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PHILADELPHIA WATER DEPARTMENT
WATER, SEWER AND STORM WATER RATE BOARD TAP-R
PUBLIC AND TECHNICAL HEARING
RATE PERIOD: FY 2022 AND 2023

Thursday, March 31, 2022
Philadelphia, Pennsylvania

TIME: 10:00 a.m.
LOCATION: Virtually
HELD BEFORE: MARLENE R. CHESTNUT
Hearing Officer

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2 (Public Hearing commenced at 10:00 a.m.)

3 HEARING OFFICER CHESTNUT: This is
4 the Public Hearing that's been scheduled in
5 connection with the TAP-R Reconciliation
6 Filing made by the Philadelphia Water
7 Department.

8 This is an annual reconciliation of
9 projected versus actual experience only
10 directed to the TAP-R Rate rider and its
11 revenues. I am Hearing Officer Marlene R.
12 Chestnut who's been retained by the Rate
13 Board to conduct this hearing and this
14 proceeding. The Rate Board is an
15 independent body established to set rates
16 and charges for water and sewer service.

17 As you may be aware, there is a
18 court reporter who is taking down what
19 people are -- being said and will produce a
20 written record of this hearing. So please,
21 be sure to speak slowly and clearly. It's,
22 also, being recorded. And I'm not sure if
23 the recording is posted at that Rate
24 Board's website, but the transcript

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1 certainly will be.

2 MR. LIANG: The recordings have
3 been posted.

4 HEARING OFFICER CHESTNUT: Okay.
5 Great. Thanks, Steven.

6 As I said, this is not a general
7 rate increase. It's only directed to the
8 TAP-R Reconciliation. It's a formula
9 that's applied to see -- see what costs and
10 how the experience has been in the past
11 year in order to set rates for the coming
12 year. To act -- I will introduce the
13 representatives of the active parties and
14 let them explain their positions briefly.

15 As to the Philadelphia Water
16 Department, Mr. Dasent, did you want to say
17 something?

18 MR. DASENT: Yeah. Andre Dasent
19 for the Department. Also, with me today is
20 Carl Shultz and Ji Jun. Missy LaBuda
21 should join us during the course of the
22 day. And Glen Abrams will give a statement
23 describing our position in the TAP-R
24 proceeding if necessary because of public

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1 participants.

2 HEARING OFFICER CHESTNUT: Okay.

3 Mr. Abrams?

4 MR. ABRAMS: Thank you. Just a
5 moment. Sorry about that.

6 Well, thank you, Judge Chestnut,
7 and good morning, everyone. My name is
8 Glen Abrams. And I'm speaking on behalf of
9 the Philadelphia Water Department in this
10 proceeding. We first want to thank you all
11 for joining the hearing this morning to
12 share your views about the proposed TAP
13 Rate Rider or TAP-R. Annual -- this is an
14 annual adjustment that the Water Department
15 has filed with the Philadelphia Water,
16 Sewer and Storm Water Rate Board.

17 The TAP-R adjustment is proposed in
18 connection with the administration of the
19 Tiered Assistance Program, or TAP. TAP
20 allows low income customers to pay a bill
21 based upon their income. It will go up or
22 down based on their water usage. TAP
23 customers' bills are fixed as a percentage
24 of their income.

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1 The TAP Rate Rider is a rate making
2 tool that allows PWD to recover the cost of
3 providing discounts under the TAP program.
4 The cost of TAP recovered via the TAP Rate
5 Rider may change over time due to multiple
6 factors, including the number of TAP
7 participants, water usage, changes in PWD
8 rates among other reasons.

9 PWD proposes adjustments to the TAP
10 Rate Rider annually to account for changes
11 in projected TAP costs as well as any over
12 or under recovery of costs via the TAP-R
13 rates. Based upon the most recent
14 reconciliation results, the Water
15 Department proposes to adjust TAP-R rates
16 effective September 1, 2022. If approved
17 by the Rate Board, the water TAP-R rates
18 will increase \$0.54 per thousand cubic feet
19 of water used; and the sewer TAP-R rate
20 will increase \$0.14 per thousand cubic
21 feet.

22 If this requested adjustment is
23 approved, a typical residential customer
24 using 500 cubic feet of water per month

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1 would see their combined bill increase by
2 approximately \$0.70 monthly or, roughly,
3 1 percent above existing rates due to TAP-R
4 beginning on September 1, 2022.

5 If you would like more information
6 regarding the TAP-R Rider, the associated
7 rates and the bill impacts, a summary of
8 the proposed annual adjustment is posted at
9 the Rate Board website. We would like all
10 customers to be aware that if you are
11 experiencing financial hardship, please,
12 reach out to us to see if you may be
13 eligible for TAP, the senior discount or
14 other programs that are available to assist
15 households with payment difficulties.

16 These programs are accessible
17 through the City of Philadelphia's website
18 at phila.gov/waterbillhelp or by calling
19 215-685-6300, Monday through Friday between
20 8:00 a.m. and 5:00 p.m.

21 Now the purpose of today's session
22 is to hear from you, our customers. We
23 appreciate you taking the time to share
24 your views with us today, and we look

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1 forward to hearing from you.

2 Thank you.

3 HEARING OFFICER CHESTNUT:

4 Mr. Abrams -- did you have anything
5 further, Mr. Dasent?

6 MR. DASENT: Nothing further.

7 Thank you.

8 HEARING OFFICER CHESTNUT: Then I
9 would like to introduce the representative
10 of the Public Advocate. Mr. Ballenger, you
11 can explain what you do and what the
12 position that you're taking.

13 MR. BALLENGER: Thank you, Madam
14 Hearing Officer. My name is Robert
15 Ballenger. I'm an attorney at Community
16 Legal Services. And CLS has been appointed
17 to serve as the public advocate in these
18 proceedings. I'm joined by my colleague
19 Kinteshia Scott. And we have our witness
20 on for later, Mr. Lafayette Morgan, Jr.,
21 for the technical hearings on this matter.

22 So in general, this proceeding
23 involves what's called a reconciliation of
24 the costs of very important program, the

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1 Tiered Assistance Program. And what
2 happens is annually, we look at how much
3 the program cost in the past and we project
4 how much the program may cost in the
5 future. And we adjust the rates up or
6 down. And that's happened now for three
7 years or so.

8 And there have been minor
9 adjustments up and down to make sure the
10 Water Department has adequate funding
11 through the rates to support the needs of
12 all the low income customers who are
13 enrolled in that program. We've constantly
14 strived to increase access to the program.
15 We continue to work on increasing access to
16 the program. However, there are some
17 obstacles. There are some structural
18 barriers that need to be resolved in order
19 for all Philadelphians to have true access
20 to affordable water service in
21 Philadelphia.

22 In this particular reconciliation
23 proceeding, the Water Department has
24 projected that it will dramatically

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1 increase the number of Tiered Assistance
2 Program participants over a short period of
3 time. While that would be fantastic for
4 those participants, our real objective here
5 is to figure out what's likely to occur in
6 the future and what the basis for the
7 correct cost of this program should be
8 since these are all, you know, projections
9 of future enrollment.

10 So, we do believe there will be
11 more customers enrolled in the Tiered
12 Assistance Program in the future. But
13 we're not quite sure that we believe the
14 Water Department has estimated that
15 correctly. And so, our testimony which has
16 been filed in this case projects a more
17 modest growth over a short period of time.
18 But nonetheless, you know, submits that
19 because there is additional federal
20 assistance for low income customers, that
21 maybe we'll be able to identify more
22 customers who have been enrolled in TAP in
23 the near future. And certainly, my hope
24 that we do so since water is a vital

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1 necessity of life. And being able to
2 afford water is, of course, crucial to
3 maintaining that service.

4 So, we are here today to hear from
5 members of the public about what you think
6 about the future of the TAP program, about
7 its costs and about the Department
8 position. And if you have any response to
9 our position, we would love to hear that,
10 as well. Thank you for joining us.

11 Judge, that's all I've got.

12 HEARING OFFICER CHESTNUT: Thank
13 you, Mr. Ballenger.

14 In addition to these two parties,
15 who are the active parties who've given
16 testimony, other participants include the
17 Philadelphia Large Users Group; the
18 Philadelphia Water Revenue Board, which
19 does the billing and collection activities
20 for the Water Department; and two
21 individuals, Lance Haver and Michael
22 Skiendzielewski.

23 Now, we have adopted a schedule.
24 And as you can see, today is the hearing.

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1 And after the hearing, I will let the
2 parties discuss settlement. And if they
3 don't settle, they can file briefs. And I
4 will issue a report, probably looking at
5 early May for my report, so that the Rate
6 Board can deliberate and address this in
7 early June.

8 Now with respect to today's public
9 hearing, if you have a billing or an
10 individual problem, please, indicate that.
11 We can direct you directly to work directly
12 with the company to resolve that in a
13 breakout room. But if you do have a
14 comment -- and the comments have to be
15 really addressed to the issue here, which
16 is the TAP-R reconciliation. This is not a
17 general rate increase. But if you do have
18 a comment about the TAP-R rates or the
19 program, obviously, we would be very
20 interested in hearing that.

21 Now, nobody actually signed up to
22 testify today except for Mr. Haver, who is
23 also a participant and, also, I assume,
24 will be participating in the technical

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1 hearing.

2 So, Mr. Haver, did you want to make
3 a statement? Or do you want to wait and
4 let people from the public talk?

5 MR. HAVER: I wish to make a public
6 statement.

7 HEARING OFFICER CHESTNUT: Sure.

8 MR. HAVER: My name is Lance Haver.
9 I pay a water bill. I am not now or have I
10 ever been an employee of the Philadelphia
11 Water Department or any of its contractors.
12 I have no direct financial interest in any
13 company that does business with the
14 Philadelphia Water Department. Although,
15 it is possible that my pension fund has an
16 investment of which I am not aware.

17 The lack of public participation
18 should be one more indication of the
19 failure of the Public Advocate. The Public
20 Advocate has, once again, failed to engage
21 the public to use these proceedings to be
22 heard. I realize that pointing out the
23 ethical lapses in conflict of interest of
24 the Hearing Examiner and the person acting

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1 as the Public Advocate will not increase
2 the likelihood that either will protect the
3 public interest. But there will come a
4 time when a moral and ethical people will
5 be given control of our Water Department,
6 so I want to make the points going forward
7 as a guiding light.

8 Neither the Public Advocate nor the
9 person actin as the public -- the Hearing
10 Examiner nor the person acting as the
11 Public Advocate has placed on the record
12 today their financial disclosure form. The
13 Public Advocate, as an inducement program
14 to the last two rate hikes, had given to
15 his law firm with the approval of this
16 Hearing Examiner, a no-bid contract. And
17 while the managing partners of his law firm
18 have financial interest in companies that
19 do business with the Philadelphia Water
20 Department that directly impact rates, the
21 person acting as the Public Advocate and
22 his law firm have failed to enter into the
23 record today or in any other public
24 proceedings conflict of interest

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1 statements. And the Hearing Examiner has
2 failed to request them.

3 The time will come when we will no
4 longer accept such unethical and immoral
5 actions. Until then, I have no illusions
6 that the Public Advocate nor the Hearing
7 Examiner will use the record I am
8 establishing today to improve the lives of
9 Philadelphians. The so-called TAP losses
10 must not raise rates on rate payers. Even
11 if you believe -- and I do not and will
12 explain later in my testimony -- that
13 allowing low-income families to pay what
14 they can so that they may keep their water
15 on in their home, loses money. The burden
16 of any loss should not be placed on other
17 rate payers.

18 The proposals being advanced by the
19 Public Advocate does just that. He is
20 arguing that we should place an additional
21 charge on Philadelphia Water rate payers a
22 sales tax, whether it's \$0.70 a month or
23 \$0.65 a month, he is advocating a sales tax
24 on a basic necessity of life to cover the

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1 cost of the poverty program, the TAP.

2 Imagine if the Public Advocate were
3 honest and he were to honestly say, for the
4 good of the Water Department, its
5 contractors and bond holders, we must tax
6 water consumers to pay for poverty program.
7 It is doubtful that there would be any
8 support for that position. So instead,
9 Mr. Ballenger, to hide his intention to tax
10 water consumers to pay for a low-income
11 program, misdirects the public and allows
12 this process to be called an annual
13 adjustment.

14 Our society must help low-income
15 people and should pay for that help, if
16 need be, with their unjust taxes, not with
17 a sales tax on a basic necessity as
18 Mr. Ballenger and the Water Department are
19 proposing. If the Hearing Leader was a
20 fair and judicious adjudicator, she would
21 force the Public Advocate in hearing -- and
22 Water Department to state on the record
23 that what they are proposing is another
24 term for a sales tax on water to pay for a

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1 low-income plan. But, of course, she will
2 not. She has already shown how compromised
3 she is.

4 As for the TAP program creating a
5 loss, it's highly doubtful. The failure of
6 the Public Advocate to place on the record
7 the actual cost of a gallon of water, the
8 incremental cost of reading an additional
9 meter, the incremental cost of one
10 additional bills make it impossible to know
11 if any loss is created by selling water for
12 a price that low-income families can
13 afford.

14 To make it easier to understand,
15 how much money does the department store
16 lose when it sells something on sale? How
17 much money does a cell phone company lose
18 when it sells a phone below the advertised
19 price? Does a homeowner lose money if she
20 sells her home below the asking price? Of
21 course not.

22 A principled Public Advocate would
23 use cost accounting to attack the Water
24 Department's claim that it loses money by

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1 allowing low-income people to pay what they
2 can. After all, if low-income families are
3 not allowed to pay what they can, the Water
4 Department loses money trying to collect
5 what it cannot, then loses -- then the
6 Water Department loses more money when it
7 turns the water off. And then, the City
8 loses money when it has to bear the
9 financial burden of homelessness and the
10 uncollected real estate taxes on vacant
11 buildings.

12 But we don't have a principled
13 Public Advocate. We have someone who
14 accepted a no-bid contract for his law firm
15 as an inducement for agreeing to two rate
16 hikes. A Public Advocate who refuses to
17 object to the Water Department keeping its
18 \$150 million surplus in a bank that has no
19 retail branches in the City, that is the
20 client of two of his law firms executive
21 committee. Instead of placing the money in
22 a local credit union that would keep the
23 money circulating in Philadelphia, the
24 Public Advocate remains silent as the Water

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1 Department gives financial increases and
2 support to his executive board of his law
3 firm.

4 A Public Advocate who refuses to
5 publicly support a public bank that would
6 save Water Department rate payers millions,
7 but hurt the bank's mang -- but hurt his
8 management team at his law firm, shows how
9 little he cares about the rate payers. I
10 do realize that the more I point out the
11 immorality of the hearing Examiner and the
12 Public Advocate, the less likely they are
13 to listen to my points. But the truth is,
14 they are so compromised and so unwilling to
15 listen, as proved by the Public Advocate
16 refusing to have an advisory committee to
17 help inform his positions, that there is no
18 way to reach them.

19 Consider this. The foundation of
20 American democracy are checks and balances.
21 The Public Advocate has purposely shut out
22 from any checks and balances. He has said
23 he doesn't have to meet with the public to
24 form his positions. He has said, he does

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1 not need advisory committee. He and he
2 alone believes that he can decide what's in
3 the public interest.

4 The Public Advocate, with very
5 minor changes, and the Hearing Examiner
6 will agree to grant the Water Department
7 the equivalent of sales tax to cover the
8 costs of the low-income plan. And they
9 will, also, agree for another rate
10 increase.

11 The hearing will not be covered by
12 the media because the Public Advocate has
13 allowed the Water Department to hide what
14 it's doing. With newspapers laying off
15 reporters, it is unlikely an investigative
16 reporter will expose the failure of the
17 Hearing Examiner and Public Advocate to
18 enter into the record financial disclosure
19 forms and conflict of interest statements.

20 I recognize that I am unlikely to
21 stop the immorality of placing the sales
22 tax on water. But I cannot allow this
23 aberrant behavior to go unchallenged, even
24 if all my challenge does is leave a trail

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1 for those who come next.

2 That concludes my public testimony.

3 HEARING OFFICER CHESTNUT: Thank
4 you. Did you want to respond, Mr. Dasent
5 or Mr. Ballenger? Or would you rather wait
6 till the actual hearing and respond there?

7 MR. DASENT: I would prefer to wait
8 for the Water Department till the actual
9 hearing.

10 HEARING OFFICER CHESTNUT:

11 Mr. Ballenger?

12 MR. BALLENGER: Just very briefly.
13 And just to note out -- not that, again,
14 the personal attacks on me and Community
15 Legal Services are really inappropriate
16 here. They've, also, been raised multiple
17 times and rejected multiple times because,
18 in fact, we serve as a consultant pursuant
19 to a contract that was bid in public and
20 entered into in public and extended for
21 purposes of this proceeding.

22 But I am not going to respond to
23 the personal allegations here. But I do
24 want to just respond briefly regarding what

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1 the TAP-R is. And I think it's important
2 that we really ground our discussion in
3 facts.

4 So in the State of Pennsylvania,
5 across the State of Pennsylvania, there are
6 utility or customer assistance programs
7 called CAPS. Every regulated gas and
8 util -- gas and electric utility has one.
9 And the costs of assisting low-income
10 customers with their bills in CAP programs
11 statewide is recovered through what's
12 called the Universal Service Fund Charge.
13 It's a volumetric charge that provides the
14 utility with the funding to discount
15 low-income customers bills.

16 It's not a tax. And in fact, for
17 it to be a tax would violate the state's
18 Uniformity Clause. So, it can't be a tax.
19 It's a surcharge. And we constructed the
20 Tiered Assistance Program Rate Recovery
21 mechanism, which we initially proposed in
22 2016 when the TAP was first approved and,
23 subsequently, implemented in 2018 because,
24 in fact, the first year that the TAP

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1 program was launched, the Water Department
2 received \$16 million in base rates to fund
3 a low-income program that provided
4 \$4 million in discounts.

5 TAP-R was a solution to including
6 the cost of this vital program and base
7 rates. TAP-R ensures that customers don't
8 have to pay more than this program costs to
9 deliver affordable bills. It's not a tax.
10 It cannot be considered a tax. It is a
11 rate for the provision of water and storm
12 water and sewer service under the tariff of
13 the Philadelphia Water Department.

14 So, we are here to talk about how
15 much that particular cost will be in the
16 future and how it should be recovered
17 through the TAP-R, which was something
18 that, in fact, the Water Department and the
19 Public Advocate both supported because it's
20 consistent with these types of programs
21 statewide.

22 So, that's the reality of the
23 situation. That's what we are here to talk
24 about. And I look forward to the technical

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1 hearing when we can discuss it more fully
2 and more accurately.

3 HEARING OFFICER CHESTNUT: Okay.
4 Thank you.

5 Now, is there any member of the
6 public who would like to make a statement?
7 If you can, raise your hand and Steven will
8 unmute you.

9 No? Okay.

10 Mr. Skiendzielewski, did you want
11 to say something?

12 Steven, can you unmute him?

13 MR. LIANG: It seems he muted
14 himself. I'm asking him to unmute, but --

15 MR. SKIENDZIELEWSKI: Oh, unmute.
16 Okay. We okay now?

17 MR. LIANG: Yes. We can hear you,
18 Mr. Skiendzielewski.

19 MR. SKIENDZIELEWSKI: What is the
20 status of the financial disclosure for
21 Board Members and those --

22 HEARING OFFICER CHESTNUT: I'm not
23 going to address that here. You have
24 raised that, and it will be responded to.

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1 But this is not the appropriate forum for
2 that.

3 MR. SKIENDZIELEWSKI: Well --

4 HEARING OFFICER CHESTNUT: If you
5 have a question about the TAP filing,
6 please, raise it.

7 MR. SKIENDZIELEWSKI: Well, I've
8 always had questions about financial and
9 conflict of interests and recusals. And
10 regardless of what the particular issue is
11 now at hand, those concerns go to the heart
12 of integrity, ethics, propriety and
13 professionalism.

14 You can choose to ignore it,
15 Ms. Chestnut, Mr. Popowsky and everybody
16 else. But the fact of the matter is, if a
17 foundation is unstable, impure,
18 compromised, then all this discussion is
19 likewise compromised. So --

20 HEARING OFFICER CHESTNUT:

21 Mr. Skiendzielewski, your issue --

22 MR. SKIENDZIELEWSKI: Can I finish?

23 HEARING OFFICER CHESTNUT: Your
24 issue has been addressed many times. Many

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1 times. And your refusal to accept that
2 doesn't --

3 MR. SKIENDZIELEWSKI: What did you
4 say?

5 HEARING OFFICER CHESTNUT: -- mean
6 that they're valid, okay.

7 MR. SKIENDZIELEWSKI: I didn't hear
8 what you said.

9 HEARING OFFICER CHESTNUT: Anything
10 further?

11 MR. HAVER: Why isn't he allowed to
12 give public testimony?

13 HEARING OFFICER CHESTNUT: Relevant
14 to the issue here, certainly.

15 MR. HAVER: Well, let him finish.
16 Let's see if there's any relevancy. If you
17 decide it's not relevant, you can strike it
18 later.

19 MR. LIANG: He said he was
20 finished, Mr. Haver.

21 HEARING OFFICER CHESTNUT: He's
22 finished.

23 MR. LIANG: He stated that he was
24 finished.

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1 HEARING OFFICER CHESTNUT: Uh-huh.
2 Okay.

3 MR. HAVER: I'm sorry. I didn't
4 hear -- for the record, who is it that said
5 Mr. Skiendzielewski is finished?

6 MR. LIANG: Mr. Skiendzielewski
7 said he was finished.

8 HEARING OFFICER CHESTNUT: He's
9 left.

10 MR. HAVER: That's Mr -- that's
11 Mr. Liang who is making that ruling; is
12 that right?

13 HEARING OFFICER CHESTNUT: Nobody
14 is making any ruling.

15 MR. LIANG: I was just quoting
16 Mr. Skiendzielewski. He said: I'm
17 finished. I'm done.

18 HEARING OFFICER CHESTNUT: Okay.
19 Is there anybody else, then, who
20 has a comment about the filing?

21 (No response.)

22 HEARING OFFICER CHESTNUT: All
23 right. Then why don't we take a ten-minute
24 break. And then when we resume, we will go

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1 to the technical hearing. Thank you very
2 much.

3 (Public Hearing adjourned at 10:26 a.m.)

4 - - -

5 (Technical Hearing commenced at 10:40 a.m.)

6 HEARING OFFICER CHESTNUT: I'd like
7 to get started then. This is hearing
8 scheduled with respect to the TAP-R filing,
9 Reconciliation filing.

10 For the record, let me state that I
11 am Hearing Officer Marlene R. Chestnut.
12 I'd like the parties and participants to
13 identify for the record -- themselves for
14 the record, starting with you, Mr. Dasent.

15 MR. DASENT: Yes. Good morning,
16 again, Judge Chestnut. Andre Dasent for
17 the Philadelphia Water Department. With me
18 today is Carl Shultz. And on the line, I
19 believe, is Ji Jun our general counsel has
20 joined us. And I notice Melissa LaBuda,
21 our CFO, has been on the line from time to
22 time. And she's sort of checking in during
23 the course of the morning.

