

PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD
TECHNICAL HEARINGS
Thursday, May 17, 2018
Scheduled for 10:00 a.m.

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LOCATION: Gas Commission Meeting Room,
Room #018-031
1515 Arch Street
Philadelphia, Pennsylvania 19102

REPORTED BY: Lisa M. Cooper, Court Reporter

* * *

HELD BEFORE:

Nancy Brockway, Hearing Officer
Sonny Popowsky, Chairman

ALSO PRESENT:

Andre Dasent, Esquire
Robert Ballenger, Esquire
Stephanie Wein
Michael Skiendzielewski
Debra McCarty
Angel Rodriguez
Melissa Labuda

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2 MS. BROCKWAY: Good morning. My name is
3 Nancy Brockway. I'm the hearing officer in
4 this case of the Philadelphia Water Rate
5 Board. This is the continuation of technical
6 hearings in the quest of the Philadelphia
7 Water Department for rates for fiscal '19
8 through '21. I -- we have, this morning, two
9 witnesses. Land Bank and Penn Environment.
10 And we have some housekeeping that Mr. Dasent
11 has brought to my attention. And then we
12 have the presentation of an examination by
13 Mr. Skiendzielewski.

14 MS. BROCKWAY: So let's do the
15 housekeeping first. Mr. Dasent.

16 MR. DASENT: Thank you, madam hearing
17 officer. We have responses to transcript
18 request TR2. I would like to hand those up.
19 And we would also send them to the parties
20 electronically so they can be posted.

21 MS. BROCKWAY: While he's circulating
22 those, I would also like to say that when
23 we're done I want to have us go over the
24 deadlines for the post technical hearing

1 steps that will be coming up.

2 MR. DASENT: If Your Honor pleases, this
3 particular transcript request dealt with
4 providing the rates designated impact for the
5 proposed TAP Rider. And there are two
6 scenarios, one for the public advocate and
7 one for the Department. And they are all a
8 part of this exhibit, or this TR response
9 that we just handed up.

10 MS. BROCKWAY: Can you help us identify
11 which is which?

12 MR. DASENT: Well, at the top left
13 corner of the attachment, if you look at
14 Table C4, for example, you'll see PWD TAP
15 Rider Proposal.

16 MS. BROCKWAY: And then Public Advocate.

17 MR. DASENT: And then Public Advocate
18 right behind it.

19 MS. BROCKWAY: Thank you.

20 MR. DASENT: We also have to hand up
21 this morning the response to transcript
22 response 19. And that dealt with providing
23 a schedule for GAAP Financial Statements
24 detailing equity in the treasurer's account.

1 And I believe that's a question for the
2 bench.

3 MS. BROCKWAY: Off the record.

4 * * *

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

7 * * *

8 MS. BROCKWAY: The one you just handed
9 up is going to be superseded.

10 MR. DASENT: Yes. Thank you.

11 MR. BALLENGER: Can I ask a question
12 about CR2?

13 MR. DASENT: Yes.

14 MR. BALLENGER: I thought, when we were
15 discussing this earlier in the hearing, that
16 there would be a revised Table C1 with this
17 as well?

18 MR. DASENT: Well, we can produce a
19 revised Table C1. We don't have one in the
20 room.

21 MR. BALLENGER: Okay.

22 MS. BROCKWAY: That would be great. It
23 seems to me that it would be useful to,
24 unless it shows up on the printout, to also

1 provide a list of the assumptions made in the
2 dashboard that have to be put in by the
3 operator. So in other words, try to get such
4 and such a RSF, trying to get to such and
5 such a coverage ratio and so forth.

6 MR. DASENT: Well, I would have to talk
7 with Black and Veatch about how to customize
8 the response for your Honor's direction now.
9 But what we have and we can introduce is the
10 updated C1. We will have it later today,
11 perhaps, that will deal with the sort of
12 impact from the Department's proposal on the
13 TAP Rider.

14 MS. BROCKWAY: The reason that I'm --
15 I'm sorry to take the time, but I think it's
16 extremely important. The reason I'm asking
17 about that is because I had gotten the
18 impression, through the testimony, that one
19 could do a number of iterations that took,
20 for example, all of Mr. Morgan's proposed
21 adjustments and come up with different
22 results, depending upon what assumptions were
23 made in the dashboard. Is that accurate?

24 MR. DASENT: Well, Black & Veatch speak

1 to that. But I think it's not a, if I get it
2 right, the plug and chug model, push and
3 pull, one input and everything else changes.
4 You have to go through and make the various
5 adjustments for the assumptions you want to
6 input into the model.

7 MS. BROCKWAY: Right.

8 MR. DASENT: That's a layman's
9 understanding of it. But Black & Veatch can
10 best explain that if you wanted a more
11 detailed response.

12 MS. BROCKWAY: Well, let -- I think this
13 is so important, and I apologize to everyone.
14 We're going to wait until we get a little
15 further on this issue. I'm remembering Mr.
16 Jagt's testimony. And he was pointing out a
17 run done, I think, by the department which
18 showed that the residual fund was negative in
19 certain years. And others said this is a bad
20 thing.

21 What wasn't clear was whether or not
22 other adjustments could be made in the model
23 that would rebalance where funds were going
24 so that you wouldn't have a negative residual

1 fund. You might have a lower coverage ratio.
2 You might have a lower RSF, or whatever. So
3 I'm trying to figure out how we can get a
4 sense of is it possible to do Mr. Morgan's
5 adjustments without getting into trouble. He
6 claims it is, but -- and the thing is, you
7 guys are running the model. So if anybody
8 has any ideas of how to solve that problem,
9 I'm open to --

10 MR. DASENT: When you identify scenarios
11 that you want us to run, we can run them.
12 And that way you would have a basis of
13 comparison. The Department's proposal versus
14 scenarios that he might run that would
15 indicate, you know, various assumptions. For
16 example, we have agreed upon adjustments. We
17 can input those. If there are any additional
18 adjustments, we can input those. And the TAP
19 Rider impacts also would be reflected.

20 And so that run that you direct us to
21 perform at some point in the proceeding, and
22 perhaps we can even leave it as a TR
23 Response. Run the model and we will
24 identify the assumptions to run.

1 MS. BROCKWAY: Yes. Mr. Ballenger.

2 MR. BALLENGER: Yes. I think what Mr.
3 Dasent said is important. And I think it's
4 also important that the Board specify, you
5 know, in running the model, you know, how the
6 -- how they should make adjustments. So, for
7 example, in our use of the model for purpose
8 of preparing testimony, we did not alter any
9 of the assumptions regarding the results from
10 the Rate Stabilization Fund.

11 So if you look at Schedule Ultimatum 1
12 and you see 1.30 times coverage, part of that
13 coverage reflects the original assumption of
14 an 11-plus million dollar withdraw from the
15 Rate Stabilization Fund. Which, you know,
16 you could eliminate that assumption and
17 reduce coverage by, you know .03, or whatever
18 the number would be and basis points on the
19 coverage metric.

20 So I just say that to point out that,
21 and I think you were referring to actually an
22 example from our Exhibit 7, where
23 the residual fund declined each year. That,
24 again, was just a result of not making any

1 adjustments to the withdraws from the Rate
2 Stabilization Fund, or the amounts that were
3 going to the construction fund and the
4 residual fund or otherwise.

5 So when the Board identifies the run
6 that it wants the Department to conduct, I
7 think the Board needs to specify that the
8 Department should maximize, you know,
9 withdraws from the Rate Stabilization Fund,
10 or minimize withdraws from the Rate
11 Stabilization Fund, or, you know, at least
12 dish out a couple of scenarios for the
13 department to run for comparison purposes.

14 MS. BROCKWAY: That's what I was sort of
15 suggesting. Although, I was going more in
16 the direction of let the runs not violate any
17 covenants. And then in Mr. Morgan's case, he
18 has ideas about the Rate Stabilization Fund,
19 for example. So let his run reflect that.

20 And I -- but beyond that, you see, the
21 other thing is, it's like a bologna. You can
22 squeeze it on one place on the coverage and
23 you can lower rates. Or you could keep
24 coverage and increase rates, depending upon

1 how things shake out. Go off the record.

2 * * *

3 (Whereupon, a discussion off the record
4 was held.)

5 * * *

6 MS. BROCKWAY: We've had a discussion
7 about what would be most helpful to the
8 Board. And at this point we're going to wait
9 until the end of today's proceedings and then
10 return to this topic.

11 MR. DASENT: Well, before -- before we
12 leave we can run the model with any scenarios
13 that you want to see.

14 MS. BROCKWAY: That's right.

15 MR. DASENT: Give a side by side
16 comparison if you want to look at Mr.
17 Morgan's versus ours.

18 MS. BROCKWAY: Right. And we're just
19 having a question in our own minds what to
20 ask you about, so. But let's -- is there
21 any more housekeeping?

22 MR. DASENT: We also talked to Robin
23 about TR20 in discussing the wording. You
24 indicated to do that off the record. And

1 that has to do with trying to -- to get our
2 basic escalation factors and other
3 adjustments sort of aligned in one table so
4 you can see which adjustments were applied
5 where. And we're working on that and
6 hopefully by the end of the day we'll have
7 that.

8 MS. BROCKWAY: Great.

9 MR. DASENT: Now, one suggestion I was
10 going to make in rather we wait till the end
11 of the day is to add another transcript
12 request for the TAP Rider so we can add
13 additional areas in agreement. For example,
14 if we agree on the interest rate or their
15 narrowing various disagreements on the use of
16 estimated data. Those are things that I
17 thought would help sort of move that
18 discussion along.

19 I would like to boil it down to maybe
20 one or two areas that we haven't necessarily
21 agreed on, and then the Board can sort of
22 just focus on that as opposed to the whole
23 model (inaudible) issues.

24 MS. BROCKWAY: Yes, that would be very

1 helpful.

2 MR. BALLENGER: Would that be a joint
3 request of the Department and Public Advocate
4 to issue one response showing exactly where
5 we agree and subject to discussion off line
6 in case there are other areas?

7 MR. DASENT: Yes.

8 MR. BALLENGER: Okay.

9 MR. DASENT: Just trying to make sure we
10 have an avenue to move closer (inaudible.)

11 MR. BALLENGER: The Public Advocate is
12 agreeable to that.

13 MS. BROCKWAY: If we're holding TR20 for
14 the wording issue, then we're at TR21, right?

15 MR. DASENT: Yes.

16 MS. BROCKWAY: You were also mentioning
17 that there was some testimony that you wanted
18 to make sure were reflected in the record.

19 MR. DASENT: Yes. I know that PLUG
20 isn't here today, so PLUG's statement one,
21 which is Richard Baudino and his intended
22 exhibits or attached exhibits to that
23 testimony, I would stipulate as to the
24 authentication of that testimony and I hope

1 Mr. Ballenger would agree.

2 MR. BALLENGER: Likewise. No objection.

3 MR. DASENT: And I move for its
4 admission. I also want to reiterate, I
5 believe, PWD Statement 1 through 9, and 9A
6 for the Department. It's our direct case.
7 And move it into the record with the
8 associated errata sheets, assuming no
9 objection.

10 MR. BALLENGER: Just to -- no objection.
11 But I thought it was 9A and 9B, just to be
12 clear.

13 MR. DASENT: That's correct. Yes. And
14 PWD Rebuttal Statement 1 through 5, which
15 we've already marked for identification, and
16 the associated errata sheets. Two on those.
17 We would like to make sure those are moved
18 into the record. Is that also without
19 objection?

