

1 CITY OF PHILADELPHIA

2 PHILADELPHIA WATER, SEWER AND STORMWATER RATE  
3 BOARD HEARING

4

5

6

7

8 IN RE: Hearing for Philadelphia Water  
9 Department's request to increase its rates for  
10 service.

11

12 DATE: Thursday, May 22, 2025

13 LOCATION: Zoom Teleconference

14

15 Reported by: Jill Cifelli

16

17

18

19

20

21

22

23

24

Job No.: 957001

1 ATTENDANCE

2 Marlane Chestnut, Hearing Officer

3 Randy Hayman

4 Jerome Mierzwa

5 Lafayette Morgan

6 Ben Jewell

7 Vahe Hovsepian

8 Glen Abrams

9 Paul Fugazzotto

10 Laura Copeland

11 Dave Jagt

12 Peter Nissen

13 Andre Dasent, Philadelphia water department

14 Rick Hicks

15 Carl Shultz

16 Brooke Darlington

17 Robert Ballenger, Public advocate

18 Vic patel

19 Matthew Garber, PLUG

20

21

22

23

24

|    |                |                        |
|----|----------------|------------------------|
| 1  | INDEX          |                        |
| 2  | EXAMINATION    |                        |
| 3  |                | PAGE                   |
| 4  | By MR. HAVER   | 14, 29, 33, 62, 66, 71 |
| 5  | By MR. HICKS   | 12                     |
| 6  |                |                        |
| 7  | EXHIBITS       |                        |
| 8  | (None marked.) |                        |
| 9  |                |                        |
| 10 |                |                        |
| 11 |                |                        |
| 12 |                |                        |
| 13 |                |                        |
| 14 |                |                        |
| 15 |                |                        |
| 16 |                |                        |
| 17 |                |                        |
| 18 |                |                        |
| 19 |                |                        |
| 20 |                |                        |
| 21 |                |                        |
| 22 |                |                        |
| 23 |                |                        |
| 24 |                |                        |

1 - - -

2 PROCEEDINGS

3 - - -

4 HEARING OFFICER CHESTNUT: Good

5 morning, everyone. This is the continued

6 technical hearing to examine the Philadelphia

7 Water Department's request to increase its

8 rates for service. My name is Marlene

9 Chestnut, M-A-R-L-E-N-E C-H-E-S-T-N-U-T. And

10 I've been selected by the Philadelphia Water,

11 Sewer and Stormwater Rate Board to oversee

12 the hearing process and to write a

13 recommendation for the rate board to

14 consider.

15 This is an on the record hearing,

16 so please be sure to spell your name and

17 speak clearly and slowly for the benefit of

18 the court reporter. I'd like the

19 participants present to identify themselves

20 for the record, starting with the

21 Philadelphia Water Department.

22 MR. DASENT: Good morning, Judge

23 Chestnut. Andre Dasent for the Philadelphia

24 Water Department. With me today is Rick

1 Hicks and Carl Schultz should also be in the  
2 room, and Brooke Darlington.

3 HEARING OFFICER CHESTNUT: Okay.  
4 Thank you. Public advocate?

5 MR. BALLENGER: Good morning, Your  
6 Honor. Robert Ballenger from Community Legal  
7 Services for the public advocate. And I'm  
8 joined by Vic patel.

9 HEARING OFFICER CHESTNUT: Thank  
10 you. PLUG, which is PLUG. Mr. Bakare, are  
11 you here? Do I even see you?

12 MR. BALLENGER: I don't believe --

13 MR. HICKS: I do not see him.

14 HEARING CHESTNUT: I don't see him  
15 either.

16 MR. DASENT: We addressed his  
17 witnesses yesterday. He may not be in  
18 attendance quite intentionally.

19 HEARING OFFICER CHESTNUT: Okay.  
20 Well, we'll keep an eye out for him or for  
21 Mr. Garber.

22 MR. BALLENGER: Mr. Garber has just  
23 arrived. I'm just putting him on.

24 HEARING OFFICER CHESTNUT: Okay.

1 MR. GARBER: Good morning,  
2 everyone. Yes, I've been here, listening in.  
3 This is Matt.

4 HEARING OFFICER CHESTNUT: Okay.  
5 And you're here for PLUG, which is the  
6 Philadelphia Large Users Group?

7 MR. GARBER: Correct. Thank you.

8 HEARING OFFICER CHESTNUT: Mr.  
9 Haver?

10 MR. HAVER: I'm here and I'm asking  
11 if there's an update from the settlement that  
12 we were told about yesterday.

13 HEARING OFFICER CHESTNUT: Well,  
14 we'll get to preliminary matters. At this  
15 point, I just want people to identify  
16 themselves for the record. But certainly  
17 that would be appropriate. I think that --  
18 that's it. Well, preliminary matters. Mr.  
19 Haver asked if there was an update from  
20 yesterday. There was an announcement that  
21 there was a -- an agreement on the revenue  
22 requirement among the department and the  
23 advocate.

24 MR. HICKS: Yes, and in fact, we

1 have a larger range of issues we're agreeing  
2 on as a part of the settlement. But we will  
3 put that in our settlement petition because  
4 it deals with the revenue adjustments, it  
5 deals with cost of services issues, and it  
6 also deals with customer service matters. So  
7 we'll, we'll get that memorialized in a joint  
8 petition and circulate to the parties for  
9 their comment. And we'll try to have it  
10 ready earlier because Mr. Bakare indicated  
11 that would be helpful.

12 HEARING OFFICER CHESTNUT: Okay.  
13 In terms of timing, according to the  
14 schedule, your settlement petition would be  
15 due May 30. Are you expecting to file it  
16 then or earlier or?

17 MR. HICKS: We'll try to file it  
18 earlier to allow people -- input, you know,  
19 to either, you know, disagree or, or, or sign  
20 on with us. And if we can do that, you know,  
21 a little earlier than that, we -- that's our  
22 plan.

23 HEARING OFFICER CHESTNUT: Because  
24 I would urge you to circulate the terms

1 amongst the other participants to see if they  
2 can -- how they feel about it.

3 MR. HICKS: Okay. Will do.

4 HEARING OFFICER CHESTNUT: All  
5 right. Are there any other preliminary  
6 issues before we go on to the first witness?

7 MR. HICKS: Yesterday we had a  
8 transcript request for rating agency  
9 methodologies by Mr. Haver, and the financial  
10 advisors put together an exhibit. And we  
11 shared it with the service list first thing  
12 this morning. And we're just trying to --  
13 and that's our outreach exhibit. And usually  
14 the public advocate also will have something  
15 comparable in the brief or post hearing  
16 exhibits. We have no problem with it. It  
17 just helps the record.

18 HEARING OFFICER CHESTNUT: I assume  
19 you will be providing something similar, Mr.  
20 Ballenger.

21 MR. BALLENGER: Yes. Later on  
22 today, we'll be submitting our -- that final  
23 hearing exhibit, which is the outreach  
24 report, as well as the, the last responses



1 and objections to the pending discovery.

2 Just thought we'd throw that in.

3 HEARING OFFICER CHESTNUT: Okay. I  
4 surely will appreciate that urgent message --  
5 that urgent information. I actually watched  
6 the video that they put together.

7 MR. HICKS: Rob, the person in your  
8 chat. They have declined panelist status. I  
9 don't know if you want to talk to them about  
10 it so they know what -- why you're doing that  
11 or why you're not doing that.

12 MR. BALLENGER: Yeah, okay. I'm  
13 assuming -- yes, that's -- that would be  
14 Jerry.

15 MR. MIERZWA: Yeah. Can you hear  
16 me?

17 MR. BALLENGER: Oh, yes.

18 MR. HICKS: There he is.

19 MR. MIERZWA: I can't see me. I  
20 don't see my name on the screen.

21 MR. BRYANT: So when -- I promoted  
22 you to panelists. Accept it. And then we  
23 can see your, your video.

24 MR. MIERZWA: I'm sorry, you did or

1 are going to?

2 MR. BRYANT: I did. I'll do it  
3 again. You declined it. I'll do it again.

4 MR. MIERZWA: I don't remember  
5 doing anything. Oh, there we go. Join as a  
6 panelist. Okay.

7 MR. BALLENGER: There we go.

8 HEARING OFFICER CHESTNUT: Right.  
9 I'm looking at the list of attendees, and I  
10 really don't see anybody.

11 MR. BRYANT: Two audios. All  
12 right, she's back in.

13 HEARING OFFICER CHESTNUT: I'm --  
14 two aren't better than one, but.

15 MR. MIERZWA: Okay. I see myself  
16 now.

17 HEARING OFFICER CHESTNUT: Okay.  
18 Jill, are you ready to start again or, or  
19 not?

20 MR. BRYANT: Oh, Madam Hearing  
21 Officer. Give me one second. Let me see --

22 HEARING OFFICER CHESTNUT: Yeah, I  
23 see she has her hand up

24 MR. BRYANT: -- where she is.

1 HEARING OFFICER CHESTNUT: Well,  
2 while we're waiting, Commissioner Hayman, I  
3 just wanted to congratulate you, and I hope  
4 you're looking forward to your new  
5 challenges.

6 MR. BRYANT: Court reporter should  
7 be back now.

8 MR. HAYMAN: Thank you very much.  
9 It's very kind of you. I'll miss  
10 Philadelphia, and I'll miss even these  
11 proceedings, but it's been enjoyable time in  
12 Philadelphia. Everyone's been just  
13 wonderful.

14 HEARING OFFICER CHESTNUT: Oh,  
15 that's good to hear.

16 THE REPORTER: I am back, Madam  
17 Hearing Officer, and again, apologize for the  
18 technical issue.

19 HEARING OFFICER CHESTNUT: That's  
20 okay. We understand these things do happen,  
21 and it's important that we do have a -- an  
22 appropriate transcript, so. Okay. So I  
23 think we had finished talking about  
24 preliminary issues, and we're ready to

1 proceed to the first witness.

2 MR. DASENT: Yes, we are. It will  
3 be Commissioner Randy Hayman, and His  
4 statement is PWD statement one. Mr. Hicks  
5 will handle our -- in any -- he will be the  
6 lead counsel for Mr. Hayman this morning.  
7 Thank you.

8 HEARING OFFICER CHESTNUT: Okay.  
9 We've already stipulated to authenticity, so  
10 I guess the only question is are there any  
11 additions, changes or corrections?

12 MR. HICKS: And yes, you, Honor,  
13 there is one that I wanted to have the  
14 commissioner note. As you are aware, folks,  
15 this is -- the commissioner is a panel of  
16 one, so we will rely specifically on him for  
17 the testimony in this portion of the  
18 proceeding.

19 - - -

20 EXAMINATION

21 - - -

22 BY MR. HICKS:

23 Q. Commissioner, before we begin, would you  
24 first state your name and spell your last name for

1 the record?

2 A. Yes, my name is Randy E. Hayman, to  
3 spell it, R-A-N-D-Y, E., as in middle initial  
4 Hayman, H-A-Y-M-A-N.

5 Q. Thank you, sir. And is there a  
6 correction that is required to your statement one?

7 A. Yes, the correction is that dated March  
8 19th, 2025, and it rather corrected a typo in  
9 statement one at page 4, line three. The original  
10 text said that we requested for fiscal year 2026  
11 an annual revenue increase to generate  
12 approximately \$78.630 million in additional  
13 revenue. That number, again, was a typo. It  
14 should have read that we are requesting for fiscal  
15 year 2026 annual revenue increase to generate  
16 approximately \$73.63 million in additional  
17 revenue.

18 The errata correct -- corrects the typo with  
19 respect to the amount requested for fiscal year  
20 2026. That number is not again, 78.63. It is  
21 73.63.

22 Q. Thank you, sir. Is there anything else  
23 that you need to correct in your statement one?

24 A. All other numbers and calculations I

1 think are correct.

2 Q. Thank you very much. For background,  
3 Your Honor, Commissioner Hayman's testimony is  
4 very specific with regard to the experience of his  
5 own in connection with this filing. We are  
6 absolutely aware that he has tremendous knowledge  
7 and general information about PWD in particular  
8 and water cases as well. But to be very specific,  
9 his testimony in statement one is limited to a  
10 finite number of topics.

11 The largest of which is his introduction of  
12 the eight panels that are part of this proceeding.  
13 So I just wanted to note for the record, that is  
14 our expectation that his cross-examination will be  
15 limited to his direct examination. With that,  
16 Your Honor, I offer Commissioner Hayman for cross-  
17 examination.

18 HEARING OFFICER CHESTNUT: Thank  
19 you. Mr. Haver?

20 - - -

21 EXAMINATION

22 - - -

23 BY MR. HAVER:

24 Q. Commissioner, I'll try and get you out

1 the door as soon as possible. How many rate cases  
2 since you've been the water commissioner, have you  
3 participated in?

4 MR. HICKS: Your Honor, I, I would  
5 object. But it is such a simple question  
6 that if the commissioner is comfortable  
7 answering that question, I will withdraw my  
8 objection.

9 HEARING OFFICER CHESTNUT: If he  
10 can answer it. Otherwise, Mr. Haver, you can  
11 find that out yourself.

12 MR. HAYMAN: I, I can say with  
13 confidence, I was the -- I started in 2019,  
14 and so all of the rate cases since that time,  
15 we had one, what? In 2024. I believe we had  
16 one, 2022. But beyond that, I would -- I  
17 would go back to the record for that -- a  
18 better answer. I'm sorry.

19 BY MR. HAVER:

20 Q. Thank you. In any of those rate cases,  
21 did the department receive the amount that it  
22 originally requested?

23 MR. HICKS: Again, Your Honor, I  
24 object to the questioning being beyond the

1 scope of the commissioner's testimony.

2 HEARING OFFICER CHESTNUT: It is  
3 beyond the scope. I -- and I also don't  
4 understand why that's not information you  
5 have yourself. He introduced himself. He  
6 gave a one sentence, basically, about the  
7 function of the water department, and then  
8 his purpose was to introduce the other  
9 statements that were presented to support the  
10 filing. You can -- you can look up yourself  
11 what the filings were made and what the rate  
12 board's determinations were. You don't have  
13 to ask this witness that. And it's -- it is  
14 outside the scope of his testimony.

15 MR. HAVER: I want to ask him that,  
16 and I continue to ask him that. And if  
17 you're going to rule that out of order, go  
18 right ahead. But that is my question.

19 MR. HICKS: And that is my  
20 objection, Your Honor.

21 HEARING OFFICER CHESTNUT: Oh, your  
22 objection is sustained. Clearly. But if  
23 it's something that you can answer with  
24 confidence and quickly Commissioner Hayman,



1 I, you know, again, I, I do think it's  
2 outside the scope both of, of this, this  
3 testimony and the proceeding, the rate  
4 board's determination, speak for themselves.