24 Our witnesses today are from Black

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1 and Veatch -- Brian Merritt and Dave
2 Jagt -- are on the line. And from
3 Raftelis, the second in line for cross this
4 morning, Jon Davis, Henrietta Locklear and
5 Brittany Baporis.

6 HEARING OFFICER CHESTNUT: Thank
7 you. Mr. Ballenger?

8 MR. BALLENGER: Good morning,
9 Judge. Robert Ballenger, Community Legal
10 Services for the Public Advocate. And
11 joined by Kinteshia Scott, also Community
12 Legal Services. And our witness, Lafayette
13 K. Morgan, Jr. is also with us today.

14 Thank you.

15 HEARING OFFICER CHESTNUT: Thank
16 you.

17 Mr. Haver, do you want to identify
18 yourself for the record, please?

19 MR. HAVER: Lance Haver.

20 HEARING OFFICER CHESTNUT: Okay.

21 Are there any preliminary matters?

22 MR. DASENT: Just some
23 housekeeping.

24 We did circulate, Judge Chestnut, a

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1 cross-examination matrix, which gives you
2 an idea if you sort of just read down the
3 matrix, the order that we propose to go.
4 And in fact, I see for Black and Veatch,
5 which is our first panel, that we do have
6 some cross from Mr. Haver.

7 We would proceed then to Raftelis
8 and then Mr. Morgan.

9 MR. BALLENGER: Just one other
10 preliminary, I believe we do have counsel
11 for the Large Users Group. I don't know if
12 they also need to or intend to
13 cross-examine witnesses today.

14 MR. DASENT: They indicated they
15 did not. And it's reflected in the matrix.

16 MR. BALLENGER: Sorry. I haven't
17 looked at that.

18 HEARING OFFICER CHESTNUT: Charis,
19 did you want to identify yourself for the
20 record, or -- or not?

21 MS. MINCAVAGE: Yes. I'm happy to
22 do so, Your Honor.

23 Good morning. This is Charis
24 Mincavage. I'm with the law firm of

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1 McNees, Wallace and Nurick. And I'm here
2 representing this morning the Philadelphia
3 Large Users Group or PLUG.

4 And Mr. Dasent is correct. At this
5 time, we have not indicated any cross from
6 any of the witnesses. Certainly, if
7 something were to come out at cross via
8 witness, we would reserve the right to
9 perform any follow up.

10 HEARING OFFICER CHESTNUT: Okay.
11 Thank you.

12 MS. MINCAVAGE: Thank you.

13 HEARING OFFICER CHESTNUT:

14 Mr. Dasent?

15 MR. DASENT: Yeah. We, also,
16 probably should agree to authentication of
17 testimony by stipulation. We, usually, do
18 that as opposed to going through
19 individually for each witness, you know,
20 their testimony is true and correct, et
21 cetera. And if that's agreeable to
22 counsel, that's how we will proceed this
23 morning.

24 HEARING OFFICER CHESTNUT: Any

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1 objection?

2 MR. BALLENGER: None, thank you.

3 HEARING OFFICER CHESTNUT: Okay.

4 MR. DASENT: I might, also, mention
5 that our various exhibits proffered by the
6 Water Department for the TAP-R filing are
7 posted with the formal notice; the B&V
8 schedules or Black and Veatch, lay out the
9 calculations and methodology. The RFC
10 schedules, which also provides various
11 reports and assumptions, including the TAP
12 enrollment assumptions for the next rate
13 year.

14 We, also, have PWD Exhibit 1A and
15 1B, which shows the proposed rates and
16 charges plain and black lined. And our
17 Rebuttal Statement, which is offered by RC
18 or Raftelis Financial Consultants. And
19 that's PWD Rebuttal Statement 1. And all
20 of those are part of the record. And we
21 hope and ask that they be included in the
22 record at the conclusion of this case.

23 You will note this morning the
24 major area of dispute, Your Honor, will be

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1 the determination of the average monthly
2 TAP participation level at the end of the
3 next rate year. We are at one end of -- I
4 call it -- a zone of reasonableness at
5 28,731. Mr. Morgan is at 23,075. But
6 within that range, we are saying basically
7 at the end of the next rate year, that we
8 will be at some higher level. And we are
9 starting at participation levels currently
10 at 17,148. So, we are debating that very
11 narrow issue.

12 And that's all I have.

13 HEARING OFFICER CHESTNUT:

14 Mr. Ballenger?

15 I'm sorry. I guess at this point,
16 there really isn't anything for you to say.

17 MR. BALLENGER: No. Thank you,
18 Judge.

19 HEARING OFFICER CHESTNUT:

20 Mr. Dasent, did you want to present
21 your --

22 MR. DASENT: Yes. We, at this
23 time, proffer Black and Veatch as a panel.
24 It will be Brian Merritt and Dave Jagt.

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1 And they are avail --

2 HEARING OFFICER CHESTNUT: And,
3 Mr. Ballenger, you indicated that you had
4 no cross for them; is that correct?

5 MR. BALLENGER: That's correct,
6 Your Honor.

7 HEARING OFFICER CHESTNUT: Now,
8 Mr. Haver, you said you do have cross for
9 this panel?

10 MR. HAVER: Correct.

11 HEARING OFFICER CHESTNUT: Okay.
12 Go ahead.

13 MR. HAVER: How many residential
14 water accounts does the Water Department
15 have?

16 MR. DASENT: We might be able to
17 give you an order of magnitude.

18 Brian, can you speak to that?

19 HEARING OFFICER CHESTNUT: Let me
20 just clarify. Do you mean at the current
21 time?

22 MR. HAVER: At the current time,
23 how many accounts does the Philadelphia
24 Water Department have? Residential

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1 accounts.

2 MR. JAGT: 420,000 approximately,
3 subject to check.

4 MR. HAVER: What is the percentage
5 of Philadelphians living at or below the
6 poverty level?

7 MR. MERRITT: The statistics that I
8 have seen from the Pew Charitable Trust,
9 this would be, I believe, from 2019 subject
10 to check, is around 23 percent.

11 MR. HAVER: Would you accept the
12 Pew Study says 25.7 percent?

13 MR. MERRITT: I've seen ranges
14 between 26 and 23, so subject to check,
15 sounds reasonable.

16 MR. HAVER: How many -- how many
17 individuals does that mean are living at or
18 below the poverty level in Philadelphia?
19 Would you accept, subject to check, it's
20 374,000? I am sure both of you have
21 calculators on your phone. If you want to
22 take your phones out and do the numbers,
23 feel free.

24 MR. DASENT: We can stipulate to

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1 that number order of magnitude, Mr. Haver.

2 MR. HAVER: How many families would
3 that be? Again, feel free to use your
4 phone calculators. It's obvious you're not
5 familiar with these numbers, so feel free
6 to just generate them now on your phones.

7 MR. DASENT: Are you assuming a
8 family of four?

9 HEARING OFFICER CHESTNUT: If you
10 want to list numbers, that's fine.

11 MR. HAVER: I was assuming that
12 your technical experts would know what the
13 average family in Philadelphia is, but
14 perhaps they don't. Maybe I made an
15 erroneous assumption about how much or how
16 little they knew.

17 Let me back up. What is the
18 average size of the Philadelphia family?
19 Do you not know?

20 MR. DASENT: They're a mix of
21 family sizes, Mr --

22 MR. HAVER: Mr. Dasent, I'm asking
23 directly of your witnesses.

24 HEARING OFFICER CHESTNUT: I don't

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1 see how it's even relevant. But if you are
2 able to answer it, answer it. If you are
3 not, then just say that you don't have that
4 information.

5 MR. JAGT: Offhand, we don't have
6 that information right available to us. As
7 a rate consultant for the overall rates,
8 we're not -- you know, Raftelis may be a
9 better reference for the TAP-R and the
10 low-income program and the customer base
11 for TAP-R.

12 MR. HAVER: Well, I have a number
13 of questions before I get to the TAP-R
14 figures. Trying to draw from the
15 demographics. I am assuming at this point,
16 you won't know the answers. But I'm still
17 going to ask on the record.

18 How many Philadelphians live at 150
19 percent of poverty or below?

20 MR. DASENT: Mr. Haver, we can
21 answer that question. I just don't know
22 that this is the witness.

23 MR. HAVER: Okay. Who would be the
24 appropriate witness to ask that of?

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1 MR. DASENT: I believe if we look
2 to Raftelis, we can get, you know, an order
3 of magnitude because we have more
4 information tied to the TAP program and the
5 various tiered assistance that we offer.
6 So, would give you a greater insight.

7 MR. HAVER: But my questions
8 revolving around what percentage of the
9 families, of the overall families are
10 enrolled in TAP are all, you're saying, for
11 different one of your witnesses; is that
12 correct?

13 MR. DASENT: That's correct.

14 MR. HAVER: Okay.

15 MR. DASENT: Raftelis is in the
16 room, so we will be able to answer it
17 shortly.

18 MR. HAVER: Okay. Thank you. I
19 will skip the next section of questions and
20 save them for your next expert.

21 To these experts, have you reviewed
22 PGW's filing with the Pennsylvania Public
23 Utility Commission on universal service?

24 MR. MERRITT: Which filings?

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1 MR. HAVER: The most recent filing.

2 MR. MERRITT: We are familiar with
3 it. I don't know that I've -- I have
4 all -- I don't know that I have the most
5 recent one.

6 MR. HAVER: Okay. Would you know
7 how many families are enrolled in PGW's CRP
8 program?

9 MR. DASENT: How many accounts or
10 households?

11 MR. HAVER: Either one.

12 MR. DASENT: Raftelis know this
13 absolutely. It's order of magnitude,
14 62,000. Order of magnitude.

15 MR. HAVER: Mr. Dasent --
16 Mr. Dasent, part of what I am trying to
17 explore is how much or how little your
18 technical experts know.

19 MR. JAGT: Chair, this is --

20 HEARING OFFICER CHESTNUT: Why
21 don't you ask your questions to the scope
22 of their assignment, Mr. Haver? They are
23 not here to talk about the design of the
24 TAP program. Aren't they talking about the

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1 rates and the calculation of the rates?

2 MR. DASENT: That's correct.

3 HEARING OFFICER CHESTNUT: Maybe
4 I'm wrong on that, Mr. Dasent, but that's
5 the way -- the scope of their testimony.
6 And that's what you should be --

7 MR. HAVER: If Your Honor is not
8 going to let me ask my questions, then,
9 Your Honor, will not let me ask my
10 questions. And she will prove the point I
11 made in my opening. I ask my questions --

12 HEARING OFFICER CHESTNUT: You can
13 ask any relevant --

14 MR. HAVER: I am a legal party.

15 HEARING OFFICER CHESTNUT: You can
16 ask --

17 MR. HAVER: I have a right to ask
18 my questions without your intervention.

19 HEARING OFFICER CHESTNUT: You can
20 ask any relevant question.

21 MR. HAVER: And if you want to
22 after I ask my question --

23 HEARING OFFICER CHESTNUT: If you
24 ask questions that are not relevant --

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1 MR. HAVER: -- if you want to rule
2 me out of order, of course you can. But
3 your aiding Mr. Dasent is inappropriate and
4 just another --

5 HEARING OFFICER CHESTNUT: I'm not
6 aiding Mr. Dasent. Stop making
7 accusations, Mr. Haver.

8 MR. HAVER: Why? Why shouldn't I
9 tell the truth?

10 HEARING OFFICER CHESTNUT: It's not
11 the truth.

12 MR. HAVER: Then stop helping
13 Mr. Dasent.

14 HEARING OFFICER CHESTNUT:
15 Mr. Haver --

16 MR. HAVER: Don't be prejudiced.

17 HEARING OFFICER CHESTNUT: -- ask
18 questions --

19 MR. HAVER: You are supposed to be
20 an adjudicator, not the aider of Mr.
21 Dasent.

22 HEARING OFFICER CHESTNUT: Come on.
23 Mr. Haver, either ask questions
24 directed to their testimony or move on.

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1 MR. HAVER: I am asking questions.
2 You are interfering with my
3 cross-examination on purpose with
4 prejudice.

5 HEARING OFFICER CHESTNUT: Oh, for
6 goodness sake.

7 MR. HAVER: You are aiding
8 Mr. Dasent on purpose and with prejudice.
9 Shame on you.

10 HEARING OFFICER CHESTNUT: Shame on
11 you, Mr. Haver.

12 MR. HAVER: Going back to my
13 questions --

14 MR. DASENT: I think we can answer
15 your questions. It's just the question of
16 which witness you need to ask. And we will
17 help you with that.

18 MR. HAVER: Okay.

19 Can you explain to me the
20 difference between a surcharge and a tax?

21 MR. MERRITT: Surcharge --
22 specifically, the TAP-R surcharge is
23 related to the recovery of discounts
24 provided to the customer enrolled in the

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1 TAP program. And recovery volumetric
2 charge that's included in the overall
3 quantity charges for water and sewer
4 service for Philadelphia Water Department
5 retail customers.

6 MR. HAVER: Would you -- in your
7 expert opinion, would it be good public
8 policy to surcharge a gallon of milk to pay
9 for the SNAP program?

10 MR. MERRITT: The -- I'm sorry.
11 Which program?

12 MR. HAVER: SNAP. Perhaps you're
13 not familiar with SNAP.

14 MR. MERRITT: We're providing
15 testimony on the documentation we submitted
16 in support of this filing before --

17 MR. HAVER: I understand. I'm
18 asking in your expert -- do you not know
19 what SNAP is?

20 MR. DASENT: You're talking about
21 food stamps, I assume --

22 MR. HAVER: Again, Mr. Dasent,
23 please, don't help your witnesses. Let
24 them answer they don't know it. It exposes

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1 how little or how much they know. You are
2 basing your arguments on their expertise.
3 And I have every right to examine how great
4 or how little their expertise is.

5 If they don't know what SNAP is,
6 they can go on the record and say, I don't
7 know what SNAP is.

8 HEARING OFFICER CHESTNUT: I'm
9 going to start not allowing you to ask
10 questions that are irrelevant. Now, I let
11 you have a lot of latitude here.

12 MR. HAVER: I don't believe so,
13 Your Honor. I believe you are
14 prejudiced --

15 HEARING OFFICER CHESTNUT: You can
16 disagree. That's fine.

17 MR. HAVER: -- and you are stopping
18 me from putting on my case.

19 HEARING OFFICER CHESTNUT: Why
20 don't you move on.

21 MR. HAVER: Do you support -- SNAP
22 is the old food stamp program.

23 In your expert opinions, is it good
24 public policy to surcharge for a gallon of

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1 milk to help low-income people pay for
2 groceries?

3 MR. DASENT: Please, note our
4 objection. Please, note our objection.
5 This is completely irrelevant to this
6 proceeding.

7 HEARING OFFICER CHESTNUT:
8 Sustained.

9 MR. HAVER: What are the
10 incremental costs of one -- what is the
11 actual cost of one gallon of water
12 separating out the cost of water, the
13 commodity, from the cost of delivering it
14 from the cost of billing and metering?

15 MR. JAGT: The cost of service
16 analysis that we used as recognized in the
17 2021 rate case settlement is the base-extra
18 capacity method. It's the industry
19 accepted methodology for water rate cost
20 allocation.

21 We do not use the incremental
22 methodology that you are referencing. So,
23 we did not development the incremental cost
24 as you are identifying.

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1 Incremental cost method is another
2 form of subsidization that is not reflected
3 in the current approach.

4 MR. HAVER: Again, under your
5 calculations and your expert opinion, what
6 is the actual cost of one gallon of water,
7 the commodity, separated out from the
8 delivery, the meter reading and the billing
9 and the service?

10 MR. JAGT: Today's testimony is
11 regarding the TAP-R, and we can discuss
12 that. I can pull up the information from
13 the 2021 rate settlement and provide that
14 information in a follow up. But the
15 relative testimony for today, that is not,
16 you know, within the scope of the testimony
17 that we provided for TAP-R.

18 MR. HAVER: How then, in your
19 expert opinion, do you calculate the loss
20 if you don't know the commodity cost?

21 MR. DASENT: Objection.

22 We just indicated that it was
23 irrelevant to that particular analysis.
24 But to ask the direct question, how did you

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1 calculate the revenue loss, is another
2 issue.

3 HEARING OFFICER CHESTNUT: Yes.

4 Go ahead, Mr. Haver.

5 MR. HAVER: I've asked my question.
6 I'm waiting for an answer.

7 HEARING OFFICER CHESTNUT: The
8 objection was sustained.

9 MR. HAVER: We'll see how
10 prejudiced you are, and if you are not
11 going to allow know me to make my point.

12 Go ahead, Judge Chestnut. Prove
13 how much you want the next Hearing Examiner
14 position by helping Mr. Dasent out again
15 prove it.

16 MR. DASENT: Note our continuing
17 objection.

18 MR. HAVER: You must be desperate
19 for funds.

20 HEARING OFFICER CHESTNUT: Yes.
21 I'm desperate, yes.

22 MR. HAVER: By the way, where is
23 your financial disclosure form? I couldn't
24 find it either.

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1 MR. DASENT: Objection. Again, we
2 are going way beyond the scope of the
3 proceeding. And we are getting into ad
4 hominem attacks.

5 HEARING OFFICER CHESTNUT: Yes.

6 MR. HAVER: Asking for financial
7 disclosure form --

8 HEARING OFFICER CHESTNUT: You want
9 to know the cost of a gallon of water. And
10 that's not relevant to this. And then, I
11 think you were trying to ask how to
12 calculate the revenue associated with the
13 TAP program, aren't you? Is that what
14 you --

15 MR. DASENT: The revenue loss.

16 MR. HAVER: I am asking what I am
17 asking. And I am waiting for an answer.

18 HEARING OFFICER CHESTNUT: Well,
19 clarify what you're asking. Go back and
20 let me know what it is you're asking.

21 MR. HAVER: If you don't have a
22 figure for the commodity of a gallon of
23 water, how do you calculate the loss from
24 the discounted rate?

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1 MR. JAGT: Again, we are supporting
2 the testimony we submitted. And that
3 question is not part of our testimony. We
4 can provide the overall credits. I can
5 explain how the credits are identified.

6 I mean, the credits that you are
7 referencing are the difference in cost per
8 gallon. We do, do a comparison of what the
9 TAP customers are paying based on their
10 income relative to the amount that they're
11 billed under their current rate structure.
12 And that difference is recovered through
13 TAP-R the, credits that are applied to the
14 bills.

15 So -- and those are all based on
16 existing rate structure relative to the --

17 MR. HAVER: And I -- and you've
18 made that point repeatedly. And I am
19 asking once again, if you don't know how
20 much the commodity --

21 MR. JAGT: I know, sir. I should
22 look at the documentation. Again, we were
23 prepared to discuss the TAP-R testimony
24 which didn't -- you know, does not present

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1 the unit cost behind that information. I
2 can get the unit costs and provide it in a
3 response. I just --

4 MR. HAVER: Thank you.

5 MR. JAGT: -- don't have it right
6 now.

7 MR. HAVER: I appreciate you
8 getting that. I'm going to assume you have
9 the same answer for me, but I will ask the
10 questions.

11 What's the incremental cost of
12 reading one additional meter through the
13 Water Department's automated meter reading?
14 Is that something --

15 MR. DASENT: Objection. Objection:
16 Irrelevant to this proceeding.

17 MR. HAVER: It's not irrelevant.
18 The only way to calculate the loss is to
19 know what the actual cost are for
20 incremental people.

21 HEARING OFFICER CHESTNUT: No.

22 MR. DASENT: Why don't you ask him
23 how to calculate the loss, sir?

24 HEARING OFFICER CHESTNUT: Ask him

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1 to calculate it. Yeah.

2 MR. HAVER: He said how he
3 calculated it. I'm asking him to calculate
4 it in a different way.

5 He said, he looked at what the
6 current rates are and what the discount was
7 for what people on TAP were paying. I am
8 asking what the actual cost is of adding an
9 additional customer? And what the actual
10 cost is of a gallon of water? And what the
11 actual cost is for adding one person for a
12 bill?

13 Those are different questions.

14 MR. DASENT: And we are suggesting
15 to you, based upon our analysis, it's
16 irrelevant to this particular proceeding,
17 but we will provide information that
18 Mr. Jagt has indicated he will try to get
19 for you. But it's not relevant to his
20 particular calculation of loss revenues
21 associated with TAP. He can tell you how
22 he did it. And then, you can make your own
23 judgment or, in the normal circumstance,
24 present your own witness.

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1 MR. HAVER: I object to Mr. Dasent
2 testifying.

3 HEARING OFFICER CHESTNUT: He's not
4 testifying.

5 MR. HAVER: It's not appropriate.
6 He certainly is.

7 HEARING OFFICER CHESTNUT: Listen,
8 Ms. King -- Mr. Haver --

9 MR. HAVER: Putting on the record
10 his opinion --

11 HEARING OFFICER CHESTNUT: Stop.
12 Stop.

13 MR. HAVER: He's testifying.

14 HEARING OFFICER CHESTNUT: Stop.

15 MR. HAVER: Go ahead and let him do
16 it. Again, prove my point, Your Honor.
17 Prove my point. Let him testify all he
18 wants.

19 HEARING OFFICER CHESTNUT: The
20 attorneys do not testify. Their statements
21 have no probative weight. We've been
22 through this. Attorneys do not testify.

23 MR. HAVER: You allow them to
24 repeatedly.

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1 HEARING OFFICER CHESTNUT: He is
2 not testifying.

3 MR. HAVER: You can shout all you
4 want and you can laugh all you want, but it
5 doesn't change the facts that you are
6 prejudiced and your rulings are
7 prejudicial. And you are getting in the
8 way of justice for poor and working people.

9 HEARING OFFICER CHESTNUT: Of
10 course. Okay. Listen, I don't know how
11 much you have. But if there's anything
12 relevant, why don't you present it.

13 MR. HAVER: I am presenting it.

14 HEARING OFFICER CHESTNUT: It's
15 already been explained to you --

16 MR. HAVER: You are getting in the
17 way of me --

18 HEARING OFFICER CHESTNUT: The
19 scope --

20 MR. HAVER: -- making my case.

21 HEARING OFFICER CHESTNUT: -- of
22 the testimony.

23 MR. HAVER: You are doing the Water
24 Department's job by stopping me from

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1 probing and getting my facts on the record.

2 How much --

3 HEARING OFFICER CHESTNUT: I don't
4 have an obligation for you -- to put your
5 case on for you.

6 MR. HAVER: They have an obligation
7 to answer the questions under
8 cross-examination.

9 HEARING OFFICER CHESTNUT: They
10 have an obligation to answer questions --

11 MR. HAVER: How I choose to make --

12 HEARING OFFICER CHESTNUT: --
13 directed to the testimony.

14 MR. HAVER: -- my case is my right,
15 my legal right to make my case in the way I
16 want.

17 HEARING OFFICER CHESTNUT: Right.
18 But you can't --

19 MR. HAVER: You have no right to
20 interfere with it.

21 HEARING OFFICER CHESTNUT: You
22 cannot use other people's experts to put on
23 your case.

24 MR. HAVER: Of course I can. Of

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1 course that's legal. You can cross-examine
2 other people's witnesses to make your facts
3 known. That's exactly what's done, and you
4 know it. And you are trying to stop me.

