not been harmed by the timeframe for review if  
2 the customer pays the full-priced water bills during  
3 that time period while they wait for TAP enrollment  
4 and sacrifices on other necessities like food and  
5 medical care?

6 A I can't speak for how the customer feels  
7 about the sacrifice, but that isn't a harm caused by  
8 WRB's billing.

9 Q Okay. We were talking just a minute ago  
10 about the statement on Page 8, lines 9 through 10  
11 about the standard operating procedure to exempt TAP  
12 customers from having arrears subject to lien. In  
13 the immediately preceding sentence your testimony  
14 states, "The regulations do not restrict WRB from  
15 placing liens on a TAP customer's arrears." What  
16 regulations are you referring to in that statement?

17 A Subject to check. I don't know that off  
18 the top of my head.

19 Q Okay. Was this also a section of your  
20 testimony where you received advice from counsel in  
21 the preparation of it?

22 A Yes, it is.

23 Q So when you refer to regulations, it's the  
24 regulations as advised by your counsel?

1 A Correct.

2 MS. BROCKWAY: Just so I have it all in  
3 the transcript at one place, do you have a set  
4 of written regulations that you refer to in the  
5 course of your administration?

6 THE WITNESS: Yes, I can put my hands on  
7 the written regulations, but I don't have them.  
8 It's not a part of all this paper today. I  
9 apologize.

10 BY MR. BALLENGER:

11 Q No need. There is a lot of paper involved  
12 in this case. So I'd like to turn to the discussion  
13 of arrearage forgiveness. And on Page 9, lines 5  
14 through 7 of your testimony you state that, "Under  
15 the City charter responsibility for City debt more  
16 than 90 days old is assigned to the law department.  
17 The rate board does not have the authority or  
18 jurisdiction to direct PWD or WRB to provide full  
19 arrearage forgiveness." Do you see that statement?

20 A I do.

21 Q To be clear, the word "full" that you use  
22 in that statement seems to be an important word.  
23 Would you also say the rate board does not have the  
24 authority or jurisdiction to provide partial

1 arrearage forgiveness?

2 A Could you repeat the question?

3 Q Sure. Your statement says that the rate  
4 board does not have the authority or jurisdiction to  
5 provide full arrearage forgiveness. Would you say  
6 the rate board has the authority or jurisdiction to  
7 provide partial arrearage forgiveness?

8 MR. DASENT: Sounds like a legal  
9 conclusion again.

10 MS. BROCKWAY: I'll allow her to give her  
11 understanding of it. If she's got legal  
12 material in her testimony, she's open to  
13 questions about it. She can say, "I don't  
14 know. The lawyers told me this," but we'll  
15 allow her knowledge of the rules under which  
16 she's operating to be probed.

17 THE WITNESS: To answer your question,  
18 what I would normally do if you asked me that  
19 is say, "Let me talk to my attorney," so I  
20 don't have an interpretation of the change that  
21 you made, the difference between full or  
22 partial.

23 BY MR. BALLENGER:

24 Q Okay. You cite here, too, the city

1 charter as the source of this legal conclusion in  
2 your testimony. And is it safe to say that whatever  
3 provisions of the city charter you are relying upon  
4 have not been amended recently, to your knowledge?

5 A To my knowledge, no.

6 MS. BROCKWAY: Before you leave these  
7 sentences, just so I can understand it, there  
8 are two sentences here. The first one talks  
9 about city debt more than 90 days old assigned  
10 to the law department, and the second one says  
11 the rate board does not have the authority or  
12 jurisdiction to direct PWB or WRB to provide  
13 full arrearage forgiveness. Is there a link  
14 between those two? In other words, would  
15 "full" include debt more than 90 days old but  
16 this second statement doesn't necessarily  
17 relate to anything other than debt more than 90  
18 days old?

19 THE WITNESS: My interpretation of that,  
20 it's two separate thoughts although they're in  
21 the same paragraph. So they probably could  
22 have been written differently to break up the  
23 thoughts.

24 MS. BROCKWAY: That helps. You're not



1           intending by the second sentence to define  
2           "full" as being with or without?

3           THE WITNESS: Correct.

4           MR. BALLENGER: And I have a couple more  
5           questions that might help with this discussion,  
6           too.

7 BY MR. BALLENGER:

8           Q       Just to follow up quickly on the hearing  
9           officer's question and your statement that these are  
10          two separate statements here, you would not read  
11          this to include an implicit "therefore." So, for  
12          example, you would not say that the first sentence  
13          leads to the conclusion in the second sentence; is  
14          that right?

15          A       I would not.

16          Q       Okay. I want to talk a little bit, and it  
17          probably feels like ancient history, but I'd like to  
18          talk about the WRAP program and the WRBCC grant  
19          programs and this statement on Page 9 that we were  
20          just talking about, the legal authority to implement  
21          arrearage forgiveness. My recollection after or  
22          around 2012 the Water Revenue Bureau increased the  
23          amount to the WRBCC grants from \$200 to \$500; is  
24          that correct?

1 A That is correct.

2 Q I wouldn't hold you to the date but --

3 A Yes, subject to check.

4 Q Okay.

5 A There was an increase.

6 Q There was an increase. I think it was in  
7 the context of the 2012 rate case in 2011 that we  
8 talked about them. That's my recollection. You're  
9 not bound by it, but I appreciate you refreshing us.  
10 Of the \$500 in the increased WRBCC grants, isn't it  
11 true that \$300 of that grant was applied to the  
12 customer's arrears?

13 A That is correct.

14 Q How did that \$300 get applied to the  
15 arrears? Was it applied to the oldest debt first?

16 A That is correct.

17 Q So it couldn't have been applied to the  
18 debt that was just 90 days old or less, correct?

19 A If that was the oldest debt of a customer,  
20 then it could have been on the debt that's 90 days  
21 old.

22 Q Do many of your customers accrue \$300 in  
23 debt in 90 days? Is that a common occurrence?

24 A I don't know that. Subject to check that.

1 I'm not sure.

2 Q But if a customer --

3 MS. BROCKWAY: I want to note that we have  
4 been joined by board member Ewing.

5 \* \* \*

6 (Whereupon, board member Ewing  
7 entered the hearing room.)

8 \* \* \*

9 BY MR. BALLENGER:

10 Q If a customer did have debt more than 90  
11 days old or older, the \$300 grant would be applied  
12 to the oldest debt first, correct?

13 A Correct.

14 Q And just to be clear about the source of  
15 that grant, the \$500 WRBCC grant didn't come from an  
16 external source of funding, did it, such as a  
17 Federal grant or a class action settlement or  
18 something like that, did it?

19 A No, it did not.

20 Q It came from department revenues, correct?

21 A That is correct. If I could just -- it's  
22 an administrative adjustment, so it's not funds  
23 from -- it's an administrative adjustment to the  
24 account.

1 Q Understood. And it would adjust the  
2 customer's account down by \$300?

3 A Of the oldest debt.

4 Q They would not have to pay that debt?

5 A That is correct.

6 Q And they could get that grant every year,  
7 could they not?

8 A Yes.

9 MS. BROCKWAY: After one year?

10 MR. BALLENGER: Every year.

11 THE WITNESS: A fiscal.

12 BY MR. BALLENGER:

13 Q I'm going to go back on my word that we  
14 are going to try to take this in order, because  
15 unfortunately this part of my cross is not organized  
16 that way. If we could turn back to Page 3, on lines  
17 number 20 through 22, you said that, "Both  
18 applications request the applicant optionally  
19 provide Social Security Numbers for all household  
20 members," and you're referring to PECO and PGW's  
21 application; is that correct?

22 A I'm trying to find where you are.

23 Question 5?

24 Q We can skip forward to lines 24 and 25.

1 The sentence that begins, "The department's request  
2 for Social Security Numbers mirror the Department of  
3 Revenue's real estate tax regulations." Do you see  
4 that statement?

5 A I do.

6 Q At the same time, listing a Social  
7 Security Number is not required for purposes of  
8 enrolling in TAP; isn't that correct?

9 A Could you say that again?

10 Q Does a customer have to provide a Social  
11 Security Number to enroll in TAP?

12 A It's optional.

13 Q I don't know if you have a copy of the TAP  
14 application handy. It's actually attached to  
15 Mr. Colton's testimony, if you have that.

16 A I have it.

17 Q This is Appendix B to Mr. Colton's direct  
18 testimony. And in looking at this application and  
19 the cover letter that accompanied it, I couldn't  
20 find any indication that providing a Social Security  
21 Number was optional in this document. Can you point  
22 me to anywhere in the document that indicates that  
23 providing a Social Security Number is optional?

24 A Can you say that one more time?

1           Q     Can you point me to anywhere in the cover  
2 letter or the application where a customer reviewing  
3 this document is advised that a Social Security  
4 Number is optional?

5           A     I can't point to where it says the word  
6 optional.

7           Q     And again, in Mr. Colton's appendix B in  
8 the TAP application, it starts with a cover letter  
9 and then there is a page that says Customer  
10 Assistance Application. And then there is another  
11 page, that says Applicant And Household Information  
12 at the top. Are you with me where I am?

13          A     I'm with you.

14          Q     At the bottom of that page there is a  
15 notation and it's followed by a small letter i and a  
16 circle, and it states, "Social Security Number is  
17 only required for those household members between  
18 the ages of 18 and 65." Do you see that statement?

19          A     I do.

20          Q     Would the failure to include a Social  
21 Security Number in an application result in that  
22 application being denied or delayed in any way?

23          A     It does not.

24          Q     Would it render the application

1 incomplete?

2 A It does not.

3 Q Can you point to anywhere in the  
4 application that it states that a customer can  
5 provide an ITIN in lieu of a Social Security Number?

6 A It is not on this version of the  
7 application. However, we do plan on amending or  
8 revising applications to include that to be in line  
9 with the real estate application.

10 Q Okay. So there is a change --

11 A There is a change coming.

12 Q -- forthcoming?

13 A Yes.

14 Q Would you agree that the way this is  
15 written a customer receiving this application is  
16 going to think that a Social Security Number is  
17 required? Would you agree with that?

18 A I can't speak for the beliefs of a  
19 customer receiving this application.

20 Q I understand. One second?

21 MS. BROCKWAY: I have a question while we  
22 are waiting. It seems to be there must be  
23 places on the application where it does matter  
24 to you a great deal whether the application

1 communicates to the applicant what it is you  
2 want them to tell you; is that correct? In  
3 other words, if you have written the  
4 application in such a way you're getting  
5 nonsense because they don't understand it, that  
6 would not be an acceptable administration,  
7 would it?

8 THE WITNESS: Correct. Our goal is not to  
9 have questions on there that we are not going  
10 to do anything with.

11 MS. BROCKWAY: Or that you get the wrong  
12 answer.

13 THE WITNESS: Correct.

14 BY MR. BALLENGER:

15 Q Okay. Is there any other information in  
16 the application here that is unnecessary, that you  
17 ask for that's unnecessary, to process the  
18 application?

19 MR. DASENT: Objection. That assumes that  
20 something is unnecessary, the way you phrased  
21 it.

22 MS. BROCKWAY: I don't think so at all.  
23 It's a proper cross-examination question. If  
24 the answer is no, the answer is no.



1 THE WITNESS: Would you repeat it?

2 BY MS. BROCKWAY:

3 Q Sure. Is there any information that you  
4 request in the application that's unnecessary to  
5 process the application?

6 A No.

7 Q So everything, every other place where you  
8 ask for information must be complete in order for  
9 the application to be processed, with the exception  
10 of the Social Security Number field?

11 A I'm going to defer to Mrs. Muhammad, who  
12 is a subject matter expert on the needs of the  
13 fields on the application.

14 Q Thank you.

15 MS. MUHAMMAD: Could you repeat?

16 MR. BALLENGER: Sure. We were discussing  
17 that a Social Security Number is not required  
18 to process a TAP application. And my question  
19 was whether there was any other information  
20 requested in the application that was also  
21 unnecessary for it to be approved and  
22 processed.

23 MS. MUHAMMAD: No, there is not.

24 MR. BALLENGER: Thank you. I hope you

1 stick around if we have any more questions.

2 BY MR. BALLENGER:

3 Q On Page 4, I am slightly moving ahead  
4 again, making progress. At the very bottom of Page  
5 4, lines 22 through 24, you state, "The rate of  
6 incomplete applications is similar to the rate  
7 experienced with WRAP. As with WRAP, most  
8 applications are incomplete due to missing residency  
9 or income information." Do you see that statement?

10 A I do.

11 Q Did you log statistics about how many WRAP  
12 applications were incomplete due to missing  
13 residency or income information?

14 A No.

15 Q Did you log statistics about the timeline  
16 in which WRAP applications were deemed incomplete or  
17 approved or denied?

18 A Could you repeat the question?

19 Q I'll do one at a time. Did you log any  
20 statistics about the timeframe from the date of  
21 application through the date of an incomplete  
22 determination on a WRAP application?

23 A No. We didn't have that tracking  
24 mechanism in place with WRAP applications.

1           Q     So did you log statistics on the timeframe  
2 for WRAP applications between the date of  
3 application and the date of approval of an  
4 application?

5           A     I will defer to the subject matter expert,  
6 Mrs. Muhammad, on that, as she ran that program as  
7 well.

8           MS. MUHAMMAD: No, we do not.

9           MR. BALLENGER: And the final part of it,  
10 did you log statistics on the timeframe for  
11 WRAP applications from the date of application  
12 through the date of denial of WRAP  
13 applications?

14          MS. MUHAMMAD: No.

15 BY MR. BALLENGER:

16          Q     Okay. Let's turn to Page 6 of the  
17 rebuttal statement, and let me ask a preliminary  
18 question. Do you have a copy of Exhibit 3 from  
19 yesterday?

20          A     I don't.

21          MR. DASENT: I can find it.

22          MR. BALLENGER: Would you mind?

23          THE WITNESS: We have it.

24          MS. BROCKWAY: We are talking about Public

1 Advocate Hearing Exhibit 3.

2 MR. BALLENGER: Yes, which was introduced  
3 on the record yesterday.

4 BY MR. BALLENGER:

5 Q So on Page 6 of your rebuttal statement,  
6 lines 3 through 4, you state that, "A large volume  
7 of applications came in during the first quarter of  
8 the program." Do you see that statement?

9 A I do.

10 Q And the first quarter, correct me if I'm  
11 wrong, the first quarter would be the period between  
12 July and September of 2017; is that correct?

13 A That is correct.

14 Q So I'd like to look at the Public Advocate  
15 Hearing Exhibit 3. And the pages are numbered, so  
16 I'd like to turn to Page 21 of 35. I'd just like to  
17 look at a few of these numbers with you and make  
18 sure I understand what this says. In this Exhibit  
19 it appears to show that the department received  
20 4,423 TAP applications in July; is that correct?

21 A I do see that.

22 Q Okay. Is that correct, to your knowledge  
23 and information?

24 A Subject to check.

1 Q Okay. This was information provided by  
2 the department in discovery. Do you have any reason  
3 to believe that it's incorrect?

4 A No.

5 Q Just going down a row, it appears to show  
6 that the total number of TAP applications submitted  
7 in August was 2,629. Do you see that?

8 A I do.

9 Q Is that also correct, to the best of your  
10 knowledge and belief?

11 A Yes.

12 Q So that is the influx that you were  
13 talking about, right? The July and August numbers  
14 appear to show a large volume of TAP applications  
15 submitted. Do you agree?

16 A Could you state the question again?

17 Sorry.

18 Q Your testimony talks about an influx of  
19 applications, so I just want to make sure this  
20 exhibit is documenting the influx that you referred  
21 to. Would you agree with that?

22 A Yes.

23 Q Would you agree also that starting in  
24 September of 2016 -- sorry, 2017, the total number

1 of applications received was 1,650?

2 A Yes.

3 Q And from that point forward would you also  
4 agree that the number of applications received was  
5 relatively constant each month? Emphasis on  
6 relatively.

7 A Yes. Yes.

8 Q I'd like to turn to Page 23 of this same  
9 exhibit. In the middle of the page is a table that  
10 was provided in response to another discovery  
11 request. It was Public Advocate Advanced Discovery  
12 number 86. Yes, number 86, yes. This table in the  
13 middle of Page 23, this shows the number of  
14 enrollees and not the number of applicants; is that  
15 correct?

16 A That's the title, yes.

17 Q So in August of 2017, if I'm reading this  
18 table right, it documents that 1,182 customers were  
19 enrolled in TAP in that month; is that correct?

20 A Yes.

21 Q And then in September -- sorry. Okay.  
22 Backing up, in July it shows that three customers  
23 were enrolled in TAP in that month; is that correct?

24 A Yes.

1           Q     So in total there were mathematically  
2     1,185 customers enrolled in the July and August  
3     months; is that correct?

