

Philadelphia Water Department Rate Board Hearing
April 7, 2016

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CITY OF PHILADELPHIA
PHILADELPHIA WATER DEPARTMENT PRESENTATION
RATE BOARD HEARING
THURSDAY, APRIL 7, 2016
START TIME: 10:45 A.M.
END TIME: 1:15 P.M.

- - -

LOCATION:

1515 ARCH STREET, 18TH FLOOR
PHILADELPHIA, PENNSYLVANIA 19111

REPORTED BY:

SHEILA KLOS, REGISTERED PROFESSIONAL REPORTER

HELD BEFORE:

NANCY BROCKWAY, HEARING OFFICER
SONNY POPOWSKY, BOARD MEMBER
BERNARD BRUNWASSER: CHAIRMAN

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1 ---
2 P R O C E E D I N G S .
3 ---
4 HEARING OFFICER: AS I UNDERSTAND IT, THIS
5 IS A CONTINUATION OF THE 1517-1518 RATE HIKE
6 REQUEST OF THE WATER DEPARTMENT. THE WAY WE LEFT
7 IT YESTERDAY WAS THAT WE WERE GOING TO START THIS
8 MORNING WITH MR. MORGAN.
9 MR. BALLENGER: YES. THANK YOU, MADAM
10 HEARING OFFICER. BEFORE WE BEGAN, I THOUGHT IT
11 MIGHT BE HELPFUL GIVEN THE TIME SPENT YESTERDAY AND
12 THE DEPARTMENT'S REBUTTAL, FOCUSING ON MR. MORGAN'S
13 ORIGINAL TESTIMONY AND THEN FOCUSING SUBSEQUENTLY
14 ON HIS ERRATA SHEET. IF I COULD JUST ALLOW MR.
15 MORGAN A MINUTE TO EXPLAIN SORT OF WHAT THAT
16 REPRESENTS, THE ERRATA AND HIS TESTIMONY TAKEN
17 TOGETHER. AND WHETHER HIS POLICY RECOMMENDATIONS
18 ARE CHANGED IN ANY WAY BY HIS ERRATA SHEET.
19 MR. MORGAN: GOOD MORNING. FIRST, LET ME
20 SAY WHEN WE DECIDED TO USE THE MODEL THAT WAS PUT
21 TOGETHER BY BLACK AND VEATCH, OUR INTENTION WAS TO
22 DO IT IN SUCH A WAY THAT WE WILL NOT COME TO THE
23 HEARING AND HAVE DISCUSSIONS ABOUT INPUTS INTO THE
24 MODEL. THOSE WERE, THE MODEL IS WHAT IT IS AND THE

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1 INTENTION WAS TO LIMIT OUR DISCUSSION TO
2 DISAGREEMENT EITHER ON POLICY OR ON THE
3 ADJUSTMENTS.
4 SO AS A PROCESS OF DOING THIS, WE PROVIDED
5 THE MODEL TO BLACK AND VEATCH TO HAVE THEM LOOK AT
6 WHAT WE HAD DONE TO SEE IF THERE WERE ANY CHANGES
7 THAT SHOULD HAVE BEEN MADE ON OUR PART AS WE MADE
8 ADJUSTMENTS TO THEIR ASSUMPTIONS.
9 HEARING OFFICER: YOU STARTED BY SAYING THAT
10 YOU DIDN'T WANT TO DO ANYTHING WITH INPUTS. I
11 THINK ON THE CONTRARY, I THINK YOU EXACTLY OR ONLY
12 WANTED TO DO THINGS ABOUT INPUTS?
13 MR. MORGAN: RIGHT. IN OTHER WORDS, I
14 GUESS MY POINT WAS I DIDN'T WANT A DISAGREEMENT TO
15 BE ON INPUTS BECAUSE THAT'S NOT WHAT THIS IS
16 ABOUT. WE WANTED TO TRY TO USE THE MODEL IN A WAY
17 THAT THE DIFFERENCES WILL BE BASED ON HOW WE
18 PERCEIVE THINGS.
19 HEARING OFFICER: I APOLOGIZE. I'M GETTING
20 A REP FOR BEING TOO HOT A BENCH. BUT PERHAPS WE
21 ARE USING WORDS IN A DIFFERENT WAY. WHEN I SAY
22 INPUTS, WHAT I'M TALKING ABOUT ARE THE ASSUMPTIONS
23 AS TO ESCALATORS AND STARTING POINTS AND SO FORTH.
24 MR. MORGAN: DATA ENTRY. LET ME PHRASE IT

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1 THAT WAY. IT WOULD BE A MATTER OF DATA ENTRY IF I
2 ENTERED IN THE WRONG CELL OR SOMETHING OF THAT
3 SORT. THAT WAS WHAT WE WERE TRYING TO AVOID.
4 HEARING OFFICER: THANK YOU.
5 MR. MORGAN: SO WE PROVIDED THE MODEL. AND
6 THE INITIAL RESPONSE WE GOT FROM BLACK AND VEATCH
7 WAS THAT BASED ON WHAT THEY SAW, THE CHANGES AND
8 THE ASSUMPTIONS AS I MADE THEM WERE OKAY. NOT THAT
9 THEY AGREED WITH MY POSITION. BUT THE ACTUAL ACT
10 OF GOING IN AND CHANGING ITSELF WERE OKAY.
11 UPON SEEING THE OUTLINE FOR THE
12 SURREBUTTAL, I NOTICED THAT PART OF THE CRITIQUE
13 WAS THAT WE HAD NOT ADJUSTED THE CASH FLOW
14 STATEMENT. SO I WENT BACK INTO THE MODEL TO FIND
15 OUT WHAT HAD HAPPENED. IT TURNS OUT THAT WHEN YOU
16 CHANGE THE ASSUMPTIONS ON THE SUMMARY PAGE FOR THE
17 RATE INCREASES, IT DIDN'T AUTOMATICALLY CHANGE THE
18 CASH FLOW STATEMENT. YOU HAD TO GO IN AND CHANGE
19 THOSE CELLS AS WELL. SO THAT WAS THE CAUSE OF
20 THERE BEING A DIFFERENCE IN TERMS OF THE AMOUNTS
21 NOT FLOWING THROUGH THE CASH STATEMENT. IT WASN'T
22 A MATTER OF NOT CARRYING THROUGH WITH MY POLICY OR
23 THOUGHT PROCESS. IT SIMPLY WAS THE DATA ENTRY
24 ISSUE.

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1 HEARING OFFICER: I SHOULD NOTE THAT THIS
2 SOUNDS VERY MUCH LIKE SURREBUTTAL, IN WHICH CASE I
3 DEFINITELY WILL GIVE MR. DASENT A CHANCE TO HAVE
4 THE FINAL WORD.
5 MR. MORGAN: SO AFTER MAKING THE CHANGES,
6 MY RECOMMENDATIONS REMAIN UNCHANGED, MY
7 CONCLUSION.
8 HEARING OFFICER: IS THERE IN THE RECORD A
9 SINGLE DOCUMENT THAT REPRESENTS EVERY CHANGE THAT
10 YOU RECOMMEND AND CALCULATES ALL OF THE LINE ITEMS
11 ACCURATELY?
12 MR. BALLENGER: IT'S ON THIS THUMB DRIVE, I
13 BELIEVE. WE HAVE HAD DIFFICULTY IN ACTUALLY
14 TRANSMITTING IT BECAUSE IT IS A PDF OF ALL OF THE
15 WORK PAPERS IN THE BLACK AND VEATCH MODEL. SO I'M
16 GOING TO TRY TO HAVE IT COMPRESSED SO THAT WE CAN
17 SHARE IT.
18 HEARING OFFICER: I WAS ACTUALLY NOT EVEN
19 ASKING FOR SOMETHING THAT DETAILED SO MUCH AS I
20 HAVE SEEN A COUPLE OF VERSIONS OF LMK-1 -- LKM-1.
21 I WANTED TO MAKE SURE, TO MAKE SURE WE ACTUALLY
22 HAVE THE LKM-1 THAT YOU WANTED US TO LOOK AT, THAT
23 WE DON'T HAVE TO GO BACK AND FORTH TO THE DIFFERENT
24 ONES.

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1 MR. MORGAN: THAT WAS ATTACHED TO THE
2 ERRATA.
3 MR. DASENT: ONE POINT OF INFORMATION,
4 MADAM HEARING OFFICER. YESTERDAY WE REQUESTED THE
5 WORK PAPERS OF BACKUP OF MR. LAFAYETTE MORGAN'S
6 RECOMMENDATIONS. AND WITH THOSE WORK PAPERS, WE
7 CAN SHOW YOU SO YOU CAN HAVE A POINT OF COMPARISON,
8 HERE IS WHERE HE STARTS, HERE IS WHERE WE START AND
9 THEN YOU CAN SORT OF JUDGE APPLES TO APPLES.
10 HEARING OFFICER: THANK YOU. AND THANK YOU
11 FOR PURSUING THE ABILITY TO MAKE THE RUN OF THE
12 MODEL AVAILABLE.
13 MR. DASENT: IF THERE IS NOTHING MORE, WE
14 HAVE SOME QUESTIONS ON CROSS.
15 MR. BALLENGER: WE DIDN'T MEAN FOR THAT TO
16 COME OFF AS SURREBUTTAL. BUT I APOLOGIZE.
17 HEARING OFFICER: I DON'T WANT YOU TO
18 APOLOGIZE. I'M JUST TELLING YOU THAT I'M GOING TO
19 GIVE HIM A CHANCE FOR REBUTTAL.
20 MR. BALLENGER: CERTAINLY. IN THE EVENT,
21 WITH MR. MORGAN'S DIRECT TESTIMONY AND ERRATA ON
22 THE RECORD AND SOME EXPLANATION PROVIDED, I PROFFER
23 HIM FOR CROSS-EXAMINATION.
24 MR. DASENT: THANK YOU.

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1 HEARING OFFICER: MR. DASENT.
2 MR. DASENT: WITH YOUR PERMISSION.
3 MR. MORGAN, DO YOU REMEMBER IN A FORMAL
4 DISCOVERY YOU ASKED US SPECIFIC QUESTIONS ABOUT
5 YOUR MODEL AND WE DID IT BY E-MAIL? YOU ITEMIZED
6 THE VARIOUS ADJUSTMENTS YOU WANTED TO LOOK AT AND
7 HIGHLIGHTED THEM FOR US. IN FACT, I THANK YOU FOR
8 THAT. DO YOU RECALL THAT?
9 MR. MORGAN: YES.
10 MR. DASENT: WE HAVE A COPY OF THE E-MAIL WE
11 CAN PROVIDE FOR THE RECORD WHICH I THINK IS THE
12 BEST WAY TO RESPOND FACTUALLY TO WHAT SANCTIONS WE
13 GAVE TO VARIOUS ADJUSTMENTS WHICH WERE HIGHLIGHTED,
14 AND THE NARROW RANGE OF THINGS THAT WE COMMENTED
15 UPON AND HIS SPECIFIC REQUEST IN CONJUNCTION WITH
16 HIS MODEL, HIS APPLICATION OF IT IN THIS
17 PROCEEDING.
18 HEARING OFFICER: IS THERE ANY OBJECTION?
19 MR. BALLENGER: NO OBJECTION.
20 HEARING OFFICER: HEARING NONE.
21 MR. DASENT: AS SOON AS I MAKE COPIES, I
22 CAN PROVIDE THAT FOR THE RECORD. IT WILL BE
23 ARGUABLY AN EXHIBIT, I THINK WE ARE UP TO 5. FOR
24 THE MOMENT, WE'LL DESIGNATE IT AT 5. I BELIEVE IM

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1 CORRECT.
2 HEARING OFFICER: YES.
3 MR. DASENT: I HAVE A FEWER QUESTIONS ON
4 CROSS-EXAMINATION AND JUST CREDENTIALS. AND VERY
5 BRIEFLY, MR. MORGAN, BECAUSE YOU PARTICIPATED IN
6 THE FORMAL DISCOVERY, WE HAVE HAD A CHANCE TO TALK
7 BEFORE. THANK YOU FOR THAT. AT THAT TIME, YOU
8 INDICATED IN YOUR PRIOR RATE CASE TESTIMONY WHICH
9 IS SUMMARIZED IN YOUR RESUME INCLUDED OR INVOLVED
10 ONLY PUC REGULATED UTILITIES. ON ITS FACE I CAN
11 SEE THAT. IS THAT TRUE?
12 MR. MORGAN: THAT'S PUC REGULATED
13 UTILITIES.
14 MR. DASENT: YOU CONFIRMED ALSO AT THAT
15 TIME YOU NEVER PRESENTED TESTIMONY IN A MUNICIPALLY
16 REGULATED UTILITY RATE PROCEEDING. THAT SORT OF
17 FOLLOWS ANYWAY. ISN'T THAT TRUE?
18 MR. MORGAN: THAT'S TRUE. I SHOULD QUALIFY
19 THAT THERE WERE MUNICIPAL UTILITIES THAT I HAD.
20 HEARING OFFICER: OFF THE RECORD.
21 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
22 RECORD.)
23 HEARING OFFICER: BACK ON THE RECORD.
24 MR. DASENT: YOU REFERRED TO TWO MUNICIPAL

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1 UTILITIES. YOU REFERRED TO NARRAGANSETT AND
2 PAWTUCKET IN RHODE ISLAND?
3 MR. MORGAN: CORRECT.
4 MR. DASENT: THOSE ARE REGULATED BY THE
5 PUBLIC UTILITY COMMISSION OF RHODE ISLAND; IS THAT
6 CORRECT?
7 MR. MORGAN: THAT'S CORRECT.
8 MR. DASENT: YOU ALSO INDICATED YOU HAVE
9 NOT BEEN INVOLVED IN DEVELOPING THE FINANCIAL PLAN
10 FOR MUNICIPAL UTILITY; AM I CORRECT?
11 MR. MORGAN: THAT'S CORRECT.
12 MR. DASENT: YOU ALSO INDICATED YOU HAD NOT
13 BEEN INVOLVED IN MUNICIPAL BOND TRANSACTION; AM I
14 CORRECT?
15 MR. MORGAN: THAT'S CORRECT.
16 MR. DASENT: THERE ARE DIFFERENCES IN RATE
17 SETTING FOR MUNICIPAL UTILITIES AND
18 INVESTOR-OWNED. ARE YOU AWARE OF THOSE?
19 MR. MORGAN: YES.
20 MR. DASENT: SOME OF THOSE YOU APPROACH OR
21 DISCUSSED OR AT LEAST ALLUDE TO IN YOUR TESTIMONY.
22 AM I RIGHT?
23 MR. MORGAN: CORRECT.
24 MR. DASENT: YOU RECOGNIZE, OR I DON'T KNOW

3 (Pages 6 to 9)

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1 IF YOU HAVE HAD ACCESS TO THE AWWA MANUAL
2 CONCERNING RATE MAKING. IT'S MI SITTING RIGHT IN
3 FRONT OF MR. BALLENGER THAT WAS KIND ENOUGH TO
4 PROVIDE TO ME ON LOAN.
5 MR. BALLENGER: SOME HOUR AND-A-HALF AGO.
6 MR. DASENT: THAT'S CORRECT.
7 ARE YOU AWARE OF IT?
8 MR. MORGAN: YES, I'M AWARE OF IT.
9 MR. DASENT: DID YOU REFER TO IT AT ALL IN
10 PREPARING YOUR TESTIMONY?
11 MR. MORGAN: NO. MY TESTIMONY WAS DONE
12 WITH THE ASSISTANCE OF SOMEONE, MIKE BLEIWEIS, WHO
13 USED TO BE AN EXPERT ON BEHALF OF --
14 HEARING OFFICER: OFF THE RECORD.
15 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
16 RECORD.)
17 HEARING OFFICER: BACK ON THE RECORD.
18 MR. MORGAN: MY POINT IS, SO AS I WAS GOING
19 THROUGH THIS PROCESS, I HAD NOT ONLY MY EXPERIENCE
20 TO RELY UPON, BUT I HAD SOMEONE WHO HAD BEEN
21 FAMILIAR WITH THE DEPARTMENT. AND WE COULD
22 EXCHANGE IDEAS TO MAKE SURE I WAS DOING THINGS THAT
23 WERE CONSISTENT WITH WHAT HAD BEEN DONE PRIOR.
24 MR. DASENT: YOU MENTIONED MR. BLEIWEIS.