20 MR. BALLENGER: No objection.

21 MR. DASENT: And we have PWD hearing
22 exhibits 1 through 4 which we've marked over
23 the days of the hearing and we would like
24 those marked and moved into the record as

1 well.

2 MS. BROCKWAY: All hearing exhibits that
3 have not been excluded are in the record.
4 All filings and rebuttals and other testimony
5 that have not been stricken are in the
6 record.

7 MR. DASENT: I think that's acceptable.
8 The Public Advocate, I want to make sure he's
9 on board.

10 MS. BROCKWAY: He's already said he's on
11 board.

12 MR. BALLENGER: Yes, I have no objection
13 and assume the same for our statements and
14 exhibits from Mr. Dasent, with the one
15 exception I think being that we're going to
16 brief the issues Mr. Dasent raised in the
17 Motion in Limine.

18 MS. BROCKWAY: That's right.

19 MR. BALLENGER: But other than that,
20 assuming we're in the same position, and Mr.
21 Dasent has no objections to all of the
22 statements and exhibits that we've moved to
23 date, which I think we're revisiting old
24 areas, but just to make sure.

1 MR. DASENT: Yes. No objection.

2 MS. BROCKWAY: Those documents are
3 admitted to the record. Let's go off the
4 record.

5 * * *

6 (Whereupon, a discussion off the record
7 was held.)

8 * * *

9 MS. BROCKWAY: We have with us two
10 gentlemen from Land Bank who wish to present
11 their testimony.

12 MR. RODRIGUEZ: Good morning, madam
13 hearing officer. We've submitted written
14 testimony. I just want to authenticate the
15 testimony and state to my knowledge,
16 information and belief that the testimony
17 I've given is true and correct. Also for the
18 record, any reference in my testimony to
19 vacant property acquired, or to be acquired,
20 by Land Bank means that the property is
21 unoccupied.

22 MS. BROCKWAY: And you'll state your
23 name for the record.

24 MR. RODRIGUEZ: My name is Angel

1 Rodriguez. I'm the Executive Director of the
2 Philadelphia Land Bank.

3 MS. BROCKWAY: Are there any questions
4 of Mr. Rodriguez?

5 MR. DASENT: We have no questions and we
6 certainly stipulate to the authentication of
7 his testimony. And we're pleased he's here.

8 MR. BALLENGER: The Public Advocate has
9 no questions for Mr. Rodriguez and we also
10 agree to stipulate to the authenticity of his
11 statement and support his conclusion on the
12 record in this case.

13 MS. BROCKWAY: Any other participant?
14 Seeing none.

15 MR. POPOWSKY: I just want to note,
16 there's also an errata sheet that goes with
17 the testimony. So if there is no objection,
18 obviously we would like to see Mr.
19 Rodriguez's testimony and the errata sheet
20 admitted into the record.

21 MR. DASENT: Thank you. No objection.

22 MR. BALLENGER: No objection.

23 MS. BROCKWAY: It will be done. Sorry
24 to bring you all the way here and not ask you

1 any questions, but you must have written very
2 compelling testimony. So with our thanks, we
3 will move to the next order of business.

4 MR. RODRIGUEZ: Thank you for your time.

5 MS. BROCKWAY: Next we have cross
6 examination of Penn Environment. Good
7 morning.

8 MS. WEIN: Good morning.

9 MS. BROCKWAY: Why don't you identify
10 yourself and then we'll start and see if
11 people have cross examination.

12 MS. WEIN: My name is Stephanie Wein and
13 I'm the Clean Water Conservation Advocate for
14 Penn Environment.

15 MS. BROCKWAY: And you prefiled
16 testimony, is that correct?

17 MS. WEIN: I did, yes.

18 MS. BROCKWAY: I assume you want that
19 entered into the record?

20 MS. WEIN: Yes, please.

21 MS. BROCKWAY: Is there any objection?

22 MR. BALLENGER: No objection.

23 MR. DASENT: No objection.

24 MS. BROCKWAY: It is so entered. I

1 think we're ready for cross examination.

2 MR. DASENT: I just have a couple
3 questions.

4 * * *

5 CROSS EXAMINATION

6 * * *

7 BY MR. DASENT:

8 Q. It's my understanding that Penn Environment's
9 submission is to protect clean water, clean air and
10 open spaces?

11 A. Yes, that's correct.

12 Q. And from reading your testimony, is it part
13 of your admission you investigate problems, craft
14 solutions and educate the public in decision making to
15 help the public make their voices heard, am I right?

16 A. That is correct.

17 Q. And is your participation of this proceeding
18 a logical extension of Penn Environment specialty?

19 A. It is.

20 Q. And your focusing in this instance is SMIP
21 GARP?

22 A. It is.

23 Q. And is it your testimony that these programs
24 are effective in furthering storm water management

1 objectives?

2 A. That is our testimony.

3 Q. Are you proffering your testimony as a rate
4 analyst or a rate expert?

5 A. I am not proffering my testimony as a rate
6 analyst or a rate expert, but as a someone who has more
7 expertise in areas of clean water policy and a
8 representative of many other folks who feel so.

9 Q. That's all I have.

10 A. Thank you.

11 MS. BROCKWAY: Mr.
12 Ballenger.

13 MR. BALLENGER: Okay.

14 * * *

15 CROSS EXAMINATION

16 * * *

17 BY MR. BALLENGER:

18 Q. Good morning, Ms. Wein. Thank you
19 for joining us here today. I just had a couple of
20 questions about your direct testimony and I just wanted
21 to get a little understanding of just a couple
22 statements. And I don't think -- I don't think we'll
23 need more than a few moments of your time. Do you have
24 a copy of your statement?

1 A. Actually, no. First time in this sort of
2 hearing.

3 Q. Understood. Understood. I wanted to start
4 with page four of your testimony. At lines 19 through
5 20 you state that, "Five years into the program", and I
6 assume you mean the Green City Clean Waters Program?

7 A. Yes.

8 Q. Okay. You state that "Combined sewage
9 overflows have been reduced by 1.5 billion gallons
10 annually." And I just wanted to make sure that I
11 understood that the source of that statement was from
12 the Water Department's Philly Watersheds website, is
13 that right?

14 A. We did use the Philadelphia Watersheds own --
15 sorry, the Philadelphia Water Department's self
16 reported data. Whenever we're investigating any member
17 or any entity that's combined with a consent order with
18 either the DEP or EPA, it's traditional that these
19 entities are self reporting for MP's permits. But I
20 would say that that number should actually be updated
21 to 1.7 billion, given the 2017 information.

22 Q. Okay. And so that's based on the Water
23 Department's own reporting. And do you happen to know,
24 is there -- is that calculated on the basis of the name

1 of Green Acres as opposed to actual measure of
2 infiltration and inflows?

3 A. I know that at least one of the methodologies
4 used is with the calculation based on Green Acres,
5 which is, from my understanding, fairly standard when
6 looking at modeling these things nationwide.

7 Q. Okay. Thank you. And, so, I'd asked you, a
8 little bit in discovery, about this statement and I
9 just wanted to make sure. You don't attribute that 1.5
10 billion of 1.7 billion exclusive to the SMIP and GARP
11 projects, do you?

12 A. No, not exclusively.

13 Q. Okay. So there are other projects going on
14 that, as you clarified earlier, your focus is really on
15 SMIP and GARP in this case?

16 A. Yes.

17 Q. Can I ask you to just turn to page five. And
18 I'm looking at lines four through six. And your
19 testimony states, "By seeking matching funds from
20 property owners, the programs", and there, again, I'm
21 assuming you're referring to SMIP and GARP?

22 A. Yes.

23 Q. Thank you. (Continued) "reduce the cost of
24 the taxpayer when compared to retrofitting a similar

1 amount of impermeable acreage on publicly owned land."

2 That's your statement there?

3 A. That is.

4 Q. Okay. And I'd like to understand that a
5 little bit, because I -- I was not familiar with and
6 would like to hear whether or not I'm -- I'm
7 misunderstanding what you're stating here. Are there
8 -- are there currently -- have you identified cost to
9 taxpayers for the SMIP and GARP programs, or are you
10 talking about rate payers in that statement?

11 A. That was a term I should have clarified. I
12 had been referring to rate payers, not tax payers.

13 Q. Yeah, I thought that was the case, but I
14 would love to hear it if there was some tax revenues
15 going to SMIP and GARP. But there aren't, is that
16 correct?

17 A. That is correct.

18 Q. Would you support the City's funding of green
19 infrastructure efforts from any source of revenues? Or
20 would you just support the funding of those green
21 infrastructure projects from Water Department revenues?

22 A. I support the funding of green infrastructure
23 via revenues as our governing bodies see fit. And I
24 know that this is the sort of set of solutions that

1 have been put before us to -- to analyze and so I can
2 really only speak to sort of the plans that have been
3 proposed.

4 Q. Okay. And I think -- I think Mr. Dasent
5 covered a couple of the other things that I was going
6 to ask you. Am I correct in assuming this is the first
7 time you've testified in a proceeding like this, a rate
8 proceeding?

9 A. A rate proceeding, yes.

10 Q. Well, I'd like to thank you for coming and
11 for speaking with us today.

12 MR. BALLENGER: With that, and with your
13 blessing, madam hearing officer, I'd like to
14 simply -- at this point, I think we've
15 addressed most of what I had in my discovery
16 request from Penn Environment and I don't
17 think further paper response would
18 necessarily add to the record. So at this
19 point, in consideration of Ms. Wein's
20 testimony, I would simply withdraw those
21 requests, if that is acceptable.

22 MS. BROCKWAY: Is there an identifying
23 number?

24 MR. BALLENGER: Yes. They were

1 identified as Public Advocate Interrogatories
2 in Request for Production of Documents of
3 Penn Environment Research and Policy Center.
4 They were designated as PA-PE1 through
5 PA-PE9.

6 MS. BROCKWAY: Without objections, any
7 other parties wishing to cross examine?
8 Seeing none? Questions from the Board?

9 MR. POPOWSKY: No, thank you.

10 MS. BROCKWAY: I've got a couple of
11 questions, Ms. Wein. One of them is I
12 presume that Penn Environment would be happy
13 with a different program design if it got the
14 same number of acreage at a lower rate payer
15 cost, or more acreage at the same rate payer
16 cost?

17 THE WITNESS: Both of those sound great.
18 But, you know, we have yet to see -- we've
19 yet to see alternatives to, you know, what is
20 already being implemented here and what's
21 being proposed. Our concern, mostly, is the
22 number of acres being arranged so that we can
23 comply with our consent agreement.

24 And so we want to make sure all the

1 benchmarks are being hit by the Philadelphia
2 Water Department. And of course we are
3 concerned if those benchmarks aren't hit,
4 then the number of -- then there could be
5 fines that are passed on to rate payers. So
6 our concern is to make sure that these
7 benchmarks are being hit. And because SMIP
8 and GARP is such a large portion of the
9 number of green acres added, then we want to
10 make sure it has a dedicated funding source.

11 MS. BROCKWAY: I should know this, so I
12 apologize to everybody in the room for asking
13 you, because you're the last witness on this
14 topic. Do you have any idea how the ten
15 million, five million were chosen? The
16 amount of money, I might have the numbers
17 wrong too, the amount of money in addition to
18 what has been spent in the past.