4           A     Yes.

5           Q     Then in September of 2017 the table shows  
6     that 524 customers were enrolled in TAP. Is that  
7     also correct?

8           A     Yes, I see that.

9           Q     Then again in October it shows 545  
10    customers were enrolled in TAP. Is that also  
11    correct?

12          A     Yes, I see that.

13          Q     Again, just for clarification, do you have  
14    any reason to believe that the numbers in this  
15    response to discovery are inaccurate in any way?

16          A     No.

17          Q     So in combination the number of customers  
18    approved for TAP in September and October would be  
19    the sum of 524 plus 545, which I determined  
20    mathematically to be 1,069 customers. Would you  
21    agree to that subject to any mathematical  
22    determination?

23          A     Yes.

24          Q     Thank you. Let's go back to your rebuttal

1 statement, and I'd like to look at Page 7 and --

2 MS. BROCKWAY: I've got a question on  
3 this, actually. I'm looking at that same page,  
4 23, and I add up on the top chart August,  
5 September, October, November as 3,954. So  
6 let's take out the November. So 3,200. If you  
7 go down to the November TAP bills issued it's  
8 2,624. So can you explain how the -- there  
9 must be some lag. Can you explain how that  
10 operates? In other words, why would there not  
11 be over 3,000 bills in November if there were  
12 3,000 enrollees up through October?

13 THE WITNESS: I'm going to defer to the  
14 subject matter expert on this chart.

15 MS. FITTS: Good morning. I'm Jennifer  
16 Fitts with Raftelis Financial Consultants. We  
17 assisted in preparing this table. Every  
18 customer that is approved for TAP receives a  
19 TAP bill the next time they're scheduled to be  
20 billed. So for many customers that were  
21 approved for TAP in November, they may have  
22 already gotten a bill in November and their  
23 next bill is in December. So I suppose lag is  
24 an appropriate word, but it's just because of



1 the normal billing cycle.

2 MS. BROCKWAY: I didn't mean any  
3 characterization. I just was just trying to  
4 understand why the numbers didn't go in  
5 lockstep.

6 MR. BALLENGER: Thank you for that  
7 explanation as well.

8 BY MR. BALLENGER:

9 Q On Page 7 of your rebuttal statement, on  
10 line 4, you state that, "The Philadelphia Code does  
11 not require retroactive TAP bills." Do you see that  
12 statement?

13 A I do.

14 Q Can I presume again that this was a  
15 statement that your counsel assisted you in  
16 preparing?

17 A Yes.

18 Q Would the same be true of the remainder of  
19 that response, which refers to legislative basis for  
20 retroactivity, requirements of an ordinance? Was  
21 all of this prepared with the assistance of counsel?

22 A That is correct.

23 Q And just --

24 MS. BROCKWAY: But to be clear, the

1           testimony to the extent of effort to adjust the  
2           billing system, that remains your opinion as  
3           the administrator?

4           THE WITNESS: That is correct.

5           BY MR. BALLENGER:

6           Q     Okay. Is there some language in the  
7           Philadelphia code, that you're aware of, that  
8           prevents the Water Revenue Bureau of making  
9           adjustments after a bill is issued?

10          A     Could you repeat the question?

11          Q     Is there any language in the Philadelphia  
12          code that prohibits the Water Revenue Bureau from  
13          making bill adjustments after the bill is issued?

14          A     I don't know enough about the Philadelphia  
15          code to give an answer on if it contains that or  
16          not.

17          Q     But if a customer is billed at the  
18          incorrect rate, the Water Revenue Bureau would make  
19          an adjustment, would they not?

20          A     Yes, that is correct.

21          Q     And that adjustment would be retroactive,  
22          would it not?

23          A     If the bill in question happened --  
24          obviously if it already happened, so, yes,

1 retroactive.

2 Q And you do make those kinds of adjustments  
3 for customers, correct?

4 A Daily.

5 Q Thank you. Can I ask you to take a look  
6 quickly at Page -- I just mean to say this will not  
7 take long. Take a quick look at Page 12 of  
8 Mr. Colton's testimony. I just want to direct your  
9 attention to line 19, the statement starting on line  
10 19. And the statement here reads, "Once a customer  
11 is approved for TAP PWD should make the following  
12 retroactive adjustments." And Mr. Colton goes on to  
13 explain what those adjustments are. I just want to  
14 make sure that you understand that Mr. Colton's  
15 proposal was to retroactively adjust previously  
16 issued bills. Do you understand that based on this  
17 statement?

18 A I do.

19 Q And to your knowledge, is there any  
20 provision in the Philadelphia code that would  
21 prohibit that type of adjustment that Mr. Colton has  
22 proposed?

23 A I'm sorry, would you repeat that question?

24 Q Sure. To your knowledge, is there any

1 provision of the Philadelphia code that would  
2 prohibit the type of adjustment Mr. Colton describes  
3 in his testimony?

4 A Not that I'm aware of, as I don't know  
5 everything that's within the Philadelphia code.

6 Q Okay. Let's turn a couple pages. Back to  
7 your rebuttal, sorry. On Page 10 of your rebuttal,  
8 starting at line 8 -- sorry, let me start at line 5.  
9 Your statement is, "Through our follow up with these  
10 partners the departments were told that the groups  
11 had been assisting customers apply -- there seems to  
12 be a word missing. It says "had been assisting  
13 customers apply for TAP using the paper and online  
14 application system." Do you see that?

15 A Yes, I do.

16 Q You go on to say that, "That contradicts  
17 Mr. Colton's unsupported statement that the  
18 departments are underutilizing community based  
19 organizations and that none of the applications was  
20 generated through a CBO." Do you see that  
21 statement?

22 A I do.

23 Q So just so we are clear, does water  
24 revenue allow community based organizations to

1 generate applications?

2 A We do.

3 Q So CBOs are free to create their own  
4 application forms?

5 A Not application forms. I thought you  
6 meant generating an application for a customer that  
7 is in their office for assistance.

8 Q Okay. So when -- that's helpful. I think  
9 we were using different language. Because what I  
10 understood to be the case, and please correct me,  
11 what I understood to be the case was that an  
12 organization could only assist a customer with an  
13 application that it received directly from the Water  
14 Revenue Bureau; is that correct?

15 A That is not correct.

16 Q How would a customer receive -- or how  
17 would the organization receive an application other  
18 than through direct contact with the Water Revenue  
19 Bureau?

20 A So the customer, their client, would come  
21 in for assistance and if they had not already  
22 received an application from us, having their water  
23 bill that has the water access number, they would be  
24 able to, as they're sitting with the community based

1 organization, they could go on line right there and  
2 do the application. Or right there they could  
3 request it to be sent to them or they could print it  
4 out. So as long as the customer has their water  
5 access number the community based organization would  
6 be able to access a blank application.

7 Q I just want to be clear about how they  
8 would access that blank application. They would  
9 access it from the Water Revenue Bureau's website;  
10 is that correct?

11 A That is correct.

12 Q So the community based organizations do  
13 not have access to blank applications other than  
14 through mechanisms made available by the Water  
15 Revenue Bureau; is that correct?

16 A That is correct.

17 Q Do you have any data on how many  
18 applications community based organizations have  
19 helped customers submit through contact with the  
20 Water Revenue Bureau?

21 A We would have no way of knowing where the  
22 application came from.

23 Q Okay. I'd like to talk a little bit about  
24 limited English proficient households.

1 MS. BROCKWAY: Mr. Ballenger, I hope you  
2 don't mind my interrupting. It's so helpful to  
3 have all the material on one topic next to each  
4 other. So if you'll permit me, does everybody  
5 here know what a water access number is? I  
6 don't.

7 MR. BALLENGER: I do but --

8 THE WITNESS: I'm sorry. It's a unique  
9 number that a customer receives in reference to  
10 their account. That's how they would gain  
11 access to pulling up their blank assistance  
12 application.

13 MS. BROCKWAY: It's what I would call a  
14 customer number in another context? Same as a  
15 customer number?

16 THE WITNESS: Similar, yes.

17 BY MR. BALLENGER:

18 Q To be extra, extra clear, there are  
19 account numbers, correct --

20 A Correct.

21 Q -- that customers have, and there are  
22 separate numbers that are water access codes,  
23 correct?

24 A That is correct.

1 Q Okay.

2 A That's why I said similar. It's an  
3 identifier, but it's not their account number.

4 Q And there could be multiple accounts  
5 associated with an address.

6 A Correct. Each have their own water access  
7 number.

8 Q So there is an account number that is  
9 unique to the account that has also a water access  
10 code that is unique to that account?

11 A That is correct. You got it.

12 Q Thank you. Madam hearing officer, it's  
13 your prerogative if you have any additional questions  
14 on this subject, but I'm happy to move on.

15 MS. BROCKWAY: This may not be important,  
16 but where would I find my water access code?

17 THE WITNESS: The top right corner of your  
18 bill. I believe it's in a gray box that says  
19 Water Access Code on it.

20 MS. BROCKWAY: Thank you.

21 BY MR. BALLENGER:

22 Q Okay. I wanted to talk a little bit about  
23 Limited English Proficient Household, with the  
24 acronym LEP, so we all know what we are talking



1 about. On Pages 10 to 11 of your rebuttal you state  
2 that -- trying to find the exact statement. You  
3 said Mr. Colton's assessment -- I'm on the bottom of  
4 Page 10, line 17, "Mr. Colton's assessment that  
5 there is a substantially disproportionate  
6 under-enrollment of LEP households in TAP is  
7 unsupported in the record." Do you see that?

8 A I do.

9 Q In making that statement do you mean to  
10 say that LEP households are not under-enrolled in  
11 TAP?

12 A I'm sorry, could you repeat the question?

13 Q Sure. In making that statement do you  
14 mean to say that LEP households are not  
15 under-enrolled in TAP?

16 A I know I should understand how you said  
17 it, but it's not resonating with me, so could you --

18 Q Okay. The alternative -- I think there is  
19 two ways we can read that sentence. Maybe I'll try  
20 the other way and see if that makes sense to you.  
21 Is the purpose of that statement to say simply that  
22 Mr. Colton's conclusions do not find adequate  
23 support in the record? Is that a proper statement?

24 A I probably should have said it just as you

1 did.

2 Q Okay. Great. And so you're not making  
3 any statement there about whether or not LEP  
4 customers are under-enrolled --

5 A That is correct.

6 Q -- is that correct? So you don't have an  
7 opinion about whether LEP customers are  
8 under-enrolled in TAP?

9 A I do not have an opinion.

10 Q So on Page 11 --

11 MS. BROCKWAY: Let's be clear. This is  
12 Page 11 of the originally filed rebuttal, and  
13 will keep referring to the originally filed  
14 rebuttal for convenience on the record.

15 MR. BALLENGER: Thank you. Right.  
16 Because there is a confusion about the page  
17 numbers, due to the errata. I was in Page 10  
18 of the original rebuttal statement when I was  
19 referring to testimony before.

20 BY MR. BALLENGER:

21 Q I'm now on Page 11 of the originally filed  
22 rebuttal statement. On lines 6 through 7 you state  
23 that, "Mr. Colton assumes that those with LEP are  
24 unable to apply using the English application." Do

1 you see where I'm looking in your statement?

2 A Can you --

3 Q Lines 6 to 7 on Page 11 of your rebuttal  
4 statement says that, "Mr. Colton", and this is the  
5 quote, "assumes that those with LEP are unable to  
6 apply using the English application." Do you see  
7 that?

8 A Yes.

9 Q Is it your position then that LEP  
10 customers are perfectly free to apply for TAP using  
11 an English application?

12 A Can you repeat the question?

13 Q Is it your statement that LEP customers  
14 are free to apply for TAP using an English  
15 application?

16 A My intent with that is because a person  
17 has limited English, it does not mean that they  
18 can't use the English. They may prefer to use an  
19 English -- an application in a language that they're  
20 more comfortable, but it doesn't preclude them from  
21 using the English application. We wouldn't know  
22 that.

23 Q But you would agree it would be important  
24 for an LEP customer to understand what's being asked

1 of them in completing an application, would you not?

2 A Yes. That's why we provide the  
3 application in eight different languages other than  
4 English and Spanish.

5 MR. BALLENGER: I'm going to distribute  
6 another exhibit.

7 MS. BROCKWAY: It seems to me that what  
8 you're saying is Mr. Colton assumes that those  
9 with LEP do not apply using the English  
10 application. Would that be --

11 THE WITNESS: That's correct.

12 MR. BALLENGER: Okay. I forget where we  
13 are in the order. Are we at 5? So I'd like to  
14 mark this as hearing Exhibit 5 on behalf of the  
15 Public Advocate. And although it's dated at  
16 the bottom, it should be dated May 11, 2018.

17 MS. BROCKWAY: So marked.

18 MR. BALLENGER: Thank you. I would like  
19 to ask that this exhibit, like all others, be  
20 included on the record at this hearing today.

21 BY MR. BALLENGER:

22 Q This exhibit includes responses to Public  
23 Advocate discovery request Roman numeral 10.1  
24 through Roman numeral 10.5. Can you page through

1 and verify for me that that is what you see in this  
2 exhibit?

3 A Yes.

4 Q Okay. I want to turn to the page numbered  
5 3 of 10, which is the response to Public Advocate  
6 Roman numeral 10, Number 2. So set 10, Number 2.  
7 In this response do I understand you correctly to be  
8 saying that you cannot use the American Community  
9 Survey to determine how many LEP customers may be  
10 eligible for TAP? Is that correct?

11 A That is correct.

12 MS. BROCKWAY: I think she says household,  
13 not customers.

14 THE WITNESS: Yes, LEP household. Thank  
15 you.

16 MR. BALLENGER: Correct. Thank you for  
17 the clarification.

18 BY MR. BALLENGER:

19 Q I hope that's clear enough. Do you know  
20 how many LEP households are in the Water  
21 Department's service territory?

22 A I do not.

23 Q Do you believe that LEP households are  
24 underrepresented in TAP?

1           A     I don't have an opinion if they're  
2 underrepresented or not.

3           Q     I'd like to look at the next response,  
4 which is the response to set 10, Number 3. Am I  
5 correct that this response provides the number of  
6 non-English applications that were approved for  
7 enrollment in TAP between July 1st, 2017 and  
8 March 28, 2018?

9           A     That is correct.

10          Q     And turning to Page 5 of 10 --

11                MS. BROCKWAY: This answer was given by  
12 Raftelis. Should Raftelis answer your  
13 questions about it?

14                MR. BALLENGER: I am happy for Miss Bethel  
15 to refer to the questions to the Raftelis rep  
16 if Raftelis would be a better witness to  
17 respond. But if Miss Bethel is prepared to  
18 respond she may do so. I will leave it up to  
19 her on this issue.

20                THE WITNESS: Thank you.

21 BY MR. BALLENGER:

22          Q     So I just want to look at Page 5 of 10.  
23 And at the top of this page, under the heading  
24 Language, I see that you've indicated two languages;

1 Spanish and Vietnamese; is that correct?

2 A That is correct.

3 Q And just to be clear, the Public Advocate  
4 did not request that the response be just for  
5 Spanish and Vietnamese. Is that also correct, that  
6 the request was for the number of non-English  
7 applications?

8 A If I'm reading the question right it says,  
9 "Provide the number of LEP persons enrolled in TAP."  
10 Is that the question?

11 Q The question is, it says -- sorry, you're  
12 right. "Provide the number of LEP persons enrolled  
13 in TAP." And would you agree that question didn't  
14 ask for Spanish and Vietnamese. It was open to all  
15 LEP customers. Is that your understanding of the  
16 question?

17 A It is.

18 Q So were Spanish and Vietnamese chosen  
19 because they're the only two languages that have  
20 been used by LEP customers in their applications to  
21 date?

22 A I will defer to Raftelis.

23 MS. FITTS: I'll reiterate the idea that  
24 we don't know how proficient any particular

1 customer is in English, but this is a  
2 reflection of the non-English applications that  
3 were approved for TAP, and it was only those  
4 two languages.

5 MR. BALLENGER: I want to make sure the  
6 court reporter was able to hear that.

7 MS. BROCKWAY: Can you state your name  
8 again?

9 MS. FITTS: Jennifer Fitts for Raftelis.

10 MR. BALLENGER: And this is perhaps also  
11 for you, Jennifer. But I just wanted to make  
12 sure that what you are talking about here is  
13 limited to the number of non-English  
14 applications. So you're not drawing any  
15 inference from this as to how many LEP  
16 customers there are of the department?

17 MS. FITTS: Right, no inference.

18 MR. BALLENGER: Limited to English and  
19 Vietnamese -- I'm sorry, Spanish and  
20 Vietnamese.

21 MS. FITTS: Sorry. Would you say that  
22 last part again?

23 MR. BALLENGER: You wouldn't draw an  
24 inference from this that the department's LEP



1 customers consist solely of Spanish and  
2 Vietnamese speaking?