5 MR. HAYMAN: That -- that's my  
6 position. I would allow the record to speak  
7 for itself.

8 BY MR. HAVER:

9 Q. In the 2019, 2022, and 2024 rate cases,  
10 were they settled with negotiation and a  
11 settlement?

12 MR. HICKS: Objection, Your Honor.

13 HEARING OFFICER CHESTNUT:

14 Sustained.

15 MR. HICKS: Those rate cases are  
16 not a part of his direct testimony.

17 HEARING OFFICER CHESTNUT:

18 Sustained.

19 BY MR. HAVER:

20 Q. Did you approve the previous  
21 settlements?

22 MR. HICKS: Objection, Your Honor.

23 The previous settlements are not a part of  
24 his testimony.

1 HEARING OFFICER CHESTNUT: Yeah, I  
2 don't understand the point of the question.  
3 Obviously, the department took a position  
4 with respect to those cases. Now, if you're  
5 asking about Commissioner Hayman's particular  
6 role, that's outside the scope of his  
7 testimony. I mean, the department has a  
8 position, and it was clear from the record of  
9 those proceedings and the rate board's  
10 determination.

11 BY MR. HAVER:

12 Q. Again, my question is, did the  
13 commissioner approve all of those settlements?

14 MR. HICKS: And my objection is it  
15 is beyond the scope of his testimony, Your  
16 Honor.

17 HEARING OFFICER CHESTNUT: Well,  
18 Commissioner Hayman, I just don't understand  
19 how your answer could be anything other than  
20 the department took a position. Whether you  
21 personally approved it is just irrelevant. I  
22 don't know what you're, you know, I, I don't  
23 think it gets anything to say what the  
24 process is that they use to address these

1 filings. It's, it's -- the record speaks for  
2 itself in each case.

3 MR. BALLENGER: Your Honor, if I  
4 may interject. The, the, the question itself  
5 is, is, you know, this is really not properly  
6 stated. I mean, there's only been one  
7 general rate preceding settlement since the  
8 board was created. I believe that was  
9 documented in the public advocate's answer to  
10 a motion earlier in this proceeding.

11 HEARING OFFICER CHESTNUT: Well,  
12 there's one that I'm aware of since 2018, and  
13 that's in -- was it 2021?

14 MR. BALLENGER: Yes, Your Honor.

15 HEARING OFFICER CHESTNUT: 2021,  
16 which led to the special rate proceeding that  
17 resulted in the rate decrease. So I don't  
18 know if you could consider that special rate  
19 proceeding which arose out of the settlement  
20 to be part of that, so. But, yes, there has  
21 been one general rate proceeding settled.  
22 And so I assume Mr. Haver's questions are  
23 directed only to that because that is the  
24 only one that was settled. Do you want to

1 clarify that, Mr. Haver? You are talking  
2 about the settled rate case, right?

3 MR. HAVER: I'm talking about the  
4 settled rate case. I'm talking about the  
5 adjustments. I'm talking about whether the  
6 commissioner knows and supported the  
7 settlement agreements.

8 MR. HICKS: And again, Your Honor,  
9 I renew my objection and hope that we can  
10 begin to focus on the direct examination of  
11 the commissioner in his cross-examination.

12 HEARING OFFICER CHESTNUT: I agree  
13 -- I agree. It doesn't matter whether  
14 Commissioner Hayman personally agreed to  
15 anything or not. The fact is that the  
16 department took a position which is on the  
17 record and is contained in the rate board's  
18 determination. Do you have a question  
19 related to his testimony?

20 MR. HAVER: Again, if you're going  
21 to say, I can't get an answer, say that.  
22 Otherwise, I'm going to just keep asking it.

23 HEARING OFFICER CHESTNUT: I  
24 thought I said -- I was very clear. I

1           sustained the objection. If you have a  
2           question related to Commissioner Hayman's  
3           testimony, please go ahead and ask it.

4 BY MR. HAVER:

5           Q. Does the water department have the right  
6           and the ability to sell more water than it's  
7           currently selling?

8                       MR. HICKS: Objection, Your Honor.  
9           That is clearly beyond the scope of the  
10          commissioner's testimony. And I again renew  
11          my request that Mr. Haver limit his cross-  
12          examination to the direct examination topics  
13          in Mr. Hayman's testimony.

14                      HEARING OFFICER CHESTNUT: Well,  
15          you're right. It is certainly outside the  
16          scope of his testimony. If Commissioner  
17          Hayman can very briefly answer it. I, I --  
18          he can. I'm not sure -- I won't allow  
19          further questions on that. But if you just  
20          want to ask this one question, that's fine.  
21          And it's not fine. I'm sorry. It is  
22          objectionable, and I would sustain the  
23          objection. But on the other hand, it might  
24          be quicker for Commissioner Hayman just to

1 answer it and move on.

2 MR. HAYMAN: My answer is that  
3 would be best answered by the operations  
4 panel.

5 HEARING OFFICER CHESTNUT: Okay.

6 MR. HAVER: Is there anyone from  
7 the operations panel available today?

8 HEARING OFFICER CHESTNUT: I  
9 thought the operations panel was scheduled  
10 for today.

11 MR. HAVER: Just want to be -- just  
12 want to make sure.

13 MR. BALLENGER: Actually, we had  
14 Operations yesterday, but I can ask Mr.  
15 Jewell to, to be available later for you Mr.  
16 Haver.

17 HEARING OFFICER CHESTNUT: Okay.

18 MR. HAVER: Thank you.

19 HEARING OFFICER CHESTNUT: Oh,  
20 you're right. I'm sorry. I'm just getting  
21 that confused with the capital panel. Do you  
22 have any questions related to Commissioner  
23 Hayman's testimony, Mr. Haver? Because if  
24 you don't, then we can just wrap this up.

1 MR. HAVER: I have my questions,  
2 and I have a right to ask them. You have a  
3 right to rule them out of order. Mr. Hicks  
4 has a right to object. But I don't believe  
5 that Mr. Hicks and I have the same position,  
6 so I'm not seeking advice from him. His  
7 advice would be to support the water  
8 department, because that's what he's paid to  
9 do.

10 MR. HICKS: And, Your Honor, I move  
11 to strike that entire dialogue offered by Mr.  
12 Haver as irrelevant and immaterial.

13 HEARING OFFICER CHESTNUT: Well,  
14 obviously it is irrelevant and immaterial.  
15 But on the other hand, there is no probative  
16 weight assigned to it. So I'm not going to  
17 grant your motion to strike if it's not  
18 necessary.

19 MR. HICKS: Understood. Your  
20 Honor.

21 BY MR. HAVER:

22 Q. Does the Philadelphia water department  
23 have a marketing budget?

24 A. Marketing? No. We are a, a not-for-

1 profit governmental agency.

2 Q. Thank you. How often does the  
3 Philadelphia water department meet with the city  
4 commerce department to get the commerce  
5 department's help in bringing new water intensive  
6 industries into Philadelphia?

7 MR. HICKS: Objection, Your Honor.

8 It's the same recurring objection about  
9 inquiries beyond the scope of his direct  
10 testimony.

11 HEARING OFFICER CHESTNUT:

12 Sustained.

13 BY MR. HAVER:

14 Q. How often does the Philadelphia water  
15 department meet with PIDC to persuade PIDC to help  
16 recruit water intensive industries into the city  
17 of Philadelphia?

18 MR. HICKS: Objection, Your Honor.

19 On several grounds. Beyond the scope of his  
20 testimony, assumes significant facts not in  
21 evidence in this proceeding, and it is the  
22 same recurring theme that Mr. Haver attempts  
23 to pursue about matters that are not a part  
24 of this proceeding.



1 HEARING OFFICER CHESTNUT:

2 Sustained.

3 BY MR. HAVER:

4 Q. Commissioner, are you familiar with  
5 management audits?

6 A. Please describe what you mean by  
7 management.

8 Q. An audit conducted that looks at the,  
9 the flow of information that looks at the  
10 operations and doesn't solely focus on the  
11 financials.

12 HEARING OFFICER CHESTNUT: I'm not  
13 sure that's an actual definition of a  
14 management audit, but if that's how you want  
15 to frame your question. Can you answer that,  
16 Commissioner Hayman?

17 MR. HAYMAN: I don't clearly  
18 understand his definition. I would say that  
19 Philadelphia water routinely evaluates how  
20 it's conducting business, and we have  
21 different audits that do take place  
22 throughout the years, but I don't know  
23 exactly per his definition, if we've had that  
24 type of audit.

1 BY MR. HAVER:

2 Q. Have any of the consultants that you  
3 have hired, been hired to conduct a management or  
4 operational audit?

5 A. I would leave that to the operations  
6 panel to talk in more detail.

7 Q. Does the Philadelphia water department  
8 have any plans to put out requests for proposals  
9 for management or operational audits?

10 MR. HICKS: Objection, Your Honor.

11 HEARING OFFICER CHESTNUT:

12 Sustained.

13 MR. HAVER: I guess I'm going to  
14 wish the commissioner a good trip out of the  
15 city. Enjoy yourself. No reason to keep you  
16 longer.

17 HEARING OFFICER CHESTNUT: Is there  
18 any other cross for Commissioner Hayman? I'm  
19 thinking Mr. Bakare, did you have any  
20 questions?

21 MR. BAKARE: We do not.

22 HEARING OFFICER CHESTNUT: I'm  
23 sorry, Mr. Garber. I take that back. Sorry.

24 MR. GARBER: No problem.

1 HEARING OFFICER CHESTNUT: Okay.

2 Did you want to consider redirect, Mr. Hicks?

3 MR. HICKS: I don't think that's  
4 necessary, Your Honor. Unless Andre sees  
5 some other reason, we can move on, Your  
6 Honor?

7 MR. DASENT: Yeah, I. I don't see  
8 a need for redirect. Thank you.

9 HEARING OFFICER CHESTNUT: Okay.  
10 Well, thank you very much, Commissioner  
11 Hayman. I wish you really the best of luck.

12 MR. HAYMAN: Thank you, everyone.  
13 It's been a pleasure.

14 HEARING OFFICER CHESTNUT: Okay.  
15 That takes us to.

16 MR. DASENT: I think it's Mr.  
17 Mierzwa next.

18 HEARING OFFICER CHESTNUT: Mr.  
19 Mierzwa?

20 MR. HICKS: Excuse me. Mr. Jewell  
21 is on the panel that -- from yesterday, and  
22 that's who Mr. Dasent said I should direct my  
23 questions to. So if we could just clear  
24 those last few things up, and then we don't

1 have to keep him.

2 MR. DASENT: He's going to be on  
3 all day, and I will talk to him in a moment.

4 MR. HICKS: Okay.

5 MR. DASENT: I'd love to stick to  
6 the schedule if we could, Your Honor.

7 MR. HICKS: That's fine. That's  
8 fine.

9 MR. DASENT: And Mr. Mierzwa has  
10 some limited availability, and I'd like to  
11 have him crossed at this point.

12 HEARING OFFICER CHESTNUT: Okay.  
13 Given his availability, I mean, it makes  
14 sense, I guess, to go with Mierzwa if Mr.  
15 Jewell will be available.

16 MR. HICKS: Yes, he will.

17 HEARING OFFICER CHESTNUT: Okay.

18 MR. BALLENGER: Thank you, Your  
19 Honor, Mr. Jerome Mierzwa is here on behalf  
20 of the public advocate. As, as you're aware,  
21 he sponsored direct testimony, identified as  
22 public advocate statement number two, as well  
23 as rebuttal testimony identified as public  
24 Advocate statement number 2R. My

1 understanding is that we've stipulated to the  
2 authenticity of, of those, those submissions,  
3 and as a result, I offer Mr. Mierzwa for  
4 cross-examination.

5 HEARING OFFICER CHESTNUT: Okay.

6 Thank you. Mr. Mierzwa, could you give and  
7 spell your name for the record?

8 MR. MIERZWA: Yeah, my name is  
9 Jerome D. Mierzwa. That's J-E-R-O-M-E space  
10 D. and Mierzwa is, M-I-E-R-Z-W-A. I'm sorry,  
11 did you say address too?

12 HEARING OFFICER CHESTNUT: Not  
13 necessary.

14 MR. MIERZWA: Okay. Thank you.

15 HEARING OFFICER CHESTNUT: Mr.  
16 Haver, did you have questions for Mr.  
17 Mierzwa?

18 MR. HAVER: Yes, yes, I did. I was  
19 waiting for you to ask him if he had any  
20 changes.

21 HEARING OFFICER CHESTNUT: No. I  
22 think Mr. Ballenger would have said if he  
23 did, but.

24 - - -

1 EXAMINATION

2 - - -

3 BY MR. HAVER:

4 Q. So, Mr. Mierzwa, am I pronouncing your  
5 last name correctly, sir?

6 A. Yes.

7 Q. On your direct testimony, page 3 and 4,  
8 you list your participation in past Philadelphia  
9 Water Department rate proceedings. Is that  
10 correct?

11 A. That is correct.

12 Q. And it's numerous. Is that correct?

13 A. Correct.

14 Q. In those cases, did the Philadelphia  
15 Water Department ever get the amount it requested  
16 in its original filing?

17 MR. BALLENGER: I'm going to go  
18 ahead and object here. This has nothing to  
19 do with Mr. Mierzwa's testimony and is  
20 entirely irrelevant.

21 HEARING OFFICER CHESTNUT: It is  
22 irrelevant. He's the cost of service  
23 witness. And again, as I said before, the  
24 rate board's determination speak for

1           themselves. I don't know why you're asking  
2           this witness that.

3                   MR. HAVER: Because he -- because  
4           he's an expert. He has knowledge and he  
5           knows the answer.

6                   HEARING OFFICER CHESTNUT: But  
7           that's not why he was presented in this case.  
8           He was -- he's not talking about the adequacy  
9           of the rating increases. But if you can  
10          answer it very briefly, Mr. Mierzwa, maybe  
11          quicker just to move on.

12                  MR. BALLENGER: If you know offhand  
13          Mr. Mierzwa.

14                  HEARING OFFICER CHESTNUT: If you  
15          know. If you don't know, then let the record  
16          speak for itself. I mean, you know.

17                  MR. MIERZWA: I, I, I do not know.  
18          I did not go back and look at each of those  
19          cases, see what was requested and what was  
20          awarded. My area is cost of service. The  
21          area you're talking about is revenue  
22          requirements, which is not my area.

23 BY MR. HAVER:

24          Q. Does the Philadelphia Water Department

1 have any surplus capacity, defined as the ability  
2 to sell more water than it's currently selling?

3 MR. BALLENGER: I'm going to go  
4 ahead and object again, this has nothing to  
5 do with Mr. Mierzwa's testimony. And he's  
6 not here to, to testify on behalf of the  
7 Water Department as to its capacity.

8 HEARING OFFICER CHESTNUT: Are you  
9 able to answer that question, Mr. Mierzwa,  
10 because it doesn't seem to fall within the  
11 scope of your testimony?

12 MR. MIERZWA: No, I'm not able to  
13 answer that question.

14 HEARING OFFICER CHESTNUT: Okay.

15 BY MR. HAVER:

16 Q. In your testimony, you don't talk about  
17 using the availability of water as an economic  
18 development tool. Is there a reason why you  
19 don't?

20 MR. BALLENGER: I'm going to object  
21 to this question.

22 HEARING OFFICER CHESTNUT: Yeah.  
23 It's not even at all within his testimony.

24 MR. HAVER: I have no more



1 questions.

2 HEARING OFFICER CHESTNUT: Okay.

3 Does anybody else have any questions for, for  
4 Mr. Mierzwa? Okay, then did you want to  
5 consider redirect, Mr. Ballenger?