5 HEARING OFFICER CHESTNUT:

6 Mr. Haver, you know, at some point,
7 you're going to have to move on. You are
8 just --

9 MR. HAVER: I'm trying to move on.
10 You are not letting me ask my questions.

11 HEARING OFFICER CHESTNUT: I am
12 trying to answer your questions, but you're
13 not --

14 MR. HAVER: I have a list of
15 questions I am trying to ask to, one, probe
16 their expertise; two, probe their
17 knowledge; three, to probe their numbers;
18 and four, to probe alternative theories.
19 You are interfering with each and every one
20 of those levels on purpose. You are doing
21 it on purpose, which is amazing.

22 You are not a stupid person. You
23 are --

24 MR. DASENT: Ask your question.

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1 Ask your next question.

2 HEARING OFFICER CHESTNUT: Please.

3 MR. HAVER: Why are you allowed to
4 talk until you're finished, but I am not
5 allowed to talk until I'm finished? Why do
6 we have two sets of standards, Mr. Dasent?

7 MR. DASENT: I don't think we have
8 two sets of standards. I just need a
9 relevant question, and we will answer it.

10 MR. HAVER: Let me finish my
11 statement.

12 HEARING OFFICER CHESTNUT: Okay.

13 MR. DASENT: What's your question?

14 HEARING OFFICER CHESTNUT: Ask your
15 question. And you know what witnesses, if
16 it's not within the scope of your
17 testimony, I don't even need a ruling on
18 that. Then don't answer it, okay? Say
19 it's not within the scope of your
20 testimony.

21 MR. HAVER: How much does it cost
22 the Water Department to terminate someone's
23 service?

24 MR. DASENT: Is that in the scope

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1 of your testimony?

2 MR. MERRITT: That's not within the
3 scope of our testimony.

4 MR. DASENT: Thank you.

5 HEARING OFFICER CHESTNUT: Move on.

6 MR. HAVER: How much does it cost
7 the Philadelphia Water Department to
8 attempt a collection on a bill that has not
9 been paid in three months?

10 MR. MERRITT: That's not within the
11 scope of our testimony.

12 MR. HAVER: How much does it cost
13 the Philadelphia Water Department to turn
14 somebody back on?

15 MR. MERRITT: That's not within the
16 scope of our testimony.

17 MR. HAVER: How much does it cost
18 the City of Philadelphia to care for a
19 family whose water has been turned off?

20 MR. MERRITT: That's not within the
21 scope of our testimony.

22 MR. HAVER: If a TAP customer pays
23 for all of the commodity charges plus
24 something, does that person -- does that

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1 account help other rate payers or harm
2 other rate payers?

3 MR. MERRITT: Can you restate the
4 question?

5 MR. HAVER: Yes. If a TAP customer
6 covers the cost of the commodity water and
7 adds something to the infrastructure cost,
8 does that customer help lessen the burden
9 on other rate payers? Or does that
10 customer increase the burden on other rate
11 payers?

12 MR. JAGT: What is the basis for
13 your commodity?

14 I mean, it's subject to the
15 relativity of the commodity rate you are
16 assuming. Because obviously, right
17 now their -- TAP customers do not pay the
18 full amount. They're paying a lower amount
19 based on their income. And that's why we
20 are, you know, identifying the level of
21 credits that are added to them and
22 recovering it through TAP-R.

23 MR. HAVER: So, I don't know how to
24 pronounce your name. I will do my best.

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1 Mr. Jag-it?

2 MR. JAGT: It's "yacht" like the
3 boat.

4 MR. HAVER: Mr. Jagt. I'm not
5 asking right now specific. I'm asking in
6 your expert opinion. If a customer, a TAP
7 customer covers the commodity charge plus
8 something, does that -- letting them pay
9 that, does that help the rest of the rate
10 base? Or does that help create a deficit
11 for the rest of the rate base?

12 HEARING OFFICER CHESTNUT: Going to
13 disallow that. This is not a proceeding to
14 talk about the implementation or design of
15 a TAP-R program. This is a recon -- that's
16 done in the general rate case.

17 MR. HAVER: No. You're --

18 HEARING OFFICER CHESTNUT: That's
19 is a reco --

20 MR. HAVER: Another example --

21 HEARING OFFICER CHESTNUT: Don't
22 interrupt me again.

23 MR. HAVER: If you want to --

24 HEARING OFFICER CHESTNUT: Don't

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1 interrupt me again.

2 MR. HAVER: -- it's a deficit --

3 HEARING OFFICER CHESTNUT: Angela
4 cannot --

5 MR. HAVER: -- that forces you the
6 surcharge from Mr. Ballenger's agreement.
7 It's a surcharge on the rate payers. I
8 have every right to find out whether the
9 experts are saying that it does create a
10 deficit for the other rate payers. That is
11 absolutely relevant.

12 HEARING OFFICER CHESTNUT: That is
13 not correct.

14 MR. HAVER: It's absolutely
15 appropriate.

16 HEARING OFFICER CHESTNUT: That is
17 not correct. This is not a proceeding to
18 discuss whether the TAP program should be
19 implemented or how to implement it. This
20 is a reconciliation proceeding.

21 MR. HAVER: Right. And to find
22 out --

23 HEARING OFFICER CHESTNUT: To look
24 at the numbers.

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1 MR. HAVER: To find out what the
2 deficit is.

3 HEARING OFFICER CHESTNUT: And you
4 are talking about program design. And that
5 is not a relevant issue.

6 MR. HAVER: I am not. I am asking
7 a specific question about whether allowing
8 someone to pay for the commodity plus a
9 penny creates a deficit to the whole or
10 creates an advantage to the whole.

11 HEARING OFFICER CHESTNUT: You
12 don't have to answer those kinds of
13 questions. Go ahead.

14 MR. HAVER: I will reserve the rest
15 of my questions for the other witnesses.

16 HEARING OFFICER CHESTNUT: Okay.
17 Does anybody have any -- does anybody else
18 have questions for this panel?

19 MR. LIANG: I don't have questions.
20 But the court reporter wanted me to say
21 that, she's having difficulty following
22 when multiple speak -- multiple people
23 speak at once. So if we can keep the
24 record more organized, I guess.

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1 HEARING OFFICER CHESTNUT: Yes.
2 Thank you. And that's directed to you,
3 Mr. Haver.

4 MR. HAVER: That's funny. I'd like
5 to direct it to you.

6 HEARING OFFICER CHESTNUT: Do you
7 have any redirect, Mr. Dasent?

8 MR. HAVER: That's funny. I
9 thought it was directed to you for
10 interrupting me.

11 HEARING OFFICER CHESTNUT:
12 Mr. Dasent, do you have anything
13 further?

14 MR. DASENT: We have nothing
15 further.

16 HEARING OFFICER CHESTNUT: For
17 redirect?

18 MR. DASENT: Thank you. Nothing
19 further.

20 HEARING OFFICER CHESTNUT: Thank
21 you, Mr. Jagt, Mr. Merritt. You are
22 excused.

23 Did you want to present your second
24 panel, Mr --

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1 MR. DASENT: Yes. Thank you, Your
2 Honor. Our second witness panel is from
3 Raftelis Financial Consultants -- Jon
4 Davis, Henrietta Locklear and Brittany
5 Baporis. I believe they are in the room.

6 HEARING OFFICER CHESTNUT: Okay.

7 MR. DASENT: The witnesses are
8 available for cross.

9 HEARING OFFICER CHESTNUT:

10 Mr. Ballenger, did you -- you
11 indicated no cross for them. Is that still
12 the case?

13 MR. BALLENGER: No. I, actually,
14 indicated extensive cross for them. I
15 think there's a typo that's says moderate.

16 HEARING OFFICER CHESTNUT: Oh,
17 okay. Oh, moderate, yeah. Okay. Go
18 ahead.

19 MR. BALLENGER: Thank you, Judge.
20 And just want to acknowledge distributing
21 in advance of the hearing our hearing
22 exhibit, which I've asked be entered into
23 the record and marked as Public Advocate
24 Hearing-1.

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1 HEARING OFFICER CHESTNUT: Okay.

2 So marked.

3 MR. BALLENGER: Thank you.

4 And I'm just going to speak to the
5 panel and hope that one of you chime up,
6 please. I know you co-sponsored your
7 testimony multiple times here. So, I
8 don't -- I don't mind if one of you takes
9 the lead and others contribute as you see
10 fit just so long as we move through this.
11 And I will try to move through this as
12 quickly as possible.

13 If I can start just by directing
14 you to Schedule RFC-1 in your direct
15 testimony in the paragraph that begins with
16 the heading Projection. And I just want to
17 make sure I understand the basis for your
18 projections.

19 In that paragraph you explain that
20 the automatic --

21 HEARING OFFICER CHESTNUT: Sorry.
22 Mr. Ballenger, what was that reference?

23 MR. BALLENGER: It's Schedule
24 RFC-1, which is attached to the formal

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1 notice as part of the direct testimony.

2 HEARING OFFICER CHESTNUT: Okay.

3 MR. DASENT: I'm trying to get
4 there. Give me one second.

5 MR. BALLENGER: No problem. And
6 this is more overview. I expect the
7 witnesses can probably answer it without
8 having to review too carefully.

9 MR. DASENT: Okay.

10 MR. BALLENGER: The question is,
11 whether I understand correctly that your
12 projections are based on auto-enrollment on
13 a reciprocal basis with LIHWAP, Low Income
14 Home Water Assistance Program, eligibility
15 determinations; isn't that correct?

16 MR. DAVIS: I'm sorry. Yes, that
17 is correct.

18 MR. BALLENGER: Okay. And turning
19 to the very next page, this page is --
20 (audio fades out.)

21 HEARING OFFICER CHESTNUT: I'm
22 sorry. Mr. Ballenger, I can't hear you
23 there.

24 MR. BALLENGER: Sorry. I just want

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1 to acknowledge that each page is numbered
2 on the bottom left, but the cover page is
3 not. So if you are looking at the
4 numbering in your pdf, you are -- you will
5 need to go one page further than what I
6 say.

7 On the first page of Hearing
8 Exhibit 1 is response to PA Tab No. 4. Can
9 I assume you prepared that response or can
10 answer some questions about it?

11 MS. LOCKLEAR: I'm sorry, Rob. I
12 got a little confused about whether you are
13 talking -- what document you were talking
14 about. Could you say that again, please?

15 MR. BALLENGER: Yes. In the
16 hearing exhibit, I -- for your courtesy
17 here, I just included some of the data
18 responses I would like to discuss. And the
19 parts is in PA Tab 4. And the question is
20 whether you can answer some questions about
21 that particular response.

22 MR. DAVIS: That was a response by
23 the City. But I believe we can potentially
24 shed some light on it.

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1 MR. BALLENGER: Thank you. And if
2 not, we can find another way.

3 In that response, it states that
4 you're working on an algorithm for a pilot
5 program to enable rapid enrollment of
6 LIHWAP recipients into TAP.

7 Is there a difference between rapid
8 enrollment and automatic enrollment? And
9 if so, can you please explain it?

10 MR. DAVIS: I think as we're using
11 the term here and, as yet, these -- all
12 these things have not been totally
13 finalized, I think we are using them more
14 or less synonymously.

15 MR. BALLENGER: Is it envisioned
16 that LIHWAP recipients enroll in TAP,
17 through whatever the process becomes,
18 whether it's called rapid or automatic
19 enrollment, they would to have to indicate
20 their agreement with program terms at some
21 point?

22 MR. DAVIS: Henrietta, I'm not sure
23 the determination has been made on that at
24 the city level. Can -- do we -- are we

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1 able to speak to that?

2 MS. LOCKLEAR: It's likely. But I
3 don't think totally finalized. That would
4 be the case.

5 MR. BALLENGER: I ask because there
6 are obligations of TAP recipients that are
7 acknowledge in the ordinary course of
8 application.

9 For example, that they would accept
10 and reasonably maintain any
11 pre-conservation assistance provided to
12 them. And without having some sort of
13 acknowledgment, it seems to me that someone
14 automatically enrolled wouldn't have that
15 obligation.

16 Wouldn't you agree?

17 MR. DAVIS: Pending the definition
18 of automatically, which is not yet
19 determined.

20 MR. BALLENGER: Okay. In the
21 response here in PA Tab 4, it also states
22 the project team believes the majority of
23 LIHWAP recipients would be eligible to
24 enroll in TAP because the two programs

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1 common residency and income requirements.

2 Do you see that language here?

3 MR. DAVIS: Yes.

4 MR. BALLENGER: I want to focus a
5 little bit on that. Do you agree --

6 HEARING OFFICER CHESTNUT:

7 Mr. Davis, I have been told there's
8 a lot of ambient noise coming from you.

9 MR. DAVIS: Apologies. There is a
10 thunderstorm going on in my background.
11 And I'm not able to cancel all that noise
12 out.

13 HEARING OFFICER CHESTNUT: Okay.
14 That's --

15 MR. BALLENGER: Understandable.

16 Do you agree that the receipt of
17 LIHWAP is not based solely on residency and
18 income eligibility determinations.

19 MR. DAVIS: This -- I think the
20 statement was based on the common level of
21 percentage of federal poverty level and
22 being an account holder within the system.

23 MR. BALLENGER: Isn't it true that
24 LIHWAP recipients don't have to be account

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1 holders?

2 MR. DAVIS: Account holders in
3 which program?

4 MR. BALLENGER: In either program.
5 LIHWAP recipient doesn't have to be a
6 customer of the Water Department; isn't
7 that correct.

8 MR. DAVIS: I believe that is the
9 publicity they are putting out, yes.

10 MR. BALLENGER: Isn't it also true
11 that to receive LIHWAP, someone must have
12 either a past due balance or a threatened
13 or actual shut off of water service?

14 MR. DAVIS: That is our
15 understanding generally, yes.

16 MR. BALLENGER: So likewise, with
17 regard to the Tiered Assistance Program,
18 would you agree that simply having a low
19 income and residing in the City of
20 Philadelphia is not sufficient to enroll in
21 TAP?

22 MR. DAVIS: There are other
23 qualification criteria.

24 MR. BALLENGER: Okay. So just to

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1 clarify, to be enrolled in TAP, you also
2 have to be a customer of the Water
3 Department, correct?

4 MR. DAVIS: That is true, yes.

5 MR. BALLENGER: Okay. And if we
6 turn to page 2 of the hearing exhibit, you
7 also stated that your projections assume
8 that any LIHWAP recipient is eligible for
9 TAP, and can become a customer, right?

10 MR. DAVIS: Yes.

11 MR. BALLENGER: And just going back
12 a page to page 1, isn't it also true that
13 the city's acknowledged that some LIHWAP
14 recipients may already participate in
15 assistance programs such as TAP?

16 MR. DAVIS: That is possible, yes.

17 MR. BALLENGER: It's possible.
18 Isn't it also true?

19 MR. DAVIS: It is possible that
20 they participate in assistance program.

21 MR. BALLENGER: Okay. Can I direct
22 you then to page 4 of the hearing exhibit,
23 which is the response to PA Tab 16. And I
24 believe you will see ton that data response

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1 that, in fact, multiple LIHWAP recipients
2 have already been identified as
3 participating in a Tiered Assistance
4 Program, Senior Citizens Assistance
5 Program, so on and so forth?

6 MR. DAVIS: Yes.

7 MR. BALLENGER: Okay. I would just
8 like to make sure that we're clear.

9 So it's true, then, that some
10 LIHWAP recipients will, in fact, already
11 participate in these programs, correct?

12 MR. DAVIS: Some, yes.

13 MR. BALLENGER: Some. Okay.

14 And as of February 25, 2022, this
15 is in your response to PA Tab 17 -- and
16 that's included on page 3 of the hearing
17 exhibit -- you indicated that 460 grantees
18 have received LIHWAP so far, correct?

19 MR. DAVIS: Yes.

20 MR. BALLENGER: And some subset of
21 that 460 approvals, you're not able to
22 report how many of them are or are not
23 customers of the Water Department; isn't
24 that right?

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1 MR. DAVIS: Henrietta, have we been
2 able to confirm numbers for any of that?

3 MS. LOCKLEAR: As of the 2/25
4 reporting, we didn't have that information,
5 Rob.

6 MR. BALLENGER: Thank you. Because
7 it says the reporting is under development.

8 So the question was how many -- we
9 are trying to figure out here, how many
10 people get LIHWAP really have a pathway to
11 TAP. That's sort of the gist of things.
12 Help to know how many customers.

13 MS. LOCKLEAR: Understood.

14 MR. BALLENGER: So turning to your
15 rebuttal testimony on page 6, lines 4 to
16 10. I noticed here the -- you sort of
17 quantity the 77 percent of LIHWAP
18 recipients were not enrolled in TAP. But
19 based on the information you've provided,
20 can you conclude that all 77 percent or
21 even some specific number of those
22 customers can enroll in TAP?

23 MR. DAVIS: I apologize I keep
24 getting muted and trying to unmute.

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1 Yes. It is possible that some
2 percentage of this 77 percent would not be
3 immediately eligible to enroll in TAP for
4 various reasons.

5 MR. BALLENGER: And you can't
6 identify with certainty here today what
7 percentage that would be?

8 MR. DAVIS: That -- that analysis
9 is under development.

10 MR. BALLENGER: Okay. Can I just
11 take that as confirmation then, as we sit
12 here today, Mr. Davis, that you can't tell
13 me how much of those 77 percent of
14 customers can enroll in TAP?

15 MR. DAVIS: Well, I think there's
16 the distinction between those that can
17 immediately enroll in TAP and those that
18 could potentially enroll in TAP given their
19 ability to address certain other criteria.

20 MR. BALLENGER: Can you identify
21 what percent could be automatically
22 enrolled or rapidly enrolled under the
23 program?

24 MR. DAVIS: Again, I don't think

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1 we've defined the -- what exactly rapidly
2 enrolled or automatically enrolled might
3 be.

4 MR. BALLENGER: And just to be
5 clear, regardless of definition, can you
6 identify what percentage, how much of the
7 77 percent are currently customers with the
8 Water Department?

9 MR. DAVIS: Not sure we have any
10 information on that. Henrietta, correct me
11 if I'm wrong.

12 MS. LOCKLEAR: We are working on
13 better defining that, Rob.

14 MR. BALLENGER: Appreciate that.
15 And I know this is all moving very quickly.
16 I'm just trying to make sure that the
17 record is clear.

18 MS. LOCKLEAR: Indeed.

19 MR. BALLENGER: So if we could,
20 please, turn to page 5 of the hearing
21 exhibit. And this is a pdf of the website
22 for the City of Philadelphia that applies
23 to tenants who want to become a water
24 customer. And I have taken the liberty of

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1 highlighting some relevant sections
2 throughout this exhibit so that we can get
3 through it.

4 Isn't it true that it says here on
5 the website that to become a customer, a
6 tenant needs -- a tenant customer needs
7 written consent from the owner?

8 MR. DAVIS: It does say that, yes.

9 MR. BALLENGER: Okay. Turning a
10 couple more pages down to page 7, want to
11 verify this is the current application for
12 service for tenants in the City of
13 Philadelphia; is that correct?

14 MR. DASENT: If you know.

15 MR. BALLENGER: Subject to check?

16 MR. DAVIS: Subject to check.

17 MR. BALLENGER: And if you turn to
18 the following page under the heading Tenant
19 Requirements, which is attached to the
20 application, isn't it also true that this
21 states that a customer needs written
22 consent to become -- a tenant needs written
23 consent from the owner to become a
24 customer?

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1 MR. DAVIS: That is what it says,
2 yes.

3 MR. BALLENGER: And again, you've
4 confirmed and I've included the relevant
5 response to PA Tab 18, that to become -- to
6 be automatically enrolled, someone must be
7 a customer of the Water Department,
8 correct?

9 MR. DAVIS: Again, I don't think
10 we've defined what automatically enrolled
11 means. To be enrolled, they -- they would
12 need that. Yes.

13 MR. BALLENGER: So the question was
14 in PA Tab 18: Please confirm that auto
15 enrollment in TAP, the LIHWAP recipient be
16 contingent upon the recipient being the
17 Water Department's main customer.

18 And you responded: This is
19 confirmed.

20 Correct?

21 MR. DAVIS: Yes, that is correct.

22 MR. BALLENGER: And on the
23 following page of the exhibit is the
24 response to PA Tab 19. I just want to

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1 confirm, that this, also, reflects that
2 there is no changes that are proposed to
3 the Water Department's customer service
4 regulation regarding customer status. And
5 that's -- you, again, responded that there
6 are no such changes; is that correct.

7 MR. DAVIS: The city responded to
8 that. And again, I'm not exactly sure the
9 date of that response. But I believe that
10 to have been true at the time.

11 MR. BALLENGER: Thank you,
12 Mr. Davis. I'd forgotten that was
13 responded to by the city. I will change
14 the responsibility to that question.

15 I would like to just talk a little
16 bit about those relevant regulations. And
17 so, I've include Chapter 1 of the Water
18 Department's customer service regulation
19 starting at page 11 of the exhibit. And
20 again, I've -- to make things a little
21 easier, I highlighted some sections.

22 I would like you to take a look at
23 100.2(a2) of the regulations, which begins
24 on page 12 and extends to page 13 of the

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1 hearing exhibit. I would like you to take
2 a moment and review that. And please, let
3 me know when you are done.

4 MR. DAVIS: (Reviews.)

5 Okay.

6 MR. BALLENGER: Can you, please,
7 identify where in the regulation you just
8 reviewed it requires a tenant to provide
9 written consent from the property owner?

10 MR. DASENT: I should note at this
11 point, that these witnesses may not be the
12 experts for sort of the legal background or
13 knowledge of where to find in regulations
14 various -- various requirements.

15 However, if they are generally
16 familiar and can answer at the high level
17 that they are acquainted with the
18 regulation, I won't object.

19 MR. DAVIS: I'm, certainly, not an
20 expert in -- in the regulations,
21 Mr. Ballenger.

22 MR. BALLENGER: But do you see in
23 the section that you just read, which
24 states that a tenant or occupant who wishes

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1 to be a customer, must submit. And then,
2 there's a list of things there, correct?
3 You see that?

4 MR. DASENT: I think the regulation
5 speaks for itself, yes.

6 MR. BALLENGER: And would you,
7 also, agree that nowhere in that regulation
8 does it require written consent of the --
9 (audio fades out.)

10 MR. DASENT: Written consent of
11 the -- it dropped off. I didn't hear the
12 last part.

13 MR. BALLENGER: Nowhere in the
14 language that you reviewed, does it require
15 written consent of the owner.

16 Isn't that correct?

17 MR. DASENT: Oh. You mean, it's
18 like they opt out or something? Tell me
19 what you mean by that.

20 HEARING OFFICER CHESTNUT: Okay.
21 Mr. Dasent, I think the question is pretty
22 clear. And think they are able to answer
23 it.