19 THE WITNESS: What I know is that there
20 are escalating green acres requirements for
21 each year, based on the Consent Order
22 Agreement. And so my -- my best guess, from
23 what I have read and from what I know, is
24 that the increases are based on the metrics

1 that we need to (inaudible). But that is
2 exactly that, a conjecture.

3 MS. BROCKWAY: I think we had testimony
4 to that effect earlier.

5 THE WITNESS: Yeah, I'm not a rate
6 expert.

7 MS. BROCKWAY: Well, as a green acres
8 expert, did you work with the department
9 before they determined their number for this
10 rate case?

11 THE WITNESS: Not me personally. I
12 joined Penn Environment in 2012. But I do
13 know that our organization, I believe, had
14 made some recommendations, and we have a long
15 history of advocating for green
16 infrastructure generally.

17 MS. BROCKWAY: Okay. Those were my
18 questions. Any other questions based on my
19 questions?

20 MR. BALLENGER: No further questions of
21 this witness.

22 MR. DASENT: No further questions of
23 this witness. I should note, also, Erin
24 Williams is in the room if you have other

1 questions that you want to ask concerning
2 SMIP, GARP, grants or structure and why
3 they're escalating.

4 MS. BROCKWAY: You're always ahead of
5 me, Mr. Dasent. I don't need that
6 information. We got it I think yesterday.
7 And my questions really go to a different
8 point. But thank you.

9 MR. DASENT: Okay.

10 MR. BALLENGER: Nothing further from me
11 for this witness.

12 MS. BROCKWAY: There being no further
13 questions, Ms Wein, thank you for coming
14 today and giving your presentation and
15 sponsoring your testimony.

16 THE WITNESS: Thank you for having me.

17 MS. BROCKWAY: Off the record.

18 * * *

19 (Whereupon, a discussion off the record
20 was held.)

21 * * *

22 MS. BROCKWAY: Just to make a note for
23 the record, you hadn't filed any pre filed
24 testimony, so no one can cross examine you on

1 your pre filed testimony. You have asked for
2 a chance to make an opening statement and
3 closing statement and you have asked to cross
4 examine witnesses for the department, is that
5 correct?

6 MR. SKIENDZIELEWSKI: I have, but I
7 understand the ones I asked for weren't
8 provided.

9 MS. BROCKWAY: Well -- off the record.

10 * * *

11 (Whereupon, a discussion off the record
12 was held.)

13 * * *

14 MS. BROCKWAY: You e-mailed me last
15 night renewing your complaint that Ms.
16 Stephenson would not be made available and
17 giving me another reason why she should be
18 made available. And I haven't e-mailed you
19 back about the further reason, but the reason
20 is what she did in her former capacity with
21 regard to your specific property is not
22 relevant to what needs to be done, what
23 revenue amount the Department needs in order
24 to fulfill its service now.

1 MR. SKIENDZIELEWSKI: I strongly and
2 vehemently disagree, because hers is not a
3 single discount or removal of expenses. And
4 just because I, or any individual customer,
5 can't get access to the information does not
6 make it an unimportant concern for water
7 rates.

8 And as I mentioned last night, the
9 comments of the public, whether it's the last
10 time I made comments two years ago, or when
11 you listened to people make comments at the
12 public hearings, based on your protocol, none
13 of them would really be appropriate for this
14 forum, because they don't go across a whole
15 spectrum. Okay. You don't provide enough
16 information.

17 And as I mentioned last night, for a
18 department, whether it's my request or other
19 requests, to say that it's burdensome,
20 inappropriate, for a department of this size
21 and magnitude and speciality, not to have the
22 methodology to retrieve information
23 processes, procedures by name, HELP Loan,
24 purging. Those -- if you can't retrieve

1 them, I mean, that's sad if they can't
2 retrieve it. Or if they can, they're denying
3 it, it's disingenuous. So that's the purpose
4 for my --

5 MS. BROCKWAY: Mr. Skiendzielewski, I
6 want to strike that last remark about
7 disingenuous. Do you have any proof that the
8 Department has this ability and has denied
9 you the information?

10 MR. SKIENDZIELEWSKI: They have the
11 information.

12 MS. BROCKWAY: But they haven't been
13 denying it to you by being disingenuous, have
14 they?

15 MR. SKIENDZIELEWSKI: They can retrieve
16 it. You can strike it. You do whatever,
17 because you're the hearing officer. You can
18 do what you want.

19 MS. BROCKWAY: I'm going to strike your
20 suggestion that it might have been as a
21 result of being disingenuous, because you
22 have no evidence of that. But I interrupted
23 you. Please go ahead.

24 MR. SKIENDZIELEWSKI: I do have other

1 things in front of you, madam hearing
2 officer, that still have not been responded
3 to and then they're offered. But those --
4 those form part of the entire parcel of my
5 understanding or judgment of a process that's
6 really not being representative of the
7 customers they serve.

8 If it's very narrow and restricted
9 how an individual like myself or others, and
10 God bless the next hearing, you should have
11 2,000 pro se interveners. If it's very
12 restricted, and it really came out in your
13 just denial of discovery 20 hours before the
14 final thing, that -- that you really don't
15 have the basis for it. It's in good faith,
16 or suspects that this is the case.

17 I -- I'm unable to get access to the
18 information I need to build a case. And what
19 can be said? Processes like these exist for
20 the organizations and the bureaucracies that
21 create them. I come from a police
22 department. I came from Internal Affairs. I
23 know how internal review processes work. And
24 that's probably to many people's dismay here

1 while I talk -- can't even bring it up. I'm
2 afraid. First Amendment.

3 There seems to be a disconnect here with
4 attorneys and even non attorneys in this
5 process. And I'll stop my screed. That
6 there's a difference between promise and
7 threat. And all I can say about that with
8 regard to the First Amendment is, back here
9 in this own City when that was drawn up over
10 200 years ago, do you think that First
11 Amendment was offered as a promise or
12 a threat?

13 MS. BROCKWAY: The what was offered as a
14 promise?

15 MR. SKIENDZIELEWSKI: First Amendment,
16 right to protest, to publicize, to share
17 information in public. But I've had at least
18 four now statesmen from City officials when I
19 with regard to public factual documenting
20 information in these issues, prior to and
21 now, that's a threat.

22 One thing here is
23 extremely difficult, it's extremely
24 difficult, is the insinuation, or really the

1 claim, that I -- my -- I'm trying to use this
2 process to somehow gain access or gain
3 advantage in some kind of attempted
4 settlement with the City. Who could possibly
5 use this process to gain any advantage?

6 MS. BROCKWAY: Agreed.

7 MR. SKIENDZIELEWSKI: Last, and I'm
8 finished. To describe only my efforts as
9 pecuniary and personal -- could we have a
10 show of hands who's --

11 MS. BROCKWAY: No, we can not have a
12 show of hands.

13 MR. SKIENDZIELEWSKI: Okay.

14 MS. BROCKWAY: This is a hearing. This
15 is not --

16 MR. SKIENDZIELEWSKI: Please. I
17 understand. That was rhetorical. So there
18 are reasons -- I'm not claiming unfairness.
19 I'm claiming a process. Could I ask you
20 something? I was trying to read the
21 regulations. Where in the regulations is it,
22 I'm trying to be objective here, does it say
23 it can only be restricted to affairs that can
24 be shown to be broad based or can affect

1 water rates? Is it in the regulation about
2 that?

3 MS. BROCKWAY: Yes. Because the entire
4 purpose of the Water Rate Board is to set
5 rates.

6 MR. SKIENDZIELEWSKI: I was trying to
7 read it. There wasn't that much detail about
8 that. I didn't see that it restricted it to
9 that.

10 MS. BROCKWAY: Actually, there have been
11 disputes about the extent to which the Board
12 can go further than rates. And generally we
13 can't.

14 MR. SKIENDZIELEWSKI: I -- we know that.
15 And that's why there is no -- there is very
16 little -- so we can -- there's really not --
17 I'd just really like to proceed with this
18 stuff, because, as I said before, I have two
19 critical issues above and beyond this in
20 reference to my -- my being sanctioned for
21 some of my actions.

22 There need -- if you use the word
23 sanction you have to refer to the statement
24 made by counsel of the board to this

1 intervener last week in attempt to block my
2 access to City government to readdress across
3 all City agencies. If you talk about
4 sanctions, please include that.

5 And the other thing, in terms of the
6 safety issue. The safety issue with this
7 equipment, clear and beyond any judgment,
8 professionally, standards, manufacturing
9 thing, there was unsafe operation in front of
10 my house, and on the record, the highest
11 level of this department has said it's not a
12 safety issue. And if anything moves me
13 forward, that will move me forward. Let's
14 just do this.

15 MS. BROCKWAY: Well, I need to say a
16 couple of things about that.

17 MR. SKIENDZIELEWSKI: Okay.

18 MS. BROCKWAY: I was not pleased to see
19 the footnote to the -- which was trying to
20 characterize your purpose in being here. I
21 had said it in an earlier decision, I think
22 if you remember, that I did not like ad
23 hominem complaints or criticisms. The
24 discussion of your -- of your data request

1 came in very late in the proceeding.

2 In fact, all of the late data requests
3 that I denied last night could have been
4 denied just because they weren't in on time.
5 And one of the reasons we have these on time
6 is so that people can prepare for these
7 hearings. You have to be able to prepare in
8 advance. Second thing. In your
9 correspondence you have often said, "Don't
10 you see this? Don't you see that?" Or "I
11 talked to a City attorney", or I talked to
12 somebody else. You must understand, I had no
13 idea what happened in your case.

14 MR. SKIENDZIELEWSKI: What happened
15 what?

16 MS. BROCKWAY: In your particular case.
17 I only know, and we only know, what has been
18 presented to us in the record. And it's been
19 very difficult, because you missed your
20 opportunity to put your case forward earlier.
21 I think it was April 20th, is that the
22 deadline?

23 MR. DASENT: Yes.

24 MS. BROCKWAY: So that I could

1 understand. So please understand that I
2 don't understand a lot of what you're saying,
3 because you make references that have not
4 been put forth on the record yet.

5 MR. SKIENDZIELEWSKI: And you understand
6 that I've made plenty of admissions of
7 mistakes and stumbles along the way.

8 MS. BROCKWAY: I don't think it's a
9 mistake, on my part. Anyway. But you're
10 right, as a pro se intervener, it is well to
11 give you an opportunity to present your
12 information in the way that you like and we
13 have put aside the rest of the morning for
14 that purpose. So if you have -- I see you
15 have a pile of documents and I told you to
16 make copies.

17 MR. SKIENDZIELEWSKI: As you told me
18 when you responded, you said I would need
19 four or five copies. And then I
20 (inaudible.) --

21 MS. BROCKWAY: Wait. Go off the record.

22 * * *

23 (Whereupon, a discussion off the record
24 was held.)

* * *

1
2 MR. SKIENDZIELEWSKI: The first thing I
3 would like to look at, obviously, is the
4 first request. Is that how this is done?
5 You take a look at the first discovery
6 request?

7 MS. BROCKWAY: No.

8 MR. SKIENDZIELEWSKI: What do we do?

9 MS. BROCKWAY: We're making a special
10 proceeding for you.

11 MR. SKIENDZIELEWSKI: Questions?

12 MS. BROCKWAY: No. Let me finish.

13 MR. SKIENDZIELEWSKI: Um-hum.

14 MS. BROCKWAY: Because you did not file
15 or pre file direct testimony.

16 MR. SKIENDZIELEWSKI: Which means?

17 MS. BROCKWAY: Well, if you had gone
18 back and looked at the rules of the case you
19 would know, but what it means is you tell
20 everybody what your position is and why it's
21 your position and you write -- you put down
22 what evidence you have to support your
23 position. And that should have been done on
24 April 20th. So we don't know, again, what

1 your position is. And we are --

2 MR. SKIENDZIELEWSKI: I have no -- I
3 have no way of saying anything here at the
4 hearing, is that what you're saying?