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1 WAS HE THE EXPERT FOR THE PUBLIC ADVOCATE IN THE
2 LAST RATE PROCEEDING?
3 MR. MORGAN: I BELIEVE THAT'S TRUE.
4 MR. DASENT: SUBJECT TO CHECK?
5 MR. MORGAN: SUBJECT TO CHECK.
6 MR. DASENT: DID MR. BLEIWEIS RECOMMEND
7 THAT IT WOULD BE PREFERABLE TO HAVE A TWO-YEAR
8 WINDOW FOR RATE RELIEF? IN OTHER WORDS, A RATE
9 PERIOD OF TWO YEARS AS OPPOSED TO LONGER? SINCE
10 YOU BRING HIM UP?
11 MR. MORGAN: HE MADE NO RECOMMENDATION IN
12 THIS CASE.
13 MR. DASENT: I UNDERSTAND THAT IN THE LAST
14 CASE BASED ON HIS EXPERTISE AND BROAD KNOWLEDGE OF
15 THIS UTILITY, DID HE RECOMMEND IN THE LAST CASE A
16 TWO-YEAR WINDOW OF RATE INCREASE?
17 MR. MORGAN: I DON'T RECALL.
18 MR. DASENT: FINALLY, JUST FROM REVIEWING
19 YOUR RESUME, I SEE YOU DON'T HAVE A LEGAL
20 BACKGROUND? YOU ARE A FINANCIAL ANALYST BASICALLY?
21 I DON'T MEAN TO BELITTLE THAT. IN FACT, IT'S
22 BROADER THAN MINE. YOU DO NOT HAVE A LEGAL
23 BACKGROUND; ISN'T THAT TRUE?
24 MR. MORGAN: THAT'S TRUE.

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1 MR. DASENT: THANK YOU VERY MUCH, MR.
2 MORGAN.
3 HEARING OFFICER: OFF THE RECORD.
4 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
5 RECORD.)
6 HEARING OFFICER: GO AHEAD.
7 MR. DASENT: WE WILL MARK FOR
8 IDENTIFICATION E-MAIL THAT DOCUMENTS THE EXCHANGE
9 OF INFORMATION THAT WAS MADE BETWEEN MR. MORGAN AND
10 BLACK AND VEATCH CONCERNING THE RATE MODEL SO IT'S
11 CLEAR WHAT THEY SIGNED OFF ON WAS A LIMITED SET OF
12 ASSUMPTIONS, NOT THE RANGE OF RECOMMENDATIONS AND
13 POSITIONS THAT MR. MORGAN TOOK.
14 HEARING OFFICER: ANY OBJECTION?
15 MR. BALLENGER: NO OBJECTION.
16 HEARING OFFICER: IT WILL BE MARKED. I
17 GATHER WE ARE UP TO PWD HEARING OFFICER 5.
18 MR. DASENT: I THINK IT'S 5.
19 HEARING OFFICER: OFF THE RECORD.
20 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
21 RECORD.)
22 HEARING OFFICER: ARE THERE ANY OTHER
23 PARTIES WHO HAVE QUESTIONS FOR MR. MORGAN?
24 MR. BAKARE, YOU DO?

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1 MR. BAKARE: YES, YOUR HONOR -- HEARING
2 OFFICER.
3 HEARING OFFICER: PLEASE COME FORWARD.
4 MR. BAKARE: GOOD MORNING, MR. MORGAN.
5 MR. MORGAN: GOOD MORNING.
6 MR. BAKARE: COULD I PLEASE REFER YOU TO --
7 THIS IS ADE BAKARE, PHILADELPHIA LARGE USERS GROUP
8 FOR THE COURT REPORTER.
9 CAN I REFER YOU TO PAGE 18 OF YOUR PUBLIC
10 ADVOCATE STATEMENT NUMBER 1?
11 MR. MORGAN: OKAY.
12 MR. BAKARE: HERE ON LINES 12 THROUGH 19,
13 YOU RECOMMEND USING A THREE-YEAR AVERAGE TO PROJECT
14 COMPOUND GROWTH RATES.
15 MR. MORGAN: THAT'S CORRECT.
16 MR. BAKARE: THE QUESTION I HAVE FOR YOU IS
17 LOOKING AT THE SCHEDULE LKM-1 THAT WAS ATTACHED TO
18 YOUR ERRATA. IF YOUR PROPOSED ADJUSTMENT FROM THE
19 FIVE-YEAR AVERAGE GROWTH RATE TO THE THREE-YEAR
20 AVERAGE GROWTH RATE WAS IMPLEMENTED, WOULD
21 THAT IMPACT BE REFLECTED ON THIS SCHEDULE LKM-1?
22 MR. MORGAN: IT WOULD BE REFLECTED UNDER
23 THE REVENUES UNDER EXISTING RATES. SO LINES 2 AND
24 3 ON THE UPPER RATING REVENUE.

4 (Pages 10 to 13)

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1 MR. BAKARE: THANK YOU. THAT'S ALL I
2 HAVE.
3 HEARING OFFICER: THANK YOU. I UNDERSTAND
4 THERE IS NO MORE CROSS BASED ON MR. BAKARE'S?
5 MR. DASENT: THAT'S CORRECT.
6 HEARING OFFICER: ARE YOU IN A POSITION YOU
7 COULD DO WHATEVER REJOINDER, LET'S PUT IT THAT WAY,
8 THAT YOU WANT TO DO?
9 MR. BALLENGER: CAN WE HAVE ONE MOMENT FOR
10 REDIRECT?
11 HEARING OFFICER: YES.
12 MR. BALLENGER: CAN I JUST CONSULT WITH MY
13 WITNESS?
14 HEARING OFFICER: YES. OFF THE RECORD.
15 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
16 RECORD.)
17 HEARING OFFICER: BACK ON THE RECORD. MR.
18 BALLENGER, WE HAVE AT LEAST A QUESTION FROM THE
19 BENCH. WOULD YOU LIKE TO HEAR THAT BEFORE YOU DO
20 YOUR REDIRECT?
21 MR. BALLENGER: CERTAINLY. IT WOULD BE
22 WELCOMED. THANK YOU.
23 MR. POPOWSKY: I HAVE ONE QUESTION THAT
24 SORT OF COMES OUT OF OUR DISCUSSIONS YESTERDAY

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1 ABOUT THE RELATIONSHIP BETWEEN THE RATE
2 STABILIZATION FUND AND THE COVERAGE RATIOS. AT
3 PAGE 15 OF YOUR TESTIMONY, LINES 8 TO 13. DO YOU
4 HAVE THAT, MR. MORGAN?
5 MR. MORGAN: YES, SIR.
6 MR. POPOWSKY: THERE YOU SAY EVEN WITHOUT A
7 RATE INCREASE, PWD COULD MEET ITS RATE
8 STABILIZATION FUND TO SATISFY ITS \$110 MILLION
9 TARGET. BUT AT WHAT COVERAGE, WHAT COVERAGE RATIO
10 WOULD THAT PRODUCE? WOULD THAT PRODUCE THE
11 COVERAGE RATIOS YOU SHOW ON YOUR NEW EXHIBIT,
12 LKM-1?
13 MR. MORGAN: THAT'S CORRECT. AND AS I SHOW
14 THERE THAT IN FY 2017, THE RATIO THAT I CALCULATE
15 OR THAT THE MODEL CALCULATES THERE, IT'S 1.31. SO
16 THAT EXCEEDS WHAT THE LEGALLY-REQUIRED DEBT SERVICE
17 COVERAGE SHOULD BE. I MADE NO CHANGES TO THE
18 AMOUNTS THAT THE MODEL HAD FOR AMOUNTS GOING INTO
19 THE RATE STABILIZATION OR COMING OUT OF THE RATE
20 STABILIZATION FUND.
21 SO IN THIS INSTANCE, THE MODEL SHOWS THAT
22 THERE WERE FUNDS COMING OUT OF THE RATE
23 STABILIZATION FUND. BUT GIVEN IN REALITY, IT WOULD
24 NOT BE NEEDED. SO THE POINT I WAS MAKING THERE IS

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1 THAT WITHOUT THE RATE INCREASE, THE DEPARTMENT
2 COULD STILL MEET ITS LEGALLY-REQUIRED DEBT SERVICE
3 COVERAGE.
4 MR. POPOWSKY: BUT THEN IN 2018, AS WAS
5 DISCUSSED YESTERDAY, YOU ADMIT THEY WOULD MISS THE
6 COVERAGE VERY SLIGHTLY ACCORDING TO THIS
7 CALCULATION? SO IT WOULD BE 1.19. SO THERE MIGHT
8 BE AN ADDITIONAL \$2 MILLION WOULD BE REQUIRED; IS
9 THAT CORRECT?
10 MR. MORGAN: TO COME OUT OF THE RATE
11 STABILIZATION FUND.
12 MR. POPOWSKY: THAT WAS ALL I HAD. THANK
13 YOU.
14 MR. BALLENGER: SO JUST A COUPLE OF
15 QUESTIONS ON REDIRECT.
16 MR. MORGAN, IN YOUR EXPERIENCE, WOULD IT BE
17 TYPICAL FOR A UTILITY-MAKING EXPERT SUCH AS
18 YOURSELF, TO CONSULT WITH THE UTILITY IN THE
19 PREPARATION OF ITS FINANCIAL PLAN?
20 MR. MORGAN: NO.
21 MR. BALLENGER: WOULD IT BE TYPICAL FOR AN
22 OUTSIDE RATE-MAKING EXPERT SUCH AS YOURSELF TO
23 CONSULT WITH A UTILITY IN THE CONTEXT OF ITS BOND
24 TRANSACTIONS?

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1 MR. MORGAN: NO.
2 MR. BALLENGER: REGARDING THE VIEWPOINTS
3 EXPRESSED IN YOUR TESTIMONY. DO YOU BELIEVE THEY
4 REFLECT INDUSTRY STANDARDS AND BEST PRACTICES?
5 MR. DASENT: LET ME INSERT AN OBJECTION.
6 YOU ARE LEADING THE WITNESS.
7 MR. BALLENGER: OKAY.
8 MR. DASENT: I JUST DON'T THINK THAT'S
9 APPROPRIATE.
10 HEARING OFFICER: I THINK WE ARE NOT USING
11 ROBERT'S RULES OF ORDER OR GLADSTONE. I THINK I'LL
12 ALLOW IT JUST FOR EFFICIENCY'S SAKE. I DON'T THINK
13 THE WITNESS IS BEING LED ASTRAY.
14 MR. BALLENGER: I CAN REPHRASE THE LAST
15 QUESTION.
16 MR. DASENT: OKAY.
17 MR. BALLENGER: MR. MORGAN, MR. DASENT
18 ASKED YOU SOME QUESTIONS ABOUT THE AWWA M1. WOULD
19 YOU PLEASE COMMENT ON WHETHER, ON HOW YOU SEE YOUR
20 TESTIMONY AS FAR AS RATE-MAKING STANDARDS AND
21 INDUSTRY PRACTICES MAY BE INVOLVED?
22 MR. MORGAN: MY TESTIMONY, I BELIEVE, IS
23 CONSISTENT WITH THE AWWA M1. IN FACT, THE COMPANY,
24 THE DEPARTMENT'S OWN WITNESS FROM REFTALIS, BOB

5 (Pages 14 to 17)

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1 CRISP TALKS ABOUT MUNICIPAL-OWNED UTILITIES BEING
2 NATURAL MONOPOLIES. AND BECAUSE THEY ARE NATURAL
3 MONOPOLIES, THEY ARE, THEY POSSESS PRICING POWER.
4 AND AS SUCH, THESE UTILITIES ARE SUBJECT TO
5 REGULATION.
6 BECAUSE OF THAT, WE ARE AT THE FORUM SUCH AS
7 THIS. AND WHEN YOU GO BACK TO THE PHILADELPHIA
8 CODE, IT STATES THAT THE PROCESS OF REGULATIONS
9 SHOULD FOLLOW STANDARD RATE-MAKING PRACTICES. AND
10 THOSE ARE WHAT I HAVE EMPLOYED IN COMING UP WITH MY
11 RECOMMENDATION.
12 MR. BALLENGER: THANK YOU. NOTHING
13 FURTHER.
14 MR. DASENT: WE HAVE NOTHING ELSE.
15 HEARING OFFICER: SO THAT WAS ALL ON MR.
16 MORGAN'S DIRECT?
17 MR. BALLENGER: YES.
18 HEARING OFFICER: SO ARE YOU GOING TO
19 PROPOSE THAT YOU HAVE SOME SURREBUTTAL?
20 MR. BALLENGER: NO, MADAM HEARING OFFICER.
21 WE ARE, I BELIEVE, DONE WITH MR. MORGAN.
22 HEARING OFFICER: DID YOU WANT TO HAVE
23 SOMEBODY RESPOND TO THE COMMENT THAT WAS MADE ABOUT
24 HIS EXHIBITS? IT SEEMS TO ME THAT I CAN'T EVEN

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1 REMEMBER WHAT THE TOPIC WAS, BUT IT WAS GONE OVER
2 IN SOME DETAIL YESTERDAY.
3 MR. DASENT: YES. I THINK WE HAVE
4 EXHAUSTED THE ISSUE GOING OVER LKM-1, 2 AND 3 AND
5 THE VARIOUS ITERATIONS AND THE FACT EVEN AFTER THE
6 THIRD ITERATION, IT WAS WRONG. I DON'T THINK WE
7 NEED TO SAY THAT AGAIN.
8 MR. BALLENGER: OBJECTION.
9 HEARING OFFICER: BUT WAS IT OUTRAGEOUSLY
10 WRONG?
11 MR. DASENT: I WILL SAY IN MY POSITION PAPER
12 I WILL POINT OUT HOW WRONG IT WAS AND MAKE THE
13 RECORD CITATIONS.
14 HEARING OFFICER: OFF THE RECORD.
15 (WHEREUPON, A BREAK WAS TAKEN OFF THE
16 RECORD.)
17 HEARING OFFICER: MR. DASENT, DO YOU WANT TO
18 PRESENT YOUR NEXT WITNESSES?
19 MR. DASENT: YES. AT THE TABLE ARE DAVID
20 KATZ. DAVID KATZ IS OUR DEPUTY COMMISSIONER AND
21 ERIN WILLIAMS FROM THE PHILADELPHIA WATER
22 DEPARTMENT. THEY ARE SPONSORING THE EXHIBIT, THE
23 STATEMENT WHICH IS NAMED DIRECT TESTIMONY OF JOANNE
24 DAHME AND ERIN WILLIAMS. DAVID KATZ IS ADOPTING

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1 THE TESTIMONY AND WILL BE PRESENTED FOR
2 CROSS-EXAMINATION.
3 WITH THAT, WE HAVE ALREADY MARKED IT FOR
4 IDENTIFICATION. IT'S ALREADY IN THE RECORD AS I
5 UNDERSTAND IT. AND OUR WITNESSES ARE PROFFERED FOR
6 CROSS-EXAMINATION.
7 HEARING OFFICER: YOU WILL EXCUSE ME IF MY
8 IGNORANCE OF PEOPLE'S NAMES PROMPTS ME TO
9 ASK. YOU HAVE THREE PEOPLE THERE BUT YOU ARE ONLY
10 PROFFERING TWO WITNESSES. WHICH ARE THE PEOPLE YOU
11 ARE PROFFERING?
12 MR. DASENT: DAVID KATZ AND ERIN WILLIAMS,
13 OBVIOUSLY. AND MY CO-COUNSEL, MARK SIEGEL YOU
14 HAVEN'T MET BEFORE.
15 HEARING OFFICER: THANK YOU. DO WE HAVE ANY
16 QUESTIONS? HAVE YOU ALL ARRANGED MR. HELBING WILL
17 GO FIRST ON QUESTIONS?
18 MR. BALLENGER: I WASN'T EXPECTING TO GO
19 FIRST.
20 HEARING OFFICER: GO AHEAD.
21 MR. HELBING: MY NAME IS MIKE HELBING. I AM
22 STAFF ATTORNEY FOR PENN FUTURE, A PARTY IN THIS
23 CASE. I HAVE A FEW FAIRLY QUICK QUESTIONS I THINK
24 REGARDING THE STATEMENT YOU HAVE MADE.