6 MR. BALLENGER: I think we're okay.  
7 Just let Mr. Mierzwa go about his day at this  
8 point.

9 HEARING OFFICER CHESTNUT: Okay.  
10 Well, thank you very much, Mr. Mierzwa.

11 MR. MIERZWA: Thank you. You're  
12 welcome.

13 HEARING OFFICER CHESTNUT: So that  
14 takes us to Mr. Morgan. Oh, there you are.  
15 Okay.

16 MR. BALLENGER: Thank you, Your  
17 Honor, as you're aware, Mr. Morgan sponsored  
18 direct testimony, identified as public  
19 advocate statement number one in this  
20 proceeding. There was a rebut -- there was  
21 an -- I'm sorry. An errata submitted to his  
22 schedules last week, leave on Wednesday.  
23 And, and I believe that has already been  
24 entered into the record, so it doesn't really

1           require any further discussion at this point.  
2           Just ask Mr. Morgan to spell his first name  
3           and last name for the record, and then he's  
4           available for cross-examination.

5                       HEARING OFFICER CHESTNUT:   Okay.

6                       MR. MORGAN:   My name is Lafayette  
7           Morgan.   First name L-A-F-A-Y-E-T-T-E.   Last  
8           name is Morgan, M-O-R-G-A-N.   I'm a junior,  
9           so that's the suffix.

10                      HEARING OFFICER CHESTNUT:   Mr.  
11           Haver, do you have questions for Mr. Morgan?

12                      MR. HAVER:   Yes, I do.

13                               -   -   -

14                               EXAMINATION

15                               -   -   -

16   BY MR. HAVER:

17           Q.   Mr. Morgan, in your direct testimony,  
18   page 3, lines 14 to 16.

19                      HEARING OFFICER CHESTNUT:   Wait,  
20           wait, wait, wait.   Hold on -- hold on.   Are  
21           you -- his direct testimony?

22                      MR. HAVER:   Yes, ma'am.

23                      HEARING OFFICER CHESTNUT:   Okay.

24           That would be -- and I'm sorry.   What page

1 was that?

2 MR. HAVER: Page 3. His number,  
3 page 3 may not be paginated on the computer  
4 page three, lines 14 to 16.

5 HEARING OFFICER CHESTNUT: Are you  
6 there, Mr. Morgan?

7 MR. MORGAN: Yes, I'm there.

8 HEARING OFFICER CHESTNUT: Okay.  
9 Mr. Haver.

10 BY MR. HAVER:

11 Q. In your testimony, you say that Mr.  
12 Colton will present recommendations for operations  
13 improvements. Did you review Mr. Colton's  
14 testimony before you submitted this?

15 A. No, I did not.

16 Q. Have you reviewed Mr. Colton's testimony  
17 since you submitted this?

18 A. I reviewed it briefly, yes. I skimmed  
19 through it.

20 Q. I could find no operational improvements  
21 recommended. To what were you referring?

22 A. What I was referring to was, just in  
23 general, what his testimony would be covering.  
24 Not necessarily any particular operation

1 improvement.

2 Q. I'm sorry, sir. Either I'm having a  
3 computer problem, or you turned away from your  
4 mic. The last part of it.

5 A. I said, not necessarily any special  
6 specific operations improvement.

7 Q. Were you suggesting it was some type of  
8 management audit?

9 A. No.

10 Q. Were you suggesting it was some type of  
11 operational audit?

12 MR. BALLENGER: Can I go ahead and  
13 interject and, and object here? Because I  
14 think what Mr. Morgan is here to testify  
15 about is his testimony, not Mr. Colton's  
16 testimony. But I do note there are several  
17 operational issues addressed in Mr. Colton's  
18 direct testimony.

19 MR. HAVER: I'm specifically asking  
20 about Mr. Morgan's statement on page 3, lines  
21 14 to 16.

22 HEARING OFFICER CHESTNUT: But I  
23 thought you asked him about his understanding  
24 of what Mr. Colton's testimony would

1 encompass and he answered that. But I don't  
2 think you can go any further, because it's  
3 really Mr. Colton's testimony who -- it's Mr.  
4 Colton who can talk about his testimony and  
5 what he intended to put in there and did put  
6 in there.

7 MR. HAVER: But he is -- he is  
8 stating that he wrote this without reviewing  
9 Mr. Colton's testimony. So I'm curious, how  
10 did he know?

11 MR. BALLENGER: We could stipulate  
12 to the fact that each of the public advocates  
13 witness has its own scope of work, if that's  
14 helpful, and that Mr. Morgan's testimony was  
15 provided in the scope of his work, as was Mr.  
16 Colton's. But beyond that, I think the  
17 question's been asked and answered.

18 HEARING OFFICER CHESTNUT: Yes, and  
19 I think it's just pretty clear that Mr.  
20 Morgan's statement was simply describing how  
21 the public advocates testimony was going to  
22 be presented then -- with the different  
23 witnesses. If you have a question about Mr.  
24 Morgan's own testimony, I think that would be

1 a good idea.

2 MR. HAVER: Again, we are not on  
3 the same side, Your Honor, I don't really  
4 need your advice. Please rule me out of  
5 order or order the questions to be answered.  
6 But offering your advice to me isn't helpful.  
7 It just shows how skewed you look at the  
8 world.

9 HEARING OFFICER CHESTNUT: Yes.  
10 Okay. Well, thank you for that. Do you have  
11 a question for Mr. Morgan?

12 MR. HAVER: I do.

13 BY MR. HAVER:

14 Q. Mr. Morgan, does the public input  
15 hearings help you shape your testimony?

16 MR. BALLENGER: I'm going to go  
17 ahead and, and object to this question. I  
18 don't think there's anything in Mr. Morgan's  
19 testimony about the public input hearings.  
20 But if Mr. Morgan has an opinion, he's  
21 welcome to share it.

22 HEARING OFFICER CHESTNUT: If, if  
23 you can answer it, go ahead.

24 MR. MORGAN: My testimony is data

1 driven, and it's not driven by public  
2 sentiments in the sense that it's primarily  
3 data driven.

4 BY MR. HAVER:

5 Q. So people's ability to pay, how is that  
6 taken into your data driven testimony?

7 MR. BALLENGER: Going to go ahead  
8 and, and repeat my objection here. I don't  
9 -- I don't think that this is really within  
10 the scope of Mr. Morgan's testimony or the  
11 presentation that he has provided in his  
12 testimony.

13 HEARING OFFICER CHESTNUT: Do you  
14 have a specific reference in his testimony,  
15 Mr. Haver?

16 MR. HAVER: I'm asking him -- he  
17 just said he doesn't use the public hearings  
18 for public sentiment, it's, it's data driven.  
19 I am asking him specifically, in response to  
20 that answer. What data does he use to  
21 evaluate affordability?

22 HEARING OFFICER CHESTNUT: Well,  
23 I'm not sure how he can -- first off, I think  
24 you do need to define affordability, how

1     you're using it. Because that term had this  
2     specific meaning and I'm not sure that's how  
3     you're using it. Are you able to even  
4     answer? I think you need to clarify what you  
5     mean by affordability, and then I'm not sure  
6     Mr. Morgan is capable of answering it.

7                 But on the other hand, Mr. Morgan,  
8     if you want to get an answer based on your  
9     testimony, you can.

10                MR. HAVER: Mr. Abrams in his  
11     direct -- in his testimony talks about that  
12     affordability. I have not had a chance to  
13     cross-examine him and get the definition that  
14     everybody is using. So I'm only using the  
15     definition that will be defined after Mr.  
16     Abraham's testifies. I, I was under the  
17     perhaps mistaken assumption that this was an  
18     easy question to answer.

19                How does affordability impact how  
20     you come up with your recommendation for  
21     rates? Maybe it's not --

22                MR. BALLENGER: I maintain our  
23     objection to this question.

24                HEARING OFFICER CHESTNUT: Yeah, I



1 think it's not helpful. But if Mr. Morgan  
2 can briefly answer it. Go ahead.

3 MR. MORGAN: I, I think he has to  
4 restate the question because on one hand,  
5 when explaining, he stated the, the question  
6 differently. So, could you please repeat  
7 your question?

8 BY MR. HAVER:

9 Q. In your data driven analysis that you  
10 use to make your recommendations, how do you  
11 calculate affordability?

12 A. That's not part of the scope of my  
13 testimony.

14 Q. I noticed from your CV that you've  
15 participated in a lot of rate cases. Is that  
16 correct?

17 A. That's correct.

18 Q. Have you participated in any rate case  
19 where the water department or any utility has  
20 received every amount that it requested in its  
21 original filing?

22 MR. BALLENGER: I'm going to go  
23 ahead and object to this question. We've  
24 heard this question a lot. But it's entirely

1 irrelevant to this proceeding and to Mr.  
2 Morgan's testimony in this case.

3 HEARING OFFICER CHESTNUT: It is  
4 irrelevant. And I'm assuming your questions  
5 are limited to rate proceedings involving the  
6 Philadelphia water department. And again,  
7 the department's rate determinations speak  
8 for themselves. You can't -- I don't think  
9 it's appropriate for you to have Mr. Morgan  
10 doing your research for you. He is not your  
11 witness.

12 It's about his testimony and if you  
13 have questions about his testimony, that's  
14 perfectly appropriate. But to have him do  
15 your, your research like that just, just is  
16 not allowed.

17 MR. HAVER: I'm simply asking him  
18 what he knows. If he doesn't know, he  
19 doesn't know.

20 MR. BALLENGER: We maintain our  
21 objection, Your Honor.

22 HEARING OFFICER CHESTNUT: Yeah,  
23 I'm going to disallow the question. I don't  
24 think it has any kind of probative weight for

1 Mr. Morgan to try and answer that.

2 BY MR. HAVER:

3 Q. Mr. Morgan, do the people who run  
4 utilities know that it is unlikely for them to  
5 receive every penny of the original filing?

6 MR. BALLENGER: Objection. Your  
7 Honor, Mr. Morgan is not going to, you know,  
8 intuit somehow the knowledge of others in  
9 this proceeding.

10 HEARING OFFICER CHESTNUT:

11 Objection sustained.

12 BY MR. HAVER:

13 Q. Mr. Morgan, in your direct testimony,  
14 page 4 and 5, lines 24 to 25.

15 MR. BALLENGER: Which page? Page 4  
16 or page 5?

17 MR. HAVER: It continues. It's the  
18 -- it's what you say the water department  
19 needs and revenues for the two succeeding  
20 fiscal years. So just on, on the filing from  
21 the Philadelphia Water Rate Board, it  
22 continues over again. Your pagination may be  
23 different.

24 MR. BALLENGER: We'll just object.

1 Somewhat to the presentation. There's,  
2 there's nowhere in Mr. Morgan's testimony  
3 that he -- on that page states what the  
4 department needs. It actually refers to the  
5 requested revenues in this proceeding.

6 Otherwise --

7 HEARING OFFICER CHESTNUT: Do you  
8 want to state your question again, Mr. Haver?

9 MR. HAVER: Well, I -- I'm not sure  
10 what Mr. Ballenger is looking at, but Mr.  
11 Morgan writes his recommendations what are  
12 based on what he believes the water  
13 department needs. So I'm not sure. I'm not  
14 sure what, what Mr. Ballenger is looking at  
15 other than trying to stop his own witness  
16 from saying what his witnesses  
17 recommendations were.

18 MR. BALLENGER: You can state where  
19 on page 4, lines 22 through 25, the word  
20 needs appears, then perhaps we can be on the  
21 same page. Otherwise, I'd ask you to ask  
22 your question.

23 HEARING OFFICER CHESTNUT: I think  
24 what he -- I think what he's actually asking

1 is about the next sentence, which is his  
2 analysis and his recommendation, which is  
3 actually on page 5, not page 4.

4 MR. BALLENGER: Thank you.

5 HEARING OFFICER CHESTNUT: Is that  
6 your question? What is your question at this  
7 point? I'm sorry.

8 BY MR. HAVER:

9 Q. So again, calling that to your  
10 attention. Is it your testimony that 60.92  
11 million is what is needed in 2026?

12 MR. BALLENGER: Object to the, the  
13 question. I believe you're pulling from the  
14 proposed settlement number, which is not part  
15 of Mr. Morgan's testimony in this proceeding.

16 HEARING OFFICER CHESTNUT: Yeah,  
17 his testimony is 53.795 and 49.276 in fiscal  
18 2027. That's his testimony. That's not the  
19 settlement numbers, but --

20 BY MR. HAVER:

21 Q. So let's start there then. The number,  
22 Mr. Morgan, that you are saying is -- that you are  
23 recommending and saying is what is needed by the  
24 Water Department for fiscal year 2027 is an

1 increase of 54 million. Is that correct?

2 A. I, I did not say that's what they need.

3 That was my recommendation based on --

4 HEARING OFFICER CHESTNUT: Excuse  
5 me, Mr. Morgan, I'm having trouble hearing  
6 you. Could you maybe get closer to your mic?

7 MR. MORGAN: Okay. Can you hear me  
8 better now?

9 HEARING OFFICER CHESTNUT: Speak  
10 up.

11 MR. MORGAN: Okay. Just hang on  
12 for one second, please. I apologize. Can  
13 you hear me better now?

14 MR. BALLENGER: Yes.

15 MR. MORGAN: Okay. What I will say  
16 is that nowhere in that testimony do I say  
17 they'll need 53.795. Based on my analysis,  
18 those are the recommendations. The need is -  
19 - it's up to the -- to the utility to decide  
20 what they need. I looked at the records, I  
21 did my analysis, and my recommendation was  
22 53.7. Actually, we had any errata that  
23 reduces that amount by about 500,000.

24 BY MR. HAVER:

1 Q. So just to make sure, I'm working from  
2 the same numbers. In fiscal year 2026, your  
3 recommendation for an increase was how much?

4 A. The recommendation is for 2026? I'm  
5 sorry, I'm just trying to clarify.

6 Q. Yes, let's start with 2026, and then  
7 let's go to 2027.

8 A. 53 point. Let me -- let me get you the  
9 errata sheet, please. 53.216.

10 Q. And in the next fiscal year, 2027?

11 A. 49.384.

12 Q. Are you familiar with the proposed  
13 settlement?

14 MR. BALLENGER: Your Honor, I'm  
15 going to go ahead and object. This starts to  
16 get into privileged territory.

17 HEARING OFFICER CHESTNUT: Well,  
18 you announced the numbers yesterday. So I  
19 think he could actually be familiar with  
20 that. Because I assume he was involved in  
21 calculating it, but maybe not. But are you  
22 familiar with, with the proposed settlement?  
23 Revenue requirement agreement?

24 MR. MORGAN: Yes.

1 BY MR. HAVER:

2 Q. And for fiscal year 2026, what is the  
3 revenue requirement that was settled on?

4 MR. BALLENGER: I don't believe  
5 this is part of Mr. Morgan's testimony. The  
6 settlement is a document that will speak for  
7 itself once it's filed.

8 HEARING OFFICER CHESTNUT: No, I'll  
9 allow the question, if he's able to answer  
10 it.

11 MR. MORGAN: Yeah, I haven't  
12 committed that to memory, so I have to look  
13 it up, so.

14 HEARING OFFICER CHESTNUT: Okay.  
15 Mr. Haver, do you have another question?

16 MR. HAVER: I was waiting for him  
17 to look it up. I'm sorry.

18 HEARING OFFICER CHESTNUT: Can you  
19 look it up? (indiscernible) Mr. Morgan.

20 MR. MORGAN: The document I'm  
21 looking at is 60 million, yes.

22 BY MR. HAVER:

23 Q. So at, at the hearing yesterday, it was  
24 announced it was 60.92 million. Your number is



1 different.