5 MS. BROCKWAY: I could do that to you,
6 but I'm not.

7 MR. SKIENDZIELEWSKI: You can -- please
8 do what you do as a professional and
9 objectively, because I would expect and
10 demand nothing less.

11 MS. BROCKWAY: Yes.

12 MR. SKIENDZIELEWSKI: Period.

13 MS. BROCKWAY: Okay. So --

14 MR. SKIENDZIELEWSKI: You could just --

15 MS. BROCKWAY: Would you please -- you
16 had said you wanted to make an opening
17 statement. Would you make your opening
18 statement?

19 MR. SKIENDZIELEWSKI: Okay. Maybe
20 that's all I'll get to do. I don't know. I
21 had -- I thought I was going to be able to
22 proceed and ask questions about the policy of
23 laterals. Who enforces and how (inaudible.)
24 So I'm not going to be able to ask those

1 questions?

2 MS. BROCKWAY: Wait a minute. You told
3 -- you told me that you wanted to make an
4 opening statement and a closing statement.

5 MR. SKIENDZIELEWSKI: I understand, but
6 I --

7 MS. BROCKWAY: So let's do that part
8 first.

9 MR. SKIENDZIELEWSKI: Okay. Well,
10 there's -- I really made some of those things
11 on my comments about the process. My
12 comments were about things that maybe you're
13 going to say I'm not allowed to talk to. I
14 mean --

15 MS. BROCKWAY: I'm going to allow you to
16 say anything you want as long as it's not
17 scurrilous.

18 MR. SKIENDZIELEWSKI: Oh, yeah. The
19 thing here, if we focus on the stuff that's
20 supposed to be for the good or for the
21 positive for the Water Department, my
22 exchange, my working with them, and, please,
23 if there's somebody in here who's talking a
24 matter of a 6, \$7,000 by now, they're

1 obviously sadly mistaken.

2 As I mentioned over and over, I've had
3 an opportunity in many forms, testified in
4 Federal court, protested in Harrisburg. I'm
5 not new to this, and the facts are on my
6 side. You just better get with the program.
7 And it's not a legal matter. They keep
8 telling me that I appeal different things
9 from the Tax Review Board.

10 Just even look at the Tax Review Board.
11 They don't hear evidence. I can't get access
12 to evidence. Yes, they turned me down. But
13 for the Water Department to use that as the
14 basis for which I have no standing is -- is
15 humorous. It's laughable.

16 We have these construct -- well, take
17 the Tax Review Board just by itself. They
18 failed to notify this petitioner, as well as
19 probably hundreds of petitioners, of their
20 small available review to petition a Tax
21 Review Board within 30 days. They never
22 notified them. It's right in the
23 regulations. They never notified them.

24 So I went on a tear for six months or a

1 year asking the inspector general, Office of
2 Chief In -- all of these people why haven't
3 they previously notified rejected Tax Review
4 Board complainants of the small things and go
5 back to the Board. They don't have to hear
6 it, but it can be rejected. They do tell
7 them to go to Common Pleas Court and bring
8 their money with them for the attorney fees,
9 but they don't tell them that.

10 So lo and behold, finally I find out
11 indirectly from your counsel to the Water
12 Rate Board, oh, they added that to the --
13 they added that to the conditions.

14 MS. BROCKWAY: Which counsel are you
15 disclosing?

16 MR. SKIENDZIELEWSKI: I'm referring to
17 Daniel Cantu-Hertzler.

18 MS. BROCKWAY: I believe that when he
19 was discussing matters with you he has told
20 us that -- we have not talked with him about
21 those matters. We do not know what he has
22 said to you and what you have agreed to. And
23 he --

24 MR. SKIENDZIELEWSKI: He has said to me

1 directly, after discussing a ton of issues,
2 and clearly stating that the City has no
3 liability, has no liability in water lateral
4 issues. Has none. It's all on the
5 homeowner. He said to me, an officer of the
6 court, the City's correspondence with you is
7 over, as are any and all City investigations
8 at your behest. That was said by an
9 attorney.

10 MS. BROCKWAY: Yes. But not through the
11 Water Rate Board.

12 MR. SKIENDZIELEWSKI: I didn't say that.
13 I just said --

14 MS. BROCKWAY: You said your attorney in
15 this.

16 MR. SKIENDZIELEWSKI: As the attorney to
17 the Water Rate Board. As an attorney in any
18 public office.

19 MS. BROCKWAY: He's not the attorney --
20 we asked him specific questions and we have
21 never asked him anything --

22 MR. SKIENDZIELEWSKI: I'm not trying --
23 I'm not fine tuning that here. And yet here
24 everybody is so critical of my actions,

1 steps, you know. And I'm sorry that you're
2 not going to like where I send the
3 information, who I share it with. Doesn't
4 matter to me. I will be, and I have in the
5 past, when I was in the police department,
6 leaving the police department, there was
7 corruption issues that I wasn't involved in
8 but it impacted my employment. Nobody would
9 act on them.

10 I probably send 3,000, 4,000 faxes over
11 the course of a year. You have to get used
12 to the fact if you make decisions in the
13 public sector, you must be comfortable and
14 made public. You have to be comfortable.
15 And if you're not comfortable, you are in the
16 wrong profession. And that means
17 neighborhoods, associations, professional
18 groups. And the sky is the limit, according
19 to the First Amendment. Promise. I just
20 rambled.

21 But for this person -- and here's the
22 thing. This person, Mr. Cantu-Hertzler, as
23 well as the Commissioner, a while ago, at
24 least a year and a half or maybe two years

1 ago, said, if you have additional details
2 that might make your case relevant to your
3 next door neighbor's, where he got a 55
4 percent discount, and the loan shows that he
5 was given the discount by Sara Stephenson,
6 the Assistant City Solicitor at the time, who
7 was in charge of government affairs and
8 public policy, they encouraged me to do that.

9 I did all of the stuff with Mr.
10 Cantu-Hertzler simultaneous to this. So it
11 wasn't something I was seeking. It was
12 something -- I was going back to his gesture.
13 But it's clear, it is clear that he had no
14 intention -- he had no intention, regardless
15 if I showed him a PE report.

16 MS. BROCKWAY: I will strike that
17 remark. You have no idea what his intention
18 was. And I will not hear you claim what his
19 intention was without having proof of it.

20 MR. SKIENDZIELEWSKI: But he knew way
21 back then this would get into liability.

22 MS. BROCKWAY: It is also irrelevant to
23 our business.

24 MR. SKIENDZIELEWSKI: Okay. But

1 anyhow, in the sense that if we -- if we
2 begin to look at the kinds of behavior, or
3 conduct, or steps, or actions or -- you know,
4 let's make sure we get -- take a look at
5 everything. Let's make sure we take a look
6 at everything. For the -- just for the
7 simple fact of the safety.

8 Oh my goodness gracious, when they have
9 backhoes and outriggers, and they put the
10 stabilizers down, check with any professional
11 engineer association. This is the best to
12 have this on record. They have to be on
13 stable, flat, supported ground.

14 Even without my photos, which no one in
15 City government, not even the Water
16 Department, asked for to do an investigation.
17 Even without my photos, the damage that was
18 done shows -- the damage shows, that they
19 were going to pay for, shows that they were
20 used improperly.

21 And as I said, you're welcome to a piece
22 of document that I shared at the hearing.
23 For someone to allow something like that to
24 go unacknowledged -- how do I know they are

1 unacknowledged? I do know that risk
2 management people told me it was referred to
3 the Safety and Water Department. I talked to
4 Mr. Feeley. Matt, he never had any referral
5 for 516 Parkhollow Lane.

6 Yes, you shouldn't use disingenuous, or
7 whatever the words are, but you have to --
8 you have to recognize that I'm tenacious. I
9 will, and thank God, I will check, I will
10 follow up, and I will be there.

11 MS. BROCKWAY: Mr. Skiendzielewski,
12 you're old enough to remember this. Just the
13 facts, ma'am.

14 MR. SKIENDZIELEWSKI: Just the facts.
15 But the fact that you can't walk away from
16 that. The Salvation Army collapse, the City
17 Department was constantly notified they were
18 taking it down wrong. The pier collapse,
19 there was cracks in the floor. Those people
20 were killed. I'm sorry if that thing -- and
21 it's all washed out.

22 Where they were putting that against the
23 curb on an angle, that's all washed out
24 there. If that had broken through, the thing

1 would tip, Water Department employees are at
2 risk. Passersby are at risk. I get no -- no
3 acknowledgement, no response, no thank you.
4 Let's -- nothing. Nothing. Sad. Sad. Sad.
5 Sad behavior.

6 You can hate me all you want. You can
7 think I'm a pain in the neck. But you have
8 to take care of your employees and your
9 citizens. And this thing here from the Law
10 Department's attorney. For me to be
11 speechless it takes a lot. "The City's
12 correspondence with you is over, as are any
13 and all City investigations."

14 I asked questions. And well, did he
15 send out notifications to all these different
16 departments that any inquiry I make will be
17 turned away? And of course a little tongue
18 in cheek, I said, well, did you send it to
19 Internal Affairs of the police department?
20 Because when I was there, you had to take the
21 Complaint whether the person -- no matter how
22 unstable the person was. No matter how many
23 arrests they had, you take the complaint.
24 How dare Mr. Cantu-Hertzler say he's going to

1 block my access to government.

2 MS. BROCKWAY: This is outside the scope
3 of what we have.

4 MR. SKIENDZIELEWSKI: I understand. But
5 it's going to be on record. And he knows it.
6 Oh wait. He's the same one when we had a
7 discussion a couple years ago about -- there
8 was a case where somebody in the City
9 government was sharing my correspondence to
10 them. It got over here. He said, no, this
11 is very clear. Your correspondence to us is
12 confidential, but anything sent from any City
13 employee is public record. Thank you, Dan.

14 It's so clear when people have not had
15 to account and justify and document their
16 actions. It is so obvious. And they get --
17 and it's just -- I can't use adjectives.
18 Guess what, I came from a career we had to
19 document, justify, explain and corroborate
20 your actions every single minute. If you're
21 in a profession that doesn't do that, tough.
22 Because this one here, and the safety issue
23 will be accounted for. I can promise you on
24 the record and not part of this -- part of

1 this forum.

2 So if I don't have any standing based on
3 I didn't file the questions, I'm fine.
4 Because this is here. Even -- you talk about
5 the long lateral policy. Have we heard of
6 Monroe Street lately? Have we heard of
7 Monroe Street? Have we heard of Monroe
8 Street?

9 MS. BROCKWAY: That means nothing to me
10 at the moment.

11 MR. SKIENDZIELEWSKI: What? Maybe the
12 Commission can fill you in on the long
13 running -- Oh, God.

14 MR. BALLENGER: Madam hearing officer,
15 if I may just interject. There was some
16 public input testimony about Monroe Street
17 and the condition of the street there, I
18 believe.

