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PHILADELPHIA WATER, SEWER, AND STORM WATER
RATE BOARD PUBLIC HEARING

WEDNESDAY, MAY 3, 2023
9:01 A.M. TO 3:32 P.M. EDT
ZOOM TELECONFERENCE

On Wednesday, May 3, 2023, the following
proceedings came on to be heard in the
above-entitled matter before the Honorable
Marlane R. Chestnut, Hearing Officer.

Proceedings were reported by stenographic method by:
DEBRA A. DIBBLE, RDR, CRR, CRC
Job No. 31286

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P R O C E E D I N G S

May 3, 2023, 9:01 a.m. EDT

HEARING OFFICER CHESTNUT: I realize it's 9:00 o'clock, but I do like to wait a minute or two to make sure that people can join in.

(Off the record.)

HEARING OFFICER CHESTNUT: Well, before we start, does anybody have anything preliminary they want to bring up now?

MR. DASENT: Good morning, Your Honor. All I can think of is, I think we will waive authentication of the testimony this morning by agreement, assuming Mr. Ballenger, Mr. Bakare, and other parties agree. And that will save some time.

And we don't have any additional corrections or additions, and we have submitted an errata sheet previously. So I think we can go right to cross-examination. But that's the preliminary matters that I can think of at this moment.

HEARING OFFICER CHESTNUT: Okay.

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1 MR. BALLENGER: And, yeah, the Public
2 Advocate agrees, we should just accept all of
3 the testimony as prefiled and on the record
4 without need for authentication. If we have
5 any errata, we'll address them when we present
6 the witnesses.

7 HEARING OFFICER CHESTNUT: That's
8 fine.

9 Well, why don't we get started, then.
10 Debbie, are you ready?

11 Okay. We'll go on the record. This
12 is the continued hearing in the 2023 General
13 Rate Proceeding involving the Philadelphia
14 Water Department.

15 For the record, I am Hearing Officer
16 Marlane R. Chestnut, and I would like the
17 participants to identify themselves for the
18 record, starting I guess with you, Mr. Dasent.

19 MR. DASENT: Good morning,
20 Your Honor. Again, Andre Dasent for the
21 Philadelphia Water Department. With me today
22 is Carl Shultz, and I believe Kevin Birriel
23 will be on as well.

24 HEARING OFFICER CHESTNUT: Okay.
25 Mr. Ballenger?

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1 MR. BALLENGER: Good morning. Thank
2 you, Your Honor. Robert Ballenger, Community
3 Legal Services, here for the Public Advocate.
4 I'm joined today by Joline Price and Daniela
5 Rakhlina-Powsner, also at CLS. Thank you.

6 HEARING OFFICER CHESTNUT: Okay.
7 Thank you. Mr. Haver?

8 MR. HAVER: Lance Haver, pro se.

9 HEARING OFFICER CHESTNUT:
10 Mr. Bakare?

11 MR. BAKARE: Good morning. Adeolu
12 Bakare, and for the court reporter, that's
13 spelled A-D-E-O-L-U, last name B-A-K-A-R-E.
14 Counsel for the Philadelphia Large Users
15 Group, or PLUG.

16 HEARING OFFICER CHESTNUT: Thank you.
17 Mr. Gery?

18 MR. GERY: Good morning, everyone,
19 Travis Gery on behalf of PECO.

20 HEARING OFFICER CHESTNUT: And I
21 think that's all of the participants, right?
22 That I see.

23 As we -- let me back up. I think
24 it's pretty clear that there's no need to
25 authenticate the testimony that's been

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1 submitted. Both the Public Advocate and the
2 Water Department have agreed to waive any kind
3 of preliminary discussion about their
4 statements, but we'll notify if there's any
5 changes or corrections to be made.

6 So I don't think we need to
7 authenticate or move in anything at this
8 point.

9 So why don't we just go start with
10 the cross-examination, Mr. Ballenger.

11 I guess scheduled for today, for the
12 first part of today, we have the Financial
13 Panel and Black & Veatch?

14 MR. DASENT: That's correct.

15 HEARING OFFICER CHESTNUT: You're
16 going to cross them together, and they're
17 going to be presented together?

18 MR. DASENT: Yes.

19 MR. BALLENGER: Yes.

20 And, Andre, if you want to introduce
21 the witnesses, that would be helpful. But I
22 will --

23 MR. DASENT: Sure.

24 MR. BALLENGER: Through the
25 cross-examination, any members of the panel

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1 that want to answer, that's fine, as long as
2 it's clear who is answering the question.

3 MR. DASENT: Yes. With me today for
4 the Financial Panel is Lawrence Yangalay,
5 Patricia Rogalski.

6 HEARING OFFICER CHESTNUT: Excuse me.
7 Could you spell that for the benefit of the
8 court reporter?

9 MR. DASENT: Y-A-N-G-A-L-A-Y.

10 Patricia Rogalski. Patricia's, it's
11 R-O-L -- I'm sorry, R-O-G-A-L-S-K-I. And
12 correct me if I'm wrong, Patty.

13 And Lawrence Rich should be in the
14 room also, also part of the Financial Panel.
15 Black & Veatch is comprised of Dave Jagt and
16 Brian Merritt.

17 HEARING OFFICER CHESTNUT: Now, does
18 this -- okay. Now, you -- did you include the
19 financial advisors in this?

20 MR. DASENT: The financial advisors
21 are in the room, if there are directions to
22 be -- if there are questions directed to them.
23 And Peter Nissen, N-I-S-S-E-N, and Charles
24 Matthews, are the financial advisors.

25 HEARING OFFICER CHESTNUT: Okay. I

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1 just wanted to be clear that all of the
2 Financial Panel is going to be crossed at this
3 time.

4 MR. DASENT: That's correct. And
5 that's the most efficient way to proceed.

6 HEARING OFFICER CHESTNUT: Certainly.
7 Okay.

8 Mr. Ballenger, do you want to go
9 ahead?

10 FINANCIAL PANEL

11 CROSS-EXAMINATION BY MR. BALLENGER

12 MR. BALLENGER: Great. Yes, Judge.
13 Thank you. And good morning to all of the
14 members of the panel.

15 Just want to make sure that everyone
16 has access to the hearing exhibit that was
17 submitted yesterday afternoon. We're going to
18 be walking through that for purposes of cross.
19 If anyone doesn't have that, Andre, I'd ask
20 that you, you know, flip it over to them if
21 possible.

22 But I assume since it was distributed
23 yesterday that it's circulated.

24 MR. DASENT: Yes.

25 MR. BALLENGER: Okay. Fair enough.

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1 I want to start with Appendix 2 to
2 the Financial Panel's testimony, which is PWD
3 Statement 2A. And I've taken the liberty of
4 including the pages I want to focus on in the
5 hearing exhibits so it's easier to follow
6 along.

7 I've also included several pages
8 regarding prior year financial performance for
9 past proceedings. And please note that I'm
10 going to refer to each page by the number in
11 the bottom right-hand corner in red as opposed
12 to the number that may show up in your PDF.

13 (Discussion off the record.)

14 MR. BALLENGER: So the first page
15 identifies the content as coming from
16 Appendix 2 to PWD Statement 2A, and I just
17 want to confirm that the witness can see that.

18 Would someone please confirm that?

19 MR. DASENT: Mr. Jagt?

20 MR. JAGT: Yes, we can see that.

21 MR. BALLENGER: And then the next
22 page, page 2, shows PWD's revenues for fiscal
23 year 2022. Isn't it correct that fiscal year
24 2022 revenues exceeded projections by 1.64% or
25 approximately \$12 million?

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1 MR. JAGT: Correct.

2 MR. DASENT: Thank you. We're flying
3 through. We're on to page 3. This is a cover
4 page from PWD's Fiscal Year 2021 Summary and
5 Financial Plan. Do you see that?

6 MR. JAGT: Yes, we do.

7 MR. DASENT: Okay. And this was
8 submitted in the 2022 special rate proceeding;
9 correct?

10 MR. JAGT: Subject to check, yeah.

11 MR. BALLENGER: It's part of Schedule
12 ML-2 to the formal notice in the special rate
13 proceeding?

14 MR. JAGT: Okay.

15 MR. BALLENGER: Okay. And on the
16 following page, page 4, shows PWD's revenues
17 for fiscal year 2021.

18 Do you agree that the document shows
19 PWD exceeded its fiscal year 2021 revenue
20 projections by 3.16% or approximately
21 \$22 million?

22 MR. JAGT: That's correct. It was
23 during a COVID year. So it was...

24 MR. BALLENGER: Okay. Thank you.
25 That's helpful.

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1 So let's turn to the next page. This
2 again sort of identifies where it's coming
3 from. This is the fiscal year '19 and fiscal
4 year '20 summary and five-year plan, and this
5 was submitted in the fiscal 2021 rate
6 proceedings.

7 Do you see that?

8 MR. JAGT: Yes, we see that.

9 MR. BALLENGER: Then moving on to
10 page 6. This page shows PWD revenues for
11 fiscal year 2019. I'm sorry, fiscal year
12 20 -- let me go -- yeah, fiscal year 2020 on
13 page 6.

14 Do you agree the document shows that
15 PWD revenues for fiscal 2020 were 1.19% higher
16 than projected?

17 MR. JAGT: That's correct.

18 MR. BALLENGER: Okay.

19 MR. JAGT: I'm -- we're getting
20 some -- sorry, Rob. We're getting some chats
21 that some people, you know, I guess -- is it
22 possible to share -- would it be helpful to
23 share?

24 MR. BALLENGER: I don't know if I
25 have permission to share my screen. That's

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1 why I sent this around. It's also kind of
2 hard for me to -- if I share screen, I lose
3 the video of the panel.

4 MR. JAGT: Okay. Well, I just
5 figured I'd put it out there since we're
6 seeing chat discussion regarding...

7 MR. BALLENGER: I can't see any chat
8 discussion. Maybe there's a separate chat.

9 Okay. So let's just move on. We'll
10 come to a stopping point here in a minute. If
11 we go to page 7, this shows PWD's revenues for
12 fiscal 2019. And do you agree the document
13 shows that PWD revenues were .63% higher than
14 projected?

15 MR. JAGT: That's correct.

16 MR. BALLENGER: Okay. And I just
17 want to note that I believe if it is Steven, I
18 hope it's Steven or maybe it's Heather.

19 HEARING OFFICER CHESTNUT: It's
20 Heather.

21 MR. BALLENGER: It's Heather. So
22 Heather in the chat has indicated that we're
23 not supposed to have the ability to share our
24 screen on this format.

25 MR. JAGT: Okay.

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1 MR. BALLENGER: So having looked over
2 those four years of revenue, would you agree
3 that PWD was consistently able to achieve
4 higher revenues than it projected?

5 MR. JAGT: Yeah, with normal years
6 within about 1%.

7 MR. BALLENGER: Okay. So I'd like
8 you to turn to PWD Statement 1R. That's the
9 rebuttal statement.

10 And if you would, please turn to
11 page 6 for me.

12 MR. JAGT: Give me a minute.

13 MR. BALLENGER: It appears starting
14 at line 8. Do you see that?

15 MR. JAGT: No, I don't have that open
16 yet, so hold on.

17 HEARING OFFICER CHESTNUT: I'm sorry,
18 what page did you say on 1R? 6?

19 MR. BALLENGER: I'm on PWD statement
20 1R at page 6, and there's a chart starting at
21 line 8.

22 HEARING OFFICER CHESTNUT: Okay.

23 MR. BALLENGER: I'd ask that, if
24 possible, for the balance of the hearings, if
25 the witnesses could have their testimony

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1 available, that would be helpful.

2 MR. DASENT: Rob, just so you know,
3 I'm using the same computer to access both, so
4 I have to switch back and forth. Please be
5 patient.

6 MR. BALLENGER: Okay, no problem.
7 And I have two screens so if it looks like I'm
8 not paying attention, it's actually because
9 I'm reading from another screen.

10 MR. DASENT: Got it.

11 MR. JAGT: So you said 1R, page 6?

12 MR. BALLENGER: Yes.

13 MR. JAGT: All right. What was the
14 line?

15 MR. BALLENGER: There's a table that
16 starts at line 8.

17 MR. JAGT: Correct.

18 MR. BALLENGER: And please confirm
19 for me that this chart shows the change in
20 annual billed volume per account from 2018
21 through 2022; is that right?

22 MR. JAGT: Correct, for residential.

23 MR. BALLENGER: Okay.

24 MR. JAGT: 5/8-inch.

25 MR. BALLENGER: Right. So

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1 residential, 5/8-inch meters, yes. And there
2 is a change of .1% from 2018 to 2019; is that
3 correct?

4 MR. JAGT: The annual change from
5 2018 to 2019 as it went from 6.54 to 6.42 was
6 1.83%.

7 MR. BALLENGER: Okay. So it's a
8 change of .1 MCFs per account; correct?

9 MR. JAGT: Correct.

10 MR. BALLENGER: Okay. And then from
11 2019 to 2020, this shows no change in annual
12 billed volume; is that correct?

13 MR. JAGT: Correct.

14 MR. BALLENGER: Okay. And then from
15 fiscal 2020 to fiscal 2021, there's a change
16 of .02 MCFs per account, a very small change.
17 Do you agree?

18 MR. JAGT: A decrease.

19 MR. BALLENGER: Yes.

20 MR. JAGT: Correct.

21 MR. BALLENGER: And then finally,
22 from 2021 to 2022, there is a decrease of .11
23 MCFs per account; is that right?

24 MR. JAGT: Correct.

25 MR. BALLENGER: So given the

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1 necessity of water for life and for all
2 Philadelphians, would you agree that the
3 annual billed water volume per account will
4 not decline to zero?

5 MR. JAGT: Likely not to decline to
6 zero, correct.

7 MR. BALLENGER: And so at some point,
8 could be during the rate period, it could be
9 before the rate period -- at some point we
10 could reach the bottom and the minimum level
11 of annual billed volume per account. Isn't
12 that right?

13 MR. JAGT: Correct.

14 MR. BALLENGER: Isn't it also
15 possible that annual billed volume per account
16 could go up?

17 MR. JAGT: It's an unlikely scenario
18 given the long-term trend that we've been
19 seeing for an extended period of time, that
20 consumption has been decreasing. You know,
21 and with it -- and this is an industry-wide
22 problem -- or not a problem, but an -- you
23 know, it's a -- something that all -- most
24 utilities are experiencing, that with the
25 introduction of water-saving fixtures, with

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1 water-saving utility -- appliances, the water
2 consumption is decreasing over time.

3 MR. BALLENGER: But under the
4 scenario in which every residential customer
5 has the most efficient fixtures they can
6 afford, you would agree that usage would level
7 out; correct?

8 MR. JAGT: Ultimately. But we don't
9 know, you know -- the trend that's been going
10 on, we have not seen that bottoming out at
11 this point, so...

12 MR. BALLENGER: So just focusing on
13 2022's volumes and the department's use of
14 that level of annual billed volume per account
15 for the rate period, do you have any evidence
16 beyond what's presented here to support the
17 annual billed volume in fiscal years 2024 and
18 2025 will be the same as the annual billed
19 volume for 2022?

20 MR. JAGT: Other than the trend that
21 we've seen that it's decreasing over time,
22 it's more likely to continue to decrease than
23 to level out or increase.

24 MR. BALLENGER: And just again,
25 looking at sort of the rate of decrease

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1 between 2021 and 2022, it's significantly
2 greater than between 2020 and 2021. Wouldn't
3 you agree?

4 MR. JAGT: Correct.

5 MR. BALLENGER: So is it fair to sort
6 of assume that the department's basically
7 projecting sort of the lowest of the
8 information available to it, the lowest annual
9 billed volume per account that you have on
10 record?

11 MR. JAGT: Within the five years that
12 we're showing, yes.

13 MR. BALLENGER: Okay.

14 MR. JAGT: But we can't -- you know,
15 on the other side, you cannot necessarily rely
16 on sales increasing when, in the past five
17 years, we do not see any increase.

18 MR. BALLENGER: So let's take a look
19 at the chart below on the same page here. It
20 starts at line 21.

21 Do you agree that the billed volume
22 per account for commercial customers with
23 larger than 5/8-inch meters has increased
24 annually over the year prior in two of the
25 three most recent years?

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1 So fiscal '20 and fiscal 2022, both
2 of those years show an increase in usage,
3 don't they?

4 MR. JAGT: Yes. So there were two
5 occasions where annually it reflected an
6 increase, in fiscal year 2020, and then again
7 in fiscal year 2022. But the general trend
8 between 2018 and 2022 is decreasing.

9 MR. BALLENGER: And again, sort of
10 looking at this table, you know, just to
11 confirm for the record that we're looking at
12 the same period of time, both for the
13 residential and the commercial customers;
14 correct?

15 MR. JAGT: Right, for commercial
16 5/8-inch. Or greater than 5/8-inch, sorry.

17 MR. BALLENGER: Greater than
18 5/8-inch, yes.

19 MR. JAGT: Yeah.

20 MR. BALLENGER: So beyond sort of
21 looking at the past as precedent, do you have
22 any other evidence to support that the billed
23 volume per account will remain at the levels
24 experienced in fiscal year 2022?

25 MR. JAGT: Correct. Other than

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1 that -- the general observation that we're
2 seeing a general trend of a decrease, and it's
3 likely to continue with the decrease where
4 we're assuming that decrease continues from
5 this point.

6 And we also have -- as we noted in
7 our testimony, we're losing a customer in the
8 vicinity within the rate period, so that is
9 also reflected in our projection. So we're
10 not losing the customer, we're seeing
11 a decrease --

12 MR. BALLENGER: You're losing volume.

13 MR. JAGT: Right, correct.

14 MR. BALLENGER: Correct.

15 So let's go back to the exhibit, the
16 hearing exhibit, please. And I want to talk a
17 little bit more in-depth about fiscal year
18 2021's financial performance. I'm sorry,
19 fiscal year 2022's financial performance.

20 And on page 8 of the exhibit, I've
21 included the cover page from PWD Statement
22 No. 7A. And this was in the fiscal -- I'm
23 sorry, this was in the 2021 rate proceeding.
24 So just to identify the source of what's
25 coming up next.

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1 Do you see that?

2 MR. JAGT: Yes, I do.

3 MR. BALLENGER: So looking at page 9,
4 the next page -- and just to confirm, this
5 is -- on the preceding page it says it's dated
6 as of January 2021 and supplemented
7 February 2021; correct?

8 MR. JAGT: That's correct.

9 MR. BALLENGER: So the following
10 page, page 9, includes a portion of Table C-1,
11 which is the Revenue Requirements Model
12 Including Base and TAP-R Surcharge Rates.

13 And focusing on the column for 2022,
14 at the time this testimony submitted PWD
15 projected its total senior debt service
16 coverage would be 1.20 times, isn't that
17 correct, as shown on line 25?

18 MR. JAGT: Correct, that was the
19 basis of the financial plan to --
20 (crosstalk) --

21 MR. BALLENGER: In that proceeding.

22 MR. JAGT: -- coverage, that's
23 correct.

24 MR. BALLENGER: At the time the
25 testimony was filed, right?

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1 So on page 10, the following page,
2 again focusing on fiscal year 2022, and line
3 41, the table, isn't it true that PWD
4 projected having a fiscal year 2022 Rate
5 Stabilization Fund ending balance of just
6 under \$109 million?

7 MR. JAGT: Correct. Under the
8 current assumptions and projections and
9 that --

10 MR. BALLENGER: -- (crosstalk) -- I
11 get it.

12 Let's turn to the next page. And
13 this is just the cover page for PWD Statement
14 3 in this special rate reconciliation
15 proceeding.

16 And can you confirm that that's dated
17 as of February 2022?

18 MR. JAGT: Correct.

19 MR. BALLENGER: So this is, more or
20 less, a year later than the prior testimony
21 that we were just talking about. Right?

22 MR. JAGT: Correct.

23 MR. BALLENGER: So the next two pages
24 are taken from the executive summary to the
25 financial plan report, which was Schedule

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1 BV-4, attached to that testimony. And in
2 particular, do you see here the table
3 designated Table ES-7?

4 MR. JAGT: Yes, I see it.

5 MR. BALLENGER: And again, focusing
6 on 2022, at the time this testimony was
7 submitted, PWD projected its total senior debt
8 service coverage of 1.20 times; correct?

9 MR. JAGT: Correct.

10 MR. BALLENGER: And on the next page,
11 if we turn to page 13 of the exhibit, PWD
12 projected having a fiscal year 2022 Rate
13 Stabilization Fund ending balance of just over
14 126 million at that time; is that correct?

15 MR. JAGT: That's correct.

16 MR. BALLENGER: And that's shown at
17 line 40, yes?

18 MR. JAGT: Yes, line 40.

19 MR. BALLENGER: Okay. So now,
20 referring back to PWD Statement 2A.

21 And I just want to confirm, that
22 testimony is dated as of January 2023, so
23 another 11 months after the proceeding
24 testimony, special rate proceeding; is that
25 correct?

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1 MR. JAGT: Correct.

2 MR. BALLENGER: Okay. So I've
3 included in the exhibit here a couple of pages
4 from Appendix 2 to PWD Statement 2A, the
5 fiscal year 2022 financial performance
6 appendix. And if you look at page 14, please.
7 Tell me when you're there.

8 MR. JAGT: We can see it.

9 MR. BALLENGER: Okay. So this page
10 summarizes PWD's fiscal 2022 debt service and
11 capital funding; right?

12 MR. JAGT: Correct.

13 MR. BALLENGER: And I recognize these
14 are preliminary final, and I just want to
15 confirm that as of today, this is still the
16 best we have as far as actual results. Isn't
17 that correct?

18 MR. JAGT: That's correct.

19 MR. BALLENGER: Okay.

20 MR. JAGT: The finals are available,
21 but the differences between the preliminary
22 and the final wouldn't have, you know, varied
23 that service coverage, so...

24 MR. BALLENGER: Okay. So here you
25 show PWD obtaining fiscal year '22 senior debt

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1 service coverage of 1.29 times. Isn't that
2 correct?

3 MR. JAGT: That's correct.

4 MR. BALLENGER: And PWD's senior --
5 total senior debt service coverage for fiscal
6 2022 was approximately 180 million; is that
7 right?

8 More or less?

9 MR. JAGT: More or less, that's
10 correct.

11 MR. BALLENGER: Okay. So in round
12 numbers, the additional coverage attained, the
13 .09 times coverage, represents approximately
14 \$16 million or so; is that right?

15 MR. JAGT: In net revenue, correct.

16 MR. BALLENGER: Yes. Thank you. So
17 let's take a look at the next page. This is
18 page 15 of the exhibit.

19 And this page summarizes fiscal year
20 2022's Rate Stabilization Fund transfers as
21 well as its liquidated encumbrances; is that
22 correct?

23 MR. JAGT: Correct.

24 MR. BALLENGER: And I hope I'm
25 correct in my recollection. Do liquidated

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1 encumbrances represent financial commitments
2 that were canceled? Is that right?

3 MR. JAGT: That's correct, as --
4 that's correct.

5 MR. DASENT: So showing 36.8 million
6 in liquidated encumbrances means that
7 \$36.8 million in spending did not occur; is
8 that correct?

9 MR. JAGT: I wouldn't express it as
10 spending. I would express it as the -- like
11 the authorizations to spend were reduced.
12 So...

13 MR. BALLENGER: Would you agree that
14 that represents a savings? Because those
15 commitments did not require the funding that
16 had been committed?

17 MR. JAGT: Yes, and it does add to
18 the net revenue, so yes.

19 MR. BALLENGER: That's the point I'm
20 getting at. Thank you.

21 And this page reports that instead of
22 a \$1.36 million deposit, PWD made a
23 \$15 million deposit in the Rate Stabilization
24 Fund in fiscal 2022; correct?

25 MR. JAGT: Correct. In that year the

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1 department had some contracts that were not,
2 you know, executed, and spending did not start
3 earlier in the year, that it resulted in some
4 carryforward.

5 In addition, the department made a
6 decision to put more money into the capital
7 funding --

8 MR. BALLENGER: We're going to get
9 there. I'm actually going to get there with
10 you, if you'll just hang on one second. Let's
11 just take a look at the next page because I
12 just want to wrap up sort of where we landed
13 in fiscal year 2022.

14 So on page 16, this page shows your
15 total cash reserves. And correct me if I'm
16 wrong, but it shows that the department ended
17 fiscal year 2022 approximately 14 million
18 higher than its projections and \$5 million
19 higher than its performance target; is that
20 correct?

21 MR. JAGT: Yeah, considering the
22 total cash reserves.

23 MR. BALLENGER: Yeah.

24 MR. JAGT: Correct.

25 MR. BALLENGER: So to summarize, for

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1 fiscal 2022, you outperformed your
2 projections; right?

3 MR. JAGT: Correct.

4 MR. BALLENGER: You had higher
5 revenues, lower expenses, and additional cash
6 from greater levels of liquidated
7 encumbrances; right?

8 MR. JAGT: Correct.

9 MR. BALLENGER: And just to sort of
10 understand how that played out, because of
11 that better performance, PWD made some
12 decisions on what to do with those additional
13 net revenues, and PWD chose to direct more to
14 capital. That's what resulted in their
15 increased depiction of debt service coverage;
16 isn't that right?

17 MR. JAGT: Correct. To provide cash
18 funding for PennVest.

19 MR. BALLENGER: Right. And PWD also
20 chose to direct some of the outperformance to
21 its reserves, resulting in a higher Rate
22 Stabilization Fund balance; correct?

23 MR. JAGT: Correct.

24 MR. BALLENGER: So if, during the
25 rate period, in fiscal 2024 or fiscal 2025,

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1 PWD outperformed, it would have the choice of
2 how to utilize that outperformance. Isn't
3 that right?

4 MR. JAGT: Not always have the
5 choice. Sometimes outperformance, such as
6 TAP-R, you need to have the money in the Rate
7 Stabilization to offset the credits that the
8 department then subsequently provides.

9 MR. BALLENGER: Okay. That's a
10 helpful nuance.

11 So in the event that that scenario
12 didn't occur and PWD had extra net revenues,
13 it could choose to direct some toward capital,
14 and that would increase the depiction of
15 coverage during the rate period. Isn't that
16 right?

17 MR. JAGT: Correct.

18 MR. BALLENGER: And it could also
19 direct some of that outperformance to its
20 reserves, the same as it did in fiscal 2022;
21 correct?

22 MR. JAGT: Correct.

23 MR. BALLENGER: So just to be
24 absolutely clear, then, if the Board used its
25 rate model and showed PWD obtaining senior

5/3/2023

1 debt service coverage of 1.20 times, that
2 would not prevent PWD from obtaining higher
3 coverage in the event of outperformance.
4 Isn't that right?

5 MR. JAGT: Would not prevent the
6 department from realizing it in performing, if
7 the department continues to be fortunate
8 enough to outperform, which is not 100%.
9 Also, it does send a clear message that the
10 department is planning based on 1.20, which is
11 the minimum, and it does send a message to the
12 rating agencies.

13 MR. BALLENGER: But it's the Board
14 that makes the decision, just to be clear;
15 correct? It's the Board that would be setting
16 the coverage level using its publicly
17 available model. Isn't that right?

18 MR. JAGT: Correct, but it's still
19 ultimately what's out there, what the planning
20 is.

21 MR. BALLENGER: I realize that. I
22 realize that.

23 I just mean to say that regardless of
24 what level of total senior debt service
25 coverage is depicted, in operation, it may not

5/3/2023

1 play out exactly as depicted in the revenue
2 requirements model approved by the Board in
3 this proceeding. Isn't that right?

4 At the end of the day, it depends on
5 your actual net revenues. Isn't that right?

6 MR. JAGT: That's correct.

7 MR. BALLENGER: Okay.

8 MR. JAGT: But the department does
9 communicate, you know, the -- that information
10 is publicly available. The rating agencies
11 are aware. You know, the next time a bond
12 feasibility study is done, it will reflect the
13 basis of the adopted rates and report on that.
14 The information will show that the planning
15 behind the projected rates will be, you know,
16 the minimum coverage targets.

17 MR. BALLENGER: Yeah, hypothetical,
18 which is simply -- that's all it was,
19 Mr. Jagt, a hypothetical. But I think it's
20 also, to the point you raise, that, yes, the
21 rating agencies will see all of these
22 decisions, and in fact, they just saw the
23 one -- or they saw the ones that we just went
24 through, where the Water Department depicted
25 its coverage at 1.2 times over two successive

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1 rate proceedings, and it still attained 1.29,
2 correct? So they saw that as well. Isn't
3 that in the public record?

4 MR. JAGT: Yes.

5 MR. BALLENGER: Okay. Let's turn
6 to -- I'd like to turn to your direct
7 testimony, PWD Statement 7, and focus a little
8 bit on the Capital Improvement Plan. Just let
9 me know when you have that in front of you,
10 and I'm going to start at page 26.

11 MR. DASENT: Give me a minute,
12 please, Rob.

13 MR. BALLENGER: No problem.

14 HEARING OFFICER CHESTNUT: It was
15 page 7 -- I'm sorry, Statement 7, page 26?

16 MR. BALLENGER: Yes, Judge.

17 MR. JAGT: So at page 26 of the PDF
18 or --

19 MR. BALLENGER: Yes. I think we're
20 lucky that they're the same. Page 26 of the
21 PDF is also numbered page 26.

22 MR. JAGT: All right.

23 MR. BALLENGER: Okay. So starting at
24 the top of the page, you state: The Water
25 Department's CIP budget is appropriation

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1 based. Correct?

2 MR. JAGT: That's correct.

3 MR. BALLENGER: And you go on to
4 state that: The fiscal year 2023 CIP costs
5 reflect the Water Department's adopted fiscal
6 2023 budget appropriation. And the fiscal
7 year 2024 CIP costs reflect the proposed
8 fiscal year 2024 budget appropriation.

9 Is that correct?

10 MR. JAGT: That's correct.

11 MR. BALLENGER: In contrast, you
12 state that the figures for fiscal year 2025 to
13 fiscal year 2028 reflect the Water
14 Department's submitted capital program and do
15 not include any allowance for inflation.
16 Correct?

17 MR. JAGT: That's correct. They're
18 included in the '24 proposed budget which are
19 presented in '24 dollars.

20 MR. BALLENGER: Okay. And isn't it
21 true that those amounts are not formally
22 adopted budget amounts?

23 MR. JAGT: That's correct.

24 MR. BALLENGER: So city council has
25 not approved those amounts for fiscal 2025

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1 through fiscal 2028; correct?

2 MR. JAGT: Correct.

3 MR. BALLENGER: So given those
4 amounts are not formally adopted, does that
5 mean they may change and fiscal year 2025's
6 CIP could be different than what is shown here
7 in the capital program?

8 MR. JAGT: It's likely to increase,
9 correct.

10 MR. BALLENGER: So at this point, we
11 don't know the final budget figures for fiscal
12 year 2025; correct?

13 MR. JAGT: Correct.

14 MR. BALLENGER: And when the
15 department prepares these -- the submitted
16 capital program amounts for years that may be
17 two or more years in the future, wouldn't it
18 be prudent to make an allowance for future
19 changes in prices?

20 MR. JAGT: If the basis of the budget
21 is the '24 dollars, it wouldn't.

22 MR. BALLENGER: So the submitted
23 capital program for fiscal year 2025 doesn't
24 contain any provisions for future capital
25 pricing changes?

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1 MR. JAGT: My understanding is that
2 it's presented in '24 dollars and does not.

3 MR. BALLENGER: Is that a shared
4 understanding among the witnesses, just to be
5 clear?

6 MR. HOVSEPIAN: Yes.

7 MR. BALLENGER: Okay. Who was that?

8 MR. HOVSEPIAN: My name is Vahe
9 Hovsepian. I'm from the Philadelphia Water
10 Department, the capital program director.

11 MR. BALLENGER: Thank you,
12 Mr. Hovsepian. Appreciate that.

13 What is the purpose of submitting the
14 capital program amounts if they're not part of
15 the approved budget? Is it simply a
16 requirement?

17 MR. JAGT: So while there's -- it is
18 required by the City, but it also is good
19 planning. I mean, CIP does reflect a
20 longer-term investment. It is a larger
21 investment. It should be -- you know, the
22 department is continually relooking at the CIP
23 plan and developing and refining it as -- you
24 know, each year as it updates the budget.

25 MR. BALLENGER: So would you agree

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1 that when the Water Department submits its
2 capital program amounts, it's representing to
3 city council amounts that it believes are
4 reasonably anticipated for those future years?