2 A. Yeah, that's correct.

3 Q. 60.92 million?

4 A. That's correct.

5 Q. So that would be slightly more than 7  
6 million more than what you recommended. Is that  
7 correct?

8 A. It's higher, yes.

9 Q. Is it 7 million higher?

10 A. Yes.

11 Q. The next fiscal year 2027, again, you  
12 recommended 49.384 million. Is that correct?

13 A. Yes.

14 Q. And you want to look at what the  
15 settlement proposal is for what has been agreed to  
16 by Mr. Ballenger and Mr. Dasent?

17 A. I'm looking at an email with the amount  
18 I can. If you give me an amount, I could accept  
19 this subject to chat, because the email I have  
20 doesn't have that intel. I have to go back, and  
21 it'll take time.

22 Q. You want me to give you the number that  
23 Mr. Ballenger and Mr. Dasent --

24 A. I can give you -- I can give you a

1 number.

2 Q. I'm happy to do so, sir. It just seems  
3 that you got the number from them, but I'm happy  
4 to give it to you. So it's 54 million flat.

5 A. That sounds right.

6 Q. And you recommended 49 million?

7 A. That's correct.

8 Q. So they are settling on more than what  
9 you recommended. Is that correct?

10 A. Settlement numbers are higher than what  
11 I recommended.

12 Q. Why should anybody settle for more than  
13 what was needed?

14 MR. BALLENGER: And I object to  
15 the, the question here. This is beyond the  
16 scope of Mr. Morgan's testimony and  
17 irrelevant to his submission in this case.

18 HEARING OFFICER CHESTNUT: It is,  
19 but I think the real problem is more the form  
20 of the question in terms of the term needed  
21 as opposed to agreed to. But if Mr. -- I  
22 mean, yes, it's outside the scope of his  
23 testimony, but, but I think it's pretty clear  
24 that the, the settlement based on your own

1 statements include items other than the  
2 revenue requirement.

3           So there may be items in there that  
4 benefit the customers. So for example of the  
5 prior settlement, the only other settled case  
6 in which -- and not only was the company's  
7 requested amount was reduced, but there were  
8 also were substantial customer service  
9 improvements and customer assistance  
10 improvements, so.

11           MR. HAVER: Let the record reflect  
12 you are once again helping the water  
13 department get a rate increase and showing  
14 where you stand. Do you want to step down  
15 and testify?

16           HEARING OFFICER CHESTNUT: Mr.  
17 Haver, you know -- I'm not going to respond  
18 to you. But if you have an objection to how  
19 I've conducted this hearing, then, object to  
20 the right board.

21           MR. HAVER: I understand that. I  
22 object on the record, for you providing  
23 testimony, argument and reasoning for the  
24 water department. You have no right to do

1 so. You are not entitled to add any type of  
2 testimony to the record.

3 HEARING OFFICER CHESTNUT: Well,  
4 you're entitled to your opinion, whether or  
5 not it's correct or not. So why don't you  
6 move on. If you have a question, why don't -  
7 - why don't you go ahead and ask it?

8 MR. HAVER: I, I am asking it.  
9 You're trying to answer it instead of letting  
10 Mr. Morgan answer it.

11 HEARING OFFICER CHESTNUT: Well,  
12 sometimes it requires me to seek  
13 clarification.

14 MR. HAVER: Yeah, I'm sure that's  
15 what you're doing.

16 BY MR. HAVER:

17 Q. Mr. Morgan, again, the settlement is for  
18 more than what you recommended. Is that correct?

19 A. The settlement is higher than what I  
20 recommended.

21 Q. Does that mean that you don't support  
22 the settlement?

23 A. No, I don't think that's accurate. No.

24 Q. Why should somebody support a settlement

1 that gives the water department more than what  
2 your testimony shows?

3 MR. BALLENGER: I object to this  
4 sort of hypothetical type of questioning. It  
5 really is inappropriate and, and starts to  
6 get into, you know, really the, the  
7 confidential nature of settlement discussions  
8 and, and puts Mr. Morgan in a position of  
9 having to evaluate -- formulate an opinion on  
10 a settlement agreement that has not yet even  
11 been filed. But more importantly, it just  
12 really has no bearing on his testimony in  
13 this case.

14 HEARING OFFICER CHESTNUT: I agree.  
15 I'm going to sustain the objection because I  
16 think it's premature. The federal agreement  
17 will be filed and then you can comment on it  
18 or object to it. I think it's premature,  
19 though to be asking and premature and  
20 inappropriate to be asking Mr. Morgan these  
21 particular types of questions.

22 MR. HAVER: Will there be an  
23 opportunity to ask Mr. Morgan these questions  
24 after the settlement proposal is filed?

1 MR. BALLENGER: There will not.

2 HEARING OFFICER CHESTNUT: There  
3 will not, no.

4 MR. HAVER: This is the only  
5 opportunity to ask Mr. Morgan about the  
6 settlement agreement. Is that correct?

7 MR. BALLENGER: Mr. Morgan has not  
8 provided testimony about the settlement  
9 agreement, so it would be inappropriate for  
10 him.

11 MR. HAVER: Mr. Ballenger, I was  
12 not speaking to you.

13 MR. BALLENGER: I understand, but I  
14 am speaking too.

15 MR. HAVER: I am asking the hearing  
16 examiner.

17 MR. BALLENGER: Well, I have the  
18 right to speak.

19 MR. HAVER: Madam Hearing Examiner,  
20 is this the only opportunity I will have to  
21 ask Mr. Morgan about the proposed settlement?

22 HEARING OFFICER CHESTNUT: Yes, but  
23 you have to understand that the settlement  
24 hasn't been presented yet. That's really the

1 problem.

2 MR. HAVER: So when you say it  
3 hasn't been presented, what you mean is the  
4 information they provided is not accurate?

5 HEARING OFFICER CHESTNUT: Why  
6 would you -- why would you say that? That's  
7 not what I said.

8 MR. HAVER: Well, you said it  
9 hasn't been presented. They went before you  
10 yesterday morning and announced a black box  
11 settlement.

12 HEARING OFFICER CHESTNUT: Which is  
13 the revenue requirement. But according to  
14 Mr. Ballenger, there are other terms included  
15 in this proposed settlement that have not  
16 been presented yet.

17 MR. HAVER: And I'm only asking Mr.  
18 Morgan about the revenue requirements which  
19 were announced.

20 HEARING OFFICER CHESTNUT: But you  
21 asked him and he answered. I'm not sure what  
22 else -- what else he has to say about it.

23 MR. HAVER: So again I asked why  
24 would he support giving the water department

1 more than what he recommended they needed?

2 HEARING OFFICER CHESTNUT: Did you  
3 have an answer to that, Mr. Morgan? Without  
4 going into details, of a document that hasn't  
5 been filed yet?

6 MR. MORGAN: Right. I can --  
7 settlements, the nature of settlements, I  
8 can't go any further than to say that the  
9 result of the negotiated settlement is  
10 something that I support, but I can't -- you  
11 -- one never goes into the details of the  
12 settlement.

13 BY MR. HAVER:

14 Q. Can settlements include something other  
15 than what the rate board could order?

16 A. I don't -- I'm not sure I understand.

17 MR. BALLENGER: Yeah, I object to  
18 the form of the question. I -- I'm not sure  
19 that that is really a subject that has been  
20 raised here, and it certainly isn't in Mr.  
21 Morgan's testimony. But it's some sort of  
22 hypothetical scenario --

23 HEARING OFFICER CHESTNUT: I'll  
24 allow the question because going back to the



1 prior settlement, there are items contained  
2 in there that the rate -- that the department  
3 agreed to that the rate board could not have  
4 ordered.

5 MR. BALLENGER: Right, but Your  
6 Honor, Mr. Morgan is not here for that  
7 purpose. This is not -- this is not a  
8 settlement but his testimony.

9 HEARING OFFICER CHESTNUT: No, but  
10 as a general -- as a general statement, a  
11 settlement could possibly include commitments  
12 on the part of the department that the rate  
13 board could not direct it to do. And if that  
14 was your question, then --

15 MR. HAVER: That is my question.

16 HEARING OFFICER CHESTNUT: But I  
17 don't think you need this witness to answer  
18 it.

19 MR. BALLENGER: Yeah, Mr. Morgan's  
20 not here to testify about this -- about the  
21 settlement.

22 MR. HAVER: Again, I, I won't  
23 belabor the point. I will ask one more time,  
24 and then I will let Mr. Morgan go about his

1 business for the day.

2 BY MR. HAVER:

3 Q. Mr. Morgan, is one of the reasons why  
4 someone would support a settlement that has higher  
5 revenues than what you were recommending, is  
6 because there may be some things in the settlement  
7 that could not be obtained through an order from  
8 the water rate board?

9 MR. BALLENGER: We maintain our  
10 objection to this question.

11 HEARING OFFICER CHESTNUT: I'll let  
12 Mr. Morgan answer that. Because it's really  
13 just a hypothetical kind of question.  
14 Doesn't really have any application to this  
15 particular one since we actually don't know  
16 the terms yet. But as a general matter, is  
17 that something you could address?

18 MR. MORGAN: I have no idea what  
19 the rate board would decide, and so I can't  
20 answer the question.

21 MR. HAVER: Thank you, Mr. Morgan.  
22 I won't keep you any longer.

23 HEARING OFFICER CHESTNUT: Mr.  
24 Garber, did you have any questions for Mr.

1 Morgan?

2 MR. GARBER: No, Your Honor.

3 HEARING OFFICER CHESTNUT: Okay.

4 Did you want to do redirect, Mr. Ballenger,  
5 or an opportunity to discuss it?

6 MR. BALLENGER: Yeah, if I could  
7 just have a couple of minutes to speak with  
8 Mr. Morgan offline. We'll be right back.

9 HEARING OFFICER CHESTNUT: How  
10 about if we take a 10 minute break and resume  
11 at 11:10?

12 MR. BALLENGER: That's perfect.  
13 Thank you, Your Honor.

14 MR. HAVER: Thank you.

15 (Off the record.)

16 HEARING OFFICER CHESTNUT: So we  
17 took a break and I think it's probably best  
18 if we circle back to the operations panel  
19 now, unless you wanted to go ahead with the  
20 capital panel.

21 MR. DASENT: Yeah, we're ready with  
22 operations after Mr. Ballenger does any  
23 redirected.

24 HEARING OFFICER CHESTNUT: I'm

1       sorry, I forgot about that.

2                   MR. BALLENGER:   Not a problem.

3                   HEARING OFFICER CHESTNUT:   You're  
4       right.   Did you have any redirect, Mr.  
5       Ballenger?

6                   MR. BALLENGER:   We, we -- I think  
7       there's been enough suspense built over the  
8       break.   We, we do not have any redirect this  
9       time.   Thank you.

10                  HEARING OFFICER CHESTNUT:   Okay.  
11       Thank you.   You're excused, Mr. Morgan.   So  
12       back to my question.   Should we go with the -  
13       -

14                  MR. DASENT:   Yes.

15                  HEARING OFFICER CHESTNUT:   Now I  
16       know that you had mentioned Mr. Jewell.   But  
17       I see that there were other people on the  
18       operations panel who seem to be present here  
19       today.

20                  MR. DASENT:   But Mr. Jewell can  
21       answer the question.

22                  HEARING OFFICER CHESTNUT:   I'm  
23       sorry.

24                  MR. DASENT:   Yeah, Mr. Jewell can

1 answer the question. He's first deputy. We  
2 just have to make sure he's a panelist,  
3 deland.

4 MR. BALLENGER: I don't see Mr.  
5 Haver.

6 MR. BRYANT: Yes, I'm sorry.

7 HEARING OFFICER CHESTNUT: You're  
8 right. We're --

9 MR. DASENT: I don't either.

10 MR. BALLENGER: I don't see him in  
11 the attendees list or panelists.

12 MR. BRYANT: I'm sorry, Mr. Haver  
13 is not on at this moment.

14 HEARING OFFICER CHESTNUT: Well,  
15 we'll, we'll wait a couple minutes then.  
16 Because he was the one who had questions for.

17 (Off the record.)

18 HEARING OFFICER CHESTNUT: Mr.  
19 Haver?

20 MR. HAVER: Yes.

21 HEARING OFFICER CHESTNUT: Can you  
22 hear us?

23 MR. HAVER: I can hear you, but I  
24 cannot see anybody. And, and I object to

1 being placed in this second class status.

2 HEARING OFFICER CHESTNUT: Well,  
3 Deland just explained he's not able to change  
4 your status because you telephoned in. It's  
5 not that we're preventing you from doing it  
6 or refusing to do it.

7 MR. HAVER: Okay. So I will hang  
8 up the telephone and then I will sign in,  
9 just like everybody else has the right to do.

10 HEARING OFFICER CHESTNUT: But I  
11 thought you weren't able to do that.

12 MR. HAVER: You have locked me out.  
13 When I go -- excuse me? You have locked me  
14 out when I go and follow the Zoom link, it  
15 says I cannot qualify as a participant.

16 HEARING OFFICER CHESTNUT: Well,  
17 no, you have to come in as an attendee.

18 MR. HAVER: I do not have that  
19 option because you have locked me out.

20 HEARING OFFICER CHESTNUT: Nobody  
21 has locked you out. Nobody has removed you.  
22 Nobody has done anything like that.

23 (Off the record.)

24 MR. BALLENGER: We have -- we're

1 ready to present Mr. Jewell, the first deputy  
2 water commissioner. And he's available for  
3 the cross-examination of those two questions  
4 that you raised earlier today with Mr.  
5 Hayman.

6 MR. HAVER: Thank you.

7 - - -

8 EXAMINATION

9 - - -

10 BY MR. HAVER:

11 Q. The first was, does the water department  
12 have the ability to sell more water than it's  
13 currently selling?

14 A. There are really two kind of, two  
15 factors in determining the quantity of water that  
16 we are able to produce for sale. One of them is a  
17 permit that regulates our ability to withdraw  
18 water from our source waters, Schoopal and  
19 Delaware river. That as we are currently  
20 operating, the department does have excess  
21 capacity on that permit, so could withdraw  
22 additional water from those rivers.

23 Q. How much additional water?

24 A. I do not know at this time.

1 Q. Okay.

2 A. And then additionally, there is a  
3 production rate that our treatment plants are  
4 rated for, and each of our treatment plants are  
5 currently producing below the design rate. So,  
6 yes, I do believe we would be able to produce more  
7 water for sale at this time.

8 Q. And again, if you know, how much  
9 capacity do they have in those plants?

10 A. I do not know.

11 Q. I believe the second question I was  
12 asking about was the marketing department and how  
13 often you meet with the commerce department?

14 A. I believe we have our public relations  
15 and engagement team testifying later today. I  
16 believe that question would be appropriately  
17 directed towards that panel.

18 Q. How much work am I asking you to do to  
19 get the numbers of how much surplus there is? Is  
20 that a lot of work or is that a little work?