19 MS. BROCKWAY: Thanks for reminding me.
20 I do recall it.

21 MR. SKIENDZIELEWSKI: I'm not here to
22 cause trouble. I'm not here to make life
23 difficult. I am here to stand up and take
24 action where it needs to take action. And

1 all the stuff, I was just highlighting these
2 types of things what Mr. Dasent said on some
3 of these things. I mean, you got to be
4 kidding me. It's not even -- it's not even
5 -- it's just -- it's just sad. It's sad.
6 Those statements are sad. Now, that's a
7 safe adjective. Those statements are sad.

8 MS. BROCKWAY: You can say that. You're
9 not trying to demean his person.

10 MR. BALLENGER: They're sad. And I had
11 -- I had -- let's see if I can go with what I
12 asked you in the interim. But this is what
13 it is. You know, the three words, I probably
14 have used them several hundred times.
15 Documents, whether I sent it to the Water
16 Department, the City Council people, I've
17 sent it to the Delaware Planning Commission.

18 MS. BROCKWAY: Wait. She can't
19 understand --

20 MR. SKIENDZIELEWSKI: I'm sorry. I said
21 my correspondence contains three words. I've
22 only ever asked to be treated fair, equitably
23 and reasonably when compared to my neighbor
24 or who had similar collapses of the lateral

1 and was given a 55 percent discount, okay?
2 As -- let me just share with you my last Tax
3 Board -- Tax Review Board Hearing, January
4 12th, 2017, I'm there for a \$12,000 help
5 loan, okay, with these details.

6 I subsequently asked them for a new
7 hearing with my PE report, which says these
8 petrified clay things were not installed
9 properly. It wasn't supported. Those kind
10 of things documenting the reasons for the
11 failure. I asked the Tax Review Board for a
12 new hearing with new factual information.
13 They said no. We're not going to give you
14 one.

15 But back to the January 12th hearing.
16 When I had that hearing, who showed up from
17 the Water Department to testify? The person
18 that was in charge of a billion dollars. The
19 Water Commissioner. And Ski stays silent.

20 MS. BROCKWAY: Mr. Skiendzielewski, I
21 had said that you -- let's say this is
22 concluding your opening statement, but I had
23 said that you might produce documents even at
24 this late date. And I see you have a pile of

1 documents. Do you want to distribute them?

2 MR. SKIENDZIELEWSKI: Well, it has to do
3 with -- Yes, I do.

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

5 * * *

6 (Whereupon, a discussion off the record
7 was held.)

8 * * *

9 MS. BROCKWAY: Mr. Ballenger is kindly
10 distributing some of the documents that Mr.
11 Skiendzielewski had provided.

12 MR. SKIENDZIELEWSKI: The first two
13 things, there's the meeting at 5th and
14 Huntingdon where I attended. Made my
15 presentation in the front of the room. And
16 The page I selected was Ms. McCarty's
17 response regarding a HELP Loan. Money --
18 take the tax payers' money seriously. If
19 somebody says I'm going to pay this loan
20 back, we expect that would occur unless there
21 is some installation issues on the plumber's
22 part where he did not do it in our standards
23 and it failed. But that would not be the
24 case with that particular property.

1 Then safety is very important to us and
2 we investigated the claims, followed and
3 found no issue really. So it really has a
4 statement about the long laterals. Some
5 small statement about the policy. And it
6 also has a declaration that there was no
7 safety issue.

8 The other one was from the City Council
9 chambers. It has to do with Monroe Street,
10 where Ms. McCarty's responding. It says,
11 "Mr. Becker has contacted me this past
12 weekend, and there is a meeting set up. His
13 concern was customer service, which, again,
14 we always want to improve. But the
15 Department cannot pay for private laterals.
16 This is not what we're allowed to do. If
17 that were to occur, we would charge in doing
18 that, it would be a larger rate increase."

19 Well, even though she states clearly the
20 Department cannot pay for private laterals,
21 the Department paid for 55 percent of my
22 neighbor's private laterals. The -- do you
23 have the thing from the modified loan
24 agreement?

1 MS. BROCKWAY: Modified which agreement?

2 MR. SKIENDZIELEWSKI: There is a loan
3 agreement. Did I give that out?

4 MS. BROCKWAY: Off the record.

5 * * *

6 (Whereupon, a discussion off the record
7 was held.)

8 * * *

9 MS. BROCKWAY: We have a copy of part of
10 the transcript from the City Council Chambers
11 Public Input Hearing. We don't have copies
12 to circulate of the other Rate Board Input
13 Hearing, but Mr. Skiendzielewski has kindly
14 shared with us -- reminded us what was on
15 that. So we don't need further copies.

16 MR. SKIENDZIELEWSKI: There's two pieces
17 of paper that I passed out. One is a
18 modified loan agreement between the Water
19 Department, the homeowner, and Sarah
20 Stevenson, the Assistant City Solicitor for
21 the Water Department, who -- who, despite the
22 fact that Mr. Cantu-Hertzler would not
23 release the name of the Integrity officer for
24 the Philadelphia Water Department, that

1 Integrity officer is Sarah Stevenson, the one
2 who signed the modified loan agreement.

3 MS. BROCKWAY: We're getting pretty
4 close to ad hominem complaints.

5 MR. SKIENDZIELEWSKI: I didn't add the
6 part that -- no. That's not an ad hominem
7 complaint. That's just the fact that --
8 here's the -- here's her responses, on the
9 second page e-mails. And it says right
10 there at the bottom, "As I stated previously,
11 I am no longer in possession of Mr. Cain's
12 Tax Review Board case file", which is the
13 adjoining property.

14 "I've been informed the Water Law
15 Division is also no longer in possession of
16 Mr. Cain's file. I cannot speak to the
17 specifics of the reasoning behind modifying
18 Mr. Cain's HELP loan. Regardless, as with
19 any bill adjustment before the TFB, I can
20 assure you it was deemed in the best interest
21 of the Water Department at that time."

22 Don't have the records, but can make
23 that judgment. That sounds like the kinds of
24 innuendos that I'm being chastised for. So

1 that -- that -- and the other two things are
2 really the -- the -- there's two -- I think
3 there's two memos from Mr. Cantu-Hertzler
4 during our conversation over the past month
5 and a half. And the italicized sections --

6 MS. BROCKWAY: I've got one from August
7 29th, 2017?

8 MR. SKIENDZIELEWSKI: Yeah. "I hope you
9 can explain clearly why the responsibility
10 should be that of the Water Department.
11 Perhaps you should begin your presentation as
12 if I knew nothing about the issue, but can
13 learn it for myself if you show me what is
14 what and point me in the right direction.
15 From what I have understood to date, the
16 problems have been with laterals or other
17 things for which the property owner is
18 responsible."

19 MS. BROCKWAY: And the other one that
20 you handed up is one dated -- starting with
21 May 10th, 2018.

22 MR. SKIENDZIELEWSKI: You know, it's
23 pretty clear from what he said in the thing,
24 and we don't need to go into that again, that

1 the City has no liability. The City just has
2 no liability responsibility for homeowners
3 who are on laterals. But that is not as easy
4 as it sounds, because as we see in Monroe
5 Street, and you could make a case -- begin to
6 make a case, but of course it's on the
7 homeowners to sue and present a case.

8 In our development of 27 new homes in
9 the year 2000, at least three of the long
10 laterals have failed. It's alongside
11 Pennypack Park and they always suspected
12 there was water running in the street. So --
13 and there is still depression in people's
14 property.

15 So, yes, it's my understanding that on
16 Monroe Street right now, despite collapsing
17 streets, they're holding individuals
18 responsible. There is no consistent policy,
19 regardless of whether I'm able to bring it up
20 or not able to bring it up. And work is
21 going to be done in the media and other
22 places to bring this to the focus it needs to
23 be. I'm sorry.

24 This was so easily solvable in the

1 beginning. But as it is with many
2 situations, personalities rule. And that's a
3 shame. That's a real shame. I mean, I had
4 -- I sent a ten page letter to the Mayor with
5 Tax Review Board issues, the water issue,
6 These things. Four days later I get a two
7 paragraph response from the Inspector
8 General. City Government. The historians
9 who study this say democracies last about 200
10 years. We don't have -- we don't have the
11 response. We don't have (inaudible.)

12 MS. BROCKWAY: We don't what?

13 MR. SKIENDZIELEWSKI: We don't have the
14 responsiveness. We don't have the service.
15 We don't have the ability to listen to
16 people's complaints. Do what's in their best
17 interest. Organizations have their goals and
18 objectives. And very, very rarely do they
19 coincide with the goals and objectives of
20 what's in the people they serve.

21 I know that from working with disability
22 organizations. I know that with working with
23 service providers. And they have to be.
24 Organizations have to be tapped on their

1 shoulders once in a while, or hit with, you
2 know, something to say, hey, this is the way
3 you are supposed to operate. This is what
4 you're supposed to do for people. That's all
5 I've done. That's all I've been attempting
6 to do here. And yet no one will respond.
7 Sadly. I have to go home.

8 I mean, so, that's basically my
9 beginning, opening and end. There's no
10 reason to go through this. And even there --
11 you know, I was -- if I can add, which I
12 will, I was told one time in one of my
13 e-mails from Ms. McCarty, to go check with --
14 this is an interesting twist. To go check
15 with the contractor, Excel Plumbing, who did
16 my lateral work for approximately \$12,000.
17 It might have been a problem.

18 Well, when I contacted him, he said, and
19 in the second discovery request there is a
20 list of approved contractors and I'm going to
21 call them all, what is the details? What
22 happened down there? What is the problem?
23 Did something crack? Whatever. I can't talk
24 with you. I cannot share any information

1 with you, because I will lose my approved
2 private contractor status with the City.

3 My contact was with me and the Water
4 Department. Your loan is between you and
5 that company. Go contact them and see what
6 the problem is. Mr. Excel said, "Ain't
7 talking." I'll have to find out. I can
8 only -- the best I can do is go talk to all
9 of these people, which I will. Of course my
10 wife says I waste my time. And see if they
11 say the same thing.

12 MS. BROCKWAY: Are you retired?

13 MR. SKIENDZIELEWSKI: Yes, I am retired.
14 But I have lot of personal family things I'm
15 involved in. I'm nowhere near frustrated as
16 I've talked to, the Monroe Street people.
17 They're afraid of the children falling into a
18 hole. It's sad. Just sad. Sad of wasting
19 my time. Sad I should be spending my energy
20 elsewhere. That's all.

21 I don't want to win. Advocacy is very
22 rarely about winning. Very rarely about
23 winning. It's about being persistent,
24 dogged, and, yes, unpredictable.

1 Unpredictable. Oh, yes. Unpredictable.

2 As the Integrity officer walks in the room.

3 Thank God.

4 Anyhow, so that's just the way it is.

5 Treat people the way you're supposed to and

6 expect to be. Receive the same -- receive

7 the same thing. I've made lots of mistakes

8 in my years and I continue to make mistakes,

9 but I think I continue to refine and do a

10 little bit different. Try to be better. But

11 it's a tough task. This is a tough task.

12 But, yes, the Board should be entitled

13 to -- let's look on the bright side. What's

14 the bright side here? Mr. Popowsky's term

15 ends in two months, right? Come on. All I

16 have is humor and faith. This is a sad

17 commentary. I didn't know about the thing.

18 I really didn't. So a person of my standing

19 is supposed to put questions forward so they

20 can ask me things back, huh?

21 MS. BROCKWAY: You weren't supposed to

22 put the questions forward.

23 MR. SKIENDZIELEWSKI: My positions.

24 MS. BROCKWAY: Your position and the

1 information that supported it. So we
2 wouldn't come to this point on May 17th and
3 be surprised.