5 MR. JAGT: In the 2024 dollars,
6 correct. It still does not reflect any
7 adjustment for inflation.

8 This is an adjustment that we've done
9 for I don't know how many rate cases in the
10 past. It's consistent with what we've been
11 doing. It reflects the fact that the planning
12 only includes the 2024 or that level of
13 dollars at that time, and requires an
14 adjustment going forward.

15 MR. BALLENGER: And so for purposes
16 of presenting to city council the capital
17 program costs, you provide those in 2024
18 dollars, and then in the rate proceeding,
19 instead of using those amounts submitted, you
20 escalate them for purposes of ratemaking; is
21 that correct?

22 MR. JAGT: Correct, consistent with
23 prior rate cases. Any year projected or
24 beyond the current base year is inflated to
25 reflect as inflation.

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1 MR. BALLENGER: I wonder if we could
2 pivot and talk a little about debt and some of
3 the things that have been reported publicly.
4 I'm sure you'll be familiar with them.

5 Earlier this year, it was announced
6 that the City of Philadelphia would receive
7 \$500 million from the -- in funding from the
8 Federal Government for water infrastructure.
9 Isn't that correct?

10 MR. JAGT: That's correct.

11 MR. BALLENGER: And it's broken up
12 between \$160 million used to help upgrade
13 water facilities and 340 million for the City
14 to upgrade its water system; is that correct?

15 MR. JAGT: And to clarify, these are
16 loans.

17 MR. BALLENGER: Yes.

18 MR. JAGT: And they're like low
19 interest loan -- they take the form of low
20 interest loans.

21 MR. BALLENGER: Right.

22 MR. JAGT: Correct.

23 MR. BALLENGER: Are there any
24 financing costs in the form of interest
25 associated with that funding?

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1 MR. JAGT: So there are issuance
2 costs and finance costs associated with both.
3 The department experiences costs to obtain the
4 loans and there's also interest on the loans
5 themselves.

6 MR. BALLENGER: And what are the
7 interest rates on that funding?

8 MR. JAGT: So the PennVest ranges
9 between 1, 1½%, subject to check, and I would
10 have to check the PennVest -- or the...

11 LAWRENCE YANGALAY: This is Lawrence
12 Yangalay.

13 MR. BALLENGER: Good morning.

14 MR. YANGALAY: Good morning. And I'm
15 the deputy commissioner for finance, PWD. Mr.
16 Jagt is correct, the PennVest ranges from 1%
17 to 1.5%. WIFIA is around 3.56%.

18 MR. BALLENGER: And of the two, is
19 one of them the 160 PennVest and the 340
20 WIFIA? Is that correct?

21 MR. JAGT: That is correct.

22 MR. BALLENGER: Okay. So the larger
23 chunk has a higher interest rate on it?

24 MR. JAGT: Yes.

25 MR. BALLENGER: Thank you.

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1 When does PWD intend to issue general
2 obligation bonds, the next issuance?

3 MR. JAGT: Never. The PWD does not
4 issue general obligation bonds.

5 MR. BALLENGER: I'm sorry, correct.
6 Water and wastewater revenue bonds.

7 MR. JAGT: All right. The next -- we
8 are -- there is a forecast to issue revenue
9 bonds in fiscal year 2024, so it would be
10 early in fiscal year 2024 at this point. They
11 are in planning.

12 MR. BALLENGER: Do you still have
13 your rebuttal statement in front of you, or
14 close enough?

15 MR. JAGT: Yes.

16 MR. BALLENGER: Okay. I'd like to
17 take a look at page 18, please, under the
18 heading of Debt Service.

19 And I'm looking at --

20 HEARING OFFICER CHESTNUT: I'm sorry,
21 what was that reference?

22 MR. BALLENGER: Yes, PWD Rebuttal
23 Statement 1.

24 HEARING OFFICER CHESTNUT: Okay.

25 MR. BALLENGER: At page 18.

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1 And -- are you there, Mr. Jagt?

2 MR. JAGT: Correct.

3 MR. BALLENGER: Thank you.

4 So on this page, you state that
5 municipal market data on TM3 have risen from
6 1.8% to 3.97%.

7 Can you explain what TM3 is?

8 MR. JAGT: Okay. I'm going to defer
9 to either Pete Nissen or Charles Matthews, who
10 are the public financial advisors for the
11 City.

12 MR. NISSEN: Yes, this is Peter
13 Nissen with Acacia Financial, one of the
14 financial advisors to the City. TM3 is a
15 subscription service from which various data
16 can be extracted. The specific data here that
17 is referenced is known as -- colloquially
18 known by its acronym MMD, which means
19 municipal market data.

20 It is a release provided each day
21 that gives an indicative value of tax-exempt
22 rates as of the close of business the prior
23 day for maturities between one and 30 years.
24 It is traditionally provided as a AAA rate,
25 but they also do provide indicative rates for

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1 lower qualities, meaning AA and single A type
2 ratings as well, which are, in every case,
3 always a little bit more than the AAA rate.

4 MR. BALLENGER: And those are the
5 ranges you're reporting here are A rated;
6 you're not reporting the AAA rated rate?

7 MR. NISSEN: In this case, they are
8 A-rated rates, yes, as reported by MMD
9 available on TM3.

10 MR. BALLENGER: And is PWD A rated or
11 is it AA rated currently?

12 MR. NISSEN: It is rated A+ or A1.
13 Each rating other than AAA rating carries with
14 it three subdesignations, A1, A2, A3, for
15 example, or A+, A, A-, by the respective
16 rating agencies.

17 MR. BALLENGER: So is it fair to say
18 that if PWD was issuing bonds during the
19 period that's described here, January 2022
20 through April 2023, that its interest rates
21 would likely fall somewhere in that range?

22 MR. NISSEN: Yes.

23 MR. BALLENGER: And during this
24 proceeding, what interest rate is PWD
25 projecting for its future bond issuance?

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1 MR. NISSEN: I believe for the FY '24
2 borrowing, the projected interest rate is
3 5.5%.

4 MR. BALLENGER: Sorry, I saw in the
5 news this morning that the fed is projected to
6 potentially increase rates again.

7 Would you agree that an increase in
8 interest rates is related to the Federal
9 Reserve increase as an effort to control
10 inflation?

11 MR. NISSEN: The monetary policy
12 effected by the Federal Reserve with respect
13 to movements in the Federal Funds Rate is a
14 very short-term rate, and yes, it is a tool
15 that they apply for the purposes of minimizing
16 inflation.

17 It is not an absolute correlation
18 that their movement in short-term taxable
19 rates will transfer to long-term municipal
20 rates.

21 MR. BALLENGER: I'm going to -- we're
22 going to spend a little more time on
23 inflation, so I hope, Mr. Nissen, if you're
24 able to take a look at some of the exhibit
25 with me. And I'm in the exhibit at page 17.

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1 Do you have that in front of you?

2 MR. NISSEN: This is PWD Statement
3 1R, page 17?

4 MR. BALLENGER: No, I'm sorry, this
5 is the hearing exhibit that I distributed
6 yesterday.

7 MR. NISSEN: Oh, gotcha. Okay.

8 MR. BALLENGER: Yeah, page 17.

9 And I don't know if this actually is
10 for you, Mr. Nissen, but it's inflation
11 related. If someone else is more appropriate
12 to speak to this, that's fine.

13 MR. DASENT: It will be Mr. Jagt.

14 MR. BALLENGER: Mr. Jagt, then?
15 Okay. Fair enough. So many experts, I don't
16 know who to ask.

17 So on page 17, this table shows the
18 12-month percentage change in PPI commodity
19 data specifically for chemicals and allied
20 products. Isn't that correct?

21 MR. JAGT: That's correct, it
22 reflects the annual change in the PPI index
23 for chemicals, right.

24 MR. BALLENGER: And if you look at
25 the table here, you can see -- and I'm looking

5/3/2023

1 specifically at October 2021.

2 Do you agree that the chemical PPI
3 value's annual change for the 12 months ending
4 October '21 was 46.2%?

5 MR. JAGT: Correct.

6 MR. BALLENGER: And then if we just
7 go down one row, do you agree that the PPI
8 value annual change for the 12 months ending
9 October '22 was 2.7%?

10 MR. JAGT: Correct.

11 MR. BALLENGER: And do you also agree
12 that since that time, since October 2022, the
13 chemical PPI's annual change value has
14 continued to decline sharply with the most
15 recent 12 months ending March 2023 showing a
16 negative 7.6% inflation?

17 MR. JAGT: That's right. So the
18 Producer Price Index is showing a decrease,
19 which producers, you know, have the option of
20 realizing profit or, you know, providing that
21 reduction to costs through their customers or
22 not.

23 And this is only one factor involved
24 in delivering chemicals.

25 MR. BALLENGER: Okay. But this is an

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1 index of inflation as a measure of the cost of
2 chemicals; correct? Over time?

3 MR. JAGT: To producers of chemicals,
4 yes.

5 MR. BALLENGER: And so if we were to
6 utilize this index to say this is how much our
7 chemical costs are going to be, and we started
8 with October 2021's number, 46.2%, would that
9 be a fair indication of what the 12-month
10 change would be in March 2023, what the
11 inflation rate would be?

12 MR. JAGT: Can you repeat your
13 question?

14 MR. BALLENGER: Sure.

15 Would it be fair to say that past PPI
16 annual change value for 2021, meaning the
17 46.2%, provides no indication of the current
18 PPI 12-month change which is most recently
19 reported at negative 7.6%?

20 MR. JAGT: And each reflects the, you
21 know, current -- the annual 12 months' change
22 at the time and the current market conditions.

23 MR. BALLENGER: But again, the rate
24 of inflation as seen in October of 2021 gives
25 no indication of what the rate would be in

5/3/2023

1 March of 2023. Some 50% difference; correct?

2 MR. JAGT: I mean, correct. I mean,
3 yeah, there's --

4 MR. BALLENGER: All right.

5 MR. JAGT: Each reflects the market
6 conditions at their time, so --

7 MR. BALLENGER: Right.

8 MR. JAGT: -- correct.

9 MR. BALLENGER: Thank you.

10 Let's go to page 18, the next page in
11 the exhibit. And this page shows the 12-month
12 percent change in the CPI-U, Consumer Price
13 Index, in the Philadelphia region, most
14 recently ending with February 2023. Isn't
15 that correct?

16 MR. JAGT: That's correct.

17 MR. BALLENGER: And if you'll look
18 with me at the row for 2022 as it goes across
19 and we see February reported 7.3% change,
20 April reported 8.4% change, so on and so forth
21 across the row. Would you agree that those
22 annual change values were abnormally high
23 compared to prior years?

24 MR. JAGT: And they're higher
25 reflecting the higher inflation of the

5/3/2023

1 current -- the then economy, yes.

2 MR. BALLENGER: Right. But they're
3 significantly higher than virtually every year
4 reported, aren't they?

5 MR. JAGT: Within the ten years we've
6 looked at here.

7 MR. BALLENGER: Yeah, within the --
8 yes. I'm not asking you to go beyond the --
9 what's shown here, but yes, within the ten
10 years, they are significantly higher; correct?

11 MR. JAGT: Correct.

12 MR. BALLENGER: So if we look at, for
13 an example here, February 2021 shows an annual
14 change of 1%.

15 Do you agree that that 1% change,
16 relying upon that 1% change would have been
17 unhelpful in predicting the annual change of
18 7.3% that was experienced in February 2022?

19 MR. DASENT: I don't understand that
20 question, Mr. Ballenger. Could you repeat it
21 for me? I'm sorry.

22 MR. BALLENGER: Sure.

23 So if one were to rely upon the
24 annual change of 1% in fiscal 2021, would that
25 have been helpful in predicting what actual

5/3/2023

1 inflation was experienced in February 2022?

2 It would have been pretty inaccurate,
3 in other words, Mr. Jagt. Am I correct?
4 Relying on a past inflation measure would have
5 been pretty inaccurate if you used February of
6 2021 to predict for February of 2022.

7 Do you agree with that?

8 MR. JAGT: Given the economic changes
9 at the time, yeah. I mean, I wouldn't have
10 anticipated that, so...

11 MR. BALLENGER: So just looking
12 forward, would it be fair to say that these
13 past -- the past measures in the CPI may have
14 little to no bearing upon what inflation will
15 be?

16 MR. JAGT: In certain economic
17 conditions, that would be the case. I mean,
18 there's -- it is a general practice that's
19 recognized and accepted, but in certain
20 economic conditions, it's -- you're -- you
21 know, it's an estimate, not always going to be
22 an actual -- it's not going to consistently
23 show it.

24 MR. BALLENGER: Let's move on to
25 page 19. And this is the last page of the

5/3/2023

1 exhibit here.

2 And this is just taken from the
3 Federal Reserve's website. It's a response to
4 a frequently asked question. How does the
5 Federal Reserve affect inflation and
6 employment?

7 And if you would just take a couple
8 of minutes to read the five paragraphs there,
9 I'd like to ask just a couple of questions,
10 and then I'm going to turn it over to whoever
11 is next.

12 [Document review.]

13 MR. DASENT: While Mr. Jagt is
14 reviewing this part of the hearing exhibit,
15 Mr. Ballenger, could you tell us, you know,
16 where it came from?

17 MR. BALLENGER: It actually says on
18 the bottom left corner, there's the URL. So
19 it would be
20 [https://www.federalreserve.gov/faq/
21 money_12856.htm](https://www.federalreserve.gov/faq/money_12856.htm).

22 MR. DASENT: And the date of this
23 particular document? I haven't seen it
24 before.

25 MR. BALLENGER: The date of retrieval

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1 is marked in the top left corner at 5/2/2023
2 at 10:16 a.m. The date of the actual FAQ, it
3 indicates it was last updated August 27, 2020.

4 MR. DASENT: Okay.

5 Mr. Jagt, can I ask you just -- I
6 have three questions.

7 MR. JAGT: Sure. And just -- yeah, a
8 reminder, it --

9 MR. BALLENGER: I know this isn't
10 your work product, so these are fairly general
11 questions, okay?

12 Do you agree with the Federal Reserve
13 that monetary policy is one of the drivers of
14 inflation?

15 MR. JAGT: It's one of the tools that
16 they use to try and impact inflation, I would
17 say.

18 MR. BALLENGER: Do you agree that if
19 monetary policy is being designed to decrease
20 inflation it provides some insight into the
21 future movement of inflation?

22 MR. JAGT: It's the hopes of that --
23 the Treasury that in response to their
24 adjusting interest rates that the intent is to
25 improve economic conditions and lessen

5/3/2023

1 inflation. It's all speculative.

2 MR. BALLENGER: But otherwise, why do
3 it, right? I mean, why go through the
4 exercise if that's not the intention.

5 MR. JAGT: Correct. But, you know,
6 even as it says in the last paragraph,
7 there's, you know -- while linkages from
8 monetary policy to both inflation and
9 employment are not direct or immediate,
10 monetary policy is a factor, an important
11 factor. But there are other factors. So...

12 MR. BALLENGER: Okay. But just to be
13 clear, at least --

14 MR. JAGT: I mean, when you think
15 about it, in addition -- you know, there are
16 downsides of some of this too, and, you know,
17 it could have some other economic impacts
18 that, like we are seeing some banks having
19 issues with having interest rates locked in
20 and, you know, so they could have subsequent
21 factors that -- unintended, that they will not
22 realize their desired impacts on inflation.

23 MR. BALLENGER: I get the point of
24 all of this, if I could, is just that there
25 are past measures of inflation that we could

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1 look to, but according to this, there's --
2 there are things happening and the Federal
3 Reserve is doing things to try to impact
4 inflation going forward. Isn't that correct?

5 MR. JAGT: Yeah, on a speculative
6 basis, correct.

7 MR. BALLENGER: Okay. Well, I mean,
8 again, the past -- the past measures, as we
9 just discussed, are not necessarily indicative
10 of future inflations or the past inflation
11 rates are not indicative of future inflation
12 rates, but there are also actions being taken
13 to affect future inflation rates, right? And
14 that's the point of all of this discussion.

15 MR. JAGT: Mm-hmm.

16 MR. BALLENGER: Couldn't both be
17 speculative, the past -- reliance upon the
18 past measures or reliance upon monetary
19 policy?

20 MR. JAGT: Right.

21 MR. BALLENGER: Okay. It's --

22 MR. DASENT: Has he finished his
23 response?

24 MR. BALLENGER: I thought so. I
25 thought I heard a grumbling response. I

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1 wasn't sure what the word was.

2 MR. JAGT: I mean, that -- they're --
3 both are not forecasts, so neither -- both are
4 speculative, sort of.

5 MR. BALLENGER: Okay. Fair enough.

6 And mercifully, I have kept it short.
7 I said that I would try to keep it short. I'm
8 at one hour and like two minutes, so just
9 barely into the E category for the matrix.
10 But that's it for my cross. And I will open
11 it up for others now, and I want to thank the
12 witnesses very much.

13 MR. DASENT: If Your Honor please, if
14 you would like redirect for this segment of
15 cross, we would request a brief recess before
16 that happens. And then we could proceed with
17 the others.

18 HEARING OFFICER CHESTNUT: Well, no,
19 I think it would make more sense to see if
20 anyone has more cross for these panels,
21 because Mr. Haver did indicate he did have
22 cross.

23 MR. DASENT: Okay.

24 HEARING OFFICER CHESTNUT: Mr. Haver,
25 do you have cross for these folks?

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1 MR. HAVER: I do, but I have no
2 problem giving people a 15-minute break and
3 then coming back at --

4 HEARING OFFICER CHESTNUT: I'd rather
5 we go ahead now. I mean, if we have
6 15 minutes, I think we should just go ahead
7 and get that done.

8 MR. HAVER: No, no, I have an hour.

9 HEARING OFFICER CHESTNUT: Oh, an
10 hour.

11 MR. HAVER: I have an hour of cross,
12 yes. I was just trying to be polite to the
13 witnesses. Maybe they need a comfort break.

14 HEARING OFFICER CHESTNUT: Well, I
15 think we can just go ahead. I mean, I'm a
16 pretty well-hydrated 70-year-old woman, and I
17 think I'm okay. So hopefully everybody else
18 is too.

19 But if anybody needs a break, raise
20 your hand, and that's fine. But I don't want
21 to interrupt any cross, so if someone needs --
22 thinks it's a good idea to take a break now,
23 that's okay.

24 MR. HAVER: We have the court
25 reporter requesting a break.

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1 THE REPORTER: I would love a quick
2 break.

3 HEARING OFFICER CHESTNUT: Okay.
4 That's fine then. Sure, let's take a 10-,
5 15-minute break.

6 (Recess taken, 10:08 a.m. to
7 10:24 a.m. EDT)

8 HEARING OFFICER CHESTNUT: Let's go
9 back on the record. We took a break, and now,
10 Mr. Haver.

11 CROSS-EXAMINATION BY MR. HAVER

12 MR. HAVER: Yes, thank you.

13 I'm not going to address my questions
14 to any one of the witnesses. Whichever
15 witness is the most appropriate, I would ask
16 that they answer, with the exception of a few
17 questions.

18 First, have any of the current
19 witnesses or people from the Water Department
20 worked for the Philadelphia Water Department
21 when Commissioner McCarty, the Rate Board
22 member, Debra McCarty, was the water
23 commissioner?

24 Didn't Black & Veatch serve as the --
25 Ms. McCarty's consultants and experts during

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1 other rate cases?

2 MR. JAGT: Black & Veatch was --
3 that's part of the rate cases during --

4 MR. HAVER: So, again, could you
5 please put your name on the record for the
6 court reporter. Who worked for her when she
7 was a commissioner?

8 HEARING OFFICER CHESTNUT: You just
9 said Black & Veatch did.

10 MR. JAGT: Black & Veatch.

11 HEARING OFFICER CHESTNUT: But there
12 were other people who raised their hands.

13 MR. NISSEN: This is Pete Nissen with
14 Acacia Financial. We have served as financial
15 advisor to the Water Department during the
16 period when Ms. McCarty was commissioner.

17 MR. HAVER: I saw some other
18 employees from the Water Department raise
19 their hands.

20 MR. DASENT: I see Vahe, and I
21 believe he raised his hand. I can get you the
22 spelling of his last name. I'm sorry, Vahe.

23 MR. HOVSEPIAN: Yes, Vahe, V-A-H-E.
24 That's the first name. Last name,
25 H-O-V-S-E-P-I-A-N.

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1 But just for clarification, when
2 Commissioner McCarty was the commissioner, I
3 was in the design unit, not in the projects
4 control or capital unit.

5 MR. FURTEK: This is Steve Furtek. I
6 also worked under Ms. McCarty.

7 MR. YANGALAY: Lawrence Yangalay. I
8 also worked under Commissioner McCarty.

9 MS. KRAMER: Linda Kramer. I also
10 worked under -- for PWD when
11 Commissioner McCarty was there.

12 MR. REILLY: Brendan Reilly, I worked
13 under Commissioner McCarty.

14 MR. MATTHEWS: This is Chuck Matthews
15 at PFM. We were likely one of the financial
16 advisors to the Water Department at that time.

17 MR. JEWELL: Ben Jewell, Philadelphia
18 Water. I also worked under
19 Commissioner McCarty.

20 MR. HAVER: Thank you.

21 Have any of the consultants serving
22 here today worked for the State Consumer
23 Advocate, Pennsylvania state?

24 MR. DASENT: Objection. This is
25 beyond the scope of their testimony. I was

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1 trying to be patient because it was focused on
2 the Philadelphia Water Department, but
3 certainly working for other entities is
4 neither here nor there.

5 HEARING OFFICER CHESTNUT: Yeah, I
6 don't see any point of asking --

7 MR. HAVER: Well, Mr. Popowsky, who
8 is on the Water Rate Board, will be judging
9 the decision based, at least in part, on his
10 belief of which experts are giving the best
11 information. So I am just exploring whether
12 he hired any of these firms or any of these
13 firms worked for him.

14 HEARING OFFICER CHESTNUT: I think
15 that's ridiculous, but if somebody wants to
16 answer it, go ahead.

17 If anybody -- if any of these firms
18 worked for the ECA when Mr. Popowsky was
19 consumer advocate, if they can say so, yes.
20 If not, let's move on.

21 Okay. I guess nobody's answering, so
22 go ahead, Mr. Haver.

23 MR. HAVER: What inflation rate is
24 the Philadelphia Water Department predicting
25 for fiscal year 2024 and for fiscal year 2025?

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1 MR. DASENT: Can you focus that
2 question in a specific area, Mr. Haver? I
3 mean, are you talking about chemicals or
4 something else?

5 MR. HAVER: The general inflation
6 rate in the United States and in Philadelphia.

7 MR. JAGT: Sorry, if Brian or Ann has
8 that offhand --

9 MR. MERRITT: Yeah, we used a number
10 of escalation factors. It depends on the
11 category of the expense. With respect to what
12 do we use for CPI, for which categories that
13 applied to in our analysis, such as services,
14 we used the 12-month CPI for Philadelphia. I
15 believe that was as of -- was it November of
16 2022? And on a 12-month basis, that was 7.7%.

17 And that's just for the, you know,
18 cost areas where we applied CPIs and
19 escalation factors.

20 MR. HAVER: How does that --

21 Thank you. How does that compare to
22 the size of the requested rate increase?

23 MR. MERRITT: With respect to revenue
24 adjustments?

25 MR. HAVER: Yes.

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1 Go ahead, Dave.

2 MR. JAGT: Since the O&M is only one
3 of the revenue requirements, and the 7.7% is a
4 contributing factor, but it is, you know, less
5 than what the overall revenue increases are,
6 so there are other factors driving it as well.

7 MR. HAVER: Would it be fair to say
8 it's one-third of the requested rate increase?

9 MR. JAGT: If you're comparing to the
10 cumulative 20%, it would be better to look at
11 7% per year, which would have made up
12 something closer to 14 of the 20%, so...

13 Then again, that's -- this is only
14 one area of inflation. There -- you know,
15 there are higher adjustments to chemicals,
16 and, you know, other -- the energy cost
17 factors that are involved, plus the increasing
18 debt service. So there are a number of other
19 factors considered.

20 MR. HAVER: What population growth
21 are you estimating for Philadelphia during
22 fiscal year '24 and '25?

23 MR. JAGT: So we're not -- we don't
24 do a projection based on population. We do an
25 escalation of the customer accounts. And we

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1 are assuming -- you know, our report reflects
2 the fact that we are assuming some growth in
3 some costs -- or customer classes, but I do
4 believe the accounts -- subject to check, I
5 mean, it's -- we've been experiencing like the
6 average growth at like .5% per year overall in
7 accounts.

8 MR. HAVER: So you don't have a
9 projection of population growth in the city of
10 Philadelphia for fiscal year '24, '25?

11 MR. JAGT: The account base and the
12 revenue basis would be an account basis and
13 not a population basis, so we did not look at
14 that particular aspect.

15 MR. HAVER: During the Water
16 Commissioner's testimony before the city
17 council, he said that PWD was meeting with
18 PennVest in the next few weeks to allow PWD to
19 receive grants as well as low-cost loans; is
20 that correct?

21 MR. JAGT: Was -- that's the -- okay,
22 can you repeat your question, so I can hear
23 the source again?

24 MR. HAVER: So the Water Commissioner
25 appeared before Philadelphia City Council. In

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1 his testimony, during his testimony, among
2 other things, he said that the Philadelphia
3 Water Department was meeting with PennVest in
4 the next few weeks to allow the Water
5 Department to receive grants as well as
6 low-cost loans; is that correct?

7 MR. DASENT: If Mr. Jagt is aware of
8 that, having either been at the hearing or
9 read the transcript, he can answer.
10 Otherwise, it would be directed to another
11 witness.

12 MR. JAGT: I was going to say, for
13 the Financial Panel testimony, this is beyond
14 our testimony in the scope, but, I mean,
15 Lawrence may be aware and might be able to
16 provide --

17 MR. YANGALAY: Yes, this is Lawrence
18 Yangalay. Yes, during the council hearing,
19 the commissioner stated that we would be
20 meeting with PennVest to explore an
21 opportunity to get grants. Currently, PWD
22 does not qualify for grants under the PennVest
23 regulations, so we have arranged a meeting to
24 see how we can be able to access grant
25 funding.

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1 MR. HAVER: Did the commissioner
2 express optimism as a result of that meeting,
3 that he believed that PWD would be able to
4 receive the grants?

5 MR. DASENT: Objection, speculation
6 as to what the commissioner is feeling on that
7 particular subject.

8 HEARING OFFICER CHESTNUT: Yeah, I --
9 I don't -- if you can answer it, okay.

10 MR. DASENT: Okay.

11 MR. YANGALAY: I wouldn't say we have
12 met with PennVest before, and the prospect was
13 not very promising.

14 MR. HAVER: So again, my question
15 was, in the commissioner's direct testimony
16 before city -- before Philadelphia City
17 Council, did he express optimism that as a
18 result of this meeting the Philadelphia Water
19 Department would be able to receive grants?

20 HEARING OFFICER CHESTNUT: No, I
21 think his statement would have to speak for
22 himself. Mr. Yangalay can't talk to that.

23 MR. HAVER: I asked for the testimony
24 to be made available. It was not. And
25 Your Honor said because it was not timely made

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1 available, I would have some latitude in
2 asking questions.

3 HEARING OFFICER CHESTNUT: But it can
4 be made available. I mean, can it,
5 Mr. Dasent?

6 MR. DASENT: I accessed the testimony
7 online and listened to the budget testimony.
8 But that's as far as I could get, Mr. Haver.
9 And certain questions that you may have later
10 may more directly impact who was responsible
11 to getting back to the city council with
12 respect to certain questions.

13 But we can get to that when we arrive
14 at that particular question. But Mr. Yangalay
15 can only say what he knows.

16 MR. HAVER: He was at the hearing.

17 MR. DASENT: Okay.

18 MR. HAVER: He can say what he heard.

19 HEARING OFFICER CHESTNUT: He can say
20 what he heard, but he can't talk about Mr. --
21 the water commissioner's feelings.

22 MR. HAVER: Right. I'm asking if the
23 water commissioner said that he was
24 optimistic.

25 HEARING OFFICER CHESTNUT: Okay.

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1 MR. YANGALAY: I did not hear that.

2 MR. HAVER: Okay. If the water
3 commissioner is successful at getting PennVest
4 to make grants to the Philadelphia Water
5 Department, what effect would that have on the
6 rate requests?

7 MR. JAGT: I can speak to that. I
8 mean, the likely timing of that would be that
9 it would take -- the time frame to discuss it
10 and introduce it with PennVest, because under
11 the current rules of PennVest and our current
12 level of rates, we do not qualify for grants.

13 So they -- it would take time with
14 the discussions with them. By the time they
15 change the basis of their, you know, their
16 approval -- award of grants, PWD goes through
17 the application process, review, approval.
18 We're not likely to see that increase -- or,
19 you know, any benefits from that in the rate
20 period we're looking at. For '24 or '25.
21 Especially since it's capital.

22 MR. HAVER: I'm going -- because my
23 pagination on my computer is different than
24 what others' computers are, I'm going to read
25 you from the sections I'm asking about so

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1 there can be no mistake and it'll save us some
2 time.

3 HEARING OFFICER CHESTNUT: Are you
4 reading from a statement?

5 MR. HAVER: I'm reading from PWD 2A
6 pages 5 -- page 5, line 19 through 22.

7 HEARING OFFICER CHESTNUT: Okay.
8 Hold on.

9 MR. DASENT: Did you say 2A? I'm
10 sorry, Mr. Haver.

11 MR. HAVER: PWD 2A, page 5, according
12 to the testimony, not according to the
13 pagination on my computer.

14 HEARING OFFICER CHESTNUT: Okay.

15 MR. HAVER: Lines 19 through 22.

16 MR. JAGT: I hate to ask you again,
17 but the page number?

18 MR. HAVER: So again, this is the
19 page number that the testimony says, not what
20 shows up on my computer.

21 MR. JAGT: Right.

22 MR. HAVER: So it's page 5, lines 19
23 through 22. It would probably be faster if I
24 just read it.

25 MR. DASENT: I've got it.

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1 HEARING OFFICER CHESTNUT: I'd like
2 to see it, yeah.

3 MR. JAGT: Paragraph begins with
4 Current Revenues?

5 MR. HAVER: Yes.

6 MR. JAGT: Okay.

7 MR. HAVER: Your Honor, are you
8 ready?

9 HEARING OFFICER CHESTNUT: I am, I'm
10 sorry.

11 MR. HAVER: How much was transferred?

12 MR. JAGT: I can respond to that and
13 Lawrence can clarify if he wants. No amount
14 of money is -- it's -- no funds from the
15 general fund are transferred. This was a
16 request to increase the department's budget.
17 So -- which, you know, their authorization to
18 spend money.

19 What's going on was chemical costs
20 were increasing much more than what was in the
21 original budget, as well as other expense
22 categories. So as such, in order to spend the
23 money, the department needed to add to their
24 authorization for spending for chemicals,
25 power, and gas, and I think there was one

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1 other category.

2 But that was a -- you know, an
3 increase in the authorization to spend. There
4 was no like funds or, you know, reimbursement
5 from the general fund included. So it's not a
6 transfer in that respect. It's just an
7 addition to the department's budget for
8 spending.

9 MR. HAVER: So when the testimony
10 says the City's FY 2023 midyear transfer
11 ordinance, which increased the department's
12 budget to cover escalating costs, you're
13 saying that word "transfer" doesn't mean
14 transfer money?

15 MR. JAGT: They refer to the
16 transfer -- the transfer ordinances --

17 MR. HAVER: Excuse me. Who is the
18 "they" in that sentence?

19 MR. YANGALAY: This is Lawrence
20 Yangalay. If you could please repeat that
21 question.

22 MR. HAVER: Okay. In the Water
23 Department's testimony, it says the City's FY
24 2023 midyear transfer is not a -- I'm asking,
25 is that an actual transfer of money. And the

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1 answer, I believe, is no. You're saying no
2 money was transferred.