21 A. I believe we could produce those  
22 documents upon request.

23 Q. If it's not a lot of work, I would like  
24 to see it. If it's a lot of work, I don't think



1 it's -- I mean, you all have decided to settle.  
2 So the only thing left for me to do is go to the  
3 council people and show why they should reject the  
4 settlement. I'd like to be able to show how much  
5 surplus water there is so we could bring in living  
6 wage jobs. But if it's a lot of work, it seems  
7 not fair to you.

8 MR. BALLENGER: We can provide it  
9 if you can do it, Mr. Jewell.

10 MR. JEWELL: Yeah, I believe we  
11 can, yes.

12 BY MR. HAVER:

13 Q. Within a couple of hours, right? I  
14 mean, if you have to spend a lot of time, please  
15 don't. But if it's -- if it's a phone call or an  
16 email, I'd like to have that information.

17 A. These are document. These are just --  
18 these are just documents that exist, so.

19 Q. So both the capacity to draw more water  
20 out of the Delaware and the capacity to treat the  
21 water. And I just want to make sure I understood  
22 you correctly. There is a permitting process. So  
23 even if we were to approach the limits that we  
24 already are permitted to take out of the Delaware,

1 we could apply to take out additional water. No  
2 guarantee we'll get it. But you can apply for it.  
3 Is that correct?

4 A. That's an accurate description, yes.  
5 We're about to find out.

6 Q. Thank you.

7 MR. DASENT: We'll provide that as  
8 a transcript response and try to turn that  
9 around very quickly.

10 MR. HAVER: That was it Mr. Jewell.  
11 Thank you.

12 MR. JEWELL: Thank you Mr. Haver.

13 HEARING OFFICER CHESTNUT: Thank  
14 you. All right. I think that takes us to  
15 the capital panel.

16 MR. DASENT: Yes. And we have Mr.  
17 Furtek and Mr. Hovsepian. I'm getting better  
18 and better at pronouncing your name Vahe.

19 MR. HOVSEPIAN: Thank you.

20 MR. DASENT: There are no additions  
21 or corrections to the testimony, which in  
22 this case would be testimony, PWD statement  
23 3, or your rebuttal testimony. If there are  
24 no changes or eratta. Mr. Hovsepian and Mr.

1 Furtek also is available to participate as a  
2 panel member. Are available for cross-  
3 examination.

4 HEARING OFFICER CHESTNUT: Okay.  
5 Mr. Haver?

6 - - -

7 EXAMINATION

8 - - -

9 BY MR. HAVER:

10 Q. I wanted to ask about debt service. How  
11 much debt service on an annual basis is the water  
12 department currently paying?

13 MR. DASENT: Objection. That's  
14 beyond the scope of his testimony.  
15 Unfortunately, that's the finance panel.  
16 We've already dealt with him yesterday. So  
17 it's not debt service the amount. Capital  
18 panel is about the budget. If you look at  
19 the testimony, the four corners of it are  
20 about budgeted amounts in the Capital  
21 Improvement Program and what those budget  
22 amounts are dedicated to and some discussion  
23 also about capital expenditures that are  
24 planned, not debt service. That's finance.

1 BY MR. HAVER:

2 Q. Looking forward, what percentage of your  
3 projects are going to be paid with returned  
4 earnings and which percentage will be paid through  
5 bonding or borrowing?

6 MR. DASENT: Objection. That's  
7 also beyond the scope of his testimony.  
8 That's finance. If he knows, though Mr.  
9 Hovsepian, if you can speak at broad  
10 brushstrokes, but finance is really the, the  
11 panel for that, and they've already been  
12 called and crossed.

13 HEARING OFFICER CHESTNUT: Well, if  
14 you can answer it quickly as Mr. Dasent  
15 indicated.

16 MR. HOVSEPIAN: Well, I don't have  
17 specific numbers, but the bulk of it is  
18 through the bond that proceeds.

19 MR. HAVER: I don't have any more  
20 questions.

21 MR. HOVSEPIAN: Great.

22 HEARING OFFICER CHESTNUT: Okay.  
23 Anybody else have any questions for this  
24 panel? Okay. Did you want to talk about

1 redirect, Mr. Dasent, or?

2 MR. DASENT: No redirect. Thank  
3 you.

4 HEARING OFFICER CHESTNUT: Okay.  
5 Thank you very much, gentlemen. You're  
6 excused.

7 MR. DASENT: Finally we have, I'd  
8 say public affairs. It's really  
9 communications and engagement. And that  
10 panel is PWD Statement 8 and PWD Statement 5  
11 R. Glenn Abrams will be our lead witness in  
12 this category. Hopefully he's elevated to  
13 panelist status. Also with him is Laura  
14 Copeland and Paul Fogazotto.

15 HEARING OFFICER CHESTNUT: Okay.  
16 We need to take a minute to.

17 MR. DASENT: If we can elevate them  
18 to panelists Deland, we're good. We'll be  
19 ready when you are.

20 MR. BRYANT: Yes, sir. I'm doing  
21 that. We -- a lot of people decline. When I  
22 first did it when they first came in and so  
23 then they back and doing now.

24 MR. DASENT: Glen is the --

1 MR. BRYANT: Yes. Oh, no, they,  
2 they got him. He's, he's promoted. Can you  
3 tell me the other two names? I'm sorry,  
4 Andre.

5 MR. DASENT: Sure. Laura Copeland,  
6 if she's in the room, and Paul Fugazzotto.

7 MR. BRYANT: I'm sorry, the last  
8 name. I'm sorry.

9 MR. DASENT: Paul F, Fugazzotto. I  
10 was going to spell it, but --

11 MR. BRYANT: That's fine.

12 MR. DASENT: I'm not really good at  
13 that.

14 MR. BRYANT: That's fine. I do not  
15 see a Paul.

16 MR. DASENT: Glenn is fine.

17 MR. BRYANT: Glenn is -- Glenn is  
18 on.

19 MR. BRYANT: Oh, Paul. There he  
20 is. Okay, let's see. There he is. Paul.  
21 That one other person. I'm sorry, Andre.

22 MR. DASENT: Laura Copeland, if  
23 she's in the room.

24 MR. BRYANT: Is she in the room? I

1           didn't -- not who I'm saying. Laura, if  
2           you're here, if you could raise your hand.  
3           Laura Copeland. I see you. Thank you.  
4           Connection is a little slower today. I'm  
5   sorry.

6                       MR. DASENT: No, we're fine.

7                       MR. BRYANT: I think everybody has  
8           been promoted over now Andre. You are ready  
9           to proceed if you agree.

10                      MR. DASENT: Okay. I see Laura.  
11   All right.

12                      MR. BRYANT: Yes.

13                      MR. DASENT: There are no additions  
14           or corrections to this testimony, whether  
15           it's statement 8 or PWD statement 5R. So  
16           we're ready to proceed with cross. Mr. Hicks  
17           will be lead for this panel.

18                      HEARING OFFICER CHESTNUT: Okay.  
19           Mr. Hicks, I don't know if you were planning  
20           to do this, but you -- could you have the  
21           witnesses give and spell their name for the  
22           record?

23                      MR. HICKS: That was precisely what  
24           I was going to do, but Your Honor is totally

1 capable. Then will you start, please?

2 HEARING OFFICER CHESTNUT: Yes.

3 MR. ABRAMS: My name is Glen, G-L-  
4 E-N, Abrams, A-B-R-A-M-S.

5 MR. HICKS: And Mr. Fugazzotto,  
6 would you please?

7 MR. FUGAZZOTTO: Sure. Paul, P-A-  
8 U-L. Fugazzotto, F-U-G-A-Z-Z-O-T-T-O.

9 MR. HICKS: And Ms. Copeland,  
10 please.

11 MS. COPELAND: Yes. Laura, L-A-U-  
12 R-A Copeland, C-O-P-E-L-A-N-D.

13 MR. HICKS: Thank you. Your Honor,  
14 the witnesses are available for cross-  
15 examination.

16 HEARING OFFICER CHESTNUT: Mr.  
17 Haver?

18 - - -

19 EXAMINATION

20 - - -

21 BY MR. HAVER:

22 Q. I'll be referring my questions to Mr.

23 Abraham's statement 5R. Mr. Abrahams, am I

24 pronouncing it correctly?



1 A. It is Abrams.

2 Q. Mr. Abrams, did you help prepare the  
3 rate filing for the initial request in this rate  
4 case?

5 A. No, I was not part of the rate filing.

6 Q. Did you write any of the documents that  
7 were posted at the Water Rate Board regarding this  
8 rate filing?

9 A. I helped prepare and review statement 8  
10 and statement 5R.

11 Q. Have you been through other rate cases  
12 with PWD?

13 A. I have. I started my position in 2019,  
14 and I've been -- participated in the rate cases  
15 since that time.

16 Q. Drawing your attention to page 4, line 5  
17 and 6 of 5R.

18 A. Yes.

19 Q. You write, the department cannot make  
20 significant withdrawals from cash balances during  
21 the rate period without financial consequences.  
22 Is that right?

23 A. That is what's written, correct.

24 Q. How do you define significance?

1           A.     That is a question actually, that is not  
2     -- I mean, this is a financial question. I, I am  
3     part of the Public Affairs Division. I lead that.

4                   MR. HICKS:   Black and Beatch could  
5     answer that.

6                   MR. HAVER:   But he wrote it.

7                   MR. HICKS:   Well, it's a panel's  
8     presentation, and the panel includes Black  
9     and Beatch as well as Public Affairs. Those  
10    aspects.

11                   HEARING OFFICER CHESTNUT: I think  
12    it's an appropriate question because it is in  
13    Mr. Abrams statement. And if you were  
14    provided with that language by someone else  
15    or you had something in mind when you used  
16    it, it is your statement.

17                   MR. ABRAMS:   It was a statement  
18    prepared by myself, the financial advisors,  
19    Black and Beatch. So it wasn't -- it was a,  
20    a group effort. So this part of the -- of  
21    the statement was not prepared by me  
22    specifically.

23                   MR. HICKS:   Mr. Abrams, is someone  
24    else on this panel capable of defining

1 significant in that context?

2 MR. ABRAMS: Brian Merritt will be  
3 my suggestion. Or, or Dave Jagt. They're  
4 both from Black and Beatch. They're both on  
5 the panel and they're in the room.

6 HEARING OFFICER CHESTNUT: But  
7 let's say -- I thought I saw Dave Jagt here.

8 MR. HICKS: So if, if he's not  
9 entered as a panel member, would someone  
10 please do that so that Mr. Haver's question  
11 can be answered? Mr. Jagt, if you're there,

12 HEARING OFFICER CHESTNUT: Is he  
13 still here?

14 MR. BRYANT: I'm promoting him up.  
15 He's here.

16 MR. HICKS: Okay. Yes, he is.

17 MR. BRYANT: Sorry.

18 MR. HICKS: Let us know when you  
19 get in David.

20 MR. BRYANT: Mr. Jagt has been  
21 promoted.

22 MR. ABRAMS: Mr. Haver, could I ask  
23 you to repeat the question once you see Mr.  
24 Jagt on the screen.

1 BY MR. HAVER:

2 Q. I see him on the screen. Referencing  
3 5R, page 4, line five and six. I've been told  
4 that perhaps you actually gave the term  
5 significant. And I'm asking. It's written the  
6 department cannot make significant withdrawals  
7 from cash balances during the rate period without  
8 financial consequences. And I'm asking the  
9 definition of the word significant.

10 A. So we are already below the target  
11 reserves. So any withdrawal would be considered  
12 significant at this point, then that we are moving  
13 further away from the target.

14 Q. So again, I just want to make sure. I  
15 understand. In this testimony, the word  
16 significant means any?

17 A. The department has been. And we have  
18 some projected withdrawals made and they're  
19 smaller amounts. It's just we're already below  
20 target. Any withdrawal just moves us further from  
21 the target. It, it would not be financially  
22 prudent to make any further withdrawals below the  
23 current balances.

24 Q. And I don't know that I should be

1 directing my questions to you, but I'm going to  
2 ask them and I will let your counsel decide who  
3 should answer them rather than me decide. You  
4 said it's not prudent to take more money from the  
5 reserve fund. Is there any law that prohibits it?

6 MR. HICKS: I will object to that.  
7 He's not offered as an attorney. He's  
8 offered as a financial advisor. If you're  
9 asking about whether there's reasons, not  
10 laws, but reasons not to do that, he can  
11 certainly answer that question.

12 MR. HAVER: I'm specifically asking  
13 about legal reasons.

14 HEARING OFFICER CHESTNUT: Are you  
15 aware, I mean, the witness is not a lawyer,  
16 but is he aware of legal constraints? I  
17 think might be an okay question. I know -- I  
18 know you don't like it, but we understand  
19 that the answer will not be given by a  
20 lawyer. It's just based on his understanding  
21 of working with this material.

22 MR. ABRAMS: The financial advisors  
23 are also in the room if Mr. Haver wants to  
24 follow-up in greater detail.

1 MR. HICKS: But to the extent that  
2 you know, Mr. Jagt, please respond.

3 MR. JAGT: And to me, that would be  
4 a bond ordinance related question. And it  
5 would be, like, we're not a lawyer and we  
6 don't -- that's not our role. So I don't  
7 think it would be appropriate for us to  
8 answer that with relative to the legal  
9 requirements.

10 MR. HICKS: Very good.

11 BY MR. HAVER:

12 Q. In 5R, you go on. And again, I assume  
13 that Mr. Abrams was one who wrote this, but  
14 perhaps that's an incorrect assumption just  
15 because his name was on it. You write that the  
16 credit rating agencies have informed you that  
17 drawing down the fund may result in a downgrade.  
18 Who should I be directing questions about that  
19 statement to?

20 MR. ABRAMS: Financial advisors.

21 They're also on the panel, and I --

22 MR. HICKS: All right. We'll have  
23 them ready for you right after Mr. Abrams.

24 MR. HAVER: So now I'm a little

1 confused. You want me to go through my  
2 questions for Mr. Abrams and then come back  
3 to the financial questions.

4 MR. ABRAMS: Or we can elevate, Mr.  
5 Pete Nissen to the panel.

6 MR. HAVER: It's completely up to  
7 you. I don't mind doing it that way if  
8 that's what you want. It's just, again, Mr.  
9 Abrams is the one who submitted the  
10 testimony, so.

11 MR. Jagt: And if you look at it  
12 very carefully, you'll see listed on the  
13 panel with Mr. Abrams are Black and Beatch,  
14 as well as Pete Nissen of Acacia Financial,  
15 and he's in the room now. Go ahead with your  
16 question.

17 MR. HAVER: Again, I'm happy to do  
18 it whatever way you want. You want me to  
19 skip the financial questions?

20 MR. ABRAMS: Mr. Nissen's here.

21 HEARING OFFICER CHESTNUT: I think  
22 you should ask it. The financial advisor  
23 people are here.

24 BY MR. HAVER:

1 Q. Right. So how have the credit rating  
2 agencies informed you? And now I'm not clear who  
3 that you is in that statement, that drawing down  
4 the fund may result in a downgrade of the bonds.