24 MR. DASENT: Okay.

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1 HEARING OFFICER CHESTNUT: It's a
2 yes/no looking at these regs.

3 MR. DAVIS: I am not seeing that in
4 here.

5 MR. BALLENGER: And we will
6 continue onto pages 14 and 15 of the
7 exhibit. There is a section I have
8 highlighted here titled Notice To Owner.
9 And that carries over to page 15.

10 I would like you to, again, review
11 that language. And please, let me know
12 when you are finished reviewing it.

13 MR. DAVIS: Are you referring to
14 parts one, two and three?

15 MR. BALLENGER: No. Just part one
16 and two, the green highlighted if you are
17 looking at the same section.

18 MR. DAVIS: Okay.

19 MR. BALLENGER: Okay. Just like to
20 ask you to confirm again, in what you just
21 read, there is no requirement that an owner
22 provide written consent to a tenant's
23 application; isn't that correct?

24 MR. DASENT: Please, note my

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1 continuing concern that we -- this
2 particular witness may not no elsewhere in
3 the regs where certain requirements may be
4 stated. They are not experts or provided
5 for that purpose. But at a high level --

6 HEARING OFFICER CHESTNUT: I think
7 the question is sufficiently narrow. I
8 think he can answer it. We understand that
9 there may be other regulations that are
10 addressed to that, which you can bring up
11 on your -- on your recross, or on your
12 redirect. Excuse me.

13 MR. DASENT: Yeah.

14 MR. DAVIS: Can you repeat the
15 question, please?

16 MR. BALLENGER: Just like you to
17 confirm that nowhere in the language you
18 just reviewed is the owner's written
19 consent required for the tenant to become a
20 customer.

21 MR. DAVIS: I did not see that it
22 is required.

23 MR. BALLENGER: And instead,
24 wouldn't you agree that the language you

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1 just reviewed requires the city to notify
2 an owner when a tenant applies for service.
3 And then, provides that the owner is deemed
4 to consent if it doesn't respond?

5 MR. DAVIS: I believe the -- this
6 is probably not a very good line of
7 questioning for me, Mr. Ballenger. I would
8 defer to someone who is more familiar with
9 city regulations.

10 MR. BALLENGER: Okay. I will just
11 state that in paragraph two, the last --
12 the middle sentence states: The notice
13 shall afford the owner 20 days from the
14 date of the notice in which to provide the
15 Water Revenue Bureau with any comments
16 regarding the applicant's eligibility to
17 indicate any objection.

18 Right?

19 MR. DAVIS: I see that, yes.

20 MR. BALLENGER: Okay. And then the
21 following paragraph, which is highlighted
22 in orange, doesn't it say that: The owner
23 shall be deemed to have no objection to the
24 provision of utility service?

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1 MR. DAVIS: I see that wording,
2 yes.

3 MR. BALLENGER: Okay. Thank you.

4 If we could go back up one page to
5 page 14 of the hearing exhibit. And there
6 is language highlighted at the very top,
7 Subsection F. And this is one of the
8 provisions under the preceding section that
9 says: An owner/tenant occupant is
10 qualified to become a customer unless --
11 and then, I would like to ask you to read
12 the highlighted language in orange there,
13 please.

14 MR. DAVIS: The tenant is applying
15 for utility service at a service location
16 for which no valid residential rental
17 property license exists.

18 MR. BALLENGER: So based on the
19 discussion we have had so far, if the
20 tenant applies for service and provides
21 consent, written consent from the owner,
22 isn't it true that that tenant cannot get
23 service in their name if the property is
24 not a licensed rental?

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1 MR. DAVIS: I would defer to
2 someone who has more expertise in
3 regulations.

4 MR. BALLENGER: Okay. But based on
5 what you just read, is that a reasonable
6 interpretation?

7 MR. DASENT: If you know.

8 MR. DAVIS: I'm not really
9 qualified to make that interpretation of
10 the regulations.

11 MR. BALLENGER: Okay. That's fair.
12 Let's turn to page 40 of the exhibit,
13 please.

14 MR. DASENT: Which page? I'm
15 sorry, Rob.

16 MR. BALLENGER: It's page numbered
17 40. Are you familiar with a 2018 Pew
18 Study?

19 HEARING OFFICER CHESTNUT: Can you
20 hold on a second. I'm still scrolling.

21 MR. BALLENGER: Sorry, Judge. So
22 quick with my mouse.

23 MR. DAVIS: Is this the one titled
24 Housing?

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1 MR. BALLENGER: Yes. Thank you,
2 Mr. Davis. Are you familiar with the 2018
3 Pew Study entitled Philadelphia's Poor,
4 Experiences From Below the Poverty Line?

5 MR. DAVIS: I have at some point
6 read it. But I'm not -- depending on the
7 depth that we are going to here.

8 MR. BALLENGER: Okay. Just like
9 you to -- I wasn't able to highlight on
10 this page. I apologize. But if you look
11 at the last paragraph, it begins: The
12 landlords in Philadelphia.

13 In the middle sentence, starts with
14 "based on data for the Department", doesn't
15 it state there that an estimated 28 percent
16 of rental units in high poverty
17 neighborhoods were unlicensed in 2018?

18 MR. DAVIS: It does state that,
19 yes.

20 MR. BALLENGER: And that -- that
21 represents a larger share than in non-poor
22 neighborhoods, correct?

23 MR. DAVIS: It does state that,
24 yes.

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1 MR. BALLENGER: Do you have any
2 basis for disagreeing with that statement?

3 MR. DAVIS: I don't know that much
4 about the rental market in Philadelphia.

5 MR. BALLENGER: Fair enough. If
6 you go to the next page of the exhibit, and
7 this is the response to PA Tab 24. And
8 just looking at the numbers, this is a
9 breakdown of TAP participants based on
10 customer type.

11 And looking at these numbers, I did
12 a little math. And subject to check,
13 doesn't this show approximately 84 percent
14 of TAP participants are property owners?

15 MR. DAVIS: Subject to check, yes.

16 MR. BALLENGER: I'm going to ask
17 you to reach back a little bit in your
18 memory to help. I've added a page, the
19 next page. And this is a page from Roger
20 Colton's testimony in the 2021 rate
21 proceeding. And just like to direct you to
22 the last sentence here.

23 Here in the last sentence,
24 Mr. Colton stated that 66 percent of

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1 Philadelphia with income at or below the
2 federal poverty level are tenants.

3 As we sit here today, do you have
4 any reason to question that statement?

5 MR. DASENT: We'd object to that.
6 We have no ability to cross Mr. Colton and
7 probe, you know, the source of this
8 particular data. I just don't know --

9 HEARING OFFICER CHESTNUT: I don't
10 think that's what the question is. He's
11 asking if it's reasonable --

12 MR. DASENT: Okay.

13 HEARING OFFICER CHESTNUT: -- based
14 on your experience.

15 Aren't you, Mr. Ballenger?

16 MR. BALLENGER: Yes.

17 MR. DAVIS: I can't speak to
18 whether it's reasonable or not.

19 MR. BALLENGER: Have you examined
20 any census figures or demographic figures
21 in connection with your testimony today?

22 MR. DAVIS: We have, over the
23 course of our work with the city on this
24 program.

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1 MR. BALLENGER: Do you know what
2 percentage of Philadelphians living below
3 the poverty line live in rental housing?

4 MR. DAVIS: Not offhand, no.

5 MR. BALLENGER: Would you agree
6 that would be in the American Community
7 Survey?

8 MR. DAVIS: Umm?

9 MR. BALLENGER: Or the American
10 Housing Survey perhaps?

11 MR. DAVIS: I'm not sure that I
12 know exactly where that would be. But I
13 can't say that it's specifically in there.

14 MR. BALLENGER: Would you accept
15 the general proposition that the majority
16 of low-income Philadelphians live in rental
17 housing?

18 MR. DAVIS: Subject to check.

19 MR. BALLENGER: I want to go back
20 to your direct. And specifically, Schedule
21 RFC-4. And start at page 1. Let know me
22 when you are there, please.

23 MR. DAVIS: Okay.

24 MR. BALLENGER: And in the first

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1 paragraph -- according to my notes in the
2 first paragraph, the date for your estimate
3 is PGW's G experience with LIHEAP; is that
4 correct?

5 MR. DAVIS: I'm sorry. I'm not in
6 the right place.

7 MR. BALLENGER: I'm on Schedule
8 RFC-1.

9 MR. DASENT: I'm trying to get
10 there also, Rob. Just, please, be patient.

11 MR. BALLENGER: All right.

12 MR. DASENT: Got to scroll a ways
13 back.

14 MR. BALLENGER: I'm sorry. My
15 citation was wrong. I'm on RFC-4. Sorry.

16 MR. DASENT: Okay. Which page of
17 that particular exhibit?

18 MR. BALLENGER: Page 2 of Schedule
19 RFC-4.

20 MR. DASENT: That's on 101 if you
21 are scrolling back from the Rate Board's
22 website.

23 MR. DAVIS: You said page 2 of
24 RFC-4?

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1 MR. BALLENGER: Yes.

2 MR. DAVIS: Okay.

3 MR. BALLENGER: So, the first
4 paragraph on this page, just in broad
5 terms, you are explaining that the basis
6 for your estimate is PGW's experience with
7 the LIHEAP program; isn't that correct.

8 MR. DAVIS: That was -- yes. That
9 was true of our basis of this exhibit,
10 correct.

11 MR. BALLENGER: And you state there
12 that PGW received roughly 26,000 LIHEAP
13 grants in Fiscal Year 2021; is that
14 correct?

15 MR. DAVIS: That is correct.

16 MR. BALLENGER: That statement
17 based upon your personal knowledge?

18 MR. DAVIS: That was based on
19 publicly available information.

20 MR. BALLENGER: Can you identify
21 that information?

22 MR. DAVIS: We can get you that
23 citation. I don't have it handy.

24 MR. BALLENGER: Okay. So

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1 Mr. Morgan, in his testimony, points out
2 that LIHEAP consists of three separate --
3 tax grant, the crisis grant and the
4 weatherization assistance program. In your
5 rebuttal on page 5, lines one through
6 six -- I will give you a second.

7 MR. DAVIS: Okay.

8 MR. BALLENGER: Your rebuttal
9 statement appears to express that it
10 doesn't matter if LIHEAP is composed of
11 three different types of grants, only
12 overall income and eligibility should be
13 considered.

14 Is that your testimony?

15 MR. DAVIS: With respect to the
16 development of a pool of applicants from
17 that group.

18 MR. BALLENGER: And do you agree
19 that if LIHEAP was composed of only a
20 crisis component, that PGW would have
21 received far fewer grants?

22 MR. DAVIS: I don't know. I would
23 assume so since that's a component of the
24 grants they received.

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1 MR. BALLENGER: And also, in
2 Mr. Morgan's testimony at -- I believe it's
3 Appendix B, he provided the assistance
4 summary for 2020 through 2021?

5 MR. DAVIS: Is that by county?

6 MR. BALLENGER: It is, yes. If you
7 look at County 51 on page 119.

8 MR. DAVIS: Yes.

9 MR. BALLENGER: Isn't it true that
10 PGW received just over -- I'm sorry. Let
11 me restate.

12 Isn't it true that DHS reported
13 issuing just over 80,000 or -- I'm sorry.
14 Just under 9,000, I apologize. Just under
15 9,000 crisis grants for natural gas
16 service?

17 MR. DAVIS: I do not have that page
18 in front of me. But subject to check --

19 MR. DASENT: Are we distinguishing
20 crisis from other grants, Rob?

21 MR. BALLENGER: Yes. I'm saying
22 that I think what we've already talked
23 about is that LIHWAP requires past due
24 bills or a threat of shut off. Mr. Morgan

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1 testified that's more close to LIHEAP
2 crisis. And I'm asking whether, in fact,
3 the LIHEAP crisis numbers that are
4 reported, show that the natural gas -- the
5 number of natural gas grants is, actually,
6 much lower in Fiscal '20 to '21 -- or
7 sorry, program Year '20 to '21.

8 I'm asking the witness to confirm,
9 subject to check, that approximately 9,000
10 crisis grants were issued over that period
11 of time for natural gas in Philadelphia.

12 MR. DAVIS: And that's --

13 MS. LOCKLEAR: I'm sorry. I was
14 just going to ask you to specify where on
15 the page that is? It's on the right-hand
16 side on --

17 MR. BALLENGER: The right-hand
18 side.

19 MS. LOCKLEAR: For payments sent?

20 MR. BALLENGER: Payments sent.

21 Across from natural gas it reports 8,871
22 payments were sent under the Crisis Program
23 in the County of Philadelphia from
24 September 2020 through September 2021.

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1 MR. DASENT: And you're saying
2 that's is subject to check.

3 MR. BALLENGER: Subject to check
4 that if -- what we are talking about here
5 is whether the crisis component would
6 result in far fewer grants than the cash
7 component? That is sort of the overall
8 gist of this.

9 MR. DAVIS: Subject to check.

10 MR. BALLENGER: And to your
11 knowledge, does the 26,000 number of grants
12 that you report, does it reflect cash
13 grants, crisis grants, one or the other, or
14 all grants?

15 MR. DAVIS: At the time, I believe
16 that that would have probably been all
17 grants.

18 MR. BALLENGER: Okay. Now you,
19 also, state that about half of PGW's CRP
20 customers receive grants. And that's
21 Schedule RFC-4, as well, correct?

22 MR. DAVIS: That was the math of
23 the 26,000 as a percentage of the 52,000
24 that we have enrolled in CRP.

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1 MR. BALLENGER: And again, that's
2 not based on your personal knowledge.
3 That's based on information you received
4 from someone else?

5 MR. DAVIS: Correct.

6 MR. BALLENGER: Or some reports?

7 MR. DAVIS: Yes.

8 MR. BALLENGER: And so again, on
9 that page you indicate 52,000 -- I think
10 it's page one of RFC-4. 52,000 active --
11 you use CRP, but I think you mean CRP
12 participants; is that correct?

13 MR. DAVIS: That is correct, yes.

14 MR. BALLENGER: So when you refer
15 to the number of grants being 26,000 and
16 reflecting half of the CRP population,
17 isn't what you really mean to say that
18 roughly half of CRP customers received some
19 form of LIHEAP assistance?

20 MR. DAVIS: Based on those numbers,
21 yes.

22 MR. BALLENGER: Okay. So would you
23 agree, that some of those customers could
24 have received multiple LIHEAP grants?

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1 MR. DAVIS: I'm not aware of the
2 individual customers and what they
3 received.

4 MR. DASENT: If, Your Honor,
5 please, let me just interrupt one second.

6 Rob, if you -- I'm having a
7 connectivity issue. And I'm sort of barely
8 hearing you. So if we can take a brief
9 break, it would help me so that I can, you
10 know, get my audio back. Because you're
11 very faint. And I have feeling that's
12 because, you know, my cellular use or
13 something is -- I'm using up a lot of
14 power.

15 HEARING OFFICER CHESTNUT: Is that
16 okay with you if we take, I don't know,
17 like a two-minute break, Mr. Ballenger?

18 MR. BALLENGER: That's fine. Are
19 you having any trouble hearing me, Judge?

20 HEARING OFFICER CHESTNUT: I'm
21 having trouble hearing you, too.

22 MR. BALLENGER: Okay. It may be my
23 microphone. I will try and make some
24 adjustments over the next two minutes, as

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1 well.

2 MR. DASENT: If we could stop a few
3 minutes, that would be very helpful. Thank
4 you.

5 (Off the record at 11:47 a.m.)

6 - - -

7 (Back on the record at 11:57 a.m.)

8 HEARING OFFICER CHESTNUT: Back on
9 the record.

10 Rob, could you key us in?

11 MR. BALLENGER: Sure. We were
12 speaking about the 26,000 LIHEAP recipients
13 of PGW. And I wanted to pivot just a
14 little bit and just ask whether in
15 preparing your direct or your rebuttal
16 testimony, whether you reviewed the
17 Department of Human Services LIHEAP State
18 Plan?

19 MR. DAVIS: I -- I have not
20 reviewed that.

21 MR. BALLENGER: Okay. Is that --
22 is that safe to say for the panel, then,
23 that review of the State Plan was not part
24 of preparation for your testimony?

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1 MR. DASENT: And the State Plan
2 that you're referring to, does it include
3 by the county-by-county summary that is
4 attached to Lafayette's testimony?

5 MR. BALLENGER: No. Every year the
6 Department of Human Services publishes
7 what's called the LIHEAP State Plan, which
8 explains the entire LIHEAP program and how
9 it works statewide. Coincidentally, I've
10 include it starting at page 43 of the
11 hearing exhibit just in case.

12 MR. DASENT: We see that.

13 MR. BALLENGER: And I would like to
14 talk about a few aspects of it just so we
15 can all have a shared understanding of
16 LIHEAP.

17 So first of all, are you aware that
18 Pennsylvania runs LIHEAP as a winter
19 program?

20 MR. DAVIS: What is saying it's
21 seasonal -- yes.

22 MR. BALLENGER: If you turn to page
23 47 of the hearing exhibit, I believe you
24 will find confirmation that the program

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1 opens in November and closes in April; is
2 that correct?

3 MR. DAVIS: I see that, yes.

4 MR. BALLENGER: Okay. And are you
5 familiar with the provisions of the plan
6 requiring a household to be --

7 HEARING OFFICER CHESTNUT: (Dog
8 barks.) Sorry.

9 MR. BALLENGER: The Judge's dogs
10 have something to say.

11 HEARING OFFICER CHESTNUT: Going to
12 mute myself for a minute here.

13 MR. BALLENGER: I don't think they
14 like this line of questioning.

15 MR. DASENT: Yeah. I don't either.

16 MR. BALLENGER: Okay. Are you
17 familiar with the provisions of the plan
18 governing the household's responsibility
19 for heat? And if not, I would ask you to
20 scroll to page 69 of the exhibit.

21 MR. DAVIS: I'm there.

22 MR. BALLENGER: Okay. And in the
23 definition of household, it indicates that
24 a customer can either be responsible for

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1 paying heat directly or indirectly; isn't
2 that true?

3 MR. DAVIS: I see that, yes.

4 MR. BALLENGER: Okay. And so based
5 on that definition, if a customer is
6 responsible for heat indirectly, if you
7 scroll to page 78 of the hearing exhibit,
8 you'd see that customers can receive direct
9 payments of LIHEAP cash amounts if they are
10 not directly responsible to the utility.

11 Do you see that under Section
12 601.44?

13 MR. DAVIS: I do.

14 MR. BALLENGER: Okay. And if a
15 customer receives payment directly, would
16 you agree that PGW would have no knowledge
17 of that payment?

18 MR. DAVIS: I don't see how they
19 could.

20 MR. BALLENGER: Stands to reason,
21 doesn't it?

22 Are you familiar with the fact that
23 a LIHEAP recipient can direct cash or
24 crisis benefits to a primary fuel type or a

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1 secondary fuel type? And that both of
2 those provisions appear in the green
3 highlighted sections on page 77 and page
4 80, which I apologize. It's not green.
5 It's yellow on page 80.

6 MR. DAVIS: I see that in 601.44
7 Subsection B, yes.

8 MR. BALLENGER: Okay. And then
9 again, on page 80 of the exhibit under
10 Section 601.61, will you see it again; is
11 that correct?

12 MR. DASENT: Asked and answered at
13 this point.

14 HEARING OFFICER CHESTNUT: He can
15 affirm it.

16 MR. DASENT: Okay.

17 MR. DAVIS: I see that, yes.
18 Primary or secondary.

19 MR. BALLENGER: Are you familiar
20 with the supplemental cash payments that
21 LIHEAP recipients can receive?

22 MR. DAVIS: I'm sure you can direct
23 me to something in the reg on that.

24 MR. BALLENGER: Yes. Page 77

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1 highlighted in green.

2 MR. DAVIS: I see that.

3 MR. BALLENGER: Okay. So having
4 reviewed some of the State Plan provisions,
5 would you agree that LIHEAP recipients can
6 receive multiple grants based on
7 availability of funding and the program
8 parameters?

9 MR. DAVIS: Yes.

10 MR. BALLENGER: And you would, also
11 agree that some of those payments may go
12 directly to the customer and not to the
13 utility, correct?

14 MR. DAVIS: Yes.

15 MR. BALLENGER: Did you look into
16 whether DHS ran a supplemental program in
17 the summer of 2021?

18 MR. DAVIS: No.

19 MR. BALLENGER: Would you be
20 surprised to know that they ran a robust
21 supplemental program in the context of the
22 COVID-19 pandemic?

23 MR. DAVIS: I would neither be
24 surprised nor unsurprised.

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1 MR. BALLENGER: Okay. I could
2 share a link to a training on it offline if
3 you would like to take a look.

4 So going to page 5 of your
5 testimony -- I'm sorry, it's your rebuttal
6 testimony. You state that based on the
7 materials -- I'm sorry. I will wait till
8 you're there.

9 HEARING OFFICER CHESTNUT: I'm
10 sorry. Was that page 5 of the rebuttal?

11 MR. BALLENGER: Yes, Your Honor.
12 Page 5.

13 HEARING OFFICER CHESTNUT: Okay.

14 MR. BALLENGER: In the middle of
15 the page, states that based on materials
16 Mr. Morgan provided with his testimony,
17 states 49,019 applicants in Philadelphia
18 received natural gas energy assistance
19 between September 2020 and September 2021.

20 Do you see that statement?

21 MR. DAVIS: Yes.

22 MR. BALLENGER: Okay. And that's a
23 reference to Appendix B of Mr. Morgan's --
24 attached to Mr. Morgan's testimony?

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1 MR. DAVIS: I believe so, yes.

2 MR. BALLENGER: Can I ask you to
3 turn to that specific page of Appendix B,
4 which I believe is page 51. Getting it up
5 myself. Yes, page 51 of 136 of Appendix B.

6 HEARING OFFICER CHESTNUT: It's
7 Mr. Morgan's testimony?

8 MR. BALLENGER: Yes.

9 MR. DAVIS: That would be page 92
10 of 177 of the pdf.

11 MR. BALLENGER: Yes. At the top it
12 says: Energy assistant summary, county 51.
13 Cash demographic report.

14 Correct?

15 MR. DAVIS: Yes.

16 MR. BALLENGER: Okay. And the
17 columns on the right side of the page are
18 preceded by a statement in bold that says:
19 Payment sent.

20 Do you see that?

21 MR. DAVIS: Yes.

22 MR. BALLENGER: And next to natural
23 gas, it quantifies a number of the payments
24 as 45,019.

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1 Do you see that?

2 MR. DAVIS: Yes.

3 MR. BALLENGER: And that's the
4 source of the statement in your rebuttal
5 attributed to Mr. Morgan, correct?

6 MR. DAVIS: That's the source of us
7 saying that there is a large pool of
8 potential applicants that could be enrolled
9 in the TAP program, yes.