4 MR. SKIENDZIELEWSKI: Okay. So I really
5 -- I really want to make sure for the record,
6 because this is what I'm -- I can't really
7 ask what the policy is or laterals and things
8 like that, because I'm not in the place to be
9 asking that on the record?

10 MS. BROCKWAY: We will acknowledge you
11 to a certain extent on that. I don't think
12 it's going to make it possible to grant you
13 what you want. I'm not even sure what you
14 want. Let me ask you that question. What do
15 you want --

16 MR. SKIENDZIELEWSKI: I want -- .

17 MS. BROCKWAY: What do you want with
18 respect to the level of rates that this Board
19 has jurisdiction to send?

20 MR. SKIENDZIELEWSKI: With regard to how
21 that might impact the rates?

22 MS. BROCKWAY: Yes.

23 MR. SKIENDZIELEWSKI: If it's
24 inconsistently applied, you know. Of course

1 you have to get records, then it would be --
2 yes, it certainly could impact water rates.
3 But you can't get that unless you pry it from
4 the -- you pry it from the files of the Water
5 Department. So you are dead in the water. I
6 mean, that's basically it. You know. Thanks
7 for your time. Thank you for your time.

8 I really do appreciate your attention or
9 interest, but the process needs to be
10 more -- more consumer oriented and stuff. I
11 know -- you know. Processes like these is
12 for the stakeholders. I'm sorry. Not
13 because of my inability to get what I want.
14 You think I was going to get something.
15 There's nothing to get here.

16 What I -- I don't know what else to say.
17 I don't want to take more of your time as
18 necessary. I made my point. But clearly,
19 now, since another interesting party is here,
20 this will not stop. This statement -- this
21 statement by the City attorney, by Dan
22 Cantu-Hertzler, cannot go unrecognized.

23 MS. BROCKWAY: All right --

24 MR. SKIENDZIELEWSKI: I'm -- you know.

1 It's not to Ms. McCarty. It's for her
2 adjoining seat member.

3 MS. BROCKWAY: In any case, address your
4 comments to the Board.

5 MR. SKIENDZIELEWSKI: Okay.

6 MS. BROCKWAY: Do you have anything
7 further?

8 MR. SKIENDZIELEWSKI: No, I don't have
9 anything further.

10 MS. BROCKWAY: Does anyone have any
11 questions?

12 MR. SKIENDZIELEWSKI: The facts speak
13 for themselves. People usually are not happy
14 with where advocacy goes in the public arena.
15 And I apologize to those people who are
16 further down in the organizational structure.
17 But the people at the highest levels with the
18 highest responsibility, with the highest
19 salaries, would take care of the issues and
20 respond and resolve every issue rather than
21 fight them, then the other ones would note
22 have to have these things aired in public.

23 And that's -- that's not on me. That's
24 on the people who make this horrific

1 decision.

2 MS. BROCKWAY: All right. Let's see if
3 -- do we have questions for Mr.
4 Skiendzielewski?

5 MR. BALLENGER: No, madam hearing
6 officer. Thank you, Mr. Skiendzielewski.

7 MS. BROCKWAY: Mr. Dasent?

8 MR. DASENT: No questions. Although, we
9 would ask that you permit the Water
10 Commissioner to respond.

11 MS. BROCKWAY: If does respond, that
12 opens the door to cross examination.

13 MR. DASENT: So be it.

14 MS. BROCKWAY: All right. That
15 concludes the evidence of Mr. Skiendzielewski
16 and we will now invite the Commissioner of
17 the water Department to give her testimony
18 and response. And Mr. Skiendzielewski, when
19 she does that, after she's completed her
20 statement, you are free to ask her questions.

21 MR. SKIENDZIELEWSKI: Um-hum.

22 * * *

23 DIRECT EXAMINATION

24 * * *

1 BY MR. DASENT:

2 Q. Good morning.

3 A. Good morning.

4 Q. Mr. Skiendzielewski identified a personal
5 dispute, as I understand it, concerning a service
6 lateral repair on his property in his testimony today.
7 Do you concur that that's the nature of this dispute?

8 A. That is the primary nature of the dispute.

9 Q. Now, a part of his dispute also ties to the
10 HELP program and the loan that he received to make a
11 repair on his property, do you agree with that?

12 A. Yes.

13 Q. And has the Department tried to resolve this
14 dispute?

15 A. Yes.

16 Q. And how many years has this been going on?

17 A. Since the spring of 2014.

18 MS. BROCKWAY: I'm going to interrupt.

19 Is this necessary?

20 MR. DASENT: Well, I'm trying to respond
21 to the various things that Mr.
22 Skiendzielewski raised on the record.

23 MS. BROCKWAY: Is it necessary?

24 MR. DASENT: We believe the balanced

1 record is necessary and so we --

2 MR. SKIENDZIELEWSKI: Excuse me, I can
3 make this simple. I'm not doing this to --

4 MS. BROCKWAY: I'm sorry, Mr.

5 Skiendzielewski, not your turn. All right.
6 Go ahead.

7 BY MR. DASENT:

8 Q. Now, Mr. Skiendzielewski also identified a
9 transcript from a public hearing at City Council this
10 year. That transcript references Monroe Street repairs
11 by Mr. Becker, I believe was the person testifying. Is
12 all of this transcript included in the excerpt? I
13 assume not. So that's my first question. Is all the
14 transcript included?

15 MS. BROCKWAY: We're talking -- actually
16 this is a good time: We're talking about the
17 City Council Chambers?

18 MR. DASENT: Yes.

19 MS. BROCKWAY: We're going to mark that
20 as SKI-1 and admit it to the record.

21 BY MR. DASENT:

22 Q. What is the significance of this particular
23 transcript concerning the Monroe Street issue and Mr.
24 Skiendzielewski's personal property and the repairs

1 done there?

2 A. The -- I mean, there are two basically
3 different issues. But nonetheless, it all boils down
4 to the property owner is responsible for their lateral.
5 And it's a lateral -- there are lateral issues on
6 Monroe Street. It was a lateral issue at Mr.
7 Skiendzielewski's property as well. And they have
8 failed. No one on Monroe Street took a HELP Loan. Mr.
9 Skiendzielewski did take a HELP Loan with the City.

10 Q. To the degree there is a dispute concerning
11 the HELP loan, is the Tax Review Board the appropriate
12 venue to resolve that dispute?

13 A. Yes. I can also add, though, that when
14 customers have problems and concerns about a HELP Loan,
15 they don't necessarily have to go to TRB. That is the
16 proper, formal process, but we are always open, as I
17 was, to Mr. Skiendzielewski's many inquiries regarding
18 his HELP Loan. And as I believe he previously quoted
19 me earlier today, we look at the situation. If there
20 was poor workmanship by the plumber who we hold
21 accountable. There might be some adjustment to the
22 loan if something was done incorrectly. Or was -- he
23 was charged for something that was not done. So that
24 doesn't have to go necessarily to TRB, but that is the

1 proper process.

2 Q. Does the Department continue to be available
3 to Mr. Skiendzielewski in terms of resolving this
4 problem if it cannot be resolved in this particular
5 form?

6 A. Yes.

7 Q. So subject to the Law Department's direction,
8 you would have a continuing conversation with Mr.
9 Skiendzielewski?

10 A. If there were new issues to bring to the
11 table, we are always open to resolve it.

12 MS. BROCKWAY: New issues, you said?

13 THE WITNESS: Yes.

14 MR. DASENT: Thank you, Your Honor.

15 That's all we have.

16 MS. BROCKWAY: Mr. Skiendzielewski?

17 MR. SKIENDZIELEWSKI: No questions.

18 MS. BROCKWAY: Mr. Ballenger?

19 MR. BALLENGER: No, Madam hearing
20 officer. No further questions.

21 MS. BROCKWAY: Seeing no request from
22 other participants, questions from the Board?

23 No.

24 THE WITNESS: May I add something? I

1 just want to give a little background on the
2 HELP Loan. So the HELP Loan has been around
3 for 27 years. We do about a thousand jobs a
4 year. Water and sewer. It was designed as
5 a bill financing program and there are
6 basically three parts to it. It's the City
7 enters a contract with the plumber, who we
8 have a list of plumbers and we just rotate
9 through the plumbers.

10 The customer enters a contract with the
11 City with a commitment to pay back that loan
12 over a five year period. And the plumber
13 gives a warranty to the owner of the
14 property, as well as the City. It's a one
15 year warranty. We believe it benefits the
16 homeowner as well as the rate payers and the
17 City.

18 It's intended to be a revolving fund.
19 So it -- the money -- once the initial
20 funding is provided, it just always gets
21 replenished. And we work very hard to make
22 sure that there is good workmanship on the
23 plumber's part and our customers get a good
24 job. And -- but it's also very important

1 that those funds go back into the water fund
2 so we can continue this program.

3 It should not be a burden on all rate
4 payers, because our property owners are
5 responsible for the water services and their
6 laterals. From the pipe, the public pipe,
7 all the way to their homes.

8 MS. BROCKWAY: Are there any questions
9 on this piece of testimony, Mr.
10 Skiendzielewski?

11 MR. SKIENDZIELEWSKI: Is that accurate
12 that the -- approved private contractors are
13 not allowed to speak about the case and the
14 reasons for the failure with the HELP loanee?

15 THE WITNESS: That's not accurate.

16 MR. SKIENDZIELEWSKI: That's not
17 accurate?

18 THE WITNESS: I know of no reason why
19 a plumber would tell you I can't tell you
20 what I saw when I dug up.

21 MR. SKIENDZIELEWSKI: So there's no
22 policy. Okay. There's no policy from the
23 Department for bringing them to share the
24 details, is that correct?

1 THE WITNESS: Correct.

2 MR. SKIENDZIELEWSKI: Good. Thank you
3 very much.

4 MS. BROCKWAY: Any further questions?
5 Seeing none, thank you very much.

6 MR. SKIENDZIELEWSKI: Thank you very
7 very much.

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

9 * * *

10 (Whereupon, a discussion off the record
11 was held.)

12 * * *

13 MR. DASENT: Your Honor, Mick raised a
14 question on the record when our financial
15 panel was testifying on Tuesday concerning
16 the last sentence on page six of Rebuttal
17 Statement 1 and spilling over to the second
18 sentence on -- the second sentence that
19 spills over to page 7 on Statement 1. It
20 concerns the financial metrics and outliers
21 and we would like, if you would give us
22 permission, to respond to that as a
23 Transcript Response so that there is not an
24 open question on the transcript.

1 MS. BROCKWAY: Is that acceptable to
2 all?

3 MR. BALLENGER: I have no objection to
4 taking another transcript response to verify
5 the language of the rebuttal.

6 MS. BROCKWAY: I think we're up to 22.

7 MR. DASENT: Yes.

8 MS. BROCKWAY: So that will be
9 Transcript Request 22.

10 MR. DASENT: And we discussed earlier
11 the possibility, after interacting with the
12 Board and Your Honor, that there might be
13 follow up questions or a scenario that would
14 be requested about rerunning the model. And
15 I think that we have to have a conversation
16 about, because I would like to at least be
17 able to provide whatever information you want
18 and get it into the record and the transcript
19 response reserved for that purpose would be
20 helpful.

21 MS. BROCKWAY: Off the record.

22 * * *

23 (Whereupon, a discussion off the record
24 was held.)