3 MR. YANGALAY: No. It's just a
4 budgetary term for increasing the budget
5 midyear.

6 MR. HAVER: So you increased the
7 budget, which means that you needed additional
8 revenues; is that correct?

9 MR. YANGALAY: That is correct.
10 Additional revenue of transfer from the
11 Restabilization Fund.

12 MR. HAVER: So that -- so, again,
13 some money was transferred from somewhere to
14 somewhere else; is that correct?

15 MR. YANGALAY: Yes, that is correct.

16 MR. HAVER: How much money was
17 transferred?

18 MR. YANGALAY: We -- how much money
19 we projected to transfer, if -- for FY '23,
20 how much money we were hoping to transfer from
21 the Rate Stabilization Fund, I don't have that
22 readily with me now --

23 MR. HAVER: Okay. I'm not asking you
24 about projections.

25 MR. YANGALAY: -- from the Rate

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1 Stabilization Fund.

2 MR. HAVER: Right. I'm not asking
3 about projections. I'm asking about what you
4 already have done.

5 MR. DASENT: That would be in Dave
6 Jagt's testimony.

7 MR. YANGALAY: Yeah, the way the
8 project works, Mr. Haver, is that at certain
9 points in the year when you think that you
10 would be overspending on the budget, the
11 budget gives authorization to spend.

12 If you don't want to be in violation
13 of financial management as per the City, you
14 would have to request additional increase in
15 the project before you can do an obligation.

16 At the end of the year, when we
17 finally tally all of our expenditures and see
18 how much do we need to transfer from the
19 Restabilization Fund to balance our budget,
20 that's how the budget involvement was.

21 MR. HAVER: I appreciate the lesson,
22 thank you, but that doesn't answer my
23 question. How much was transferred in the
24 past, last year, as a result of this
25 ordinance?

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1 MR. YANGALAY: I don't have the
2 numbers with me now. We can --

3 MR. HAVER: Does anyone on the panel
4 have that number?

5 MR. DASENT: I think that's Black &
6 Veatch, if we can sort of look back to what
7 we've done and stated in the filing.

8 MR. MERRITT: It's -- I mean, as
9 Lawrence has described, the midyear transfer
10 ordinance is reflected as an increase in the
11 O&M budget for fiscal year '23, the current
12 fiscal year that we're in.

13 MR. JAGT: Correct.

14 MR. MERRITT: It's all within the
15 water fund. There's no transfer, as Lawrence
16 has indicated. That happens at the end of the
17 year.

18 MR. HAVER: Well, Mr. Yangalay says
19 the money was transferred from the Rate
20 Stabilization Fund.

21 Did I misunderstand him?

22 MR. JAGT: So, for planning purposes,
23 you have to have the revenue, a source for
24 that funding of additional spending. So for
25 budgeting purposes, they showed the source of

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1 the additional spending as a portion of the
2 balance and the Rate Stabilization Fund.

3 There were no transfers that
4 occurred. That will occur in October at the
5 end of the year when there's an evaluation of
6 the revenues and expenses, and, you know,
7 they'll make a determination of how much of a
8 transfer from Rate Stabilization is required.

9 MR. HAVER: Well, again, I'm now
10 confused. Mr. Yangalay -- am I pronouncing
11 your name correctly, sir? I apologize if I'm
12 not.

13 MR. YANGALAY: You are near perfect.

14 MR. HAVER: Thank you.

15 Mr. Yangalay is saying that he
16 doesn't have that figure in front of him,
17 which would suggest that that figure is
18 available. And now you're saying that figure
19 is not available because it hasn't happened
20 yet. Which of those two things is true?

21 MR. YANGALAY: I thought you were
22 referring to a planned transfer as a -- as
23 stated, we do a planned transfer at the end of
24 the year before we do the actual transfer. I
25 hope I made that clarification.

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1 MR. HAVER: So when you said you
2 don't have that number, you were referring to
3 a planned transfer, not an actual transfer?

4 MR. YANGALAY: That's correct,
5 because we can't do transfer out until the end
6 of the year when we tally everything.

7 MR. HAVER: So how much is the
8 planned transfer?

9 MR. YANGALAY: That's the number I
10 don't have in front of me now.

11 MR. HAVER: Right. But I thought
12 that Black & Veatch had that number.

13 MR. DASENT: Just for clarification,
14 in the record, there's a Table C1 that shows
15 the transfers going back in time and going
16 forward in time and what the projections are.
17 That's where you look for this information.

18 MR. JAGT: And ours -- our estimate
19 of the transfer would reflect like actual --
20 the budget factors applied through that budget
21 expense, and it's the projection of the
22 transfer that will be required in October, or
23 when the -- you know, when the books are
24 finalized and closed.

25 It would not reflect the amount that

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1 Lawrence is identifying, which was at the
2 planning level, at the budget level, what that
3 dollar amount was identified as.

4 Because it's just like the budget.
5 It's not like that transfer happens. It's the
6 budget reflects the plan of the spending and
7 the sources. That was the planned source. We
8 would have to go back to the legislation and
9 the transfer and the support that was provided
10 by the department to identify that exact
11 dollar amount.

12 Which can be done, just, you know, it
13 was -- it's not in our testimony, not with
14 what we were prepared to discuss today, in
15 that specific amount.

16 MR. HAVER: Would it be accurate to
17 say that the amount is flexible?

18 MR. YANGALAY: Which amount are you
19 referring to?

20 MR. HAVER: The amount that's going
21 to be transferred.

22 MR. YANGALAY: Flexible in the sense
23 it means it will come to what we actually
24 spend. And since we cannot predict the future
25 100%, that means --

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1 MR. HAVER: I'm sorry, Mr. Yangalay,
2 I did not understand that. Could you please
3 repeat it?

4 MR. YANGALAY: Flexible in the sense
5 that the actual we transfer depends on what
6 happens at the end of the year. Since we
7 cannot predict that 100%, that means it may be
8 different from what we plan.

9 MR. HAVER: So again, it is flexible?
10 It's not a set amount; is that correct?

11 MR. YANGALAY: That will be correct,
12 in the sense that we don't know what the
13 actual will be.

14 MR. HAVER: Thank you.

15 I'm now moving to some operational
16 questions. But they are revenue questions.

17 What percentage of the treated water
18 is lost? And by treated water, I mean as it's
19 defined as water that never passes through a
20 water meter and is never billed.

21 MR. DASENT: That's not for the
22 Financial Panel. I'm sorry, that would be for
23 the Operations Panel, who will be available to
24 us, but this isn't the time for that.

25 HEARING OFFICER CHESTNUT: Well, I

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1 think maybe the question might be is there a
2 factor for lost water reflected in the revenue
3 requirement calculation.

4 MR. DASENT: Oh.

5 HEARING OFFICER CHESTNUT: Is that
6 what you're asking, Mr. Haver?

7 MR. HAVER: I'm getting to that, but
8 first there has to be on the record some
9 assumption for how much is lost.

10 HEARING OFFICER CHESTNUT: Right.
11 But these people are not the ones to do that.
12 They're the ones who do the financial --
13 they're the Financial Panel, not the
14 Operations Panel.

15 MR. HAVER: I appreciate that, but
16 the -- again, based on their testimony, based
17 on their recommendations, they are making some
18 projections of how much water is never billed.
19 And I'm asking what that projection is.

20 HEARING OFFICER CHESTNUT: Okay.
21 Where is that? You say based on -- in their
22 testimony. Do you have a source?

23 MR. HAVER: So those, again, are all
24 the revenue projections and all of the tables.
25 There's a certain amount of water that is

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1 billed for and a certain amount of water that
2 is treated. I'm asking --

3 HEARING OFFICER CHESTNUT: Okay. Is
4 there a lost revenue factor in your tables,
5 Mr. Jagt, or any of you folks?

6 MR. JAGT: No. The projections
7 read -- for the financial projections, the
8 only projections that are in there are the
9 projections of billed volumes.

10 MR. HAVER: So I'm confused. You
11 don't have any projection of unbilled?

12 MR. JAGT: There's no revenue
13 associated with it, then there would not
14 derive a dollar for consideration of revenue,
15 if it was not -- not within the scope of the
16 financial projections.

17 MR. HAVER: Wouldn't it be a loss to
18 the system for water that is treated but not
19 sold?

20 MS. BUI: Mr. Haver, if I could --
21 I'm sorry, go ahead, Dave.

22 MR. JAGT: No, you can go ahead.

23 HEARING OFFICER CHESTNUT: Would you
24 identify yourself for the court reporter.

25 MS. BUI: I'm sorry. This is Ann Bui

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1 for Black & Veatch. I'm the senior managing
2 director and the project director for this
3 engagement.

4 So, Mr. Haver, the way that we
5 project our revenues, because we used actual
6 billed volumes and looking at a usage per
7 account, that already addresses the nonrevenue
8 water, as we call it, or that lost revenue.

9 Where it makes a difference is coming
10 in through the operational side from the
11 expenses in that respect, sir.

12 MR. HAVER: Right, and I'll get to
13 that.

14 MS. BUI: Okay.

15 MR. HAVER: Again, discretely asking:
16 Water that is processed and could be put
17 through a meter and billed but is not, does
18 that represent a lost revenue to the Water
19 Department?

20 MR. JAGT: Not necessarily, because,
21 you know, people -- the department does not
22 bill itself. The department -- you know,
23 there are other parts of the water. For
24 example -- and another example is the fire --
25 the testing for fire protection. There are

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1 authorized uses within the system that, you
2 know, while part of nonrevenue water, they are
3 authorized uses that are nonrevenue related.

4 MR. HAVER: So not necessarily, but
5 again, discretely asking: There's a cost to
6 process every gallon of water; is that
7 correct?

8 MR. JAGT: Correct.

9 MR. HAVER: And every gallon that is
10 not sent through a meter and not billed is
11 water that was paid to be processed; is that
12 correct?

13 MR. JAGT: Correct.

14 MR. HAVER: And every dollar that is
15 not collected for that water is a loss to the
16 revenue; is that correct?

17 MR. JAGT: Not necessarily, because
18 some losses -- you know, the -- a distribution
19 system is a system under pressure. It is not
20 100% leakproof. You will lose water. It is a
21 condition of -- you know, it's -- it happens
22 in every water system, so --

23 MR. HAVER: What -- I'm glad that you
24 pointed that out. What's the average loss in
25 other water systems?

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1 MR. DASENT: If you know, Mr. Jagt.

2 MR. JAGT: Yeah, I know it. A system
3 considered tight would be, what, 10 to 15%. I
4 mean, it's -- and that's a tight system.

5 MR. HAVER: What are you basing that
6 on?

7 MR. JAGT: Just general knowledge.

8 MS. BUI: AWWA has a standard out
9 there, a guidance standard out there,
10 Mr. Haver, with respect -- the American
11 Association of Waterworks -- American
12 Waterworks Association, pardon me -- which, as
13 Mr. Jagt pointed out, does say that a tight
14 system maintained -- the target benchmark is
15 around the 10 to 12% range.

16 MR. HAVER: Can you make that part of
17 the record, please? What you're referencing?

18 MS. BUI: We can provide the
19 reference.

20 MR. JAGT: And that wouldn't
21 necessarily be a fair comparison for
22 Philadelphia's system, which is an older
23 system.

24 MS. BUI: Correct.

25 MR. HAVER: Wasn't making an

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1 argument. I was making a request for that
2 document you are referencing.

3 MS. BUI: I cannot produce the
4 document in and of itself, Mr. Haver. That
5 violates copyright rules.

6 MR. DASENT: We'll provide the
7 reference.

8 MS. BUI: But I can certainly
9 reference you to the site.

10 MR. DASENT: Yep, we'll get a
11 reference.

12 MS. BUI: Yeah, if that would be
13 okay.

14 MR. HAVER: I don't think I have a
15 choice. I'm watching the Hearing Examiner
16 roll her eyes once again.

17 So can it -- again, switching to
18 revenue questions. Can a consumer take steps
19 to reduce water usage in their home?

20 MR. JAGT: Yes.

21 MR. HAVER: Is that why there's both
22 a service charge and a usage charge, the
23 recognition that households have some control
24 over usage?

25 MR. JAGT: From a rates perspective,

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1 it's matching the type of a cost recovery with
2 the type of expense. The volume cost recovery
3 is more related cost of service-wise to the
4 treatment and delivery of the water. The
5 service charge is related to the billing and
6 collection primarily.

7 So -- but yes, I mean, in that the
8 volume charge is a unit cost, it provides the
9 customer with the ability to control a portion
10 of their costs by using -- controlling usage.

11 MR. HAVER: Can a household have any
12 direct control over the loss of water in the
13 system?

14 MR. JAGT: No.

15 MS. BUI: If I could, let me just
16 clarify that. But within the system, Mr. Jagt
17 is correct, that they don't have any control,
18 direct control. Within their own place of
19 residence, they do, with respect to slab leaks
20 and making sure, you know, that the toilet is
21 not leaking and things of that nature.
22 General maintenance.

23 MR. BALLENGER: Yes, I appreciate
24 that. I was not as specific with my language
25 as I should have been. I was talking about

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1 pre-meter loss, not post-meter loss.

2 MS. BUI: Understood.

3 MR. HAVER: Thank you.

4 Can you explain to me currently under
5 your model who pays for the lost water?

6 MR. JAGT: So all customers would
7 recover a portion of that cost.

8 MR. HAVER: Can you explain the
9 theory behind that, customers have no control
10 over the usage but have 100% responsibility
11 for the costs? What's the logic behind that?

12 MR. JAGT: Again, every water system
13 has losses. It's -- it's a phenomenon of --
14 you're going to have it. The water system is
15 under pressure. You're going to have leaks;
16 you're going to lose some water. It's -- it's
17 just part of the water utility, water
18 industry, you know, model, so...

19 MR. HAVER: I understand that you've
20 said that twice. And if you're unsure that I
21 know, I'm happy to repeat it back. But that
22 was not my question.

23 My question was: What is the logic
24 in asking households to pay for that loss?

25 MR. JAGT: So it's -- ask every

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1 customer of the water system, every user of
2 the system that benefits from the delivery of
3 the water; it is included in the cost recovery
4 and in the rates.

5 MR. HAVER: Again, I'll ask one more
6 time and then I'll move on. What is the logic
7 behind that?

8 HEARING OFFICER CHESTNUT: It's
9 already been asked and answered several times.
10 Why don't you move on.

11 MR. HAVER: It has not been answered.

12 HEARING OFFICER CHESTNUT: It has
13 totally been answered. I think that's as much
14 answer as there's going to be.

15 MR. HAVER: If that's your ruling, I
16 have no choice, but I object. The answer --
17 my question was not answered.

18 HEARING OFFICER CHESTNUT: I think
19 it's been answered so why don't you move on.

20 MR. HAVER: What a shock, you sided
21 with the Water Department.

22 Who would have guessed?

23 The City of Philadelphia is
24 responsible for the Water Department; is that
25 correct?

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1 MR. JAGT: Yeah, the Water Department
2 is one of ten or eleven departments of the
3 City.

4 MR. HAVER: So the Water Department
5 is under the management of the City; is that
6 correct?

7 MR. JAGT: Correct.

8 MR. HAVER: Wouldn't it make sense to
9 hold the management responsible for any losses
10 of water that are in excess of the national
11 standards?

12 MR. JAGT: Benchmarking or, you know,
13 each system is different. Like I said before,
14 Philadelphia is an older system. There would
15 be reasons to have a higher loss than the
16 national average due to the age of the
17 infrastructure.

18 When they do -- they do invest in new
19 mains to, you know, continually improve the
20 system and try and address losses as -- you
21 know, as they move forward, but it is a large
22 system and it will take some time to
23 continue -- with their continued reinvestment
24 to make that improvement.

25 MR. HAVER: Well, again, my question

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1 was very specific. I'll try and make it even
2 clearer.

3 If this Water Department makes a
4 mistake and it leads to tremendous amount of
5 loss, of water or additional costs that should
6 not have been incurred, who should pay for
7 that, the management or the customer?

8 MR. DASENT: Objection. This is
9 beyond the scope of the Financial Panel.

10 HEARING OFFICER CHESTNUT: It
11 certainly is. That -- that's a ratemaking
12 question. I mean, that's a policy kind of
13 question. These people are here presenting
14 their model and the revenue requirements
15 associated with it.

16 MR. HAVER: I'm asking about their
17 model. Under their model, who is responsible
18 for any mistakes, any malfeasance, any theft,
19 any embezzlement at the Water Department? Who
20 is financially responsible for those things?

21 MR. YANGALAY: Mr. Haver, if I may
22 just contribute a little. Why do you have
23 water loss in the system, as we say. I say we
24 have an old system and that is why we are
25 here. We can look at our Capital Improvement

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1 Plan. If we have the resources to improve
2 this infrastructure. I think there can be
3 official opportunity, and that's why we have
4 said over and over we have an aged
5 infrastructure. We need resources to
6 rehabilitate these facilities.

7 So water loss is not negligent on the
8 part of management, I think. It is a
9 consequence of the kind of operation we do and
10 the kind of infrastructure we have. Just --

11 MR. HAVER: Thank you, sir. But that
12 doesn't answer my question.

13 Under the rate model that has been
14 prescribed and entered as testimony, who would
15 pay for any malfeasance, embezzlement, or
16 mistakes at the Water Department?

17 MR. YANGALAY: I thought the answer
18 was we disagree about malfeasance as you put
19 it. That's the point I'm trying to make.

20 MR. HAVER: I appreciate your point,
21 but that does not answer my question.

22 HEARING OFFICER CHESTNUT: I don't
23 understand your question. What malfeasance?

24 MR. HAVER: If there was --

25 HEARING OFFICER CHESTNUT: On whose

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1 part? On the customer's part or the Water
2 Department's part?

3 MR. HAVER: The Water Department's
4 part.

5 HEARING OFFICER CHESTNUT: Well, that
6 has nothing to do with setting rates here,
7 though. You're talking about some kind of
8 punitive action, and...

9 MR. HAVER: I'm asking under the rate
10 model that's being recommended, who would pay
11 for a malfeasance, embezzlement, bad
12 decisions, water loss, in excess of --

13 HEARING OFFICER CHESTNUT: Are you
14 talking about how are civil penalties
15 reflected in the model? Is that what you're
16 saying?

17 MR. HAVER: I'm asking again: Who
18 pays for those costs under the model?

19 HEARING OFFICER CHESTNUT: What
20 costs? Civil penalties?

21 MR. HAVER: No, no, the actual costs
22 of a mistake. So the Water Department is
23 supposed to buy 20 pounds of X, and they end
24 up buying 200 pounds of X, and they can't use
25 it. There's 120 [sic] pounds of X that they

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1 have paid for and can't be used. Who pays for
2 that under the rate model that's being
3 proposed?

4 MR. YANGALAY: Well, Mr. Haver, under
5 that scenario, I don't see that scenario
6 happening.

7 MR. HAVER: Yes, sir, I appreciate if
8 you saw that, you would put an end to it. But
9 that's not my question, whether it's
10 happening. My question -- because that's for
11 operations, and I understand that. I'm going
12 to raise these questions about those actual
13 losses and the actual malfeasance and mistakes
14 with operations. My question is, under the
15 rate model that's being proposed, who pays for
16 those losses?

17 MR. DASENT: Objection. This is
18 speculative now, because it hasn't happened.
19 There's no evidence that it's happened. We're
20 asking for a -- it's testimony concerning a
21 fact that's not at all in evidence.

22 HEARING OFFICER CHESTNUT: I agree.

23 MR. DASENT: I also have other
24 objections.

25 HEARING OFFICER CHESTNUT: I don't

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1 see any basis for this. Malfeasance? There's
2 been no showing of any malfeasance. There's
3 been no showing of any -- if you want to say
4 they're inefficient, that's a whole different
5 issue.

6 MR. HAVER: Again, I'm not asking now
7 for these witnesses -- because you've already
8 told me I can't ask my operational questions
9 of these witnesses. I'm asking about the rate
10 model.

11 Under the rate model that they are
12 proposing, who is responsible for those costs,
13 costs that arise because of mismanagement,
14 costs that arise because of --

15 HEARING OFFICER CHESTNUT: Let me
16 just clarify. Let me make sure I understand
17 here. Mr. Jagt, this isn't an efficiency
18 audit, was it?

19 MR. JAGT: No. No, it's not an
20 efficiency audit. Sorry.

21 HEARING OFFICER CHESTNUT: Or a
22 management audit?

23 MR. JAGT: It's not a management
24 audit.

25 HEARING OFFICER CHESTNUT: So I don't

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1 even see why these issues would be relevant to
2 what you did.

3 MR. HAVER: Well, again, I appreciate
4 Your Honor bringing those up because those
5 will be my questions later. But here is the
6 relevance. We have a proposal for a rate
7 model that collects dollars from a revenue
8 base.

9 I am asking whether the revenue base
10 is being asked to pay for any mistakes, any
11 mismanagement, any malfeasance, any loss above
12 the averages. Does that go into the rate
13 base? "Yes" or "no"?

14 MR. DASENT: Objection. This is
15 speculative. None of this is in evidence.
16 This is completely a hypothetical, and we
17 object to it.

18 HEARING OFFICER CHESTNUT: Yeah, I --
19 I'll be honest, I don't see how they could
20 possibly answer that.

21 MR. HAVER: Well, it's easy. Where
22 else do they get revenues from? So I'll try
23 another way.

24 Where else do you get revenues from
25 other than the rate base?

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1 MR. DASENT: Mr. Jagt?

2 MR. JAGT: It's true, the bulk of the
3 revenues come from service charges from the,
4 you know, services provided through the water,
5 sewer, stormwater. There are some
6 miscellaneous revenue sources that are
7 involved but they're, you know, a much smaller
8 percentage of the total.

9 MR. HAVER: So included in those
10 revenues, would that be any water that's
11 processed but not delivered?

12 MR. DASENT: It was asked and
13 answered.

14 MR. JAGT: Yeah. Other than what's
15 in fire protection. Because not all fire
16 protection meters are metered. They're
17 detector checked or, you know -- they don't
18 always meter 100% of fire protection, like
19 fire hydrants.

20 But again, that's an authorized use
21 of the system, but the flow doesn't -- I mean,
22 the City pays for the general service or the
23 system capacity to provide that service, and
24 it's a standby capacity. But there is no
25 volume charge associated with the public fire

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1 protection.

2 MR. HAVER: So I think I understood
3 you to say yes, but I'll ask one more time to
4 make sure I understood it.

5 Any --

6 MR. JAGT: For the authorized --

7 MR. DASENT: Wait for the question.

8 Wait for the question.

9 MR. JAGT: Okay.

10 MR. HAVER: If there is a mistake
11 made, mismanagement, whatever it is, the only
12 place for the Water Department to collect to
13 cover those costs is from the revenue base of
14 consumers; is that correct?

15 MR. DASENT: Note our continuing
16 objection.

17 Mr. Jagt, you can answer.

18 MR. JAGT: Personally, I wouldn't
19 want to answer it from the -- the whole
20 premise that assuming that there is
21 mismanagement, that, you know, there is no
22 evidence that there is. I just would not want
23 to even imply to support that assumption.

24 MR. HAVER: Can you point in your
25 model where mismanagement or waste is paid for

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1 by someone other than the revenue base?

2 MR. DASENT: Objection, beyond the
3 scope of their testimony.

4 HEARING OFFICER CHESTNUT: I don't
5 even think that's a valid foundation for a
6 question. I really -- you know, you need to
7 move on. This is getting repetitive.

8 MR. HAVER: So Your Honor isn't
9 interested in who pays for any waste?

10 HEARING OFFICER CHESTNUT: Why don't
11 you move on, Mr. Haver.

12 MR. HAVER: Well, I asked you a
13 question. Are you not interested --

14 HEARING OFFICER CHESTNUT: I don't
15 have to --

16 MR. HAVER: Oh, I remember, you don't
17 pay Philadelphia water bill so it's not of
18 primary interest to you. I get it. All
19 right.

20 You should put that on the record, by
21 the way.

22 HEARING OFFICER CHESTNUT: If you
23 have a question for any of these witnesses,
24 why don't you go ahead and ask them.

25 MR. HAVER: I am. You're not

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1 allowing me to. Again, I'm not surprised.

2 HEARING OFFICER CHESTNUT: If you
3 have a relevant question with a substantial
4 foundation, why don't you ask them.

5 MR. HAVER: I have.

6 HEARING OFFICER CHESTNUT: Well,
7 you've got as much answer as I think they're
8 able to give you.

9 MR. HAVER: I have as much answer as
10 you'll allow them to give me.

11 HEARING OFFICER CHESTNUT: Just move
12 on.

13 MR. HAVER: Is that your order?

14 HEARING OFFICER CHESTNUT: Yes.

15 MR. HAVER: Page 6, same testimony.

16 PWD 2A.

17 Page 6, lines 6 through 10.

18 HEARING OFFICER CHESTNUT: 2A or 2?

19 MR. HAVER: 2A. PWD 2A, lines 6
20 through 10.

21 [Document review.]

22 HEARING OFFICER CHESTNUT: All right.

23 MR. HAVER: If the PWD cut costs
24 and/or increased sales and/or had the City pay
25 for the water lost in the system, would this

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1 have an impact on the 90% test?

2 MR. JAGT: Depending on the
3 magnitude, yes.

4 MR. HAVER: Okay. Thank you.

5 In fiscal year 2023, the past fiscal
6 year, for every dollar billed, how much was
7 collected in fiscal year 2023?

8 MR. JAGT: So we don't have the
9 information for 2023 yet. Are you asking for
10 the assumption or the actual?

11 MR. HAVER: Let's go back to 2022
12 then and do the actual, and then I'll ask for
13 the assumptions for 2023.

14 MR. JAGT: Sorry, I'm looking through
15 to get to where we developed the calculation.

16 MR. HAVER: I'm taking your time,
17 you're not taking mine, so feel free.

18 MR. JAGT: All right, for 19 -- or
19 for 2022, it's -- just looking at overall
20 billings compared to overall revenues, it's
21 approximately 96.8%.

22 MR. HAVER: And what are you
23 projecting in 2023?

24 MR. JAGT: At 96 -- 96½%.

25 MR. HAVER: The same number?

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1 MR. JAGT: Essentially.

2 MR. HAVER: Okay. How does that
3 compare to the national averages?

4 MR. JAGT: So we did look for a
5 national average, and we were not able to
6 identify a source that provides the
7 collections in the same expression than what
8 we provided you in the interrogatory response.

9 MR. HAVER: How does it compare to
10 PGW's collection percentage?

11 MR. JAGT: Brian, do you recall what
12 the PGW in the interrogatory was? 96?

13 MR. MERRITT: 96 and change. I don't
14 have the exact number. It's close. It's
15 similar.

16 MR. JAGT: Right.

17 MR. HAVER: If you know, how many
18 people are on the low-income plan at PGW? How
19 many households, accounts?

20 MR. DASENT: I don't believe that's
21 within their testimony.

22 HEARING OFFICER CHESTNUT: It isn't,
23 but if they know.

24 MS. BUI: I don't believe we do off
25 the top of our heads, Mr. Haver.

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1 MR. DASENT: Raftelis would know
2 that. They're another witness. Raftelis
3 Financial Consultants.

4 MR. HAVER: I believe Mr. Nissen is
5 on from that company.

6 MR. DASENT: No, he's Acacia.

7 MR. HAVER: It's hard to keep all of
8 the consultants straight.

9 How many are there?

10 How many consultants were hired for
11 this rate case?

12 MR. DASENT: Well, there's -- for
13 this rate case?

14 MR. HAVER: Yes.

15 MR. DASENT: We can provide that to
16 you as a transcript response. I don't really
17 answer those questions.

18 MR. HAVER: Does anyone from the
19 Water Department know?

20 MR. DASENT: I can send you an e-mail
21 that provides --

22 MR. HAVER: Mr. Dasent, I wasn't
23 asking that. I was asking if anyone today
24 from the Water Department knows how many
25 consultants were hired to help with this rate

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1 increase request. If the answer is nobody
2 knows, nobody knows.

3 HEARING OFFICER CHESTNUT: Well, the
4 answer is that Mr. Dasent is the person who
5 knows.

6 MR. DASENT: And I can provide that
7 information to you.

8 HEARING OFFICER CHESTNUT: And he can
9 provide that information.

10 MR. DASENT: Look at your screen.
11 They're here.

12 MR. HAVER: Right. I'm asking if
13 anyone from the Water Department knows, not
14 another consultant, not a lawyer. If anyone
15 from the Water Department knows.

16 HEARING OFFICER CHESTNUT: Mr. Dasent
17 represents the Water Department. He is the
18 person to answer your questions.

19 None of these questions have anything
20 to do with hiring consultants.

21 MR. HAVER: Does Mr. Dasent hire the
22 consultants?

23 MR. DASENT: No, but I am aware of
24 who presented testimony. Even if you look at
25 the rate filing itself, Exhibit 1, we list

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1 them.

2 MR. HAVER: Who hires the
3 consultants?

4 MR. DASENT: The finance department,
5 Mr. Yangalay can speak to that. Some of those
6 will be hired through his office, others
7 through the general counsel's office, others
8 for the city treasurer's office. Because you
9 have blind counsel, you have financial
10 advisors. That's -- the city treasurer's
11 office. You also have Acacia, that's city
12 treasurer also.

13 And Mr. Yangalay can speak to Black &
14 Veatch and Raftelis who are hired under
15 contracts in his office. But I can send all
16 of that to you in an e-mail. There's no
17 surprise here.

18 MR. HAVER: Well, I'm surprised to
19 know if the Water Department knows.

20 MR. DASENT: Well, they can speak to
21 the issue, but you're asking on the fly a lot
22 of questions that just don't seem to be either
23 here nor there. And many of the consultants
24 are literally looking at you right now.

25 MR. YANGALAY: We provided a listing

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1 of the consultants. It's no secret. We
2 have -- as Mr. Dasent say, we have some of the
3 consultants here.

4 MR. JAGT: Just to point out, the
5 interrogatory response provided was an
6 attachment LH31. The Department helped
7 assemble the information from the consultants
8 involved.

9 Some of the consultants are not hired
10 specifically for this rate case; they just are
11 helping support it, and as part of their role
12 in supporting the City, but they're -- we
13 identified or the department identified five
14 consulting firms -- or six, sorry. Six firms.

15 Then again, some of the firms have
16 other supporting roles, like Ballard Spahr,
17 and the FAs. But they do -- because of the
18 overlapping aspects of the rate proceeding,
19 it's -- you know, the department relies on
20 their expertise and knowledge in that area.

21 MR. HAVER: What's the total cost to
22 the system for all of the consultants that
23 have been retained?

24 MR. DASENT: For what purpose?

25 MR. HAVER: To help with this rate

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1 increase.

2 MR. DASENT: I'm trying to recall if
3 there is a data response that addresses that,
4 Mr. Haver.

5 MR. HAVER: You said you were going
6 to get back to me on that.

7 MR. DASENT: And I thought LH31 did
8 give you some of that information, and LH2,
9 that series, also addressed some of those
10 questions. I pulled that up and direct your
11 attention to that.

12 MR. HAVER: I'm asking specifically
13 right now on the record, what is the total
14 budget for all of the six consultants that
15 have been retained to help with this water
16 rate increase request?

17 MR. YANGALAY: We can provide that.
18 We don't have that handy at this point.

19 MR. HAVER: Okay. Thank you.

20 MR. DASENT: Can we treat that as a
21 transcript request, Mr. Haver, so we can get
22 right back to you?

23 MR. HAVER: That would be fine.

24 MR. DASENT: That will be TR1, if
25 Your Honor please.

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1 MR. HAVER: I have questions about
2 companies that PWD hired. I'm assuming that
3 this is not the correct panel to ask these
4 questions of, but just to make sure, because
5 if I don't ask them now and I ask them later
6 and the Hearing Examiner tries to cover up and
7 say I should have asked them before, I want to
8 make sure I'm asking them now.

9 Does anyone on this panel know the
10 name of the company Philadelphia Water
11 Department hired to make appointments to
12 replace water meters?

13 MR. DASENT: That's Operations.
14 Maybe Steve Junod would be able to give you
15 that answer.

16 MR. HAVER: Just want to make sure
17 that nobody on today's panel can answer that.

18 MR. DASENT: I'd rather give you the
19 expert that actually is the subject matter
20 expertise in this matter. That's Mr. Junod.

21 MR. HAVER: I'm assuming my next
22 question, where that company is located, is
23 outside the scope of their expertise?

24 MR. DASENT: I think Mr. Junod will
25 be best to answer that question so you get the

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1 correct answer.

2 MR. HAVER: Okay. Are you aware of
3 if there's any contractor that works with
4 Philadelphia Water Department to read meters?