10 MR. BALLENGER: Okay. And we've
11 talked about the State Plan providing for
12 multiple types of cash grants, not all of
13 which go directly to PGW.

14 Agree?

15 MR. DAVIS: Yes.

16 MR. BALLENGER: So what I just want
17 to confirm is that the number of payments
18 sent, does not correspond on a one-to-one
19 basis with the number of PGW customers
20 whose accounts received cash assistance.

21 Do you agree with that statement?

22 MR. DAVIS: Yes. That is not our
23 contention.

24 MR. BALLENGER: Okay. So just sort

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1 of having some -- a lot of different
2 payments made, you assume that means that
3 there are a lot of recipients; is that
4 correct?

5 MR. DAVIS: I would assume based on
6 this, that there are a lot of people who
7 applied for payments that might also be
8 eligible for TAP that we knew based on this
9 are income eligible.

10 MR. BALLENGER: Okay.

11 MR. DAVIS: And live in the County
12 of Philadelphia, which is served by both
13 PGW and PWD.

14 MR. BALLENGER: And that to the
15 best of your information, based on
16 information you received from PGW, 26,000
17 of PGW's customers received some form of
18 LIHEAP assistance, correct?

19 MR. DAVIS: I don't know about the
20 timing of those two numbers. But those are
21 the two numbers, yes.

22 MR. BALLENGER: Okay. Turning back
23 to your rebuttal on page 5, and I'm looking
24 for the specific language. Again at the

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1 top, Q&A 10, your testimony states that it
2 doesn't matter whether the program is three
3 different components because, quote, all
4 LIHEAP enrollees regardless of grant type
5 are income eligible for TAP and could be
6 considered for the pool of potential
7 applicants.

8 Do you see that language?

9 MR. DAVIS: Yes.

10 MR. BALLENGER: Okay. Now I'm
11 reminded when we began this discussion, you
12 made it clear that PWD's projections were
13 based on the receipt of LIHWAP, not another
14 utilities receipt of LIHEAP; isn't that
15 correct?

16 MR. DAVIS: I don't see why we
17 would necessarily disregard any data
18 sources of income eligible folks in the
19 service area.

20 MR. BALLENGER: Okay. So, does the
21 Department project some number of customers
22 being automatically enrolled in TAP based
23 on the receipt of LIHEAP?

24 MR. DAVIS: Given that the nature

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1 of the auto enrollment has not been
2 finalized, that is certainly a possibility.

3 MR. BALLENGER: Okay. And so, that
4 would be consistent with your statement on
5 page 8 of your rebuttal, that the
6 Department's proposal takes into account --
7 I will wait till you get there. Sorry,
8 Mr. Davis. Trying to be cognizant of
9 everyone's time so we can get through this.
10 And I am getting near the end briefly.

11 Page 8, you state that the
12 Department's proposal takes into account
13 the potential pool of LIHWAP and LIHEAP
14 enrollees into TAP. That's consistent with
15 your earlier statement, correct?

16 MR. DAVIS: Yes.

17 MR. BALLENGER: Okay. Going back
18 to the hearing exhibit, like you to scroll
19 down to page 106, please.

20 MR. DAVIS: 106 of 177?

21 MR. BALLENGER: No. The hearing
22 exhibit, the Public Advocate hearing
23 exhibit. It contains the LIHEAP State
24 Plan. It would be page 107 of 123.

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1 MR. DAVIS: Got you. Is this the
2 LIHWAP application?

3 MR. BALLENGER: It is, yes. Have
4 you seen this application before?

5 MR. DAVIS: I have not personally,
6 no.

7 MR. BALLENGER: Okay. I would like
8 you to scroll down two more pages to page
9 numbered 108. On that page, you are going
10 to see a heading. Says Certification.
11 Please, let me know when you are there.

12 MR. DAVIS: I see that.

13 MR. BALLENGER: Okay. I was able
14 to successfully highlight paragraph three
15 here. And just want you to read the
16 statement in paragraph three for me,
17 please.

18 MR. DAVIS: I authorize the release
19 of LIHWAP eligibility information to and
20 from my water suppliers, and allow them to
21 seek assistance for which I might maybe
22 qualify. The assistance may include
23 LIHWAP, cash or crisis.

24 MR. BALLENGER: Okay. You would

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1 agree that the Water Department is a water
2 supplier, would you not?

3 MR. DAVIS: I believe it is.

4 MR. BALLENGER: Yeah. And so, this
5 certification would allow LIHWAP
6 eligibility information to be released to
7 the Water Department, right?

8 MR. DAVIS: Yes.

9 MR. BALLENGER: Okay. Now, I would
10 like you to scroll down to page 114,
11 please. Same exhibit. What you will see
12 here is the 2021 to 2022. So, the current
13 year LIHEAP application.

14 Have you seen this document before?

15 MR. DAVIS: I have not.

16 MR. BALLENGER: Okay. Again, I
17 would like you to scroll down to the
18 certification that starts two pages down on
19 page 116. And again, I have successfully
20 highlighted the applicable language. Which
21 I would like you, again, read here today.

22 MR. DAVIS: I authorize the release
23 of LIHEAP eligibility information to and
24 from my energy suppliers for

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1 weatherization -- or weatherization
2 agencies and allow them to seek assistance
3 for which I may be eligible. The
4 assistance may include LIHEAP, cash, crisis
5 or weatherization benefits.

6 MR. BALLENGER: Okay.

7 Do you agree that the Water
8 Department is not an energy supplier or
9 weatherization agency?

10 MR. DAVIS: I do agree with this.
11 I was looking for the date of this. And I
12 am seeing correctly that it was revised
13 July 28 of 2015.

14 MR. BALLENGER: That's correct.
15 But this is the application for the current
16 season that we are in right now.

17 MR. DAVIS: I see that it was
18 current as of 2015.

19 MR. BALLENGER: Okay. But you --
20 you acknowledged earlier that if you look
21 at page 114, again at the top, it states
22 2021 to 2022 application for the Low Income
23 Home Energy Assistance Program.

24 MR. DAVIS: I do see that, yes.

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1 MR. BALLENGER: So, you would agree
2 that this application does not allow LIHEAP
3 eligibility information to be shared with
4 the Water Department?

5 Do you agree?

6 MR. DAVIS: Well, I don't see that
7 that extends beyond July 1 of 2022. But I
8 do see that that would be true of this
9 application, yes.

10 MR. BALLENGER: You see at the very
11 bottom right corner of the page, it says PA
12 TAP-R Hearing Exhibit 116? Do you see a
13 code that says HSEA-1, and then the date
14 6/21?

15 MR. DAVIS: Yes.

16 MR. BALLENGER: Okay so, would you
17 take it to mean since that same entry
18 appears on the proceeding page, page 2 of
19 the application and the page before that,
20 page 1 of the application, that this is the
21 certification that applies for the purpose
22 of the 2021/2022 LIHEAP season?

23 MR. DASENT: If you know.

24 MR. DAVIS: I don't know what

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1 the -- the code means. I did say that I
2 agreed that it is for the 21/22 season.

3 MR. BALLENGER: Okay. Okay. I'm
4 sorry. I thought you were trying to say it
5 was for the prior season. Okay.

6 And we already talked about LIHEAP
7 being a seasonal program. So, would you
8 expect that the certification would perhaps
9 change for applicants in November of 2022,
10 if at all?

11 MR. DASENT: Calls for speculation.

12 MR. DAVIS: I don't know.

13 HEARING OFFICER CHESTNUT: He
14 answered.

15 MR. BALLENGER: Do you believe this
16 certification would change during the
17 current season?

18 MS. LOCKLEAR: We have no way of
19 knowing that.

20 MR. DAVIS: Don't know what their
21 policy is for changing.

22 MR. BALLENGER: It's the end of
23 March. Okay. I would like to ask a few
24 questions about the 12,500 assumed new TAP

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1 enrollees.

2 So on -- you might just want to
3 hit, you know, Control Home and go all the
4 way up to the top of the hearing exhibit.
5 We are going to go to page 4.

6 MR. DASENT: Give me a moment. My
7 fingers are tired.

8 HEARING OFFICER CHESTNUT: Hang on.
9 I'm scrolling. Control Home doesn't do it.

10 MR. BALLENGER: I messed up. It's
11 page number 3, as a matter of fact. Let me
12 edit my outline. Page 3 of the hearing
13 exhibit.

14 MR. DAVIS: Is this for PA Tab 23?

15 MR. BALLENGER: PA Tab 17.

16 MR. DAVIS: Okay.

17 MR. BALLENGER: You've reported
18 there that the average LIHWAP grant was
19 just under \$1,402, correct?

20 MR. DAVIS: Yes.

21 MS. LOCKLEAR: That's true.

22 MR. BALLENGER: Okay. You've,
23 also, confirmed that LIHWAP is administered
24 on a first come first serve basis. There

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1 is no specific allocation for Philadelphia,
2 correct?

3 MR. DAVIS: Yes.

4 MS. LOCKLEAR: That's true.

5 MR. BALLENGER: Anyone following
6 along can see that on page 122 of the
7 exhibit. I've included that response to PA
8 Tab 20.

9 Do you have any information that
10 would help us understand how Philadelphia
11 is fairing in comparison to other counties
12 in the state?

13 MS. LOCKLEAR: We do not
14 specifically.

15 MR. BALLENGER: So, you can't tell
16 us how much Pittsburgh or Allentown or
17 anyone else is pulling down from the LIHWAP
18 program?

19 MS. LOCKLEAR: Not at this moment.

20 MR. BALLENGER: Okay. The total --
21 the total amount allocated to the state's
22 approximately 43.2 million; is that
23 correct?

24 MR. DAVIS: Subject to check.

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1 MS. LOCKLEAR: Yeah. Subject to
2 check.

3 MR. BALLENGER: So if the average
4 LIHWAP grant is \$1,402, and based on your
5 estimate that 12,500 new TAP households
6 will receive LIHWAP, that means that just
7 for new non-TAP households, the Department
8 would receive approximately \$17.5 million
9 for those accounts.

10 Is that correct mathematically?

11 MR. DAVIS: I would not assume that
12 the average grant amount would be true of
13 all recipients necessarily.

14 MR. BALLENGER: It's an average.

15 MR. DAVIS: Well, I don't -- it's
16 an average of the 460 grantees per date or
17 to date. I would not necessarily be able
18 to extrapolate that to all the future
19 grantees.

20 MR. BALLENGER: A program operating
21 on a first come, first serve basis like
22 LIHWAP, would you assume that time is of
23 the essence?

24 MR. DAVIS: I believe there is a

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1 sunset placed on the existing funding.

2 MR. BALLENGER: Okay. And just to
3 confirm the math, you would agree that if
4 the average remains \$1,400 per household
5 and 12,500 currently non-TAP households
6 receive the average grant amount, that
7 mathematically results in the \$17.5 million
8 amount -- 1,400 times 12,500 --
9 mathematically, correct?

10 MS. LOCKLEAR: It does.

11 MR. DAVIS: I don't -- it does. I
12 don't believe that you can say in us
13 agreeing to that, that we believe that
14 12,500 LIHEAP grantees in the City of
15 Philadelphia will each receive 15 or
16 \$1,401.96. That's not what we're saying.

17 MR. BALLENGER: Okay. And of the
18 460 who have received LIHWAP -- I think you
19 misspoke. You said LIHEAP.

20 MR. DAVIS: Sorry.

21 MR. BALLENGER: No problem. But of
22 the 460 who have received LIHWAP, the
23 average grant amount is \$1,402.

24 MR. DAVIS: That is correct.

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1 MR. BALLENGER: So, some of those
2 460 must have received more and some must
3 have received less, correct?

4 MR. DAVIS: I believe the limit on
5 it is above the \$1,401. So, yes.

6 MR. BALLENGER: Okay. The limit --
7 is the limit \$5,000?

8 MS. LOCKLEAR: It is.

9 MR. DAVIS: I believe it is.

10 MR. BALLENGER: Do you have any
11 reason to believe the average LIHWAP grant
12 amount will be different than what you have
13 identified in response to discovery?

14 MR. DAVIS: Over time, we have no
15 way of knowing what it might be.

16 MR. BALLENGER: Okay. So, you
17 don't know if it will be more; and you
18 don't know if it would be less?

19 MR. DAVIS: That is correct.

20 MR. BALLENGER: Okay. And just to
21 be clear, the math we just did excludes any
22 customers who are already enrolled in
23 assistance programs, correct?

24 MR. DASENT: You mean in TAP or any

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1 assistance?

2 MS. LOCKLEAR: What do you mean by
3 that?

4 MR. BALLENGER: Well, we have
5 talked about is that of the 460 upon which
6 the average is based, some 100 and change
7 are already enrolled in programs including
8 TAP, correct?

9 MS. LOCKLEAR: That's correct.

10 MR. BALLENGER: So of the 12 --

11 MR. DAVIS: The answer to PA Tab 16
12 on the next page, yes.

13 MS. LOCKLEAR: Right.

14 MR. BALLENGER: Okay. Okay. Just
15 want to look at the timing a little bit.
16 You've projected that 8,750 of the new TAP
17 enrollees will be obtained through
18 automatic enrollment in the months of July
19 through October, correct?

20 MR. DAVIS: I would say the basis
21 of our argument was more on the pool of
22 enrollees. And then, just roughly
23 spreading them equally over the months of
24 July through the end of the calendar year

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1 as opposed to trying to hit a specific
2 number in a given month. But based on your
3 looking at the -- at the projection, that
4 is correct.

5 MR. BALLENGER: You said that you
6 spread them equally. But --

7 MR. DAVIS: Not equally. I would
8 say more -- more evenly-ish.

9 MR. BALLENGER: Okay. Okay.

10 MS. LOCKLEAR: Specifically, we --
11 because LIHWAP is ongoing and the auto
12 enrollment is projected to start in July,
13 we wouldn't anticipate that we immediately
14 are able to enroll the maximum LIHWAP auto
15 enrollment recipients at that time. That
16 it will come online overtime.

17 MR. BALLENGER: Thank you,
18 Ms. Locklear. And I want to say for the
19 record here, that I support automatic
20 enrollment, okay? I really -- I'm proud of
21 the city's efforts here, okay? I want to
22 commend the city, as well as you all, on
23 embracing this opportunity. I just have
24 questions about the numbers predominantly.

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1 Sorry, Ms. Locklear.

2 MS. LOCKLEAR: Well, I -- and I
3 think similar to you, the city anticipates
4 an increase based on this effort. And you
5 know, your estimate -- your witness'
6 estimate is at one level. And ours is at
7 another based on our -- our work on it to
8 try to --

9 MR. BALLENGER: Sure.

10 MS. LOCKLEAR: -- predict something
11 that's not certain. But we both agree that
12 those recipients will turn into increases
13 for the TAP program in enrollment.

14 MR. BALLENGER: I would say that we
15 sure hope they do, okay? But we are not in
16 control of that process. That's really you
17 all and the City of Philadelphia. And I
18 acknowledge --

19 MR. DAVIS: -- and the customers
20 themselves.

21 MR. BALLENGER: And the customers.
22 But I, also, acknowledge and appreciate
23 that effort because we have supported it
24 here at CLS.

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1 I'm about done. I just -- I guess,
2 one more question. And this goes to what
3 you just said, Ms. Locklear.

4 Your rebuttal says in a couple
5 places that Mr. Morgan, you know, fails to
6 reflect a large pool of new TAP
7 participants. Says that on page 4 and,
8 again, on page 5. Uses that language,
9 "fails to reflect." Uses, you know, the
10 phrase "large pool."

11 And I just want to make sure, you
12 acknowledge that Mr. Morgan projected 6,274
13 new TAP participants enrolling over a
14 period of five months with no decline
15 thereafter? You acknowledge that?

16 MR. DAVIS: Yes.

17 MS. LOCKLEAR: Yes.

18 MR. BALLENGER: Do you agree that
19 that's approximately one third of the
20 current enrollment level as we know it
21 today, 17,148?

22 MR. DAVIS: Yes.

23 MR. BALLENGER: Okay.

24 MS. LOCKLEAR: Yes.

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1 MR. BALLENGER: Do you agree that's
2 a large pool?

3 MS. LOCKLEAR: It's --

4 MR. DAVIS: I would agree that
5 that's large in relation to the number
6 currently enrolled. But the issue that we
7 took with it, was that it projects based on
8 historical increases. And I think the
9 catalyst of the auto enrollment, as we are
10 calling it here, is a catalyst that
11 provides incentive for a much larger pool
12 customers to apply.

13 So I think looking backwards to our
14 statement, looking backwards in using the
15 historical increases to project forward
16 just did not, necessarily, capture this --
17 this pool of potential customers that we
18 felt could apply and would apply based
19 on -- on circumstances.

20 That was our issue, not that there
21 was issue with the numbers that -- that
22 were reflected in the testimony.

23 MR. BALLENGER: That raises, I
24 guess, a couple more quick questions.

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1 Have you studied any other
2 automatic enrollment programs that may have
3 existed in Pennsylvania?

4 MR. DAVIS: In Pennsylvania, no.

5 MR. BALLENGER: In other
6 jurisdictions?

7 MR. DAVIS: Again, depending on
8 your -- the definition of auto enrollment.

9 MR. BALLENGER: Specifically, have
10 you -- have you assessed any automatic
11 enrollment programs that may have existed
12 for analogous programs, including the
13 LIHEAP program?

14 MR. DAVIS: I'm not sure I know
15 what you mean by -- I'm not sure what would
16 fit that definition.

17 MR. BALLENGER: Okay. Are you
18 aware that PECO Energy Company, which
19 serves Philadelphia, previously had a cap
20 auto enrollment program for LIHEAP
21 recipients?

22 Are you familiar with that?

23 MR. DAVIS: I was aware of that
24 program. But I would not say that I'm an

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1 expert on the testimony to it.

2 MR. BALLENGER: Okay. So, you
3 wouldn't be familiar with how many new cap
4 participants were automatically enrolled in
5 that program when it was in existence?

6 MR. DAVIS: I don't believe we have
7 that information.

8 MS. LOCKLEAR: No.

9 MR. BALLENGER: What about Duquesne
10 Light? Duquesne Light previously, also,
11 operated a cap automatic enrollment program
12 associated with LIHEAP receipt.

13 Did you examine that program?

14 MR. DAVIS: I think we said that we
15 didn't look at any programs in
16 Pennsylvania.

17 MR. BALLENGER: So, would you agree
18 that LIHWAP, as an entirely new form of
19 Federal Water Assistance that has never
20 previously existed in Pennsylvania or
21 elsewhere, doesn't really provide a very
22 good roadmap for how many people could be
23 automatically enrolled?

24 MR. DAVIS: It doesn't provide any

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1 roadmap because it never existed anywhere.

2 MR. BALLENGER: Thank you.

3 And we've acknowledged there are
4 several obstacles, correct? Particularly
5 for tenants?

6 MR. DAVIS: I think we might
7 disagree on the extent to which the would
8 be obstacles.

9 MR. BALLENGER: Okay.

10 MS. LOCKLEAR: Yeah. Particularly
11 on the occupant application that you cited.

12 MR. BALLENGER: That was tenant and
13 occupant application, but the rules are the
14 same.

15 I have, actually, gone beyond the
16 last question on the page. I'm going to go
17 ahead and stop there. And thank you for
18 going through this with me. Thank you for
19 turning so many pages. And I appreciate
20 your candor?

21 HEARING OFFICER CHESTNUT: Anyone
22 want to ask an additional question you
23 don't know the answer to?

24 MR. DASENT: Not right now.

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1 HEARING OFFICER CHESTNUT:

2 Mr. Dasent, did you want to do
3 redirect or talk to your --

4 MR. DASENT: I would like to do
5 redirect. If you can give me the
6 opportunity for a brief break, I will talk
7 with my witnesses just briefly to see if I
8 can narrow the scope of any redirected.

9 HEARING OFFICER CHESTNUT: How
10 about if we resume at 12:45?

11 MR. DASENT: That's good. Thank
12 you.

13 (Off the record at 12:32 p.m.)

14 - - -

15 (Back on the record at 12:42 p.m.)

16 HEARING OFFICER CHESTNUT: Back on
17 the record.

18 MR. HAVER: What part of the Water
19 Department's proposal are you responsible
20 for?

21 MR. DAVIS: The panel here is
22 related to the number of enrollees or
23 participants in the TAP program and the
24 projection thereof, the average discount

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1 they would receive, the consumption that
2 they could be -- that they would be likely
3 to have as it relates to the TAP-R filing.

4 MR. HAVER: In the opening
5 statements, the spokesperson for the Water
6 Department said the Water Department was
7 seeking to place a \$0.70 surcharge per
8 month on every water -- on every
9 residential water consumer; is that
10 correct?

11 MR. DASENT: The order of magnitude
12 might be off a little bit, Mr. Haver, but
13 we indicate a surcharge. Yes.

14 HEARING OFFICER CHESTNUT:

15 Mr. Dasent, why don't you hold the
16 remarks till needed.

17 MR. DASENT: Okay.

18 MR. HAVER: Mr. Davis and
19 Ms. Locklear, how much is the surcharge per
20 month for residential customer.

21 MR. DAVIS: Looking back through
22 some of the testimony, are you asking for
23 the TAP-R surcharge per MCF?

24 MR. HAVER: I'm looking for the

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1 average surcharge per month per residential
2 customer.

3 MR. DAVIS: I can provide the TAP-R
4 surcharge per MCF. Which is \$0.98 for
5 water, and \$1.55 for wastewater.

6 MR. DASENT: That's the Public
7 Advocate's proposal.

8 MR. DAVIS: Oh, I'm sorry. Let's
9 not do that.

10 MS. LOCKLEAR: The proposed is 1.23
11 for MCF for water, and 1.95 for MCF for
12 sewer.

13 MR. DAVIS: Thank you. I
14 apologize.

15 MR. HAVER: Based on the average
16 usage, what would that mean for an average
17 customer? Residential customer per month?

18 MR. DAVIS: You are testing our
19 ability to do math in our heads.

20 MR. BALLENGER: Couldn't I help?
21 Wouldn't it be half of that?

22 MR. HAVER: Please, feel free to
23 take out your cell phone. And please, do
24 not allow anybody other than the witnesses

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1 to testify.

2 HEARING OFFICER CHESTNUT: I agree
3 with that. But isn't it in the company's
4 filing the --

5 MR. DASENT: Yes.

6 HEARING OFFICER CHESTNUT: -- tab
7 on the various customer class on the
8 various categories of customers?

9 MR. DASENT: Yes.

10 HEARING OFFICER CHESTNUT: Why
11 doesn't he go to that rather than taking
12 out his cell phone.

13 MR. HAVER: He is -- it illustrates
14 the capacity of the witnesses to show
15 whether they are familiar with their own
16 filing. As theoretically, the Hearing
17 Examiner will come to conclusions based on
18 the veracity of statements and weigh the
19 knowledge of the expert witnesses. It
20 would be helpful to know if these expert
21 witnesses know what's in their own filing.