3 MS. FITTS: No, there is no inference.

4 MR. BALLENGER: In total do you agree that  
5 this table which goes from Page five through  
6 Page eight of the Exhibit shows that a total of  
7 55 Spanish application and one Vietnamese  
8 application were approved for enrollment in  
9 TAP?

10 MR. DASENT: Subject to check?

11 MS. FITTS: Yes, subject to check.

12 MS. BROCKWAY: What's the period again?

13 MR. BALLENGER: I'll allow the witness to  
14 read in the response on Page 4 of 10.

15 MS. BROCKWAY: I got it. Thank you.

16 MR. BALLENGER: Okay. Just to tie up  
17 loose ends, the answer that this is the number  
18 of approvals of LEP applications between  
19 July 1st, 2017 and March 28th, 2018.

20 MS. FITTS: Yes, correct. Can I clarify,  
21 again, non-English applications.

22 MR. BALLENGER: Thank you.

23 BY MR. BALLENGER:

24 Q Back to the rebuttal statement, again, I

1 just want to read this statement, Miss Bethel, on  
2 line 17 and 18 that we talked about before, I  
3 believe your conclusion --

4 MS. BROCKWAY: Sorry, what page?

5 MR. BALLENGER: Sorry. Page 10, lines 17  
6 and 18.

7 BY MR. BALLENGER:

8 Q The statement reads, "Mr. Colton's  
9 assessment that there is a substantially  
10 disproportionate under-enrollment of LEP households  
11 in TAP is unsupported in the record." When we  
12 talked about this before I believe your conclusion  
13 was that the record lacked sufficient support for  
14 Mr. Colton's conclusion. Do you believe that there  
15 is some other data that would provide support for  
16 Mr. Colton's conclusion other than the 56 approved  
17 non-English applications?

18 A Could you repeat the question?

19 Q Sure. What other data would support  
20 Mr. Colton's conclusions beyond the 56 approved  
21 non-English applications?

22 MS. BROCKWAY: You're saying if it  
23 existed?

24 MR. BALLENGER: If it existed.

1 MS. BROCKWAY: You're not asking her to  
2 say, "this report says this" and "that report  
3 says that." You're asking her are there such  
4 reports or studies or analyses?

5 MR. BALLENGER: Correct.

6 THE WITNESS: I'm not sure if this part of  
7 my response was lost in the way I stated it,  
8 but my point was there is no way for us to know  
9 when a person submits an English application if  
10 they were not proficient in English. It's just  
11 an assumption that if they are using an  
12 application other than English, that's their  
13 preference. We can't assume that just because  
14 a Spanish application was submitted that they  
15 are not proficient in English. They could be  
16 bilingual, is my point. So just because I  
17 choose to ask for an application in Spanish  
18 does not mean I'm not proficient in English if  
19 I were bilingual. I'm not, but if I were.

20 BY MR. BALLENGER:

21 Q Perhaps we can find further clarity in  
22 what you mean by proficient. Because my  
23 understanding of LEP is that by definition that is  
24 customers who have limited English proficiency. So

1 if a customer is proficient in English they would of  
2 necessity not need LEP. Would you agree with that?

3 A Before I answer, could you restate your  
4 question?

5 Q Sure. Wouldn't a customer who is limited  
6 English proficient by necessity not be capable of  
7 applying in English?

8 A Assuming that they are not bilingual and  
9 they are not proficient in English, I agree with  
10 that. But I guess it's still my opinion that we are  
11 making an assumption that just because someone is  
12 asking for an application in a preferred language is  
13 then assuming that they are not proficient in  
14 English. So I'm just trying to make that  
15 clarification that everybody that's asking for that  
16 application may not -- should not be necessarily  
17 labeled as limited English proficiency. That's the  
18 point I'm trying to make.

19 Q Okay.

20 MS. BROCKWAY: We'll go off the record.

21 \* \* \*

22 (Whereupon, a brief off-the-record  
23 discussion was held.)

24 \* \* \*

1 BY MR. BALLENGER:

2 Q I just wanted to ask Miss Bethel, if  
3 someone is bilingual and they ask for a TAP  
4 application, would your assumption be that they  
5 would ask in their non-English language?

6 A I wouldn't make that assumption, no.

7 Q When someone calls for a TAP application  
8 and is asking in English are they -- do you ask  
9 whether they would prefer the application in another  
10 language?

11 A I do not, or our agents do not. The  
12 practice is not to ask.

13 Q Okay. So let's go back to your rebuttal  
14 statement. And on lines 4 and 5 when you talk about  
15 your opinion that Mr. Colton's methodology is  
16 flawed?

17 A I'm sorry, where?

18 Q Sorry, Page 11 of the rebuttal statement,  
19 lines 4 and 5. On line 4 you begin, "Mr. Colton's  
20 methodology is flawed in several respects." The  
21 first respect that you identify there is you say,  
22 quote, He calculates approvals rather than  
23 application submissions. Do you see that statement?

24 A Yes. Yes.

1           Q     Just subject to check, and I think I'm  
2 going to reference one of the discovery responses  
3 rather than another exhibit, because I don't think I  
4 have an exhibit for this. But would you accept,  
5 subject to check, that according to the response to  
6 Public Advocate set Roman Numeral 12, number 1,  
7 between July 1st, 2017 and the end of March 2018  
8 there were 31,089 TAP applications submitted?

9           A     Could you say that again, which PA?

10          Q     Set Roman Numeral 12, number 1.

11           MR. DASENT: Who provided that response?

12           THE WITNESS: Who provided that response?

13           MR. BALLENGER: That's a good question.

14           The response was provided by Raftelis Financial  
15 Consultants, Inc.

16           THE WITNESS: I shall defer to Raftelis.

17           MR. BALLENGER: The reason I ask is it's  
18 responsive to your rebuttal. So in that  
19 response we are referencing --

20           MS. BROCKWAY: We'll go off the record.

21                                 \* \* \*

22                                 (Whereupon, a brief off-the-record  
23 discussion was held.)

24                                 \* \* \*

1 MS. BROCKWAY: Go back on the record.

2 MR. BALLENGER: Thank you. Would you  
3 accept subject to check that in the response to  
4 Public Advocate Set 12, number 1 you reported  
5 that there were 31,089 TAP applications  
6 submitted; is that correct?

7 MR. DASENT: During what period?

8 MR. BALLENGER: That was going to be a  
9 second question.

10 MS. BROCKWAY: I think you have to say  
11 what the period is.

12 MR. BALLENGER: During the period of time  
13 July 1st, 2017 through March 2018 is it correct  
14 that there were 31,089 TAP applications  
15 submitted?

16 MS. FITTS: Could you point me to where  
17 you're looking in the response? I don't see  
18 that.

19 MR. BALLENGER: I think it's a  
20 mathematical conclusion. I think if you --  
21 give me a second, please. Can we look at  
22 Public Advocate set 10, number 5, this is in  
23 hearing Exhibit 5. I just want to point out  
24 and ask you, do you agree that as of

1 March 2018, 189 non-English applications had  
2 been submitted?

3 MS. BROCKWAY: That's Page 10 of 10 of  
4 that Exhibit?

5 MR. BALLENGER: Yes.

6 MS. FITTS: I do agree with that.

7 MR. BALLENGER: And then turning back  
8 to -- my math was wrong. Turning back to  
9 Public Advocate set 12, number 1, the Excel  
10 spreadsheet we were referring to, if I were to  
11 look at line -- I'm doing this in real time.  
12 Sorry. I'm going to refer to line 9.

13 MS. FITTS: Okay.

14 MR. BALLENGER: If I were to total the  
15 numbers provided on line 9 that are provided in  
16 the three columns there for total applications  
17 submitted between July 1st and September 30th,  
18 that's column B, and the number of applications  
19 October 1st and December 31st, column C, and  
20 the number of applications submitted between  
21 January 1st and March 31st, column D, if I were  
22 to total the three numbers provided there, do  
23 you agree that I would arrive at a total of  
24 17,097 applications that had been submitted?



1 MS. FITTS: Yes.

2 MS. BROCKWAY: Say that number again,  
3 please.

4 MR. BALLENGER: 17,097 is the number.

5 MS. BROCKWAY: Thank you. And this is  
6 between September 1st and the end of March.

7 MS. FITTS: July 1st and the end of March.

8 MR. BALLENGER: So that represents the  
9 total number of the applications that were  
10 submitted during that timeframe; is that  
11 correct?

12 MS. FITTS: That's correct.

13 MR. BALLENGER: Would you also agree with  
14 me that if we divided 189 LEP applications into  
15 17,097 total applications we would conclude  
16 that 1.1 percent of the applications submitted  
17 were non-English applications?

18 MS. FITTS: Could you state that question  
19 one more time?

20 MR. BALLENGER: If we were to divide the  
21 189 non-English applications into the total of  
22 17,097 applications received, would we conclude  
23 that approximately 1.1 percent of all  
24 applications were submitted in a language other

1 than English.

2 MS. FITTS: Yes.

3 MR. BALLENGER: Thank you. It's my  
4 pleasure to announce that that concludes my  
5 cross-examination of this panel.

6 MS. BROCKWAY: Off the record.

7 \* \* \*

8 (Whereupon, a brief off-the-record  
9 discussion was held.)

10 \* \* \*

11 MR. POPOWSKY: Thank you for your  
12 diligence and patience this morning. Just a  
13 couple follow-up questions more in the form of  
14 transcript requests. Yesterday I asked about  
15 the City policies that would prevent -- in the  
16 prior testimony yesterday City policies that  
17 would arguably prevent arrearage forgiveness,  
18 and I just ask the same. I would ask you to  
19 include in that response the -- there is a  
20 reference in your testimony to the city charter  
21 on Page 9, and that if you would include that  
22 explanation as to why the city charter would  
23 permit arrearage forgiveness for Philadelphia  
24 Gas Works but not Philadelphia Water

1 Department. And then just one other --

2 MS. CROSBY: Excuse me. That's in  
3 addition to transcript request number 3.

4 MR. POPOWSKY: Yes, that's part of  
5 transcript request number 3, if you could  
6 include that. And there is a reference to TAP  
7 regulations in your testimony. Could you  
8 provide us with a copy of those? I don't think  
9 we have those.

10 MS. CROSBY: Yes. That would be  
11 transcript request number 6.

12 MR. POPOWSKY: Thank you very much.

13 MS. BROCKWAY: I've got a couple of  
14 questions. Do you have in front of you what  
15 was marked yesterday as Public Advocate Hearing  
16 Exhibit 3?

17 THE WITNESS: Yes.

18 MS. BROCKWAY: I'm looking at Page 23,  
19 which is part of the answer to PA Advanced Data  
20 Request 86 shown on the previous page. But on  
21 Page 23 of the exhibit, if I added on the top  
22 chart -- there's two charts here. One of them  
23 shows new enrollees. If I added all of those  
24 numbers, I haven't done the full adding, so

1           it's somewhere around 4,000. Could be  
2           different. Is that an apple of new enrollees  
3           that I could divide by an apple of applications  
4           of 17,097?

5           MS. FITTS: I would not recommend dividing  
6           those numbers, because they're at different  
7           time steps. The 17,000 was through March and  
8           this is through November, so that would....

9           MS. BROCKWAY: I'm glad I asked the  
10          question. Do you happen to have the number of  
11          new enrollees through March? Is it anywhere in  
12          the written record?

13          MS. FITTS: I'm not sure if it's in the  
14          record yet.

15          MS. BROCKWAY: It may not amount to  
16          anything, but let's do a transcript request 7  
17          to update the Answer PA advance set number 1 --  
18          advance set 1, number 86, which appears on Page  
19          23 of Hearing Exhibit 3, the top chart of the  
20          new TAP and enrollees through March of 2018.  
21          The purpose would be to get an apple  
22          corresponding to the 17,097 so it would make  
23          sense to divide.

24          Back along, Miss Bethel, I interrupted

1 before you got to answer a question and I think  
2 we went off on another tangent, and so I don't  
3 think the question was ever addressed.

4 Mr. Ballenger was going over the question of  
5 how many LEP customers there are in the PWD  
6 service area. And at first he was asking for  
7 what other sources of information besides the  
8 language of the application itself could be  
9 used to make an estimate of how many customers  
10 those were. And I don't think I let him get to  
11 the point of getting an answer. Where would  
12 you go to look if you thought that there might  
13 be customers with LEP limitations who had not  
14 made applications in other languages?

15 THE WITNESS: Where would I go to find  
16 that information?

17 MS. BROCKWAY: Well, to make an estimate.  
18 I understand that you have not polled all of  
19 your customers and said, "Are you LEP or not",  
20 but if you wanted to make an estimate of the  
21 customers who were LEP, how would you go about  
22 doing that?

23 THE WITNESS: I thought our response said  
24 something about the census.

1 MS. BROCKWAY: You may have done that. It  
2 didn't show up in the record this morning, so  
3 I'm trying to tie it together.

4 THE WITNESS: So in the response to PA  
5 question -- or set 10, question 2, what we made  
6 reference to was according to the 2016 American  
7 Community Survey about 10.4 percent of all  
8 Philadelphia's population speaks English less  
9 than well. And for further information the  
10 study's available and then we gave a link.

11 MS. BROCKWAY: Yes, you did. Thank you.  
12 Are you saying that less than well is not  
13 necessarily equivalent to LEP?

14 THE WITNESS: Using the definition that's  
15 in that study, that's quoting what they're  
16 using for less than well as far as LEP.

17 MS. BROCKWAY: I assume it's all right  
18 with everybody if we go to that link and take  
19 down from it what they actually say. I assume  
20 that what you'd be saying is, correct me if I'm  
21 wrong, that that might be a good way of  
22 estimating a large pool or the total pool or  
23 potential LEP customers, but the actual number  
24 of LEP customers would be smaller than that

1           because they're asking different questions of  
2           households. Not all households are customers.

3           THE WITNESS: That's fair. And the rest  
4           of my response to that is the City is unable to  
5           apply the study results to determine how many  
6           LEP households in PWD service territory may be  
7           eligible for TAP.

8           MS. BROCKWAY: Is there a difference  
9           between the number of households in the service  
10          territory and the number of households queried  
11          by the survey you reference?

12          THE WITNESS: It could be. I'm not a  
13          hundred percent sure what their territory  
14          included.

15          MS. BROCKWAY: If it was City of  
16          Philadelphia, same boundaries as your  
17          department, then the question would be more are  
18          they over our undercounting people who fit the  
19          LEP category as you understood it?

20          THE WITNESS: If it's an apple to apple  
21          then I agree with what you're saying, yes.

22          MS. BROCKWAY: Let me just take a second.  
23          Can you, going back to the discussion about  
24          liens before TAP applications and liens between

1 TAP applications and TAP approvals, can you go  
2 through that process and, in particular, who  
3 puts the lien on or takes the lien off? Do you  
4 have to coordinate with someone else in the  
5 Bureau?

6 THE WITNESS: WRB, we supply the accounts  
7 that are eligible for -- to be liened, and the  
8 actual liening process is conducted through our  
9 law department.

10 MS. BROCKWAY: If I've got it right, you  
11 said once an application is approved there is  
12 no difference on the lien with respect to  
13 pre-application arrears?

14 THE WITNESS: That is correct.

15 MS. BROCKWAY: Is there a difference with  
16 respect to interim arrears between applying and  
17 being approved or are those also subject to the  
18 existing lien? Are those considered part of  
19 the existing lien?

20 THE WITNESS: If the arrearages were  
21 liened prior to a customer making application,  
22 then those liens have been filed. They stay in  
23 place even once the person applies and is  
24 approved or denied. The status of the lien



1           doesn't change once you -- once we filed it and  
2           because you've entered into a TAP rate.

3           MS. BROCKWAY: But if you don't pay, or  
4           don't pay a hundred percent, between  
5           application and enrollment, presumably you'd  
6           accrue further arrears?

7           THE WITNESS: Correct.

8           MS. BROCKWAY: And would those be tacked  
9           on -- in order to satisfy the lien would the  
10          customer have to pay those off as well as what  
11          had been accrued up till the point of  
12          application.

13          THE WITNESS: So during that period of  
14          time of application and approval we are not  
15          liening those. So they wouldn't be liened  
16          amounts.

17          MS. BROCKWAY: So the other part of the  
18          Bureau does not lien except when you say this  
19          is eligible for lien?

20          THE WITNESS: That is correct.

21          MS. BROCKWAY: So you don't tell them that  
22          part?

23          THE WITNESS: Correct.

24          MS. BROCKWAY: Thank you very much. Those

1           were the questions I had. I think we should  
2           take a lunch break and come back at 1:00 and  
3           continue with the redirect. Thank you.

4                           \* \* \*

5                           (Whereupon, a recess was taken.)