5 MR. DASENT: Again, that's the
6 Operations Panel.

7 MR. HAVER: Okay.

8 MR. DASENT: I mean, we can say --

9 MR. HAVER: I understand that. I
10 just -- I don't want to fall into the trap
11 that allows the Hearing Examiner to do what
12 she did at the public hearings and claim that
13 no one at the Water Department knew that your
14 offices were being renovated.

15 By the way, Mr. Abrams, can you tell
16 me where your office is located? Are you at
17 1101 Market Street?

18 MR. DASENT: He's not a part of the
19 Financial Panel.

20 HEARING OFFICER CHESTNUT: He's not a
21 part of this panel.

22 Do you have questions for these
23 people?

24 MR. HAVER: I have a question for
25 Mr. Abrams.

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1 HEARING OFFICER CHESTNUT: Mr. Abrams
2 is not part of this panel.

3 MR. HAVER: Okay. Which panel will
4 he be part of?

5 MR. DASENT: Communications and
6 outreach. He's public affairs.

7 MR. HAVER: Talking about collections
8 and the cost of the low-income plan. If more
9 Philadelphians had jobs that paid a living
10 wage, would that have an impact on collection
11 rates and the need to use the TAP or other
12 programs under your modeling?

13 MR. DASENT: Please repeat that
14 question, Mr. Haver. I don't want to object.

15 MR. HAVER: Okay. I'm asking, under
16 the modeling that's being proposed, if more
17 Philadelphians had jobs that paid a living
18 wage, would that have an impact on collection
19 rates or the need to use low-income plans
20 under the models?

21 MR. DASENT: Just so I understand it,
22 if their incomes were above the threshold for
23 TAP, would that increase the -- or decrease
24 the need for, you know, assistance programs?
25 Is that the question? Because --

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1 MR. HAVER: Yes. And would it
2 increase revenues.

3 MR. DASENT: Mr. Jagt.

4 MR. JAGT: In that -- so there --
5 there is the potential that the customers
6 would have the wages, not qualify for the low
7 income, assuming they were enrolled to begin
8 with, because, you know, they -- PWD doesn't
9 force a low-income customer to participate;
10 it's their elective.

11 So their bill would be based on their
12 actual usage and not their -- not their, you
13 know, income, and it would improve the
14 billings and potentially the collections if
15 they paid the bills.

16 MR. HAVER: I have a number of
17 questions about job creation. Again, I'm
18 assuming this is the wrong panel, but I want
19 to read them into the record and be told that
20 this is not the right panel so that when I
21 raise them in another panel, the Hearing
22 Examiner can't tell me I should have raised
23 them before.

24 Is it true that taking jobs away from
25 Philadelphians by contracting with companies

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1 out of the state lessens the number of
2 available jobs in the city of Philadelphia?

3 MR. DASENT: Objection, that is
4 outside the scope of their testimony. I can't
5 see a connection at all. I'm sorry,
6 Mr. Haver.

7 MR. HAVER: What percentage of what
8 PWD purchases is made in Philadelphia?

9 MR. DASENT: Objection, I don't know
10 that's within the scope of their testimony
11 either. I mean, their testimony is making
12 financial projections for the rate period
13 indicating the revenue requirements for a
14 future period. That has nothing to do with
15 that.

16 MR. HAVER: Which panel should this
17 question be addressed to?

18 MR. DASENT: I'm not sure, but not
19 this panel. I mean, it's a broader question
20 than, I think, the rate case. Usually you
21 don't have these sorts of questions, and we're
22 trying to be flexible with you, because you --

23 MR. HAVER: Who is the -- excuse me.
24 Who is the "we" in that sentence?

25 MR. DASENT: PWD.

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1 MR. HAVER: The Water Department is
2 trying to be flexible with me?

3 MR. DASENT: Yeah, in terms of
4 questions. I've tried not to object.

5 MR. HAVER: What does that mean?

6 MR. DASENT: I've tried not to
7 object.

8 HEARING OFFICER CHESTNUT: Mr. Haver,
9 look, we don't really need your arguments
10 here.

11 MR. HAVER: You've made yourself
12 clear.

13 HEARING OFFICER CHESTNUT: Ask your
14 questions --

15 MR. HAVER: You've made yourself
16 clear. I understand your prejudice. I
17 understand your bias. You've made that very
18 clear, both on the record and in your rulings
19 and ex parte communications. It's very clear
20 what you believe and what you've decided is
21 meaningful.

22 HEARING OFFICER CHESTNUT: Okay.
23 That's fine. I'm glad I was able to make
24 myself clear, but why don't you move on and
25 ask some questions.

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1 MR. HAVER: I am asking my questions,
2 and unless Your Honor rules them out of order,
3 I'm going to continue to ask them. I think
4 your bias should become well known to the
5 public.

6 HEARING OFFICER CHESTNUT: The last
7 order I did was in your favor, wasn't it?
8 That doesn't show bias.

9 MR. HAVER: You most certainly do
10 show bias. In almost -- not forcing
11 someone --

12 HEARING OFFICER CHESTNUT: This is
13 getting ridiculous, you know.

14 MR. HAVER: Not forcing someone from
15 the Water Department to say to the public
16 whether their own offices are being renovated
17 shows as much bias as anyone can possibly
18 show.

19 HEARING OFFICER CHESTNUT: Okay.
20 Fine. Do you have questions for these people
21 which is within the testimony?

22 MR. HAVER: I do, and I'm asking my
23 questions.

24 What percentage of what PWD purchases
25 is made in Philadelphia?

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1 MR. DASENT: Objection, beyond the
2 scope of the testimony.

3 HEARING OFFICER CHESTNUT: Sustained.

4 MR. HAVER: What percentage of the
5 vendors hired by PWD are based in
6 Philadelphia?

7 HEARING OFFICER CHESTNUT: Can you
8 answer that?

9 MR. DASENT: We responded to that in
10 discovery. I don't know which witness might
11 be able to respond to that.

12 HEARING OFFICER CHESTNUT: Any of
13 these witnesses?

14 MR. DASENT: I don't think so.

15 HEARING OFFICER CHESTNUT: Okay.
16 There's your answer.

17 MR. HAVER: Can you calculate today
18 how every hundred jobs affects collection
19 rates?

20 MR. DASENT: Objection, that is not
21 what Black & Veatch does in terms of their
22 projections. It's beyond the scope of their
23 testimony.

24 HEARING OFFICER CHESTNUT: Sustained.

25 MR. HAVER: In your testimony you

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1 project the price of natural gas escalating.
2 What are you using for your modeling? Where
3 are you getting your projected prices for
4 natural gas?

5 MR. DASENT: Mr. Jagt?

6 MR. JAGT: Yep, I'm looking it up.

7 MR. MERRITT: The natural gas
8 increase was based upon planned budgetary
9 increases --

10 MR. JAGT: That's correct.

11 MR. MERRITT: -- provided by the
12 department. And then I believe --

13 MR. JAGT: There is no increase in
14 2025.

15 MR. MERRITT: Right. That's correct.
16 We're not projecting any escalation in costs
17 there. We do apply, I think, 1%. Do I have
18 that right, Dave? In the latter half of the
19 study period. That's beyond the study period.

20 MR. JAGT: Yeah, 1.5% beyond 2025.
21 So in 2026 and beyond. So it would be beyond
22 the rate period.

23 MR. HAVER: Again, I'm asking what
24 you used to base your projections of future
25 national gas's prices.

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1 MR. DASENT: We just answered that.

2 MR. MERRITT: We're not projecting
3 future natural gas prices; we're projecting
4 the expense of the Water Department.

5 MR. HAVER: And the expenses for
6 natural gas are to purchase what?

7 MR. MERRITT: Natural gas, based upon
8 the usage.

9 MR. HAVER: Are you projecting
10 greater usage in fiscal year '24?

11 MR. MERRITT: It's based on the
12 department's budget, estimated budget increase
13 in '24.

14 MR. HAVER: So then who from the
15 Department can tell me what the basis for
16 those projected prices are?

17 MR. YANGALAY: This is Lawrence. I
18 think the details in the operating plan, we
19 have estimated from the Philadelphia Energy
20 Office that points to how the prices going up
21 in future years. So I tender in the operating
22 finance testimony.

23 MR. HAVER: Who is the director of
24 the Philadelphia Energy Office?

25 MR. YANGALAY: I don't know.

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1 MR. HAVER: Is that a City agency?

2 MR. YANGALAY: The Office of
3 Sustainability, yes.

4 MR. HAVER: So you're getting your
5 price projection from the Office of
6 Sustainability.

7 MR. YANGALAY: Subject to I think we
8 received some memo that presents the trend of
9 the gas costs.

10 MR. HAVER: That would be another
11 transcript request. I would like that memo.

12 MR. YANGALAY: Yeah, we can. I see
13 somebody from --

14 MR. DASENT: We'll provide it.

15 MR. YANGALAY: Yes. I see somebody
16 from the operating department. We have -- we
17 can provide.

18 MR. HAVER: Does Philadelphia Water
19 Department buy its natural gas from
20 Philadelphia Gas Works?

21 MR. DASENT: Subject to check, that
22 is a correct statement.

23 MR. HAVER: And how does PGW notify
24 you of the costs? Do they send you a monthly
25 bill? Quarterly bill? Annual bill? Daily

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1 bill?

2 MR. DASENT: I don't know if
3 Ms. Rogalski can indicate, do we get bills
4 from PGW? I thought I saw some in data
5 responses.

6 MS. ROGALSKI: This is Patricia
7 Rogalski with PWD. We do get some, but I'd
8 have to consult with our accounts payable
9 department to give you that exact answer. I
10 don't have it in front of me.

11 MR. HAVER: Okay. Would you know
12 what rate structure you're under at PGW?

13 MS. ROGALSKI: I would have to look
14 at our actual invoices, which I don't have in
15 front of me. I did not have them pulled for
16 this.

17 MR. HAVER: And again, I assume this
18 is for the Operations Panel, but I will ask:
19 Has the Water Department looked upon buying
20 gas on its own and storing it at PGW
21 facilities as a way to save money?

22 MR. YANGALAY: Not that we know of.

23 MR. JAGT: On the wastewater side,
24 there is some gas collection that occurs in
25 the utilization of the gas within the system.

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1 MR. HAVER: What percentage is that
2 of the total usage?

3 MR. JAGT: I'm not sure what the
4 total percentage is, but I know that there --
5 the facilities are there and used, so...

6 Sorry, I don't -- I'm -- that's --
7 I'm just offering information that I'm aware
8 of. I'm not -- you know, it's beyond the
9 scope of what we testified for, but...

10 MR. HAVER: Okay. Does -- and again,
11 I'm assuming that this is an operational, but
12 I will ask it here. Does the Philadelphia
13 Water Department have a program that rewards
14 workers for devising cost-saving programs?

15 MR. DASENT: That is beyond the scope
16 of their testimony.

17 MR. HAVER: Who would be the
18 appropriate panel to ask that question of?

19 MR. DASENT: Well, I think you can
20 try on the Operations Panel, but I'm not
21 actually sure that it relates to their
22 testimony either. I do remember it came up in
23 a discovery response, and we did provide an
24 answer to you.

25 MR. HAVER: According to the

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1 discovery response, Philadelphia Water
2 Department keeps the money from its Rate
3 Stabilization Fund in US Bank; is that
4 correct?

5 MR. JAGT: Correct.

6 MR. HAVER: According to the
7 discovery response, US Bank has branches,
8 retail branches in Philadelphia; is that
9 correct?

10 MR. DASENT: There is an office in
11 Philadelphia.

12 MR. HAVER: So I was asking, do they
13 have any retail branches in Philadelphia?
14 That was a discovery request. So I'll ask
15 again: Are you aware of any retail branches
16 of US Bank in Philadelphia?

17 MR. DASENT: The discovery response
18 speaks to that. It's an office in
19 Philadelphia that we are aware of.

20 MR. HAVER: That's not my question.
21 I'm asking about retail branches.

22 HEARING OFFICER CHESTNUT: Well,
23 obviously nobody knows.

24 MR. HAVER: Okay. Does US Bank offer
25 any mortgages in Philadelphia?

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1 MR. DASENT: Objection, beyond the
2 scope of the testimony.

3 HEARING OFFICER CHESTNUT: Yeah, it
4 certainly is.

5 MR. HAVER: Again, what a surprise.
6 You couldn't see the relevancy of that, could
7 you?

8 How important would it be to put our
9 money someplace that actually helps
10 Philadelphians? Immaterial, according to you,
11 right, Your Honor?

12 HEARING OFFICER CHESTNUT: Why don't
13 you move on. You know, you can't --

14 MR. HAVER: I'm asking you directly.

15 HEARING OFFICER CHESTNUT: Mr. Haver,
16 you can't insult me, you know.

17 MR. HAVER: Obviously, shame doesn't
18 work.

19 HEARING OFFICER CHESTNUT: No.

20 MR. HAVER: But I'm asking you
21 directly. Why is that not germane, using
22 Philadelphian's money to help Philadelphia?
23 That would make it easier for people to pay
24 their bills. Why doesn't that matter?

25 HEARING OFFICER CHESTNUT: Because

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1 it's not relevant to this particular panel.

2 MR. HAVER: What panel is it relevant
3 to?

4 HEARING OFFICER CHESTNUT: Maybe it's
5 not relevant to any panel.

6 MR. HAVER: Why? Why doesn't that
7 matter?

8 HEARING OFFICER CHESTNUT: Okay.
9 Move on, Mr. Haver. If you have a question
10 for these folks, move on.

11 MR. HAVER: I'm asking why that
12 doesn't matter.

13 HEARING OFFICER CHESTNUT: I'm not
14 going to argue. I'm just going to stop, you
15 know. If you have questions, ask them.

16 MR. HAVER: I am asking.

17 HEARING OFFICER CHESTNUT: Not to me.
18 Ask them.

19 MR. HAVER: Okay. I'll ask the
20 panel. Should it matter whether Philadelphia
21 Water Department uses its resources to help
22 the residents of Philadelphia? Should that
23 matter?

24 MR. YANGALAY: I think we -- the
25 Water Department is using its resources to

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1 help the people of Philadelphia. That's why
2 we're in this business.

3 MR. HAVER: So should it use its
4 purchasing and where it keeps its accounts to
5 help the people of Philadelphia?

6 MR. YANGALAY: Actually, keeping
7 of -- where the money is deposited is a city
8 policy, CTO. So, I mean, we are at -- I think
9 we will go around this thing for a long time.
10 We don't have that direct answer to that.

11 MR. HAVER: So I'm unclear on your
12 answer. Are you saying that it is important
13 or are you saying you don't know if it's
14 important or are you saying it's outside of
15 the scope of your expertise?

16 MR. YANGALAY: Actually is a policy
17 question and we can't -- we don't want to --
18 we don't know.

19 MR. HAVER: So would this be
20 appropriate to ask --

21 MR. YANGALAY: The general thing
22 about PWD uses its resources to help the City
23 of Philadelphia, I told you I agreed to that,
24 and that's why we are here.

25 Now, the specificity of where the

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1 money is banked, I don't think anybody on this
2 panel has that decision, so...

3 MR. HAVER: Okay.

4 MR. DASENT: Mr. Haver, the City
5 Treasurer's Office makes that decision.

6 MR. HAVER: So just as long as we're
7 going to clarify, does the City Treasurer's
8 Department and the water commissioner answer
9 to the same person?

10 MR. YANGALAY: Please repeat it.

11 MR. HAVER: Does the City's Treasury
12 Department and the City's water commissioner
13 answer to the same person? Are they both
14 controlled by the mayor of Philadelphia?

15 MR. DASENT: Ultimately, the mayor,
16 yes.

17 MR. HAVER: Can the Philadelphia
18 water commissioner ask the mayor to intervene
19 on these issues?

20 MR. YANGALAY: Which issues
21 specifically, if I may?

22 MR. HAVER: How the Water Department
23 spends its money and where it keeps its money.

24 MR. YANGALAY: There is -- there
25 is -- the City office produces an investment

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1 policy, so probably we can redirect that to
2 CTO investment policy, which, you know, has, I
3 think, much more say in this kind of matter.

4 MR. HAVER: Again, I'm not clear on
5 the answer. Can the water commissioner --

6 MR. DASENT: The treasurer's office
7 makes the decision.

8 MR. HAVER: I'm sorry.

9 MR. DASENT: The treasurer's office
10 makes the decision here. The Director of
11 Finance is above them, and so those two are
12 the big players here.

13 MR. HAVER: Can the water
14 commissioner ask the mayor to intervene with
15 those two, quote/unquote, big players?

16 MR. DASENT: Objection, this is
17 beyond the scope of testimony.

18 HEARING OFFICER CHESTNUT: Yeah, I
19 don't even understand how anybody could
20 possibly answer that. I really don't.

21 MR. HAVER: Well, it would be a very
22 simple look at a flowchart. You don't know
23 how they can answer whether the water
24 commissioner can ask the mayor for help --

25 HEARING OFFICER CHESTNUT: I don't

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1 know what the scope of his responsibilities
2 are or what he feels appropriate to do.

3 MR. HAVER: You don't think that
4 would be an important point?

5 HEARING OFFICER CHESTNUT: Mr. Haver,
6 what I think about that is irrelevant. What
7 I'm trying to do is just make sure that we
8 develop testimony here consistent with
9 people's testimony so the Rate Board can make
10 an informed decision.

11 MR. HAVER: All right. I'll direct
12 that to the water commissioner.

13 Did anyone from the Water Department
14 ask the procurement commissioner to help find
15 ways to lower your purchase costs?

16 MR. DASENT: Objection. Again,
17 beyond the scope of their testimony. The
18 procurement policy for the City is what it is,
19 looking for the competitive bid process to
20 lower the costs wherever possible. We've
21 answered that in discovery.

22 MR. HAVER: Again, my question is has
23 anyone from the Water Department met with the
24 procurement commissioner to discuss these
25 issues. A simple "yes" or "no."

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1 MR. DASENT: The Operations Panel
2 will be the one to find out how they interact
3 on chemical prices, materials and supply
4 prices with procurement.

5 MR. HAVER: Does the Water Department
6 have the capacity to process and sell more
7 water than it's currently processing and
8 selling?

9 MR. DASENT: Please repeat,
10 Mr. Haver. I'm sorry.

11 MR. HAVER: Does the Philadelphia
12 Water Department have the capacity to process
13 and sell more water than it's currently
14 processing and selling?

15 MR. DASENT: I don't know who best
16 answers that. It's either Mr. Jagt or
17 Mr. Yangalay.

18 Mr. Jagt?

19 MR. JAGT: Subject to -- I would --
20 the appropriate staff to ask is Operations,
21 but my understanding is that the permit
22 withdrawals and the capacities within the
23 water treatment plants we have, that, yes,
24 there's -- there is more -- there is capacity
25 available.

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1 MR. HAVER: Again, I understand that
2 you are saying subject to check, and I will go
3 back to the Operations Panel and make sure
4 that your answer is correct.

5 MR. DASENT: Thank you.

6 MR. HAVER: But assuming for the sake
7 of argument that it is correct, my next
8 question is, would selling more water to
9 water-intensive industries -- I'm sorry,
10 selling more water to water-intensive
11 industries increase water revenues?

12 MR. DASENT: Objection, beyond the
13 scope of their testimony.

14 If you pursue it with the Operations
15 Panel, at least you have, you know, some nexus
16 with relevant testimony.

17 MR. HAVER: It's a straight-up
18 revenue question for people who do modeling.
19 If you sell more, does that increase your
20 revenues?

21 MR. DASENT: It's hypothetical,
22 though, Mr. Haver, because it hasn't happened
23 yet.

24 MR. HAVER: It's a question of the
25 model. Does the model show --

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1 HEARING OFFICER CHESTNUT: It's not a
2 question of the model.

3 MR. HAVER: Once again, you don't
4 even let me finish. Your prejudice is so
5 clear, you don't even let me finish my
6 sentence and you've jumped in. You don't do
7 that to anyone else. You only do it to the
8 people who are opposed to the rate increase.
9 You don't jump in to cut anybody else off.

10 HEARING OFFICER CHESTNUT: Well, I
11 didn't do it to Mr. Ballenger, and he's
12 opposed to the rate increase.

13 MR. HAVER: He is not. He is on
14 record supporting not one, but two years of
15 rate increases.

16 HEARING OFFICER CHESTNUT: Mr. Haver,
17 please try to -- everybody here is trying to
18 be as open and helpful as possible.

19 MR. HAVER: Then let me ask my
20 questions. It's a straight-up revenue
21 question. If you sell more, do you bring in
22 more revenues, "yes" or "no"?

23 MR. YANGALAY: Mr. Haver, let me
24 answer that hypothetically. If you sold more,
25 assuming that your cost remained the same, of

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1 course you would have net revenue. That's --
2 I mean, it doesn't have to be only water; for
3 any commodity.

4 So if you sold more and your cost is
5 the same, of course you get more net revenue.

6 MR. HAVER: Under the proposed model,
7 does the Philadelphia Water Department
8 increase its costs for every additional gallon
9 of water that it sells?

10 MR. YANGALAY: I -- Mr. Jagt, please
11 answer that if you can.

12 MR. JAGT: I can answer that. With
13 the current modeling, it does not, because
14 it's based on the budget and actually an
15 assumption of the spending based on the budget
16 and actually the budget factors, so...

17 No, right now, we are not making an
18 adjustment to increase -- or like increase or
19 decrease in that volume.

20 MR. HAVER: Are any of the
21 consultants familiar with any buying co-ops
22 that are available for water utilities?

23 MR. DASENT: Objection, beyond the
24 scope of their testimony.

25 HEARING OFFICER CHESTNUT: If they

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1 can answer it, I think it would be okay. I
2 think you have to establish that there are
3 such buying co-ops, but...

4 MR. HAVER: We know from the previous
5 record, we had someone from the buying co-op
6 testify at the public hearing and invite
7 Philadelphia Water Department to join it. So
8 we know it exists.

9 MR. JAGT: I know of some other
10 utilities that are within states that have
11 them, and in some occasions they're unable to
12 participate because of, you know, the, like,
13 legal limit, you know, issues and procurement
14 issues within their own department, or the
15 City.

16 MR. HAVER: So you are aware that
17 they exist?

18 MR. JAGT: In some areas, yes.

19 MR. HAVER: Okay. In limited areas.
20 Does that make you more comfortable?

21 MR. JAGT: Correct.

22 MR. HAVER: Okay. Do they help the
23 water utilities save money in those limited
24 areas where it's available and used?

25 MR. JAGT: I would say it would

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1 depend on the utility and the scope and scale
2 of that utility relative to the co-op, so...

3 MR. HAVER: So would you say it's
4 possible and plausible that it would save the
5 utility money?

6 MR. DASENT: Which is it, possible or
7 plausible?

8 MR. HAVER: Both.

9 MR. JAGT: I mean, possible, yes,
10 but, I mean, there would have -- it's not like
11 there is a magic wand out there right now
12 that's going to offer a substantial savings to
13 the department.

14 MR. HAVER: And not to be too
15 unpleasant, because I know the Hearing
16 Examiner already finds me unpleasant. What do
17 you base that on?

18 MR. JAGT: Just the time frame that
19 it's going to take to put it in place, get
20 it -- you know, the procedures set up,
21 establish the contracts involved.

22 MR. HAVER: Have you or your firm
23 helped other utilities join buying co-ops?

24 MR. DASENT: Objection, that is
25 beyond the scope of their testimony.

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1 HEARING OFFICER CHESTNUT: I'll let
2 him answer it, if he can.

3 MR. DASENT: Okay.

4 MR. JAGT: I'm not aware of any.
5 Ann, are you?

6 MR. HAVER: Well, the reason for the
7 question is, I'm just curious how you know how
8 long it takes to become effective if you
9 haven't gone through the process.

10 MR. JAGT: Just familiar with --

11 MS. BUI: So the answer -- I'm sorry,
12 Dave, go ahead.

13 MR. JAGT: Just familiar with the
14 contracting within the city and the processes
15 involved. And especially if it's for a
16 longer-term type contract which has to go
17 through, you know, specific entities within
18 the city.

19 MR. YANGALAY: Yeah. If I may,
20 Mr. Haver, we -- PWD, we are all into save
21 cost. I remember in FY '21 there is a
22 COSTARS, which is a procurement co-op at the
23 state level. PWD communicated with the
24 procurement department and we're told that we
25 could not procure from -- through the COSTARS.

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1 It came up again, I think, a week ago. We
2 went back to procurement to find out whether
3 anything has changed that we can procure from
4 COSTARS.

5 We are still in discussion with
6 procurement to see whether there's any
7 flexibility we can procure from COSTARS. When
8 we receive any information on cost saving, we
9 try to go and find whether PWD can benefit.

10 MR. HAVER: So based on your
11 testimony, the Water Department can contact
12 the procurement commissioner and the
13 procurement office; is that correct?

14 MR. YANGALAY: Yeah, we did -- we had
15 a contact with them, and they respond at a
16 time in 2021 that we --

17 MR. HAVER: Right. I'd like another
18 transcript request. I'd like a copy of that
19 memo or opinion or whatever it is --

20 MR. YANGALAY: It was an e-mail.

21 MR. HAVER: -- that told the Water
22 Department --

23 I'll take the e-mail.

24 MR. YANGALAY: Okay. Thank you, sir.

25 MR. HAVER: Again, on page 9, lines 4

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1 through 5 -- and it would be much simpler if I
2 read it, PWD 2A. It says: The General Fund
3 reimbursement decreased from prior rate case
4 projections of 6.772 million to 6.49 million.

5 Why, is my question.

6 MR. DASENT: It would be a little
7 easier for some of us who need to see the
8 written word. It's on page 2A on what -- I'm
9 sorry, statement 2A on page --

10 MR. HAVER: Page 9, lines 4 through
11 5.

12 MR. YANGALAY: Page 9. I'm trying to
13 get in.

14 MR. DASENT: That refers to General
15 Fund reimbursements decreasing?

16 HEARING OFFICER CHESTNUT: Are you
17 talking about workforce costs increasing?
18 Because that's line 23 on page 9.

19 MR. HAVER: General Fund
20 reimbursement, what Mr. Dasent was
21 referencing.

22 MR. YANGALAY: Where is that we are
23 trying to --

24 MR. HAVER: Mr. Dasent has it.

25 MR. DASENT: The second bullet point,

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1 General Fund reimbursement decreased. That's
2 the bullet.

3 MR. YANGALAY: Page 9? Page 9 of 26?
4 I'm on page 9.

5 MR. DASENT: Yeah, at the top, the
6 second bullet.

7 I think Mr. Haver read it correctly,
8 General Fund reimbursement decreased from
9 power rate case projection of 6.772 million to
10 6.490 million.

11 And this --

12 MR. JAGT: This is a reduction in the
13 costs charged to the department in the General
14 Fund reimbursement. So it reflects the
15 reduction and costs that the General Fund is
16 charging the department.

17 That amount changes year to year and
18 is subject to, you know, the services provided
19 during the year.

20 MR. HAVER: What services does the
21 General Fund provide to the Water Department
22 that the General Fund charges the Water
23 Department for?

24 MR. JAGT: There's -- within that
25 transfer, there's --

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1 MR. HAVER: I'm sorry, I didn't
2 understand that, your sentence.

3 MR. JAGT: I didn't get to complete
4 it.

5 MR. HAVER: Right. The words were --
6 I didn't understand your words. I'm sorry.

7 MR. JAGT: Okay. I'm trying to look
8 up the makeup of that, but if there's --

9 MR. YANGALAY: We can --

10 MR. JAGT: There are -- I mean, in
11 general, there's -- there are larger transfers
12 that are already identified within the
13 modeling, and the larger amounts. These are,
14 you know, smaller transfers to, like other
15 smaller departments like fleet, procurement,
16 and other cost centers. So we can provide the
17 list and the supporting for that amount.

18 MR. HAVER: Okay. And again, I was
19 asking what services does this General Fund,
20 the City's, provide for the Water Department
21 that the City bills the Water Department for?

22 MR. DASENT: We can certainly provide
23 that. I mean, there are multiple departments
24 that -- and there are charges related to that,
25 whether it's the law department or the

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1 Director of Finance or -- I think indemnities
2 is under that. But there's just a lot of
3 transfers.

4 So we can identify that. It will be
5 easier than trying to list them all now.

6 MR. HAVER: Okay. If one of those
7 bills were not to be paid, what would happen?

8 MR. YANGALAY: Please repeat it.

9 MR. HAVER: If one of the bills from
10 the City to the Water Department was not to be
11 paid, what would happen?

12 MR. YANGALAY: If you owe somebody
13 and you don't pay them, I think is -- what
14 happened last year depends on the project as a
15 responsible department would try to settle our
16 obligations.

17 MR. HAVER: Would it have any impact
18 on bonds?

19 MR. YANGALAY: I'm not an expert in
20 bonds, but...

21 MR. HAVER: So let's let the experts
22 on bonds answer the question.

23 MR. YANGALAY: I was talking to the
24 obligation, and we also bid a General Fund for
25 services we provide to them, water, and

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1 General Fund can pay us for services they
2 provide to us. So it goes both ways.

3 MR. HAVER: Would it have any impact
4 on the bonds if the Water Department declined
5 to pay for any of those bills?

6 MR. DASENT: Perhaps Mr. Nissen can
7 address that.

8 MR. NISSEN: Mr. Haver, I don't know
9 specifically if a failure to make a payment to
10 the City that's due and payable would
11 constitute an event of default under the
12 lineage of defaults that are articulated. I
13 would have to go back and look at that.

14 MR. HAVER: Could you provide that,
15 please?

16 MR. NISSEN: Yes.

17 MR. DASENT: And my question is, is
18 it a default if the City -- if the Water
19 Department does not pay the City its
20 obligations according to -- I'm trying to
21 think how to formulate the question.

22 Mr. Nissen, do you understand the
23 question?

24 MR. NISSEN: I do understand the
25 question.

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1 MR. DASENT: Okay. We're fine, then,
2 Mr. Haver.

3 MR. HAVER: Now, I think that you
4 were explaining this before. I just want to
5 make sure I understand.

6 Page 9, lines 7 through 9, still from
7 PWD 2A.

8 MR. DASENT: What's the question?

9 MR. HAVER: So this \$15 million was a
10 surplus that was put in the Rate Stabilization
11 Fund. Is this the money that the transfer
12 ordinance was referencing?

13 MR. DASENT: Mr. Jagt.

14 MR. JAGT: Yes, it was the planned
15 revenue supporting the budget increase.

16 MR. HAVER: To be clear, the Water
17 Department had excess revenues. It decided to
18 put them in the Rate Stabilization Fund, and
19 then it needed city council to approve taking
20 the money out of the Rate Stabilization Fund
21 to use it; is that your testimony?

22 MR. JAGT: Can you repeat your
23 statement?

24 MR. HAVER: Yes. Is it your
25 testimony that the \$15 million was an

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1 overcollection that was placed into the Rate
2 Stabilization Fund that the Water Department
3 needed city council's approval to withdraw the
4 money from the Rate Stabilization Fund and use
5 it for its budgetary needs?

6 MR. JAGT: No.

7 MR. HAVER: Okay. So then is it your
8 testimony that the water commissioner can move
9 money in and out of the Rate Stabilization
10 Fund as he or she sees fit?

11 MR. YANGALAY: Let me make a quick
12 clarification on the 15 million. I stated in
13 the testimony, we also save some cost because
14 of delay in projects. So the 15 million was
15 not only more revenue; it was because we have
16 saved on costs because of the delay in
17 projects, which we started in the 15 million
18 process that was transferred to the Rate
19 Stabilization Fund.

20 MR. HAVER: Thank you for that
21 clarification.

22 Again, is it your testimony that the
23 water commissioner can, without needing city
24 council's approval, put money into the Rate
25 Stabilization Fund or withdraw money from the

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1 Rate Stabilization Fund?

2 MR. DASENT: Technically, that's a
3 legal question. I think we have answered that
4 in discovery. And if anyone knows, it's in
5 the discretion of the water commissioner, but
6 that's a legal question. I'll try to provide
7 that answer for you.

8 MR. HAVER: There seem to be a few
9 lawyers from the Water Department on. I'm
10 waiting for one of them to --

11 MR. DASENT: Well, that's me. I just
12 answered you.

13 MR. HAVER: I did not understand your
14 answer. It's a simple yes-or-no question.

15 MR. DASENT: It's within the
16 discretion of the water commissioner at the
17 end of the fiscal year to make transfers in
18 the Rate Stabilization Fund, and Mr. Yangalay
19 can correct me if I'm wrong.