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1 FIRST, THANK YOU FOR BEING HERE TODAY.
2 THANK YOU FOR THE WORK YOU ARE DOING ON STORMWATER,
3 ESPECIALLY WITH THE WATER DEPARTMENT.
4 THE FIRST QUESTION I HAVE. ON PAGE 2 OF
5 YOUR TESTIMONY, YOU STATE THAT THE NORTHEAST,
6 SOUTHEAST AND SOUTHWEST WATER POLLUTION CONTROL
7 PLANT AND PBS PERMITS AS WELL AS THE DEPARTMENT'S
8 MS-4 PERMIT ARE PENDING WITH THE DEPARTMENT OF
9 ENVIRONMENTAL PROTECTION AND NEGOTIATIONS ARE
10 ONGOING. I JUST WANTED TO KNOW, HAS ANYTHING
11 CHANGED WITH THE STATUS OF THOSE PERMITS SINCE THE
12 TIME YOU FILED YOUR TESTIMONY?
13 MR. KATZ: NO. SINCE THE TIME WE HAVE
14 FILED THIS TESTIMONY, THERE HAS BEEN NO CHANGE.
15 MR. HELBING: THANK YOU. THE RATES BEING
16 PROPOSED BY THE WATER DEPARTMENT IN THIS CASE, I
17 ASSUME BECAUSE THESE PERMITS ARE STILL UNDER
18 NEGOTIATIONS, THERE IS SOME UNCERTAINTY AS TO
19 EXACTLY WHAT THE PERMIT CONDITIONS WILL BE IN NEXT
20 PERMIT TERM ONCE THERE ARE RENEWS. DO THE RATES
21 BEING PROPOSED BY THE WATER DEPARTMENT IN THIS CASE
22 ACCOUNT FOR ANY CHANGES THAT MAY OCCUR IN THOSE
23 PERMIT CONDITIONS?
24 MR. KATZ: YEAH. THEY MET THESE PERMITS

6 (Pages 18 to 21)

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1 FOR OUR THREE PLANTS. THAT'S ESSENTIALLY ALL
2 WORKED OUT WITH THE EXCEPTION OF ONE ITEM THAT'S
3 BEING HELD UP. THAT'S GOING TO PROBABLY TAKE
4 SEVERAL YEARS FOR IT TO RESOLVE. IT INVOLVES NOT
5 ONLY THE EDP, BUT THE EPA. SO ALL OF THE ISSUES
6 THAT ARE KIND OF AGREED UPON ARE FACTORED INTO THE
7 RATES.

8 IN THE STORMWATER DEPARTMENT, WE HAVE A
9 FAIRLY GOOD HANDLE ON WHAT THAT IS GOING TO LOOK
10 LIKE. THE REAL DELAY THERE IS THEY ARE SO SWARMED
11 AND SO BACKED UP IN PROCESSING STORMWATER PERMITS
12 THAT WE ARE WAITING TO HEAR BACK.

13 HEARING OFFICER: CAN YOU TALK A LITTLE
14 HIGHER, TALK A LITTLE SLOWER?

15 MR. KATZ: STORMWATER PERMIT, WE ARE
16 WAITING TO HEAR BACK FROM DEP. WE HAVE A FAIRLY
17 GOOD HANDLE ON THE CONTENTS OF WHAT WOULD BE IN
18 THERE.

19 MR. HELBING: BUT YOU FEEL CONFIDENT THEN
20 WITH THE RATES AS THEY ARE BEING PROPOSED, THAT
21 THEY WOULD BE ENOUGH TO ALLOW THE DEPARTMENT TO
22 SATISFY ANY CONDITIONS?

23 MR. KATZ: SURE. FOR THE NEXT TWO YEARS,
24 THERE SHOULD BE SUFFICIENT RATES IN ORDER TO

1 ADDRESS THE REQUIRED ELEMENTS OF OUR PERMITS, YES.

2 MR. HELBING: THANK YOU. MOVING ON.

3 IN YOUR TESTIMONY, YOU TALK ABOUT THE
4 STORMWATER CUSTOMER ASSISTANCE PROGRAM WHICH, FOR A
5 QUICK CLARIFICATION, WE REFER TO IN OUR TESTIMONY,
6 MR. RUSSELL'S TESTIMONY AS THE ENHANCED CAP
7 PROGRAM. I BELIEVE YOU REFER TO IT AS THE CAP
8 PROGRAM. TO BE CLEAR, I THINK THERE IS ANOTHER
9 ACRONYM THAT I HAVE SEEN IN PROCEEDINGS FOR THE
10 CUSTOMER ASSISTANCE PROGRAM WHICH IS ALSO AT TIMES
11 REFERRED TO AS THE CAP PROGRAM.

12 SO AS IM ASKING QUESTIONS ABOUT EITHER THE
13 CAP OR ENHANCED CAP PROGRAM, IM REFERRING TO THE
14 CUSTOMER ASSISTANCE PROGRAM THAT I THINK YOU ALSO
15 TALK ABOUT IN YOUR TESTIMONY, SO THERE IS NO
16 CONFUSION.

17 BUT REFERRING TO THE CAP PROGRAM. ON PAGES
18 8 AND 9 OF THE BLACK AND VEATCH STATEMENT WHICH IS
19 PWD STATEMENT 9B, PROJECTIONS FOR THE CAP REVENUE
20 IMPACT ARE LAID OUT. FOR FISCAL YEAR 2017, REVENUE
21 IMPACT IS PROJECTED TO BE \$3.417 MILLION. JUST TO
22 BE CLEAR, THE WATER DEPARTMENT DOESN'T GET
23 ANYTHING, FOR EXAMPLE, ADDITIONAL GREEN ACRES,
24 REMOVAL OF IMPERVIOUS COVER, WATER QUALITY

1 IMPROVEMENTS OR ANYTHING LIKE THAT. THE WATER
2 DEPARTMENT DOESN'T GET ANYTHING IN RETURN FOR THAT
3 \$3.417 MILLION OF CONTRA REVENUE; IS THAT
4 CORRECT?

5 MS. WILLIAMS: CORRECT.

6 MR. HELBING: MOVING ON. I WANT TO TALK
7 ABOUT SMIP AND GARP PROGRAMS. SMIP, IT'S AN
8 ACRONYM FOR STORMWATER MANAGEMENT INCENTIVES
9 PROGRAM. AND GARP IS AN ACRONYM FOR THE GREEN ACRE
10 RETROFIT PROGRAM. IS THAT CORRECT? IS THAT YOUR
11 UNDERSTANDING?

12 MS. WILLIAMS: YES.

13 MR. KATZ: MAY I COMMENT ON THAT QUESTION
14 YOU JUST ASKED ERIN ABOUT CAP, THAT WE DO NOT GET
15 ANYTHING FOR IT? I WOULD KIND OF DISAGREE. WE GET
16 A LOT FROM CAP. CAP WAS THE PROGRAM THAT ENABLED
17 THE SMOOTH TRANSITION BETWEEN METER-BASED RATES AND
18 LAND-BASED RECOVERY OF STORMWATER. WITHOUT CAP, I
19 DON'T THINK WE WOULD HAVE HAD THE SYSTEM WE HAVE
20 TODAY. AND THE SYSTEM WE HAVE TODAY ALLOWS FOR THE
21 PROGRAMS LIKE SMIP AND GARP WHICH REALLY HELP THE
22 CITY GET VERY AFFORDABLE GREEN ACRES AND MEET OUR
23 CSO REQUIREMENTS. SO WE DO GET A LOT FROM CAP IN
24 THAT IT'S THE BACKBONE OF OUR PROGRAM WHICH ALLOWS

1 US TO DO THESE COST-EFFECTIVE RETROFITS.

2 MR. HELBING: YOU SAID IT HELPS THE CITY TO
3 TRANSITION FROM THE METER-BASED SYSTEM TO THE
4 PARCEL-BASED SYSTEMS?

5 MR. KATZ: CORRECT. IT WAS CRITICAL
6 BECAUSE THERE WERE SO MANY HIGHLY-IMPACTED
7 CUSTOMERS THAT WE HAD TO ADDRESS THEIR NEEDS IN A
8 WAY THAT MAKES SENSE TO ALLOW THAT TRANSITION WHICH
9 WOULD THEN ALLOW COST-EFFECTIVE GREEN ACRES TO BE
10 OBTAINED.

11 MR. HELBING: HOW LONG AGO WAS THE
12 TRANSITION FROM THE METER-BASED SYMPTOMS TO THE
13 PARCEL-BASED SYSTEM?

14 MS. WILLIAMS: WE STARTED THE TRANSITION
15 JULY 1, 2010.

16 MR. HELBING: THANK YOU.
17 SO GOING BACK TO THE LINE OF QUESTIONS
18 ABOUT SMIP AND GARP. YOU UNDERSTAND THOSE ACRONYMS
19 IM USING?

20 MS. WILLIAMS: YEP.

21 MR. HELBING: THANK YOU.
22 ON PAGE 3 OF EXHIBIT BVS-2. DO YOU HAVE IT
23 IN FRONT OF YOU? ON PAGE 3 OF EXHIBIT BVS-2 TO
24 PWD'S STATEMENT 9B, IT SAYS, AND IM QUOTING, "PART

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1 OF THE SMIP AND GARP BUDGET IS ALLOCATED TO THE
2 SANITARY SEWER AND RECOVERED VIA SEWER CHARGES FROM
3 ALL RESIDENTIAL AND NON-RESIDENTIAL SEWER
4 CUSTOMERS, WHILE THE REST OF THE BUDGET IS
5 ALLOCATED TO RESIDENTIAL AND NON-RESIDENTIAL
6 STORMWATER CUSTOMERS." IS THAT CORRECT?
7 MS. WILLIAMS: CORRECT.
8 MR. HELBING: DO YOU KNOW OR COULD YOU
9 ESTIMATE WHAT PORTION OF THE \$15 MILLION PROJECTED
10 EXPENSE IN THE SMIP AND GARP PROGRAMS IN THE TWO
11 RATE YEARS WILL BE RECOVERED FROM THE SWMS, THE
12 STORMWATER MANAGEMENT CHARGES AS OPPOSED TO THE
13 SEWER CHARGES, THE SANITARY AND SEWER COSTS?
14 MS. WILLIAMS: I DONT HAVE THAT
15 CALCULATION READILY AVAILABLE.
16 MR. HELBING: IM GOING TO DIRECT THIS TO
17 YOUR COUNSEL. DO YOU KNOW, IS THERE ANOTHER
18 WITNESS WHO MAY BE TESTIFYING NEXT WEEK?
19 MR. DASENT: WE CAN PROVIDE IN A TRANSCRIPT
20 REQUEST SPECIFIC INFORMATION.
21 MR. HELBING: ID LIKE TO MAKE THAT
22 TRANSCRIPT REQUEST FOR THAT INFORMATION AND ASKING
23 FOR THE BREAKDOWN FOR THE PORTION OF THE BUDGET FOR
24 THE SMIP AND GARP PROGRAMS WHICH AS THE DEPARTMENT

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1 HAS PROJECTED IS \$15 MILLION FOR EACH OF THE NEXT
2 TWO FISCAL YEARS, HOW THATS BROKEN DOWN
3 PERCENTAGE-WISE BETWEEN STORMWATER CUSTOMERS AND
4 SANITARY SEWER CUSTOMERS.
5 HEARING OFFICER: ON MY ACCOUNT, WE ARE UP
6 TO TRANSCRIPT REQUEST 7.
7 MR. DASENT: I HAVE 6. I THINK IT'S 6.
8 HEARING OFFICER: I HAVE A 6.
9 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
10 RECORD.)
11 HEARING OFFICER: SO WE ARE DISCUSSING THE
12 CONTENTS OF THE TRANSCRIPT RECORDS REQUEST 7. WE
13 HAVE GOT PART OF IT. DO YOU WANT TO CONCLUDE IT?
14 MR. HELBING: YES. I HAVE ONE MORE. ILL
15 ASK THE WITNESS FIRST.
16 DO YOU KNOW, SPEAKING OF THE SAME REVENUE
17 BREAKDOWN FOR SMIP AND GARP PROGRAMS, DO YOU KNOW
18 IN ADDITION HOW THAT IS BROKEN DOWN BETWEEN
19 RESIDENTIAL AND NON-RESIDENTIAL CUSTOMERS?
20 MS. WILLIAMS: I DONT HAVE THAT
21 INFORMATION AVAILABLE RIGHT NOW.
22 MR. HELBING: IN THAT CASE, I WOULD ASK WE
23 ADD THAT TO THE TRANSCRIPT REQUEST NUMBER 7 WHICH
24 WE WERE JUST DISCUSSING.

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1 HEARING OFFICER: WITHOUT OBJECTION?
2 MR. DASENT: NO OBJECTION.
3 MR. HELBING: THANK YOU.
4 THIS IS A LITTLE BIT MORE THEORETICAL. BUT
5 ONCE WE GET THAT BREAKDOWN, THOSE PERCENTAGES, IS
6 IT FAIR TO ASSUME THAT THOSE SAME BREAKDOWNS WILL
7 APPLY TO ANY ADDITIONAL FUNDINGS FOR THE SMIP AND
8 GARP PROGRAMS? FOR EXAMPLE, IF WE ADDED SAY AS MR.
9 RUSSELL SUGGESTED, IF WE ADDED \$3 MILLION TO THE
10 BUDGET OF THOSE PROGRAMS, WOULD IT BE FAIR TO SAY
11 THAT \$3 MILLION WOULD BE BROKEN DOWN THE SAME WAY
12 ACCORDING TO THE SAME PERCENTAGES?
13 MS. WILLIAMS: WE WOULD HAVE TO REVIEW WITH
14 OUR CURRENT CALCULATION AND ALLOCATION PROCEDURES
15 IF WE INCREASE THE BUDGET IF WE WOULD FOLLOW THAT
16 SAME PRACTICE.
17 MR. HELBING: THANK YOU. ANOTHER
18 QUESTION. I KNOW THAT THE SMIP PROGRAM IS OPEN
19 ONLY TO NON-RESIDENTIAL CUSTOMERS. BUT IS GARP
20 TECHNICALLY OPEN TO RESIDENTIAL CUSTOMERS AS LONG
21 AS THEY ARE IN THE CSO AREA AND OTHERWISE QUALIFY
22 FOR THE PROGRAM?
23 MS. WILLIAMS: CURRENTLY NOT.
24 MR. HELBING: IT'S NOT? THANK YOU.