22 MR. DAVIS: That was not part of
23 our testimony. That would have been part
24 of the Black and Veatch testimony.

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1 MR. HAVER: Is it fair to say you
2 don't know?

3 MS. LOCKLEAR: It's under a dollar
4 a month, about \$0.70.

5 MR. DASENT: Yes.

6 MR. HAVER: Mr. Dasent, please --

7 MR. DASENT: Sorry.

8 MR. HAVER: -- silence yourself.

9 HEARING OFFICER CHESTNUT: Yeah.

10 I --

11 MR. HAVER: Mr. Jagt and
12 Mr. Merritt thought that there were 420,000
13 residential Philadelphia Water Department
14 accounts. Can you confirm that or correct
15 that?

16 MR. DAVIS: That is our
17 understanding, as well.

18 MR. HAVER: Mr. Jagt and
19 Mr. Merritt indicated that they believed
20 the poverty level in the City of
21 Philadelphia was approximately 25 percent.

22 Can you confirm that that is the
23 right projection?

24 MR. DAVIS: Offhand, I can't

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1 confirm that. But I believe that is
2 accurate.

3 MR. HAVER: Ms. Locklear?

4 MS. LOCKLEAR: In my remembrance,
5 it's slightly higher than that. But it's
6 about 25 to 27 percent I believe.

7 MR. HAVER: And what do you base
8 that number on?

9 MS. LOCKLEAR: Past studies that I
10 can provide a citation for you, Mr. Haver,
11 after the hearing.

12 MR. HAVER: If you would just tell
13 me one study that you're referencing?

14 MS. LOCKLEAR: I believe that's
15 from Census Data.

16 MR. HAVER: Thank you.

17 Based on your expertise, what is
18 the size of the average family in
19 Philadelphia, the average residential
20 family paying a residential water bill?

21 MR. DAVIS: We don't know -- we
22 don't have any information on customer
23 household size. But the average household
24 size in the City of Philadelphia is in the

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1 realm of, say, two and a half to three
2 persons per household.

3 MR. HAVER: And where is that data?
4 What are you relying upon for that data?

5 MR. DAVIS: That's part of Census
6 Data.

7 MR. HAVER: So accepting that data,
8 how many households are living at the
9 poverty level?

10 MR. DAVIS: Are you -- have we
11 established how many households are in the
12 City of Philadelphia?

13 MR. HAVER: Well, I am sure you
14 have a projection on what the population is
15 for the City of Philadelphia. If you want
16 me to continue to go point by point, I
17 will.

18 What is the population of the City
19 of Philadelphia currently according to the
20 census track?

21 MR. DAVIS: Subject to check, maybe
22 1.5 million.

23 MR. HAVER: Okay. Subject to
24 check.

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1 HEARING OFFICER CHESTNUT: Excuse
2 me. Did you use this information in
3 developing the testimony?

4 MR. HAVER: Yes. I absolutely need
5 this --

6 HEARING OFFICER CHESTNUT: No. I'm
7 talking to the witnesses.

8 MR. DAVIS: No, we did not.

9 HEARING OFFICER CHESTNUT: Okay.
10 Then, it's outside the scope of their
11 testimony.

12 MR. HAVER: Then let them say that.

13 HEARING OFFICER CHESTNUT: I think
14 they are trying to be helpful.

15 MR. HAVER: Your Honor --

16 HEARING OFFICER CHESTNUT:
17 Seriously, stick to your scope of
18 your testimony.

19 MR. HAVER: Your Honor is once
20 again helping the witnesses. Shame on you.

21 HEARING OFFICER CHESTNUT: Okay.

22 MR. HAVER: They have to be exposed
23 for what they know or what they don't know.
24 And your trying to bail them out, doesn't

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1 help the record. All it does is obfuscate
2 and show your prejudice.

3 HEARING OFFICER CHESTNUT: Do you
4 have another question?

5 MR. HAVER: Yes.

6 HEARING OFFICER CHESTNUT: Go
7 ahead.

8 MR. HAVER: I am going.

9 So, you have said that you don't
10 know what the population in the City of
11 Philadelphia is.

12 MR. DASENT: Objection. He said
13 1.5 million about two seconds ago.

14 MR. HAVER: Then the Judge said
15 that he was outside their scope of
16 testimony, and they didn't know. I'm
17 confused. What is it?

18 MR. DASENT: If you are going to
19 say one thing and they said another,
20 that's -- the testimony is a record. This
21 is being recorded.

22 He said 1.5 million.

23 MR. HAVER: I agree. But the
24 Judge --

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1 HEARING OFFICER CHESTNUT: Move on,
2 Mr. Haver. Move on.

3 MR. HAVER: Using your numbers for
4 the poverty level, how many families are
5 living at or below the poverty level?

6 MR. DAVIS: Our testimony focused
7 on the number of customers at or below the
8 income criteria for TAP and not,
9 necessarily, households. So, we would not
10 be able to characterize households.

11 MR. HAVER: According to your
12 testimony, how many families are eligible
13 for TAP?

14 MR. DAVIS: Our testimony didn't
15 cover number of families, only number of
16 customers.

17 MR. HAVER: How many customers are
18 eligible for TAP?

19 MR. DAVIS: I don't think that was
20 part of the record for this proceeding.

21 MR. HAVER: You just said that's
22 what your research is. And I'm asking you,
23 what does the research show?

24 MR. DAVIS: Our projection was for

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1 how many TAP participants could be expected
2 over the period of time in question.

3 MR. HAVER: Mr. Davis, that's not
4 what you said. What you said was, you
5 didn't know how many individuals were
6 eligible for the program. You only knew
7 how many accounts were eligible for the
8 program.

9 And I'm now asking you to report on
10 that number.

11 MR. DASENT: It's in his testimony.

12 HEARING OFFICER CHESTNUT: Okay.

13 Mr. Dasent, we get it.

14 Mr. Haver, you are -- well, why
15 don't you attempt to answer within the
16 parameters of your testimony. And perhaps
17 refer Mr. Haver to his specific portion of
18 your testimony.

19 Mr. Haver, in fact, do you have a
20 specific part of the testimony you are
21 referring to?

22 MR. HAVER: I do.

23 HEARING OFFICER CHESTNUT: Okay.

24 MR. HAVER: He is welcome to refer

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1 to it.

2 MR. DASENT: What page?

3 HEARING OFFICER CHESTNUT: What
4 page?

5 MR. DASENT: Page 3?

6 MR. HAVER: Again, I object to
7 Mr. Dasent --

8 HEARING OFFICER CHESTNUT: Yeah.
9 Mr. Dasent, you got to stop that.

10 MR. DASENT: I'm sorry. I'll stop.

11 HEARING OFFICER CHESTNUT: Mute
12 yourself, please.

13 Hold on a second. Okay. I got
14 their testimony. Where are you referring?

15 Mr. Haver?

16 MR. HAVER: Mr. Davis said it was
17 in his testimony. I'm asking where in the
18 testimony is it?

19 MR. DAVIS: I indicated that it was
20 in our testimony to project the number of
21 TAP participants for the period in
22 question. That is the Schedule RFC-1, page
23 3 of 3.

24 MR. HAVER: No, sir. That's

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1 disingenuous. You said that you didn't
2 know how many individuals were living at
3 the poverty level. And all you knew were
4 the number of accounts that were eligible
5 for the TAP program.

6 The court reporter can read back
7 what you said, Mr. Davis.

8 MR. DAVIS: If that's what I said,
9 then I misspoke. I said that -- I meant to
10 say then that we are projecting the number
11 of participants that would be customers
12 that would be active in the TAP program as
13 of the period of time in question. We do
14 not focus on the number of households. We
15 only focus on the number of participants.

16 MR. HAVER: Do you know or have you
17 made a projection of how many households
18 would be eligible for the TAP program?

19 MR. DAVIS: That's not part of the
20 record for this proceeding.

21 MR. HAVER: In your expert opinion,
22 what would that number be?

23 MR. DAVIS: I believe the city has
24 used a number of about 60,000, subject to

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1 check.

2 MR. HAVER: Well, let's go back and
3 do the numbers again.

4 So you have said, based on the
5 sense that -- you and Ms. Locklear have
6 said based on the Census Tract Data,
7 25.7 percent of Philadelphians live in
8 poverty. You have said that the population
9 is 1.5 million. And you have said that the
10 average family is 2.5 to 3 people.

11 How is it possible that it would
12 only be 60,000?

13 MR. DAVIS: I believe that as
14 Mr. Ballenger's questioning would indicate,
15 there are a lot of households in the City
16 of Philadelphia that are not customers of
17 the Water Department.

18 MR. HAVER: Yes. Still, how is
19 that possible? Mathematically, how is that
20 possible?

21 MR. DAVIS: How is it possible that
22 a household is not a customer of the Water
23 Department?

24 MR. HAVER: No, sir. How is it

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1 possible that we go based on the numbers
2 that you gave from 117,362 families living
3 at the poverty level being eligible. And
4 that's only at the poverty level. That's
5 not 150 percent of the poverty level.

6 How does it possibly go from
7 117,362 based on your numbers to 60,000?

8 HEARING OFFICER CHESTNUT: I got
9 to -- I got to stop you.

10 In terms of -- based on your
11 numbers, you asked him some general
12 questions about things that are not within
13 the scope of his testimony.

14 Do you have maybe, Mr. Davis or
15 Ms. Locklear, maybe the LIHEAP report that
16 was referenced by Mr. Ballenger? That's
17 actually numbered, instead of you doing
18 some kind of calculation here.

19 MR. DAVIS: We acknowledge that not
20 all of the families at or below the poverty
21 level or at or below the 150 percent of the
22 poverty level are customers of the Water
23 Department.

24 HEARING OFFICER CHESTNUT: He's

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1 answered your question, Mr. Haver. Why
2 don't you move on.

3 MR. HAVER: He did not answer my
4 question.

5 MR. DAVIS: Can you restate the
6 question?

7 MR. HAVER: Mathematically, how is
8 it possible for it to be only 60,000 people
9 eligible for the TAP program based on the
10 numbers you gave into the record?

11 MS. LOCKLEAR: It's not 60,000
12 people, sir. It's 60,000 water customers.

13 MR. HAVER: How is that possible?

14 MS. LOCKLEAR: Because the number
15 of households in poverty does not
16 correspond to the number of customers in
17 poverty, because not all households in
18 poverty are customers of the system.

19 MR. HAVER: Right. How many
20 cust -- how many households are living in
21 poverty? Can we establish you don't know?

22 MR. DASENT: Objection. Beyond the
23 scope, I believe, of this testimony.

24 HEARING OFFICER CHESTNUT: I think

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1 so, too. Point to something in your
2 testimony that you are asking them about.

3 MR. HAVER: I'm going to get to it.

4 HEARING OFFICER CHESTNUT: Well, do
5 it now.

6 MR. HAVER: Okay. What
7 percentage --

8 HEARING OFFICER CHESTNUT: No.
9 Point to something in their testimony. A
10 direct reference to their testimony.

11 MR. HAVER: In their testimony --

12 HEARING OFFICER CHESTNUT: A page
13 and a line number. And then, ask them
14 questions about that.

15 MR. HAVER: But you didn't require
16 that of anybody else.

17 HEARING OFFICER CHESTNUT: Because
18 there is foundation laid for
19 Mr. Ballenger's questions.

20 MR. HAVER: And I am laying the
21 foundation for my question.

22 HEARING OFFICER CHESTNUT: No. His
23 foundation were documents and the
24 testimony.

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1 MR. HAVER: And I laying --

2 HEARING OFFICER CHESTNUT: Show
3 them something in your testimony that's the
4 basis for your questions.

5 MR. HAVER: And I am laying the
6 foundation for the rest of my --

7 HEARING OFFICER CHESTNUT: But
8 you're not. You're not.

9 MR. HAVER: You are once again
10 interrupting and trying to cover up. It's
11 amazing.

12 HEARING OFFICER CHESTNUT: Amazing,
13 yes.

14 MR. HAVER: I am lay --

15 HEARING OFFICER CHESTNUT: If you
16 have any relevant questions, go ahead,
17 Mr. Haver. I have given you every
18 opportunity here.

19 MR. HAVER: No, you have not. You
20 absolutely have not. You are stopping me
21 from laying the foundation from my case and
22 my arguments.

23 HEARING OFFICER CHESTNUT: Then
24 perhaps you need to get your own expert.

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1 MR. HAVER: That is my choice. I
2 can make my case the way that I wish.

3 HEARING OFFICER CHESTNUT: You
4 can't use other people's witnesses to make
5 your case.

6 MR. HAVER: Of course I can.
7 That's the whole point of
8 cross-examination.

9 HEARING OFFICER CHESTNUT: No, not
10 really. No.

11 Do you have any other questions for
12 these witnesses?

13 MR. HAVER: I'm waiting for an
14 answer to my question. How many --

15 HEARING OFFICER CHESTNUT: I told
16 you, they don't have to answer that.
17 They've already tried to answer it. You
18 haven't accepted their answers. And so,
19 let's move on.

20 MR. HAVER: How many accounts,
21 residential water accounts, are eligible
22 for the TAP program?

23 MR. DAVIS: How many accounts are
24 eligible for the TAP program? We mentioned

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1 a number. That the city uses approximately
2 60,000. But we don't know that for sure.

3 MR. HAVER: What percentage of the
4 eligible customers are enrolled?

5 MR. DAVIS: In the TAP program or
6 in all assistance programs?

7 MR. HAVER: In the TAP program.

8 MR. DAVIS: Well, in the testimony,
9 there's approximately -- and I'm referring
10 to RFC-4, page one and two, approximately
11 16,500 customers enrolled as of the date of
12 this table December of '20.

13 MR. HAVER: What is the percentage?

14 MR. DAVIS: 16,500 divided by
15 60,000 is approximately 27.5 percent.

16 MR. HAVER: Your expert opinion,
17 does benchmarking carry one utility to the
18 industry standard shed light on the
19 performance of the utility?

20 MR. DAVIS: Yes.

21 MR. HAVER: Do you know how many
22 residential accounts there are enrolled in
23 PGW's CRP program.

24 MR. DAVIS: As part of that same

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1 table, the number that we have is 52,000.

2 MR. HAVER: Are you familiar with
3 the Pennsylvania Public Utility
4 Commission's filing on universal service?

5 MR. DAVIS: No.

6 HEARING OFFICER CHESTNUT: Excuse
7 me. What filing?

8 MR. HAVER: The annual filing.

9 HEARING OFFICER CHESTNUT: What
10 year?

11 MR. HAVER: 2021.

12 HEARING OFFICER CHESTNUT: Okay.

13 MR. DAVIS: That was not part of
14 our testimony, so I'm not aware of it
15 specifically.

16 MR. HAVER: Subject to check, would
17 you agree that the number in the executive
18 summary of the number of CRP participants
19 could be different than the number you just
20 gave me?

21 MR. DAVIS: It could be, yes.

22 MR. HAVER: Could be it 62,200.

23 MR. DAVIS: I don't know.

24 MR. HAVER: Could it be?

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1 MR. DAVIS: It could be anything.

2 MR. HAVER: I agree. But I'm just
3 asking you if it could be that.

4 MR. DASENT: Objection as it calls
5 for speculation.

6 HEARING OFFICER CHESTNUT: He's
7 already answered it.

8 MR. HAVER: Can you explain --

9 HEARING OFFICER CHESTNUT: He's
10 answer. Move on.

11 MR. HAVER: Can you explain the
12 difference in enrollment percentages and
13 raw numbers between PGW's CRP program and
14 the Water Department's TAP program?

15 MR. DAVIS: Could I explain the
16 differences generally?

17 MR. HAVER: Yes, and specifically.

18 MR. DAVIS: Well, generally, I
19 would say that it's a much more mature
20 program and there is the potential for a --
21 a larger discount. So, it may offset the
22 burden of application.

23 MR. HAVER: Have you or
24 Ms. Locklear reviewed the PGW's CRP program

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1 to see why its enrollment is such a larger
2 number than the Water Department's TAP
3 program?

4 MR. DAVIS: Specifically, we have
5 not.

6 MR. HAVER: Have you or
7 Ms. Locklear considered as part of the
8 automatic enrollment, working with PGW's
9 staff in combining CRP applications with
10 the Water Department's TAP application?

11 MR. DAVIS: I don't think that it's
12 our -- within our purview to investigate
13 things that are outside of the behest of
14 the city in this area. That would be a
15 question for them.

16 MR. HAVER: That mean no?

17 MR. DAVIS: We have not done that.
18 It's outside of our purview.

19 MR. HAVER: Thank you.

20 In earlier testimony, we were -- it
21 was testified that there are currently 460
22 residential accounts that got help from
23 LIHWAP; is that correct?

24 MS. LOCKLEAR: That was stated as

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1 the end of February, February 25.

2 MR. HAVER: Is that the correct
3 number?

4 MS. LOCKLEAR: As of that time,
5 yes.

6 MR. HAVER: How many customers of
7 the Water Department are eligible for
8 LIWAP[sic]?

9 MR. DAVIS: We don't have that
10 number.

11 MR. HAVER: So, is there any way
12 for you to Judge whether this is a
13 successful number of people enrolled?

14 MR. DAVIS: As of this date, I
15 believe, this would -- only been ongoing
16 for a couple of weeks.

17 MR. HAVER: Right. But is there
18 anyway -- if you don't know the total
19 number of eligible people, how do you judge
20 whether this was a successful enrollment?

21 MS. LOCKLEAR: We only --

22 MR. DAVIS: The judgment was based
23 on a couple weeks.

24 MR. HAVER: If the entire

3/31/2022

1 population was 500 people, most of us would
2 say enrolling 460 of 500 is a great job.
3 If the entire population that could be
4 eligible was 250,000, most of us would say
5 460 is not a good job.

6 And I am asking you, how in your
7 expert opinion can you judge this number if
8 you don't know the total population that
9 could be eligible for L-I-W-A-P[sic]?

10 MR. DASENT: Objection. This is
11 irrelevant. This is completely irrelevant.

12 HEARING OFFICER CHESTNUT: It is
13 completely irrelevant.

14 MS. LOCKLEAR: We haven't --

15 HEARING OFFICER CHESTNUT: I don't
16 understand the basis for the question,
17 frankly. He's already explained why the
18 enrollment is at the level it was as of
19 February.

20 If you can answer it, answer it.
21 If you can't, you know.

22 MR. HAVER: The relevancy goes
23 specifically to the deficit that they are
24 claiming is created by the TAP program. If

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1 there is additional money coming in, then
2 that would reduce the deficit. And to
3 decide whether the Water Department is
4 doing an adequate job in enrolling people
5 in a program that gives up to \$5,000 per
6 household is a critical point.

7 That is the relevancy.

8 MS. LOCKLEAR: Well, we haven't
9 rendered an opinion --

10 HEARING OFFICER CHESTNUT: No. Go
11 ahead, Ms. Locklear.

12 MS. LOCKLEAR: We haven't rendered
13 an opinion on the effectiveness of LIHWAP
14 at this time. And the numbers we reported
15 were for several weeks of the program's
16 existence and -- and grants received. I
17 don't think we are prepared to say that at
18 this time.

19 MR. HAVER: In your ex --

20 MR. DAVIS: The Water Department
21 does not enroll grantees in LIHWAP.

22 HEARING OFFICER CHESTNUT:

23 Mr. Ballenger?

24 MR. HAVER: Are you saying the

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1 Water Department doesn't have a program to
2 help people enroll?

3 MR. DAVIS: That's a state program.

4 MR. HAVER: Right. Are you saying
5 that the Water Department doesn't have a
6 program to help people enroll?

7 MS. LOCKLEAR: In LIHWAP?

8 MR. HAVER: Yes.

9 MR. DAVIS: You have to enroll
10 through the state.

11 MR. HAVER: So, you're saying you
12 can't contact the Water Department and
13 enroll?

14 MS. LOCKLEAR: That's correct.
15 It's a state program.

16 MR. HAVER: Have you looked at the
17 Water Department's web page?

18 MR. DAVIS: The Water Department
19 does not enroll customers in LIHWAP.

20 MR. HAVER: Right. Once again,
21 Mr. Davis, so I am very clear, are you
22 saying that no customer can contact the
23 Philadelphia Water Department and get
24 enrolled in LIHWAP?

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1 Is that your testimony?

2 MR. DAVIS: Are you asking if they
3 can get information or if they can enroll?
4 They cannot actually --

5 MR. HAVER: If they can enroll. If
6 they can enroll by contacting the
7 Philadelphia Water Department.

8 MR. DAVIS: It's not a Philadelphia
9 Water Department --

10 MR. HAVER: I'm not asking you
11 that, sir. I'm not asking you that, sir.

12 HEARING OFFICER CHESTNUT: He's
13 answering your question.

14 MR. DAVIS: That's my answer.

15 MR. HAVER: No, he's not.

16 HEARING OFFICER CHESTNUT: He is.
17 You don't like the answer, but that's the
18 answer.

19 MR. HAVER: That is not. He is not
20 answering my question.

21 HEARING OFFICER CHESTNUT: Asked
22 and answered. We have already gone through
23 this.

24 MR. HAVER: Specifically, can you

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1 contact the Philadelphia Water Department
2 to enroll in LIHWAP? Yes or no.

3 MR. DAVIS: My answer is, it's not
4 a Philadelphia Water Department program.
5 You can't not enroll through the
6 Philadelphia Water Department.

7 MR. HAVER: Thank you. In your
8 expert opinion, what is the cause of people
9 being unable to pay their water bills?

10 MR. DAVIS: I think that would be
11 outside the scope of our testimony here.

12 MR. HAVER: In your expert opinion,
13 would poverty be one of the reasons why a
14 family would not be able to pay their water
15 bill?

16 MR. DAVIS: That would seem
17 reasonable.

18 MR. HAVER: Okay. In your expert
19 opinion, would it be the other rate payers
20 of the Philadelphia Water Department that
21 caused the structural poverty that led to
22 people being unable to pay their water
23 bills?

24 HEARING OFFICER CHESTNUT: I'm not

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1 going to allow that question. There is no
2 foundation for it. That's a ridiculous
3 question. Certainly, outside the scope of
4 these proceedings and this testimony.

5 MR. HAVER: These are experts --

6 HEARING OFFICER CHESTNUT: You
7 know, just because you say "in your expert
8 opinion" --

9 MR. HAVER: And I am asking them in
10 their expert opinion what they think. and
11 you are saying it doesn't matter?

12 HEARING OFFICER CHESTNUT: Yes, for
13 purposes of their -- this testimony, it
14 doesn't matter.

15 MR. HAVER: In your expert opinion,
16 with a program designed to help low-income
17 families with the basic necessity of life
18 be a good public policy if it was paid for
19 by a surcharge on milk?

20 MS. LOCKLEAR: I --

21 MR. DASENT: Objection. Objection:
22 Irrelevant.

23 HEARING OFFICER CHESTNUT:

24 Objection sustained. We're not

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1 here to argue the merits of the TAP program
2 or whether there should be one. That's
3 already been determined by the Rate Board
4 in a prior proceeding. We are only
5 reeking -- looking at the reconciliation
6 which is associated with that program.