6                           \* \* \*

7           MS. BROCKWAY: During the lunch break I  
8           talked to the Raftelis people and counsel for  
9           the company and they're going to try to answer  
10          my record request about submitted applications  
11          and approved in an apples to apples way. And  
12          if that's not possible, based on the  
13          information we have, let me know. I think  
14          we're ready now for redirect.

15          MR. DASENT: Thank you, Your Honor. And  
16          I'll direct my questions to Deputy Commissioner  
17          Bethel.

18                           \* \* \*

19                           R E D I R E C T

20                           E X A M I N A T I O N

21                           \* \* \*

22          BY MR. DASENT:

23           Q       This morning, Miss Bethel, Mr. Ballenger  
24          questioned you about whether we looked at customers

1 that were in the enforcement process or behind in  
2 payments or who were recently terminated in doing  
3 outreach for TAP. You indicated that outreach for  
4 WRAP or prior WRAP participants was part of your  
5 outreach. Is there any overlap between the  
6 populations of prior WRAP participants and those who  
7 might be recently terminated or behind in payments?

8 A Yes. There could be an overlap for  
9 customers that were recently in WRAP that are in  
10 payment agreement and shut off. So there could be  
11 an overlap.

12 Q You were also questioned by Mr. Ballenger  
13 concerning your rebuttal testimony, question 4. And  
14 the second part of your statement, which is on Page  
15 2 and 3 -- well, the first part he focused on was  
16 the legal conclusion in the initial paragraph.

17 A Yes.

18 Q But later in that same response to  
19 question 4, were there other statements made by you  
20 concerning feedback from CBOs and fine-tuning the  
21 application process?

22 A Yes. During the implementation and  
23 getting the framework of the program we did work  
24 with our partners; CLS, the NEC, UCEF, city council

1 feedback, and we listened to what their feedback was  
2 in improving the application.

3 Q Mr. Ballenger also questioned you  
4 concerning your question 5 on Page 3 of rebuttal  
5 statement 4.

6 A Uh-huh.

7 Q You mentioned in that context a two part  
8 process for the application review. My question to  
9 you is, are there any other residential rates that  
10 require an application involving a variety of  
11 programs?

12 A No, there is not.

13 Q Why is a two part process put in place,  
14 then?

15 A I will defer to Mrs. Muhammad.

16 MS. MUHAMMAD: The two tier process was  
17 implemented as part of the quality control and  
18 for the selection of the best program for the  
19 applicant, as well as protecting rate payers to  
20 insure that the TAP rate is applied to those  
21 customers that qualify for it. Additionally,  
22 because the application is utilized to  
23 determine the best program, it's not simply  
24 TAP. It could be senior citizen discount. So

1 I'm not aware whether there are other programs  
2 that use one application or a variety of  
3 selections. That's another reason why we use a  
4 two-tier process.

5 MR. DASENT: Thank you.

6 BY MR. DASENT:

7 Q Miss Bethel, you were also questioned  
8 concerning the applications by the -- TAP  
9 applications by the hearing officer. Was the  
10 application itself edited internally and with our  
11 partners at DSF and UCEF? I think you mentioned  
12 that in your rebuttal.

13 A Yes, it was.

14 Q Is WRB open to improving the form for  
15 quality assurance or other improvement?

16 A Yes. We already have a list of some  
17 application enhancements that we received back from  
18 our partners.

19 Q Do you have any plans to implement any  
20 changes?

21 A Yes.

22 Q You were also questioned by Rob Ballenger  
23 about providing blank applications. When did you do  
24 that?

1           A     The reason that we don't use blank  
2 applications currently is because a lot of the  
3 tracking mechanisms that are used to produce our  
4 reports are based on the bar code information which  
5 reflects the customer on record at the property.

6           Q     Is that the access code we were talking  
7 about?

8           A     The access code is what is used to  
9 generate the application, yes.

10          Q     Do you know either anecdotally or  
11 qualitatively that the CEOs or community based  
12 organizations have assisted in the application  
13 process?

14          A     I will defer to Joanne Dahme.

15               MR. DASENT: That is my only question for  
16 you, Joanne.

17               MS. DAHME: Oh dear. Lot of pressure.

18               Yes, we do know that the CBOs, such as UCEF and  
19 the energy centers, are all working on the  
20 application process with their customers.

21               Partly we know this because we have been

22               working with these groups from the beginning.

23               We put together a TAP advisory commission back

24               in March of 2017. That is made up of the CBOs

1 that assist the low income customers. And our  
2 goal for that was to insure that we had a  
3 continual feedback loop from the people who are  
4 working with these customers. That committee  
5 has been very effective. CLS is one of the  
6 members. We find it extremely valuable and the  
7 committee has helped us from the beginning in  
8 looking at the application. As Michelle  
9 mentioned, we worked with a group from the  
10 University of Behavioral Health to help with  
11 how the application should look. We took the  
12 application back to our partners. They gave us  
13 a lot of good feedback. We reformatted the  
14 application, so what it looks like today is a  
15 result from some of the feedback from these  
16 partners. Not to say it's perfect.

17 As Michelle mentioned, we are always  
18 looking to improve that. We do know the  
19 centers are assisting customers partly because,  
20 as Michelle mentioned, the water access code  
21 was an issue. So they are working with  
22 customers that come in without their water  
23 bill. And when they sit down with this  
24 customer, their client cannot access the

1 application because they don't have the access  
2 code. They often come back in with the water  
3 bill, but you hate to have a customer going  
4 through that two time process. One of the  
5 reasons we are working with our CBOs or our  
6 partners is to provide them with a water access  
7 code. We are hoping to do that in June,  
8 produce some additional training. We have  
9 worked with these groups to do training with  
10 their counselors in July and June of last year.  
11 We went to the NAC and ECA and sat down with  
12 the staff, walked them through the application  
13 process, continued to get really good feedback  
14 about where some challenges are with some  
15 customers and how to improve that. But we have  
16 found this group has been extremely valuable  
17 and we have another meeting in June. I'm sure  
18 we're going to be hashing out other issues,  
19 including the things we were talking about  
20 today. I know one of the suggestions has been  
21 how we can better engage these CEOs.

22 We do fund UCEF, so UCEF has been a funded  
23 entity for many years. One of the reasons is  
24 because they were developed to provide utility



1 assistance with PECO, PGW and the Water  
2 Department. ECN, when I spoke with them they  
3 weren't sure how funding would be helpful, but  
4 I think it's because we are only in the initial  
5 phase. It's the first year, so they're sort of  
6 learning the process also. So we are going to  
7 continue those discussions.

8 BY MR. DASENT:

9 Q Miss Bethel, you were questioned about the  
10 applications and the LEP population. Can you tell  
11 us if there is a tag line on the application that  
12 tells customers the availability of an application  
13 in other languages?

14 A Yes, there is a tag line on the  
15 applications and there are also tag lines on our  
16 letters, specifically also our water bills as well  
17 have that same tag line.

18 Q The purpose of the tag line is to do what?

19 A The purpose of the tag line is for those  
20 customers that want to utilize another language.

21 Q Miss Bethel, do you have any information  
22 that would tell you if a CBO had assisted someone  
23 with -- that was part of the LEP population so that  
24 they could submit an application in English? Do you

1 know that?

2 A No, I do not know that.

3 MR. DASENT: Thank you. That's all I  
4 have.

5 MS. BROCKWAY: Recross based on redirect?

6 MR. BALLENGER: Madam Hearing Officer, no,  
7 we have no recross based on the redirect. And  
8 again we want to thank the panel for all of  
9 their responses.

10 MS. BROCKWAY: Couple of things. I may  
11 not have been paying close enough attention.  
12 What is an RCU?

13 MS. DAHME: Oh, RCAS. That is one of our  
14 stakeholder groups, Residential Customer  
15 Assistance and Services. We meet quarterly,  
16 and this is a larger group. It includes  
17 landlords, it includes PHA and some other  
18 government entities, but also our partners who  
19 work with low income clients. We meet with  
20 that group. And the reason RCAS was put  
21 together was to advise, make recommendations on  
22 a variety of customer-focused policies. So  
23 that has been very valuable. The TAP advisory  
24 committee is a subgroup of that, which is

1 really a group of CBOs who do work with low  
2 income customers and are strictly focused on  
3 the TAP program.

4 MS. BROCKWAY: If I understand this, when  
5 you're talking about working to provide access  
6 to water access codes through the RCAS, that  
7 would be for the members who do take in  
8 applications?

9 MS. DAHME: That's correct. So the groups  
10 we are working with on access to the water  
11 access code is the TAP advisory committee. So  
12 those include all those organizations like CLC,  
13 UCEF, BenePhilly, who do work directly with  
14 clients to provide them with access to the  
15 application.

16 BY MS. BROCKWAY:

17 MS. BROCKWAY: So the idea would be if  
18 somebody walks into their service centers and  
19 wants to apply but does not have a bill --

20 MS. DAHME: Right.

21 MS. BROCKWAY: -- there would be some way  
22 for that service center to contact the water  
23 department and find out the access code?

24 MS. DAHME: That's correct. They are

1 provided with limited access to the billing  
2 system so they can look up that account for  
3 that access code.

4 MS. BROCKWAY: That's what happens now if  
5 somebody walks in the revenue board, right, the  
6 revenue board has access to that. So they  
7 don't send somebody home to get their water  
8 bill, right?

9 MS. DAHME: That's correct.

10 MS. BROCKWAY: I'm a little confused about  
11 the meaning of blank application. What I would  
12 have thought of a blank application is an  
13 application which is the same in every respect,  
14 it just hasn't been filled in. But I got the  
15 impression you were thinking about something  
16 different.

17 THE WITNESS: Just to clarify, when a  
18 person utilizes their water access code, it  
19 then pulls up the customer of record for that  
20 property. So we pre-populate portions of the  
21 application, the name, the address, so they  
22 don't have to do it themselves, versus having a  
23 WRAP application, in comparison, was all blank.  
24 It was just fields that -- you could copy that

1 application at your copier. That's one of the  
2 bigger differences between our original program  
3 to our unified application that we are using  
4 for TAP.

5 MS. BROCKWAY: Let's say you receive by  
6 mail or you dropped off an application, which  
7 was filled out by either the customer or  
8 somebody else on their behalf, that has all the  
9 information on the application but not the  
10 access code. Do you have a way of looking up  
11 what the access code would be for such a  
12 customer?

13 THE WITNESS: Yes, we do. I just want to  
14 clarify, the major piece that I omitted from  
15 the pre-populated is it generates a bar code  
16 for tracking purposes. So in addition to the  
17 pre-populated fields of your name and address,  
18 there is also a bar code we are using on that  
19 application for tracking purposes. So that's a  
20 difference between a regular blank application  
21 that, similar to how the WRAP applications were  
22 that did not have a bar code. They were just  
23 blank pieces of paper. The difference is there  
24 was no bar code on that.

1 MS. BROCKWAY: Would it be possible to say  
2 get one of these local agencies and give them a  
3 hundred blank applications that all have a  
4 different bar code on them, so that when it  
5 came in to you it was already bar coded?

6 THE WITNESS: The bar code coincides with  
7 the water access. So we wouldn't be able to  
8 generate a blank application, because it  
9 doesn't tie into an applicant.

10 MS. BROCKWAY: There is no way to add it  
11 to a blank?

12 THE WITNESS: I'll defer part of my  
13 response to RFC.

14 MR. DAVIS: This is Jon Davis with RFC. I  
15 just wanted to add that part of the ordinance  
16 that brought the TAP program into being  
17 requires the tracking of applications. And  
18 that's the reason why we have the bar coded  
19 applications that tie back to the water access  
20 code.

21 MS. BROCKWAY: It would probably take some  
22 doing, meaning somebody would have to do  
23 something, but it would seem to me that it's  
24 possible to have a database which corresponds

1 the WAC to a bar code and keep track of the  
2 information in that way. I'm a little  
3 perplexed about why it's not possible to take  
4 in an application from the outside without  
5 those numbers on it.

6 MS. MUHAMMAD: There are instances where a  
7 customer may submit information not aligned  
8 with an application and when it comes into our  
9 processing software called Camp that we use to  
10 process our applications it comes in as what's  
11 called an orphan. It's called an orphan  
12 because there is no identifier for the account  
13 or no bar code. So then we have to manually  
14 determine whose information was submitted. So  
15 the other purpose of the bar code is to also  
16 put a state of enforcement if the customer at  
17 that time is in a possible shut-off status. So  
18 as soon as the application's generated there is  
19 a 14 day stay and that is also aligned with the  
20 bar code.

21 So it's not possible to just have  
22 applications with bar codes, because if a  
23 customer has a scheduled shutoff we don't know  
24 that until we receive that application or that

1 application is generated with that bar code.

2 MR. DASENT: Madam Hearing Officer, we  
3 could also offer you further city code  
4 references as to why the bar code was utilized.  
5 But Miss Muhammad gave you the factual  
6 underpinning of it to insure the integrity of  
7 the program.

8 MS. BROCKWAY: I'm familiar with the  
9 requirement to track. I was just trying to  
10 understand why there is what appears to be a  
11 barrier, perhaps not a huge one, I don't know,  
12 for somebody to pick up an application outside,  
13 have some help getting the water access number  
14 and submit it. And what I'm getting is that  
15 that's not possible.

16 MR. DASENT: Miss Muhammad?

17 MS. MUHAMMAD: I'll give you an example.  
18 If a customer has a shutoff for Monday and they  
19 go into a CBO today and receive an application  
20 that has a bar code on it, on Monday they would  
21 still be shut off. But if they go into a CBO  
22 or they call water revenue or go into an office  
23 and that application is generated for them, or  
24 even if they go online and generate it



1 themselves, once that bar code appears their  
2 account would have a stay of enforcement for 14  
3 days. That also helps to insure if a customer  
4 who may be in the process of applying does not  
5 get shut off.

6 MS. BROCKWAY: But if the customer has the  
7 access code, can't the system generate the  
8 appropriate bar code to go with it once the  
9 thing is filed with you?

10 MS. MUHAMMAD: Yes, it can. But the  
11 example I was giving is if the CBO had a stack  
12 of applications with bar codes, so if a  
13 customer doesn't come in they would still be  
14 shut off. We need to know that application has  
15 been generated and given to them.

16 MS. CROSBY: Maybe just a clarification.  
17 We are talking about bar codes. There is a  
18 regular scanned bar code and then there is a  
19 bar code that is uniquely coded. There may be  
20 some differences of what you're speaking about  
21 bar codes, because the bar codes we speak of  
22 are uniquely identified as to just like a bar  
23 code you could scan and then associate later.  
24 The bar codes with the TAP program are -- that

1 bar code is unique to that customer. So having  
2 blank applications with bar codes already on  
3 them wouldn't have -- having "a" bar code isn't  
4 the same as having "the" bar code (indicating).

5 MS. BROCKWAY: Right. Those were my  
6 questions. Any other from the bench?

7 MR. POPOWSKY: No.

8 MR. BALLENGER: Can I just ask a question  
9 based on one of the questions you asked the  
10 hearing officer?

11 MS. BROCKWAY: Yes.

12 MR. BALLENGER: I think one of the  
13 scenarios, and maybe I misheard, and if I did I  
14 apologize, but I think one of the scenarios the  
15 hearing officer described was a circumstance  
16 where an application was submitted without the  
17 access code on it. And my understanding is  
18 perhaps that's the example you were speaking  
19 of, Ms. Muhammad, as an orphan account. But in  
20 general you can't get an application without  
21 the water access code; is that correct?

22 MS. MUHAMMAD: Yes, that's correct. Once  
23 the application is generated it has an access  
24 code.

1 MR. BALLENGER: So you wouldn't see that  
2 circumstance where an application would come in  
3 and then you would add the code to it?

4 MS. MUHAMMAD: Correct.

5 MR. BALLENGER: I just wanted to be clear  
6 about that. Perhaps that helped.

7 MS. BROCKWAY: Seems like there are a lot  
8 of moving parts. I can never remember my  
9 customer number come hell or high water, so I  
10 was thinking of my own difficulty in doing  
11 this. But is there any redirect based on the  
12 questions from the bench and the  
13 clarifications?

14 MR. DASENT: Just one. I don't know who  
15 on the panel can enlighten me about it, but why  
16 is a bar code on the application in the first  
17 place? Give us more information and  
18 background. Why is it on there, quality  
19 control, to make sure enforcement is in place,  
20 an assortment of things?

21 THE WITNESS: An assortment of things.  
22 It's a unique identifier that's created for  
23 every citizen that has an account and, as Ms.  
24 Muhammad was saying, it also helps to insure

1           that a stay of enforcement that is associated  
2           with that account takes place.