20 MR. YANGALAY: Yes. And that
21 discretion is constrained. One of the
22 constraints as we are discussing is we have a
23 target for the Rate Stabilization Fund, which
24 in 2018 was 135. So the water commissioner
25 cannot just go and clear out the Rate

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1 Stabilization Fund because it's discretionary.
2 And there are other constraints, financial
3 constraints, that can restrain how much he
4 just go and transfer.

5 MR. HAVER: So going back to the
6 transfer ordinance then, the transfer
7 ordinance wasn't to move money from the Rate
8 Stabilization Fund back to the Water
9 Department. We've made that clear. So the
10 question goes back again, what was being
11 transferred, from where to where?

12 MR. DASENT: Asked and answered,
13 objection.

14 HEARING OFFICER CHESTNUT: If he can
15 clarify, that's okay. I mean, it has been
16 asked and answered, but obviously Mr. Haver
17 still has some questions about it.

18 MR. DASENT: Mr. Jagt, you spoke to
19 that before, the mechanics of the transfer
20 ordinance and what it actually means in that
21 name.

22 MR. YANGALAY: Let me just --
23 Mr. Haver, let me just probably try to make,
24 you know, the same clarification I have made
25 before. The transfer ordinance is going to

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1 city council and say, look, my budget will be
2 short. I need additional money for
3 operations. So city council approved that.

4 At the end of the year, we tally all
5 of our expenditures, our revenue, and see if
6 there has been increase in expenditure above
7 what was projected that would make a transfer
8 from the Rate Stabilization Fund. So what we
9 did as city council was just to authorize us
10 to increase our spending.

11 MR. HAVER: Yes, sir, but you -- the
12 record reflects that you didn't need the
13 authorization; the water commissioner could
14 have done that without the transfer ordinance.

15 MR. YANGALAY: We have to -- if you
16 have to do -- you have to increase your
17 expenditure by a city budgeting procedure, you
18 would have to get authorization from city
19 council. That's why we went for the midyear
20 ordinance.

21 MR. HAVER: Mr. Dasent just said it
22 was the purview of the water commissioner to
23 transfer money in and out, and now you are
24 saying it's not the water commissioner; it's
25 city council. Which is it?

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1 MR. YANGALAY: I was talking,
2 Mr. Haver, about a midyear ordinance.

3 MR. HAVER: Well, once again, let me
4 try and ask it, and then I will move on.

5 MR. YANGALAY: Yes.

6 MR. HAVER: Mr. Dasent has said that
7 the water commissioner can move money in and
8 out of the Rate Stabilization Fund. You
9 yourself have said, yes, that's true, but
10 there are certain constraints.

11 Now you're testifying that the reason
12 why there was a transfer ordinance introduced
13 to city council was to get permission to do
14 just that, take money out of the Rate
15 Stabilization Fund and use it to cover costs.

16 MR. YANGALAY: No. Now --

17 MR. HAVER: I'm sure the hearing
18 reporter can read back your testimony, sir, if
19 you need some help recalling.

20 MR. JAGT: There are two sides of
21 that. So the transfer ordinance increases the
22 expenditures, but because you need a balanced
23 budget, it has to show the revenue adjustment
24 on the other side.

25 The revenue adjustment is -- the

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1 increase in the expenses was balanced with an
2 amount in the Rate Stabilization Fund. It's
3 not -- it doesn't happen, it doesn't draw on
4 it immediately. It's just to show in the
5 budget that it's -- you have the planned
6 resource to cover the additional expenses.

7 MR. HAVER: Why is there --

8 MR. JAGT: At the end of -- go ahead.

9 MR. HAVER: Why is there a need for a
10 transfer ordinance?

11 MR. JAGT: The department was
12 experiencing expenses that were going to be
13 above their authorized spending limit. The
14 counsel approves the budget, it provides them
15 with an authorization to spend up to a certain
16 amount.

17 Based on -- you know, for certain
18 cost categories, like chemicals, electric,
19 gas, things they were going to need to
20 continue to produce water throughout the year,
21 by the end of the year, they were anticipating
22 that they would be over the budget limits, so
23 they were going back to council for
24 authorization to increase those spending
25 amounts.

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1 So everybody is giving you the right
2 answer; it's just Lawrence was speaking from
3 the expense side; Andre is giving you the
4 answer from the revenue side. Because
5 ultimately, at the end of the year, to balance
6 the expenses, there's going to have to be a
7 decision to be made based on the financial
8 policies, like Lawrence is saying, on how much
9 is going to be transferred from the rate
10 stabilization to support this year's expenses.

11 MR. HAVER: Could the Water
12 Department have asked for more?

13 MR. DASENT: Based upon what?

14 MR. HAVER: I'm asking under --
15 forgive me, Mr. Jagt. Jagt, is that how it's
16 pronounced?

17 MR. JAGT: Jagt, like the boat.

18 MR. HAVER: Jagt, forgive me. I
19 apologize.

20 So based on what Mr. Jagt just said,
21 it appears that the Water Department sets the
22 amount that it asks for in the transfer
23 ordinance; is that correct, a correct
24 understanding?

25 MR. YANGALAY: Well, it have to be --

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1 MR. HAVER: I was directing it to
2 Mr. Jagt. It's his testimony.

3 HEARING OFFICER CHESTNUT: They're
4 presenting as a panel. So if Mr. Yangalay can
5 answer that better, let him take a shot at it.
6 If Mr. Jagt wants to answer, that's fine too.

7 MR. JAGT: I was going to say that's
8 my understanding. But Mr. Yangalay would
9 certainly know more, because he's --

10 MR. HAVER: I'm sorry. Your
11 understanding is they have discretion in how
12 much they ask for; is that correct?

13 MR. JAGT: Well, they established the
14 estimate of what they needed and requested
15 that amount.

16 MR. HAVER: Right. At their
17 discretion?

18 MR. YANGALAY: It has to be
19 justified.

20 MR. JAGT: Right, justifiable.

21 MR. HAVER: Understood. It has to be
22 justified, but they have discretion; is that
23 correct?

24 MR. YANGALAY: Depending on the ask.
25 Discretion is part of management.

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1 MR. HAVER: Okay. Thank you.

2 Again, page 12 through 13, lines 22

3 to 5.

4 Does Your Honor want to take a break?

5 HEARING OFFICER CHESTNUT: Well, how
6 much more do you have?

7 MR. HAVER: Well, I'm on page 6 of
8 10.

9 MR. YANGALAY: Page 6 of 10. What is
10 that?

11 MR. DASENT: I think those are
12 Mr. Haver's notes.

13 HEARING OFFICER CHESTNUT: That's
14 your pages of cross?

15 MR. HAVER: Yes. I'm on page 6 of --
16 I'm on the bottom of page 6 of 10 pages.

17 HEARING OFFICER CHESTNUT: Well, I
18 don't know, how much more is that? Another --

19 MR. HAVER: I would estimate a half
20 an hour because I believe a number of these
21 questions you are going to be telling me are
22 operational questions.

23 HEARING OFFICER CHESTNUT: You know,
24 you don't have to be so antagonistic,
25 Mr. Haver, because if you ask a question and

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1 it's not the right panel, I'm sure we could
2 probably make arrangements to have somebody
3 come back and answer it, you know.

4 If you don't ask these people, you
5 ask an Operations Panel a question but it
6 turns out it should have been answered at this
7 one, I'm sure that arrangements could be made.
8 We're trying to be flexible here.

9 MR. HAVER: It's not like -- that is
10 not my experience.

11 HEARING OFFICER CHESTNUT: I know,
12 you're going to --

13 MR. HAVER: That is not my
14 experience.

15 HEARING OFFICER CHESTNUT: -- but
16 that's okay. Fine. Okay. But that is
17 actually the case. So --

18 MR. HAVER: I did not realize you
19 were the arbitrator of objective reality, as
20 well as your -- as well as your profession of
21 being a hearing examiner, you are now a
22 philosopher and you can tell me what objective
23 reality is.

24 MR. DASENT: We're happy to push
25 ahead, Your Honor.

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1 HEARING OFFICER CHESTNUT: Yeah, why
2 don't we just go ahead. I'd really like to
3 wrap this up and take a longer break.

4 MR. HAVER: Okay. Pages 12 through
5 13, lines 22 on -- it starts at line 22,
6 follows to the next page, 13, to line 5.

7 MR. DASENT: Okay. Those are
8 financial metrics. Got it.

9 What is your question?

10 MR. NISSEN: Mr. Haver, can you
11 repeat the reference?

12 MR. HAVER: I'm sorry, yes. Again,
13 testimony PWD 2A, pages -- the bottom of
14 page 12, line 22 to the end, starting on the
15 top of page 15 to line 5.

16 MR. NISSEN: Thank you.

17 MR. HAVER: Do you need more time or
18 should I start asking?

19 MR. DASENT: What's your question?

20 MR. HAVER: What alternatives did the
21 Philadelphia Water Department or its
22 consultants examine before coming up with this
23 proposal?

24 MR. DASENT: This proposal is based
25 upon metrics that were approved by the Rate

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1 Board in the 2018 rate determination. That's
2 the foundation. The witnesses can start from
3 there.

4 Mr. Jagt? I'm sorry, unless
5 Mr. Nissen wants to speak. I'm sorry.

6 MR. NISSEN: We would review the
7 metrics that are considered by the rating
8 agencies that represent the matters they
9 consider in calculating their credit ratings.
10 And those would be the primary metrics we
11 would consider with respect to those points
12 that are articulated at the top of page 13,
13 specifically lines 1 through 6, I think it
14 is -- or 1 through 4.

15 PAYGO funding, debt service coverage
16 ratios, minimum reserve requirements.

17 MR. HAVER: So what alternatives did
18 you look at to what you've proposed?

19 MR. NISSEN: I don't know that
20 there's alternatives. We would look at what
21 is considered to be best practices in order to
22 achieve the credit ratings that the Water
23 Department considers to be important to
24 effectively and efficiently access the capital
25 markets.

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1 MR. HAVER: So, again, just for
2 clarification, there are no alternative models
3 that you looked at and rejected; is that
4 correct?

5 MR. NISSEN: Correct.

6 MR. HAVER: Thank you.

7 You continue to talk about the credit
8 ratings as testimony is very concerned about
9 the comfort of the bondholders.

10 Do the bond rating agencies and the
11 bondholders' comfort have anything to do with
12 how well run a utility is?

13 MR. DASENT: Mr. Nissen, if you can
14 answer that, I don't want to object.

15 MR. NISSEN: Can you rephrase the
16 question? I don't understand its premise.

17 MR. HAVER: So let me break it down.
18 Am I correct that the Water Department and its
19 consultants are very concerned about the
20 comfort of the bondholders?

21 MR. NISSEN: I would state that the
22 Water Department is concerned about its credit
23 rating. I would be -- I would indicate that
24 the use of the term "bondholders" in this
25 context means prospective bondholders, or

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1 those that will need to be sought in order to
2 be able to efficiently sell future revenue
3 bond issues.

4 MR. HAVER: All right. Does the
5 Water Department's testimony in all its
6 various forms reference the comfort of the
7 bondholders as a reason for increasing the
8 debt coverage ratio?

9 MR. NISSEN: As I indicated, I
10 believe that the use of the parlance of
11 "comfort of bondholders" to mean comfort of
12 prospective bondholders.

13 MR. HAVER: Okay. But my question
14 was, is that a concern of the Water Department
15 and its consultants, the comfort of
16 prospective bondholders?

17 MR. NISSEN: With the knowledge that
18 the Water Department needs to access capital
19 markets to efficiently borrow funds for future
20 revenue bond issues, the comfort of
21 prospective bondholders is relevant to them
22 participating in those bond sales and to them
23 participating at interest rates that are
24 relatively attractive for the benefit of the
25 Water Department.

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1 MR. HAVER: Thank you. Does the
2 efficiency of a utility have anything to do
3 with the comfort level of prospective
4 bondholders?

5 MR. DASENT: Mr. Nissen, if you know.

6 MR. NISSEN: I don't know that I can
7 answer that question.

8 MR. HAVER: Is there anyone else on
9 the panel who can answer that question?

10 HEARING OFFICER CHESTNUT: Can you
11 explain why you can't answer that question?
12 Is it the premise that you have problems with?

13 MR. NISSEN: Can you state the
14 question again one more time? Sorry, let me
15 think one more time.

16 MR. HAVER: Okay. I'll try and make
17 it simpler and not waste more time.

18 Do bond rating agencies and
19 prospective bondholders consider the
20 efficiency of the utility for which they are
21 thinking about buying bonds or rating bonds?

22 MR. NISSEN: Can you define
23 efficiency?

24 MR. HAVER: How well run it is
25 according to benchmarks.

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1 MR. NISSEN: Can you define what "how
2 well run it is" means?

3 MR. HAVER: According to national
4 benchmarks.

5 MR. NISSEN: That still doesn't
6 define it. What the rating agencies look at
7 are specific metrics. Debt service coverage,
8 debt-to-revenue ratios, size of the service
9 area, of -- a large number of those.

10 MR. HAVER: So the --

11 MR. NISSEN: The, quote, "efficiency"
12 as you've defined it is not, to my knowledge,
13 one of the metrics they consider in developing
14 their credit ratings.

15 MR. HAVER: So from your point of
16 view, based on your testimony, the Water
17 Department's bond rating and the comfort of
18 prospective bondholders, that has no
19 correlation to how well run the Water
20 Department is; is that correct?

21 MR. DASENT: He did not say that.

22 MR. NISSEN: You used the term
23 "efficiency." I think that as you phrased it
24 there is slightly differently, and I think
25 that runs to a consideration of management.

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1 Management very much is a consideration of the
2 rating agencies, and specifically, the Water
3 Department always gets very high ranks from
4 the rating agencies, explicitly with respect
5 to their management.

6 MR. MATTHEWS: Yeah, I absolutely
7 occur. Operations and management is a factor.
8 It is not the biggest factor. Certainly the
9 ratios, as Mr. Nissen said earlier, and the
10 coverage factors are the primary driver, but
11 the -- the PWD always receives outstanding
12 reviews in terms of its operations and
13 management.

14 MR. HAVER: Is affordability of the
15 bills an issue for the comfort of prospective
16 bondholders and bond rating agencies?

17 MR. NISSEN: I would say that it's
18 relevant and it's a consideration. The use of
19 the term "an issue" has a connotation to it,
20 in my opinion. So it is a factor that they
21 concern. Affordability is certainly a factor
22 that is considered.

23 MR. MATTHEWS: It's a factor in the
24 rating, not necessarily the bondholders. It's
25 a factor in the rating.

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1 MR. HAVER: Don't the ratings have
2 something to do with whether someone buys the
3 bonds and the interest rate that's paid?

4 MR. NISSEN: It's a factor to
5 prospective bondholders.

6 MR. HAVER: Okay. Thank you.

7 Over the next five years, what are
8 the projected amounts in the Rate
9 Stabilization Fund?

10 MR. DASENT: Mr. Jagt?

11 MR. JAGT: During the rate case, I
12 know we projected it to remain relatively
13 stable. We did start to show an increase
14 going forward to reflect the time value of the
15 money and the fact that, you know, in order to
16 maintain a reasonable level of working
17 capital, or reserves, as the City's expenses
18 continued to increase, it was reasonable to
19 increase the reserves to make sure they have
20 an appropriate amount. So I can't give you
21 the exact numbers.

22 MR. HAVER: It's all right. If you
23 have it, that's fine. I'm just again asking,
24 is it your testimony that based on your
25 modeling the amount in the Rate Stabilization

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1 Fund will increase over the next five years,
2 and will it increase beyond the target set by
3 the Water Rate Board?

4 MR. JAGT: We developed a financial
5 plan that reflected the recommendation that it
6 be considered for increasing the target
7 balance to reflect the fact that the operating
8 costs of the department have increased,
9 reserves should be adjusted to reflect that,
10 and it's more of a suggestion for the Board to
11 consider in the long run.

12 Because we're not suggesting it
13 during the current rate proceeding; we're just
14 showing the reality that it is something that
15 the Board should consider moving forward.

16 MR. HAVER: Now I'm lost again.
17 Don't the rates that you're recommending have
18 something to do with how much is in the Rate
19 Stabilization Fund?

20 MR. JAGT: If you look and see the
21 years that we're -- that it has a primary
22 impact on, it does not. Because we are
23 showing that it maintains at just under the
24 target 135 through fiscal year 2025.

25 There is a slight -- there is an

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1 uptick in 2026, but not likely to be due to
2 the increase from 2025. You know, there is a
3 proposed increase -- or a projected increase
4 in 2026 reflected in our financial
5 projections.

6 MR. HAVER: So my question was: Is
7 there a correlation between rates and money in
8 the Rate Stabilization Fund.

9 MR. JAGT: Yeah, because if you don't
10 establish the rates -- (crosstalk) --

11 MR. HAVER: Okay. Got it.

12 MR. JAGT: -- at a sufficient amount,
13 you have to -- (crosstalk) --

14 MR. HAVER: How much is --

15 MR. JAGT: -- requirement.

16 MR. HAVER: How much is currently in
17 the fund as of today? Do you know?

18 MR. JAGT: Approximately
19 138.9 million or almost 139 million.

20 MR. HAVER: Is any of that already
21 set aside for expenses? Is it encumbered in
22 some way?

23 MR. JAGT: I would say there are
24 encumbrances against it, like the transfer
25 we're referencing, but --

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1 MR. HAVER: How much is that
2 encumbrance?

3 MR. JAGT: That's the number that
4 we've said before that we'd have to pull the
5 transcript -- or the ordinance and get the
6 exact numbers.

7 MR. HAVER: And just to be clear, the
8 target is 130 million, set by the Water Rate
9 Board; is that correct?

10 MR. DASENT: That's not correct,
11 but --

12 It's 135 in the 2018 rate
13 determination.

14 MR. JAGT: I believe -- the Rate
15 Board would probably say it's 150 million in
16 combined total with the 15 million in the
17 Residual Fund, and it's the math that gets you
18 to the 135 target for --

19 MR. HAVER: How much is currently in
20 the Residual Fund?

21 MR. JAGT: Right around 15 million.

22 MR. HAVER: Are any of the
23 consultants familiar with the Public Bank of
24 North Dakota?

25 MR. DASENT: Apparently not. And

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1 note our objection to this reach is well
2 beyond the record and well beyond their
3 particular testimony.

4 HEARING OFFICER CHESTNUT: It is, but
5 if they can answer it, I mean, none of them
6 are suggesting using a public bank, but...

7 MR. DASENT: Mr. Jagt? You can
8 answer "yes" or "no."

9 MR. JAGT: Not aware. Not familiar
10 with that.

11 MR. HAVER: Mr. Nissen?

12 MR. NISSEN: Likewise, I am not aware
13 of the institution you referenced.

14 MR. HAVER: Mr. Merritt?

15 MR. MERRITT: I'm not aware.

16 MR. HAVER: Mr. Matthews?

17 MR. MATTHEWS: I'm not aware either.

18 MR. HAVER: If you were made aware of
19 a bank that can offer significantly -- can
20 offer loans at significantly lower interest
21 rates than what the current market -- you're
22 projecting in the current market, would that
23 be of interest to you?

24 MR. DASENT: When you're talking
25 about loans, is this -- I'm trying to put it

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1 in context of this proceeding.

2 MR. HAVER: I'll try and --

3 MR. DASENT: You mean bonds or --

4 MR. HAVER: I will try and make it as
5 clean as possible.

6 If you were able to find a lower cost
7 of capital for the Water Department, would
8 that be of interest to you?

9 MR. DASENT: Let me object because
10 this is beyond the scope of their testimony
11 and the purview or their authority. The city
12 treasurer's office would make a determination
13 as to that. But if someone has some insight,
14 I want to -- I'll reserve my objection.

15 MR. YANGALAY: Mr. Haver, I was
16 trying to follow your question. If it is what
17 it would be for us to entertain low-cost
18 financing, I will vote yes, that we would want
19 to reduce our cost.

20 MR. HAVER: Are any of today's panel
21 aware of the legislation to create a public
22 bank in the city of Philadelphia?

23 MR. YANGALAY: I read about it, I
24 think, a week ago, when I came to one of the
25 discoveries, and I understand the

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1 recommendation is made, and there has been no
2 decision to that effect. That is as much as I
3 know.

4 MR. HAVER: To the best of your
5 knowledge, would having a public bank in
6 Philadelphia lower the cost of capital for the
7 Philadelphia Water Department?

8 MR. YANGALAY: I can't say. I mean,
9 just because having an institution does not
10 mean it's going to be efficient from its start
11 or it's going to be efficient going. Those
12 are questions that if the public bank is
13 established and gave us a cost of financing
14 that is very competitive, I think we can --
15 there is no reason why we shouldn't go for
16 those kind of funding.

17 MR. HAVER: Thank you.

18 MR. YANGALAY: You're welcome.

19 MR. HAVER: I apologize, I don't have
20 a cite for this section, so I'm going to not
21 read it. I'll just ask the follow-up
22 question:

23 When does the Philadelphia Water
24 Department look at cutting operational costs?

25 MR. YANGALAY: Please repeat.

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1 MR. HAVER: In what time frame,
2 before, during, or after requested -- a
3 requested rate increase, does the Philadelphia
4 Water Department look at cutting operational
5 costs?

6 MR. DASENT: The Operations Panel
7 should speak to that.

8 MR. HAVER: Okay.

9 MR. DASENT: That's Mr. Jewell, Ben
10 Jewell.

11 HEARING OFFICER CHESTNUT: If they
12 can answer this. I -- somebody did talk about
13 how they budget and look for -- to justify
14 budget items. I'm not sure who actually
15 testified to that.

16 MR. YANGALAY: If I may, we are
17 continually looking for a way to be efficient.
18 We are not waiting for a particular time to
19 say let's be efficient. This is part of our
20 system, is -- I mean, budget efficiency, cost
21 management, is part of our system from the
22 start of the budget down to procurement, which
23 has to be competitive.

24 So it's been in our operations. So
25 there is no -- so we can't wait for 2026 to

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1 start being efficient. It's part of our
2 process.

3 MR. HAVER: Do you have any written
4 proposals for cutting operational costs that
5 you have reviewed in the last fiscal year?

6 MR. DASENT: We're talking about
7 operational costs. That is definitely for the
8 Operations Panel.

9 MR. HAVER: Let's just --
10 Mr. Yangalay --

11 MR. DASENT: The proposal deals with
12 operations, the mechanics of the day-to-day
13 plant and facility operations. That's theirs
14 in the first instance to answer.

15 MR. HAVER: Right. Mr. Yangalay
16 referenced that they're always looking, so I'm
17 asking what is he looking at? What proposals
18 is he looking at?

19 MR. YANGALAY: We look at everything.

20 MR. HAVER: Right. In what form?
21 Are they written?

22 MR. YANGALAY: If, for instance,
23 somebody want there to procure anything, they
24 send an RFP out -- that's a request for
25 proposal -- it's out there. I mean, if they

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1 send out a proposal, it is reviewed; we look
2 at the most cost-effective, the more
3 responsive. So for our procurement, it goes
4 through this quality control process.

5 If there's a specific procurement you
6 want to refer to about cost savings, cost
7 rationalization, it's just part of our
8 process.

9 MR. HAVER: Sir, I'm asking
10 specifically for the proposals that the
11 Philadelphia Water Department has looked at to
12 save operational costs. You said you're
13 always looking at that. I'm asking for those
14 written proposals.

15 MR. YANGALAY: The -- the efficiency
16 of the system is built through our procurement
17 process, our hiring process. So all of the
18 processes we have built-in efficiency. So
19 except if there is less specific, but it's a
20 continual quality process we built into our
21 system.

22 MR. HAVER: Right, I understand that.
23 But I'm asking if there are specific written
24 proposals. Are there specific written
25 proposals?

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1 MR. YANGALAY: Do you mean in all of
2 our procurement processes?

3 MR. HAVER: Well, sir, you've made it
4 clear you don't control procurement. You've
5 made it clear that the procurement department
6 controls procurement. So asking you about
7 procurement, to me, seems like a waste of
8 time.

9 I'm happy to continue asking you
10 about it, but I've already been ruled out of
11 order. I've already been told by your counsel
12 that you have no control over it. You
13 wouldn't even let me ask the question of
14 whether the procurement commissioner and the
15 water commissioner answered to the same
16 person. I had to reach around the corner to
17 get that out.

18 So I don't want to ask you any more
19 questions about procurement. I'm asking you a
20 specific question: Have you reviewed any
21 proposal for cutting operational costs in the
22 last fiscal year?

23 MR. DASENT: The Operations Panel
24 will be a lot closer to this and can make that
25 particular assessment for you, even refer to

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1 answers -- I mean refer to specific points.

2 HEARING OFFICER CHESTNUT: Let me
3 ask. Are you talking about some kind of
4 overall, department-wide cost-cutting plan?
5 Because it sounds like what Mr. Yangalay is
6 saying is that procurement itself makes sure
7 that they get the lowest cost for the items
8 they procure.

9 MR. HAVER: I am asking about the
10 reference that Mr. Yangalay made that they're
11 always looking for ways to cut costs, and I am
12 exploring what that means. How does that
13 happen? Is there a proposal? Is there
14 something that he's examined? And then if he
15 has, I would like that to be part of the
16 record.

17 MR. YANGALAY: As I say, you have
18 request for proposal. That is if you wanted
19 to, say, procure a consultant or material,
20 we'd put it out there for competitive bid.
21 And we believe that in the process of
22 competitive bidding, you get the best price
23 and the best service.

24 MR. HAVER: Sir, I'm not asking about
25 procurement. I'm asking about proposals that

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1 you have seen that have come across your desk
2 that are proposals to cut costs through
3 changes in operations. Have you seen one of
4 those proposals?

5 MR. DASENT: All proposals go through
6 a procurement process. That's what he's
7 saying. And the procurement process demands
8 that he go with the lowest bid. So in the
9 sense of buying chemicals or finding materials
10 or laboratory services and all of -- and the
11 Operations Panel speaks to all of this; they
12 look for the lowest possible price. And
13 that's what we're talking about.

14 HEARING OFFICER CHESTNUT: I don't
15 think this witness is the one to talk about
16 operational efficiencies. Are you,
17 Mr. Yangalay? Because it doesn't seem like
18 it.

19 MR. YANGALAY: I do want to talk
20 about it. I wanted to talk about -- and
21 that's what I've tried to present is the
22 overall management philosophy of our
23 efficiency. I mean, the overall process,
24 that's the process it goes through. It's an
25 efficiency that this bid included process. So

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1 if we want -- specifically we want to talk
2 about chemical or that thing are really
3 Operational Panel could provide more specific
4 examples.

5 MR. HAVER: And I'm asking about has
6 Mr. Yangalay reviewed a specific proposal to
7 cut costs. It's a simple yes-or-no question.
8 We're wasting a lot of time.

9 HEARING OFFICER CHESTNUT: It's not a
10 simple yes-or-no question because of the
11 premise. I think the problem is that it's not
12 answerable. He has to establish that there
13 was some kind of plan first. I don't
14 understand how there's a context for this,
15 though.

16 Maybe the Operations Panel can tell
17 you how they look for cost-cutting measures.
18 But Mr. Yangalay has answered this multiple
19 times at this point.

20 MR. HAVER: I don't believe he has.
21 He referenced it. I was happy to go with the
22 Operations Panel. He said he knew about it.
23 I'm asking him what he has reviewed.

24 If the answer is he has not reviewed
25 anything, then he has not reviewed anything

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1 and then I can move on.

2 MR. DASENT: He's given you the
3 extent of his knowledge as to the specific
4 issue. We've also answered in discovery about
5 different things like PennVest loans and
6 different other applications to lower our
7 costs on his side, in the Financial Panel.
8 But if you want to talk about operations,
9 that's a different panel.

10 HEARING OFFICER CHESTNUT: Do you
11 have another question?

12 MR. HAVER: Yes. Are you ruling that
13 I can no longer ask Mr. Yangalay about what
14 cost-cutting proposals he's reviewed?

15 HEARING OFFICER CHESTNUT: I'm ruling
16 that you've already asked him. He's already
17 answered and it's time to move on.

18 MR. HAVER: Okay. Can you explain to
19 me, if PWD receives the rate hike it
20 requested, what is the economic incentive --
21 I'm not talking about public policy; I'm not
22 talking about people well intentioned. I'm
23 asking what is the economic incentive for the
24 Water Department to lower costs, increase
25 collections, or take any other action, if it,

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1 through this rate increase, it already is
2 receiving all of the money it needs for
3 operations for fiscal year '24 and '25?

4 MR. DASENT: Mr. Jagt?

5 MR. JAGT: I mean, I would refer to
6 the projected financial plan and show that,
7 you know, any savings that can be identified
8 help reduce the future revenue increases for
9 the department.

10 So as Lawrence has indicated, the
11 department's processes continuously look for
12 savings to realize. I mean, Operations can
13 get into this more. I'm sure there is pilot
14 studies that they have to perform, see how the
15 results come out, identify if it's a
16 potential -- if they will realize savings, put
17 it into place, and it takes time to realize
18 some of these savings.

19 But yes, the department is always
20 looking for savings that they can roll into
21 their financial planning and reduce future
22 rate increases for their customers.

23 MR. HAVER: I appreciate that, but my
24 question was: What is the economic incentive
25 if the revenues are sufficient for fiscal year

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1 2024 and sufficient for 2025? What is the
2 economic incentive, not the public policy, for
3 those two years? What is the economic
4 incentive for them to find cost cutting?

5 MR. JAGT: I mean --

6 MR. DASENT: I think Lawrence is
7 speaking.

8 MR. YANGALAY: Yes. I think that is
9 not -- one is that PWD is very committed to
10 the long-term viability of the system. So
11 let's assume that after we get our revenue
12 increases, we'll save costs. Or we've got
13 another revenue. Just like we did in FY22, we
14 deposit any access to the Rate Stabilization
15 Fund.

16 And, please, if I may point out, the
17 Rate Stabilization Fund that we kept drawing
18 on for a long time was also surpluses that
19 were received. So if we were, for analogue,
20 get additional revenue, or happen to find some
21 more efficiency in the system, which we are
22 all, of course, looking for, if we have any
23 excess funds, we will, of course, put it in
24 the units that would benefit the system over
25 the long term. I think that is how we have

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1 been managing these projections.

2 MR. HAVER: Would there be a greater
3 economic need to find cost savings if the
4 Water Department was not granted the rate
5 increase that it requested?

6 MR. YANGALAY: I think we've
7 identified -- we identified to the best of our
8 knowledge what cost saving we project on the
9 line of cost update because we are taking
10 low-interest loan, and all of these cost
11 savings we identify are projected in the rate
12 case.

13 MR. HAVER: Yes, sir, I appreciate
14 that, but that's not my question. My question
15 is: Would there be a greater economic
16 incentive for cutting costs or finding savings
17 if the Water Department does not get the rate
18 increase that it requested?

19 MR. YANGALAY: The incentives as I
20 tried to understand is, if I may read from
21 your question, if we don't get the necessary
22 resources, what will happen. And, for
23 instance, investment in our infrastructure may
24 be at risk. And that, I don't think is
25 economic incentive. It's compromising the

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1 system.

2 MR. HAVER: And with all due respect,
3 sir, that is not my question. My question is
4 based on macroeconomics. If a system does not
5 get the resources, the financial resources it
6 needs, is it more likely to look for cost
7 savings than if it gets the resources it says
8 it needs?

9 MR. YANGALAY: Yeah, but that
10 macroeconomic assumption is based in my
11 understanding on the premise that our behavior
12 is going to be motivated by you not giving us
13 resources.

14 Well, we assume that we have
15 identified cost savings to the best of what we
16 can now. If we don't get the needed
17 resources, that means we have to start setting
18 priority, and there would be some aspect of
19 our operation that would suffer.

20 MR. HAVER: Yes.

21 MR. YANGALAY: This would be the
22 process, that we don't -- we are afraid
23 that -- we don't pull it, we don't get the
24 resources to continue to invest in our system.

25 MR. HAVER: So again, if I understand

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1 your testimony, if you don't receive the rate
2 increase that you believe is necessary, you
3 will have to look to cut costs; is that
4 correct?

5 MR. YANGALAY: That is natural, of
6 course. If you don't get the resources, you
7 wouldn't spend it, and there will be certain
8 aspects of the operation that would suffer the
9 most.

10 MR. HAVER: And if you get the money
11 that you've requested, would you have the same
12 incentive to look for cost cutting?