7 MR. HAVER: And you are not
8 allowing me to advance my arguments. You
9 are not allowing me to prove on the record
10 that the surcharge on people's water bill
11 is unfair, unjust and an overwhelming
12 burden.

13 HEARING OFFICER CHESTNUT: Okay.
14 Go ahead.

15 MR. HAVER: I -- you are limiting
16 the discussion. You are helping the Water
17 Department surcharge everybody. And it is
18 very clear that is what you are doing.

19 HEARING OFFICER CHESTNUT: Okay,
20 fine. Move on.

21 MR. HAVER: There is no
22 limitation --

23 HEARING OFFICER CHESTNUT: Move on.

24 MR. HAVER: There is no limitation

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1 in my ability to explore whether the
2 program is a tax, surcharge, and who it
3 falls on and what it pays.

4 HEARING OFFICER CHESTNUT: Right.
5 It's outside the scope of this proceeding,
6 so move on.

7 MR. HAVER: Is it inside the scope
8 of your expertise to explain whether it is
9 better for someone to pay something, or
10 it's better for them to pay nothing for the
11 water rates as a whole?

12 MR. DAVIS: I think that is outside
13 the scope of our testimony here.

14 MR. HAVER: Can you explain to me
15 how it is that you come up with
16 formulations if you don't consider that
17 point?

18 MR. DAVIS: Our -- our
19 participation here is strictly to project
20 the number of TAP participants in a future
21 period, the average discount they receive
22 and their consumption based on historical
23 program data.

24 MR. HAVER: Let's explore the

3/31/2022

1 average discount.

2 Would you agree in your expert
3 opinion, that there is more than one way to
4 define the discount?

5 MR. DAVIS: Under the scope of the
6 TAP-R framework, there is a specified way
7 to determine it.

8 MR. HAVER: I did not ask you that,
9 sir. I asked in your expert opinion, is
10 there more than one way to define --

11 HEARING OFFICER CHESTNUT: He
12 answered appropriately. It's in the
13 context of this case.

14 MR. HAVER: I asked him a specific
15 question.

16 HEARING OFFICER CHESTNUT: I know.
17 But to go beyond that is improper.

18 MR. HAVER: If you're going to say
19 I can't ask that, you go right ahead. Help
20 him cover up.

21 HEARING OFFICER CHESTNUT: Okay.
22 Go ahead. We're --

23 MR. HAVER: My question again --

24 HEARING OFFICER CHESTNUT: Go

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1 ahead, yes. We are not here to --

2 MR. HAVER: My question again, in
3 your expert opinion, is there more than one
4 way to define and calculate a discount?

5 MR. DASENT: Objection.

6 HEARING OFFICER CHESTNUT:

7 Sustained.

8 MR. HAVER: Before I close my
9 testimony, I would like to move into the
10 record what I supplied to the Hearing
11 Examiner, which is the Public Utility
12 Commissions PGW filing on universal
13 service. And I would, also, make the
14 motion that Judge Chestnut's conflict of
15 interest statement and financial disclosure
16 forms be made part of this record.

17 MR. DASENT: Objection on two --
18 two parts.

19 HEARING OFFICER CHESTNUT: Well,
20 first off, premature to talk about moving
21 in your exhibit because you haven't
22 testified yet. I assume you are going to
23 make a statement in addition to the one you
24 made this morning. But if you are going to

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1 rely on the earlier statement, then --

2 MR. HAVER: I'm only going to
3 cross-examine the next witness. I'm not
4 going to make any additional statements.

5 HEARING OFFICER CHESTNUT: Okay.
6 Then, I can -- I will accept that. I mean,
7 things are part of the record without
8 actually being admitted into the record.
9 And that's -- so, that's fine.

10 I'm not going to address this whole
11 financial interest statement issue because
12 that's going to be the subject of a
13 response. But I will tell you -- well, I'm
14 not going to say anything. Not even going
15 to say anything about it.

16 But, okay. Did you want to do
17 redirect, Mr. Dasent, or --

18 MR. DASENT: Yes. We will have
19 some questions on redirect of Mr. Davis and
20 Ms. Locklear.

21 First of all, in the cross by
22 Mr. Ballenger, you talked about, I thought,
23 sort of a common thread in a lot of the
24 questions as to how many paths do LIHWAP

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1 recipients have to TAP. How many pathways,
2 I think that was using the phrase that
3 Mr. Ballenger wrote -- stated.

4 Can you comment on that particular
5 phrase? Because it's seems like throughout
6 your testimony, throughout the questions,
7 that's really what the bottom of it is:
8 How to -- how do we get more people to TAP?

9 MR. DAVIS: Certainly. And I think
10 that is the common goal of both of us and
11 the Public Advocate. "Us" being the City.

12 I think the, you know, objective is
13 to boost enrollment into -- we use the term
14 auto enrollment. I think that was
15 mentioned in testimony as more of a
16 colloquialism. We aren't sure exactly what
17 form that may take. It may be more, like,
18 facilitated enrollment or something along
19 those lines using the information that we
20 have or that we hope to have.

21 Some of the obstacles that
22 Mr. Ballenger noted that tenant and
23 occupant, I think, those are beyond our
24 point that all of these folks represent

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1 potential TAP participants and potential
2 enrollees. So, they are part of a -- a
3 large pool that this opens up this
4 opportunity of auto enrollment or
5 facilitated enrollment opens up. And that
6 we need to account for the opportunity that
7 this gives us to look forever in projecting
8 TAP enrollment in the future.

9 MR. DASENT: What does current data
10 indicate about potential TAP participation?

11 MR. DAVIS: Well, I think the very
12 preliminary data that we have dated
13 February 25 is very encouraging. I think
14 there were a couple of things in particular
15 that the -- of the 460 LIHWAP grantees,
16 77 percent of them were not already
17 enrolled in TAP. Even though they were
18 income eligible based on their LIHWAP
19 application.

20 So, that tells us that the LIHWAP
21 program and the incentives that it provides
22 do give appropriate incentive for people to
23 enroll who wouldn't have for TAP, otherwise
24 enrolled at TAP. So there is a -- that

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1 tells us there is -- you know, we have
2 potentially potential access to a larger
3 number of enrollees.

4 And also, just kind of underlying
5 the fact that they are receiving \$1,400
6 benefit on average with a potential for up
7 to a \$5,000 benefit that's well in excess
8 of the benefit that they would receive
9 through TAP. And that would further
10 incentivize them to enroll in one program.
11 And then be auto enrolled facilitated-ly
12 enrolled, however you want to characterize
13 it, into two.

14 Do you have anything else,
15 Henrietta.

16 MS. LOCKLEAR: No. You got it.
17 Thank you.

18 MR. DASENT: Thanks, Jon.

19 Also, we talked a bit about LIHEAP
20 recipients and their getting -- receiving
21 multiple grants.

22 What's the significance, from your
23 perspective, of LIHEAP recipients, the fact
24 they can receive multiple grants?

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1 MR. DAVIS: Well, I don't think
2 that necessarily disqualifies them as being
3 a potential participant in the TAP program.
4 I think the city is aggressively looking
5 for ways to get folks who are in LIHWAP
6 and, potentially, down the road in LIHEAP
7 into the TAP program because we know that
8 they are income eligible.

9 So, I think that that tells us that
10 there is a big pool out there of folks who
11 are not currently enrolled in TAP. And
12 they could or should be and working to get
13 them enrolled in looking to overcome as
14 best we can some of the obstacles that
15 Mr. Ballenger brought up.

16 MR. DASENT: And finally in the
17 end, toward the end of Mr. Ballenger's
18 cross, talked about a shared goal of
19 increasing TAP enrollment. And meaning
20 shared between the City and the Public
21 Advocate.

22 Can you comment on that?

23 MR. DAVIS: Yeah. I think the --
24 the testimony shows that we're -- there is

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1 a lot of common ground here. We're both
2 projecting and hoping for increases in TAP
3 enrollment as a result of this, you know,
4 reciprocal eligibility/facilitated
5 enrollment from that time that LIHWAP to
6 TAP.

7 And you know, we are working
8 diligently to do that. It's just a matter
9 of, you know, how much funding are we going
10 to provide, how much effort can we put into
11 that. We are trying to reach an agreed
12 upon number here.

13 MR. DASENT: Thank you.

14 That's all I have.

15 HEARING OFFICER CHESTNUT: Any
16 recross, Mr. Ballenger?

17 MR. BALLENGER: Nothing but to say
18 how jealous I am of your view, Mr. Davis.
19 All I see are bricks.

20 So, I appreciate your comments.
21 Thank you, sir. And also, Ms. Locklear and
22 Ms. Baporis. Thank you both.

23 HEARING OFFICER CHESTNUT:

24 Mr. Haver, any recross? Okay.

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1 MR. HAVER: No, not for this
2 witness.

3 HEARING OFFICER CHESTNUT: Okay.
4 Thank you very much.

5 Mr. Davis, Ms. Locklear, you are
6 excused. Appreciate your testimony.

7 MS. LOCKLEAR: Thank you.

8 MR. DAVIS: Thank you.

9 HEARING OFFICER CHESTNUT: Do you
10 have anything else, Mr. Dasent? Or should
11 we proceed to --

12 MR. DASENT: I think we are
13 proceeding to Mr. Morgan.

14 HEARING OFFICER CHESTNUT: Okay.
15 Rob, I think you need to get
16 unmuted.

17 MR. BALLENGER: Sorry. Just found
18 the button.

19 HEARING OFFICER CHESTNUT: Okay.
20 Go ahead.

21 MR. BALLENGER: Okay. I don't,
22 actually, have any, you know, prepared
23 remarks for Mr. Morgan. I suggest that we
24 just go ahead and go into cross-examination

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1 on his testimony here today. I will ask
2 him if he can turn on his video. I know
3 sometimes that's challenging.

4 MR. MORGAN: That's a challenge. I
5 will say so right now.

6 MR. BALLENGER: Okay. We can hear
7 you just fine, so. So based on --

8 HEARING OFFICER CHESTNUT: Hold on
9 a second while I pull up his testimony.

10 MR. BALLENGER: Okay. My
11 understanding is that the Water Department
12 had some cross here to start.

13 MR. DASENT: I am going to defer to
14 Mr. Haver.

15 HEARING OFFICER CHESTNUT: Okay.

16 MR. BALLENGER: Nice.

17 HEARING OFFICER CHESTNUT:

18 Mr. Haver, you have questions for
19 Mr. Morgan?

20 MR. HAVER: Yes, I do.

21 HEARING OFFICER CHESTNUT: Okay.

22 MR. HAVER: Mr. Morgan, I reviewed
23 the exhibits and the lengthy number of
24 places that you have testified was very

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1 impressive. I was unable to find your
2 financial disclosure form.

3 Can you direct me to where it is in
4 your appendixes?

5 MR. MORGAN: I don't have one
6 attached to my testimony. I'm an
7 independent consultant. It's not required.

8 MR. BALLENGER: He's not required
9 to submit one.

10 MR. HAVER: Excuse me.
11 Mr. Ballenger is not allowed to testify.

12 HEARING OFFICER CHESTNUT: He can
13 object.

14 MR. HAVER: He can object. But he
15 cannot --

16 MR. BALLENGER: I object.

17 HEARING OFFICER CHESTNUT: That's
18 what he's doing.

19 MR. HAVER: He did not make an
20 objection. He testified.

21 HEARING OFFICER CHESTNUT: That was
22 an objection.

23 MR. BALLENGER: I object. He's not
24 required to make a financial disclosure.

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1 MR. HAVER: Mr. Morgan, if you were
2 engaged in a rate case, would you be
3 curious as to the financial interest of the
4 parties that were representing the public
5 to make sure that they did not have a
6 conflict of interest?

7 MR. BALLENGER: Note my objection.
8 Mr. Morgan serves as an expert --

9 HEARING OFFICER CHESTNUT:
10 Sustained. Sustained. Complete
11 irrelevant.

12 MR. BALLENGER: -- for the Office
13 of Consumer Advocate and other consumer
14 advocate organizations.

15 MR. HAVER: I did not hear that for
16 the record. If the could reporter could
17 please read that answer -- that objection.

18 HEARING OFFICER CHESTNUT: No.
19 She's not going to read anything back.

20 What did you say, Rob?

21 MR. BALLENGER: Just -- I was just
22 stating that Mr. Morgan is an independent
23 expert.

24 HEARING OFFICER CHESTNUT: Go

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1 ahead, Mr. Haver.

2 MR. HAVER: I still have not heard
3 that, so I don't understand what his
4 problem is in making his objection.

5 HEARING OFFICER CHESTNUT:

6 Mr. Ballenger, could you repeat
7 that because Mr. Haver didn't hear you?

8 MR. BALLENGER: I objected because
9 Mr. Morgan does, in fact, serve as an
10 expert for entities like the Office of
11 Consumer Advocate as well as Public
12 Advocate. So, his opinions about other
13 experts are really not relevant here.

14 MR. HAVER: Thank you.

15 Mr. Morgan, we heard testimony
16 earlier today regarding what this TAP
17 adjustment would mean for residential rate
18 payers.

19 In your expert opinion, how much do
20 you project, if the proposed adjustment
21 goes through, how much do you project the
22 average residential customer would pay
23 extra per month?

24 MR. MORGAN: I believe the water

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1 company already responded to that. I think
2 it's at \$0.70.

3 MR. HAVER: I'm asking you, sir, in
4 your expert opinion, if you concur?

5 MR. BALLENGER: If you have an
6 opinion, Mr. Morgan.

7 MR. MORGAN: Can you repeat?

8 MR. BALLENGER: I was just
9 clarifying, if you have an opinion on that.
10 It's not part of your testimony.

11 MR. MORGAN: The -- I don't -- I've
12 reviewed the numbers. And I did not see an
13 error, so that's their projection.

14 MR. HAVER: Again, is it your
15 opinion that that's correct?

16 MR. MORGAN: I did not see an
17 error, so I have no reason to dispute the
18 number.

19 MR. HAVER: In your expert opinion,
20 do you agree with the witnesses for the
21 Philadelphia Water Department that there
22 are 420,000 residential accounts?

23 MR. MORGAN: It's somewhere in that
24 neighborhood. I believe 423 is what's in

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1 the testimony.

2 MR. HAVER: The --

3 MR. MORGAN: 423,000 rather.

4 MR. HAVER: The previous experts
5 testified that their review of the Census
6 Data was that 25.7 percent of
7 Philadelphians live in poverty.

8 In your expert opinion; is that
9 correct?

10 MR. MORGAN: It's outside the scope
11 of my testimony.

12 MR. HAVER: Okay. Would you know
13 what percentage of Philadelphians live in
14 poverty?

15 MR. MORGAN: I have not done the
16 research. It's outside the scope of my
17 testimony.

18 MR. HAVER: In general, do you
19 accept the Census Data as being accurate?

20 MR. MORGAN: Which Census Data?

21 MR. HAVER: United States Census
22 Data.

23 MR. MORGAN: I have no reason to
24 dispute it.

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1 MR. HAVER: Based on your
2 expertise, what is the average family size
3 of Philadelphia Water rate payers?

4 MR. MORGAN: I -- that's not in the
5 scope of my testimony. I cannot provide an
6 answer to you.

7 MR. HAVER: Based on your
8 expertise, how many families qualify for
9 the TAP program?

10 MR. MORGAN: That's outside the
11 scope. I did not go and do research to
12 find out people's income eligibility. So,
13 I don't have an answer for that.

14 MR. HAVER: Without knowing how
15 many people are eligible, how do you
16 determine what percentage of people will be
17 enrolling?

18 MR. MORGAN: The TAP program
19 already has an established formula. And
20 they -- which was accepted and ordered by
21 the Board. And so, in keeping with the
22 Board's authorization, I followed the
23 formula. And -- and that's the basis of my
24 recommendation.

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1 MR. HAVER: Within your expert
2 opinion, would you say if the enrollment
3 rate is relatively low, it is more likely
4 that people will continue to enroll than if
5 the enrollment rate is very high as a
6 percentage?

7 MR. BALLENGER: Objection as to the
8 form of the question. I feel like there's
9 a couple of questions there. If you can,
10 please, restate that.

11 HEARING OFFICER CHESTNUT: Yeah. I
12 thought it was a little confusing, too.

13 Are you saying because this low
14 participation rate means --

15 MR. HAVER: Mr. Morgan, is it -- if
16 a program has a 98 percent enrollment, is
17 it harder to enroll the last 2 percent than
18 it is if a program has a 2 percent
19 enrollment to enroll the other 98 percent
20 who are not already enrolled?

21 MR. BALLENGER: Objection to form.

22 HEARING OFFICER CHESTNUT: I assume
23 he can answer it. I'm not sure --

24 MR. BALLENGER: I don't mind if he

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1 answers. Just note my objection. It's
2 speculative.

3 HEARING OFFICER CHESTNUT: If you
4 can answer it, Mr. Morgan. I'm not sure.

5 MR. MORGAN: Yeah, you know, it's
6 complicated. You know, I don't -- I cannot
7 give an honest, clear answer to that
8 question because it's dependent on so many
9 other factors.

10 HEARING OFFICER CHESTNUT: Uh-huh.

11 MR. HAVER: Hold all other factors,
12 all other into intervening areas neutral,
13 what would be your answer?

14 MR. MORGAN: I don't know.

15 HEARING OFFICER CHESTNUT: Listen,
16 I need to take a break for just a second
17 here, okay? Can we do that?

18 (Off the record at 1:31 p.m.)

19 - - -

20 (Back on the record at 1:34 p.m.)

21 HEARING OFFICER CHESTNUT: Thank
22 you.

23 MR. HAVER: Okay. I was asking if
24 you hold all of the other intervening

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1 variables and just look at the one
2 intervening variable, is it more likely to
3 enroll people if it's a 2 percent
4 enrollment in the program than it is likely
5 to enroll people if it's a 98 percent
6 enrollment holding all other intervening
7 variables separate and distinct and without
8 change?

9 MR. MORGAN: My answer was, I don't
10 know. And it's because I've not worked in
11 the situation where I participated in
12 enrolling people to such a program.

13 MR. HAVER: So, you don't have an
14 opinion whether it's easier to add people
15 if it's only 2 percent enrolled as opposed
16 to if they're 98 percent enrolled; is that
17 correct?

18 MR. MORGAN: I don't have an
19 opinion.

20 MR. HAVER: Okay. And again, I
21 will ask you, but I am sure that you have
22 made it clear.

23 Do you have -- do you know what
24 percentage of eligible families, eligible

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1 accounts, are enrolled in the TAP program?

2 MR. MORGAN: I do not know. That
3 was outside the scope of my review.

4 MR. HAVER: In your expert opinion,
5 does benchmarking -- comparing one utility
6 to the industry's standard shed light on
7 the performance of the utility?

8 MR. MORGAN: In some situations.

9 MR. HAVER: Do you know how many
10 accounts are enrolled in PGW's CRP program?

11 MR. MORGAN: Other than what the
12 utility indicated, I have not done such a
13 review.

14 MR. HAVER: And what has the
15 utility indicated, sir?

16 MR. MORGAN: Let' see. I think it
17 was, like, 62,000.

18 MR. HAVER: Can you explain in your
19 expert opinion, why the TAP -- number of
20 people enrolled in the TAP rate is under
21 only a third of the number of people
22 enrolled in PGW CRP rate?

23 MR. MORGAN: The TAP is a new
24 program as compared to PGW's programs. So

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1 that in itself provides no other
2 explanation. But other than that, I have
3 not done a full analysis. I can't go
4 beyond that.

5 MR. HAVER: In your expert opinion,
6 would allowing PGW to help enroll water
7 customers in the TAP program when they
8 enroll gas customers in the CRP program,
9 increase the likelihood of enrollment in
10 TAP?

11 MR. MORGAN: I'm not sure PGW wants
12 to do that. But again, I don't know if
13 they have the same customers in all
14 instances. So, that's a difficult question
15 to answer.

16 MR. HAVER: Do you know if they
17 have the same financial criteria?

18 MR. MORGAN: It's my understanding
19 that they do.

20 MR. HAVER: And again, without
21 asking whether you know if PGW wants to do
22 it or not do it, my question was in your
23 expert opinion, would having PGW when it
24 does intake for CRP also do intake for TAP,

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1 would that help increase the number for
2 TAP?

3 MR. MORGAN: I mean, that's -- any
4 time you can get an additional source of
5 enrollees, it will help. But I -- you
6 know, there has to be some explaining. And
7 there are some other factors that have to
8 be taken into account. So for me to
9 blanketly say yes, I think it'd be
10 erroneous.

11 MR. HAVER: Your expert opinion,
12 what is acceptable percentage of eligible
13 TAP customers enrolled?

14 MR. MORGAN: I don't have one.

15 MR. HAVER: So in your expert, a
16 1 percent enrollment would be acceptable?

17 MR. MORGAN: No.

18 MR. HAVER: Would a 5 percent
19 enrollment, in your expert opinion, be
20 acceptable?

21 MR. MORGAN: No.

22 MR. HAVER: Would a 10 percent
23 enrollment be acceptable?

24 MR. MORGAN: Again, we could just

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1 keep going and going and going. Again,
2 ultimately, I don't have a percentage that
3 I can give to you.

4 MR. HAVER: But you've already said
5 on the record that there are some
6 percentages that you consider too low.

7 Is that not correct?

8 MR. BALLENGER: Objection. No --

9 MR. MORGAN: I didn't say that.

10 MR. BALLENGER: Could you point us
11 to what you are referring to, Mr. Haver?

12 MR. HAVER: His statements just on
13 the record now.

14 MR. MORGAN: I don't believe I said
15 that.

16 MR. HAVER: I asked you if 1
17 percent was acceptable, and you said no. I
18 asked you if 5 percent was acceptable, and
19 you said no.

20 MR. BALLENGER: I, again, object.
21 I think Mr. Morgan said that he didn't have
22 an opinion. And when you asked more
23 specifically whether something was okay, he
24 said no. Which is confirmation that he

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1 doesn't share that that number is an
2 acceptable one. He doesn't have an opinion
3 as to what is.

4 MR. HAVER: And I'm asking if he
5 knows what is not acceptable, how is it
6 that he can't know what is acceptable?

7 HEARING OFFICER CHESTNUT: They're
8 not the same. I think he's tried to
9 answer --

10 MR. HAVER: How is it that you can
11 possibly help him answer a question?

12 Your Honor, how is it possible for
13 you to intervene in my investigation by
14 giving him an answer? You're limited, or
15 should be limited. Again, you're
16 prejudicial nature shows clearly you are
17 helping him answer questions.

18 If he wants to say it's not
19 equivalent, let him say it. If
20 Mr. Ballenger wants to obfuscate and cover
21 up, let him do so. But you have no right
22 to intervene in my questioning.

23 HEARING OFFICER CHESTNUT: I have
24 every right to address an objection.

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1 MR. HAVER: There was no objection
2 before you.