5 MR. NISSEN: Mr. Haver, this is  
6 Peter Nissen again, one of the financial  
7 advisors to the water department. I suspect  
8 that your question is directed to me. The  
9 comment to which you refer is related  
10 directly to statements made by Standard and  
11 Poor's in their 2021 credit rating report,  
12 which said specifically that draws from the  
13 rate stabilization fund that reduced the  
14 balance below 120 million would be -- would  
15 result in a ratings downgrade. They have not  
16 since retracted that statement in any  
17 subsequent ratings report.

18 BY MR. HAVER:

19 Q. And if they downgraded the bonds, what  
20 would be the financial result of that?

21 A. The cost of borrowing money would be  
22 higher.

23 Q. Do you have an estimate of how much  
24 higher?



1           A.    I don't have an estimate at this time.

2           Q.    In lines 9 through 10 on the same page,  
3 it states, there is enough money to eliminate the  
4 need for a rate increase for the next two years if  
5 all the money in the surplus was drawn down. Is  
6 that correct?

7           A.    Can you read the specific sentence? I'm  
8 not sure your characterization was the same as  
9 what I believe you're referring to.

10          Q.    Why don't you just tell me what you  
11 think lines 9 through 10 mean on page 4?

12                   HEARING OFFICER CHESTNUT: What  
13 page are you on?

14                   MR. HAVER: Again, I believe that  
15 it is on my, my screen. It's page 5.

16                   MR. NISSEN: I believe the sentence  
17 to which you refer states, without rate  
18 relief in FY 2026, the department would be  
19 forced to make a sizable withdrawal, of about  
20 (43.4 million). From the rate stabilization  
21 fund. That would drop the rate stabilization  
22 fund balance to about 76.9 million. That's  
23 what those two sentences say.

24 BY MR. HAVER:

1 Q. And then will that 73 million, be  
2 sufficient to -- if it were all drawn down, would  
3 be sufficient to alleviate the need for the second  
4 year rate increase? Not if it's wise but --

5 A. I can't -- I can't do that calculation  
6 in my head and on the spot.

7 Q. Would it help if I told you how much the  
8 settlement agreement is for? In case you don't  
9 know, we went over that --

10 A. I do believe I know what the rate. I do  
11 believe I, I was on the meetings yesterday, so I  
12 have those two amounts.

13 Q. Is the second year -- is the settlement  
14 agreement for the second fiscal year number  
15 smaller than that 70 million?

16 A. I believe -- I believe that the amount  
17 quoted yesterday for the second year settled rate  
18 relief was 54 million.

19 Q. Yes.

20 A. I believe that the number on that page  
21 is 76 million. I will agree with you that 54  
22 million is less than 76 million.

23 Q. Thank you. Would you also agree then --  
24 not that it's a good idea, not that it's prudent,

1 not that it makes economic sense. But would you  
2 agree that there is enough money in the  
3 stabilization fund to alleviate the need for any  
4 rate increase if all that were used in these next  
5 two fiscal years?

6 A. No.

7 Q. Why is that?

8 A. I believe that the hypothesis that  
9 you're postulating here is that there's no rate  
10 relief provided in either of the next two years.

11 Q. That's correct.

12 A. To the extent -- to the extent there is  
13 no rate relief provided in this current coming  
14 fiscal year, there will also not be rate relief  
15 provided by that same rate relief in the next  
16 fiscal year. So the cumulative impact of the two  
17 years is not merely the two numbers listed in the  
18 proposed settlement from yesterday. It is larger  
19 than that because there is foregone rate relief  
20 associated with the first year's rate relief that  
21 is not then available to the system in the second  
22 year.

23 Q. So the size of the rate relief in the  
24 proposed settlement agreement isn't as large as

1 what people will actually pay. Is that what  
2 you're saying?

3 MR. HICKS: Objection, Your Honor,  
4 that is not what he's saying. If he --

5 HEARING OFFICER CHESTNUT: No, but  
6 he can clarify it. I mean, he can clarify.

7 MR. HICKS: He doesn't know what  
8 stabilization is. He should ask.

9 MR. NISSEN: I'm sorry, Mr. Haver,  
10 can you repeat the question again?

11 BY MR. BRYANT:

12 Q. So I was just doing the math and saying,  
13 here's how much is in the stabilization fund.  
14 Here's how much the two rate increases in the  
15 proposed settlement add up to. They don't total  
16 the amount in the fund. In the stabilization  
17 fund, you say that I have calculated the rate  
18 increase incorrectly, that the rate increase is  
19 actually more than just adding those two numbers.  
20 Is that correct?

21 A. I did not state that.

22 MR. HICKS: You object to the  
23 question. It's a mischaracterization of the  
24 witness's testimony. If he wants to --

1 HEARING OFFICER CHESTNUT: But I'll

2 -- why don't we let him clarify, clarify it.

3 MR. HICKS: Okay.

4 HEARING OFFICER CHESTNUT: I think

5 Mr. Nissen can, can answer this or Mr.

6 Charles actually.

7 MR. HICKS: Mr. Nissan, please. Go

8 ahead.

9 MR. NISSEN: When, when rate relief  
10 is provided in a particular year, the effect  
11 of that rate relief also continues in  
12 subsequent years because the rate has been  
13 increased and additional revenues are  
14 expected to be available for calculation of  
15 satisfaction of the various requirements.  
16 So, when rate relief is provided, it provides  
17 relief not simply in that year, but also in  
18 subsequent years.

19 BY MR. HAVER:

20 Q. Thank you. Going back to the statement  
21 five are page 13, lines 18 to 21. I'm talking  
22 specifically about the sentence. The comparisons  
23 between the department rates and charges and,  
24 "general changes in inflation over time are not

1 useful."

2 MR. HICKS: Is there a question,  
3 Mr. Haver?

4 MR. HAVER: Yes, there is, but I  
5 just want to make sure everyone has it and we  
6 agree that's what it says.

7 MR. Jagt: And what was the  
8 question?

9 MR. NISSEN: Can you recite the  
10 line numbers? I believe you said page 13 of  
11 5R.

12 MR. HAVER: Right. Page 13's line  
13 18 to 21.

14 MR. HICKS: Just to be clear in my  
15 head. Is the question, is that what the  
16 testimony says, Mr. Haver?

17 MR. HAVER: No, that's the  
18 clarifying to make sure that I have reported  
19 it correctly so I can base my question.

20 MR. HICKS: All right. Please ask  
21 a question of the witness.

22 MR. HAVER: I'm not going to be  
23 rushed.

24 MR. HICKS: Take your time, but

1 please ask a question.

2 MR. HAVER: Thank you.

3 HEARING OFFICER CHESTNUT: No, I  
4 think at this point we were just making sure  
5 we were literally on the same page and had  
6 the same reference in front of us. I don't  
7 think there actually is a question, is there?

8 MR. NISSEN: Not yet, Your Honor.

9 HEARING OFFICER CHESTNUT: So, but  
10 we're there. So time for a question.

11 BY MR. HAVER:

12 Q. Okay. Does why doesn't inflation that  
13 affects people's lives matter?

14 MR. HICKS: Objection, Your Honor.

15 HEARING OFFICER CHESTNUT: Yes,  
16 that's sustained. That's, that's not what's  
17 said there.

18 BY MR. HAVER:

19 Q. In deciding if rates are affordable. Is  
20 inflation a tool that should be used?

21 HEARING OFFICER CHESTNUT: I'm  
22 sorry, where does it talk about affordability  
23 in this.

24 MR. HAVER: So that is one of the

1 things that you came up earlier, that bills  
2 were affordable and you asked for a  
3 definition. And we're going to get to that  
4 with Mr. Abrams statement, although I'm  
5 guessing he didn't write that either. Where  
6 I ask specifically what his definition is,  
7 but I didn't want to take it out of context.  
8 So I'm going line by line.

9 HEARING OFFICER CHESTNUT: Well,  
10 there's nothing -- I'm sorry, but I must be  
11 missing something because I don't see  
12 anything in here talking about affordability  
13 or impact on customers.

14 MR. HICKS: My objection, Your  
15 Honor, would be it's beyond the scope of that  
16 testimony in particular.

17 HEARING OFFICER CHESTNUT: Yes, it  
18 is.

19 MR. HAVER: Page 14, lines 9  
20 through 14.

21 HEARING OFFICER CHESTNUT: Hold on.  
22 14, lines 9 through 14?

23 MR. HAVER: Yes. In that -- in  
24 those lines, there's a reference to industry



1 standard for affordability. What is the  
2 definition of that?

3 MR. NISSEN: What is -- what do you  
4 refer to when you say that, Mr. Haver?

5 MR. HAVER: The industry standard  
6 for affordability.

7 MR. HICKS: Mr. Vahe, could you  
8 answer that?

9 MR. HOVSEPIAN: That may be more.  
10 Pete Nissan.

11 MR. HICKS: Okay. Mr. Nissen,  
12 could you answer that?

13 MR. NISSEN: Respectfully, I don't  
14 think that I wrote this portion of the  
15 testimony, but I do believe that this section  
16 noted by Mr. Haver is then referring back to  
17 FP1, which, if memory serves me correctly, I  
18 think is the -- is a part of the statement.  
19 2A, I think. Yep. I think that's.

20 MR. ABRAMS: And there's also pure  
21 analysis in the statement that you might be  
22 able to help with -- in context of this  
23 question.

24 MR. NISSEN: Sorry, I'm sure. Is,

1 is there a specific question again, and if  
2 there is going to be recited.

3 BY MR. HAVER:

4 Q. In this testimony that was provided to  
5 rebut what I put in, there is a line, and in that  
6 line it talks about the industry standard for  
7 affordability. I'm asking what the definition of  
8 that term is in this testimony. If it's not  
9 defined in this testimony, it's not defined in  
10 this testimony.

11 MR. FUGAZZOTTO: The, the testimony  
12 is referring to the comparison -- the bill  
13 comparison with the bill relative to median  
14 household income. And the EPA has recognized  
15 2 percent.

16 MR. HAVER: I'm sorry, the EPA is  
17 what?

18 MR. FUGAZZOTTO: Environmental  
19 Protection Agency. And you know, they have  
20 provided guidance and their financial  
21 capability assessment analysis that are  
22 submitted. And the guideline was 2 percent.

23 MR. HAVER: I'm sorry, 2 percent of  
24 gross income, household income.

1 MR. FUGAZZOTTO: Median household  
2 income as provided and presented in the  
3 financial stability plan.

4 MR. HAVER: Thank you.

5 MR. FUGAZZOTTO: And that's 2  
6 percent for sewer and two and a half for  
7 water.

8 MR. HAVER: I'm sorry, I didn't get  
9 that written down fast enough. 2 percent for  
10 sewer, two and a half percent for water?

11 MR. FUGAZZOTTO: Yes.

12 MR. HAVER: How did you pick which  
13 pure utilities to compare PWD rates to?

14 MR. FUGAZZOTTO: So we didn't  
15 recommend them. They have been -- they were  
16 identified over time through the rate  
17 proceedings as what they consider their pure  
18 utilities. And you know, they continue to  
19 provide the same set of utilities with some  
20 recommendations as through historical rate  
21 proceedings.

22 MR. HAVER: I'm sure what you said  
23 makes sense to other people. Unfortunately,  
24 you've lost me.

1                   MR. HICKS: Mr. Haver, you don't  
2     have to be insulting. If you have questions,  
3     ask questions, but you need not insult the  
4     witnesses.

5                   MR. HAVER: Well, I do apologize.

6                   HEARING OFFICER CHESTNUT: Let's  
7     move on.

8                   MR. HAVER: Yeah, I think I need to  
9     -- there are plenty of people I plan to  
10    insult. I do believe that Oscar Wilde had it  
11    right. A gentleman never insults someone  
12    unintentionally. But, Mr. Jagt, I was not  
13    trying to insult. I was just trying to say I  
14    didn't follow him, and I'm sure other people  
15    could.

16                  HEARING OFFICER CHESTNUT: I just  
17    want to clarify for myself. You're talking  
18    about the financial plan, aren't you?

19                  MR. HAVER: I am talking about --

20                  HEARING OFFICER CHESTNUT: No, no.  
21    I'm. I'm asking the witness actually.

22                  MR. JAGT: That's correct. The  
23    financial stability plan, which is an exhibit  
24    to the -- or a schedule to PWD statement 2a?

1 MR. NISSEN: 2a.

2 MR. JAGT: FSP1. I forget what  
3 specific page, but there is a page that's in  
4 --

5 MR. ABRAMS: I think it's FSP1 --  
6 41.

7 MR. JAGT: Thank you.

8 MR. HAVER: And so I'm clear, the  
9 reason why you chose those utilities is  
10 because those utilities that had been chosen  
11 in the past.

12 MR. JAGT: Now, wait. That's -- we  
13 did not make recommendations. Black and  
14 Beatch. So that would be for, you know, the,  
15 the department or others that may never --

16 MR. NISSEN: We've used that  
17 exhibit in the past Mr. Haver. And those are  
18 regional utilities in, in, in this area,  
19 comparable to PWD. That's the reason for  
20 their selection. We can stipulate to that.

21 MR. HAVER: Who selected them?

22 MR. NISSEN: Department selected  
23 them. And we can't give you the history,  
24 except they are regional utilities comparable

1 to us. It looks like sort of Rust Belt  
2 cities, if you look closely.

3 MR. HAVER: Referring to page 17,  
4 where I believe what was meant was the idea  
5 of buying with PGW is impractical. And I'm  
6 asking first, who wrote that and second, how  
7 they came to that conclusion.

8 MR. NISSEN: Answering a PWD  
9 generally question. And so it's sort of a  
10 corporate answer. Be truthful. Mr. Abrams  
11 may be able to give a very high level  
12 explanation of that, but that's why it's  
13 there. Basically, we've wrestled with PGW on  
14 a lot of subjects and not necessarily come to  
15 a favorable conclusion. They're independent  
16 from us.

17 MR. HICKS: Mr. Abrams, did you  
18 want to add anything?

19 MR. ABRAMS: All purchases are  
20 coordinated through the procurement  
21 department of the city of Philadelphia. As  
22 noted in the testimony, PGW is a separate  
23 entity from the city of Philadelphia.

24 MR. HAVER: Has PWD ever directly

1     approached PGW to join forces in buying  
2     materials?

3                 MR. HICKS: I want to object, Your  
4     Honor. Beyond the scope of the testimony.

5                 HEARING OFFICER CHESTNUT: I'll let  
6     him answer it if he can. I mean, not sure  
7     why that would happen given the stat. You  
8     know that the water department's purchasing  
9     is through the City's procurement department  
10    and PGW is a separate entity. I'm not sure  
11    why somebody would approach them about it or  
12    has that been considered or not. If Mr.  
13    Abrams can answer it. Sure.

14                MR. HICKS: If you know Mr. Abrams.

15                MR. ABRAMS: I do not know.

16                MR. HAVER: How often does  
17    Philadelphia Water Department meet with the  
18    procurement department of the city to discuss  
19    its needs?

20                MR. ABRAMS: Again, as in my role  
21    of deputy commissioner of communications and  
22    engagement, I'm unable to answer that  
23    question.

24                MR. HAVER: Who would know the

1 answer?

2 MR. DASENT: Well, the finance  
3 panel would be -- would know the answer, but  
4 we interact with the procurement routinely  
5 enjoying, you know, various --

6 MR. HAVER: Mr. Dasent, you really  
7 are not supposed to be testifying.

8 MR. DASENT: You asking a question  
9 after the panel member from the finance  
10 division is, is not available. And so we're  
11 trying to find a way to give you the answers.  
12 And if you want to do it as a transcript  
13 response, that will be another way.