3           MR. DASENT: Any reporting requirements?

4           THE WITNESS: And as we mentioned  
5           previously, the reporting requirements that are  
6           outlined in the ordinance require certain  
7           tracking. And the way that we get to those  
8           tracking metrics are through using the bar  
9           code.

10          MR. DASENT: Thank you.

11          MS. BROCKWAY: Anything else? I want to  
12          thank the panel very much for enlightening us  
13          and we'll take a break.

14                               \* \* \*

15                               (Whereupon, a brief recess was taken.)

16                               \* \* \*

17          MS. BROCKWAY: We are on the record.

18          Mr. Ballenger?

19          MR. BALLENGER: Yes, thank you, Madam  
20          Hearing Officer. I believe everyone is aware  
21          from our discussion yesterday, Mr. Colton,  
22          Roger D. Colton, is a witness on behalf of the  
23          Public Advocate. He submitted Public Advocate  
24          Statement Number 3, which we moved onto the

1 record yesterday. And I believe there was a  
2 stipulation as to its authenticity. I wanted  
3 to just ask Mr. Colton whether he became aware  
4 of any errors in his testimony which he would  
5 like to correct on the record here today.

6 MR. COLTON: There is one error. Perhaps  
7 it's self-evident, but I would like to correct  
8 it. On Page 30, line 6 there is a reference,  
9 PWD reports from July 2017 through  
10 February 2019, and that date, 2019, should be  
11 2018.

12 MS. BROCKWAY: Is the February correct?

13 MR. COLTON: The February is correct.  
14 Clearly we don't have data through  
15 February 2019.

16 MR. BALLENGER: So with the correction of  
17 that typo, I think we are ready to proceed and  
18 would present Mr. Colton for cross-examination  
19 at this time.

20 \* \* \*

21 C R O S S

22 E X A M I N A T I O N

23 \* \* \*

24 BY MR. DASENT:

1 Q Good afternoon, Mr. Colton.

2 A Good afternoon.

3 Q It's always good to see you. I read your  
4 resume with interest and I'm reminded that you  
5 worked for the National Consumer Law Center in the  
6 past in Boston; is that correct?

7 A I did.

8 Q And I don't know when that was, if it was  
9 in the '90s or '80s.

10 A I started in -- it was long enough ago  
11 that these would be estimates, but I started in 1986  
12 and worked for NCLC for eight or ten years, perhaps.

13 Q I also noted from your resume you usually  
14 testify on behalf of consumers or consumer agencies.  
15 Is that a fair assumption?

16 A Usually, but not always, yes. That's not  
17 an assumption, that's a fact.

18 Q Over the past four years, since 2014,  
19 again with reference to your resume, do you know how  
20 many times you've given expert testimony?

21 A I don't.

22 Q I've estimated, actually I counted, 34  
23 times roughly since 2014. That's on Pages 20 to 22  
24 of your resume, subject to check.

1           A     One can count it up from my resume.  I  
2     have not done that.

3           Q     Of those 34 times listed on your resume,  
4     how many times have you testified for a consumer  
5     like Keener or SBG Management or Agustin?  Three  
6     times, subject to check?

7           A     Again, one could count it up from my  
8     resume, but I haven't done that.  If you have I  
9     would accept, subject to check, what your count is.

10          Q     And the other times you testified during  
11     this period since 2014, you testified for nonprofit  
12     entities or consumer advocate groups, and that  
13     dominates your participation as an expert witness?

14          A     Nonprofit entities or consumer groups.  I  
15     would say what dominates my testimony is that I tend  
16     to testify on behalf of what are called NASAGA  
17     offices, which tend to be state attorney general  
18     offices.  So if you count the state attorney  
19     generals as being a consumer advocacy group, I would  
20     agree with you.  But the Office Of People's Counsel  
21     in Maryland, the Office of Consumer Advocate in  
22     Pennsylvania, the Office Of Attorney General in  
23     Illinois are state agencies, not consumer advocacy  
24     organizations.

1 Q Okay. Office of consumer advocates would  
2 be more the correct statement. I was trying to  
3 capture your many appearances for the Office Of  
4 Consumer Advocate here in Pennsylvania.

5 A The Office Of Consumer Advocate in  
6 Pennsylvania is a regular client of mine, yes.

7 Q Are you giving any legal analysis in this  
8 case?

9 A I think my testimony is always informed by  
10 the fact that I'm an attorney, but there are issues  
11 that would be briefed that I wouldn't be testifying  
12 as to the ultimate conclusion, that the legal  
13 analysis and legal conclusions are more  
14 appropriately left for briefs.

15 Q Are you a member of the Iowa Bar? I just  
16 inferred that from your resume.

17 A I am.

18 Q Are you admitted in Pennsylvania?

19 A No.

20 Q Let me focus your attention on the TAP  
21 rider. Am I correct that most of your criticisms of  
22 the department's proposed TAP rider are directed at  
23 the original version of the rider in a cost recovery  
24 mechanism?



1           A     As opposed to being directed toward the  
2 revised rider that was filed after I filed my direct  
3 testimony?

4           Q     Yes, exactly. Wasn't a criticism.

5           A     Okay. Yes, my criticisms were directed  
6 toward the TAP rider as it existed as of the time I  
7 filed my testimony.

8           Q     And it significantly changed since then.  
9 That was my point.

10          A     I would agree that --

11               MR. BALLENGER: I would just object. I'm  
12 not sure Mr. Colton should be testifying about  
13 Mr. Dasent's witness' changes to their  
14 proposal.

15               MS. BROCKWAY: I think you're losing an  
16 opportunity to have Mr. Colton address exactly  
17 those changes unless you don't want him to.

18               MR. DASENT: That's where I was going.

19               MR. BALLENGER: Okay. Thank you.

20 BY MR. DASENT:

21           Q     Go ahead.

22           A     Clearly the TAP rider that is on the table  
23 from the Water Department today is different from  
24 the one that was on the table at the time that I

1 filed my direct testimony. Whether those are  
2 significant changes or not, I don't think that my  
3 characterization of them is significant or  
4 insignificant. I don't think there is much to that,  
5 but clearly there have been changes.

6 Q Based on the alternative proposal that's  
7 now on the table proposed by the Philadelphia Water  
8 Department, which areas of concern to you are now  
9 addressed?

10 A It just so happens I have a list.

11 Q Okay.

12 A I raised eight issues with respect to the  
13 original TAP rider. The first issue involved  
14 whether there should be an embedded lost revenue  
15 adjustment, and there has been a change in the newly  
16 filed rider to agree that there should be some  
17 embedded lost revenue adjustment. The disagreement  
18 now is what the level of that adjustment should be.  
19 There was originally disagreement as to whether  
20 LICAP, which is the Low Income Conservation  
21 Assistance Program, costs should be recovered  
22 through the rider. And that issue has been  
23 resolved. The new rider does not propose to recover  
24 LICAP costs through a reconcilable rider.

1           The third issue is whether the rider  
2 should be adjusted on an annual basis to take into  
3 account not only changes in the expenses of TAP, but  
4 changes in the revenue recovery for TAP. And the  
5 new rider -- and that issue has been resolved. The  
6 new rider accepts the fact there needs to be  
7 adjustments of both revenues and expenses. The  
8 fourth issue -- is this what you asked for?

9           Q     Yes, it is, exactly.

10          A     The fourth issue is whether the allocation  
11 of TAP credits, TAP costs to be included through the  
12 rider between water service and sewer service should  
13 be done based on revenue requirements as proposed by  
14 the Water Department or should be done based on  
15 revenues. And that issue is outstanding. There is  
16 still a disagreement there.

17           The fifth issue is whether the rider  
18 should be applied as a percentage of the bill or  
19 whether it should be applied based on units of  
20 consumption. And the new rider accepts the Public  
21 Advocate's proposal that the rider should be done in  
22 terms of units of consumption rather than in the  
23 percentage of the bill. The sixth issue has to do  
24 with the Public Advocate's -- with my testimony,

1 which is that the rider as proposed by the Water  
2 Department was unduly complex. And the rider that's  
3 included in my testimony is simpler and I would set  
4 that aside as being conclusory in nature.

5 I think there is a difference of  
6 opinion as to, for example, whether allocating  
7 between water and sewer based on revenue requirement  
8 or based on revenues is more or less complex than  
9 allocating between water and waste water based on  
10 revenues. I'll set that aside.

11 The seventh issue was that the Public  
12 Advocate, the rider attached to my testimony  
13 suggests or recommends that the rider be not  
14 associated with fiscal years, but be done on a  
15 12-month basis. That would allow for 12 months of  
16 complete real data. And the Water Department  
17 recommends that the rider -- the reconciliation be  
18 calculated on 10 months of real data and 2 months of  
19 what they call and what you call annualized data.  
20 And that issue is still outstanding.

21 And the eighth issue is that the  
22 water department propose to allow an adjustment for  
23 what the Water Department referred to as emergencies  
24 and the Public Advocate, through the rider attached

1 to my testimony, would exclude that type of  
2 emergency adjustment. So that issue has not been  
3 resolved. And then of course this has rider  
4 implications, but the Public Advocate has proposed  
5 an arrearage forgiveness program. And whether  
6 that's -- the Water Department allows for the  
7 recovery of arrearage forgiveness costs through the  
8 rider and we agree with that. The difference is  
9 what arrearage forgiveness should be collected  
10 through the rider.

11 Q We started miles apart. It seems like we  
12 are moving closer together. I think that general  
13 observation is true. I'm assuming also that you're  
14 open to continuing discussions to see if we can  
15 narrow our differences and make those differences  
16 small enough so that when we present the final  
17 record to the Board, that they will have fewer  
18 issues and controversy. It seems like we already  
19 narrowed that range.

20 A I would agree that the issues have been  
21 narrowed. I would simply note in response to your  
22 question, I think there was a question in there,  
23 that I would note that the differences are not  
24 between the Water Department and me. The

1 differences are between the Water Department and the  
2 Public Advocate.

3 Q I understand that.

4 A So it's not narrowing the differences  
5 between me and the Water Department. I'm not a  
6 party to this proceeding.

7 Q I understand that.

8 A Is that a lawyerly response?

9 Q Yes. Let's focus on the low income  
10 collection adjustment. I'm trying to see if that's  
11 on the list that you've given me.

12 A It is, the embedded lost revenue.

13 Q Got it. Now, you propose to offset the  
14 TAP revenue losses by 13.1 percent in your  
15 testimony. That's Page 62 and 63. That percentage  
16 adjustment, however, is not based upon actual PWD  
17 data. We talked about that a little before. Is  
18 that a correct assumption? You're using data from  
19 another utility company?

20 MS. BROCKWAY: Can you keep your voice up  
21 to the end of the sentence?

22 MR. DASENT: I'll do my best.

23 THE WITNESS: I agree the 13.1 is -- well,  
24 I agree and disagree with what you said. 13.1

1 percent was determined based on the  
2 methodologies that I described in my direct  
3 testimony. The basis for using that 13.1  
4 percent, however, is based squarely on PWD  
5 testimony. We know that the 97.3 percent is  
6 for total customer classes, for all customer  
7 classes and not simply the residential class.  
8 We know that the residential customer class has  
9 a collectibility lower than the collectibility  
10 for all customer classes. So right there we  
11 know that 97.3 overstates. Even if we were  
12 just to say let's use the residential class, we  
13 know that there are differences between  
14 subclasses based on the collections information  
15 that we looked at yesterday.

16 So we know that the 97.1(sic) as a whole  
17 does not reflect the collectibility of  
18 subgroups within the 97.1. That's all PWD  
19 specific data. And the use of the 13.1 percent  
20 is based on that PWD specific data.

21 BY MR. DASENT:

22 Q It's my understanding, just from reading  
23 your testimony, that you indicated that your  
24 calculation was based upon the gross writeoffs of

1 PECO and PGW.

2 A Yes.

3 Q And you averaged the two of those?

4 A Yes.

5 Q So in averaging low income collectible  
6 rates for PECO and PGW you arrive at the specific  
7 calculation 13.1?

8 A No. What I'm saying is the 13.1 percent  
9 came through that methodology. The basis for the  
10 13.1 percent is the recognition that when you look  
11 at 2.7 -- or the opposite, when you look at 97.3,  
12 that number is wrong, because we know that it  
13 overstates the residential collectibility. And  
14 within the residential collectibility we know that  
15 even if we were to use residential collectibility  
16 that would overstate the low income collectibility.  
17 So the basis for the need to have a number bigger  
18 than 2.7 is based squarely on PWD data.

19 Q What was the whole basis of using gross  
20 writeoffs of PGW and PECO, as you indicated you did?

21 A There are two things, both of which were  
22 explained in my direct testimony. The first  
23 question is, if we looked at the collectibility of  
24 residential customers whether there would be a



1 difference between the collectibility for  
2 residential customers and the collectibility for low  
3 income customers more specifically. So between  
4 those two subclasses, just like there were  
5 differences between other subclasses that had been  
6 talked about in this hearing, if you look at my  
7 testimony, or when you look at my testimony, the  
8 data for -- and it doesn't matter what type of  
9 utility service, whether it's electric service or  
10 natural gas service or PECO that provides both, the  
11 collectibility of low income customers is lower than  
12 the collectibility of residential customers.

13           So I start out there, but I think  
14 that the use of a statewide average would draw  
15 objections from PWD. So in order to make the number  
16 as reflective of Philadelphia as possible I use the  
17 two utilities that serve the City of Philadelphia.  
18 And PECO Electric serves the city, unlike PECO Gas,  
19 PECO Electric serves the City of Philadelphia. PGW  
20 not only serves the City of Philadelphia, but it's a  
21 municipal facility serving the City of Philadelphia.  
22 So I used those two.

23           Q     Have you used this sort of adjustment  
24 before for other service territories where you're

1 indicating basically there is a delta between  
2 collections for low income residential versus the  
3 rest of the service territory?

4 A I do.

5 Q Have you had any success with that, for  
6 example with Philadelphia Gas Works, in the recent  
7 past?

8 A Philadelphia Gas Works, in its most recent  
9 case Philadelphia Gas Works stipulated to an offset  
10 and it was -- I generally propose an offset based on  
11 bad debt and working capital, and the offset didn't  
12 distinguish between whether it was a bad debt or  
13 working capital offset or a combination of the two.  
14 Philadelphia Gas Works, even two rate cases ago,  
15 again stipulated to a bad debt offset, yes. So in  
16 two cases PGW has entered into settlements.

17 Q So settlements with the basis of that  
18 particular adjustment as opposed to it being  
19 litigated to conclusion? It's a settlement?

20 A Yeah. Philadelphia Gas Works agreed to  
21 include an offset.

22 Q Let's talk about arrearage forgiveness.  
23 With respect to arrearage forgiveness, do you agree  
24 that PWD is not proposing to include a reconcilable

1 arrearage forgiveness in the determination of TAP or  
2 cost recovery?

3 A I agree.

4 Q Can you define what arrearage forgiveness  
5 means in the context of your proposal, what costs  
6 are included?

7 A Arrearage forgiveness costs would be the  
8 costs that would be associated with bill credits  
9 directed toward arrears appearing on the bill at the  
10 time of a CAP application for those people who were  
11 approved and enrolled in the CAP program. Amortized  
12 over a 24-month period, with each bill credit being  
13 dependent on the participant making a complete bill  
14 payment.

15 Q What type of arrears are we talking about?

16 A I'm not sure what you mean by that.

17 Q Are we talking about going back 15 years,  
18 are we talking about the something in the immediate?

19 A It's whatever bills -- strike that.  
20 Whatever arrearages appear on the bill as of the  
21 date of the TAP application.

22 Q Are you aware that the City's policy is to  
23 write off arrears after 15 years?

24 A I have heard that. I will accept that as

1 being -- yes, I will accept that as being an  
2 accurate representation.

3 Q For PGW are you aware that arrearage  
4 forgiveness is tied to customers paying their TAP  
5 bill?

6 A Yes. PGW doesn't say that. PUC says  
7 that. So PGW --

8 Q I'm just using it as a point of reference.

9 A PGW accepts -- well, I don't know if they  
10 accept it or not, but PGW does what the PUC tells  
11 them to do.

12 Q Are you aware that TAP regulations only  
13 allow penalties to be forgiven after 24 TAP  
14 payments?

15 A I've been told that, yes.

16 Q More general questions, would you agree  
17 that PGW and PECO universal services programs and  
18 their associated rate riders have evolved over time,  
19 their older programs?

20 A Have the rate riders evolved over time?

21 Q Have cost recovery mechanisms for PECO and  
22 PGW changed over a period of time since their  
23 inception?

24 A PECO's certainly has. I'm not sure --

1 unless you have a specific example, I'm not sure I  
2 would say that about PGW's.

3 Q It seems for all PUC regulated facilities  
4 from time to time there are changes based upon  
5 annual or biannual reviews of the program. And I've  
6 seen a number of PUC determinations that indicate  
7 for PECO and other utilities that over time, and  
8 this goes back to the '80s, have changed because  
9 they customized the various programs to their  
10 service territory.