* * *

1
2 MS. BROCKWAY: Chair Popowsky has a
3 concept.

4 MR. POPOWSKY: Yeah, my recollection in
5 the last case was that at the end of the
6 case, close to the final issuance of the
7 decision, the Board asked the Department, or
8 the Department volunteered, to rerun the
9 model with the adjustments that had been --
10 that we the Board, had voted on. There may
11 have been half a dozen what I call
12 adjustments. Adjustments to. They all, I
13 think, revolved around reducing expenses that
14 the Department had claimed.

15 It was pretty straightforward. I think
16 the assumption that was made at that time was
17 that if the Department had asked for a
18 million dollars and the Board said no, you
19 should only get 500,000, you reduced a rate
20 increase accordingly. There were no other
21 changes.

22 Because if I recall, if you take a look
23 at Table C1, for example, I think what you'll
24 find is that the coverage ratios and the Rate

1 Stabilization Fund did not change from the
2 Department's request to the -- to the final
3 number. That's my recollection.

4 MR. DASENT: Right. I have a feeling
5 when you run the various adjustments and you
6 input the appropriate assumptions, you know,
7 that are either sanctioned by the Board or a
8 part of the rate filing, then you will get a
9 response that will probably be different to
10 you with the TAP Rider included. You will
11 see a different variation.

12 MR. POPOWSKY: Leaving aside the TAP
13 Rider, okay, am I not correct that, and you
14 can turn to the (inaudible), that is what we
15 did in the last case. The working assumption
16 was that if an expense was reduced, that was
17 taken off -- that was taken off of the rate
18 increase.

19 Now, arguably we could have said, no, we
20 want you to use the money and take it out of
21 the Rate Stabilization Fund. But I think it
22 was pretty clear that what we intended at
23 that time was to reduce the rate increase.
24 So that's one sort of scenario that might

1 occur in this case. And it's fairly
2 straightforward.

3 MS. BROCKWAY: If I may, I think the
4 alternative would have been to increase the
5 Rate Stabilization Fund.

6 MR. POPOWSKY: Yeah.

7 MS. BROCKWAY: If you're lowering other
8 components of the expense.

9 MR. DASENT: Without necessarily getting
10 into that, certainly that's what happened
11 historically. But what we would propose this
12 time is to look at whatever scenarios the
13 Board wants to run. And I think you might
14 also consider having, you know, PWD rerun the
15 model with the various agreed upon
16 assumptions that were made in the record, and
17 the TAP Rider, and then compare it to what it
18 looks like with Mr. Morgan's adjustments.
19 And then side by side you can have a starting
20 point, apples to apples, and then tell us
21 from there what the Board wants to do.

22 MR. POPOWSKY: Well, what I was going to
23 continue to -- let me -- that's fine. In
24 this case, however, I think there are

1 additional proposals that I would call
2 financial adjustments, as opposed to what I
3 would traditionally call accounting
4 adjustments.

5 And, for example, the Department is
6 saying that we want a minimum -- I guess
7 it's a minimum Rate Stabilization Fund of 150
8 million. The Advocate has said that the
9 minimum, or target, should be 110 million.
10 The Department has said we want a coverage
11 ratio of 1.3, and the Advocate has said no,
12 the rate should be set to provide 1.2. So I
13 think those issues are before us.

14 And to the extent that, the hearing
15 examiner initially, and then the Board,
16 agrees in full or in part on any of those
17 issues, then I would agree that the model
18 does have to be rerun to reflect those
19 adjustments as well. So.

20 MR. DASENT: I'm looking at three
21 scenarios. And I think that gives you a way
22 to compare us apples to apples and then make
23 your own judgment.

24 MR. BALLENGER: Just to add, I don't

1 think it's a substantial wrinkle, but I just
2 want to be clear, because -- and I'm
3 operating based on memory, so -- first of
4 all, I believe, as the Chairman recollects as
5 well, that in the last decision the outputs
6 of the model were to maintain the
7 Department's targeted Rate Stabilization Fund
8 balance that was in at the beginning of the
9 model, and the same was true with coverage.

10 There are some different assumptions
11 here that we put forward. I -- I wanted to
12 address the -- the agreed upon adjustments
13 just quickly, because I wasn't quite sure
14 from the presentation of those and I wanted
15 to understand. I know the Department's
16 position on one or two of them is only to
17 reflect the agreed upon adjustments in two
18 years? Is that -- I don't actually have the
19 agreed upon adjustments in front of me.

20 MR. DASENT: No. The agreed upon
21 adjustments was actually the third year,
22 because it's a three year time arising in the
23 rate. Our presentation agreements.

24 MR. BALLENGER: So you would apply the

1 same adjustments over the three years --

2 MR. DASENT: Yes.

3 MR. BALLENGER: -- in the model? Okay.

4 That wasn't entirely clear to me.

5 MS. BROCKWAY: Isn't there one of them
6 that drops off after year two anyway?

7 I'm trying to remember.

8 MR. DASENT: I have to remember that. I
9 have to pull it out. But if that is the
10 case, then it would stop, but I think it's
11 all three years. We have to show it for
12 all three years, because it's our timeline.

13 MR. BALLENGER: I think I hear some
14 whispering about (inaudible).

15 MR. DASENT: Well, there could be a lot
16 of confusion back and forth, if you want to
17 create it, Rob. But my answer stands on the
18 record.

19 MR. BALLENGER: Okay. No, I just -- I
20 want to know what I'm looking at when I see
21 the model. That's all I'm getting at, is
22 when the Department produces the model, I
23 want to know what the underlying assumptions
24 are. Maybe for each model that's run, at the

1 Board's request, we can have sort of a cover
2 page, or something identifying what inputs
3 were changed, that would be helpful to me in
4 preparing for, you know, briefing and any
5 other considerations.

6 Just -- I'd just like to be clear that
7 when we see what the Department has
8 projected, that we could, on our own,
9 independently, duplicate those results using
10 the confidential rate log.

11 MS. BROCKWAY: It seems to me that we
12 might want to tee off the filing, C1 in the
13 filing, and the associated supporting papers.
14 And -- C1 -- did I say C1?

15 MR. DASENT: Table C1.

16 MS. BROCKWAY: And then from there, take
17 that as the base, and then from there make
18 various adjustments. You said you had three
19 scenarios. I assume these are three
20 scenarios adjusted. Can you outline what
21 those are?

22 MR. DASENT: Basically Mr. Morgan's
23 scenario, his various adjustments, the
24 Department's scenario with our agreed upon

1 adjustments and input in the TAP Rider. The
2 TAP Rider also needs to be input from Mr.
3 Morgan's scenario. And then the third one
4 dealt with whatever the Board instructs us to
5 do. So that you have two to compare and one
6 to basically say what reflects your various
7 adjustments.

8 MS. BROCKWAY: So can you run the two of
9 the things that are now on the record in time
10 for people to brief? Off the record.

11 * * *

12 (Whereupon, a discussion off the record
13 was held.)

14 * * *

15 MR. DASENT: We would estimate three
16 days to run C1. Just the C1 table. To give
17 you an idea, looking side by side, where we
18 are now with either the agreed upon
19 adjustments and PWD and TAP Rider, and the
20 various adjustments to Mr. Morgan's
21 (inaudible) and the TAP Rider impact.

22 Each scenario takes three days, so you
23 better add them together. It's more like
24 six. We're still within the briefing period.

1 But we need to have a comparison.

2 MS. BROCKWAY: Three scenarios, three
3 times three is nine.

4 MR. DASENT: Well, the two you asked for
5 first, so that's six. And then we'll add the
6 three at the end and hopefully we'll be
7 outside of the briefing period and it won't
8 matter, because it will be your
9 deliberations.

10 MS. BROCKWAY: It's also been -- I've
11 also been reminded that -- let me start by
12 clearing up this. When we're talking about
13 Morgan, I think the two big adjustments were
14 changes that he recommended that were in the
15 dashboard are the 110 million and the 1.2.
16 So would you please include those in it and
17 then we can see -- in the rerun. And we'll
18 see where it comes out for all the other
19 amounts.

20 MR. DASENT: Okay.

21 MS. BROCKWAY: Go off the record.

22 * * *

23 (Whereupon, a discussion off the record
24 was held.)

1 * * *

2 MS. BROCKWAY: We've had a point made
3 that there's some additional adjustments that
4 might or might not have been made in the
5 Morgan Scenario and the Public Advocate and
6 Department have agreed to talk to make sure
7 that we're getting the Department's position
8 and Mr. Morgan's position in this round.

9 I should also note that it's been
10 suggested to me it will be helpful to have a
11 run, based on my hearing officer report,
12 which might be different from all of those.
13 And then I'm sure we will need a run after
14 the Board has made its decisions about what
15 to include. I'm seeing nodding heads yes.

16 MR. DASENT: Yes.

17 MR. BALLENGER: Yes.

18 MS. BROCKWAY: That's good.

19 MR. POPOWSKY: I think that will be
20 helpful for the Board. After you get the
21 recommended decision you can run that. That
22 can be clear, I think. And you can run
23 through the model. I agree. What I had said
24 earlier about Mr. Morgan's testimony is

1 probably too simplistic. In other words, I
2 don't think, for example, in LKM1, he
3 suggested to bring the Department down to a
4 110 million dollar RSF. I think you're
5 right. So. It's a little more complex than
6 I had suggested.

7 MS. BROCKWAY: Here is another wrinkle.
8 I think we have an outstanding transcript
9 request for Mr. Morgan to update his various
10 adjustments, assuming a third year.

11 MR. DASENT: Yes.

12 MR. BALLENGER: Um-hum.

13 MS. BROCKWAY: So it would make sense to
14 include that.

15 MR. DASENT: Okay. We're only offering
16 C1 in that short time frame, the three days,
17 as opposed to the bill impacts and the other
18 supporting schedules. Just for the sake of
19 getting it done as quickly as we can.

20 MS. BROCKWAY: That's fine. I'm sure
21 the Board will look for bill impacts, at
22 least when its own decision has been made.
23 But for now I think the important thing is to
24 get C1 side by side. Is there any other --

1 any further business to come before the Water
2 Rate Board in the technical hearings?

3 MR. BALLENGER: I think the only
4 outstanding item is really the time line for
5 responses for transcript requests. Probably
6 excluding what we just talked about, which I
7 think is going to kind of roll along as it
8 goes. But I know the Department's already
9 provided a couple of transcript responses and
10 I'm preparing a couple of ours. But if --
11 maybe we can agree and propose an outside
12 date for transcript responses?

13 MR. DASENT: If there is a way to do
14 that after talking with the people that are
15 actually going to do it, it would make them
16 feel (inaudible) in the process. So we would
17 have to do that off line.

18 MR. BALLENGER: Yeah. So maybe we can
19 just correspond and propose something
20 together to the hearing officer, would that
21 be -- would the Department be --

22 MR. DASENT: It's useful during the
23 briefing period, I understand.

24 MS. BROCKWAY: Yes, that would be fine.

1 And if you have a disagreement about
2 something, I'm available. You can call me or
3 e-mail me. I try to keep up with my e-mail.
4 We've had a request to go over the remainder
5 of the schedule, and I'm looking at the
6 schedule that I have and I'm not sure it's
7 accurate. But Mr. Dasent, you said you had a
8 copy of the accurate schedule.