14 MR. HAVER: Transcript response,  
15 yes. Please do not testify.

16 MR. DASENT: Okay. Just trying to  
17 help.

18 HEARING OFFICER CHESTNUT: But I  
19 was unclear as to the question, though. When  
20 you say meet with, are there meetings as  
21 opposed to putting RFPs out and things like -  
22 - and procurement activities like that. Are  
23 you talking about something different Mr.  
24 Haver?



1                   MR. HAVER: I'm investigating how  
2 often the water department that says that  
3 they don't have any control over procurement  
4 meets with the procurement department. And  
5 then I would investigate further who's at  
6 those meetings and what is being discussed  
7 and whether buying cooperatives are being  
8 discussed.

9                   MR. HICKS: And I object to this  
10 entire line of question as beyond the scope  
11 of the testimony of these witnesses. The  
12 testimony --

13                  HEARING OFFICER CHESTNUT: Except  
14 that he really, I mean, Mr. Abrams statement  
15 does have a statement in there that on page  
16 17 about the cooperative purchasing.

17                  MR. DASENT: If, if this takes the  
18 form of a -- if it takes the form of a  
19 transcript response, Your Honor, we can  
20 answer it. I just, just want to make sure  
21 we're, we're filling the record, completing  
22 the record as best we can.

23                  HEARING OFFICER CHESTNUT: Well, I  
24 want to be sure that we're clear on what

1 actually is being responded to --

2 MR. HAVER: And asked.

3 MR. DASENT: Okay. Is the question  
4 how often PWD meets with procurement, who is  
5 at those meetings in the subjects discussed?

6 MR. HAVER: Yes.

7 MR. DASENT: I'm writing it down.  
8 We'll do a transcript response if your Honor,  
9 please.

10 MR. HAVER: From page 18, lines 8  
11 to 14. Again, I'm going to just wait so  
12 everybody can have them. My pagination may  
13 be different than other people's, and I want  
14 to make sure we're all referencing the same  
15 information.

16 HEARING OFFICER CHESTNUT: Well,  
17 when you're talking about pagination, it  
18 helps just to talk about the page numbers on  
19 the statement.

20 MR. HAVER: I am, I use the, the  
21 Philadelphia Water Rate Boards documents and  
22 I have found that --

23 HEARING OFFICER CHESTNUT: As am I.

24 MR. HAVER: Right. Well, I did not

1 know that, but I have found that those  
2 numbers are different than when I get the,  
3 the filing directly as a PDF.

4 HEARING OFFICER CHESTNUT: Well,  
5 that's why you got to look at the page number  
6 that's written on the actual page itself.  
7 That's, that's probably more helpful. But  
8 I'm sorry, you said 18 and what line?

9 MR. HAVER: It's lines 8 through  
10 14. In that statement, the Water Department  
11 is saying that it's the Commerce Department  
12 or -- and/or PIDC that markets the  
13 Philadelphia Water Department. Is that a  
14 fair characterization of that?

15 MR. ABRAMS: What, what that states  
16 is other parts of local government are  
17 focused on attracting business to the city.

18 MR. HAVER: Right. And are two of  
19 those the Commerce Department and PIDC?

20 MR. ABRAMS: That is what is in the  
21 testimony.

22 MR. HAVER: So that would be  
23 correct, then?

24 MR. ABRAMS: That is correct.

1                   MR. HAVER: What information do you  
2     supply to the Commerce Department?

3                   MR. ABRAMS: Again, in my role as  
4     Deputy Commissioner of Communications  
5     engagement, I can only speak to the way that  
6     we interact with the Commerce Department and  
7     my Public Affairs Division, not to the  
8     broader ways that the department as a whole  
9     and other divisions interact with the  
10    Commerce Department.

11                  MR. HAVER: Well, just to try and  
12    save time and people's day, I make the same  
13    transcript request. Who meets with Commerce,  
14    what do they discuss, and who's in the room?  
15    And not to belabor the point, I'll do the  
16    same thing with PIDC. Unless Mr. Abrams  
17    wants to tell me that he knows who meets with  
18    PIDC.

19                  MR. ABRAMS: Again, I can only talk  
20    to interactions with PIDC and my, my, my  
21    capacity. We utilize PIDC to, to make grants  
22    to community based organizations through our  
23    Soak it up adoption program. But anything  
24    beyond that, I cannot speak to that.

1                   MR. HAVER: Again, request for  
2 Commerce Department. What in PIDC, what  
3 materials does the Water Department give them  
4 to help recruit businesses to Philadelphia  
5 that are water intensive and produce living  
6 wage jobs?

7                   MR. HICKS: Your Honor, that  
8 question is very different from the previous  
9 one, and I object strenuously to that being  
10 way beyond the scope of any of these  
11 witnesses.

12                  HEARING OFFICER CHESTNUT: I think  
13 Mr. Dasent can answer that appropriately.  
14 But, yes, that question, as you just stated,  
15 it really is not answerable. And appropriate  
16 living wages is, is just not appropriate to  
17 put in as some kind of aim of the Water  
18 Department.

19                  MR. DASENT: But a transcript  
20 response that's parallel to the one for  
21 procurement. You know, who's at the meetings  
22 and what's, what's discussed for PIDC and the  
23 Commerce Department. We'll work on responses  
24 for that today and get you a written

1 response.

2 MR. HAVER: Mr. Abrams, how many  
3 civic groups did you speak to in person to  
4 notify people about the public hearings?

5 MR. ABRAMS: We emailed the  
6 registered community organizations list, and  
7 so they are all notified via email. We did  
8 not necessarily have in-person meetings with  
9 all of these organizations. But you know,  
10 we, we issued a press release, we had an  
11 announcement on our homepage, utilized all  
12 media methods of social media.

13 Facebook, X, Instagram, Nextdoor.  
14 In addition to emailing RCOs, we sent an  
15 email to all city council members with a  
16 social media toolkit. We did email bulletins  
17 to our PWD contacts, the general news events  
18 and customer assistance groups that we have,  
19 and all of the e-billing customers.

20 MR. HAVER: My question was how  
21 many did you personally meet with in person?

22 MR. ABRAMS: I did not meet with  
23 any registered community organizations  
24 personally.

1                   MR. HAVER: How many elected  
2 officials did you personally meet with to  
3 inform about the public input hearings?

4                   MR. HICKS: Objection, Your Honor.  
5 Witnesses testified very specifically about  
6 the things that he's done. This question has  
7 been asked and answered.

8                   MR. DASENT: You might also note we  
9 circulated a PWD hearing exhibit that, that  
10 gives in detail the outreach that was  
11 undertaken, which is quite extensive in this  
12 case. And it's all social media and sort of,  
13 of this century as opposed to face to face  
14 meetings.

15                  HEARING OFFICER CHESTNUT: Well, I  
16 don't think the question itself. I think the  
17 question itself is unnecessarily narrow. I  
18 mean, it's not just who did Mr. Abrams  
19 personally meet with? It's who at the water  
20 department met with. And perhaps there are  
21 people beside Mr. Abrams doing meetings and  
22 sending out notifications. But yes, we have  
23 here in Exhibit 1 that does list that.

24                  MR. HICKS: To the extent that, you

1 know, you can answer that question.

2 MR. ABRAMS: We did meet with some  
3 council members. Council member Driscoll.

4 MR. HAVER: Excuse me,.

5 MR. ABRAMS: Lozada.

6 MR. HAVER: Who's the lead in that  
7 sentence?

8 MR. ABRAMS: Oh, my apologies. So  
9 that was Commissioner Hayman and first deputy  
10 Jewell. Ben Jewell. And I can't remember, I  
11 believe it was. And myself, I believe Laura  
12 Copeland was in a couple of those meetings as  
13 well. So we had, and I believe it was four  
14 council members. It was really in both to  
15 review the water department's budget request  
16 as well as the proposed rate increase.

17 MR. HAVER: And you were in the  
18 process of naming the council people you  
19 spoke with? Councilman Driscoll.

20 MR. ABRAMS: I would have to go  
21 back and, and -- in my calendar to determine  
22 who, who we met with and when.

23 MR. HAVER: Okay. That is another  
24 transcript request. Did you do something



1 similar with any state representatives or any  
2 state senators?

3 MR. ABRAMS: No, we did not.

4 MR. HAVER: Did you -- you talked  
5 about that you contract out with PIDC for  
6 some outreach. Did I mishear you.

7 MR. ABRAMS: Not outreach. Yes.  
8 So it -- we have an agreement with PIDC. We  
9 have a program called Soak it up adoption in  
10 which community based organizations can apply  
11 for grant funding to help maintain green  
12 stormwater infrastructure in their  
13 neighborhoods.

14 MR. HAVER: As a transcript  
15 request, could I get a copy of that contract?

16 MR. HICKS: I don't know if -- Mr.  
17 Abrams, do we have a copy of that contract  
18 that we can share? I'll check with legal to  
19 make sure we can send it out.

20 MR. ABRAMS: Yes, there, there is  
21 an agreement we can share.

22 MR. HICKS: Okay.

23 MR. HAVER: Does the Philadelphia  
24 Water Department hire any other groups to do

1 outreach other than PIDC?

2 MR. ABRAMS: Again, PIDC is not  
3 doing outreach on the path of the Water  
4 Department. It is a grant program. We do  
5 partner with the Office of Community  
6 Empowerment and Opportunity to -- for  
7 community -- well for targeted community  
8 engagement. And this is specifically to  
9 ensure that vulnerable households do not lose  
10 water service or shut offs due to nonpayment.

11 So that is in partnership with the  
12 Water Revenue Bureau targeting households  
13 that are at risk of shut off. They have  
14 accrued \$750 or more in debt or that have  
15 received a shut off notice and that is \$1,000  
16 or more.

17 MR. HAVER: I think I understand.  
18 What you're saying is you're notifying people  
19 who have bills that are \$1,000 or more. Is  
20 that correct?

21 MR. ABRAMS: More than  
22 notification, it is also trying to link  
23 people to assistance and so identifying  
24 households that are eligible for the tiered

1 assistance program, other customer assistance  
2 program, and, and linking them to, to  
3 assistance and getting them into the  
4 application process.

5 MR. HAVER: Do you hire or use any  
6 of those groups to notify people about the  
7 rate increase public hearings?

8 MR. ABRAMS: No, that was not the  
9 purpose of that memorandum of understanding  
10 with CEO.

11 MR. HAVER: Do you use any -- do  
12 you pay any community group or any advocacy  
13 group or any group other than the  
14 Philadelphia Water Department or Revenue  
15 Department to publicize the public input  
16 hearing?

17 MR. HICKS: Your Honor, I'm going  
18 to object to this line of question having  
19 been traversed pretty intensely already. So  
20 I believe that that specific question has  
21 been asked and answered in at least three  
22 different ways.

23 HEARING OFFICER CHESTNUT: I'll  
24 allow the question just to get an answer.

1 MR. ABRAMS: No, we do not.

2 MR. HAVER: Did you work with any  
3 of the other parties to notify the public  
4 about the public input hearings?

5 MR. ABRAMS: What do you mean by  
6 other or who, who are you referring to other  
7 parties?

8 MR. HAVER: The other -- the other  
9 participants in the water rate case. PLUG,  
10 myself, Community legal services. Did you  
11 coordinate with anyone?

12 MR. DASENT: Mr. Haver we know that  
13 happens. In other words, the public advocate  
14 does independently do outreach.

15 HEARING OFFICER CHESTNUT: That  
16 wasn't -- the question was whether they  
17 coordinate, wasn't it?

18 MR. HAVER: Yes.

19 MR. ABRAMS: We did our outreach  
20 independently.

21 MR. HAVER: Just to make sure I  
22 understand. So you sent out emails to all,  
23 all the registered community organizations  
24 and perhaps CLS did the same?

1 MR. ABRAMS: Perhaps. I'm not  
2 aware what CLS did in terms of notifying  
3 people for the public input hearings.

4 MR. HAVER: I saw on page 20, line  
5 16, you counted how many people either  
6 attended the hearings or submitted testimony.

7 MR. ABRAMS: Yes, that is in the  
8 testimony.

9 MR. HAVER: What percentage of  
10 customers is that?

11 MR. HICKS: Objection, Your Honor.

12 HEARING OFFICER CHESTNUT: You can  
13 do your own math. Yeah.

14 MR. DASENT: Calls for speculation.

15 MR. HAVER: All right. How many  
16 customers do you have? Does the Philadelphia  
17 water department have? Residential  
18 customers?

19 MR. NISSEN: We'll stipulate it's  
20 over 400,000 Mr. Haver. It's NROs, it's,  
21 it's in the filing. It's everywhere.

22 MR. HAVER: So, doing the math,  
23 would you agree it's less than one tenth of 1  
24 percent who testified or notified the water

1 rate board?

2 MR. DASENT: Subject to check. Mr.  
3 Haver?

4 MR. HAVER: Well, again, I'm asking  
5 Mr. Abrams, but okay.

6 MR. DASENT: But I'm just saying,  
7 if you accept, accept subject to check.

8 MR. HAVER: Yeah, subject to check.  
9 You can do the math on your own calculator.  
10 Doesn't seem that hard to figure that out.

11 MR. ABRAMS: That is correct.

12 MR. HAVER: Okay. Did I interpret  
13 your answers to my testimony that you're  
14 satisfied with the turnout for the public  
15 input hearings?

16 MR. HICKS: Objection, Your Honor.  
17 Calls for speculation.

18 HEARING OFFICER CHESTNUT: I'm a  
19 little uncomfortable with that question  
20 because there's a lot of factors that go into  
21 satisfied. I, I, I don't think it's  
22 appropriate to ask him about outcome. I  
23 think it's appropriate to ask him about the  
24 efforts they made. Is he satisfied that the

1 department made all the efforts possible to  
2 notify people of this? I think you need a  
3 different kind of person to testify as to  
4 customer response and behavior.

5 MR. HAVER: You can rule me out of  
6 order if you want, but my question is  
7 specific. Is the department, through Mr.  
8 Abrams, satisfied with the number of people  
9 who responded?

10 MR. HICKS: And my objection is  
11 that is irrelevant whether Mr. Abrams was  
12 satisfied or not. The numbers speak for  
13 themselves, Your Honor.

14 HEARING OFFICER CHESTNUT: They do.  
15 But then again, Mr. Abrams is the engagement  
16 vice commissioner. But I don't think it's an  
17 answerable question by Mr. Abrams, because  
18 there is no -- unless you can cite to  
19 something that says what an acceptable  
20 response is, it's just kind of speculation on  
21 his part. Would he have preferred more?  
22 Maybe.

23 Would he -- I, I don't know. I  
24 mean, it just doesn't seem probative at all

1 to me. But if Mr. Abrams wants to take a  
2 crack at this, I'll let him. But I think we  
3 all understand that the limitations of any  
4 answer. Well, I understand what the  
5 limitations of any answer would be. My  
6 focus, again, isn't really on -- my focus is  
7 on what efforts were undertaken to provide  
8 public notice of any hearings.