11 A Those two questions ask different things.  
12 If the question is has the PGW CRP program, Customer  
13 Responsibility Program, evolved over time, clearly  
14 the answer is yes. PUC requires a tri-annual filing  
15 called the USECP, Universal Service And Energy  
16 Conservation Program, and the program has evolved  
17 over time. If the question is whether the cost  
18 recovery has evolved over time, with PECO I would  
19 agree with that. But with PGW, the PUC, I don't  
20 know how many years ago, 12, 15, 20 years ago, had a  
21 proceeding on CAP cost recovery, CAP being the  
22 Customer Assistance Program. CAP is to the investor  
23 utilities as TAP is to PWD. The PUC had a  
24 proceeding on CAP cost recovery and I don't think

1 that CAP cost recovery for PGW has substantively  
2 changed since the PUC laid out its CAP cost recovery  
3 order.

4 Q You would recall that in 2000 PGW went  
5 under PUC jurisdiction and at that point their CRP  
6 program already existed. So there was a change at  
7 that particular moment and at no other. Would you  
8 agree with that?

9 A Sure.

10 Q Then subsequent to that, the Universal  
11 Services reviews tri-annually, I forget the  
12 frequency, where they improve or build upon their  
13 experience with interaction of the PUC?

14 A For the design of the program, yes.

15 Q Would you agree that both PECO and PGW  
16 have more information available to them with regard  
17 to customers enrolled in their programs having gone  
18 quite a number of years with their -- since the  
19 initiation of the programs?

20 A Have more information than PWD?

21 Q Yes.

22 A I don't know that for a fact, but it would  
23 not surprise me at all. It would be reasonable to  
24 assume that PGW and PECO both know more about their

1 low income populations than PWD knows about its low  
2 income populations.

3 Q The data that PECO and PGW report to the  
4 PUC and the data used in calculating their riders  
5 would inform them more about their low income  
6 populations that are vulnerable to these programs?

7 A Yes, sure. The answer is yes.

8 Q We didn't talk much about interest rates  
9 that were an issue before. But I have a feeling  
10 that's an issue that's minor in the scope of things  
11 with respect to the rider?

12 A Yes.

13 Q In other words, it's sort of resolvable.  
14 Yours is based upon the statutory interest rate of  
15 Pennsylvania, 6 percent, but --

16 A And yours is based on short-term interest.

17 Q Right.

18 A That's an issue that -- if that's the only  
19 issue where we differ, then we've got a problem.

20 Q No, we don't have a problem.

21 A Or, yeah, if that issue is the sole issue  
22 that prevents an agreement on a TAP rider, that's  
23 what I meant. That that issue is not one of the  
24 bigger issues when it comes to the TAP rider, in my

1 opinion. My opinion may differ from the Public  
2 Advocate's.

3 Q I understand your distinction, but I do  
4 also see the open issues that you've listed. I'll  
5 use those to focus on where we could possibly reach  
6 agreement and where at the end of the day the range  
7 of stipulations may end.

8 MR. DASENT: If I might have a break, your  
9 Honor?

10 MS. BROCKWAY: We'll take five minutes.

11 \* \* \*

12 (Whereupon, a brief recess was taken.)

13 \* \* \*

14 MS. BROCKWAY: Back on the record.

15 BY MR. DASENT:

16 Q Mr. Colton, just a few more questions.

17 A I've heard that before.

18 Q I literally do. Do you know if PECO or  
19 PGW utilized estimated data in their reconciliation  
20 filings for their respective universal service  
21 riders?

22 A I don't know that. Whether there is any  
23 component in those riders that uses estimated data?

24 Q Yes.



1           A     I can't -- I don't know that. I would  
2 have to have the riders in front of me. I'd have to  
3 have the riders in front of me.

4           Q     Are you aware that on the TAP bill there  
5 is no 124th credit that appears as you seem to be  
6 assuming? As we envision the TAP bill, we don't see  
7 that credit.

8           A     I agree with that. The Public Advocate  
9 has proposed an arrearage forgiveness, as I  
10 explained, and the department thus far has resisted  
11 that proposal.

12          Q     So it's an aspirational proposal,  
13 basically, the arrearage forgiveness?

14          A     I don't know what you mean by  
15 aspirational.

16          Q     For the future.

17          A     It is a proposal that the Public Advocate  
18 believes is mandated in order to comply with the  
19 statute -- or not the statute, with the ordinance,  
20 and has been advanced in this proceeding, yes.

21          Q     In your testimony, Mr. Colton, you talk  
22 about the application process and how it operates  
23 administratively in its costs. Did you give any  
24 consideration -- when you made your outsourcing

1 recommendation did you consider the city procurement  
2 log procurement rules when you decided to make your  
3 recommendation for outsourcing?

4 A Yes.

5 Q In considering those procurement rules, do  
6 you recognize that there is competitive bidding and  
7 the bid would have to be -- would be participated in  
8 by more than the target groups that you were asking  
9 to receive this funding?

10 A I could understand that, yes.

11 Q Did you give any consideration to the  
12 collective bargaining agreement governing the  
13 services to be outsourced?

14 A Yes.

15 Q Are you aware whether outsourcing certain  
16 functions would violate those collective bargaining  
17 agreements?

18 A I think that's a legal issue to be argued  
19 by the attorneys. But the question is -- on the one  
20 hand the argument is that the intake process and  
21 outreach process is an existing process that could  
22 not be outsourced. On the other hand is the  
23 recognition that the TAP program is a brand new  
24 program that even according to PWD's witnesses have

1    been developed and created and implemented anew.  
2    And the question is, is this brand new program with  
3    all of the processes that have been created unique  
4    to this program an existing process or a new  
5    process. And that's a legal issue for the lawyers  
6    to argue.

7           Q     And which collective bargaining agreement  
8    did you look at in reaching this conclusion?

9           A     I didn't look at specific agreements. I  
10   looked at PWD's testimony.

11          Q     So you did not investigate it in looking  
12   at agreements related to District Counsel 47 or 33  
13   specifically?

14          A     Yes, I did not. That's right.

15                MS. BROCKWAY: Excuse me. Go off the  
16   record.

17                               \* \* \*

18                               (Whereupon, a brief off-the-record  
19   discussion was held.)

20                               \* \* \*

21   BY MR. DASENT:

22          Q     Mr. Colton, let me direct your attention  
23   to your comments and your testimony about multiple  
24   layers of review with respect to TAP applications.

1 You, in fact, indicated that the two tier process --  
2 you seemed to indicate that the two tier process is  
3 responsible for the low number of -- strike that.

4 Are you aware, Mr. Colton, of the decisions that  
5 have been appealed from the TAP application process,  
6 the number of appeals?

7 A No.

8 Q If I were to tell you that 31 TRB  
9 petitions have been filed out of the thousands of  
10 applications processed, would you accept that  
11 subject to check?

12 A No. I wouldn't have any basis to check  
13 that. I've never seen that number. I don't know  
14 the source of that number. I wouldn't know where or  
15 how to check that. So I couldn't accept it subject  
16 to check that. It's an impossible task for me to  
17 do.

18 Q So you're not aware of the number of  
19 appeals. And even if I told you you could go to the  
20 TRB website in Philadelphia and confirm one way or  
21 another the number of appeals, you're saying you  
22 will not check that?

23 A I'm not aware of the number of appeals and  
24 I do not know a mechanism through which I could

1 reliably check that number of appeals.

2 MR. DASENT: Thank you, Mr. Colton.

3 That's it.

4 MS. BROCKWAY: Anybody else have cross?

5 Okay. We'll take questions from the bench.

6 MR. POPOWSKY: Thank you. I just had a  
7 couple questions. Good afternoon, Mr. Colton.  
8 Just a follow-up. You said that the PWD  
9 residential collection rate is less than 97.3,  
10 which is the overall collection rate; is that  
11 correct?

12 THE WITNESS: I did.

13 MR. POPOWSKY: Now, this is probably in  
14 the record, and I apologize, but do you know  
15 what the residential collection rate is?

16 THE WITNESS: Well, I was basing those  
17 conclusions on one of the exhibits that was  
18 introduced yesterday, which I don't remember  
19 which one. Do you want me to look it up?

20 MR. BALLENGER: It's in Exhibit 3.

21 THE WITNESS: There are a couple of things  
22 that go into that. It is Hearing Exhibit 3 of  
23 the Public Advocate. And if you look at the  
24 payment pattern report.

1 MS. BROCKWAY: Page?

2 THE WITNESS: Starting at Page 5 of 35.

3 If you look at Water Charges, look on the  
4 left-hand column, Water Charges, and then go  
5 clear to the right where you see a column,  
6 Total Paid Percent. And you see in the first  
7 line, Residential. The total payment is 83.12.  
8 And then if you go down four lines you see  
9 Commercial, and you follow that over to the  
10 right to see the Total Payment Percentage,  
11 89.81 percent. If you go down to Sewer  
12 Charges, you'll see the Residential Total  
13 Payment Percentage is 82.75 compared to the  
14 commercial 84.24. If you go down to Storm  
15 Water Charges Residential, the total payment  
16 percent is 81.43, the commercial is 84.28.

17 For each service in this particular  
18 exhibit the residential total payment  
19 percentage is less than the commercial payment  
20 percentage. The 97.3 doesn't disaggregate by  
21 customer classes. It melds all of this  
22 together into a single number. But my  
23 testimony is that one thing that we know and  
24 one thing that you can't tell from this exhibit

1 is through discovery we got these payment  
2 pattern reports for I think 24 months. So I  
3 haven't looked at simply this report, but I've  
4 looked at this report for two years, and the  
5 pattern repeats -- consistently repeats itself,  
6 where the residential payments are lower than  
7 the commercial payments. And I look at the  
8 residential and commercial simply -- if you  
9 look at the numbers of customers, those are the  
10 two biggest numbers.

11 MR. POPOWSKY: All those numbers are below  
12 97.3. So it's hard to see how we get a 97.3  
13 average.

14 THE WITNESS: Yes. That's a question to  
15 be directed toward the Water Department.

16 MR. DASENT: We can provide that answer,  
17 but I hope the Board will see this particular  
18 report, and I can get Mr. Colton to tell me  
19 this, for 11-1-2016 to 10-31-2017 it is one  
20 year's worth of data.

21 THE WITNESS: Yes, that's absolutely  
22 correct. Let me say that as the witness. This  
23 is one year of data through the collectibility  
24 studies would instead of having zeros in the

1 one to two and -- two to three and the  
2 three-plus years, would have additional  
3 payments.

4 MR. DASENT: It's a cumulative average.

5 MR. POPOWSKY: I would perhaps ask for the  
6 department as a data request, transcript  
7 request 8, to tell us what the comparable  
8 residential collectibility rate is.

9 MR. DASENT: It won't be broken down by  
10 residential. It's a cumulative rate  
11 systemwide. That's how we give the data. But  
12 it would be best if you let the department of  
13 Black and Veatch answer that.

14 MR. POPOWSKY: Maybe we can address that  
15 Monday or Tuesday --

16 MR. DASENT: They're ready to go.

17 MR. POPOWSKY: But in any case, all I'm  
18 trying to do is to get to Mr. Colton's point,  
19 which is his opinion, I think, that the  
20 residential collection rate is lower than the  
21 average. And I'm trying to see if there is any  
22 data on an apples to apples basis that would  
23 let us know what the residential collection  
24 rate is over time.



1 MR. DASENT: And the department can answer  
2 that question and it's a cumulative rate and  
3 not broken down by customers.

4 THE WITNESS: We have asked for that data,  
5 we being the Public Advocate, have asked for  
6 that and have been told that that does not  
7 exist.

8 MS. BROCKWAY: I think I'm going to keep  
9 T.R. 8 on the record, but it might be answered  
10 next week by witnesses in real time.

11 MR. POPOWSKY: Just a couple other. You  
12 mentioned that PGW offset. Do you know what  
13 that offset was for the percentage  
14 uncollectible or writeoff rate that was used  
15 for the PGW CRP program?

16 MR. DASENT: Just for clarification, that  
17 was a settlement number.

18 MR. POPOWSKY: I understand it was a  
19 settlement. It's not determinative.

20 THE WITNESS: I don't know right off the  
21 top of my head. I can find it and present it,  
22 but I don't know it off the top of my head.

23 MR. POPOWSKY: I would ask that you  
24 provide us that number. I think you said there

1           were two cases in which an offset was used.

2           THE WITNESS: The last two based rate  
3 cases for PGW?

4           MR. POPOWSKY: Yes.

5           THE WITNESS: My understanding is to  
6 provide the offset for PGW included in the last  
7 two based rate cases.

8           MR. POPOWSKY: Yes.

9           THE WITNESS: I can do that.

10          MS. BROCKWAY: That's TR-9.

11          MR. POPOWSKY: One other question. You  
12 recommend a 24-month arrearage forgiveness  
13 program for Philadelphia Water Department. Am  
14 I correct that the arrearage forgiveness for  
15 PGW is 36 months?

16          THE WITNESS: I think that's true, yes.  
17 In fact, it's more than "I think". The answer  
18 is yes.

19          MR. POPOWSKY: That's all I have. Thank  
20 you.

21          MS. BROCKWAY: I have a few questions.  
22 Let me start with just some to make sure I  
23 understand some of what's just been asked. If  
24 you have a 24-month arrearage forgiveness as

1           opposed to a 36-month, the basic difference is  
2           that in the 24-month you take the total  
3           arrearage and divide it by 24, and that's what  
4           gets written off every month. And in the 36  
5           you take the total arrearage and divide it by  
6           36, and each month of faithful payment 1-36th  
7           is written off.

8           THE WITNESS: Yes, almost. The difference  
9           is between dividing by 24 and dividing by 36,  
10          yes. Then the writeoff occurs -- what I  
11          proposed for PWD is the same as what the PUC  
12          uses for the investor on utilities, which is  
13          that a writeoff occurs for every complete  
14          payment. Which means -- which is a little  
15          different from what you said, because it's not  
16          automatic on a monthly basis and it allows --  
17          but it doesn't require a timely payment. So if  
18          somebody misses a September payment, but then  
19          makes up that September payment in October, as  
20          soon as the complete September payment is made  
21          then that increment of arrearage forgiveness is  
22          earned.

23          MS. BROCKWAY: I want to go back to  
24          Hearing Exhibit 3, Public Advocate Hearing

1 Exhibit 3. We may have to wait on a bunch of  
2 this until Monday, but on the left-hand column  
3 where it says Water Charges, I see Residential,  
4 Residential Vacant and Senior Citizens, Public  
5 Housing Authority and Other Discounts. First  
6 of all, would Residential, Residential Vacant  
7 and Senior Citizens all be a form of  
8 residential customers?

9 THE WITNESS: In my mind they would be,  
10 yes. Residential Vacant I may exclude, but  
11 certainly Residential and Senior Citizens.

12 MS. BROCKWAY: If you look over at that on  
13 the right-hand column just for water,  
14 Residential Vacant has a minus 12.55  
15 collectibility rate for that period. And if we  
16 understand the math here, can you say whether  
17 or not that would -- would you want to do a  
18 weighted average, let me put it that way, of  
19 the charges that you determined were  
20 residential in order to get a total  
21 residential, including any other charges that  
22 could otherwise be called residential?

23 THE WITNESS: I think one could do that,  
24 but that's trying to reach a more precise

1 conclusion than I was -- than the question that  
2 I was inquiring into. The question that I  
3 posed to myself was, does the 97.3 total number  
4 appropriately reflect all customer classes.  
5 And the question that then derives out of that  
6 is, does the residential class -- is just a yes  
7 or no -- does the residential customer class  
8 pay less than the overall. So it didn't make  
9 any difference to me how much -- I didn't try  
10 to determine how much less. The question was  
11 simply is the 97.3 overstating the  
12 collectibility if one were to look at the  
13 residential customer class. And given that the  
14 water department has said they don't prepare  
15 collectibility studies on a class by class  
16 basis, I had to look for other information from  
17 which to draw my conclusions. Did that answer  
18 your question?

19 MS. BROCKWAY: Yes, it did. It may not  
20 matter, so I ask these questions respecting  
21 that you might persuade me that there is no  
22 point in them. What's the exhibit with the  
23 writeoff data? Is that PA 1 or 2? Yes, PA 1,  
24 Hearing Exhibit 1. These writeoffs, again we

1 are limiting these reports to the PUC, are  
2 limited to residential customers and subsets of  
3 residential customers. But putting that aside,  
4 my question is let's take Page 3 of 10. And we  
5 note that the figures used in the tables below  
6 do not include CAP credits or arrearage  
7 forgiveness. If you were to define a  
8 mathematical formula to show that, what would  
9 it look like? I'm trying to see how this  
10 corresponds or doesn't corresponds to what Ms.  
11 Kumar was saying yesterday about taking total  
12 billings for a period and total receipts for a  
13 period.