13 MR. YANGALAY: Yes, we have.

14 MR. HAVER: Why is that, sir?

15 MR. YANGALAY: Because it's all we be
16 doing. If we can -- we can have more excess
17 resources -- as we did in FY '22, we put it in
18 our Rate Stabilization Fund. Imagine if we
19 have not done that, we would still have to
20 draw down more on the Rate Stabilization Fund.

21 MR. HAVER: I'm not supposed to
22 answer your questions, but I would ponder how
23 consumers feel about paying -- lending the
24 Water Department money through paying higher
25 rates now so the Water Department can put it

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1 in the bank.

2 I, as a consumer, would rather put my
3 money in my bank than put it in your bank,
4 sir. But I'll make those arguments in brief.

5 MR. DASENT: There's no question.

6 MR. YANGALAY: I think what -- the
7 consumer, as much as they are concerned about
8 the current condition, they are equally
9 concerned about the resilience of the system.
10 How will the system look in the next five,
11 six, seven, ten years, and that is what I
12 think PWD is fighting, that we have to
13 continue to invest in this aged
14 infrastructure.

15 MR. HOVSEPIAN: Mr. Haver, my name is
16 Vahe Hovsepian, and I can talk about the
17 capital program from the asset management.
18 And every project that we do in design,
19 basically we do a cost analysis.

20 It's an ongoing process that every
21 time we have a project, we do an alternative
22 analysis to find out which is the most
23 cost-effective way of implementing a project.
24 It's basically part of our policy. So it's
25 not just one thing; it's continuous things.

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1 So every time we do a capital
2 program, we make sure that we look at
3 different costs and options and try to see
4 which is the most cost-effective way of
5 implementing that project, before it goes to
6 procurement to be bid. So that's -- that's
7 internal process that we have in the Water
8 Department.

9 MR. HAVER: Thank you, sir.

10 If you don't receive the money that
11 you requested in the capital budget, do you
12 have to make decisions about how to save
13 money?

14 MR. HOVSEPIAN: It's not about saving
15 money; it's about cutting programs that would
16 impact the health and safety of the
17 ratepayers.

18 MR. HAVER: So you don't look at how
19 to cut costs; you look --

20 MR. HOVSEPIAN: We do. Every
21 project -- every project includes a cost
22 alternatives analysis.

23 MR. HAVER: Right. And if you don't
24 get the funds that you need, your first step
25 is to cut programs; is that correct?

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1 MR. HOVSEPIAN: If we don't have the
2 funds available, yes.

3 MR. HAVER: You don't look to find a
4 different way of achieving the project?

5 MR. HOVSEPIAN: We are already doing
6 that. We are looking at cost -- different
7 cost alternative analysis to see which is the
8 most cost-effective way of doing something.
9 We are already doing that.

10 MR. JAGT: I'd like to point out one
11 reference that's been brought to the attention
12 through the public input. PennFuture provided
13 some input, and in their -- you know, the
14 information they provided, they pointed to the
15 ASCE or American Society of Civil Engineers.
16 They do a scorecard of America's
17 infrastructure.

18 And they're pointing out that the
19 water infrastructure as an industry gets a
20 poor grade. It's because we're not doing the
21 investment. Most of the premise that's
22 driving this is the pressures to keep rates
23 down. That's constant.

24 It's the premise that you need to
25 keep rates down. It suppresses the ability to

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1 provide the funds to continue the reinvestment
2 in the system. It's a -- you know, it's a
3 reflection, and like the whole national
4 experience.

5 So I just want to point that out,
6 that the responses you are hearing is exactly
7 along the lines that's, you know, evident in
8 the industry experience. You know, that
9 information that's out there is that that
10 exact pressure is what, you know, forces
11 utility management to cut program costs,
12 reduce reinvestment in the system, and, you
13 know, run the risk of, you know, continuing to
14 run older, aging infrastructure and providing
15 these services.

16 MR. HAVER: Thank you.

17 I'm sorry, I didn't mean to cut you
18 off. I thought you were finished.

19 MR. JAGT: That's okay. I mean, it's
20 a management issue in the industry, and, you
21 know, unfortunately at some point, like ASCE
22 is pointing out, our national scorecard is not
23 good. There needs to be a reinvestment in the
24 system to continue and maintain it.

25 MR. HAVER: Thank you.

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1 I think you've referenced the public
2 hearings, and I believe at the public hearings
3 the same witness testified that the Water
4 Department ought to get money from the
5 American Rescue Plan Act rather than raise
6 rates.

7 I'm referencing page 25, lines 6
8 through 11 of PWD 2A.

9 HEARING OFFICER CHESTNUT: I'm sorry,
10 did you say page 25?

11 MR. HAVER: Yes.

12 MR. DASENT: Line 6, Mr. Haver?

13 MR. HAVER: Lines 6 through 11.

14 MR. DASENT: Got it. So ARPA
15 funding?

16 MR. HAVER: Yes. Regarding the
17 American Rescue Plan Act, is the first
18 sentence.

19 MR. DASENT: Your question, sir?

20 MR. HAVER: Okay. Can the Water
21 Department receive funds if they were
22 allocated through the American Rescue Plan
23 Act? Is it permitted?

24 MR. DASENT: Mr. Jagt, if you know.

25 MR. JAGT: There's discovery request

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1 questions that address this, and the -- you
2 know, the implications of it I have relative
3 to the bonds general ordinance; that's already
4 on record. So I think legally, I mean, yes,
5 there would be -- if -- if the money were
6 provided, it could be recognized.

7 But it's -- you know, the fundamental
8 issue is it has to be provided by City
9 management. There's also a record out there
10 that the department has reached out to the
11 City and been told that -- gotten a response
12 that it's not in their -- the City's planning
13 and it's not necessarily in the City's nor the
14 department's best interest to do that.

15 MR. HAVER: I understand what you're
16 saying and I'm asking how you came to that
17 conclusion. Is there a written document that
18 outlines that?

19 MR. DASENT: That's Schedule GA --
20 I'm sorry, Mr. Yangalay. Schedule attached to
21 PWD Rebuttal Statement 5, I believe it's GA1.
22 It's a letter from the Department of Finance
23 to Mr. Yangalay, or the Water Department,
24 concerning the City's plans to using -- for
25 using ARPA funds for General Fund purposes as

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1 opposed to the Water Fund. But Mr. Yangalay
2 can speak to that.

3 MR. YANGALAY: Yes. Thank you. And
4 the fund as -- the writer stated in his
5 response clearly their opinion on funding the
6 Water Department. So that -- that letter was
7 received, I think is posted in one of the
8 discovery.

9 MR. HAVER: How did the water
10 commissioner ask the mayor to include funding
11 for the Water Department through ARPA?

12 MR. YANGALAY: We made a letter to
13 the Director of Finance.

14 MR. HAVER: Can you make that letter
15 available?

16 MR. YANGALAY: Yes, we can.

17 MR. DASENT: Make that TR5.

18 MR. HAVER: Yes. Thank you.

19 I'm inferring from your statement
20 that the water commissioner did not have any
21 discussion with the mayor; is that correct?

22 MR. YANGALAY: I don't know who he
23 had a discussion with, but we have discussion
24 with the water -- please rephrase your
25 question, please.

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1 MR. HAVER: Okay. I'm asking if the
2 water commissioner approached the mayor
3 directly, seeking funds for the Water
4 Department through ARPA.

5 MR. YANGALAY: I wouldn't -- I
6 wouldn't know that. I have no knowledge that
7 he has had direct discussion with the mayor on
8 that specific issue.

9 MR. HAVER: In your testimony, sir,
10 before Philadelphia City Council, did you
11 request any ARPA funds be set aside for the
12 Philadelphia Water Department?

13 MR. DASENT: That request was already
14 made to the Director of Finance who puts
15 together the budget.

16 MR. HAVER: That wasn't my question,
17 Mr. Dasent.

18 My question was: Mr. Yangalay spoke
19 directly to city council, not the finance
20 director, and, sir, you are too well-informed
21 to confuse the two issues. The legislative
22 body and the executive body don't always see
23 eye to eye, as you know.

24 My question was, Mr. Yangalay, when
25 you testified before Philadelphia City

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1 Council, did you make a direct request for the
2 Philadelphia Water Department to receive funds
3 from ARPA?

4 MR. YANGALAY: Let me just give a
5 quick -- I know we have -- we have been here
6 long enough. Let me just give a quick
7 background.

8 Sitting members of city council wrote
9 us, directing us to go to the executive to get
10 money from. So it was not a matter of writing
11 them; the executive suggested we go there for
12 money.

13 So we approached the finance director
14 and said that we could not get money from
15 there. So it was something that during our
16 hearing, it came up. I think it's not a
17 matter of us asking city council to approve
18 the money. If the city council suggested that
19 we go to get the money, but we went to the
20 executive, and they said that it was not
21 possible to get money at this time.

22 MR. HAVER: Great. So it's your --

23 MR. YANGALAY: So your question then
24 to me, it couldn't matter because it isn't
25 part of the issue.

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1 MR. HAVER: So your testimony, sir,
2 is you did -- when you testified before
3 Philadelphia City Council, you did not make
4 such a request; is that correct?

5 MR. YANGALAY: What I'm saying is the
6 city council had asked us to go to the
7 Director of Finance to get upper money. So
8 they directed us to go. So we went to the
9 Director of Finance asking if we could get
10 upper money.

11 MR. HAVER: My question, sir, wasn't
12 who you went to. My question was when you
13 testified before the Philadelphia City
14 Council, did you ask for appropriations to
15 come from the American Rescue Plan Act to go
16 to the Philadelphia Water Department?

17 MR. DASENT: Objection, asked and
18 answered.

19 HEARING OFFICER CHESTNUT: We'll let
20 him do it one more time here. I think it's
21 pretty clear.

22 MR. HAVER: Well, all he has to say
23 is no, I know what he testified. I don't
24 understand what the difficulty is. He didn't
25 ask. Let him say "I didn't ask." It's --

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1 HEARING OFFICER CHESTNUT: I think
2 you're oversimplifying it. He explained the
3 process.

4 MR. HAVER: He testified before
5 Philadelphia City Council. He didn't mention
6 it. He didn't talk about it. All he has to
7 say is I didn't do it.

8 MR. YANGALAY: Let me try once more.
9 When we apply for rate increase, city council
10 looked at us, said go to the finance director,
11 there will be money there, go and get it.

12 So we went to the finance director.
13 Finance director said, no, we cannot. So even
14 if I had requested, they already told us where
15 to go for the money. So to me, it would mean
16 have any consequence just to say again make an
17 appropriation.

18 MR. HAVER: Thank you.

19 MR. YANGALAY: Welcome.

20 MR. HAVER: I didn't get a chance to
21 review all of the discovery requests that
22 Mr. Dasent sent me, so I'm guessing some of
23 this was in that, but I apologize for being
24 duplicative. I'll go through them very
25 quickly.

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1 HEARING OFFICER CHESTNUT: Well,
2 shall we take a break now and then you can
3 review them?

4 MR. HAVER: I don't know that I would
5 have the time I needed. You would have to
6 give me a few hours, because not only do I
7 have to read what he says, I'd have to
8 reference to see whether I believe he's
9 prevaricating or not.

10 For example, when I asked him if
11 there were any retail branches of US Bank and
12 he said yes, that's a prevarication. They
13 have an office, but they don't have retail
14 branches.

15 MR. DASENT: They have an office.

16 MR. HAVER: But that wasn't my
17 question, as you know, sir.

18 HEARING OFFICER CHESTNUT: Why don't
19 we take a half-hour break. I really do need
20 to take a break at this point.

21 MR. HAVER: Sure.

22 HEARING OFFICER CHESTNUT: Why don't
23 we resume at 1:30.

24 (Recess taken, 12:57 p.m. to
25 1:33 p.m. EDT)

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1 HEARING OFFICER CHESTNUT: All right.
2 Shall we resume the hearing?

3 Mr. Haver, did you want to continue
4 your cross?

5 MR. HAVER: Yes, I do. And just so
6 you know, I only have two pages left.

7 HEARING OFFICER CHESTNUT: Take as
8 much time as you need.

9 MR. HAVER: Thank you.

10 Does the City's Procurement
11 Department hire the outside bond counsel or
12 does the Philadelphia Water Department hire
13 the outside bond counsel?

14 MR. DASENT: The City treasurer's
15 office is the answer, but Mr. Yangalay knows
16 this better.

17 HEARING OFFICER CHESTNUT:
18 Mr. Yangalay, you're muted.

19 MR. YANGALAY: The City office does,
20 the City treasurer office.

21 MR. HAVER: On what basis is the
22 selection made?

23 MR. YANGALAY: We understand is
24 competitive bidding.

25 MR. HAVER: Okay. I'm not sure who

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1 the "we" in that sentence is.

2 MR. YANGALAY: PWD.

3 MR. HAVER: You understand but you
4 don't know?

5 MR. YANGALAY: I said PWD understands
6 that it is competitive bidding.

7 MR. HAVER: Right. Forgive me, sir,
8 I'm not sure I understand the use of the word
9 "understands" in that sentence.

10 Are you saying you're unsure but
11 that's your understanding or are you saying
12 you know and your use of the word
13 "understands" means that you have knowledge
14 of?

15 MR. YANGALAY: It only means I know
16 it to be so, but I don't have the proof in my
17 hand.

18 MR. HAVER: Thank you.

19 Can someone either from the
20 consultants or the Water Department explain
21 who PennVest is?

22 MR. DASENT: Mr. Jagt?

23 MR. JAGT: Yeah. PennVest is the
24 entity that oversees, you know, some of the
25 funding programs provided by the State, and so

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1 they -- they receive federal funding in
2 support of the water and wastewater industry
3 and provide low -- like the State revolving
4 funds. And they manage those funds and
5 disbursing or, you know, providing
6 low-interest loans to utilities that apply.

7 MR. HAVER: Are those funds
8 guaranteed in some way?

9 MR. JAGT: Sorry, I'm going to have
10 to ask you to define "funds."

11 MR. HAVER: Are the bonds that
12 PennVest issues, is there bond insurance?
13 Does PennVest stay as a backstop for them?
14 Are they guaranteed payment by PennVest?

15 MR. DASENT: It's a loan, Mr. Haver.
16 It's a loan.

17 MR. JAGT: Personally, I don't know
18 the direct answer because I know there is
19 options out there that aren't used as much
20 today, but I would have to do some research.

21 MR. DASENT: Mr. Yangalay, can you
22 express in response to Mr. Haver's question,
23 the nature of PennVest loans?

24 MR. YANGALAY: I just need for him to
25 repeat his question again to clearly --

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1 MR. DASENT: Okay. Thank you.

2 MR. HAVER: Some loans or bonds have
3 insurance to guarantee the bondholders receive
4 payments.

5 Do PennVest bonds have insurance that
6 guarantees the bondholders payments?

7 MR. YANGALAY: The question is do we
8 provide guarantee to PennVest --

9 MR. HOVSEPIAN: I think the question
10 should be directed to the PennVest Board.

11 MR. DASENT: Well, that's one way,
12 and I'm just trying to figure out, you know,
13 if it's loan as opposed to a bond. You know,
14 the PennVest loan would support the debt
15 service, I suppose, on some of those bonds,
16 but maybe Acacia can weigh in?

17 MR. NISSEN: I will respond with what
18 I know. And I think a distinction needs to be
19 made with the question that Mr. Haver asked.

20 Revolving loan programs will
21 sometimes access public markets by the
22 issuance of their own bonds, which then become
23 the source of funds from which they can make
24 loans to entities within their jurisdiction.

25 Those bonds that they issue to the

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1 public may or may not be insured. PennVest,
2 I -- I apologize, but I don't know if the
3 source of their funding that they can do is
4 related to publicly issued bonds. They're
5 still outstanding, and I don't know
6 certainly -- I don't know if those bonds have
7 been issued and are in existence, whether or
8 not they've been insured or whether those are
9 ultimately sources of fundings that have been
10 provided by the State and are not funds
11 generated from other public borrowings.

12 Loans made by PennVest to local
13 issuers, such as PWD, are not publicly offered
14 and -- well, I guess an entity could choose to
15 get insurance to protect PennVest's interests
16 were they so requested. In this case, the
17 Water Department does not get insurance to
18 insure its bonds that -- or loans that it has
19 entered into with PennVest and to which it is
20 obligated to make payments over time.

21 MR. MATTHEWS: Yeah, PennVest is the
22 only bondholder from which the Water
23 Department would borrow from.

24 So PennVest issues the loan to the
25 Water Department, and PennVest owns -- would

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1 own the bond. However -- how PennVest
2 acquires the capital to make those loans to
3 local issuers, as Pete was saying, it's from a
4 combination of -- they may issue public debt.
5 It may be from the repayment of -- a way a lot
6 of revolving funds work, it may be from the
7 repayment of debt service over the years and
8 has accumulated, so multiple sources of
9 funding.

10 MR. HAVER: Thank you.

11 The loans that PennVest makes to the
12 Philadelphia Water Department, do they have --
13 do they require a coverage ratio of 1.2?

14 MR. JAGT: Yeah, they're issued as
15 senior debt. Sorry, Pete. Go ahead.

16 MR. NISSEN: Yes, to echo what
17 Mr. Jagt was saying, the bonds that the Water
18 Department has issued to PennVest, the loans
19 that the Water Department has entered into are
20 the same as other senior obligations under the
21 general bond ordinance.

22 And so they are entitled to and
23 obligated to the same 1.2 times minimum
24 coverage that applies to all other outstanding
25 public obligation bonds and the WIFIA

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1 borrowing as well, as well as the one-times
2 coverage in the 90% coverage tests which are
3 articulated in many places in the testimony.

4 MR. HAVER: Does PennVest require
5 higher than 1.2 coverage ratio for its
6 comfort?

7 MR. MATTHEWS: The bonds are issued
8 on the same indenture as the other debt that
9 PWD issues, so -- as I said, PennVest is the
10 holder of the bond, so they have to accept the
11 same terms that any other bondholder would
12 accept.

13 MR. NISSEN: No, subject to check.
14 Mr. Haver, no, subject to check.

15 MR. HAVER: I'm sorry, forgive me.
16 I'm not sure what question you're answering.

17 MR. NISSEN: The question that you
18 had asked a moment ago: Do they demand a
19 different level of coverage than what is
20 articulated in the Water Department's own
21 general bond ordinance.

22 MR. HAVER: Which is 1.2?

23 MR. NISSEN: Correct.

24 MR. HAVER: Thank you.

25 Who is on the PennVest Board?

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1 MR. NISSEN: I don't know.

2 MR. DASENT: Objection. Yeah, that's
3 beyond the scope.

4 HEARING OFFICER CHESTNUT: How is
5 that relevant?

6 MR. HAVER: If it's relevant -- the
7 reason it's relevant, if the Board is made up
8 of political appointees, then one of the
9 things the water -- so you asked me how it's
10 relevant. I'm explaining it.

11 But again, you --

12 HEARING OFFICER CHESTNUT: Okay. Go
13 ahead, explain.

14 MR. HAVER: So going before city
15 council and saying we can use city council's
16 help in lobbying PennVest to make it easier
17 for the City of Philadelphia to get loans and
18 grants would be a welcome use of the Water
19 Department's testimony.

20 HEARING OFFICER CHESTNUT: You have a
21 lot of unsupported assumptions in that
22 statement. But go ahead.

23 MR. HAVER: So I'm asking again: Who
24 is on the --

25 HEARING OFFICER CHESTNUT: No, I'm

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1 not going to let you ask who is on the
2 PennVest Board. That is just beyond this --

3 MR. HOVSEPIAN: That information is
4 available online. If you Google PennVest
5 Board of Directors, Mr. Haver, you get all of
6 the names of the individuals who are on the
7 board.

8 MR. DASENT: Judge Chestnut said
9 we're not answering that question. But yeah,
10 thank you for that.

11 HEARING OFFICER CHESTNUT: Yes.

12 MR. HAVER: What's the total amount
13 of money borrowed through a PennVest program?

14 MR. DASENT: Do you mean by that
15 outstanding?

16 HEARING OFFICER CHESTNUT: I'm sorry,
17 do you mean that PWD borrowed or that anyone
18 can borrow?

19 MR. HAVER: I'm asking about how much
20 money, total amount of money, that PWD has
21 borrowed to date and still owes to date
22 through PennVest.

23 MR. DASENT: There is a chart in the
24 filing that speaks to that, but, Mr. Jagt, I
25 have a feeling you're close to it as well as

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1 Mr. Yangalay.

2 MR. JAGT: Unfortunately, like I can
3 provide going forward, we have, you know, the
4 160 million cost that they mentioned, but
5 there's also the historical PennVest loans,
6 which I would have to go back and look at the,
7 you know, the issuance amounts to provide a
8 complete number. The department has received
9 PennVest loans.

10 MR. YANGALAY: We can provide you the
11 update as of now --

12 MR. HAVER: Thank you.

13 MR. YANGALAY: -- that we have -- we
14 have borrowed and what is outstanding. We can
15 provide that.

16 MR. HAVER: And what's the total debt
17 outstanding for PWD as of today?

18 MR. YANGALAY: I don't know the exact
19 number. I think by June 30th that was around
20 two point something billion. It's in our
21 financial statement, so I think that's
22 publicly available.

23 MR. NISSEN: Yes, Lawrence, I think
24 that's correct, but similar to the PennVest
25 balance outstanding, we can figure that out

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1 and provide it.

2 MR. HAVER: Thank you. I'm looking
3 for the ratio of total debt of PennVest to the
4 total debt.

5 I think it was Mr. Nissen -- and
6 forgive me. Am I pronouncing your name
7 correctly?

8 MR. NISSEN: It's pronounced Nissen,
9 rhymes with listen.

10 MR. HAVER: Nissen.

11 Mr. Nissen talked a little bit about
12 bond insurance. Does bond insurance have
13 anything to do with the bond rating?

14 MR. NISSEN: No. Let me describe.
15 Rating agencies will apply a credit rating to
16 an issuer who seeks to be rated, and they will
17 base that based on their own methodology and
18 the metrics and other information that are
19 provided. It's commonly known as the
20 underlying rating.

21 For the Water Department, as
22 testified earlier, those ratings are in the
23 top of the A category, A1, A+, A+, from
24 Moody's, S&P and Fitch.

25 Bond insurance, which, to describe

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1 it, is a little bit different than home
2 insurance or car insurance, for example, in
3 that with home insurance or car insurance, in
4 the event you are in some sort of an accident
5 or you have some sort of damage to your house,
6 to the extent it qualifies under the policy,
7 you receive a payment that hopefully provides
8 you the economic value of what you've lost,
9 but it doesn't require you to pay that amount
10 back to the insurance company. You continue
11 to make your premium payments. Perhaps they
12 go up as a consequence of the events, but they
13 reimburse you to the position that you were in
14 beforehand.

15 Bond insurance simply means that the
16 entity, the two major ones being Assured
17 Guaranty and Build America Mutual, if I have
18 it -- the acronym is BAM.

19 In the event that an issuer is unable
20 to pay its debt service, they step in and pay
21 the debt service to the bondholders on behalf
22 of the issuer, but that in no way relieves the
23 issuer of the obligation to still make the
24 payment on the debt service. They simply now
25 have to make it to the bond insurer who has

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1 stepped into their shoes rather than to the
2 bond -- rather to the direct bondholders.

3 The reason that parties get bond
4 insurance is under the hope and expectation
5 that the credit rating of the bond insurer,
6 for which both BAM and Assured are in the AA
7 category, can provide them a lower cost of
8 funds by entering the market in exchange for
9 the premium payment they will have to make in
10 order to procure that policy.

11 It's merely an economic decision to
12 be made. Can you save more money by using it?
13 And it's not common -- it's not -- it's more
14 often used by lower-credit-rated entities than
15 it is higher, because the marginal amount of
16 additional benefit you get from using it
17 diminishes as your own credit rating is higher
18 itself. So --

19 MR. HAVER: Thank you.

20 MR. NISSEN: -- in a way, it affects
21 your credit rating, but it's not -- it does
22 not affect your underlying credit rating. It
23 has no impact on the rating agency's analysis
24 of the underlying credit rating.

25 MR. HAVER: Thank you.

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1 MR. MATTHEWS: It could increase the
2 rating on the bond, but it doesn't affect the
3 underlying rating. And the only reason an
4 issuer would use bond insurance is if it was
5 going to give them a lower overall net cost
6 than if they were to issue bonds without. And
7 we go through that exercise anytime we decide
8 to issue debt and get the most efficient
9 alternative.

10 MR. HAVER: When was the last time
11 that analysis was done for the Philadelphia
12 Water Department?

13 MR. MATTHEWS: Probably the last time
14 that they issued debt. We typically haven't
15 used bond insurance, because as Pete said, the
16 rating on the Water Department's bonds is
17 pretty strong and the demand for bond
18 insurers, the premium that they're offering
19 usually is not cost-effective.

20 MR. HAVER: Can I get a copy of the
21 last analysis?

22 MR. MATTHEWS: Yeah, we evaluate
23 that on the day of --

24 MR. HAVER: May I get a copy of the
25 last analysis?

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1 MR. DASENT: I don't know if that's
2 publicly available, but let me look.

3 MR. HAVER: Sometimes when people
4 talk about the issuance of bonds, they talk
5 about a backstop. Could you help me
6 understand what a backstop means in that
7 usage?

8 MR. NISSEN: Sure. What I suspect
9 that parties mean, if they've used the term
10 "backstop" in connection with bonds, is some
11 sort of additional resource behind the primary
12 security that is offered to repay the bonds.

13 So in the instance of the debt in the
14 bond of the Water Department, the first
15 security is the net revenues of the Water
16 Department. If there is another entity that
17 stands further behind that or commits to repay
18 the debt service in some instance where the
19 Water Department is unable to do so, that
20 would be sometimes described as a backstop.

21 If, for example, the City were to
22 apply its general obligation credit as a
23 backstop to the revenue pledge of the Water
24 Department, that would be an instance where
25 there may be a backstop.

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1 Of course, in this instance, there is
2 no City guarantee, there is no City pledge of
3 its general obligation toward the payment of
4 the Water Department's bonds.

5 MR. HAVER: What's the advantage of
6 having a backstop?

7 MR. NISSEN: Presumably the advantage
8 would be the hope and expectation that the
9 credit rating could be improved and so the
10 borrowing costs could be reduced.

11 MR. HAVER: What was the --
12 Forgive me, I'm sorry.

13 MR. NISSEN: If the cumulative -- if
14 the marrying of the two credits, the initial
15 credit and the backstop, is considered to be
16 stronger than the initial security itself.

17 MR. HAVER: What is the --

18 MR. MATTHEWS: Typically as a
19 backstop, the backstop is from a credit that
20 is stronger than the one that's issuing the
21 debt to enhance the rating. But you would
22 probably not seek a backstop from another
23 credit that is the same or at a lower credit
24 rating.

25 MR. NISSEN: Which is the case for

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1 the City of Philadelphia. The City of
2 Philadelphia's general obligation credit
3 rating is one notch lower than the
4 revenue-backed credit rating of the Water
5 Department.

6 MR. MATTHEWS: Exactly.

7 MR. HAVER: How is PGW's bond rating?

8 MR. DASENT: Objection, beyond the
9 scope of the testimony.

10 HEARING OFFICER CHESTNUT: It's
11 irrelevant. Irrelevant.

12 MR. HAVER: Why? PGW is owned by the
13 City. Why couldn't it be used as a backstop?

14 HEARING OFFICER CHESTNUT: Because
15 this is a PWD hearing.

16 MR. DASENT: They're not an operating
17 department of the City. They're a different
18 fund.

19 MR. HAVER: Again, my understanding
20 is that somebody stands behind the bonds and
21 agrees to make payments if the bondholders are
22 not paid. Have I misunderstood?

23 HEARING OFFICER CHESTNUT: Is that
24 some kind of question? I don't understand.
25 Who are you -- are you directing it to these

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1 witnesses?

2 MR. HAVER: Yes.

3 HEARING OFFICER CHESTNUT: They've
4 already answered -- they've already answered
5 it.

6 How is it different from your prior
7 question?

8 MR. HAVER: I just want to make sure
9 I understand, because obviously you don't see
10 the value in looking at and examining other
11 possible backstops for these loans to save
12 ratepayers money. I'm interested in doing
13 that and exploring it. So I'm just making
14 sure I understand the purpose of a backstop.

15 MR. NISSEN: Mr. Haver, I believe
16 your description of a backstop that you
17 reiterated just a moment ago conforms with the
18 descriptions that Mr. Matthews and I have both
19 provided.

20 MR. HAVER: Thank you.

21 I will ask again: Would it be
22 possible to find an entity to serve as a
23 backstop that would lower the cost of capital
24 for PWD?

25 MR. NISSEN: I believe the question

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1 is speculative and there's no way that the
2 Water Department could answer that.

3 MR. BALLENGER: Aren't there
4 something like State constitutional dimensions
5 that come in here?

6 MR. NISSEN: I'm sure that there are.
7 You'd have to address both the other party's
8 willingness to serve as a backstop in addition
9 to their lawful authority to do so.

10 MR. MATTHEWS: But again, the
11 backstop would have to be a credit rating
12 certainly higher than PWD's, and most of the
13 issuing -- other issuers that could serve as a
14 backstop probably are not higher rated.

15 MR. HAVER: When was the last time
16 the Water Department explored that as a
17 possibility?

18 MR. DASENT: I am not aware of that.

19 MR. HAVER: I'm sorry, you're not
20 aware that it ever has or you're not aware of
21 the last time they did it?

22 MR. DASENT: I think your question
23 was the last time they did it, but the
24 financial advisors are best positioned to
25 answer.

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1 MR. NISSEN: I don't know the last
2 time that the Water Department evaluated that.

3 MR. HAVER: Did you review such a
4 proposal in your professional capacity for the
5 Water Department?

6 MR. DASENT: Objection. Now we're
7 really going far afield. This is beyond the
8 scope of their testimony. We've been patient
9 in trying to explore this with you because we
10 understand your line of questioning is to
11 develop a full record, Mr. Haver, but I think
12 this is well beyond the scope of our
13 testimony.

14 HEARING OFFICER CHESTNUT: Well, it's
15 kind of hard here, because there's no showing
16 that it would -- I mean, the way that you
17 phrase your question is, I think, somewhat
18 misleading because I don't think there's been
19 any showing that that is something -- an
20 avenue that would benefit the Water
21 Department.

22 MR. HAVER: I'm asking --

23 HEARING OFFICER CHESTNUT: That's
24 what they're saying, aren't you? So --

25 MR. HAVER: I'm asking.

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1 HEARING OFFICER CHESTNUT: How do you
2 evaluate them?

3 MR. HAVER: Because it is one of the
4 possibilities, and I'm developing a record
5 that shows what has been investigated and what
6 has not.

7 HEARING OFFICER CHESTNUT: Well, what
8 has to be investigated is something that's a
9 legitimate option, and I don't think that's
10 been shown here at all.

11 MR. HAVER: How would one know if
12 it's a legitimate option if one doesn't
13 investigate it?

14 HEARING OFFICER CHESTNUT: I don't
15 know. Is there any way you can answer this,
16 Mr. Matthews or Mr. Nissen, so that we can
17 move on?

18 I seriously don't understand this,
19 but go ahead. I mean, I do understand it.
20 Don't get me wrong. I don't understand the
21 point of his further questions, but can you
22 just say something so we can move on?

23 MR. NISSEN: I cannot recall an
24 instance of the Water Department seeking to
25 find a backstop beyond its existing credit.

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1 MR. HAVER: Thank you.

2 I'm asking the consultants if they're
3 familiar with the different types of audits
4 that a utility like Philadelphia Water
5 Department could have performed for them.

6 MR. DASENT: Please repeat that
7 question. I'm sorry, Mr. Haver.

8 MR. HAVER: I'll try and make it more
9 concise.

10 Are the consultants familiar with
11 management audits and operational audits?

12 MS. BUI: Yes.

13 MR. HAVER: I know you're Black &
14 Veatch, but I don't know if the other
15 consultants are familiar with it.

16 MR. NISSEN: I understand that they
17 exist and have been -- I understand that they
18 exist. I don't -- I would not want to testify
19 that I'm familiar with them.

20 MR. HAVER: I understand and I
21 appreciate it.

22 Have any of the consultants, whether
23 individually or as a firm, performed any of --
24 a management audit or an operational audit for
25 any utility in the nation?