3 HEARING OFFICER CHESTNUT: There
4 was. There was.

5 MR. HAVER: You have made -- you
6 have made yourself clear.

7 HEARING OFFICER CHESTNUT: Go
8 ahead.

9 MR. HAVER: Mr. Morgan, we
10 already -- you already testified in your
11 expert opinion, the surcharge would be
12 \$0.70 per month per family on the
13 residential water.

14 MR. BALLENGER: Objection, again.
15 That was not his testimony. He was
16 referring to testimony offered by the
17 Department.

18 MR. HAVER: Mr. Morgan, you said
19 you see no reason to think that that number
20 is incorrect.

21 MR. BALLENGER: Objection.

22 Mr. Morgan wasn't saying 70 percent
23 was incorrect.

24 MR. HAVER: \$0.70.

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1 MR. BALLENGER: Pardon me. He was
2 referring to the testimony that he reviewed
3 and the rate model provided in the
4 proceeding.

5 MR. HAVER: Mr. Morgan, did you not
6 say that you see -- you have no reason to
7 think that that number is wrong?

8 MR. MORGAN: That's what I said.

9 MR. HAVER: Thank you.

10 MR. MORGAN: That was not my expert
11 opinion that it was the right number.

12 MR. HAVER: Yes. But your expert
13 opinion was that you saw no reason to
14 challenge that number?

15 HEARING OFFICER CHESTNUT: That's
16 not what he said.

17 MR. BALLENGER: Objection.

18 HEARING OFFICER CHESTNUT: That's
19 not what he said.

20 MR. BALLENGER: Objection. He said
21 he saw no mistake or error in the
22 calculation of that number. That is not
23 Mr. Morgan's proposal in this -- in his own
24 testimony.

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1 MR. HAVER: Mr. Morgan, can you
2 explain in your expert opinion, the
3 rationale for surcharging working people
4 for a poverty program?

5 MR. BALLENGER: Objection. All
6 customers of the Water Department pay a
7 surcharge pursuant to the tariff in effect.

8 HEARING OFFICER CHESTNUT: I'll
9 sustain. It's outside the scope of this
10 proceeding, the adoption or implementation
11 or design of the TAP program is not an
12 issue.

13 MR. HAVER: Mr. Morgan, are you
14 familiar with the SNAP program?

15 MR. MORGAN: No.

16 MR. HAVER: Are you familiar with
17 the -- well, what used to be called the
18 Food Stamp Program?

19 MR. MORGAN: No.

20 MR. HAVER: Are you familiar with
21 any low-income programs other than for
22 utilities?

23 MR. MORGAN: I've heard of them,
24 but I'm not familiar. I can't answer any

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1 questions with respect to any details.

2 MR. HAVER: So if I were to ask you
3 how SNAP is funded, you would not know?

4 MR. BALLENGER: Objection.

5 MR. MORGAN: That's correct.

6 HEARING OFFICER CHESTNUT:

7 Sustained.

8 MR. MORGAN: I would not know.

9 MR. HAVER: In your expert opinion,
10 do you believe it's good public policy to
11 tax or surcharge a basic necessity of life
12 to pay for a program to help low-income
13 families?

14 MR. MORGAN: I do not know of such
15 a program that taxes to pay for basic
16 necessity.

17 MR. HAVER: Right. I asked in your
18 expert opinion, would that be good public
19 policy.

20 HEARING OFFICER CHESTNUT: I'm
21 sorry. You know, you can't use the phrase
22 "in your expert opinion" to justify every
23 question. He's here with a -- it's got to
24 be within the scope of his testimony. And

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1 how to fund, you know, these unrelated
2 programs are just not within the scope of
3 it. Ask about, you know, his testimony.

4 MR. HAVER: I am asking about his
5 testimony.

6 HEARING OFFICER CHESTNUT: That's
7 not his testimony.

8 MR. HAVER: I am examining the bias
9 --

10 HEARING OFFICER CHESTNUT: Ask him
11 about the projections of --

12 MR. HAVER: I'm --

13 HEARING OFFICER CHESTNUT: -- TAP
14 enrollees.

15 MR. HAVER: I'm exploring his
16 biases, which is my right.

17 HEARING OFFICER CHESTNUT: No.

18 MR. BALLENGER: Objection.

19 HEARING OFFICER CHESTNUT: That
20 doesn't open for you asking those kinds of
21 questions.

22 MR. BALLENGER: It might help to
23 clarify the purposes of Mr. Morgan's
24 testimony.

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1 HEARING OFFICER CHESTNUT: Please.

2 MR. BALLENGER: Mr. Morgan, were
3 you retained to examine how TAP functions
4 in general?

5 MR. MORGAN: No. In this instance,
6 I was retained to evaluate the change in
7 the TAP rate.

8 MR. BALLENGER: And when you say
9 the change, you mean the change in the
10 funding mechanism that the Board approved
11 in 2018 and which has been reconciled every
12 year since then?

13 MR. MORGAN: Well, this is the
14 change because of the reconciliation of the
15 lost revenue.

16 MR. BALLENGER: So, is it safe to
17 say that your testimony is based upon your
18 experience in utility rate financial
19 matters as opposed to utility programmatic
20 matters?

21 MR. MORGAN: That's correct.

22 MR. BALLENGER: Okay.

23 Anything else you would like to
24 share about the limitations on the scope of

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1 your testimony today, Mr. Morgan?

2 MR. MORGAN: Nothing other than
3 that the scope of my testimony did not
4 involve looking at alternatives to the TAP
5 program. It did not involve comparison to
6 other public policy matters. It did not
7 involve an analysis to determine poverty
8 levels and what have you.

9 It was limited to the annual
10 reconciliation.

11 MR. BALLENGER: Thank you.

12 Mr. Haver, please proceed.

13 MR. HAVER: Just to be clear,
14 Mr. Morgan, asking you about loss revenue
15 is appropriate?

16 MR. MORGAN: Yes.

17 MR. HAVER: Okay. In your -- is
18 there more than one way to calculate lost
19 revenue?

20 MR. MORGAN: It depends on what you
21 quantify.

22 MR. HAVER: Directly, if a
23 Department store sells a suit for \$200 and
24 then has a sale for \$180, could someone

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1 calculate that it's a \$20 lost revenue?

2 MR. MORGAN: That's a competitive
3 environment. It's -- you know, the
4 department store has the option to charge
5 someone else's -- someone else more. The
6 utility does not have that opportunity.
7 So, you simply can't look at that situation
8 and say that's lost revenues.

9 MR. HAVER: So what then is lost
10 revenue?

11 MR. MORGAN: Essentially --

12 HEARING OFFICER CHESTNUT: Excuse
13 me. For purposes of this proceeding.

14 MR. MORGAN: For purposes of this
15 proceeding, every year there is a
16 calculation of the projected revenues based
17 on the number of TAP participants. At the
18 end of the year, the utility files -- makes
19 the filing, the actual revenues that
20 compare to what was projected.

21 If the utility recovered less than
22 what -- based on the number of -- if it
23 recovered less than it should have, then it
24 has the opportunity to recover those

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1 revenues. Those revenues are considered to
2 be lost revenues.

3 MR. BALLENGER: Just if I may
4 clarify here, Mr. Morgan, what happens if
5 the utility collects more than the
6 programmatic costs?

7 MR. MORGAN: Then those are
8 returned to rate payers.

9 MR. HAVER: Mr. Morgan, in your
10 definition, does it matter if it would cost
11 the Water Department more money to turn
12 somebody off and turn them back on than it
13 would to put them on the TAP program?

14 MR. MORGAN: I don't have an expert
15 opinion on that.

16 MR. HAVER: I'm sorry. I didn't
17 hear you.

18 MR. MORGAN: I do not have an
19 expert opinion an that.

20 MR. HAVER: Let me -- let me walk
21 you through it because you had just gone
22 through what a loss for these proceedings
23 means.

24 So if someone is not on the TAP

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1 program and their water is cut off, there
2 is an expense on P -- on the Water
3 Department's books; is there not?

4 MR. MORGAN: To turn it off?

5 MR. HAVER: Yes.

6 MR. MORGAN: Yes.

7 MR. HAVER: And there is an expense
8 for attempting to collect the old bill; is
9 there not?

10 MR. DAVIS: Yes.

11 MR. HAVER: And for calculating
12 these proceedings, are you saying that you
13 don't take into consideration what those
14 costs are?

15 MR. BALLENGER: Objection. Yeah,
16 not understand the question. I object.
17 You refer to calculating these proceedings.
18 Could you explain what you mean, Mr. Haver?

19 MR. HAVER: I am waiting for a
20 ruling.

21 HEARING OFFICER CHESTNUT: I don't
22 understand how it relates to this
23 proceeding. I mean, the question of
24 whether there should be a TAP program has

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1 already been made. And that --

2 MR. HAVER: I am asking how the
3 losses --

4 HEARING OFFICER CHESTNUT: He's
5 just talking about the revenue associated
6 with the last year's operation of the
7 program.

8 MR. HAVER: I'm asking how the
9 losses are projected and calculated. And
10 if they are net, or they are gross. And in
11 doing so --

12 HEARING OFFICER CHESTNUT: I don't
13 understand this net or gross. Maybe that's
14 the issue.

15 MR. HAVER: Well, I will explain it
16 to you. Net would be the difference
17 between what it would cost rate payers when
18 you take into account the expenses occurred
19 by turning someone off in attempting to
20 collect that money, and then turning
21 someone on. That would be the net loss.

22 A gross loss would not calculate in
23 the alternative what would happen to a TAP
24 customer.

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1 HEARING OFFICER CHESTNUT: Okay.
2 That's completely outside the scope of
3 this. And it's wrong. I mean, it's just
4 completely wrong. This is supposed to be
5 about revenue.

6 MR. HAVER: What is wrong about net
7 versus gross? That's basic accounting.

8 HEARING OFFICER CHESTNUT: It's
9 overly simplistic accounting for one thing,
10 but it's not the issue here.

11 Mr. Ballenger, maybe you can
12 explain it better than I am doing.

13 MR. HAVER: I would object to
14 Mr. Ballenger testifying.

15 HEARING OFFICER CHESTNUT: He's not
16 testifying.

17 MR. BALLENGER: I guess I take
18 issue with the premise that there is some
19 correlation and determination expense and
20 TAP discounts. One is an overall operating
21 expense. Another is very particular to
22 this program. So, lining them up I think
23 is what Mr. Morgan is struggling with
24 because it's not part of the equation.

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1 MR. HAVER: I will make it part of
2 the equation. If somebody is not on the
3 TAP program and they are terminated and
4 there is an attempt to collect the bill,
5 that has a financial cost.

6 Is that right, Mr. Morgan?

7 MR. MORGAN: That is correct.

8 MR. HAVER: And the TAP program in
9 many cases stops a termination.

10 Is that correct, Mr. Morgan?

11 MR. BALLENGER: If you know,
12 Mr. Morgan.

13 MR. MORGAN: I don't know.

14 MR. HAVER: I'm sorry, sir. You
15 don't know whether the TAP program stops
16 terminations?

17 MR. MORGAN: In general, what is
18 designed to do, prevent those situations.

19 MR. HAVER: And is it --

20 MR. MORGAN: But I don't know if
21 it -- if you are asking me if I can opine.
22 I would say no because I don't know the
23 intricacies of that process.

24 MR. HAVER: Just to make it clear,

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1 you don't whether the TAP program
2 successfully avoids shutoffs?

3 MR. BALLENGER: I believe that's a
4 question for the Department, not
5 Mr. Morgan. He's not in charge of
6 shutoffs.

7 HEARING OFFICER CHESTNUT: Go
8 ahead, Mr. Haver. I mean, he's right.

9 MR. HAVER: I waiting for an answer
10 from Mr. Morgan.

11 HEARING OFFICER CHESTNUT: He
12 already answered.

13 MR. MORGAN: I'm not familiar with
14 the intricacies. So no, I don't have an
15 answer for you.

16 MR. HAVER: So, there would be no
17 way for you to calculate the gross loss
18 versus the net loss, would there?

19 MR. MORGAN: I don't see how that
20 is related to what -- to the scope of my
21 testimony in this proceeding.

22 MR. HAVER: I will help explain it
23 for you then, sir.

24 You are tasked with projecting what

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1 the, quote/unquote, loss is as a result of
2 running the TAP program. And you are
3 projecting what the surcharges should be on
4 every other rate payer. Calculating that
5 loss, a gross loss versus a net loss, would
6 have a direct impact on what the surcharge,
7 which I call a tax, would be.

8 Is that not correct?

9 MR. BALLENGER: Object again. I
10 think -- again, the premise here is that
11 termination expense is somehow either
12 recovered or considered in evaluating the
13 discounted bills issued pursuant to the TAP
14 program. This is about recovering the
15 value of the discounts provided. It does
16 not have anything to do with termination
17 expense.

18 HEARING OFFICER CHESTNUT: To the
19 extent it's an outstanding objection,
20 sustained. I think Mr. Ballenger tried to
21 explain it to you, Mr. Haver.

22 MR. HAVER: Mr. Ballenger, as
23 normal, is helping the Water Department and
24 not rate payers. The reality is every time

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1 we avoid a shutoff, we avoid costs. And
2 that should be taken into consideration
3 when we decide the efficacy of the TAP
4 program. Mr. Ballenger's refusal to look
5 at that and refusal to hire a technical
6 expert to look at that, is part of what he
7 does to help the Water Department.

8 HEARING OFFICER CHESTNUT: Okay.
9 Stop right there. This -- I don't know why
10 you can't listen to me, Mr. Haver.

11 The point of this proceeding is a
12 reconciliation proceeding. It's not to
13 discuss program issues involved with the
14 TAP-R program. That's not what Mr. Morgan
15 was retained to do. That's not what we're
16 looking at.

17 There's a formula. If you want to
18 ask questions about the formula that's used
19 to derive these numbers, go ahead.

20 MR. HAVER: I am.

21 HEARING OFFICER CHESTNUT: No,
22 you're not.

23 MR. HAVER: I am asking --

24 HEARING OFFICER CHESTNUT: You're

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1 not asking --

2 MR. HAVER: -- specifically about
3 the formula. The fact that you can't see
4 it, is not my problem. It's the problem of
5 every rate payer. Any cost avoidance would
6 be part of the formula. People are
7 refusing to allow that into the record for
8 some reason.

9 HEARING OFFICER CHESTNUT: Okay.
10 Just move on. There's no point arguing
11 with you again. This is just a waste of
12 everybody's time to go over the same
13 ground.

14 MR. HAVER: You are not tasked --
15 you are not tasked with arguing for me or
16 with me or interfering with my
17 cross-examination. That is a role you have
18 taken to assert the power.

19 HEARING OFFICER CHESTNUT: Do you
20 have any other questions for this witness?

21 MR. HAVER: Mr. Morgan, if a family
22 is kept on as a Philadelphia Water
23 Department customer and pays for the
24 commodities of water, does that customer

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1 also help pay for the infrastructure?

2 MR. BALLENGER: Objection.

3 Commodity is not a term we tend to use
4 here. So, I will allow Mr. Morgan to
5 answer if he knows. But I don't think that
6 follows. Note my continuing objection.

7 HEARING OFFICER CHESTNUT: Yeah. I
8 don't understand it either, frankly. But
9 if Mr. Morgan wants to take a stab at it
10 and recast it in his own terms, he can.

11 I think it's outside the scope of
12 this.

13 MR. MORGAN: I will try. The
14 commodity is the water. So paying for the
15 water, simply just the water, you're not
16 contributing to infrastructure.

17 MR. HAVER: If you pay one cent
18 more than the commodity cost, would that be
19 contributing to the cost of the
20 infrastructure?

21 MR. MORGAN: I don't think so.
22 There -- you know, you can't -- there is
23 not a scale where you can say after you pay
24 for the water commodity, then you pay for

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1 infrastructure, then you pay for salaries
2 and so on and so forth. So, your example
3 or your question just -- I would say it's
4 just not valid.

5 MR. HAVER: Why can't you account
6 for it in that manner?

7 MR. MORGAN: That's not how
8 accounting works.

9 MR. HAVER: Accounting doesn't
10 break down in many different ways? There's
11 not more than one way, one accounting
12 method?

13 MR. MORGAN: For presentation
14 purposes, yes. But when it comes to
15 collection rates, it doesn't -- there is no
16 scale or hierarchy or pyramid where it says
17 we start off by paying for water, then we
18 pay infrastructure, so on and so forth.

19 So, that's just not how it works.

20 MR. HAVER: That concludes my
21 cross-examination.

22 HEARING OFFICER CHESTNUT: Okay.
23 That takes us to Mr. Dasent then.

24 MR. DASENT: Uh, I have no

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1 questions for Mr. Morgan. I just want to
2 thank him for his contributions to this
3 proceeding.

4 HEARING OFFICER CHESTNUT: Okay.
5 Did you wanted to redirect, Mr. Ballenger?

6 MR. BALLENGER: If I could maybe
7 just have a couple minutes, and I will call
8 Mr. Morgan separately, and then come back
9 on.

10 HEARING OFFICER CHESTNUT: Okay.
11 It's 1:59. So, let's say we will resume at
12 2:10.

13 MR. BALLENGER: Perfect. Thank
14 you.

15 (Off the record.)

16 - - -

17 (Back on the record at 2:12 p.m.)

18 HEARING OFFICER CHESTNUT:

19 Mr. Ballenger.

20 MR. BALLENGER: Thank you, Judge.

21 Mr. Morgan, just one question.

22 Does this proceeding provide an
23 opportunity for us to change the TAP
24 framework and the TAP-R mechanism?

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1 MR. MORGAN: No. The TAP-R formula
2 has been approved --

3 MR. HAVER: That's outside the
4 scope of his testimony. He has no legal
5 expertise. He has not test -- not
6 introduced testimony.

7 Objection.

8 HEARING OFFICER CHESTNUT: He can
9 talk about the scope of his testimony,
10 which I think is what Mr. Ballenger asked
11 him.

12 MR. HAVER: That is not what
13 Mr. Ballenger asked him. He asked if it
14 was possible. If he wants to talk about
15 the scope of his testimony, he is free to
16 do so. But he does not --

17 HEARING OFFICER CHESTNUT: Your
18 objection is overruled. Go ahead.

19 MR. MORGAN: So as I was saying,
20 the TAP-R program is based on a formula
21 that has been approved by the Board, and it
22 has very limited input. That equation has
23 been set forth in the tariffs that have
24 been filed. And we cannot, with this

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1 proceeding, modify it.

2 So, this proceeding is limited to
3 what I explained earlier which is to look
4 at those -- look at the formula that was
5 set up. And based on the experience
6 factors, to determine what the future
7 conditions would be.

8 So no, we can't change the
9 framework.

10 MR. BALLENGER: Thank you.

11 No further questions.

12 HEARING OFFICER CHESTNUT:

13 Mr. Dasent?

14 MR. DASENT: Nothing further.

15 HEARING OFFICER CHESTNUT:

16 Mr. Haver?

17 MR. HAVER: Mr. Morgan, are you an
18 attorney?

19 MR. MORGAN: No. I've been in this
20 business for over 30 years.

21 MR. HAVER: Yes. Your resume is
22 very impressive. Do you have an expertise
23 in legal opining?

24 MR. MORGAN: No, I don't.

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1 HEARING OFFICER CHESTNUT: Don't
2 even answer that, you know.

3 MR. HAVER: There was no objection.
4 You are not allowed to do that.

5 HEARING OFFICER CHESTNUT: I can do
6 that.

7 MR. HAVER: The prejudicial acts
8 are incredible.

9 HEARING OFFICER CHESTNUT: I
10 certainly can do that.

11 MR. HAVER: You are suppose to be
12 neutral. If somebody else wants to object
13 to my questions, they are welcome to do so.

14 HEARING OFFICER CHESTNUT: It
15 doesn't work like that, Mr. Haver.

16 MR. HAVER: It certainly should.

17 HEARING OFFICER CHESTNUT: If you
18 have any questions for Mr. Morgan that are
19 appropriate, ask them.

20 MR. HAVER: I was. But you know --

21 HEARING OFFICER CHESTNUT: No.

22 MR. HAVER: -- you are so
23 prejudicial, you won't let me get on the
24 record proof that he has no right to make a

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1 legal opinion.

2 HEARING OFFICER CHESTNUT: He can
3 talk about the scope of his testimony, the
4 context in which you examine his answers.
5 That's the point of it.

6 MR. HAVER: That's not what he was
7 doing.

8 HEARING OFFICER CHESTNUT: That's
9 exactly what he was doing.

10 MR. BALLENGER: That's what he was
11 doing.

12 MR. HAVER: Not a surprise,
13 Mrs. Ballenger, that you support the
14 Hearing Examiner who allows your no-bid
15 contract. Just not a surprise.

16 MR. BALLENGER: No such thing.

17 I think the important point is that
18 the tariff sets forth the mechanism to
19 prove. That's what Mr. Morgan said. He
20 was not giving a legal opinion. He was
21 talking about a tariff. For a utility
22 expert, I think that's well within his
23 expertise.

24 HEARING OFFICER CHESTNUT: Yes.

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1 MR. HAVER: And Mr. Ballenger has a
2 right to make a ruling because?

3 MR. BALLENGER: No ruling.

4 HEARING OFFICER CHESTNUT: Okay.
5 You know, Mr. Haver, you obviously don't
6 have any more questions that are relevant,
7 so I think we are going to wrap it up here.

8 MR. HAVER: How would you know?

9 HEARING OFFICER CHESTNUT: Because
10 I know. If you had a relevant question, I
11 think you would have asked it. I don't
12 think engaging in argument, name calling
13 is -- is appropriate. But you know, you do
14 what you do.

15 Okay. Then, I think we will
16 conclude this hearing.

17 MR. DASENT: Thank you, Your Honor.

18 MR. BALLENGER: Thank you, Your
19 Honor.

20 HEARING OFFICER CHESTNUT: If there
21 are briefs or a settlement petition, that
22 would be due April 22.

23 MR. DASENT: Yes.

24 HEARING OFFICER CHESTNUT: Or

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1 before. Anything else before we adjourn?

2 Mr. Dasent?

3 MR. DASENT: Nothing more. Thank
4 you.

5 HEARING OFFICER CHESTNUT:

6 Mr. Ballenger?

7 MR. BALLENGER: Nothing more, Your
8 Honor. Thank you.

9 HEARING OFFICER CHESTNUT:

10 Mr. Haver?

11 MR. HAVER: Already made it clear I
12 can't ask my questions.

13 HEARING OFFICER CHESTNUT:

14 Ms. Mincavage, if you're even
15 there.

16 MS. MINCAVAGE: Apologies, Your
17 Honor. I have not questions. Thank you,
18 Your Honor.

19 HEARING OFFICER CHESTNUT: Okay
20 then. Thank you very much then.

21 The hearing is adjourned 2:17 p.m.

22 (Hearing adjourned at 2:17 p.m.)

23

24

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

I, hereby certify that the proceedings and evidence noted are contained fully and accurately in the stenographic notes taken by me in the foregoing matter, and that this is a correct transcript of the same.

ANGELA M. KING, RPR,
Court Reporter, Notary Public

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