14 THE WITNESS: And that's how these numbers  
15 are derived. If the exhibit would have  
16 included the entire BCS report, the BCS report  
17 has total dollars of writeoff and total dollars  
18 of billed revenue. And you can actually use  
19 the underlying data to calculate these  
20 percentages if one is inclined to do that. But  
21 there again --

22 MS. BROCKWAY: Please don't go any further  
23 before I understand what you just said. You're  
24 going to have to say a little bit more about

1           the -- first all of, when they say gross  
2           writeoffs here do you understand that to be  
3           identical to the difference between billed  
4           revenues and receipts as Ms. Kumar was talking  
5           about it?

6           THE WITNESS: It is -- not necessarily.  
7           It is the dollars that have been written off as  
8           uncollectible by each utility.

9           MS. BROCKWAY: Oh, writeoffs, I'm sorry.  
10          It says, "The figures used in the tables below  
11          do not include CAP credits or arrearage  
12          forgiveness. Does that mean those are  
13          additional amounts of money that were not  
14          received over they were billed?

15          THE WITNESS: CAP credits and arrearage  
16          forgiveness credits aren't absolute losses to  
17          the investor in utilities, because they are  
18          collected through reconcilable rate riders and  
19          so they flow through as billed revenues.

20          MS. BROCKWAY: And received revenues?

21          THE WITNESS: Well, they are received to  
22          the extent that the receipts would be reduced  
23          by the residential gross writeoff.

24          MS. BROCKWAY: Say that again another way.

1           THE WITNESS: So if Dukane -- let me not  
2 use Dukane. If PGW includes \$100 in its rate  
3 rider for its universal service programs, that  
4 \$100 gets billed to residential customers as a  
5 whole. Oh, actually, PGW bills it to all  
6 customers.

7           MS. BROCKWAY: All firm customers, we are  
8 saying up here.

9           THE WITNESS: And of the dollars that are  
10 billed to the residential customers, they can  
11 expect to collect 85 percent of those. Because  
12 15 percent of those billed revenues are going  
13 to be written off as uncollectible.

14          MS. BROCKWAY: So in other words, if you  
15 included CAP credits for arrearage  
16 forgiveness -- I'm not understanding how it  
17 doesn't include those if what you're saying is  
18 the 15 percent from PGW on the second chart  
19 reflects the fact that all firm customers,  
20 including residential, are billed for a share  
21 of what otherwise would have been received from  
22 CAP customers.

23          THE WITNESS: Right. So PGW's CAP program  
24 is called CRP. So PGW provides \$100 in CRP



1 credits. Those are uncollectible, because  
2 those are moved into a reconcilable surcharge,  
3 which is then billed to all firm customers. So  
4 just because PGW provided \$100 in CRP credits  
5 doesn't mean that that \$100 becomes  
6 uncollectible.

7 MS. BROCKWAY: But I would have thought  
8 that if you add \$100 to all the firm customers  
9 of PGW, allocating it across, if you had enough  
10 \$100 then that would have an impact on the  
11 gross writeoffs ratio for all residential.

12 THE WITNESS: Yes. That would appear in  
13 the gross writeoff ratio, but at that point  
14 it's not a CRP credit, it's a surcharge. It's  
15 a bill that has been billed through the  
16 universal service charge.

17 MS. BROCKWAY: So I don't actually agree  
18 that figures do not include CAP credits. Maybe  
19 they don't specifically. But what you're  
20 saying is that the all residential gross  
21 writeoff ratio would have been different if  
22 they hadn't had to pay any of these CAP  
23 arrearages.

24 THE WITNESS: Presumably. And if I

1 understand what you're saying, I agree with  
2 you. Some portion of this 15 percent is an  
3 uncollectible stream of revenue based on the  
4 universal service surcharge.

5 MS. BROCKWAY: So what do they mean here  
6 where it says the confirmed low income gross  
7 writeoff ratio is where the CAP credits or  
8 arrearage forgiveness don't show up?

9 THE WITNESS: No. I think what BCS is  
10 simply saying is that if PGW provides \$100 in  
11 credits through its CRP program, that that \$100  
12 of credits isn't a writeoff and isn't included  
13 as a writeoff. It only becomes a writeoff to  
14 the extent that it's later billed to other  
15 customers in the form of a surcharge. But at  
16 that point it's viewed as the writeoff of the  
17 surcharge and not the writeoff of the CRP  
18 credits.

19 MS. BROCKWAY: So then if I understand it,  
20 all the figures in the right-hand column for  
21 both industries would be higher if you did  
22 include a responsibility by low income  
23 customers to pay what is now credited through  
24 CAP or arrearage forgiveness, because

1           presumably they didn't pay that. So if you  
2           assumed they were obligated to pay that, and  
3           they didn't pay because of the program, then  
4           the writeoff would in fact be higher?

5           THE WITNESS: This can get --

6           MS. BROCKWAY: I think that is a yes or  
7           no.

8           THE WITNESS: Unfortunately, it's not a  
9           yes or no, because that assumes that the bills  
10          for confirmed low income customers would  
11          increase, and to the extent you have a  
12          percentage of income payment, bills to those  
13          customers would not increase, so...

14          MS. BROCKWAY: Well, I was assuming that  
15          the P.I.P. would be violated to the extent to  
16          try to figure out -- these billings are the  
17          billings after credits and arrearage  
18          forgiveness.

19          THE WITNESS: Yes.

20          MS. BROCKWAY: And I'm suggesting if they  
21          didn't have the credits or arrearage  
22          forgiveness, they would have higher bills.

23          THE WITNESS: And, therefore, higher --  
24          well, whether the percentages would be higher

1 we wouldn't know, but the dollars would be  
2 higher.

3 MS. BROCKWAY: Why wouldn't we know the  
4 percentages? Not the exact number, but why  
5 wouldn't we know the direction?

6 THE WITNESS: Because if you included  
7 additional dollars you wouldn't know if all of  
8 those dollars would be uncollectible or if the  
9 increase in dollars would be uncollectible at  
10 the same rate as the previous dollars were  
11 uncollectible. So you could move from \$100 in  
12 bills to \$120 in bills, but the percentage that  
13 is written off as uncollectible could stay at  
14 15 percent or 12 percent or whatever the  
15 percentage is.

16 MS. BROCKWAY: That to me challenges the  
17 entire underpinning of paid percentage of  
18 income payment theory. So I'm not following.  
19 In theory, if you're asked to pay more than a  
20 percentage of your income you have increasing  
21 hardship in doing so and increasing likelihood  
22 of noting being able to pay it.

23 THE WITNESS: There are a couple of  
24 responses. One is that that assumes that

1           everybody that's in this column is in CAP,  
2           which would not be the case.

3           MS. BROCKWAY: The low income column?

4           THE WITNESS: In the low income column.  
5           Secondly is while I agree with you in theory,  
6           there are innumerable ways in which the  
7           strict -- if I'm going off track here let me  
8           know -- that strict percentage of income varies  
9           from strict percentage of income. So utilities  
10          universally, for example, have minimum  
11          payments. So it doesn't make any difference  
12          what your income is. There is a mandatory  
13          minimum payment.

14          MS. BROCKWAY: So what I'm getting is you  
15          would agree on the direction but not that there  
16          is any dollar for dollar or other -- no --

17          THE WITNESS: No measurable change?

18          MS. BROCKWAY: Thank you. No quantifiable  
19          link at this point. Just one more --

20          THE WITNESS: I agree with -- to the  
21          extent that was a question, yes, I agree with  
22          that.

23          MS. BROCKWAY: Just to make sure nobody  
24          thinks that I've forgotten that if I put it in

1 the low income area I have to take it off the  
2 bills paid by the all residential. Presumably  
3 if all residential billings were a little bit  
4 lower, because they didn't have to pay cap or  
5 arrearage forgiveness, their writeoff ratio  
6 would be a little bit less, again, by an amount  
7 we have no idea?

8 THE WITNESS: Although I agree it would go  
9 the other way with low income households, I'm  
10 not sure that would be appropriate for non-low  
11 income households. Simply because my wife and  
12 I might pay a \$60 a month electric bill to  
13 Belmont Light Company doesn't mean that we are  
14 at the maximum of our affordability. If we  
15 received a \$90 bill we would complain about it,  
16 but we'd pay it. So with the non-low income  
17 customers I don't think you could ipso facto  
18 say that if the bills would go down the  
19 uncollectibles would go down as well.

20 MS. BROCKWAY: Give me a second, please.  
21 I'm trying to find where I had in the margin,  
22 "Ask Colton." Ms. Kumar yesterday in response  
23 to I think my questions explained why in her  
24 opinion you couldn't compare or use the

1 writeoff experience for electric or gas  
2 utilities to that of the Water Department.

3 Were you here for that?

4 THE WITNESS: I was.

5 MS. BROCKWAY: Do you agree with her?

6 THE WITNESS: No.

7 MS. BROCKWAY: Why not?

8 THE WITNESS: For a couple of reasons.

9 One is a dollar bill is a dollar bill and it is  
10 universally -- strike that. Generally held  
11 that when bills exclude a percentage of income,  
12 that those bills become more problematic. For  
13 example, and the reason that I don't agree with  
14 the comment that water bills may be different,  
15 I was chair of the board of directors of a  
16 nonprofit housing development for 10 years and  
17 we know, or we knew, that if total shelter  
18 costs exceeded 30 percent of income, that the  
19 odds of there being payment difficulties would  
20 increase. We know for gas and electric service  
21 that when bills exceed an affordable percentage  
22 of income they become more problematic. And  
23 the fact that there is one service that's  
24 electricity and another service that is natural

1 gas and another service which is the provision  
2 of shelter or provision of housing, the  
3 principle stays the same; that low income  
4 households that have bills as a percentage of  
5 income that exceed a certain affordable level  
6 become less payable.

7 And her assertion that for some reason the  
8 water industry differs from every other  
9 industry is just something that I don't think  
10 stands the test of further inquiry.

11 MS. BROCKWAY: What I took her to be  
12 saying is that for most people who would  
13 qualify as low income in this program, their  
14 income is fairly stable from month to month,  
15 but that for those with electric space heat or  
16 air conditioning and those with gas heat, there  
17 are seasonal differences that you don't see in  
18 water bills. And the seasonal differences make  
19 it difficult -- the high costs a month for that  
20 service don't translate into higher income for  
21 that month.

22 THE WITNESS: I think that there is a  
23 generalization in there that doesn't understand  
24 low income customers. To give you an example,



1 I spent a good part of my career recommending  
2 that low income households use budget billing  
3 for the very reason that she was mentioning. I  
4 worked on a program in Georgia for the Georgia  
5 State Department of Human Services where we  
6 promoted budget billing, and there was a group  
7 of clients that we worked with and one of the  
8 clients said, "Roger, you're pushing me toward  
9 budget billing, because you're saying let's  
10 move part of the high cost gas bill into the  
11 low cost summer months. But during the summer  
12 months I've got kids at home that when they're  
13 in school they participate in the free school  
14 lunch or breakfast program. And when they're  
15 home for the summer I have to buy food for them  
16 and so the summer months are actually more  
17 problematic to me than the high cost of winter  
18 months." So to generalize, based on the  
19 comments that were made is simply, I don't want  
20 to say a myth, but it's an overgeneralization.  
21 And I don't think you can -- well, I'm not  
22 going to impugn her knowledge or lack of  
23 knowledge, but I don't think it fully  
24 understands the dynamics of a low income

1 household.

2 MS. BROCKWAY: I think it was yesterday  
3 also that I -- please give me a second. Oh, I  
4 suggested to that panel maybe it was this  
5 morning that you chose the 13 percent because  
6 it was greater than 2.7 percent and that you  
7 knew it had to be greater, and this was the  
8 closest number that was based on something  
9 applicable that you could identify. Was that  
10 accurate?

11 THE WITNESS: Yes. We know from in  
12 Hearing Exhibit 1 that low income  
13 uncollectibility is higher than residential low  
14 income uncollectibility as a whole. I haven't  
15 ever worked with anybody who would ever dispute  
16 that. So what Exhibit 1 tells us, aside from  
17 the numbers, is simply that if you look at the  
18 low income uncollectibility it's going to be  
19 higher than residential uncollectibility as a  
20 whole. So 2.7 percent is too low. 2.7 then  
21 also is a melding of all customer classes  
22 without taking out the residential customer  
23 class. And if one accepts the notion as I do,  
24 that the residential class would be somewhat

1 lower than 97.03, that drives the 2.7 percent  
2 even higher.

3 And instead of picking a number out of  
4 thin air, I said, "Okay, let's look at the  
5 utilities that serve the same basic population,  
6 the City of Philadelphia. And instead of using  
7 one or the other I took the midpoint between  
8 those two. So there is an empirical basis, so  
9 I'm not just picking a number out of thin air.

10 MS. BROCKWAY: This is a slightly  
11 different topic. I'm trying to figure out the  
12 extent to which the theory that making bills  
13 affordable reduces the credit collection costs  
14 of the supplier is included in what you're  
15 suggesting here. The thought came to me in  
16 your testimony on Page 60. And here starting  
17 at the top saying, "Participation by low income  
18 customers in TAP does not create new costs. It  
19 simply moves the unpaid bills of the group of  
20 customers known as residential customers into  
21 the group of customers known as TAP  
22 participants." And I made a note to myself, is  
23 this dollar for dollar?

24 THE WITNESS: Yes. And it doesn't include

1 any offsets for changes or improvements in  
2 credit and collection costs or working capital  
3 or anything. It's simply the embedded lost  
4 revenue.

5 MS. BROCKWAY: So would it be accurate to  
6 say that you think there should be some offsets  
7 because of bills being paid on a better payment  
8 pattern but you're not proposing to include any  
9 such consideration in the numbers in this case?

10 THE WITNESS: Yes.

11 MS. BROCKWAY: I think that there is  
12 likely to be some -- and I hope there is going  
13 to be some briefing of the question of the  
14 authority of the Board with respect to a cap on  
15 administrative costs. You've been asked by  
16 Mr. Dasent and there's been some discussion of  
17 the authority of the Board to outsource. But  
18 you are saying in your testimony, as I  
19 understand it, that even if these activities  
20 were not outsourced they ought to be conducted  
21 at a lower cost. So putting aside -- I think  
22 we have to put aside almost completely the  
23 question whether or not it's within the Board's  
24 authority to say anything about that, but let's

1           assume for the purposes of discussion that it  
2           would be. How would the Board go about --  
3           well, as a policy matter, not just a legal  
4           matter, how should the Board handle, if it  
5           concludes that the department and the Bureau  
6           are spending a whole lot more than they need to  
7           spend in order to run this program?

8           THE WITNESS: What would the enforcement  
9           mechanism be?

10          MS. BROCKWAY: That's one way of putting  
11          it. A number of questions have come up about  
12          the extent of which the Board can say about the  
13          behavior of the department and the Bureau,  
14          including choices of administrative process.  
15          So if the Board were to say, "We have nothing  
16          to say about it," that would be one thing. But  
17          the Board, even if it agreed with the legal  
18          proposition that there is nothing it can do, in  
19          effect going to the other extreme, there is  
20          nothing it can do to direct either agency to  
21          change their behavior, the Board has in the  
22          past appended to its 2016 decision a long list  
23          of the types of consumer problems that were  
24          reported to the Board. So there is an ability

1 to report issues and ask for reports back.

2 THE WITNESS: But I think with  
3 administrative costs it would simply be that  
4 the Board would say, as a ratemaking decision,  
5 that you would look at the total amount of  
6 expected TAP credits, multiply that times .10  
7 and say any administrative costs in excess of  
8 that could not be included in base rates.

9 MS. BROCKWAY: Then if the department  
10 says, okay, and if it doesn't include them in  
11 base rates now, but it reconciles them out of  
12 the residual -- the RSF at the end of the year,  
13 at the end of these years, would that not  
14 defeat the purpose of telling them that they  
15 couldn't include it in rates?

16 THE WITNESS: I don't know the answer. I  
17 would need to pose that to the Public  
18 Advocate's revenue requirements witness.

19 MS. BROCKWAY: Fair enough.

20 MR. DASENT: The Hearing Officer should be  
21 informed that we'll brief this issue in terms  
22 of the parameters of authority consistent with  
23 the code and the charter about what revenue  
24 requirements must be.

1 MS. BROCKWAY: I have no doubt. As I  
2 said, it may be that the Board will, even if it  
3 finds something, it might not do anything, for  
4 just those reasons. But be prepared. I can't  
5 find where I said, "Ask Mr. Colton." But since  
6 I can't find it, it must not have been that  
7 important. Thank you. My questions are done.  
8 Are there any more from the Board, any  
9 redirect -- recross, excuse me?