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1 AND IN PWDS STATEMENT 9B ON PAGE 3, BLACK
2 AND VEATCH REPORTS THAT THE SMIP AND GARP GRANTS
3 BUDGET FOR FISCAL YEARS 2013 THROUGH 2015 WERE
4 FULLY UTILIZED. CAN YOU TELL ME IF YOU KNOW, WAS
5 THERE ANY UNMET DEMAND AS A RESULT OF BUDGET
6 LIMITATIONS FOR THE SMIP AND GARP PROGRAMS? FOR
7 EXAMPLE, WERE THERE ANY APPLICATIONS THAT HAD TO BE
8 DENIED FOR LACK OF FUNDING?
9 MS. WILLIAMS: NO APPLICATIONS WERE DENIED
10 FROM LACK OF FUNDING. WE DID NOT APPROVE
11 APPLICATIONS DUE TO THEM NOT MEETING CRITERIA OR
12 NOT BEING SELECTED IN THE COMPETITIVE PROCESS. BUT
13 NOT BECAUSE OF LACK OF FUNDING.
14 MR. HELBING: DO YOU KNOW, WERE THERE ANY
15 REQUESTS FOR ASSISTANCE UNDER THE SMIP AND GARP
16 PROGRAMS THAT WERE APPROVED BUT COULD HAVE
17 QUALIFIED FOR ADDITIONAL GRANT FUNDING HAD THERE
18 BEEN MORE FUNDING AVAILABLE?
19 MS. WILLIAMS: I DONT HAVE THAT. IM NOT
20 SURE OF THAT AT THIS TIME.
21 MR. HELBING: CAN I ASK TO THE EXTENT YOU
22 KNOW, HOW THE SMIP AND GARP PROGRAMS ARE CURRENTLY
23 BEING PUBLICIZED AND/OR ADVERTISED?
24 MS. WILLIAMS: SURE. WE ADVERTISE ON OUR

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1 WEBSITE. WE ADVERTISE THROUGH A VARIETY OF
2 RESOURCES THAT THE WATER DEPARTMENT HAS AVAILABLE
3 INCLUDING OUR SOCIAL MEDIA ACCOUNTS, OUR NEWS
4 LETTERS. WE OFFER THIS PROGRAM IN CONJUNCTION WITH
5 THE PHILADELPHIA INDUSTRIAL DEVELOPMENT
6 CORPORATION. THEY HELP MARKET AND ADVERTISE THE
7 PROGRAM FOR US AS WELL.

8 IN ADDITION, WE PROVIDE WORKSHOPS AND
9 EDUCATIONAL EVENTS TO OUR CUSTOMERS AS WELL AS
10 ENGINEERING AND CONSTRUCTION COMPANIES THAT ARE
11 INVOLVED IN THE BUSINESS. WE LOOK TO ORGANIZE
12 THOSE AS WELL AS WE PROVIDE THEM ON DEMAND WHEN
13 REQUESTED.

14 MR. HELBING: CAN YOU THINK OF ANY
15 ADDITIONAL WAYS YOU MIGHT BE ABLE TO EXPAND THE
16 PUBLICITY AND ADVERTISING THAT YOU ARE DOING THAT
17 YOU JUST DISCUSSED?

18 MS. WILLIAMS: YEAH. WE ARE ALWAYS
19 EVALUATING THAT TO IMPROVE OUR OUTREACH EFFORTS.
20 SO THAT CERTAINLY IS SOMETHING THAT WE ARE
21 CONSIDERING CURRENTLY AND WILL CONTINUE TO CONSIDER
22 SO WE CAN ENCOURAGE THE PROGRAM MORE AND MORE AS
23 TIME PROGRESSES.

24 MR. HELBING: ONE MORE QUESTION, IF I MAY.

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1 BOTTOM IT SAYS THE RESPONSE WAS PROVIDED BY MS.
2 WILLIAMS IN ADDITION TO MR. KUMAR FROM BLACK AND
3 VEATCH. MY QUESTION, THE QUESTION THAT PENN FUTURE
4 ASKED ARE ESSENTIALLY, HOW DID THE WATER DEPARTMENT
5 COME TO DETERMINE \$15 MILLION FOR A BUDGET FOR THE
6 SMIP AND GARP PROGRAMS? AND YOUR RESPONSE, YOU
7 SAY, YOU TALK ABOUT HOW THE COST OF A PRIVATE GREEN
8 ACRE IS SIGNIFICANTLY LOWER THAN THAT OF PUBLIC
9 GREEN ACRES.

10 MY QUESTION IS THEN, WHY NOT MORE? MY
11 INTERPRETATION OF YOUR ANSWER TO THE QUESTION, YOU
12 COULD CORRECT ME IF I MISUNDERSTAND. BUT YOU SEEM
13 TO BE SAYING, THIS IS WHY WE THINK IT SHOULD BE AT
14 LEAST THIS HIGH. AND MY QUESTION IS, SO WHAT'S THE
15 CAP ON THAT? WHY NOT MORE THAN \$15 MILLION?

16 MS. WILLIAMS: I THINK AT THIS POINT IN
17 TIME WE HAVE ADVANCED THE BUDGET FROM \$5 MILLION TO
18 \$10 MILLION OVER THE PAST, WE WENT TO \$10 MILLION
19 IN FISCAL 15. WE ARE CURRENTLY BUDGETED AT \$11
20 AND-A-HALF MILLION. AND I THINK \$15 MILLION IS
21 SOMEWHERE THAT WE FEEL COMFORTABLE IN TERMS OF THE
22 DEMAND IT PUSHES ON THE DEPARTMENT'S OVERALL
23 FINANCIAL AS A BUDGET. AND BALANCING THAT WITH THE
24 DEMAND OF PROJECTS THAT WE ARE AWARE THAT EXIST ON

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1 AND THIS IS, I'M GOING TO HAND YOU A DOCUMENT.
2 IT'S ALREADY PART OF THE RECORD. IT'S A RESPONSE
3 TO A DISCOVERY REQUEST. MADAM HEARING OFFICER, I
4 HAVE ENOUGH COPIES IF YOU WOULD LIKE IT TO BE
5 ENTERED AS AN EXHIBIT.

6 HEARING OFFICER: OFF THE RECORD.
7 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
8 RECORD.)

9 HEARING OFFICER: BACK ON THE RECORD.

10 MR. HELBING: I HAVE ASKED MS. WILLIAMS AND
11 MR. KATZ TO TAKE A LOOK AT A PAGE THAT I PUT IN
12 FRONT OF THEM. IT'S A DOCUMENT THAT'S ALREADY IN
13 THE RECORD. IT'S THE RESPONSE TO INTERROGATORY
14 REQUEST PF1-16. THERE IS NO PAGE ON THE DOCUMENT
15 ITSELF, BUT IT'S RESPONSE TO QUESTION PF1-16.

16 HEARING OFFICER: WE'LL MARK THAT AS PENN
17 FUTURE HEARING EXHIBIT 1.

18 MR. HELBING: HAVE YOU HAD A CHANCE TO LOOK
19 AT THE DOCUMENT?

20 MS. WILLIAMS: YES.

21 MR. HELBING: DO YOU RECOGNIZE THE
22 DOCUMENT?

23 MS. WILLIAMS: YES.

24 MR. HELBING: I'M GOING TO POINT OUT AT THE

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1 PRIVATE PROPERTY IN PHILADELPHIA.

2 SO MY BELIEF IS THAT THE \$15 MILLION IS A
3 GOOD BALANCE OF WHAT'S AVAILABLE FINANCIALLY IN
4 TERMS OF RESOURCES AT THE DEPARTMENT AND THE DEMAND
5 THAT WE KNOW IN PROJECTS FOR SMIP AND GARP.

6 MR. HELBING: I THINK AT THIS TIME I'M
7 FINISHED.

8 HEARING OFFICER: DO ANY OTHER PARTIES HAVE
9 QUESTIONS?

10 MR. BALLENGER: COULD I ASK WE GO OFF THE
11 RECORD FOR ONE SECOND?

12 HEARING OFFICER: OFF THE RECORD.

13 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
14 RECORD.)

15 HEARING OFFICER: BEFORE WE TURN TO MR.

16 BALLENGER, I HAVE BEEN EDUCATED THAT, IN FACT, WE
17 ARE ONLY ON TR-6. SO THE QUESTION MR. HELBING HAS
18 ASKED IS PART OF TR-6, TRANSCRIPT REQUESTS ARE
19 TR-6.

20 MR. BALLENGER.

21 MR. BALLENGER: THANK YOU.

22 THANK YOU, MS. WILLIAMS AND MR. KATZ. I
23 JUST HAVE A COUPLE OF QUESTIONS.

24 AM I CORRECT THAT -- WELL, FIRST ID ASK

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1 YOU ON PAGE 6 OF YOUR TESTIMONY, IT TALKS ABOUT
2 PROVIDING ASSISTANCE AND INCENTIVES TO CUSTOMERS.
3 AM I CORRECT THAT THE ONLY ASSISTANCE AVAILABLE
4 THAT YOU ARE REFERRING TO ANYWAY IS ASSISTANCE FOR
5 CUSTOMERS WHO ARE CHARGED MORE THAN THE MINIMUM
6 STORMWATER FEE?
7 MS. WILLIAMS: CAN YOU CLARIFY THAT
8 QUESTION?
9 MR. BALLENGER: IS THERE ASSISTANCE
10 AVAILABLE UNDER THE SMIP AND GARP PROGRAMS FOR
11 CUSTOMERS WHO PAY THE MINIMUM STORMWATER FEE,
12 \$14.15 PER MONTH CURRENTLY?
13 MS. WILLIAMS: THEORETICALLY, SMIP AND GARP
14 WOULD BE ELIGIBLE TO THOSE CUSTOMERS. OUR
15 ELIGIBILITY CRITERIA FOR SMIP AND GARP INCLUDE
16 BEING A NON-RESIDENTIAL PROPERTY OWNER IN THE
17 CITY.
18 MR. BALLENGER: THOSE CUSTOMERS CAN'T
19 RECEIVE ANY DISCOUNT IN THEIR STORMWATER CHARGES
20 THROUGH THE ASSISTANCE THAT YOU COULD PROVIDE?
21 MS. WILLIAMS: CORRECT. IF THEY WERE TO
22 PARTICIPATE IN SMIP AND GARP, THEY WOULD NOT BE
23 ELIGIBLE FOR CREDITS AGAINST THEIR STORMWATER
24 CHARGE SHOULD THEY HAVE MOVED FORWARD WITH THE

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1 GRANT.
2 HEARING OFFICER: WHO IS THE "THEY" IN THESE
3 SENTENCES? ARE YOU TALKING ABOUT THE SAME
4 PEOPLE?
5 MS. WILLIAMS: A CUSTOMER, NON-RESIDENTIAL
6 CUSTOMER.
7 MR. BALLENGER: AND THAT NO ASSISTANCE IS
8 AVAILABLE FOR RESIDENTIAL CUSTOMERS; ISN'T THAT
9 CORRECT?
10 MS. WILLIAMS: SMIP AND GARP IS NOT
11 AVAILABLE TO OUR NON-RESIDENTIAL CUSTOMERS. WE
12 HAVE ANOTHER PROGRAM FOR OUR RESIDENTIAL CUSTOMERS
13 CALLED RAINCHECK.
14 MR. BALLENGER: COULD YOU TELL ME ABOUT
15 RAINCHECK?
16 HEARING OFFICER: BEFORE YOU DO. SHE SAID
17 NON-RESIDENTIAL. SHE MEANT RESIDENTIAL.
18 MS. WILLIAMS: I DON'T ADMINISTER
19 RAINCHECK. BUT MY UNDERSTANDING OF THE PROGRAM, WE
20 COST SHARE IN THE CONSTRUCTION OF STORMWATER
21 IMPROVEMENTS FOR OUR RESIDENTIAL CUSTOMERS. WE
22 OFFER A SELECT MENU OF RESIDENTIAL STORMWATER
23 IMPROVEMENTS. RAIN BARRELS, A DOWNSPOUT PLANTER, I
24 THINK POROUS PAVERS MAY BE PART OF THAT. AND WE

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1 WORK WITH OUR INTERESTED RESIDENTIAL CUSTOMERS TO
2 OFFSET THE COST OF THOSE INSTALLATIONS OF THOSE
3 PROJECTS.
4 MR. BALLENGER: DOES THAT PROVIDE A
5 DISCOUNT ON THE MINIMUM STORMWATER CHANGE,
6 ACCEPTING THOSE?
7 MS. WILLIAMS: NO, IT DOES NOT.
8 MR. BALLENGER: SO AM I CORRECT THAT THE
9 ONLY WAY THAT A RESIDENTIAL CUSTOMER COULD PAY A
10 REDUCED STORMWATER CHARGE, BECAUSE THERE IS A WAY,
11 I THINK, IS THROUGH AN INCOME-BASED PROGRAM LIKE A
12 LOW INCOME PROGRAM OR A SENIOR CITIZEN DISCOUNT,
13 FOR EXAMPLE?
14 MS. WILLIAMS: TO MY KNOWLEDGE, THAT'S
15 CORRECT.
16 MR. BALLENGER: AM I ALSO CORRECT THAT
17 THERE ARE NOT INCOME-BASED QUALIFICATIONS FOR
18 COMMERCIAL CUSTOMERS RECEIVING STORMWATER CAP
19 ASSISTANCE? INCOME-BASED?
20 MS. WILLIAMS: SO FOR CAP?
21 MR. BALLENGER: YES.
22 MS. WILLIAMS: NOT SMIP AND GARP?
23 MR. BALLENGER: NOT SMIP AND GARP?
24 MS. WILLIAMS: SWITCHING TO CAP?