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1 MR. NISSEN: Speaking for Acacia, no.

2 MR. DASENT: I believe RFC has
3 participated in audits and/or management
4 audits specifically. They're on a different
5 panel.

6 MS. BUI: And then I personally have
7 been involved in limited audits as well.

8 MR. HAVER: I'm sorry, forgive me. I
9 heard some background noise. What kind of
10 audits have you been involved in?

11 MS. BUI: Revenue audits as well
12 as -- basically covering management and
13 revenue audits, yes.

14 MR. HAVER: And you did that for your
15 clients?

16 MS. BUI: Yes.

17 MR. HAVER: Did that help your client
18 save money?

19 MS. BUI: In some instances, yes, in
20 the short-term. Some required initial
21 investments at first to gain longer-term
22 savings and efficiencies, and in other places
23 we found some money.

24 MR. HAVER: Did PWD, did the
25 Philadelphia Water Department hire any of your

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1 firms to do a management audit or an
2 operational audit or, as you're describing, a
3 revenue audit?

4 MS. BUI: I think Mr. Dasent has
5 referred to that, that Black & Veatch has not
6 been hired to do that. There was a management
7 audit that was conducted, I believe, and,
8 Brian, correct me if I'm incorrect, it's
9 something in about 2016 that the Raftelis
10 people can speak to. They conducted that
11 particular management audit.

12 MR. JAGT: And that was for WRB,
13 Water Revenue Bureau, not PWD.

14 MS. BUI: Sorry. Mm-hmm.

15 MR. HAVER: When was the last time
16 that Philadelphia Water Department paid for
17 and underwent a management and/or operational
18 and/or revenue audit?

19 MR. DASENT: The City controller
20 audits us every year, Mr. Haver. Mr. Yangalay
21 can sort of tell us that. And those audits
22 are available to you.

23 MR. HAVER: Those are not the type of
24 audits I'm asking about, as you well know,
25 sir.

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1 MR. DASENT: I don't well know it.

2 I'm just trying to be helpful if I can.

3 MR. HAVER: You're not being helpful.

4 MR. DASENT: You're welcome.

5 MR. HAVER: I didn't say thank you.

6 MR. DASENT: You're welcome.

7 MR. HAVER: Again, my question is --

8 MR. DASENT: My friend, you're

9 welcome.

10 MR. HAVER: We're not friends either,

11 so don't -- I don't want anyone to mistake --

12 MR. DASENT: That's a mutual

13 decision. You are a friend. I've known you

14 for 20 years. I respect you, love you, not a

15 problem with you. Ask your question.

16 MR. HAVER: Again, when was the last

17 time that the Philadelphia Water Department

18 underwent a management audit and/or

19 operational audit and/or revenue audit? Not

20 the controller's audit. Those particular

21 audits.

22 MS. BUI: So on behalf of Black &

23 Veatch, I can say we are not aware of that and

24 whether they have or have not, and certainly

25 their record. The Operations Panel could

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1 probably speak to operational reviews that
2 might have been done. And I'm sure as part of
3 things like energy plans and that nature. But
4 on behalf of Black & Veatch, I would say that
5 we are not aware of formal management audits.

6 MR. HAVER: Any of the other
7 consultants have anything to add?

8 For the consultants whose firms do
9 these types of audits, do you have a
10 recommendation for how many years in between
11 audits that would be helpful? Is your
12 recommendation that they do every 50 years,
13 every 25 years?

14 MS. BUI: Mr. Haver, when we have
15 done these, or when I have been involved in
16 them, it really depends upon the circumstances
17 that are dictating the need for such an
18 activity.

19 Operational audits are somewhat
20 different in terms of most of the time we are
21 looking at ways to help improve efficiencies,
22 and so traditionally I tend to see these occur
23 maybe about every ten years or so.

24 MR. HAVER: And again, just so the
25 record is correct, you're not aware that

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1 any -- PWD has not undergone such an audit in
2 the last ten years to the best of your
3 knowledge?

4 MS. BUI: I cannot speak to the
5 operational side. I'm not aware of anything
6 personally, but the Operations Panel can
7 certainly speak to that.

8 MR. HAVER: Okay. Have any of your
9 firms, the consultant firms, ever been hired
10 to oppose a rate increase?

11 MR. DASENT: Objection, irrelevant.

12 HEARING OFFICER CHESTNUT: It is
13 irrelevant. It's --

14 MR. HAVER: It goes absolutely to
15 the -- it goes absolutely to bias.

16 HEARING OFFICER CHESTNUT: I'll let
17 you ask it, but seriously, what a waste of
18 time, you know?

19 MR. DASENT: We did answer, I think,
20 a question on discovery that talks about
21 experience and representing folks in the last
22 five years or so.

23 Mr. Jagt, can you recall that
24 response?

25 Black & Veatch has not been involved

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1 in representing regulatory agencies or public
2 advocates in the last five years. That was
3 also true, I thought, for Raftelis.

4 Oh, you're not on. You're muted.

5 MR. HAVER: He's on. He doesn't have
6 his microphone.

7 MR. JAGT: Sorry, talking to myself.

8 I was going to say, that response was
9 relative to supporting the public utility
10 commissioners. And, yeah, we did say that we,
11 you know, Black & Veatch nor Raftelis, had
12 provided testimony in support of like arguing
13 for reductions to rate requests. But that's
14 separate from the management audit issue.

15 MR. HAVER: Have any of the
16 consulting firms ever worked for any of the
17 businesses that PWD does business with?

18 MR. DASENT: That's hundreds of
19 entities, Mr. Haver. Can you narrow it a
20 little bit?

21 MR. HAVER: Let me start there and
22 see what their answer is.

23 MR. DASENT: Okay.

24 HEARING OFFICER CHESTNUT: How do you
25 know they can answer that unless you specify

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1 what these businesses are? How do they know
2 who PWD does business with?

3 MR. HAVER: I think they do know.
4 But let them answer, and if they don't, I'll
5 narrow down the question.

6 MR. DASENT: Mr. Jagt.

7 MS. BUI: Let me try, Dave.

8 Mr. Haver, please, if you don't mind
9 narrowing that, because I'm trying to
10 understand the scope. There are many
11 businesses that the Water Department does
12 business with, which we are not familiar with,
13 and so I don't want to incorrectly reply to
14 something, if you're speaking to --

15 MR. HAVER: Thank you.

16 MS. BUI: -- I mean, who they
17 purchase their office supplies from, for
18 example. I'm just trying to narrow it down a
19 little.

20 MR. HAVER: Let's go to who they sell
21 water to.

22 MS. BUI: Okay.

23 MR. HAVER: Are you familiar with who
24 Philadelphia Water Department --

25 MS. BUI: Yes.

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1 MR. HAVER: Who is that?

2 MS. BUI: Well, we have --

3 Go ahead, Dave, if you want to answer
4 it more specific.

5 MR. JAGT: If you're referring to the
6 wholesale contract, it's Aqua PA.

7 MR. HAVER: Yes. Has your firm ever
8 worked for Aqua PA or any of Aqua's
9 subsidiaries?

10 MR. DASENT: In the last five years?

11 MS. BUI: In the last five years,
12 right? In the last five years -- as you know,
13 Black & Veatch is a very, very large company.
14 We do engineering work in addition to our
15 management consulting services, so I will say
16 that in the last five years, our management
17 consulting group has not worked with Aqua PA.

18 MR. HAVER: I was asking about all of
19 the Aquas.

20 MS. BUI: We do work for Essential
21 Water, which is the -- I believe the overall
22 entity that owns Aqua PA in other states.

23 MR. HAVER: Okay.

24 MS. BUI: But not on the management
25 consulting side. We do that from engineering

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1 and some, you know, miscellaneous type
2 entities of that nature, sir.

3 MR. HAVER: I'm sorry, you're calling
4 a holding company for Aqua PA Essential Water?

5 MS. BUI: Essential Water is the
6 holding company.

7 MR. HAVER: How large is --
8 I'm sorry.

9 MS. BUI: I think it's Essential
10 something, yeah.

11 MR. HAVER: Okay. How large is
12 Essential?

13 MS. BUI: I do not know off the top
14 of my head. Dave, maybe.

15 MR. JAGT: I'm not sure. I just know
16 it's Essential Utilities.

17 MS. BUI: Yes, it's Essential
18 Utilities.

19 MR. HAVER: Is it bigger than PWD?

20 MS. BUI: It would be speculative for
21 me to comment on that. I really do not know,
22 sir.

23 MR. HAVER: You've been very kind to
24 the witnesses, you've been very kind with your
25 time. I appreciate it. I'm sure it was not

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1 what you woke up expecting, so I appreciate
2 your indulgences, and I appreciate those of
3 you who gave me straightforward answers to
4 very simple questions.

5 Thank you, I am done.

6 MR. JAGT: In the interest of
7 possibly eliminating this hearing request, we
8 did provide a response to your request, LH327,
9 with regards to the amount of funding provided
10 by PennVest and WIFIA.

11 So during the years within the
12 planning we're looking at for fiscal years '23
13 to '28, PennVest and WIFIA loans represent
14 14.7% of the capital funding. And I'm not --
15 I was just throwing it out there, the
16 possibility, if that's -- would be sufficient
17 to address your questions regarding --

18 MR. HAVER: I appreciate that's
19 sufficient. No reason to duplicate your work.

20 HEARING OFFICER CHESTNUT: Does
21 anybody else have cross for these witness
22 panels?

23 Did you want to do redirect, Mr. --

24 MR. DASENT: Yeah, I will have some
25 redirect. If you could give me a brief

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1 recess, I could get organized and be ready to
2 proceed.

3 HEARING OFFICER CHESTNUT: Shall we
4 say ten minutes?

5 MR. DASENT: Ten minutes is great.

6 HEARING OFFICER CHESTNUT: Okay.
7 Let's take a ten-minute break. We'll resume
8 at 2:20.

9 (Recess taken, 2:10 p.m. to
10 2:24 p.m. EDT)

11 HEARING OFFICER CHESTNUT: Why don't
12 we resume.

13 Mr. Dasent, did you have any redirect
14 for the panel?

15 MR. DASENT: Yes, some redirect and
16 focusing on Mr. Ballenger's questions.

17 Now, Mr. Ballenger refers to the
18 Federal Reserve policy and how it affects
19 inflation in certain of his questions of the
20 panel.

21 Can someone tell us the implications
22 of the Federal Reserve policy on inflation
23 rates? And, Mr. Nissen, I think you may be
24 able to speak to that.

25 MR. NISSEN: Andre, I'm sorry, I had

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1 some technical issues getting back on. Can
2 you repeat the question?

3 MR. DASENT: Sure.

4 Mr. Ballenger refers to Federal
5 Reserve policy and how it affects inflation
6 rates. Can you comment on how policy of the
7 Federal Reserve affects short-term inflation?

8 MR. NISSEN: Certainly. The stated
9 policy of the Federal Reserve is to try to
10 achieve a balance between low inflation and
11 low unemployment. It's clearly been
12 articulated by the Federal Reserve that
13 they're endeavoring to reduce the levels of
14 inflation that have been shown over the last
15 couple of years.

16 Their primary mechanism to do that is
17 by use of monetary policy, specifically the
18 federal funds rate. As certainly all parties
19 are aware, the Federal Reserve has raised the
20 federal funds rate substantially over the last
21 15 months, I think on the order of 5 full
22 points.

23 The purpose of doing that will have
24 an effect on interest rates born on the
25 short-term end of the curve. It will be felt

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1 directly by parties with respect to credit
2 card loans -- credit card loans, car loans,
3 home mortgages. It doesn't necessarily
4 translate into the longer-term rates, but it
5 can. And their use of this is ultimately
6 intended to essentially make the cost of money
7 more expensive and therefore effectively
8 depress some of the expansive efforts of the
9 economy in order to reduce the effects of
10 inflation.

11 It doesn't necessarily translate to a
12 one-to-one effect. The immediate raising of
13 the Federal Funds Rate will not necessarily
14 have an immediate or direct effect on
15 inflation. It can take some time for that to
16 occur, as it can be seen by virtue of the fact
17 that inflation has been persistent over these
18 last 18 to 24 months, despite the aggressive
19 efforts on the part of the Federal Reserve to
20 mitigate it by virtue of their actions on the
21 Federal Fund Rate.

22 MR. DASENT: What are the Federal
23 Reserve's inflation targets, if you know?

24 MR. NISSEN: Their stated target is
25 to achieve inflation of 2%.

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1 MR. DASENT: Now, Mr. Ballenger also
2 refers to projected billed volume usage,
3 Mr. Jagt. What is the basis for billed volume
4 usage in the rate filing?

5 MR. JAGT: So the basis of the
6 projected billed volume for the rate filing is
7 the average usage per account during fiscal
8 year 2022. And then it's projected from that
9 point based on each customer type's historical
10 trend.

11 When we establish that approach, we,
12 you know -- we don't just look at that single
13 year; we do an analysis. We also look at the
14 resulting impact. So you have to look at the
15 total bottom line, does our projection stay in
16 line with the total billed volume of the
17 system.

18 And we believe that our projection
19 does that, establishing it based on the more
20 recent 2022 average usage per account. And
21 based on the analysis we did in evaluating the
22 proposed changes, we believe that changing
23 that approach to use the three-year average as
24 suggested by the Public Advocate would result
25 in the levels of billed volumes that we

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1 haven't seen since fiscal year 2018, and
2 results in unrealistic projected billed
3 volumes, billings, and ultimately overstates
4 the projected revenues.

5 MR. DASENT: Mr. Jagt, do residential
6 customers drive billed volume usage?

7 MR. JAGT: Yeah. They are the key
8 customer class that contributes to that.

9 MR. DASENT: And what is the trend
10 for billed volume usage? You've sort of
11 spoken to it, but is it up or down?

12 MR. JAGT: As we discussed before,
13 the general trend for 5/8-inch customers is
14 down. In fact, the five years we showed was a
15 design, so...

16 MR. DASENT: Okay. Mr. Ballenger
17 also refers to Rate Stabilization Fund
18 transfer in fiscal 2022.

19 What was the reason for the RSF
20 deposit in fiscal '22?

21 MR. JAGT: All right. In fiscal
22 year '22, the department did achieve some --
23 or experienced lower O&M costs due to some
24 delays in executing some contracts. Those
25 contracts were in the process of being

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1 executed.

2 They weren't completed by the end of
3 the year, so they had -- you know, expenses
4 were lower, but they needed to have the money
5 going forward for those contracts.

6 In addition, the department also
7 achieved, you know, as Mr. Ballenger pointed
8 out, higher revenue than we projected, and one
9 of the reasons for the higher revenue was the
10 fact that LIHWAP was provided, customers were
11 applying for LIHWAP grants and received the
12 grants, and the department received some
13 additional money, like \$6½ million to support
14 those customers' bills. That was revenue that
15 was not initially planned. So those two
16 sources are what funded the 15 million rate
17 stabilization deposit.

18 MR. DASENT: Thank you.

19 Mr. Ballenger also refers to PWD
20 financial performance in fiscal years '20 --
21 2020, 2021, and 2022.

22 Mr. Jagt, what is the implication of
23 our performance during this period?

24 MR. JAGT: Right. With the exception
25 of 2021, which was a COVID year, our revenue

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1 projections have been within 1% or, you know,
2 about one and a half to -- 0.6 to one and a
3 half, which, in the industry, would be
4 recognized as, you know, a good basis of
5 projection.

6 There's -- the only exception was
7 during COVID, when we were being faced with
8 doing a projection at a time when the basis of
9 our revenue projections, the billed volumes
10 were being -- changing, and also the
11 collections was being significantly impacted
12 by the offset of COVID.

13 So it's an unusual year that we had,
14 you know, went into the rate case with some
15 conservative assumptions, only because at the
16 time, we only had two or three months of data
17 to do a projection at -- you know, which would
18 reflect the COVID pandemic impact, which
19 fortunately for us turned out, you know, still
20 to be a reasonable result within 5%, but we,
21 you know, did see a slight increase. The
22 actual results provided 3% more revenue than
23 what we projected.

24 But still, our projections within the
25 industry are very tight, and, you know,

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1 wouldn't -- that range of outperform -- or
2 that range of accuracy in our projections
3 would not -- you know, wouldn't be prudent to
4 do any financial planning that relies on
5 outperformance or getting more revenue than
6 you project going forward.

7 MR. DASENT: Thank you.

8 Mr. Ballenger also refers to debt
9 service coverage and other financial metrics.

10 Mr. Nissen, is there any guarantee
11 that PWD can meet targeted metrics by using
12 the minimum, like 1.2 times coverage?

13 MR. NISSEN: I believe that that
14 could be problematic. When you target simply
15 the minimum level of coverage, you run the
16 risk of revenues not being that which you have
17 budgeted for, and therefore, not being able to
18 meet the minimum requirement, which has
19 obvious problems under the indenture that need
20 to be rectified.

21 MR. DASENT: Why is it important,
22 Mr. Nissen, to transition to financial metrics
23 approved by the Rate Board in its 2018 rate
24 determination?

25 MR. NISSEN: The financial metrics

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1 that are articulated in the 2018 Rate Board
2 determination, specially targeting the goal of
3 1.3 times debt service, targeting a combined
4 Rate Stabilization Fund and Residual Fund
5 balance of 150 million, and targeting 20%
6 PAYGO, are important both with respect to the
7 rating agencies and with respect to
8 prospective bond purchasers in the future, and
9 it's important both from a quantitative as
10 well as a qualitative position.

11 From a quantitative perspective,
12 targeting to the higher coverage and then
13 achieving the higher debt service coverage is
14 stronger and can ultimately result in
15 preservation or improvement of the credit
16 rating.

17 It also facilitates the better
18 ability to achieve the goal of the 20% PAYGO
19 since that additional coverage is what
20 provides the source of funding for PAYGO
21 funding rather than it being more heavily
22 weighted towards debt borrowing.

23 But in addition, from a qualitative
24 perspective, the mere articulation of those
25 goals, and then supported by the

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1 follow-through of those gives greater value
2 into the weighting in the rating agencies and
3 the perception by prospective bond purchasers
4 of the management of the entity as they are
5 articulating their understanding and pursuit
6 with vigilance of the goals that they've laid
7 out and the recognition that those are
8 valuable in securing a higher credit rating
9 that is therefore deserving of lower borrowing
10 rates that the Water Department seeks to
11 achieve.

12 MR. DASENT: All right. Finally,
13 Mr. Ballenger refers to the CPI and PPI in his
14 cross-examination.

15 Mr. Jagt and Mr. Merritt, why are
16 these indices important in projecting future
17 inflation?

18 MR. JAGT: So the CPI and PPI, for
19 one thing, you know, we look at PPI for
20 chemicals specifically because it provides an
21 index that represents the chemical-related
22 costs in the industry. So other indices, such
23 as CPI and the CPE that's recommended, are
24 consumer-based expenses and wouldn't reflect
25 the department's type of expenses.

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1 Unfortunately, there really isn't --
2 as even the Public Advocate witness says, for
3 chemicals, there really isn't a perfect index
4 that identifies like the water utility's
5 experience and the costs.

6 And while it's not the ultimate or,
7 you know, perfect indice, it does reflect like
8 a leading indicator of what the costs will be
9 to providing chemicals and -- to producers.
10 The unfortunate aspect of that is like what
11 we're seeing now is when it has a negative, it
12 does not reflect the fact that the producers
13 or the suppliers may hold on to the higher
14 level of -- the higher pricing that they've
15 already established and reduce their prices
16 once that cost comes back down.

17 So it's not a perfect index, but, you
18 know, we also, when we see decreases like
19 this, I'm not -- I don't believe we're
20 necessarily going to see those decreases
21 provided to like the supplier or the buyers or
22 the water utilities in immediate purchases.

23 The other thing is we need to
24 consider other indices in that as well, you
25 know, because the cost takes transportation to

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1 provide those and, you know, the materials
2 through the water utilities, so, you know, the
3 overall indice or cost inflation is going to
4 reflect the cost of gas as well as other
5 inflationary index, so --

6 I don't know, Brian, if you want to
7 add anything to that, or --

8 MR. MERRITT: Well, as you said, with
9 respect to chemicals, you know, prices could
10 be sticky, meaning that just because we see a
11 decrease in the index for the producer doesn't
12 necessarily mean that the department will see
13 a decrease.

14 In addition to that, you know,
15 contracts clearly lagged. Actual PPI
16 experience in terms of the 40%, 43% increase
17 in budgeted expense that's reflected in the
18 change in chemical costs from '23 to '24 is
19 based upon what PWD saw in contracts. And as
20 cited in the Operations Panel testimony, they
21 saw, you know, some chemicals, specific
22 chemicals increase as much as 100%.

23 So I just bring that up because I
24 think there's still potential significant
25 upside in some areas, and, you know, it

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1 remains to be seen what will happen with it
2 moving forward.

3 On the CPI front, just to highlight
4 this, that -- and this is in the Rebuttal
5 Testimony Statement 1 as well as in the
6 Operations Panel, it's some of PWD's major
7 service contracts are tied to the CPI, the
8 historical CPI indices. And I'll leave it
9 there.

10 MR. DASENT: Thank you. That's all
11 we have.

12 HEARING OFFICER CHESTNUT:
13 Mr. Ballenger, did you have any recross based
14 on the redirect?

15 MR. BALLENGER: No, I think -- I
16 don't think so. I was just texting with our
17 witnesses, so I think we're okay for now.
18 Thank you.

19 HEARING OFFICER CHESTNUT: Okay.
20 Mr. Haver, did you have any redirect based on
21 the recross?

22 MR. HAVER: No, I do not.

23 HEARING OFFICER CHESTNUT: Thank you.
24 Then I assume nobody else does, so, thank you
25 very much, panelists, you're excused.

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1 Although I'm sure you want to stick around.

2 MR. DASENT: And we have the
3 Operations Panel up next.

4 HEARING OFFICER CHESTNUT: We already
5 included the Capital Panel in this discussion
6 or is there more -- is there specific
7 questions for them?

8 MR. DASENT: Well, I don't know that
9 from Mr. Haver. I guess that's for him to
10 decide.

11 HEARING OFFICER CHESTNUT: Yeah.

12 MR. HAVER: I won't belabor the
13 point. I've made most of the points I've
14 wanted to. I won't keep people here longer
15 than necessary.

16 HEARING OFFICER CHESTNUT: Well,
17 great. I'm sure we all appreciate that,
18 especially the court reporter who has to
19 produce a quick turnaround on the transcript.

20 Yeah, that takes us, I guess, to the
21 Operations Panel.

22 MR. DASENT: And Mr. Jewell and Linda
23 Kramer and -- oh, Steve Junod hopefully is
24 also here.

25 HEARING OFFICER CHESTNUT: I assume

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1 they're all there. Okay.

2 Mr. Dasent, did you want to present
3 them?

4 MR. DASENT: Yes.

5 Our next witnesses are Brendan
6 Reilly -- I'm sorry, Brendan -- Ben Jewell and
7 Linda Kramer and Steve Junod, who were part of
8 the Operations Panel, and they're tendered for
9 cross-examination. I'm assuming there are no
10 additions or corrections to your testimony.

11 HEARING OFFICER CHESTNUT: Okay.

12 Mr. Ballenger?

13 MR. BALLENGER: Thank you. Give me
14 just five minutes to organize here. I don't
15 believe I have cross but I want to make sure.

16 HEARING OFFICER CHESTNUT: Sure.

17 MR. BALLENGER: Thank you. Thank you
18 for giving me a couple of minutes, if we're
19 back on the record.

20 I'll make this very quick and thank
21 the witnesses for being here and also for
22 occasionally corresponding with us when we
23 have tricky client issues. I've appreciated
24 their availability. I have no cross for this
25 panel.

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1 HEARING OFFICER CHESTNUT: Okay.

2 Mr. Haver?

3 MR. HAVER: Yes, thank you.

4 OPERATIONS PANEL

5 CROSS-EXAMINATION BY MR. HAVER

6 MR. HAVER: How many cost-saving
7 proposals have you looked at in the last
8 fiscal year?

9 MR. DASENT: Mr. Jewell?

10 MR. JEWELL: So I'm going to kind of
11 use your words here for a minute. So, I guess
12 to shortly answer your question, I personally
13 have not reviewed any proposals from
14 respondents to professional services request
15 for proposals to specifically evaluate
16 cost-saving measures at the Water Department.

17 MR. HAVER: To make this as quick as
18 possible, that's sufficient unless there's
19 more you wanted to answer.

20 MR. JEWELL: I will echo the message
21 that Deputy Commissioner Yangalay offered,
22 which is that we are constantly looking at our
23 operation and our operational efficiency and
24 seeking cost savings where they are available;
25 working on process optimization, both within

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1 and outside the treatment plants. And much of
2 that work happens with our PWD internal
3 personnel, working together across divisional
4 boundaries, trying to leverage the knowledge
5 and expertise that one unit might have for
6 research, planning and research, for example.
7 And bring that into an operational realm.

8 So while I have not specifically
9 reviewed a proposal responding to a request
10 for proposals issued by the Water Department,
11 we are constantly engaged and seeking out
12 operational efficiencies and cost-saving
13 measures where we see them.

14 MR. HAVER: Thank you.

15 Can you tell me the names of all of
16 the consultants the Water Department has hired
17 in its efforts to reduce operating costs?

18 MR. JEWELL: I cannot -- I do not
19 know.

20 MR. HAVER: Who would know that?

21 MR. DASENT: Well, we did provide a
22 response to you concerning some cost-saving
23 measures that Raftelis Financial Consultants
24 provided, so they will be able to tell you
25 when they testify -- that's Friday --

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1 concerning cost-saving measures and measures
2 associated with the TAP program that they have
3 provided.

4 MR. HAVER: Mr. Dasent, that's not
5 what my question is. My question is: Can you
6 name the consultants that PWD hired in an
7 effort to cut costs?

8 MR. DASENT: And RFC, Financial
9 Consultants, is one, and they will speak to
10 that issue when they are on the stand.

11 MR. HAVER: Mr. Jewell, do you have
12 direction over that consultant?

13 MR. JEWELL: I do not.

14 MR. HAVER: Okay. From an operations
15 point of view, who has the Operations
16 Department hired as a consultant to cut costs?

17 MR. JEWELL: To my knowledge, we have
18 not issued -- and I have a panel of Operations
19 here, so Steven Junod, Brendan Reilly, Linda
20 Kramer, representing the vast majority of PWD
21 operations, as well as myself.

22 Please feel free to weigh in if you
23 have specific knowledge that I do not.

24 But to my knowledge, I'm not aware of
25 any specific contracts issued by PWD

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1 operations in order to specifically seek out
2 cost-saving measures.

3 MR. HAVER: Does the operations
4 department at PWD ever use consultants?

5 MR. JEWELL: Yes, we do. We engage
6 them in a variety of measures to assist with
7 bringing expertise in that our personnel may
8 not have, in instituting best practices, you
9 know, providing technical expertise and
10 supporting general operations.

11 MR. HAVER: Thank you.

12 And we spoke earlier today about lost
13 water and they said you were the gentleman I
14 should ask about specifics.

15 What percentage of the treated water
16 is lost? And again, I'm defining that as
17 water that was treated but never passes
18 through a water meter and is never billed,
19 separate and distinct from the water used at
20 hydrants for fire protection.

21 MR. JEWELL: I personally at this
22 moment in time am unable to answer that
23 question. I honestly am not completely
24 certain we'd be able to separately and
25 distinctly break water use at the fire

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1 hydrants away from other water losses.

2 The department does do some analysis
3 to try to assess what water is on meter, what
4 water is produced that is on meter, and I'm
5 sure that's something that could be provided
6 following this hearing.

7 MR. HAVER: All right. So adding in,
8 then, the fire protection in the fire
9 hydrants, what percentage of water that is
10 processed is unbilled?

11 MR. JEWELL: As I said, at this
12 moment, I do not have that information
13 available, but that information can be
14 provided.

15 MR. DASENT: Do you want a transcript
16 response? We can do that, Mr. Haver.

17 MR. HAVER: Thank you.

18 HEARING OFFICER CHESTNUT: And that
19 transcript response would be the percentage of
20 lost water?

21 MR. HAVER: Yes.

22 Again, we raised this question -- I
23 raised this question before, and I was told
24 you were the one to answer.

25 What's the name of the company that

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1 the Philadelphia Water Department hired to
2 make appointments to replace the water meters?

3 MR. JEWELL: I'm going to let Steve
4 Junod, he's our advanced metering
5 infrastructure implementation program manager,
6 answer this.

7 I do know that we do have a single
8 contract that then involves subcontracting to
9 other service providers, so Steve is by far
10 the closest and best expert on this subject.
11 So I'm going to give the floor to him.

12 MR. JUNOD: Steve Junod. So that's
13 Sensus Incorporated.

14 MR. DASENT: I'm sorry, that was too
15 fast for me to write down.

16 MR. JUNOD: Sensus, S-E-N-S-U-S,
17 Incorporated.

18 MR. HAVER: Where is it located?

19 MR. JUNOD: I believe they're
20 incorporated in Delaware and their
21 headquarters may be in North Carolina.

22 MR. HAVER: When you say may be in
23 North Carolina, I'm not sure what that means.
24 You don't know where their headquarters is
25 located?

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1 MR. JUNOD: I believe it's North
2 Carolina, Morrisville, North Carolina. But
3 they have various offices, so...

4 MR. HAVER: Where is their
5 Philadelphia office located?

6 MR. JUNOD: So they work out of
7 1101 Market when they're here, or they have
8 two subcontractors doing installations, and
9 they'll work out of their offices. CCI --

10 MR. HAVER: What's --

11 MR. JUNOD: -- Incorporated --

12 MR. HAVER: Again, I'm not asking
13 whose offices they share. I'm asking what
14 offices do they have here.

15 MR. JUNOD: They have no offices
16 here.

17 MR. HAVER: Thank you.

18 And you said that they have -- you
19 have a contract with a company to read meters.
20 Did I mishear you?

21 MR. JUNOD: So Sensus is our AMI
22 contractor. And currently they are in --

23 MR. HAVER: Excuse me. I'm sorry.
24 What does AMI stand for, please?

25 MR. JUNOD: Advanced metering

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1 infrastructure.

2 MR. HAVER: Thank you.

3 MR. JUNOD: And they read our meters.

4 MR. HAVER: How do they do that, sir?

5 MR. JUNOD: So it's two phases. So
6 we're transitioning from our old system to our
7 new system, so anybody that has not been
8 changed out yet, it's through a mobile reading
9 system. So basically they have three vans
10 that ride around each day and read those
11 routes.

12 If they have been transitioned to the
13 new AMI system, we have a network set up and
14 we are able to retrieve the reads from that
15 network.

16 MR. HAVER: When you say you have a
17 network set up, what does that mean?

18 MR. JUNOD: So we set up a network to
19 read the meters, you know, pick up the
20 radiofrequency instead of having to use a van
21 to drive around and pick them up. So similar
22 to like a Verizon network for your cellular,
23 similar type network.

24 MR. HAVER: Thank you.

25 The Philadelphia Inquirer had a story

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1 about people who were receiving unusually high
2 bills.

3 Are you familiar with that story?

4 MR. JUNOD: If you give me some
5 information, I may be able to talk to it, but,
6 no, I'm not -- I mean, there's been several
7 stories.

8 MR. HAVER: Okay. Are you familiar
9 with any stories about --

10 MR. JUNOD: I am familiar -- I am.

11 MR. HAVER: Does it -- who was
12 responsible for those billing mistakes?

13 MR. JUNOD: So, again, without
14 knowing the particulars of the account, I
15 can't speak to that, but I can tell you that
16 sometimes we get in there and we find that
17 there is a problem with the meter. And it may
18 have been estimated for a number of months,
19 and when we get in there, we get a correct
20 reading off the register. We can get a
21 reading off the register or the radio device.

22 If the radio device fails, there is a
23 backup on the register, and we report that
24 read, and if they were estimated over a number
25 of months, then there could be a makeup bill.

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1 So that's one instance.

2 MR. HAVER: If a household was paying
3 their estimated bills and then receives a
4 \$3,000 bill because they never got the actual
5 usage, is the household responsible for all of
6 the bill?

7 MR. JUNOD: As long as the meter
8 reading was correct, yes. And there is a
9 message on the bill that states that you have
10 estimated reads and you should contact the
11 call center to have your meter checked out.