9 MR. HAVER: Your Honor, I would  
10 like you to take note that those documents  
11 have not been filed before these hearings.  
12 So I cannot ask. Those documents are  
13 purposely withheld until after the these  
14 hearings, and I will only then get them and  
15 not be in a position to ask these type of  
16 questions.

17 HEARING OFFICER CHESTNUT: You have  
18 PWD hearing, Exhibit 1, don't you?

19 MR. HAVER: You just heard earlier  
20 today that the water department council and  
21 the council for CLS will be submitting after  
22 today's hearing the list of outreach that  
23 they have done.

24 HEARING OFFICER CHESTNUT: That's



1 not true. That's not true at all. Mr.  
2 Ballenger is. But Mr. Dasent has already  
3 provided that.

4 MR. DASENT: Yeah.

5 HEARING OFFICER CHESTNUT: Did you  
6 not receive it?

7 MR. HAVER: I do not believe I  
8 received it, but again --

9 HEARING OFFICER CHESTNUT: I'm sure  
10 it was sent to you. I mean, I'll check your  
11 name to see if it's on the distribution list.

12 MR. HAVER: It would be incomplete  
13 without the people who are paid to do the  
14 outreach submitting that information so I  
15 could look at it and come to some reasonable  
16 questions about were they duplicative? Did  
17 it make sense? Why was it done this way?

18 HEARING OFFICER CHESTNUT: Wow.

19 MR. HAVER: Without having --  
20 without having all that information, I cannot  
21 ask those type of questions. So I am left  
22 asking the questions of, was Mr. Abrams  
23 satisfied?

24 MR. ABRAMS: I was saying satisfied

1 with the -- with the campaign that we put  
2 together, that I outlined in terms of the  
3 press release, our homepage announcement,  
4 social media emails to various organizations,  
5 individuals, newspaper advertisements, and  
6 physical flyering that we did. I think we  
7 did a fine effort to promote the public input  
8 hearings.

9 MR. HAVER: Where did you do the  
10 physical flyering?

11 MR. ABRAMS: We did tabling events  
12 from April 7th to April 22nd. So we, we  
13 attend many community based organizations and  
14 other organizations that are hosting events  
15 and we table. So the, the flyers were  
16 available there and as well as we had a  
17 poster that was hung up in the municipal  
18 services building concourse.

19 MR. HAVER: I know you, I believe  
20 you were on the, the Zoom earlier today and  
21 maybe even yesterday and heard that there is  
22 a settlement proposal. Is that correct?

23 MR. ABRAMS: I am aware that  
24 there's a settlement proposal. I do not -- I

1 do not have any additional information about  
2 it.

3 MR. HAVER: I'm not going to ask  
4 any questions about the amount or whether you  
5 support it or don't. I'm directing my  
6 question to -- how will the people who  
7 testified or submitted testimony discover  
8 that there is a proposed settlement?

9 MR. ABRAMS: So what we have done  
10 in the past was once the process rate  
11 proceeding officially concludes. We issue a  
12 press release. We do a lot of the same  
13 things as I've outlined here. We will do  
14 social media, we'll do press release, various  
15 emails.

16 MR. HAVER: Well, let's just say  
17 the, the group that showed up for the hearing  
18 that opposed the rate increase and said it  
19 wasn't affordable. So how would they comment  
20 on the proposed settlement?

21 MR. HICKS: Objection, Your Honor.  
22 We are now in a zone of speculation. And Mr.  
23 Abrams is not offered as a legal scholar,  
24 he's offered as a communications officer. So

1 it is beyond the scope of his testimony and  
2 it calls for speculation regarding how people  
3 will respond to the settlement.

4 HEARING OFFICER CHESTNUT: Well, I  
5 don't see how Mr. Abrams can answer it. The  
6 documents obviously will be posted on the  
7 rate board's website.

8 MR. HAVER: So if, if you're  
9 seeking more information to make your ruling,  
10 everybody who provided an email could get  
11 notice. Everybody who showed up for the  
12 hearing could get notice.

13 HEARING OFFICER CHESTNUT: No, no,  
14 we don't send out individual notices. We  
15 provide -- we have a distribution list, and  
16 that's what's used.

17 MR. HAVER: Right. And are the  
18 people who showed up for the public service -  
19 - for the public input hearings on the  
20 distribution list?

21 HEARING OFFICER CHESTNUT: You know  
22 they're not.

23 MR. HAVER: Well, I didn't know  
24 that, actually, but it doesn't surprise me.

1 And my final question, but I think this goes  
2 to the financial panel. If the water  
3 department were denied this rate increase,  
4 would the water department have to make  
5 different decisions than what it's proposing  
6 to do?

7 MR. HICKS: Objection, Your Honor.  
8 Calls for speculation, and it's beyond the  
9 scope of Mr. Abrams. Mr. -- and the  
10 financial panels.

11 HEARING OFFICER CHESTNUT: Yeah.  
12 That's, that's a broad question. I think you  
13 need to narrow it. What, what kind of  
14 differences, I mean, in what?

15 MR. HAVER: In all operational  
16 aspects or any operational aspects, would  
17 they be able. With -- they don't get the  
18 rate increase, they get zero. Would they be  
19 able to continue to operate as they are  
20 operating now?

21 MR. HICKS: All right. I'm, I'm  
22 not going to object to that question. Mr.  
23 Abrams, if you can answer that question,  
24 please do.

1                   MR. ABRAMS:  It's more Mr. Jagt,  
2    but --

3                   MR. HICKS:  Or Mr. Jagt.

4                   HEARING OFFICER CHESTNUT:  Yeah,  
5    I'd say Mr. Jagt's probably the better person  
6    to answer that, but.

7                   MR. JAGT:  So I think, you know,  
8    Mr. Nissen was responding to that part of the  
9    testimony where we already presented the no  
10   revenue increase scenario.  And we had  
11   indicated that we'd have to, you know, if we  
12   kept everything the same, we'd have to draw  
13   significant reserves to continuing funding  
14   it.

15                   It was in the second year that we  
16   wouldn't have enough money to continue  
17   funding.  And, you know, the, the department  
18   would have to consider, you know, whether it  
19   reduces services in some areas to, you know,  
20   to continue to operate.

21                   MR. HICKS:  Mr. Nissen, do you want  
22   to add to that response?

23                   MR. NISSEN:  I don't know that I  
24   have anything further to add beyond what Mr.

1 Jagt has said.

2 MR. HAVER: Thank you. I won't  
3 keep you any longer.

4 HEARING OFFICER CHESTNUT: Okay.  
5 Any further cross for these witnesses? I  
6 assume not. Okay. Did you want an  
7 opportunity to think about redirect or --

8 MR. DASENT: Yes. Could we have a  
9 short break Your Honor?

10 HEARING OFFICER CHESTNUT: It's  
11 12:35. How about if we resume at 12:45?

12 MR. DASENT: Thank you.

13 (Off the record.)

14 HEARING OFFICER CHESTNUT: Mr.  
15 Hicks?

16 MR. HICKS: Yes, Your Honor. Now  
17 that we're back on the record, the department  
18 has no redirect questions for this panel.

19 HEARING OFFICER CHESTNUT: All  
20 right. Thank you very much. You're all  
21 excused. And I think that's the end of our  
22 witnesses scheduled for today, right?

23 MR. HICKS: Yes, Your Honor. I'm  
24 just looking at what's to come next, and we,

1     you know, we have a few things to do in a  
2     short order.

3                   HEARING OFFICER CHESTNUT:   Okay.

4                   MR. HAVER:   Is Mr. Colton going to  
5     be available?

6                   MR. BALLENGER:   (Indiscernible) no  
7     cross for Mr. Colton.

8                   HEARING OFFICER CHESTNUT:   I think  
9     you indicated no cross for him, didn't you?

10                  MR. HAVER:   Okay.

11                  HEARING OFFICER CHESTNUT:   You  
12     indicated no cross for Mr. Colton?

13                  MR. HAVER:   All right.   He's not  
14     available, he's not available.   It's just Mr.  
15     Morgan's testimony raised the question.   So  
16     he referenced what Mr. Colton was having in  
17     his testimony, and I just wanted to chase  
18     that down.   But as far as I'm concerned, Mr.  
19     Colton's a hero for poor and working people,  
20     and I'm not going to get in his way of his  
21     busy day towards a holiday weekend, so I  
22     don't want to belabor the point.

23                  HEARING OFFICER CHESTNUT:   Okay.

24                  MR. DASENT:   So we have briefs



1 coming up May 30th. Just looking at the  
2 schedule, Your Honor, and just trying to make  
3 sure we're on the same page. And we'll try  
4 to get the settlement petition a little  
5 earlier if we can, just to help everyone  
6 either join in or oppose.

7 HEARING OFFICER CHESTNUT: Okay.

8 MR. DASENT: Or acquiesce. Or  
9 acquiesce, either one.

10 MR. HICKS: So I have lost track of  
11 why their briefs are being filed if there's a  
12 settlement proposal.

13 HEARING OFFICER CHESTNUT: Well, I  
14 think he's talking about briefs in support of  
15 the settlement, aren't you?

16 MR. ABRAMS: Yeah, briefs in  
17 support of the settlement. And I think  
18 there'll be a section in the brief that deals  
19 with any parties that don't join the  
20 settlement and others. Those issues are  
21 still being contested. So we would respond.  
22 It doesn't have to be extended, but we would  
23 have that in there. There may be other  
24 points.

1                   MR. HICKS: So when, when will you  
2     have the, the agreement that you and Mr.  
3     Ballenger reached available?

4                   MR. ABRAMS: I'll share a term  
5     sheet soon. In other words, in the next day  
6     or so. Because I just need to, to go over it  
7     with, with Rob and then get it out the door  
8     to you. That'll happen shortly. I mean,  
9     quickly. And then the detailed joint  
10    settlement petition will take a little longer  
11    because it has, you know, quite a few  
12    paragraphs and it will include things that  
13    we've agreed to in the term sheet.

14                  MR. HICKS: Yes. When should I  
15    expect to get it?

16                  MR. ABRAMS: How about tomorrow?

17                  MR. HICKS: No, no, the, the entire  
18    document that you're referencing.

19                  MR. ABRAMS: I haven't written it  
20    yet, so I'll get it to you before it's due.  
21    It's due on the 30th, and I'll try to get it  
22    to you before then. And I'm trying to write  
23    it and telling you I'm moving as fast as we  
24    can.

1 MR. HICKS: And then when are the  
2 briefs due on that?

3 HEARING OFFICER CHESTNUT:  
4 Objections are due June 6th. If it had been  
5 filed on May 30th.

6 MR. HICKS: And those are to take  
7 the place of the briefs. Is that correct?

8 MR. ABRAMS: Well, we'll be filing  
9 a brief. Do what you will.

10 HEARING OFFICER CHESTNUT: Well,  
11 then I'm, I'm confused.

12 MR. ABRAMS: Okay, well, I'll  
13 follow (indiscernible)petition.

14 HEARING OFFICER CHESTNUT: Maybe  
15 I'm not looking at this the right way, but I,  
16 I think the schedule anticipated main briefs  
17 or a settlement petition. And your  
18 settlement petition would have statements in  
19 support, which usually you do separately. Is  
20 that what you're talking about as being a  
21 brief?

22 MR. ABRAMS: Yes, but I think we do  
23 also have issues that are not covered in the  
24 settlement. Let's say for PLUG, for example,

1 where we would at least survey. And for Mr.  
2 Skiendzielewski and Mr. Haver, that we would  
3 survey their positions and make sure that we  
4 have given the board our position with  
5 respect to those who don't join -- don't join  
6 the settlement.

7 HEARING OFFICER CHESTNUT: Right.  
8 So your brief on the unsettled issue.

9 MR. ABRAMS: Yes.

10 HEARING OFFICER CHESTNUT: Would be  
11 due also May 30th?

12 MR. ABRAMS: Yes.

13 HEARING OFFICER CHESTNUT: And the  
14 response to that is June 11th.

15 MR. HAVER: How, how would I know  
16 what, what is not included in the settlement?

17 MR. ABRAMS: Well, I can tell you  
18 right now, your issues apparently are to be  
19 contested unless you agree. I haven't heard  
20 your response. You may sign on to the -- to  
21 the settlement. Mr. Skiendzielewski likewise  
22 are probably going to be outside the  
23 agreement, right? But when you see the term  
24 sheet --

1 HEARING OFFICER CHESTNUT: The  
2 answer is that -- aren't you circulating a  
3 term sheet?

4 MR. HICKS: Yes.

5 HEARING OFFICER CHESTNUT: That'll  
6 say what -- what's involved -- what's in or  
7 not in. And then there's the opportunity for  
8 further discussion before you actually file  
9 your document.

10 MR. ABRAMS: Yes.

11 HEARING OFFICER CHESTNUT: Okay.  
12 And according to the schedule, I'll try and  
13 have my hearing officer report issued by July  
14 1st. I mean, I'll try to get out earlier,  
15 but I doubt if that's going to be possible.  
16 But we'll see. And exceptions would be due  
17 July 8th. Again, if I try to get it out  
18 earlier, then the exception period will be  
19 moved up because really we want the rate  
20 board to have as much time as possible to  
21 look at the parties positions.

22 But it's expected at this point,  
23 the rate board will deliberate on July 16th  
24 and then make a final decision on July 23rd.

1     Okay. And then again, as usual, if you could  
2     provide me a copy of your document in word,  
3     that would be appreciated. It's not  
4     necessary. It just makes it a little easier  
5     for me. Anything else then before we  
6     adjourn?

7                 MR. HICKS: Nothing further from  
8     the department.

9                 MR. BALLENGER: Nothing further  
10    from the public advocate.

11                HEARING OFFICER CHESTNUT: Mr.  
12    Haver, anything further from you?

13                MR. HAVER: I don't think it would  
14    help the situation.

15                HEARING OFFICER CHESTNUT: Okay.

16                MR. HICKS: Thank you.

17                HEARING OFFICER CHESTNUT: Mr.  
18    Garber. Anything from you?

19                MR. GARBER: Nothing further from  
20    PLUG, Your Honor.

21                HEARING OFFICER CHESTNUT: Okay.

22    Then, thank you very much. Tomorrow's  
23    hearing is canceled, which gives you lots of  
24    time to work on your documents.

1                   MR. HICKS:   You don't want to cross  
2   examine me.   What a shame.

3                   HEARING OFFICER CHESTNUT:   Yeah.  
4   Okay, well, thank you very much.   Enjoy your  
5   holiday weekend.

6                   MR. HICKS:   Thank you.

7                   MR. BALLENGER:   Thank you.

8                   MR. GARBER:   Thank you.

9                   MR. ABRAMS:   Thank you.

10                  (Proceeding concluded at 12:52 p.m)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 CERTIFICATE OF DIGITAL REPORTER

2

3 I, JILL CIFELLI, a Digital Reporter and  
4 Notary Public within and for the State of State,  
5 do hereby certify:

6

7 That the foregoing proceeding hereinbefore  
8 set forth was accurately captured with annotations  
9 by me during the proceeding.

10

11 I further certify that I am not related to  
12 any of the parties to this action by blood or  
13 marriage, and that I am in no way interested in  
14 the outcome of this matter.

15

16 IN WITNESS THEREOF, I have hereunto set my  
17 hand this 22nd day of May, 2025.

18

19

20



21

---

Jill Cifelli  
Digital Reporter

22

23

24