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1 MR. BALLENGER: I AM. SORRY.
2 MS. WILLIAMS: CAP ELIGIBILITY IS NOT BASED
3 ON CUSTOMERS' INCOME. IT'S BASED ON IMPACT.
4 MR. BALLENGER: FOR SMIP AND GARP, IS THERE
5 ANY INCOME-BASED QUALIFICATION REQUIREMENTS?
6 MS. WILLIAMS: ELIGIBILITY CRITERIA FOR
7 SMIP AND GARP DOES NOT INCLUDE INCOME.
8 MR. BALLENGER: THAT'S ALL I HAVE. THANK
9 YOU.
10 HEARING OFFICER: MR. BAKARE?
11 MR. BAKARE: THANK YOU. GOOD MORNING.
12 MR. KATZ: GOOD MORNING.
13 MR. BAKARE: I JUST HAVE A FEW QUICK
14 QUESTIONS FOR THE BOTH OF YOU.
15 EARLIER THIS MORNING, YOU REFERENCED THE
16 TRANSITION TO PARCEL-BASED STORMWATER RATES THAT
17 BEGAN ON JULY, 2010. JUST TO CLARIFY, THE ENHANCED
18 CAP PROGRAM WAS NOT IN PLACE AT THE TIME THAT
19 TRANSITION BEGAN; CORRECT?
20 MS. WILLIAMS: CORRECT.
21 MR. BAKARE: WHEN WAS THAT PROGRAM PUT INTO
22 PLACE?
23 MS. WILLIAMS: THE PREDECESSOR OF ENHANCED
24 CAP WAS SWAP, THE STORMWATER ASSISTANCE PHASE-IN

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1 PROGRAM. THAT PROGRAM WAS PUT INTO PLACE JULY 1ST,
2 2011.
3 MR. BAKARE: THE ENHANCED CAP ITSELF WAS
4 PUT IN PLACE?
5 MS. WILLIAMS: JANUARY 1ST, 2013.
6 MR. BAKARE: ANOTHER QUESTION. THROUGHOUT
7 THE FILING IN VARIOUS DOCUMENTS INCLUDING THE
8 EXHIBIT DISTRIBUTED BY PENN FUTURE WHICH I BELIEVE
9 IS PENN FUTURE HEARING EXHIBIT NUMBER 1, YOU
10 REFERENCED A \$15 MILLION BUDGET FOR SMIP AND GARP.
11 IS THAT A COMBINED BUDGET FOR THE TWO PROGRAMS?
12 MS. WILLIAMS: YES, A COMBINED BUDGET.
13 MR. BAKARE: IS THERE A SEPARATE BUDGET FOR
14 THE INDIVIDUAL PROGRAMS?
15 MS. WILLIAMS: WITHIN THAT \$15 MILLION, IS
16 THAT WHAT YOU ARE ASKING?
17 MR. BAKARE: YES.
18 MS. WILLIAMS: NO. IT'S A COMBINED
19 BUDGET. WE EVALUATE SMIP AND GARP APPLICATIONS
20 COLLECTIVELY AND AWARD THE MOST COMPETITIVE
21 APPLICATIONS.
22 MR. BAKARE: THANK YOU.
23 ONE LAST CLARIFICATION. THE SMIP AND GARP
24 PROGRAMS, THEY ARE NOT AVAILABLE TO NON-RESIDENTIAL

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1 CUSTOMERS. BUT THE COST FOR THOSE PROGRAMS ALSO
2 ARE NOT RECOVERED FROM NON-RESIDENTIAL CUSTOMERS;
3 CORRECT?
4 MS. WILLIAMS: THAT, I DON'T HAVE THE
5 INFORMATION READILY ON HAND AS TO THE ALLOCATION.
6 HEARING OFFICER: OFF THE RECORD.
7 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
8 RECORD.)
9 HEARING OFFICER: BACK ON THE RECORD.
10 IF YOU CAN SAY YOUR NAME AGAIN.
11 MS. KUMAR: I'M PRABHA KUMAR FROM BLACK AND
12 VEATCH. WITH RESPECT TO THE QUESTION ON WHAT ARE
13 THE ALLOCATIONS OF SMIP AND GARP BETWEEN SANITARY
14 SEWER AND STORMWATER, THE STORMWATER ALLOCATION IS
15 60 PERCENT AND SANITARY SEWER IS 40 PERCENT.
16 MR. POPOWSKY: THAT WASN'T THE QUESTION.
17 MS. KUMAR: AND THEN IN TERMS OF THE
18 QUESTION ON THE ALLOCATION BETWEEN RESIDENTIAL AND
19 NON-RESIDENTIAL, WE WILL HAVE TO GIVE IT THROUGH A
20 TRANSCRIPT REQUEST WHICH HAS ALREADY BEEN MADE.
21 HEARING OFFICER: I THINK THERE WAS A
22 DIFFERENT QUESTION PENDING.
23 MR. BAKARE: RIGHT. THE QUESTION WAS NOT
24 SO MUCH WHAT THE ALLOCATION IS, BUT ARE THERE ANY

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1 COSTS OF THE SMIP AND GARP PROGRAMS THAT ARE
2 RECOVERED FROM RESIDENTIAL CUSTOMERS?
3 MS. KUMAR: THAT IS CORRECT. BECAUSE THE
4 SMIP AND GARP IS AN OPERATIONAL BUDGET ITEM AND IT
5 IS INCLUDED IN OUR COST ALLOCATION, AND THOSE COSTS
6 ARE RECOVERED FROM RESIDENTIAL AND NON-RESIDENTIAL
7 CUSTOMERS.
8 MR. KATZ: IF I MIGHT ADD FROM A REGULATORY
9 POINT OF VIEW, THAT IS ABSOLUTELY AND COMPLETELY
10 APPROPRIATE THAT SMIP AND GARP PROGRAM ARE CRITICAL
11 FOR US TO MEET OUR LONG-TERM CONTROL PLAN
12 OBLIGATIONS IN ORDER TO REDUCE OVERFLOWS AND
13 ACHIEVE GREEN ACRES. THAT'S AN OBLIGATION THAT THE
14 ENTIRE CITY HAS AND THAT EVERY CITIZEN HAS. SO TO
15 RECOVER THOSE COSTS AGAINST ENTIRE RATE BASE IS
16 ABSOLUTELY APPROPRIATE. WITHOUT SMIP AND GARP, YOU
17 WOULD NOT BE ABLE TO MEET THIS OVERALL REQUIREMENT
18 THAT WE HAVE UNDER THOSE LONG-TERM CONTROL PLAN
19 REQUIREMENTS.
20 MR. BAKARE: THAT'S ALL I HAVE. THANK
21 YOU.
22 HEARING OFFICER: DO ANY OTHER PARTIES HAVE
23 QUESTIONS FOR THESE WITNESSES?
24 (NO RESPONSE.)

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1 HEARING OFFICER: I THINK WE HAVE A COUPLE
2 OF QUESTIONS FROM THE BENCH.
3 MR. BRUNWASSER: HI. I JUST WANTED TO
4 CLARIFY A COUPLE OF THINGS. I'M ASSUMING THAT THIS
5 \$15 MILLION ANNUAL CHARGE IS REFLECTED IN THE \$2
6 AND-A-HALF BILLION CSO PROGRAM; IS THAT CORRECT?
7 MR. KATZ: YES. BECAUSE THAT'S ONE OF THE
8 TOOLS THAT WAS DEVELOPED UNDER THAT PROGRAM.
9 MR. BRUNWASSER: RIGHT. NOW I'M ALSO
10 ASSUMING THAT \$15 MILLION COMES OUT OF THE
11 OPERATING BUDGET?
12 MR. KATZ: YES, CURRENTLY. THAT'S
13 CORRECT.
14 MR. BRUNWASSER: BECAUSE THERE ARE NO ASSETS
15 THAT THESE CUSTOMERS PUT IN THAT WOULD BE OWNED BY
16 THE CITY?
17 MR. KATZ: THAT'S CORRECT.
18 MR. BRUNWASSER: THAT'S IT.
19 MR. POPOWSKY: I JUST HAD A REQUEST WHICH I
20 PREVIOUSLY GIVEN TO MR. DASENT WHICH IS, I THINK WE
21 HAVE PART 1 OF THE SETTLEMENT FROM THE LAST RATE
22 CASE IN THE RECORD AS PUBLIC ADVOCATE EXHIBIT 2, I
23 THINK. AND I WAS JUST REQUESTED WE GET THE SECOND
24 HALF OF THE SETTLEMENT WHICH, AS I UNDERSTAND IT,

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1 COVERED THE STORMWATER ISSUES THAT WERE RESOLVED IN
2 THE LAST CASE. I DON'T THINK THE BOARD HAS A COPY
3 OF WHAT WAS AGREED TO IN THE LAST CASE ON THE
4 STORMWATER ISSUES, SO I THINK IT WOULD BE HELPFUL
5 IF WE HAD THAT IN THE RECORD.
6 MR. DASENT: AT YOUR DIRECTION, WE WILL
7 PROVIDE IT.
8 HEARING OFFICER: PLEASE PROVIDE IT.
9 MR. DASENT: SO TR-7.
10 HEARING OFFICER: I DO HAVE A COUPLE OF
11 QUESTIONS BEFORE WE TURN BACK TO MR. DASENT.
12 CAN YOU CLARIFY FOR ME? I WAS A LITTLE
13 CONFUSED. THERE WAS A SET OF QUESTIONS ABOUT, IS
14 THE ELIGIBILITY FOR SMIP AND GARP INCOME-BASED?
15 NO, IT'S COMPETITIVE. WHAT ARE THE GROUNDS FOR
16 COMPETITION?
17 MS. WILLIAMS: APPLICATIONS ARE PRIMARILY
18 SELECTED UPON BENEFIT TO THE DEPARTMENT IN TERMS OF
19 STORMWATER MANAGEMENT AND THEN ALSO COSTS PER GREEN
20 ACRES. SO WE PROVIDE AN ENGINEERING ANALYSIS OF
21 THE PROJECTS TO DETERMINE THE OVERALL STORMWATER
22 BENEFIT TO THE CITY AND TO THE DEPARTMENT. AND
23 THEN ITS COST PER THAT UNIT BENEFIT WHICH IS
24 MEASURED IN THE GREEN ACRES.

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1 HEARING OFFICER: FORGIVE MY IGNORANCE. ARE
2 THESE GRANTS OR LOANS?
3 MS. WILLIAMS: GRANTS.
4 HEARING OFFICER: NOTWITHSTANDING, DO YOU
5 HAVE ANY CREDIT RATING REQUIREMENTS FOR THE
6 APPLICANTS?
7 MS. WILLIAMS: APPLICANTS MUST BE IN GOOD
8 STANDING WITH ALL CITY TAXES AND WATER AND SEWER
9 FEES. SO A DELINQUENT CUSTOMER OR PROPERTY OWNER
10 WOULD NOT BE ELIGIBLE FOR THE PROGRAM. THAT'S THE
11 EXTENT OF OUR CHECK ON THOSE CUSTOMERS.
12 HEARING OFFICER: SO THEY COULD OWE QUITE A
13 BIT TO PNC AND THAT WOULD NOT DISQUALIFY THEM?
14 MS. WILLIAMS: WE DON'T DO A CREDIT CHECK
15 LIKE THAT.
16 MR. BRUNWASSER: ONE MORE QUESTION. ONCE
17 THESE PROGRAMS, I MEAN ONCE THE MONEY HAS BEEN
18 GRANTED TO THE GRANTEE AND THEY PERFORM THE WORK,
19 IS THERE, DOES THE WATER DEPARTMENT OVERSEE ANY OF
20 THAT, INSPECT IT TO ASSURE THAT THE PROMISED
21 STORMWATER RELIEF IS THERE, IS BUILT INTO THE
22 STRUCTURE?
23 MS. WILLIAMS: ABSOLUTELY. OUR PROCESS
24 INVOLVES NOT ONLY REVIEWING THE APPLICATIONS, WE

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1 REVIEW ALL ENGINEERING DRAWINGS AND THEN WE REVIEW
2 CONSTRUCTION WITH OUR INSPECTORS. AND THEN VERIFY
3 THE PROJECT ONCE IT'S DONE WITH A FINAL SET OF
4 ENGINEERING AS-BUILT DRAWINGS TO DETERMINE THAT
5 WHAT WE PAID FOR IS WHAT WAS ORIGINALLY AGREED UPON
6 BETWEEN THE GRANTEE AND THE PHILADELPHIA WATER
7 DEPARTMENT.
8 ONE THING I'D LIKE TO ADD IN REFERENCE, I
9 WAS TALKING ABOUT STORMWATER BENEFIT IN TERMS OF
10 APPLICATION OR REVIEWING APPLICATIONS FOR
11 SELECTION. PRIMARILY, IT IS AS DAVID KATZ
12 MENTIONED BEFORE, IT'S CSO MITIGATION. SO WE ARE
13 VERY, VERY MUCH FOCUSED ON OUR CONSENT ORDER
14 AGREEMENT, OUR LONG-TERM CONTROL PROGRAM. THE
15 BENEFIT THESE PROJECTS CAN BRING TO OUR CSO ARE
16 HEAVILY WEIGHTED IN OUR SELECTION.
17 HEARING OFFICER: ACTUALLY, THAT HELPS ME.
18 I DID HAVE ANOTHER QUESTION WHICH IS, DO BOTH SMIP
19 AND GARP EQUALLY CONTRIBUTE TO CSO MITIGATION? OR
20 IS ONE OF THE PROGRAMS MORE FOR THAT VERSUS THE
21 OTHER?
22 MS. WILLIAMS: GARP IS OUR PRIMARY CSO
23 MITIGATION GRANT PROGRAM. IT'S TARGETED AT
24 CUSTOMERS AND PROPERTY OWNERS IN THE CSO AREA.

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1 SMIP ALSO PROVIDES CSO MITIGATION BUT IT IS ALSO
2 ELIGIBLE TO CUSTOMERS AND PROPERTY OWNERS
3 CITY-WIDE. SO THOSE CUSTOMERS SERVICED BY THE MS-4
4 WOULD ALSO BE ELIGIBLE FOR SMIP.
5 HEARING OFFICER: WHEN YOU LOOK AT
6 COMPETITIVENESS, DO YOU LOOK FIRST AT PROPOSALS
7 THAT ARE ELIGIBLE FOR GARP?
8 MS. WILLIAMS: YEAH. WELL, ANY APPLICATION
9 WE RECEIVE, WHETHER IT'S SMIP OR GARP, IF IT'S
10 PROVIDING STORMWATER BENEFIT IN THE CSO, THAT DOES
11 GET, WE DO LOOK AT THAT MORE CLOSELY FOR FUNDING.
12 HEARING OFFICER: ACTUALLY, I APOLOGIZE.
13 THERE WAS ANOTHER WHOLE THOUGHT PROCESS THAT I
14 DIDN'T GET INTO THAT I NEED TO ASK ABOUT.
15 I'M STILL CONFUSED ABOUT THE QUESTIONS
16 ABOUT THE BUDGETING THE \$15 MILLION AND THE
17 QUESTIONS THAT MR. HELBING PROPOUNDED HAVING TO DO
18 WITH, DID YOU HAVE ANY MONEY LEFT OVER? WAS IT
19 FULLY SUBSCRIBED? AND SO FORTH. AND I WASN'T
20 COMPLETELY CLEAR WHETHER THERE WERE PROJECTS THAT
21 HAD BEEN APPLIED FOR THAT WOULD HAVE BEEN ELIGIBLE
22 BUT DIDN'T GET IN BECAUSE OF THIS YEAR'S \$11.5
23 MILLION AND SO FORTH.
24 MS. WILLIAMS: TODAY WE HAVE BEEN ABLE,

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1 THIS FISCAL YEAR WE HAVE APPROVED EVERY APPLICATION
2 THAT SHOWS QUALITY BENEFIT TO THE CSO AND ALSO
3 QUALITY STORMWATER BENEFIT IN THE MS-4. WE HAVE
4 NOT BEEN RESTRICTED BY BUDGET THIS YEAR.

5 ONE THING TO NOTE THAT WITH OUR APPLICATION
6 REVIEW PROCESS, IT'S VERY RIGOROUS. SO OFTEN WHEN
7 WE WORK WITH APPLICANTS, PERHAPS THEY MAY NOT BE
8 ELIGIBLE AT THIS TIME BECAUSE THEY NEED TO DEVELOP
9 THEIR ENGINEERING DRAWINGS MORE OR FURTHER FLUSH
10 OUT THEIR STORMWATER PLAN. AND THEN WE ENCOURAGE
11 THEM TO CONTINUE WORKING WITH THE DEPARTMENT SO
12 THAT THEY MAY BE ELIGIBLE IN FUTURE ROUNDS. OUR
13 PROGRAM IS OFFERED ON A ROLLING BASIS, SO WE EXCEPT
14 APPLICATIONS YEAR ROUND. OFTEN WHEN WE FIRST
15 RECEIVE AN APPLICATION, IT'S NOT GROOMED ENOUGH TO
16 BE FUNDED. SO WE CONTINUE WORKING WITH THAT
17 APPLICANT. WE WOULD LIKE TO BE ABLE TO FUND AS
18 MANY PROJECTS THAT PROVIDE US QUALITY CSO BENEFIT
19 AS WE CAN.

20 HEARING OFFICER: IF YOU WERE LIMITED TO THE
21 \$11.5 MILLION CURRENTLY IN THE BUDGET, DO YOU THINK
22 YOU WOULD BE ABLE TO COVER ALL OF THE ANTICIPATED
23 APPLICATIONS?