12 So again, that's on the bill. And if
13 they don't respond to that, then it can go on
14 for a number of years.

15 MR. HAVER: How many calls a month do
16 you receive from households saying, "I got an
17 estimated bill"?

18 MR. JUNOD: I do not know that. I'm
19 not in the call center. That would be a call
20 center question.

21 MR. HAVER: Wouldn't that be of
22 concern to you, sir?

23 MR. JUNOD: Sure.

24 MR. HAVER: So --

25 MR. JUNOD: So when we get those type

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1 of calls, they'll route it to the meter shop
2 or they'll schedule an appointment when they
3 call for us to go out and check the meter.

4 MR. HAVER: I'm asking you
5 specifically, wouldn't that matter in terms of
6 your organizational structure, how many people
7 find that on the bill and then call compared
8 to the number of people who have this happen
9 to them?

10 MR. JUNOD: It would.

11 MR. HAVER: But you haven't
12 investigated that; is that correct?

13 MR. JUNOD: I didn't say that. So if
14 we're made aware of the problem, if somebody
15 calls and says they have an estimated bill,
16 they'll schedule an appointment for us to go
17 out and check.

18 MR. HAVER: And again, I asked you,
19 how many people per month call and say, "I
20 have an estimated bill"?

21 MR. JUNOD: I think I answered that.
22 I don't have that knowledge because that goes
23 to the call center.

24 MR. HAVER: And I asked you, wouldn't
25 that be important to know, whether the

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1 information on the bill is easily accessible?

2 MR. DASENT: Objection, this is
3 beyond the testimony of Mr. Junod and the
4 Operations Panel.

5 HEARING OFFICER CHESTNUT: I think
6 he's already testified what the process is.
7 He doesn't keep track of -- I don't know. Do
8 you keep track of monthly statistics in terms
9 of how many technicians you send out to deal
10 with meter issues?

11 MR. JUNOD: So as I said, we're in
12 the process of changing out the whole system.
13 So over the next two and a half years, we will
14 have visited every property in the city of
15 Philadelphia that has a meter. So that's an
16 ongoing process. So it's a little different
17 than our normal time when we're not changing
18 out and we get calls.

19 So right now we're going through and
20 changing out every radio device in the city of
21 Philadelphia. And when calls come in and
22 there's a problem, somebody got an estimated
23 bill, there's a high -- there's a leak
24 complaint, whatever, it goes through our call
25 center, and that's automatically routed to our

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1 meter shop.

2 So I don't need to see what's coming
3 in because that stuff is automatically routed
4 to them to go out and investigate.

5 MR. HAVER: How much is the total
6 contract for the meter replacement?

7 MR. JUNOD: So I'm going to say
8 that's a capital question. But just for the
9 installation, I believe it was around
10 105 million.

11 MR. HAVER: And how much do you
12 project you will save on an annual basis?

13 MR. JUNOD: So I am not the finance
14 person to make those projections.

15 MR. HAVER: Would that be the same as
16 saying you don't know?

17 MR. JUNOD: No, I just would not want
18 to guess.

19 MR. HAVER: Will those meters have
20 time-of-day metering capabilities?

21 MR. JUNOD: So they do have a date
22 time stamp. You can -- once you have an AMI
23 device installed, you can go to My Philly
24 Water Bill, enter your information, and you
25 can access all of that data, hourly reads.

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1 MR. HAVER: I'm sorry, hourly rates?

2 MR. JUNOD: Reads. Hourly reads. So
3 you'll be able to go in there and see how much
4 water you use each hour of each day.

5 MR. HAVER: Do you envision at any
6 time in the future having different rates for
7 different times of day?

8 MR. JUNOD: That's out of my scope.

9 MR. HAVER: Whose scope would that be
10 in?

11 MR. JUNOD: I guess somebody in
12 finance.

13 MR. HAVER: How many jobs were
14 created through these contracts?

15 MR. JUNOD: So I don't know, so like
16 I said, we have the contract with Sensus and
17 then they have a bunch of subs. So they have
18 two installation contractors, and I want to
19 say that between the two of them, they have
20 somewhere around 70ish, hired locally.

21 MR. HAVER: And how many people in
22 the call center?

23 MR. JUNOD: I'm not sure about their
24 call center.

25 MR. HAVER: What's the average hourly

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1 wage of the people who are being paid?

2 MR. JUNOD: So I don't have that
3 information. We have a -- in our contract we
4 pay per installation, so there's a lot of
5 different costs that are built into that.

6 MR. HAVER: So there's no requirement
7 in the contract for a living wage?

8 MR. JUNOD: There was. They had to
9 pay at least a living wage, and it escapes me
10 now on what that wage was.

11 It was somewhere in the \$25 an hour
12 range. And that was put together back in
13 2018.

14 MR. HAVER: I did not see that
15 contract as part of the exhibits. Could you
16 make it part of the exhibits?

17 MR. JUNOD: So I believe that is
18 in -- that was in the RFP that went out, and
19 that was in the contract. But there's a bunch
20 of lawyers on here; they may know differently.
21 But we did adhere to the living wage in the
22 city of Philadelphia.

23 MR. HAVER: Can you make the contract
24 available?

25 MR. JUNOD: I believe that was

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1 publicly available on Procurement's website,
2 so I don't have it.

3 MR. DASENT: Mr. Haver, I'll make an
4 attempt to locate that contract for you.

5 MR. HAVER: Thank you.

6 Again, this may not be your purview.
7 My understanding is that PWD buys natural gas
8 from PGW; is that correct?

9 MR. JUNOD: That's not me.

10 MR. DASENT: That's Jewell,
11 Mr. Jewell.

12 MR. JEWELL: Yes.

13 MR. HAVER: Has the Water Department
14 looked at the cost savings that would be
15 generated by buying gas independently and just
16 using PGW's pipelines?

17 MR. JEWELL: Not being in the City's
18 energy office, I don't have the most in-depth
19 knowledge of the City's energy procurement
20 practices, but it's my understanding that the
21 City's energy office negotiates with energy
22 providers rates on a periodic basis, and the
23 department is subject to the policies and
24 practices that are implemented in that office.

25 And so we are, as, you know, I'm sure

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1 you're well aware, we are a single department
2 existing within a city government
3 infrastructure that produces a lot of rules,
4 regulations and constraints within which we
5 operate, and energy purchasing is one of those
6 constraints.

7 MR. HAVER: Does PWD have a program
8 that rewards workers for devising cost-saving
9 programs?

10 MR. DASENT: We answered that in
11 discovery. And, I'm sorry, Mr. Jewell.

12 There's no one. The answer is no.

13 MR. JEWELL: Thank you. That's what
14 I was going to say.

15 MR. HAVER: We will be done in less
16 than five minutes.

17 HEARING OFFICER CHESTNUT: Take as
18 much time as you need.

19 MR. HAVER: In the last ten years,
20 has your department undergone a management
21 audit or operational audit or revenue audit
22 from an independent consultant?

23 MR. JEWELL: To my knowledge, there's
24 been one management audit conducted in the
25 last ten years. There was an independent

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1 evaluator brought in that performed an audit
2 of the Water Department's field operating
3 units. That was conducted in 2014. But let
4 me -- I believe the report was delivered in
5 2014. So the audit obviously preceded that.

6 And -- but it was limited to an
7 evaluation of field operations.

8 MR. HAVER: I'm not sure what you
9 mean when you say "field operation." Can you
10 help me understand what that term means?

11 MR. JEWELL: Absolutely. So we tend
12 to think of the department in kind of like two
13 big -- or operations in the department in two
14 big functional units. There's like inside the
15 fence line and outside the fence line.

16 Inside the fence line is water
17 treatment, wastewater treatments,
18 facility-based operations, fixed-location
19 facilities operating large treatment systems.

20 And then we discussed field
21 operations. Field operations is us out in the
22 city, us outside the fence lines, in front of
23 your homes doing water main repairs, you know,
24 doing sewer cleaning and sewer inspections,
25 doing meter changes.

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1 All of those units that are in --
2 existing out in the residential areas working
3 in public spaces, we refer to them
4 collectively as field operations.

5 MR. HAVER: Thank you.

6 Was the audit helpful?

7 MR. JEWELL: There were some -- there
8 were some good ideas that came from it. There
9 were some things that were implemented
10 quickly. There are things that we continue to
11 work on, continuous improvement. And there
12 were some ideas that were considered and then
13 rejected.

14 MR. HAVER: Did it help save any
15 money?

16 MR. JEWELL: I don't think the
17 objective was to save money. I think the
18 focus was really on identifying areas where it
19 could be more efficient, and better -- and
20 make better use of the resources that we have
21 on hand in order to ensure that the money that
22 we're spending on people, equipment,
23 technology, is being utilized as efficiently
24 as possible to meet the needs of both the
25 utility and the residents of the city to the

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1 best of our ability.

2 MR. HAVER: To summarize, some of the
3 ideas were helpful, some of the ideas were
4 good but would take a long time to implement,
5 and some of the ideas you rejected.

6 Is that a correct summary?

7 MR. JEWELL: Yes, sir.

8 MR. HAVER: Thank you.

9 What percentage of what PWD buys is
10 made in Philadelphia?

11 MR. DASENT: Objection, beyond the
12 scope of his testimony.

13 HEARING OFFICER CHESTNUT: If he can
14 answer it, I guess he can.

15 MR. JEWELL: I cannot answer that
16 question. I do not know. The Procurement
17 Department may have rules about that. Again,
18 we are putting out requisitions for the
19 purchase of equipment and materials that is
20 being administered by the Procurement
21 Department through a competitive bid process
22 that evaluates a variety of different
23 characteristics of all the respondents, and
24 then typically is a low bid -- once people are
25 qualified for providing services or materials,

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1 then it's typically a low-bid process.

2 So, you know, I don't -- the City may
3 have that kind of information available, but I
4 do not.

5 MR. HAVER: Does PWD have some goals
6 for minority business enterprises?

7 MR. JEWELL: As an operating
8 department in the city, and working under the
9 established goals of the mayor, and diversity,
10 equity, and inclusion, I think we're paying
11 attention to how those awards are being made,
12 but this monitoring of that I think is
13 something that's performed by our finance
14 unit, not our operating unit.

15 MR. HAVER: That's funny, I asked
16 earlier, and they said that that was your
17 unit.

18 MR. DASENT: I don't believe that was
19 literally true, Mr. Haver. And there's City
20 policies that govern all of this. If you look
21 at the RFPs, there's heavy weighting toward
22 minority inclusion. I pay attention to such
23 things.

24 MR. HAVER: Are there any goals for
25 locally purchased materials?

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1 MR. JEWELL: I don't know.

2 MR. HAVER: Give me a minute. I
3 think I'm done.

4 What steps does the operations
5 department at PWD take before a rate increase
6 is filed, a request for a rate increase is
7 filed?

8 MR. JEWELL: I mean, obviously we
9 prepare testimony, so we're engaged in the
10 rate filing, the actual production of the rate
11 file.

12 MR. HAVER: No other steps?

13 MR. JEWELL: No. I mean, I'm not
14 sure what exactly you're asking for here.

15 MR. HAVER: Well, I'm asking what
16 steps you take --

17 MR. JEWELL: Yeah.

18 MR. HAVER: -- before the rate
19 increase request is filed, and you've said you
20 help prepare the filing.

21 MR. JEWELL: Yeah.

22 MR. HAVER: I'm asking if there's any
23 additional, and you said no.

24 MR. JEWELL: We participate in
25 testimony development and we provide

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1 information on costing that is incorporated
2 into cost of service.

3 MR. HAVER: Thank you.

4 By the way, you said you provide
5 information of cost of service. It's a little
6 unclear to me. I asked earlier, but I'll ask
7 you: Who pays for the lost water?

8 MR. JEWELL: So I think this was
9 actually answered earlier.

10 MR. DASENT: Yes, Mr. Jagt spoke to
11 it.

12 MR. JEWELL: So unmetered water is
13 cost distributed across the rate base.

14 MR. HAVER: Thank you.

15 Thank you very much for your time,
16 and I appreciate your honest answers.

17 I am finished, Your Honor. I don't
18 want to belabor the point.

19 HEARING OFFICER CHESTNUT: Okay. Did
20 you want to do redirect, Mr. Dasent?

21 MR. DASENT: No redirect.

22 HEARING OFFICER CHESTNUT: Okay. I
23 appreciate that.

24 Okay. Thank you very much,
25 panelists. You're excused. You may stay.

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1 MR. JEWELL: Thank you.

2 HEARING OFFICER CHESTNUT: Well, I'm
3 kind of surprised. I thought that would go on
4 much longer.

5 MR. DASENT: We also have a
6 Communications and Outreach Panel that's
7 available, and we were hoping to get them in
8 today.

9 HEARING OFFICER CHESTNUT: Is
10 everybody ready to proceed with them?

11 MR. DASENT: I see Paul -- I'm sorry.

12 HEARING OFFICER CHESTNUT: Okay.

13 MR. DASENT: I see Paul and Glen,
14 yes.

15 HEARING OFFICER CHESTNUT: So that
16 would be --

17 (Discussion off the record.)

18 MR. DASENT: The Communication and
19 Outreach Panel is available for cross. I
20 don't know if Mr. Ballenger intends to cross
21 or if it's Mr. Haver.

22 HEARING OFFICER CHESTNUT: Before you
23 do that, why don't you identify your
24 witnesses.

25 MR. DASENT: Yes. Glen Abrams is our

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1 deputy commissioner for communications and
2 outreach. Paul Fugazzotto is -- I'm sorry,
3 assistant to -- or assistant to the deputy
4 commissioner. And I don't have the exact
5 subset of things that you also do. There's so
6 many.

7 MR. FUGAZZOTTO: Assistant deputy for
8 communication.

9 MR. DASENT: Thank you. Thank you.
10 I'm sorry.

11 Mr. Abrams and Mr. Fugazzotto are
12 available for cross-examination.

13 HEARING OFFICER CHESTNUT: Okay.
14 Mr. Ballenger, did you have any questions for
15 them?

16 MR. BALLENGER: I do not have any
17 cross-examination for this panel. Thank you.

18 HEARING OFFICER CHESTNUT: Well, the
19 only person who did list any was
20 Mr. Skiendzielewski, and he doesn't seem to be
21 here.

22 So, Mr. Haver, did you have any
23 questions?

24 MR. HAVER: I -- yes, I do, but I
25 thought it would be in a different panel.

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1 MR. DASENT: Sure.

2 COMMUNICATION AND OUTREACH PANEL

3 CROSS-EXAMINATION BY MR. HAVER

4 MR. HAVER: Mr. Abrams, where is your
5 on office located?

6 MR. ABRAMS: It's in Jefferson
7 Center. It's 1101 Market Street, 5th floor.

8 MR. HAVER: Those are the offices
9 that were recently renovated or in the process
10 of being renovated; is that correct?

11 MR. ABRAMS: That is correct, yes.

12 MR. HAVER: At the public hearings,
13 you didn't know that; is that correct?

14 MR. ABRAMS: No, that's not correct.
15 When that issue was brought up, Mr. Dasant
16 addressed it.

17 MR. HAVER: Were you not asked
18 directly if your offices were being renovated?

19 MR. ABRAMS: I don't recall that.

20 MR. HAVER: Is there a goal of the
21 number of people who participate in the public
22 input hearings?

23 MR. ABRAMS: We don't have a specific
24 goal. We try to, through advertising, through
25 social media, through direct e-mail, get as

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1 many people as possible. So really, the goal
2 is to have as much participation in public
3 input hearings as possible.

4 MR. HAVER: Would there be a minimum
5 number that you would consider acceptable?

6 MR. ABRAMS: I don't believe there is
7 any standard on what is acceptable.

8 MR. DASENT: I was asking you, sir.
9 Do you believe there's a number below which is
10 not acceptable?

11 MR. ABRAMS: Really, a very small
12 showing would be unacceptable. How you define
13 that number, obviously, you know, that is
14 somewhat subjective. I do feel that for the
15 public input hearings, we had a reasonable
16 number of people that attended and
17 participated. Again, it is always, you know,
18 the more, the better.

19 MR. HAVER: So again, I'm asking you
20 specifically. What number do you say below
21 which is unacceptable?

22 MR. DASENT: He's asked and answered
23 that question.

24 HEARING OFFICER CHESTNUT: He has
25 answered it.

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1 MR. HAVER: He has not answered it.
2 He has not given a number.

3 HEARING OFFICER CHESTNUT: He hasn't
4 given you an answer you want, but he has
5 answered it. He said that there is no
6 specific number.

7 MR. HAVER: That's not what he said.
8 You can read back the transcript.

9 HEARING OFFICER CHESTNUT:
10 Mr. Abrams, do you have a specific number or
11 not?

12 MR. ABRAMS: I do not have a specific
13 number.

14 HEARING OFFICER CHESTNUT: There.

15 MR. HAVER: Would -- if zero people,
16 no one showed up, what that be acceptable to
17 you?

18 MR. ABRAMS: That would -- likely
19 that would be unacceptable. It would likely
20 indicate that it -- the event was not properly
21 promoted.

22 MR. HAVER: Do you know how many
23 people showed up, how many members of the
24 public showed up for the TAP hearings?

25 MR. DASENT: None showed up,

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1 Mr. Haver. You were there.

2 MR. HAVER: Actually, Mr. Dasent, I
3 was not there, but okay.

4 MR. DASENT: Okay. Sorry.

5 MR. HAVER: Zero showed up.

6 Are there any lessons that your
7 department at PWD learned from the number of
8 participants being zero?

9 MR. ABRAMS: I'd have to review what
10 was done in terms of promoting that particular
11 public input hearing. The people seemed to be
12 less interested inclined -- regarding the
13 TAP-R proceeding versus the base rate
14 proceeding. I also believe that we had less
15 time to promote that particular hearing. But
16 I'd have to go back and look.

17 MR. HAVER: Do you know how many
18 members of the public showed up for the public
19 hearing on the rate request?

20 MR. ABRAMS: There were four
21 proceedings. I don't have the actual numbers
22 with me at the moment, but during each of
23 those four, I believe there were about
24 anywhere between 50 and 75 participants that
25 were on the line.

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1 MR. HAVER: I wasn't asking about on
2 the line because many of those people work for
3 the Water Department, are consultants or are
4 parties to the case.

5 MR. ABRAMS: The majority of the
6 people that were logged on, I believe were
7 public, were participants and not City
8 employees or consultants.

9 MR. HAVER: And what do you base that
10 on?

11 MR. ABRAMS: In -- well, I mean, I
12 was scanning the names that were on the
13 screen, on the participant list.

14 MR. HAVER: And you compared that to
15 the number of people who work for the Water
16 Department, consultants or were parties?

17 MR. ABRAMS: Yes. Again, I -- this
18 was done just by I. I don't have an actual
19 list of the participants, but I believe that
20 is that -- and sorry, I -- I'm not quite sure
21 if that is record within this proceeding.

22 MR. HAVER: Are you familiar with the
23 Registered Community Organizations in the city
24 of Philadelphia?

25 MR. ABRAMS: Yes, I am familiar with

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1 the RCOs.

2 MR. HAVER: How many members of RCOs
3 came to those hearings?

4 MR. ABRAMS: I do not know.

5 MR. HAVER: How many RCOs did the
6 Water Department meet with before the
7 hearings?

8 MR. ABRAMS: I know that in terms of
9 e-mails. Paul --

10 MR. HAVER: I didn't ask about
11 e-mails. How many did you meet with either in
12 person or on Zoom?

13 MR. ABRAMS: We meet with Registered
14 Community Organizations frequently regarding
15 construction investments.

16 MR. HAVER: Again, that's not my
17 question. My question is: How many RCOs did
18 you meet with, either virtually on Zoom or
19 something similar to Zoom, or in person
20 regarding the public input hearings on the
21 rate increase?

22 MR. ABRAMS: I do not believe that we
23 had any meetings with Registered Community
24 Organizations regarding the rate proceeding or
25 the public input hearings.

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1 MR. HAVER: How many meetings, either
2 virtually or in person, did you have with
3 advocacy groups prior to the water rate
4 hearing on the rate request regarding the rate
5 request?

6 MR. ABRAMS: Well, we did have
7 meetings regarding -- I mean, there's the
8 Residential Customer Assistance and Services
9 Committee that is -- has a number of members,
10 including Community Legal Services, UESF, and
11 others --

12 MR. HAVER: Are you -- excuse me.
13 Are you suggesting UESF and Community Legal
14 Services are ratepayers, like the public
15 ratepayers?

16 MR. ABRAMS: No. I believe your
17 question -- if you could restate your question
18 again. I thought you were talking about
19 community advocacy groups.

20 MR. HAVER: Right, who are not paid
21 for through Water Department money.

22 CLS has a contract from the Water
23 Department. UESF has a contract with the
24 Water Department. I'm looking for --

25 MR. BALLENGER: We do not have a

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1 contract with the Water Department. Thank
2 you.

3 MR. HAVER: Oh, I forgot. You have
4 your contract with the Water Rate Board. Only
5 the money comes from the Water Department.
6 Thank you for that distinction. You answer to
7 the Water Rate Board and not the Water
8 Department. Got it.

9 So again, any advocacy groups that do
10 not get money directly or indirectly from the
11 Water Department, did you meet with them prior
12 to and regarding the proposed water rate
13 increase?

14 MR. ABRAMS: I'm sure there were
15 meetings. I do not have a list right now.
16 But we would have to go back through and look
17 at calendars, e-mail communications to
18 determine who, but --

19 MR. HAVER: How many meetings?

20 MR. ABRAMS: I do not have that
21 information at the moment.

22 MR. HAVER: Okay. You mentioned
23 earlier that you advertised. Where did you
24 advertise?

25 MR. ABRAMS: Paul, could you help me

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1 out with that one?

2 MR. DASENT: The Rate Board actually
3 did the advertising for the various hearings.
4 They posted the ads. We are aware of the ads,
5 and I think the Public Advocate also was aware
6 of the form of the ads, because they resemble
7 the ones that were used in the last rate case,
8 and that's true for technical hearings and
9 formal hearings. And they're posted in the --
10 is it the Inquirer, Daily News, Legal
11 Intelligencer, and then the Water Department
12 follows up with social outreach.

13 And Paul can speak to that because
14 it's just amazing how many things they do.

15 MR. HAVER: I'm sure it is, but
16 Mr. Abrams said that the Water Department
17 advertised the hearings. I'm asking
18 specifically where those advertisements were
19 placed.

20 Mr. Dasent, I do thank you for your
21 testimony.

22 MR. ABRAMS: I misspoke. Because,
23 actually, as Mr. Dasent says, it was the Water
24 Rate Board that placed the ads, so that's what
25 I was referring to.

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1 MR. HAVER: So the Water Department
2 placed no advertisements?

3 MR. ABRAMS: No, it's not our
4 responsibility to do that. We focused our
5 energies on social media and other forms of
6 communication in order to alert the public to
7 these hearings.

8 MR. HAVER: Is there any prohibition
9 against you advertising the hearings? It's
10 not your responsibility. Is there any
11 prohibition against you doing so?

12 MR. ABRAMS: I am not aware of any
13 prohibition.

14 MR. HAVER: I'm accepting that for
15 the purpose of these hearings you are an
16 expert in communications. Am I correct?

17 MR. ABRAMS: You can say that.

18 MR. HAVER: Would it be a fair thing
19 to say that you are an expert?

20 HEARING OFFICER CHESTNUT: But isn't
21 he not presented as an expert? Isn't he a
22 fact witness?

23 MR. DASENT: He is a fact witness,
24 but his expertise is renowned, but -- so,
25 Mr. Haver can cross.

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1 MR. HAVER: In terms of
2 Sensus-tracked data, who gets the benefit
3 of -- the largest benefit from internet
4 advertising?

5 MR. ABRAMS: From internet
6 advertising?

7 MR. HAVER: Social media.

8 MR. ABRAMS: Social media, okay.

9 MR. HAVER: Yes.

10 MR. ABRAMS: So there's social media
11 advertising and there's social media posting.
12 So I -- you know, I think it -- are you
13 referring to advertising or are you referring
14 to posts that the Water Department may do?

15 MR. HAVER: I'll say both and make it
16 easier for you and save time.

17 MR. ABRAMS: In this case, I do not
18 believe that we did any specific advertising
19 on Facebook or other social media. It was
20 posting on Facebook, on Nextdoor, and other --
21 I believe those were the main mediums.

22 In terms of the ZIP code distribution
23 of those, I don't have that information
24 available.

25 MR. HAVER: In your opinion, are

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1 people who are struggling economically more or
2 less likely to access Nextdoor and the
3 Facebook posts than people who are middle
4 class or more affluent?

5 MR. ABRAMS: There is absolutely a
6 digital divide, and so that -- and folks that
7 are struggling economically may be less likely
8 to be accessing information via the internet
9 or through, you know, the -- well, via the
10 internet and social media.

11 But those were not the only ways that
12 we tried to distribute information. We also
13 had toolkits and flyers and things like that
14 for partners to distribute. So there -- you
15 know, we do try to address the digital divide
16 by making information available in other means
17 other than -- rather -- instead of just
18 electronically.

19 MR. HAVER: How many partners do you
20 have?

21 MR. ABRAMS: That's a great number.
22 I don't have the list right now. I think we
23 could provide the number of organizations that
24 we sent information to.

25 MR. HAVER: You said that they were

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1 distributing information for you. I'm not
2 asking you about the people you sent
3 information to. I'm asking you about your
4 partners who you just said were distributing
5 information for you.

6 How many of your partners distributed
7 information for you that you know and
8 confirmed did it?

9 MR. ABRAMS: I don't have that
10 information at the moment.

11 MR. HAVER: And again, I don't want
12 to keep you longer than necessary, but I'm a
13 little confused. You said you have a number.
14 I'm asking you how many, and you say you don't
15 know how many.

16 Let me ask it another way. How do
17 you confirm whether one of your partners has
18 distributed information or not?

19 MR. ABRAMS: We would only be able to
20 do that by following up directly with them.

21 MR. HAVER: And how many of your
22 partners did you follow up directly with?

23 MR. ABRAMS: I do not personally know
24 that information. I would have to follow up
25 with my staff to find out.

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1 MR. HAVER: How large is your staff?
2 How many people work for you?

3 MR. ABRAMS: There is a total count
4 of 111. That includes the customer contact
5 center. So in terms of communications, that
6 is a much smaller number. There are about,
7 what, 15 people in terms of community
8 engagement and our communications team.

9 MR. HAVER: Of those 15 people, how
10 many were tasked with doing follow-up to
11 community groups to see if they were passing
12 out the information you requested?

13 MR. DASENT: If you know.

14 MR. ABRAMS: Yeah, I don't -- I don't
15 know. I mean, that wasn't something that I
16 personally managed.

17 MR. HAVER: Who personally managed
18 that?

19 MR. DASENT: Objection, irrelevant.
20 Irrelevant.

21 HEARING OFFICER CHESTNUT: If he can
22 answer it, but...

23 MR. DASENT: Okay.

24 MR. ABRAMS: Well, I mean, so there
25 were a number of folks. So both, you know,

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1 Paul, who is on the line, and then Laura
2 Copeland -- who is on vacation and therefore
3 unable to be here today -- certainly helps in
4 distributing information to other
5 organizations, either -- and some of that was
6 sending out information to city council and to
7 their staff. Some were to community-based
8 organizations.

9 Again, we could dig into this a
10 little bit more and provide some more specific
11 information. I just don't have that available
12 right now.

13 MR. HAVER: Forgive me, I'm not going
14 to pronounce Mr. Fugazzotto's last name
15 correctly. But as he is here, I would like to
16 ask him the same question.

17 Sir, do you know how many people were
18 tasked with doing follow-up to community
19 groups to see if the information was
20 disseminated?

21 MR. FUGAZZOTTO: I do not know.

22 MR. HAVER: Do you know how many
23 community groups were contacted to see if the
24 information was disseminated?

25 MR. FUGAZZOTTO: I do not have an

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1 exact number. I could look at least and see
2 on our partners' e-mail distribution list,
3 probably within a pretty short period of time
4 and get that information to you.

5 MR. HAVER: Again, I appreciate the
6 offer of telling me it was on your e-mail
7 list. I personally have an e-mail list of
8 close to 7,000. I'm not sure that that's the
9 best way to communicate with people.

10 I was assuming that you're experts
11 and you know about open rates and you know
12 about commitments after an e-mail and that
13 e-mails are rarely sufficient. Maybe I've
14 misjudged your expertise.

15 MR. DASENT: Is there a question?

16 MR. HAVER: Yes. Would you agree
17 that e-mails are not a sufficient way of
18 communicating?

19 MR. FUGAZZOTTO: I would disagree.

20 MR. HAVER: So you don't think that
21 an open rate matters?

22 MR. FUGAZZOTTO: No, I would disagree
23 that it's not a good method of communication.

24 MR. HAVER: Does the open rate matter
25 of your e-mails?

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1 MR. FUGAZZOTTO: Absolutely, as does
2 the click rate.

3 MR. DASENT: So do you have that
4 information available?

5 MR. FUGAZZOTTO: I could pull that
6 information fairly easily, yes. I do not have
7 it at this moment.

8 MR. HAVER: Thank you.

9 So I'm requesting, again, the number
10 of community groups who committed to passing
11 out the information you were asking for, as
12 you said, distributing it. I'm asking how
13 many of them received follow-up phone calls to
14 see if the work was done. I'm requesting the
15 opening -- the open rate of the e-mails and
16 the clicks for the e-mails for your outreach.

17 MR. DASENT: Got it.

18 MR. HAVER: I don't want to belabor
19 the point. I've made my points. I won't keep
20 them here any longer than necessary.

21 HEARING OFFICER CHESTNUT: Okay.

22 Mr. Dasent, did you want to do some
23 redirect?

24 MR. DASENT: No redirect.

25 HEARING OFFICER CHESTNUT: Okay.

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1 Then I guess you're excused, gentlemen. And I
2 think that takes us to the end of today.

3 MR. DASENT: It does. And we have
4 the water commissioner first thing tomorrow
5 morning.

6 HEARING OFFICER CHESTNUT: And the
7 Public Advocate witnesses?

8 MR. DASENT: Yes.

9 HEARING OFFICER CHESTNUT: Those are
10 scheduled for tomorrow.

11 MR. DASENT: Quite a few of those,
12 yes.

13 HEARING OFFICER CHESTNUT: But we had
14 excused the PLUG witnesses. No one seemed to
15 have any cross for her.

16 MR. DASENT: That's correct. And I
17 don't believe Mr. Haver was going to have any.

18 MR. HAVER: That's not correct.

19 MR. DASENT: Oh, sorry.

20 MR. HAVER: I did talk with him
21 yesterday as you offered, and I found the
22 conversation was not sufficient.

23 HEARING OFFICER CHESTNUT: All right.
24 Does anybody have anything further they want
25 to bring up before we adjourn for the day?

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1 MR. DASENT: Nothing for the
2 department.

3 MR. BALLENGER: Nothing for the
4 Public Advocate.

5 MR. HAVER: Nothing, Your Honor.

6 HEARING OFFICER CHESTNUT: Thank you
7 all very much. I appreciate this. I really
8 was expecting this to go on much later. And
9 I'm sure this will be a big help in terms of
10 us getting the transcript on a timely basis.

11 MR. HAVER: We'll try not to
12 disappoint you tomorrow and keep you until at
13 least 8:00.

14 HEARING OFFICER CHESTNUT: Please
15 don't. I get really cranky if it cuts into my
16 TV time, you know.

17 MR. HAVER: I would say that's an
18 understatement.

19 HEARING OFFICER CHESTNUT: Yeah,
20 probably.

21 But all right then. Enjoy the rest
22 of your day and I'll see you all at
23 9:00 o'clock tomorrow. Thank you very much.

24 MR. DASENT: Thank you.

25 HEARING OFFICER CHESTNUT: And,

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1 Debbie, if you have any questions about
2 spelling or anything -- I did provide you with
3 some documents, but let me know. Don't
4 hesitate.

5 (Time noted: 3:32 p.m. EDT)

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REPORTER'S CERTIFICATION

I, Debra A. Dibble, RDR, CRR, Notary Public, hereby certify that this transcript is a true record of the proceedings held in the foregoing matter on Wednesday, May 3, 2023.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which these proceedings were taken; and, further, I am not a relative or employee of any attorney of record in these proceedings, nor am I financially or otherwise interested in the outcome of said proceedings.

Subscribed and sworn to on this 3rd day of May.

DEBRA A. DIBBLE
NCRA Registered Diplomate Reporter
NCRA Certified Realtime Reporter

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