10 MR. DASENT: Yes.

11 MR. BALLENGER: We would love to do  
12 redirect. I don't mind if Andre would like to  
13 recross first.

14 MS. BROCKWAY: Let's do redirect and then  
15 we'll have recross.

16 \* \* \*

17 R E D R I R E C T

18 E X A M I N A T I O N

19 \* \* \*

20 BY MR. BALLENGER:

21 Q Thank you, Mr. Colton. I just have a  
22 couple of questions. And I wanted to start again  
23 with Hearing Exhibit 1 on behalf of the Public  
24 Advocate, and just ask you if you wouldn't mind just

1 taking a look at Page 3. And if you haven't  
2 already, just briefly explain what the numbers on  
3 this page are intended to show. I think you may  
4 have covered that, but....

5 A The numbers on this page and on the  
6 corresponding pages are simply to show that when one  
7 subdivides the residential customer class into a low  
8 income subgroup and a non-low income subgroup, the  
9 difference between billed revenues and collected  
10 revenues for low income customers is even higher  
11 than the difference between billed revenues and  
12 collected customers for non-low income customers.

13 MS. BROCKWAY: Actually, it reminds me of  
14 a question I wanted to ask you about the  
15 definition of low income. When you're using  
16 the term low income, are you thinking of a  
17 specific algorithm for determining whether  
18 someone's low income or a specific percent of  
19 the Federal poverty level or something else?

20 THE WITNESS: Yes. The term confirmed low  
21 income used by the PUC and low income used by  
22 PWD happen to be the same percentage, which is  
23 150 percent of the Federal poverty level.

24 MS. BROCKWAY: Can you tell us what the



1 Federal poverty level -- how that was arose at,  
2 in terms of what does that percentage mean with  
3 respect to a person's disposable income, their  
4 buying power, their ability to meet their daily  
5 needs, so forth?

6 THE WITNESS: A person with annual income  
7 at or below 150 percent of the poverty level is  
8 far below that dollar amount of annual income  
9 which allows them to make expenditures on  
10 essential household services without difficulty  
11 and without external assistance. The poverty  
12 level was determined maybe in the '60s, where  
13 it was said at three times the expected food  
14 expenditure and has been updated annually since  
15 by the Federal government based on the consumer  
16 price index. Which is one reason why most  
17 public assistance programs no longer use the  
18 poverty level as their demarcation of what is  
19 core. They use an increment of the Federal  
20 poverty level.

21 MS. BROCKWAY: For example, LIHEAP uses  
22 150 percent or something higher?

23 THE WITNESS: It's no greater than -- the  
24 maximum can be no greater than 60 percent of

1 median income and no less than 110 percent of  
2 the Federal poverty level. And different  
3 states use different percentages.

4 MS. BROCKWAY: Is part of that because the  
5 Federal poverty level does not adjust for  
6 differences in underlying costs of living?

7 THE WITNESS: Part of it is that. And  
8 part of it is how a state chooses to allocate  
9 its LIHEAP grant. The states get a certain  
10 amount of money. When they run out of money  
11 they stop serving people.

12 MS. BROCKWAY: Would you agree that the  
13 higher the median income in an area, the more  
14 likely that general costs of living are higher  
15 for that area, because people would have to, on  
16 average, have more money than they would in an  
17 area which has a low cost of living?

18 THE WITNESS: I studied that issue and I  
19 believe what you just said is accurate. What  
20 you just suggested is consistent with the  
21 conclusions I've reached when I've looked at  
22 the issue.

23 MS. BROCKWAY: Thank you for letting me  
24 butt in.

1           MR. BALLENGER: It was helpful to get that  
2           information from Mr. Colton.

3 BY MR. BALLENGER:

4           Q     Mr. Colton, turning your attention back to  
5           Page 3, Exhibit 1, in your direct testimony you only  
6           used a couple of these numbers to derive the low  
7           income collectibility rate; isn't that correct?

8           A     Yes.

9           Q     And if you used just PGW what would be the  
10          effect on the collectibility rate?

11          A     If I had confined my number to the other  
12          municipal utilities serving the City of Philadelphia  
13          the uncollectibility rate would have gone  
14          significantly down.

15          Q     Sort of a piggyback on Hearing Officer  
16          Brockway's point, by including PECO, which has some  
17          suburban customers, you're effectively -- well,  
18          what's the impact upon your adjustment?

19          A     I set it at the midpoint, because PECO  
20          would have drawn it to the opposite extreme. So I  
21          set it at the midpoint, but including PECO would  
22          have brought the number down.

23          Q     Is that in your view a conservative  
24          estimate?

1           A       Yes, for the reasons I explain in my  
2 direct testimony. PWD is -- strike that. PWD's TAP  
3 population have a greater incident of arrears and  
4 have a greater depth of arrears, so more low income  
5 --

6           MS. BROCKWAY:   Than?

7           THE WITNESS:   Than PGW and the utilities  
8 here. So a greater number of low income -- of  
9 TAP participants are in arrears, and those that  
10 are in arrears are further in arrears than the  
11 corresponding numbers for PGW and PECO. So  
12 when I used the midpoint between PGW and PECO,  
13 that set aside the fact that PWD's CAP  
14 customers, I don't want to say we don't care  
15 about the low income base as a whole, but we  
16 are looking at the TAP participant population.  
17 And the use of the midpoint between PGW and  
18 PECO to reflect the TAP participant population  
19 is a very conservative number.

20          MS. BROCKWAY:   I just want to say one more  
21 thing. I wasn't making a point. I was asking  
22 questions.

23          MR. BALLENGER:   I apologize. I didn't  
24 mean to suggest that you were. I simply

1           thought it was an interesting point that arose  
2           as a result of your question, Madam Hearing  
3           Officer.

4 BY MR. BALLENGER:

5           Q     Mr. Colton, at one point during his  
6           cross-examination Mr. Dasent asked you about the  
7           department's writeoff practice, where it writes off  
8           arrears that are more than 15 years old. Do you  
9           remember that discussion?

10          A     I do remember that.

11          Q     And have you ever looked at any other  
12          information about WRB writeoffs?

13          A     Yes.

14          Q     I'd like to introduce another exhibit, if  
15          I may. I'd like to mark for the record as Hearing  
16          Exhibit 6 on behalf of the Public Advocate.

17                 MR. DASENT: Please note our objection,  
18          Your Honor. We are getting into rebuttal or  
19          some other series of the case that we thought  
20          we were not going to explore.

21                 MS. BROCKWAY: Let me see the exhibit and  
22          then we'll make a decision. My question is,  
23          Mr. Ballenger, can you specifically relate the  
24          information that is contained in proposed

1           Hearing Exhibit 6 to questions on redirect that  
2           was posed by Mr. Dasent?

3           MR. BALLENGER: Yes, Madam Hearing  
4           Officer. My only question really would be to  
5           Mr. Colton is whether WRB's -- whether a  
6           document such as this supports that a 15-year  
7           age balanced writeoff is the only writeoff that  
8           WRB takes into consideration.

9           MR. DASENT: That's not the question that  
10          was presented, Your Honor. I think this is  
11          objectionable. It seems like we waited until  
12          the last day for testimony of Mr. Colton, and  
13          we are getting into a whole new area of  
14          redirect. It's as if we are putting in a  
15          surrebuttal, and note my objection.

16   \* \* \*

17   (Whereupon, a brief off-the-record  
18          discussion was held.)

19   \* \* \*

20          MR. DASENT: When our CFO is on the stand  
21          next week that would be a more appropriate time  
22          to raise this issue as opposed to now, sort of  
23          the 11th hour. I don't think he needs this at  
24          this point and we would object at this late

1 stage of Mr. Colton's testimony.

2 MR. BALLENGER: I was taking notes during  
3 Mr. Dasent's cross-examination, and he did  
4 refer to the writeoff practices after 15 years  
5 in his cross-examination. I believe the  
6 transcript would support me on that.

7 MS. BROCKWAY: So my recollection is that  
8 the reference was writeoffs at least at 15  
9 years, not writeoffs only at 15 years. That's  
10 my recollection of the Q and A. The question  
11 was something like, I think, "Don't you realize  
12 that at 15 years anything after that is written  
13 off?"

14 MS. CROSBY: That's correct, Madam Hearing  
15 Officer. The questions were in regards to the  
16 department's 15-year writeoff policy that is  
17 part of the Philadelphia Code and the face of  
18 this exhibit does not address that. It  
19 addresses other types of writeoffs, which were  
20 not the point of the discussions earlier in the  
21 proceedings.

22 MS. BROCKWAY: I think that's accurate,  
23 that the way that the question was framed the  
24 point was, doesn't Mr. Colton know that we

1 don't have to think about things after 15  
2 years, because they don't count, because  
3 they're written off. And this is something  
4 different. And I would say let's not put this  
5 to Mr. Colton, but ask witnesses next week.

6 MR. BALLENGER: Okay. Thank you. We'll  
7 take those back and we'll unnumber this hearing  
8 exhibit formerly known as 6.

9 MS. CROSBY: Actually, I think we should  
10 keep it as part of the record as one that was  
11 proposed but the Hearing Officer ruled was not  
12 appropriate at this time.

13 MS. BROCKWAY: That's fine by me, because  
14 you're going to propose it next week.

15 MR. BALLENGER: Okay. We'll revisit it  
16 and it will remain as Hearing Exhibit 6, dated  
17 May 11th.

18 MS. BROCKWAY: No. We'll date it May 13th  
19 or 14th.

20 MR. BALLENGER: Understood. Thank you. I  
21 only have a couple of additional questions for  
22 Mr. Colton and Andre can have some time with  
23 him again.

24



1 BY MR. BALLENGER:

2 Q Mr. Colton, you were asked a little bit by  
3 Mr. Dasent about the evolution of -- not evolution  
4 -- strike that -- about how PGW and PECO CAP  
5 programs have changed over the years. Do you recall  
6 that discussion?

7 A I do.

8 Q And in your opinion should the Water  
9 Department start where PGW started or should it  
10 learn from PGW's experience?

11 A I think the development of a TAP program  
12 for the Water Department should take into account  
13 the lessons that have been learned to date through  
14 other experiences with other universal service  
15 programs.

16 Q Have you worked on developing low income  
17 programs for other municipal water utilities?

18 A I have.

19 Q In doing so have you used the lessons  
20 learned from your experience in Pennsylvania?

21 A I do. I have.

22 MR. BALLENGER: I have no further redirect  
23 for Mr. Colton.

24 MS. BROCKWAY: Recross based on redirect?

1 MR. DASENT: Yes.

2 \* \* \*

3 R E C R O S S

4 E X A M I N A T I O N

5 \* \* \*

6 BY MR. DASENT:

7 Q Just picking up where you left off a  
8 minute ago, Mr. Colton, the questions concerning  
9 PECO and PGW had to do with a rider. We did  
10 transgress into the discussion about the programs as  
11 well, but the rider has changed over the years, at  
12 least in PECO's case, if I remember your testimony?

13 A I believe that's the case. I believe  
14 that's what I said.

15 Q Let me refer you to hearing Exhibit 1,  
16 Public Advocate Hearing Exhibit 1, page 3 of 10. We  
17 talked about that a bit. It refers to gross  
18 writeoffs and the ratios for electric customers and  
19 natural gas customers. Do you know for this table  
20 for what period each utility writes off in the  
21 tables that are shown on that particular page?

22 A It is included as an appendix to each BCS  
23 report, but I couldn't tell you off the top of my  
24 head.

1 Q But the writeoffs and the timing for those  
2 writeoffs would affect the data?

3 A Yes.

4 MS. BROCKWAY: I think what we ought to  
5 do, and thank you for reminding me, is to take  
6 notice of the entirety of the reports that are  
7 excerpted here. So these are the reports from  
8 2013 to 2016, and we don't need to put more  
9 paper into the record, but I will take notice  
10 of the entirety of the report.

11 MR. DASENT: Thank you.

12 BY MR. DASENT:

13 Q Mr. Colton, you also mentioned in your  
14 testimony and today various citations and/or  
15 authority or data that support your various  
16 positions. So in your testimony you indicate using  
17 the average of which writeoffs are of PWG and PECO.  
18 For example, Hearing Exhibit 1 you referred to also,  
19 as well as Hearing Exhibit 3. Is that the scope of  
20 the support for your proposal in this case  
21 concerning the 13.1 percent adjustment?

22 A Well, no. The scope of the support for my  
23 13.1 percent is the 25 or 30 years of experience I  
24 have in developing programs such as this. And the

1 issue is do low income customers have a lower  
2 collectibility rate than residential customers as a  
3 whole. So that's the first question, a yes, no  
4 question. And then if you answer that yes, and I've  
5 explained to you why I not only believe that would  
6 be true, but why I believe that would be true for  
7 PWD, then the question is, given that, what number  
8 would you use. And then for the second question I  
9 looked at the two other utilities serving the City  
10 of Philadelphia.

11 Q And your references then to Public  
12 Advocate Hearing Exhibit 1 and Public Advocate  
13 Hearing Exhibit 3, do those factor into the analysis  
14 or is that part of your interpretation and  
15 corroboration of what you said?

16 A It would be part of the basis for  
17 concluding that it would be inappropriate to use a  
18 single melded number of 97.3, that a low income  
19 specific number would be higher. So it would be  
20 part of that conclusion.

21 MS. BROCKWAY: Would be lower.

22 THE WITNESS: The uncollectibles would be  
23 higher. The collectibles would be lower, yes.

24

1 BY MR. DASENT:

2 Q During your tenure as Belmont Housing  
3 Director you mention that you gained information or  
4 knowledge concerning affordability in housing in the  
5 30 percent threshold related to that. Do you have  
6 any data or reports, something that supports that or  
7 documents what you said today?

8 A There would be so many documents we would  
9 probably fill this room.

10 Q Can you give me a handful of them, maybe  
11 electronically?

12 A Yes.

13 MR. DASENT: If we could make that a data  
14 request, or a transcript request.

15 MS. BROCKWAY: I believe we are up to 10.

16 THE WITNESS: So a handful of documents  
17 indicating that --

18 BY MR. DASENT:

19 Q I wanted to find something that indicates  
20 support for your contentions.

21 A That 30 percent of income is considered to  
22 be a measure of affordability in the housing  
23 industry.

24 Q And I'm assuming that also relates to your

1 experience as a housing director, which is what you  
2 cited.

3 A Well, I'll provide you with data. I'm not  
4 sure the distinction you're drawing there.

5 Q I just assumed you're talking about your  
6 personal experience you would have pertinent for  
7 that relating to Belmont, Massachusetts, that's all.

8 A I'm not sure there are written documents  
9 that would indicate my experience as the chair of  
10 the Belmont Housing Trust. But if it's documents  
11 supporting what I refer to as the general  
12 proposition that 30 percent of income is the  
13 demarcation of affordability in the housing  
14 industry, yes, I can do that.

15 MR. DASENT: Thank you, Mr. Colton.

16 That's all I have.

17 MS. BROCKWAY: Okay. Sounds like you  
18 pulled it off. It's now 3:27. We'll go off  
19 the record and discuss scheduling.

20 \* \* \*

21 (Whereupon, a brief off-the-record  
22 discussion was held.)

23 \* \* \*

24 MS. BROCKWAY: The parties have agreed

1           that the schedule would permit time for  
2           Mr. Skiendzielewski to conduct his business  
3           before the Board at that time. We haven't  
4           decided -- he wants to make a presentation.  
5           Probably that will only be allowed as a matter  
6           of public input, similarly with what we did  
7           with the Commissioner of the fire department.  
8           And with respect to cross, he probably wants to  
9           cross Commissioner McCarty, and she indicated  
10          she will be here. How much time he gets I will  
11          decide later. Go off the record.

12                           \* \* \*

13                           (Whereupon, a brief off-the-record  
14          discussion was held.)

15                           \* \* \*

16           MS. BROCKWAY: Back on the record. We  
17           have gone over the schedule for Monday and  
18           Tuesday, and it appears to be exactly as stated  
19           in the draft schedule that Mr. Dasent  
20           circulated, plus finding a little bit of time  
21           to address some fire protection related dollars  
22           and cents issues.

23                           Is there anything else? If there is  
24           nothing else, I want to thank you all for

1 charging through these last two days. We have  
2 got a lot done and we'll see you all Monday  
3 morning at 10:00.

4 \* \* \*

5 (Whereupon, the hearing concluded  
6 at 3:35 p.m.)

7 \* \* \*

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C E R T I F I C A T I O N

I, Karen A. Stevens, a Court Reporter  
and Notary Public, do hereby certify the  
foregoing to be a true and accurate transcript  
of the proceedings in this matter, as  
transcribed from the stenographic notes taken  
by me.

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