24 MS. WILLIAMS: NOT CURRENTLY. WE HAVE BEEN

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1 APPRISED BY VARIOUS COMPANIES THAT ARE SUBMITTING
2 APPLICATIONS TO US THAT THEY HAVE A LARGE NUMBER OF
3 CLIENTS THAT THEY WOULD LIKE TO SUBMIT APPLICATIONS
4 TO US FOR. AND THAT'S WHY WE ARE LOOKING TO
5 INCREASE THE BUDGET SO WE CAN ACCOMMODATE THOSE
6 PROJECTS.

7 HEARING OFFICER: IF YOU HAD THE \$15
8 MILLION, WOULD YOU THEN HAVE ENOUGH TO ACCOMMODATE
9 WHAT YOU WOULD ANTICIPATE TO BE NEEDED?

10 MS. WILLIAMS: WE BELIEVE SO.

11 HEARING OFFICER: THANK YOU VERY MUCH.

12 DO YOU HAVE ANY REDIRECT, MR. DASENT?

13 MR. DASENT: YES. COULD YOU GIVE US A
14 MOMENT?

15 HEARING OFFICER: YES. OFF THE RECORD.
16 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
17 RECORD.)

18 HEARING OFFICER: WE ARE READY FOR REDIRECT
19 BY MR. DASENT.

20 MR. DASENT: THANK YOU.

21 MR. KATZ, IN CROSS-EXAMINATION EARLIER, THE
22 MENTION WAS MADE OF \$15 MILLION FOR SMIP AND GARP
23 IN OUR RATE FILING. IS THIS AMOUNT OF MONEY
24 CRITICAL TO MEETING OUR DEBT, OUR MILESTONE UNDER

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1 THE CRA?

2 MR. KATZ: YES, IT'S ACTUALLY CRITICAL UNDER
3 OUR CONSENT ORDER WITH THE STATE. AT THE YEAR 10
4 MARK, WE HAVE TO OBTAIN I BELIEVE 2148 GREEN ACRES
5 IN ORDER TO MEET OUR APPLICATION. BY FUNDING SMIP
6 AND GARP AT \$15 MILLION, THAT GETS US TO AROUND
7 MAYBE 200 TO 250 A YEAR. MULTIPLE BY THAT BY 5,
8 IT'S ABOUT 1250, 1200. THE REST CAN COME FROM
9 OTHER PROGRAMS INCLUDING THROUGH OUR REGULATIONS AS
10 WE SEE ALL THE DEVELOPMENT GOING ON IN THE CITY.
11 AS NEW DEVELOPMENT OCCURS, THEY MUST MEET OUR
12 REGULATIONS. SO THAT WILL ALLOW US TO SAFELY MEET
13 THAT GOAL WHICH IS OBVIOUSLY CRITICAL FOR
14 COMPLIANCE PURPOSES.

15 MR. DASENT: ON CROSS-EXAMINATION, ALSO THE
16 RAINCHECK PROGRAM WAS MENTIONED. AM I CORRECT IN
17 CONCLUDING PARTICIPATION IN THE RAINCHECK PROGRAM
18 AND OTHER PROGRAMS FOR RESIDENTIAL CUSTOMERS
19 RELATED TO STORMWATER MITIGATION HELP LOWER THE
20 OVERALL STORMWATER COSTS FOR THE SYSTEM?

21 MR. KATZ: YES. THAT'S CORRECT. PEOPLE
22 WHO ENGAGE IN THE RAINCHECK PROGRAM, THEY ARE
23 MANAGING THEIR PORTION OF STORMWATER IN THEIR HOME.
24 THAT IS A BENEFIT TO US. WE TAKE CREDIT FOR THAT.

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1 SO THAT HELPS US MEET OUR GOALS AND THAT RESTRAINS
2 RATE INCREASES BECAUSE NOW WE HAVE A SMALL PORTION
3 BEING CONTROLLED BY RESIDENTIAL. SO YES, OVERALL,
4 IT DOES HELP DAMPEN AND REDUCE OUR FUTURE RATE
5 INCREASES.

6 MS. DASENT: THANK YOU.

7 MS. WILLIAMS, IN DISCUSSIONS BEFORE ABOUT
8 THE ENHANCED CAP PROGRAM, OUTREACH WAS MENTIONED AS
9 ONE OF THE VEHICLES TO MAKE BETTER KNOWN THAT THESE
10 PROGRAMS EXIST AND ARE AVAILABLE TO CUSTOMERS. ARE
11 YOU CONSIDERING TARGETED OUTREACH TO ENHANCE CAP
12 PARTICIPANTS TO TRANSITION THOSE CUSTOMERS TO SMIP
13 AND GARP WHERE POSSIBLE?

14 MS. WILLIAMS: YES. WE WOULD VERY MUCH
15 LIKE TO DO THAT, WORK WITH OUR ENHANCED CAP
16 CUSTOMERS AND EDUCATE THEM ABOUT SMIP AND GARP.
17 THAT'S CORRECT.

18 MR. DASENT: FINALLY, MR. KATZ. RELATED TO
19 THE ENHANCED CAPITAL AGREEMENT IN CROSS-EXAMINATION
20 EARLIER. IS THE ENHANCED CAPITAL AGREEMENT
21 CONSISTENT WITH PRINCIPLES OF GRADUALISM IN
22 TRANSITIONING CUSTOMERS FROM THE METER-BASED TO
23 PARCEL-BASED SYSTEM OF STORMWATER COST RECOVERY?

24 MR. KATZ: YES. ABSOLUTELY, AGAIN I

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1 THOUGHT IT WAS CRITICAL. A LOT OF OUR BUSINESSES
2 HAVE TREMENDOUS PERCENTAGE INCREASES AS WE
3 TRANSFERRED FROM METER-BASED TO LAND-BASED AND
4 MULTIPLE THOUSANDS OF PERCENTAGE INCREASES. SO WE
5 HAD TO FIND SOME RATIONAL WAY IN WHICH BUSINESSES
6 COULD ABSORB THIS INCREASED COST AND YET STILL
7 MANAGE AND STILL SUPPORT OUR PROGRAM.
8 SO THIS PHASE-IN OF 10 PERCENT PER YEAR
9 COMBINED WITH THE GRANTS THAT THEY WOULD BE
10 ELIGIBLE FOR UNDER SMIP AND GARP ALLOW THEM TO NOT
11 ONLY ACCEPT THE PROGRAM, BUT ACTUALLY ALMOST BECOME
12 PROPONENTS OF THE PROGRAM AS WE OFFER THESE
13 PROGRAMS TO THEM.
14 MR. DASENT: THANK YOU. THAT'S ALL I
15 HAVE.
16 HEARING OFFICER: I THINK WE ARE READY. SO
17 THANK YOU VERY MUCH. WE'LL GO ON NOW TO MR.
18 HELBING'S WITNESS; IS THAT CORRECT?
19 MR. HELBING: YES. MIKE HELBING, PENN
20 FUTURE. I'D LIKE TO MAKE FOR IDENTIFICATION
21 STATEMENT PF-1 WHICH HAS ALREADY BEEN ENTERED INTO
22 THE RECORD. IT'S THE DIRECT TESTIMONY OF DAVID F.
23 RUSSELL ON BEHALF OF PENN FUTURE. AND IF WE MAY,
24 WE'D LIKE TO MAKE ONE QUICK CLARIFICATION ABOUT HIS

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1 STATEMENT BEFORE WE PROFFER HIM FOR CROSS.
2 HEARING OFFICER: SURELY.
3 MR. HELBING: MR. RUSSELL.
4 MR. RUSSELL: I JUST WANT TO MENTION ON PAGE
5 17 OF MY TESTIMONY, THE FIRST PARAGRAPH ON THAT
6 PAGE. I WAS UNDER THE MISTAKEN IMPRESSION THAT A
7 LOT OF THESE CHARGES FOR THE SMIP AND GARP PROGRAMS
8 WOULD HAVE BEEN RECOVERED FROM, MAINLY FROM THE
9 NON-RESIDENTIAL CLASS. BUT I UNDERSTAND THAT I WAS
10 MISTAKEN THERE AND IT'S REALLY SHARED BY NOT ONLY
11 RESIDENTIAL CUSTOMERS, BUT ALSO BY SANITARY SEWER
12 CHARGES THAT WAS JUST DISCUSSED EARLIER.
13 MR. HELBING: AND WITH THAT, PENN FUTURE
14 PROFFERS MR. RUSSELL FOR CROSS-EXAMINATION.
15 HEARING OFFICER: MR. DASENT.
16 MR. DASENT: GOOD AFTERNOON, MR. RUSSELL.
17 MR. RUSSELL: GOOD AFTERNOON, COUNSEL.
18 MR. DASENT: WE HAD THE OCCASION TO TALK IN
19 INFORMAL DISCOVERY, TELEPHONE EXCHANGE A WEEK AGO
20 OR MORE. AND THANK YOU FOR THAT.
21 MR. RUSSELL: SURE.
22 MR. DASENT: AT THAT TIME, WE DISCUSSED
23 YOUR TESTIMONY. AND YOU INDICATED THAT YOU HAD
24 THREE BASIC RECOMMENDATIONS TO MAKE IN YOUR

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1 TESTIMONY. AND UPON MY READING IT, IT'S SORT OF
2 OBVIOUS ON ITS FACE.
3 ONE HAS TO DO WITH YOUR SUPPORT FOR
4 STORMWATER-RELATED REVENUE REQUIREMENTS IN THIS
5 RATE FILING. THE OTHER HAD TO DO WITH INDICATING
6 IF ADDITIONAL FUNDING FOR SMIP AND GARP WOULD BE
7 APPROPRIATE.
8 MR. RUSSELL: YES.
9 MR. DASENT: YOUR THIRD RECOMMENDATION TO
10 INDICATE THE ENHANCED CAP PROGRAM SHOULD BE
11 TERMINATED IN THREE YEARS; IS THAT RIGHT?
12 MR. RUSSELL: THAT'S ABSOLUTELY CORRECT.
13 MR. DASENT: I'M GOING TO FOCUS THESE
14 QUESTIONS MOSTLY ON ENHANCED CAP IN YOUR PROPOSAL
15 THAT DEALS WITH THAT AS OPPOSED TO THE OTHER ISSUES
16 WHERE, GOD BLESS YOU, THOSE ARE GOOD
17 RECOMMENDATIONS.
18 MY QUESTIONS ARE THEN WHEN WE HAVE THE
19 OCCASION TO DISCUSS YOUR PROPOSAL, AT THAT TIME YOU
20 INDICATED YOU WERE NOT FULLY AWARE OF THE
21 SIGNIFICANT PERCENTAGE OF NONPROFITS AND CHURCHES
22 THAT WOULD BE IMPACTED BY YOUR RECOMMENDATIONS. DO
23 YOU REMEMBER THAT?
24 MR. RUSSELL: I RECALL THAT, YES.

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1 MR. DASENT: DID YOU FULLY TAKE INTO ACCOUNT
2 -- LET ME ASK IT THIS WAY. WOULD YOU ACCEPT,
3 SUBJECT TO CHECK, THAT CHURCHES AND NONPROFITS MAKE
4 UP A THIRD TO A HALF OF THE ACCOUNTS IN THE
5 ENHANCED CAP PROGRAM, SUBJECT TO CHECK?
6 MR. RUSSELL: I WOULD ACCEPT THAT SUBJECT TO
7 CHECK. I BELIEVE THE TOTAL NUMBER IS ABOUT 100 OR
8 A LITTLE LESS THAN 100.
9 MR. DASENT: YOU ALSO INDICATED YOU WERE
10 NOT FULLY AWARE THAT SOME CUSTOMERS OR ACCOUNTS IN
11 ENHANCED CAP HAVE NO ALTERNATIVES OR LIMITED
12 OPPORTUNITIES TO MITIGATE STORMWATER COSTS. DO YOU
13 REMEMBER THAT PART OF OUR CONVERSATION?
14 MR. RUSSELL: I THINK I WASN'T SURE IF THEY
15 DID OR NOT.
16 MR. DASENT: OKAY. AND TO THE DEGREE THOSE
17 CUSTOMERS ARE CAPTIVE OR HAVE NO WAY OUT, I THOUGHT
18 YOU INDICATED THAT IT WOULD BE GOOD POLICY TO TAKE
19 INTO ACCOUNT THE IMPACT ON THOSE CUSTOMERS AS WELL
20 AS CUSTOMERS THAT WOULD BE ABLE TO MITIGATE
21 STORMWATER MANAGEMENT COSTS.
22 MR. RUSSELL: I'M NOT SURE WHAT YOU ARE
23 ASKING THERE.
24 MR. DASENT: I'M ASKING YOU TO RECOGNIZE IN

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1 OUR CONVERSATION OR INFORMAL DISCOVERY --
2 HEARING OFFICER: OFF THE RECORD.
3 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
4 RECORD.)
5 HEARING OFFICER: BACK ON THE RECORD.
6 MR. DASENT: DURING OUR INFORMAL DISCOVERY
7 EXCHANGE, YOU INDICATED YOU WEREN'T AWARE OF THE
8 IMPACT ON CHURCHES AND NONPROFITS. DO YOU REMEMBER
9 THAT PART?
10 MR. RUSSELL: I BELIEVE THAT'S TRUE.
11 MR. DASENT: RIGHT. I CHARACTERIZE IT AS
12 NOT FULLY AWARE, I'M BEING GENERAL. TO THOSE
13 CUSTOMERS THAT ARE CAPTIVE OR HAVE NO WAY TO GET
14 OFF OF THE ENHANCED CAP PROGRAM BECAUSE THERE IS NO
15 MITIGATION OPPORTUNITY AVAILABLE TO THEM, YOU
16 INDICATE TO ME AS WELL THAT TO THE DEGREE THOSE
17 CUSTOMERS HAD NO WAY OUT, THAT YOU WOULD HAVE TO
18 TAKE THAT INTO ACCOUNT IN YOUR RECOMMENDATION.
19 MR. RUSSELL: WELL YES, TO SOME DEGREE. I
20 THINK IF MY RECOMMENDATION WAS ACCEPTED, YOU WOULD
21 HAVE THREE MORE YEARS OF THE TEN PERCENT MAXIMUM
22 INCREASE. AND PEOPLE SHOULD BE NOTIFIED, PEOPLE ON
23 THE CAP PROGRAM NOW, WHAT THE IMPACT WOULD BE IF
24 THEY DIDN'T GET OFF THE PROGRAM WITHIN THE

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1 THREE-YEAR PERIOD.
2 HEARING OFFICER: WHAT THE IMPACT WOULD BE?
3 MR. RUSSELL: IN THEIR RATES.
4 HEARING OFFICER: IF?
5 MR. RUSSELL: IF THEY DIDN'T DO THE
6 MITIGATION MEASURES OR DIDN'T PARTICIPATE MORE
7 FULLY IN THE PROGRAM, THE INCENTIVE PROGRAMS.
8 HEARING OFFICER: THANK YOU.
9 MR. DASENT: YOU ALSO INDICATED THE THREE
10 YEARS WASN'T CAST IN STONE. YOU INDICATED IT WAS A
11 REASONABLE PERIOD. DO YOU RECALL THAT?
12 MR. RUSSELL: YES. I THINK THE THREE YEARS
13 I THOUGHT WAS REASONABLE. I PERSONALLY HAVE NOT
14 BEEN INVOLVED IN OTHER RATE CASES WHERE MITIGATION
15 MEASURES HAVE EXTENDED MUCH BEYOND THREE, FOUR,
16 FIVE YEARS AT THE MOST.
17 MR. DASENT: ARE YOU AWARE OF THE NUMBER OF
18 THE ACCOUNTS THAT ARE IN ENHANCED CAP AT THE
19 PRESENT TIME? IT WASN'T CLEAR TO ME FROM READING
20 YOUR TESTIMONY. HOW MANY ACCOUNTS ARE IMPACTED?
21 MR. RUSSELL: I HAVE THAT NUMBER SOMEWHERE.
22 MY UNDERSTANDING IS IT'S LESS THAN 100.
23 MR. DASENT: LET ME TRY IT THIS WAY.
24 SUBJECT TO CHECK, IN FISCAL 16 ARE YOU AWARE THERE