9 MR. DASENT: I certainly do.

10 MS. BROCKWAY: I apologize. I thought
11 there was another -- you started to hand out
12 another --

13 MR. DASENT: The TR19 is coming.

14 MS. BROCKWAY: Okay.

15 Mr. DASENT: But in terms of the
16 schedule, June 4th is the next operative date
17 that I have imbedded on my mind. And that's
18 for the brief. And then about three weeks
19 afterwards we have the recommended decision,
20 which I didn't commit to memory.

21 MS. BROCKWAY: I have June 18th.

22 MR. DASENT: Yeah.

23 MR. BALLENGER: And then I believe the
24 25th is the comment sections.

1 MS. BROCKWAY: Yes, I do have the actual
2 sheet. As everyone knows, this is posted on
3 the website for further reference. I've also
4 been reminded that we haven't finished the
5 business of TR19?

6 MR. DASENT: Yes. And I'm prepared to
7 hand up now TR19 fresh off the press.

8 MR. POPOWSKY: Can I make one other
9 request also that the parties directly copy
10 the Board members with their briefs?

11 MR. DASENT: Yes. And perhaps, madam
12 hearing officer, if you can share all the
13 e-mail addresses for the Board members. I
14 have yours, Mr. Popowsky, but not everybody
15 else. But I'm happy to --

16 MR. POPOWSKY: Well --

17 MR. DASENT: Just so we can get the
18 appropriate addresses.

19 MR. POPOWSKY: I see Cody is here. The
20 other alternative is as soon as the briefs
21 get in, they do immediately get scanned in.

22 MR. DASENT: Cody will differently do
23 it.

24 MR. POPOWSKY: We don't have a whole lot

1 of time. I apologize. If you could just
2 make sure that Cody gets the briefs and he
3 will forward them directly to the Board
4 members.

5 MR. DASENT: Just so you know, the
6 Department is in the room if you wanted to
7 reflect upon this, and maybe, after a break,
8 return to discuss any aspect of TR19 in
9 response? We're here to do that.

10 MS. BROCKWAY: Well, it is quarter of
11 noon and we've been going nonstop, so let us
12 take a break for 15 minutes and then we may
13 wish to have further information on TR19 from
14 the Department.

15 MR. DASENT: Thank you.

16 MS. BROCKWAY: We're off the record.

17 * * *

18 (Whereupon, a short break was taken.)

19 * * *

20 MS. BROCKWAY: We're back on the record.
21 I did say 15 minutes, but we seem to be ready
22 at seven minutes, so let's go on. We have
23 two things, at least, to do. Mr. Dasent, you
24 said you have something you wanted to

1 address?

2 MR. DASENT: No. (Inaudible) toward
3 TR19 are available if there were any
4 questions from the bench.

5 MS. BROCKWAY: There is a question.

6 MR. POPOWSKY: Thank you. I guess the
7 question would go to Ms. Labuda. First of
8 all, Mr. Dasent, are these both parts of
9 the transcript? There are two parts to this?

10 MR. DASENT: Yes.

11 MS. LABUDA: Yes, that's correct.

12 MR. POPOWSKY: This is one exhibit.

13 MR. DASENT: I didn't have a stapler.

14 Mr. POPOWSKY: Okay. It's unstapled. I
15 was just -- really just trying to confirm
16 that the -- if I look at the top of the chart
17 portion of your response. There's a 95
18 million dollars cash on deposit and on hand
19 for 2017. I assume that's fiscal 2017. And
20 79 million for 2016.

21 THE WITNESS: That's correct. You're
22 reading from the statement of net position,
23 which is part of our financial statements.
24 And those ones are correct.

1 MR. POPOWSKY: Okay. So for -- and am I
2 correct that -- is it my understanding that
3 when the rating agencies that look at your
4 days of cash on hand, those numbers would be
5 included in that calculation?

6 THE WITNESS: That is also correct.

7 MR. POPOWSKY: So just to clarify, and
8 this was really my main point to make. On
9 page -- if you have your rebuttal testimony
10 handy, I'm talking about statement number 2.

11 THE WITNESS: Thank you.

12 MR. POPOWSKY: Statement number 2, the
13 top of page six, on lines three to six, you
14 say the proposed minimum. And this, I think
15 it's your proposed minimum, of a 165 million
16 dollar balance in the RSF residual fund would
17 only represent approximately 244 days cash on
18 hand for FY 2018. This is under the Moody's
19 A median of 296 days cash on hand.

20 But, in fact, if you add the 95 million
21 dollars to the 165 million, wouldn't that
22 increase the -- just for purposes of this
23 comparison, just to make an apples to apples
24 comparison, wouldn't you have to include that

1 95 million?

2 THE WITNESS: So that number does
3 include the 95 million. Order to provide --

4 MR. POPOWSKY: What number?

5 THE WITNESS: The 244 days cash on hand
6 includes three components. So it's part of
7 another transcript request. When we were
8 working on the PIER metrics that are in the
9 back of my testimony, we utilized GAAP
10 financial statements, which is the statement
11 of net position, and calculated our days cash
12 on hand, including Rate Stabilization Fund,
13 Residual Fund, as well as a projection of the
14 current assets as detailed in the statement
15 of net position, equity and charges account.
16 So the 244 days does include all three
17 components.

18 MR. POPOWSKY: Okay. So it's not just
19 -- okay. That's important. It's not just
20 165 million produces 244 days, it's 165
21 million plus your expectation of what would
22 be in this account.

23 THE WITNESS: Yes, that's correct.

24 MR. POPOWSKY: And then just turning

1 back to page five, because I didn't
2 understand that. On page five, the chart on
3 page five of your rebuttal testimony reflects
4 300 days of cash on hand for Philadelphia
5 Water Department. Actually over 300 days.
6 Well, 300 days for Philadelphia Water
7 Department. And what does that reflect?

8 THE WITNESS: So -- another very good
9 question. This table is prepared utilizing
10 Moody's medians and Moody's calculations. So
11 in order to formulate this and keep an apples
12 to apples comparison, we outlined Moody's
13 calculation of days cash on hand, which is
14 the same definition I've applied to formulate
15 the 244 days. This is a look back of what
16 occurred in 2016.

17 MR. POPOWSKY: Okay. So the actual
18 results in 2016 were -- okay. Because your
19 RSF came in higher than you expected.

20 THE WITNESS: Yes.

21 MR. POPOWSKY: Your residual fund was
22 probably around 15. And in 2016 you also had
23 the 79 million.

24 THE WITNESS: That's right.

1 MR. POPOWSKY: In retrospect, that
2 produced 300 days.

3 THE WITNESS: That's correct.

4 MR. POPOWSKY: Okay. I think I
5 understand that now. Thank you very much.

6 MS. BROCKWAY: Anybody else have
7 questions on this issue?

8 MR. BALLENGER: Just a follow up.

9 * * *

10 RECROSS EXAMINATION

11 * * *

12 BY MR. BALLENGER:

13 Q. I think I also am pretty clear, but I want to
14 make sure for the -- I'm just looking through my notes
15 for the number of the transcript request that we were
16 going to look at for the calculations. I think it was
17 TR16, I think, was going to be the days cash on hand
18 calculations. And, Ms. Labuda, just so I know, I mean,
19 I would assume the plan would be to use the most recent
20 GAAP statements for that one number. The 95 million
21 258 would be factored in with your -- since that's the
22 most recent number you have, right? I mean you're not
23 going to project days cash on hand in the future
24 financial statement?

1 MS. BROCKWAY: Before she goes further
2 with this, I'm starting to swim, so let's
3 establish some solid ground. I just heard
4 that the 244 was calculated based on 2016.
5 So if that's not correct, let's start with
6 what it's based on. Because I'm not sure why
7 you're asking the question.

8 MR. BALLENGER: Okay.

9 THE WITNESS: So thank you for allowing
10 me to clarify. The 244 days is where we're
11 estimating our days cash on hand will be at
12 the end of Fiscal Year '18. And that would
13 include, and this is part of the transcript
14 request, which I'll make sure I send an Excel
15 for that, Rob, a projection of where we think
16 our Water Operating Fund will be at the end
17 of Fiscal Year '18. And that is also
18 referring to as equity in the treasurer's
19 account.

20 It includes the original projected
21 balance in the Rate Stabilization Fund as
22 projected in Table C1. It includes the back
23 projected balance of the residual fund as
24 detailed in Table C1. And if I may continue

1 to Rob's earlier question, which I think he
2 was asking, and it may be helpful just to
3 clarify this further, in that because there
4 is various amounts of equity in the
5 treasurer's account at the end of any one
6 fiscal year, my projection does not assume
7 that that amount will be exactly the same as
8 the prior year. I tend to look back over a
9 period and do an average.

10 BY MR. BALLENGER:

11 Q. So we'll see -- then we'll see the numbers
12 that you used?

13 A. Yes. Of course. I will provide an Excel
14 format with all formulas intact, the average that I
15 utilized for the '18 projection.

16 Q. Okay. Yeah, I think -- I apologize. I guess
17 I'm getting a little confused again. I thought that
18 the calculations of days cash on hand was pegged to the
19 165 million ending balance? When you were preparing a
20 transcript request for TR16, I thought we were going to
21 be talking about the calculation of days cash on hand
22 based on the 165 million combined balance and residual
23 rate stabilization compared to the 125 combined balance
24 and rate stabilization and residual. Is that not what

1 we talked about? I could be wrong?

2 A. I didn't understand it that way.

3 Q. Okay.

4 A. And I'm happy to provide it in any format.

5 So for your reference, my current calculations tend to
6 look at what we have submitted as part of the financial
7 plan.

8 Q. Um-hum.

9 A. In the C1 and I'm happy to formulate two
10 additional columns for one fiscal year reflecting the
11 target RSF and Residual Fund balance. The current
12 Table C1 takes the Rate Stabilization Fund below 150
13 million by Fiscal Year '21. So I would just ask if, do
14 you want me to run the calculation with the current
15 Table C1 in Fiscal Year '21 showing lower amounts in
16 the Rate Stabilization Fund, or do you want to see it
17 hard coded with your -- with the 150 and 15? I'm
18 sorry, with the 150 million and the Rate Stabilization
19 Fund of 15 million Residual Fund?

20 Q. I think so, just for purposes of comparing
21 the minimum balances that have been proposed. It would
22 be helpful to just see that. Just since -- I think
23 that -- I think that just allows us to prepare the
24 proposals a bit differently, if that's okay?

1 A. That's not a problem.

2 MS. BROCKWAY: I should also note that
3 my notes on TR16 are, A, how did you develop
4 the 244 days cash on hand? And, B, how did
5 you get 176 cash on hand days at 110 in the
6 RSF? Which probably gets us to where you all
7 have been discussing, but.

8 THE WITNESS: Thank you.

9 MS. BROCKWAY: Is there any other
10 business to come before the Board?

11 MR. BALLENGER: None from the Public
12 Advocate.

13 MR. DASENT: None from the Department.

14 MS. BROCKWAY: I want to thank everyone.
15 We've moved through this very quickly and I
16 think I'm certainly in a better place this
17 year to understand what's going on than I was
18 in 2016. So I hope that will -- we will all
19 end up with the result which is as just and
20 reasonable as a result was in 2016. Thank
21 you very much.

22 * * *

23 (Whereupon, the technical hearing
24 was concluded at 12:00 p.m.)

C E R T I F I C A T I O N

I, Lisa M. Cooper, a Court Reporter and Notary Public, do hereby certify the foregoing to be a true and accurate transcript of my original stenographic notes taken at the time and place hereinbefore set forth.

Lisa M. Cooper
Court Reporter and Notary Public

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