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1 ARE 484 ACCOUNTS IN THE ENHANCED CAP PROGRAM
2 SUBJECT TO CHECK?
3 MR. RUSSELL: SUBJECT TO CHECK, YES. I
4 HAVEN'T SEEN THOSE NUMBERS.
5 MR. DASENT: OVER TIME, BETWEEN FISCAL 16
6 AND FISCAL 19 THAT NUMBER DROPS TO 289 ACCOUNTS.
7 ARE YOU AWARE OF THAT OR WILL YOU ACCEPT THAT
8 SUBJECT TO CHECK?
9 MR. RUSSELL: BY THE DEPARTMENT'S
10 PROJECTIONS?
11 MR. DASENT: YES.
12 MR. RUSSELL: SUBJECT TO CHECK ALSO.
13 MR. DASENT: THAT PROGRAM BY DESIGN, THE
14 PARTICIPANTS ARE DROPPING EVERY YEAR? ARE YOU
15 AWARE OF THAT? WILL YOU ACCEPT SUBJECT TO CHECK?
16 MR. RUSSELL: AS YOU JUST STATED, YES.
17 MR. DASENT: YOU ARE TRYING TO BASICALLY
18 ACCELERATE THE END OF THAT PROGRAM?
19 MR. RUSSELL: YES.
20 MR. DASENT: WHICH IS DYING A SLOW DEATH?
21 MR. RUSSELL: YES, BECAUSE THE CUSTOMERS
22 THAT ARE CAPABLE OF TAKING ADVANTAGE OF THESE
23 PROGRAMS I THINK REALLY OUGHT TO BE ENCOURAGED TO
24 DO THAT. AND ONE OF THE WAYS OF DOING THAT IS

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1 TELLING THEM WHAT THE RATES ARE GOING TO BE AT THE
2 END OF THREE YEARS OR FOUR YEARS IF THAT WAS AN
3 ACCEPTABLE LEVEL, WHAT WOULD HAPPEN TO THEIR
4 RATES. OBVIOUSLY, IT WOULD BE EXTREMELY BIG AND
5 THE PEOPLE THAT COULD TAKE ADVANTAGE CERTAINLY I
6 THINK WOULD TAKE ADVANTAGE. AND THAT'S ONE OF THE
7 REASONS I SUGGEST SOMEWHAT OF AN INCREASE IN THE
8 SMIP AND GARP PROGRAMS TO HANDLE THAT.
9 MR. DASENT: NOW, ARE YOU ALSO AWARE THAT
10 SOME OF THE CUSTOMERS BECAUSE OF THEIR LOCATION,
11 WHETHER IN THE SEPARATE SEWER AREA OR THE CSO,
12 SEWER OVERFLOW AREAS ARE DIFFERENTLY IMPACTED BY
13 THE PROGRAMS AVAILABLE TO THEM? IN OTHER WORDS,
14 THERE IS NOT ALWAYS AN ALTERNATIVE?
15 MR. RUSSELL: I WOULD IMAGINE THERE ARE
16 SOME, YES.
17 MR. DASENT: WOULD YOU ALSO AGREE THAT
18 ANOTHER VEHICLE TO TRANSITION FOLKS FROM THE
19 ENHANCED CAP TO SMIP AND GARP WOULD BE TARGETED
20 OUTREACH FOR THOSE CUSTOMERS? I THINK WE TALKED
21 ABOUT THAT.
22 MR. RUSSELL: YES.
23 MR. DASENT: AS A WAY TO GET THOSE
24 CUSTOMERS TO BE AWARE IF THERE ARE ALTERNATIVES

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1 THEY CAN TAKE ADVANTAGE OF, THAT THEY SHOULD, AT
2 LEAST IT'S AVAILABLE TO THEM?
3 MR. RUSSELL: ABSOLUTELY. I THINK IT'S PART
4 OF MY RECOMMENDATION.
5 MR. DASENT: WOULD YOU AGREE THEN THAT THIS
6 OBJECTIVE, WE ARE SORT OF ALIGNED AND ENTER INTO A
7 DIALOGUE AS TO HOW TO BEST ACCOMPLISH SOME OF THE
8 THINGS INCLUDING THE TARGETED OUTREACH TO REDUCE
9 THE PARTICIPANTS IN THE ENHANCED CAPITAL?
10 HEARING OFFICER: TO REDUCE WHAT?
11 MR. DASENT: THE PARTICIPANTS, THE CUSTOMERS
12 IN THE ENHANCED CAPITAL PROGRAM.
13 MR. RUSSELL: I DON'T KNOW WHAT YOU ARE
14 SUGGESTING HOW THAT WOULD WORK IN PRACTICE.
15 MR. DASENT: WE WOULD HAVE TO HAVE A
16 DIALOGUE WHICH WE ARE HAVING NOW AND IN WHICH WE
17 WOULD CONTINUE TO HAVE TO TALK ABOUT ALTERNATIVE
18 WAYS TO BRING THIS PROGRAM TO A MORE SPEEDY DEATH
19 BALANCING THE COMPETING POLICY OBJECTIVES THAT WE
20 SEE, AT LEAST THAT SOME OF THESE CUSTOMERS ARE
21 WRONGFUL AND CAPTIVE, SOME OF THESE CAPTIVES ARE
22 NONPROFITS AND CHURCHES, THAT WE MENTIONED, THAT WE
23 ACKNOWLEDGED A FEW MOMENTS. AND THAT WE DON'T WANT
24 TO HURT ANYONE TRYING TO TRANSITION THEM OFF TO

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1 ANOTHER PROGRAM THAT WILL HELP THEM IF THAT PROGRAM
2 IS AVAILABLE. AND SO THEY HAVE AN ALTERNATIVE TO
3 MITIGATE STORMWATER, MITIGATION STORMWATER RUNOFF
4 COSTS?
5 MR. RUSSELL: THAT'S A CONVERSATION THAT
6 WOULD TAKE PLACE OVER QUITE A BIT OF TIME.
7 MR. DASENT: THAT'S CORRECT.
8 MR. RUSSELL: I'M ASSUMING YOU ARE REALLY
9 REFERRING TO PENN FUTURE, NOT ME PERSONALLY?
10 MR. RUSSELL: I THINK TALKING TO YOU IN THE
11 CONTEXT OF A RATE CASE ABOUT OTHER OPPORTUNITIES TO
12 ACCOMPLISH WHAT YOUR POLICY OBJECTIVES SEEM TO BE.
13 AND I HAVE ANNOUNCED A COUPLE, AND YOU HAVE
14 INDICATED AT LEAST TWO INSTANCES THAT WE HAVE TO
15 CONFORM THE POLICY TO DEAL WITH CHURCHES AND
16 NON-PROFITS. TARGETED OUTREACH IS A GOOD IDEA.
17 I'M JUST FLOATING OTHER IDEAS CONSISTENT WITH YOURS
18 THAT WOULD SUGGEST WE ENTER INTO A DIALOGUE.
19 MR. RUSSELL: I THINK THAT'S REASONABLE,
20 PARTICULARLY IF YOU SET SOME SORT OF DEADLINE
21 INITIALLY IN THIS PROCESS IN THIS CASE.
22 MR. DASENT: BUT THE DEADLINE WOULD BE
23 ABOUT, I THINK, HOW MANY FOLKS WOULD BE ADVERSELY
24 AFFECTED? WHO ARE THESE CHURCHES AND NONPROFITS WE

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1 TALKED ABOUT?
2 MR. RUSSELL: IT MAY BE A LITTLE BIT LONGER
3 THAN THREE YEARS.
4 MR. DASENT: THE FACT YOU'VE INDICATED IT'S
5 NOT CAST IN STONE INDICATED TO ME THIS IS SOMETHING
6 AS A PUBLIC POLICY MATTER WE SHOULD DISCUSS, HAVE
7 AN EXCHANGE. NOT FIND THE HARD EDGES OF IT IN A
8 FEW MINUTES IN TIME IN CROSS-EXAMINATION IN A RATE
9 CASE. IT'S THAT IMPORTANT.
10 MR. RUSSELL: I THINK IT'S REASONABLE TO
11 TAKE THAT APPROACH.
12 MR. DASENT: THANK YOU. THAT'S ALL I
13 HAVE.
14 HEARING OFFICER: ANY OTHER PARTY WITH
15 QUESTIONS? MR. BALLENGER?
16 MR. BALLENGER: THANK YOU.
17 MR. RUSSELL, I JUST HAVE A FEW SHORT
18 QUESTIONS.
19 EARLIER, I THINK MR. KATZ INDICATED THAT
20 THE ENHANCED CAP WAS CONSISTENT WITH PRINCIPLES OF
21 GRADUALISM. AND IN YOUR TESTIMONY YOU ARE TAKING
22 THE POSITION THAT THREE YEARS IS CONSISTENT WITH
23 PRINCIPLES OF GRADUALISM. DO YOU AGREE THAT A
24 PHASE-IN PERIOD THAT IS UP TO 30 YEARS LONG IS

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1 CONSISTENT WITH PRINCIPLES OF GRADUALISM?
2 MR. RUSSELL: NO. AS I THINK I INDICATED, I
3 THINK THREE TO FIVE PERHAPS IS A REASONABLE TIME
4 FRAME. THIRTY, I HAVE NEVER SEEN ANYTHING
5 APPROACHING THAT.
6 MR. BALLENGER: THANK YOU.
7 I'D LIKE TO TAKE A QUICK LOOK AT PAGE 4 OF
8 YOUR TESTIMONY. AND HERE YOU TALK ABOUT IN
9 ASSESSING THE IMPLEMENTATION OF THE GREEN CITY
10 CLEAN WATERS PROGRAM, YOU LOOKED AT THREE KEY
11 METRIX. THIS IS DESCRIBED IN LINES 14 THROUGH 20
12 OF YOUR TESTIMONY. ARE THOSE THE MAIN THINGS YOU
13 FOCUSED ON IN DRAFTING YOUR TESTIMONY?
14 MR. RUSSELL: YES. YES, IT IS.
15 MR. BALLENGER: THANK YOU. SO JUST
16 SPECIFICALLY WE ARE TALKING ABOUT THE CAPITAL
17 IMPROVEMENT PROGRAM, THE DEPARTMENT'S BUDGETED
18 EXPENSES AND ITS PERFORMANCE TO DATE IN SATISFYING
19 THE CSO REQUIREMENTS; CORRECT?
20 MR. RUSSELL: THAT'S CORRECT.
21 MR. HELBING: CAN I INTERJECT TO ASK FOR
22 CLARIFICATION ON THAT? THE SECTION YOU ARE
23 POINTING TO IN HIS TRANSCRIPT IS UNDER SECTION 1,
24 THE GENERAL ASSESSMENT OF PWD'S GREEN CITY CLEAN

16 (Pages 58 to 61)

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1 WATERS PROGRAM.
2 MR. BALLENGER: CORRECT.
3 MR. HELBING: CAN WE JUST CLARIFY WITH THE
4 WITNESS WHETHER THAT SECTION, WHEN YOU ASKED
5 WHETHER THIS IS WHAT HE LOOKED AT, THE EXTENT OF
6 WHAT HE LOOKED AT, CAN WE ASK WHETHER THAT WAS
7 STRICTLY WITH REGARD TO THIS SECTION OF HIS
8 TESTIMONY OR WHETHER IT APPLIED TO THE OTHER
9 SECTIONS ABOUT SMIP AND GARP AND THE ENHANCED
10 CAP?
11 MR. BALLENGER: SURE. THAT'S FINE.
12 SO DOES THAT, THE FACT YOU HAVE FOCUSED ON
13 THOSE THREE METRIX, IS THAT CORRECT FOR PURPOSES OF
14 ALL OF THE DISCUSSION IN SECTION 1 OF YOUR
15 TESTIMONY?
16 MR. RUSSELL: TO THE EXTENT IT AFFECTS
17 THOSE, YES.
18 MR. BALLENGER: SO ON PAGE 9, LINE 5 YOU
19 STATE, IT IS MY PROFESSIONAL OPINION THAT THE
20 PROPOSED REVENUE REQUIREMENTS THAT SUPPORT THE
21 PROGRAMS AND FACILITIES NEEDED TO CONTINUE THE
22 CITY'S GREEN CITY CLEAN WATER PROGRAM ARE NECESSARY
23 AND REASONABLE AND SHOULD NOT BE REDUCED IN EITHER
24 RATE YEAR; IS THAT CORRECT?

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1 MR. RUSSELL: YES, SIR.
2 MR. BALLENGER: I JUST WANTED TO MAKE SURE
3 I UNDERSTAND. YOU ARE ONLY TALKING ABOUT THE
4 REVENUE REQUIREMENTS FOR THAT PARTICULAR ASPECT OF
5 THIS CASE, THE GREEN CITY CLEAN WATERS PROGRAM?
6 MR. RUSSELL: YES. I DIDN'T LOOK AT ALL OF
7 THE OTHER REVENUE REQUIREMENTS.
8 MR. BALLENGER: IN FOLLOWING WHAT WE HAVE
9 TALKED ABOUT. AM I CORRECT YOU DIDN'T PROVIDE AN
10 OPINION ABOUT THE REASONABLENESS OF THE BUDGET TO
11 ACTUAL FACTORS THAT THE DEPARTMENT USED IN
12 DEVELOPING ITS PRESENTATION?
13 MR. RUSSELL: I DID NOT. YOU ARE RIGHT.
14 MR. BALLENGER: YOU ALSO DIDN'T PROVIDE AN
15 OPINION AS TO THE REASONABLENESS OF THE GROWTH OR
16 COST AND ESCALATION FACTORS THAT THE DEPARTMENT
17 USED IN THE CASE?
18 MR. RUSSELL: NOT IN MY TESTIMONY. I DID
19 NOT.
20 MR. BALLENGER: DID YOU PROVIDE AN OPINION
21 AS TO THE REASONABLENESS OF ADDITIONAL ADJUSTMENTS
22 OTHER THAN SMIP AND GARP THAT THE DEPARTMENT HAS
23 PROPOSED IN THIS CASE?
24 MR. RUSSELL: I DON'T BELIEVE SO.

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1 MR. BALLENGER: DID YOU TAKE INTO
2 CONSIDERATION THE REASONABLENESS OF THE FUNDING IN
3 THE RATE STABILIZATION FUND IN THIS CASE?
4 MR. RUSSELL: I'M CERTAINLY AWARE OF IT, BUT
5 IT DIDN'T REALLY IMPACT THE ISSUES THAT I WAS
6 ADDRESSING.
7 MR. BALLENGER: THANK YOU.
8 DID YOU TAKE INTO CONSIDERATION THE
9 REASONABLENESS OF THE DEPARTMENT'S PROPOSED DEBT
10 SERVICE COVERAGE IN THIS CASE?
11 MR. RUSSELL: NOT SPECIFICALLY, NO.
12 MR. BALLENGER: THANK YOU VERY MUCH.
13 THAT'S ALL I HAVE.
14 HEARING OFFICER: ANY OTHER PARTIES?
15 MR. BAKARE: GOOD AFTERNOON, MR. RUSSELL.
16 MR. RUSSELL: GOOD AFTERNOON, COUNSELOR.
17 MR. BAKARE: CAN I REFER YOU TO PAGE 9 OF
18 YOUR STATEMENT NUMBER 1, LINES 12 TO 13?
19 MR. RUSSELL: YES.
20 MR. BAKARE: HERE YOU INDICATED THE
21 ENHANCED CAP AS A RATE MITIGATION PROGRAM;
22 CORRECT?
23 MR. RUSSELL: YES.
24 MR. BAKARE: YOU AGREE WITH THAT

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1 CHARACTERIZATION OF THE PROGRAM'S PURPOSE AND
2 INTENT; CORRECT?
3 MR. RUSSELL: THAT'S MY UNDERSTANDING.
4 MR. BAKARE: MOVING ONTO THE NEXT PAGE,
5 PAGE 10 AT LINES 16 AND 17. YOU THEN SAY THAT THE
6 LEVEL OF MITIGATION SHOULD BE FAIR AND REASONABLE
7 AND THE LENGTH OF TIME TO WHICH IT SHOULD APPLY
8 SHOULD BE LIMITED. SO WHEN YOU TALK ABOUT THE
9 LEVEL OF MITIGATION, ARE YOU REFERRING HERE TO THE
10 10 PERCENT CAP ON ANNUAL STORMWATER FEE INCREASES
11 FOR ENHANCED CAP CUSTOMERS?
12 MR. RUSSELL: YEAH. IT COULD BE A
13 COMBINATION OF BOTH THE LEVEL AND THE DURATION.
14 MR. BAKARE: BECAUSE YOU REFERENCED IT, IN
15 YOUR STATEMENT, YOU REFERENCED THE LEVEL SHOULD BE
16 FAIR AND REASONABLE AND THE LENGTH OF TIME TO WHICH
17 IT SHOULD APPLY SHOULD BE LIMITED. SO YOU
18 REFERENCED THEM SEPARATELY. I'M TRYING TO FIGURE
19 OUT WHAT THE LEVEL OF MITIGATION THAT YOU ARE
20 REFERENCING IS.
21 MR. RUSSELL: I DID NOT HAVE A
22 RECOMMENDATION RELATIVE TO THE LEVEL.
23 MR. BAKARE: SO YOU ARE NOT SAYING THE
24 STRUCTURE WHERE THE CUSTOMER'S COST INCREASED TEN

17 (Pages 62 to 65)

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1 PERCENT YEAR TO YEAR IS UNREASONABLE?
2 MR. RUSSELL: I'M NOT SAYING THAT.
3 MR. BAKARE: LET'S TALK A LITTLE BIT, LATER
4 ON IN THAT SAME PAGE AT LINES 20 TO 21, YOU STATE
5 THAT THE ENHANCED CAP DOES NOT PROVIDE ADEQUATE
6 INCENTIVES FOR CUSTOMERS TO IMPLEMENT STORMWATER
7 MANAGEMENT PRACTICES ON PRIVATE PROPERTY. DID YOU
8 PERFORM ANY INVESTIGATION TO DETERMINE WHETHER THE
9 CUSTOMERS IN THE ENHANCED CAP PROGRAM ARE
10 IMPLEMENTING STORMWATER MANAGEMENT PRACTICES?
11 HEARING OFFICER: ARE WHAT?
12 MR. BAKARE: ARE IMPLEMENTING STORMWATER
13 MANAGEMENT PRACTICES?
14 MR. RUSSELL: NO, I DIDN'T. I JUST ASSUMED,
15 BECAUSE THEY WEREN'T TAKING ADVANTAGE OF THE ACCEPTED
16 PROGRAMS, THEY PROBABLY WEREN'T. IT WAS AN
17 ASSUMPTION. I DIDN'T DO A STUDY.
18 MR. BAKARE: YOU SAID YOU ASSUMED THAT
19 BECAUSE THEY WEREN'T TAKING ADVANTAGE OF THE
20 INCENTIVE PROGRAMS, THEY PROBABLY WEREN'T
21 IMPLEMENTING STORMWATER MANAGEMENT PRACTICES.
22 WHAT'S THE BASIS FOR STATING THAT CUSTOMERS IN
23 ORDER TO ENHANCE CAP ARE NOT ALSO TAKING ADVANTAGE
24 OF THE STORMWATER MITIGATION PROGRAMS SUCH AS SMIP

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1 AND GARP?
2 MR. RUSSELL: IT'S NOT THAT THEY MAY NOT
3 BE. IT'S THAT THEY MAY NOT BE TAKING ENOUGH
4 ADVANTAGE BECAUSE THEY ARE STAYING ON THE PROGRAM.
5 THEY ARE STAYING ON THE CAP PROGRAM.
6 MR. BAKARE: DO YOU HAVE ANY BASIS FOR
7 STATING WHETHER THEY ARE OR ARE NOT PARTICIPATING
8 IN THE SMIP AND GARP PROGRAMS?
9 MR. RUSSELL: NO, I DON'T KNOW SPECIFICALLY
10 WHICH ONES ARE AND WHICH ONES THEY ARE NOT.
11 MR. BAKARE: YOU REFERENCED BEFORE THAT THE
12 DURATION OF THE ENHANCED CAP PROGRAM, YOU HAVE
13 DISCUSSED THAT ISSUE WITH COUNSEL FOR THE COMMUNITY
14 LEGAL SERVICES. YOU DO NOT BELIEVE THAT A 30-YEAR
15 PERIOD FOR GRADUALISM IS REASONABLE. WAS THAT YOUR
16 TESTIMONY?
17 MR. RUSSELL: AS A GENERAL MATTER, YES.
18 MR. BAKARE: AND WHAT IS THE BASIS FOR
19 PROJECTING THE ENHANCED CAP PROGRAM OUT TO 30
20 YEARS?
21 MR. RUSSELL: THE BASIS IS JUST THE
22 DEPARTMENT'S PROJECTION OF REDUCING IT. THEIR
23 EXPECTATION WAS THAT IT WOULD BE REDUCED BY ABOUT
24 100,00 -- SORRY. WAIT A MINUTE. I MIGHT BE

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1 CONFUSING THAT. I MAY BE CONFUSING THAT.
2 HEARING OFFICER: OFF THE RECORD.
3 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
4 RECORD.)
5 HEARING OFFICER: BACK ON THE RECORD.
6 MR. RUSSELL: COULD YOU REASK THE QUESTION?
7 MR. BAKARE: WHAT IS THE BASIS FOR
8 PROJECTING THE ENHANCED CAP PROGRAM OUT TO A
9 30-YEAR PERIOD?
10 MR. RUSSELL: I BELIEVE IT WAS BASED ON THE
11 DEPARTMENT'S PROJECTIONS.
12 MR. BAKARE: ARE YOU RELYING ON STATEMENTS
13 IN THE SUPPLEMENTAL DIRECT TESTIMONY SPONSORED BY
14 BLACK AND VEATCH?
15 MR. RUSSELL: I'M NOT SURE OFFHAND.
16 MR. BAKARE: DO YOU HAVE A COPY OF THE
17 BLACK AND VEATCH SUPPLEMENTAL DIRECT TESTIMONY?
18 MR. RUSSELL: YES. 9B?
19 MR. BAKARE: YES. CAN I GO OFF THE RECORD?
20 HEARING OFFICER: OFF THE RECORD.
21 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
22 RECORD.)
23 HEARING OFFICER: BACK ON THE RECORD.
24 MR. BAKARE: I'LL REFER YOU TO PAGE 9 OF

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1 THE SUPPLEMENTAL DIRECT TESTIMONY, THE SECOND
2 PARAGRAPH.
3 MR. RUSSELL: SECOND FROM THE TOP?
4 MR. BAKARE: YES.
5 MR. RUSSELL: QUESTION 11 OR 12?
6 MR. BAKARE: ACTUALLY, THE END OF QUESTION
7 10.
8 MR. RUSSELL: YES.
9 MR. BAKARE: SO HERE THE WITNESSES FROM
10 BLACK AND VEATCH STATES THAT, IT IS ASSUMED THAT
11 THE ANNUAL CAP WILL DECREASE \$100,000 FROM THE
12 PRIOR LEVEL FOR FISCAL YEAR 2017 THROUGH FISCAL
13 YEAR 2021; CORRECT?
14 MR. RUSSELL: YES.
15 MR. BAKARE: ARE YOU FAMILIAR WITH THE
16 RESPONSE TO PENN FUTURE INTERROGATORY NUMBER 23?
17 MR. RUSSELL: YES.
18 MR. BAKARE: MAY I COMMENT TO THE BENCH?
19 I APOLOGIZE. BECAUSE THE DISCOVERY RESPONSE IS
20 ALREADY PART OF THE RECORD, I DID NOT BRING COPIES
21 WITH ME. SO I CAN'T INTRODUCE IT TO YOU GUYS AS A
22 HEARING EXHIBIT. BUT I THINK THE WITNESS CAN
23 DISCUSS IT AND I THINK IT WILL BE FAIRLY EASY TO
24 UNDERSTAND THE INFORMATION TAKEN IN THE DISCOVERY

18 (Pages 66 to 69)

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1 RESPONSE.
2 HEARING OFFICER: YES. IF SOMEBODY HAS THE
3 PAGE, THEY CAN MAKE COPIES AND PUT IT IN. BUT IF
4 NOT, AS YOU SAY, PLEASE PROCEED.
5 OFF THE RECORD.
6 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
7 RECORD.)
8 MR. BAKARE: WOULD YOU AGREE IN THIS
9 DISCOVERY RESPONSE, THE PWD STATES THAT THE
10 \$100,000 ANNUAL DECREASE IN THE AVERAGE CAP COSTS
11 FOR FISCAL YEAR 2017 THROUGH 2021 IS A CONSERVATIVE
12 ESTIMATE?
13 MR. RUSSELL: I DON'T REALLY HAVE A BASIS TO
14 GIVE YOU AN OPINION ON THAT. IT DOESN'T APPEAR TO
15 BE UNREASONABLE. I'M NOT SURE IF IT'S CONSERVATIVE
16 OR NOT.
17 MR. BAKARE: READING THE DISCOVERY
18 RESPONSE, WOULD YOU READ IT -- I APOLOGIZE. BACK
19 OFF THE RECORD.
20 HEARING OFFICER: OFF THE RECORD.
21 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
22 RECORD.)
23 HEARING OFFICER: BACK ON THE RECORD.
24 MR. BAKARE: LOOKING AT THE RESPONSE TO

1 MR. BAKARE: ARE YOU AWARE OF WHAT THE BASE
2 PAYMENT IS UNDER THE ENHANCED CAP PROGRAM?
3 MR. RUSSELL: I THINK IT DEPENDS ON THE
4 INDIVIDUAL CUSTOMER, THE INDIVIDUAL BILLING FOR
5 THAT CUSTOMER.
6 MR. BAKARE: DO YOU HAVE ANY IDEA AS TO
7 WHETHER IT CAN BE 20 PERCENT OF WHAT THEY WOULD
8 OTHERWISE PAY, 30 PERCENT, 50 PERCENT? ARE YOU
9 FAMILIAR WITH THE STRUCTURE OF THE PAYMENTS UNDER
10 THE ENHANCED CAP PROGRAM?
11 MR. RUSSELL: NO. I KNOW IT WAS STATED
12 EARLIER THAT THE 10 PERCENT, IF IT CONTINUED FOR A
13 LONG TIME, WOULD TAKE MANY YEARS TO RECOVER. SO
14 I'M ASSUMING THAT THERE ARE SOME THAT ARE VERY
15 LARGE, HAVE VERY LARGE BILLS.
16 MR. BAKARE: EVEN UNDER THE ENHANCED CAP
17 PROGRAM, THEY MAY STILL HAVE VERY LARGE BILLS?
18 MR. RUSSELL: NO. IT'S THE AVOIDED BILLS
19 THAT I AM TALKING ABOUT BECOME VERY LARGE. THEY
20 ARE LIMITED TO TEN PERCENT.
21 MR. BAKARE: ARE YOU AWARE OF WHETHER THE
22 ACTUAL BILL UNDER THE ENHANCED CAP PROGRAM CAN ALSO
23 BE A LARGE SUM OF REVENUE?
24 MR. RUSSELL: I SUSPECT THAT IN SOME CASES

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1 PFI-23A IN THE FINAL PARAGRAPH. DO YOU AGREE THAT
2 IT STATES, DESCRIBES THE ANNUAL REVENUE REDUCTION
3 OF \$100,000 AS A CONSERVATIVE ANNUAL REVENUE
4 REDUCTION?
5 MR. RUSSELL: THAT IS WHAT THEY ARE SAYING
6 IT IS, YES.
7 MR. BAKARE: YOUR BASIS FOR PROJECTING THE
8 30-YEAR PERIOD FOR THE ENHANCED CAP EXPENSES IS
9 BASED ON THEIR CONSERVATIVE ANNUAL REVENUE
10 REDUCTION?
11 MR. RUSSELL: THAT'S WHAT I HAD INDICATED
12 EARLIER. YES.
13 MR. BAKARE: JUST TO BE CLEAR. THERE WAS
14 NO OTHER ANALYSIS PERFORMED TO SUGGEST THAT THE
15 ENHANCED CAP PROGRAM WOULD PERSIST FOR A 30-YEAR
16 PERIOD OTHER THAN THAT PARTICULAR ASSESSMENT
17 PERFORMED BY PWD?
18 MR. RUSSELL: NOT THAT I'M AWARE OF.
19 MR. BAKARE: ARE YOU AWARE OF THE ACTUAL
20 PAYMENTS THAT ENHANCED CAP CUSTOMERS MAKE TO PWD ON
21 A MONTHLY BASIS? ARE YOU AWARE OF THE LEVEL OF
22 STORMWATER FEES THAT THEY PAY UNDER THE PROGRAM?
23 MR. RUSSELL: NOT SPECIFICALLY. I'M SURE
24 IT'S A PRETTY BROAD RANGE.

1 IT WOULD BE, YES.
2 MR. BAKARE: YOU ARE NOT AWARE OF WHAT THE
3 STRUCTURE OF THE BASE PAYMENT UNDER THE ENHANCED
4 CAP PROGRAM IS?
5 MR. RUSSELL: I HAVEN'T LOOKED AT WHAT THE
6 INDIVIDUAL CUSTOMERS ARE PAYING.
7 MR. BAKARE: NOT INDIVIDUAL CUSTOMERS. THE
8 FORMULA ON THE BASE PAYMENT OF THE ENHANCED CAP
9 PROGRAM?
10 MR. RUSSELL: I'M NOT FAMILIAR WITH THE BASE
11 PAYMENT.
12 MR. BAKARE: THAT'S ALL I HAVE.
13 HEARING OFFICER: ANY OTHER PARTIES CROSS?
14 (NO RESPONSE.)
15 HEARING OFFICER: WE WILL HAVE REDIRECT.
16 MR. HELBING: ONE OR TWO MINUTES, PLEASE?
17 HEARING OFFICER: OFF THE RECORD.
18 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
19 RECORD.)
20 HEARING OFFICER: BACK ON THE RECORD.
21 MR. HELBING: IF IT PLEASES THE BENCH, WE
22 HAVE A FEW QUESTIONS ON REDIRECT.
23 HEARING OFFICER: SURE.
24 MR. HELBING: MR. RUSSELL, WATER DEPARTMENT

19 (Pages 70 to 73)

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1 COUNSEL ASKED YOU ABOUT THE IMPACT OF SHUTTING DOWN
2 THE ENHANCED CAP PROGRAM ON ENTITIES SUCH AS
3 CHURCHES AND NONPROFIT ORGANIZATIONS. DO YOU AGREE
4 WITH SOME OF THE SUGGESTIONS THAT MR. DASENT LAID
5 OUT FOR HELPING TO TRANSITION SOME OF THESE
6 CUSTOMERS OFF OF THE ENHANCED CAP PROGRAM?
7 MR. RUSSELL: YEAH. TO THE EXTENT THEY
8 CANNOT TAKE ADVANTAGE OF THE BENEFITS OF THE
9 INCENTIVE PROGRAMS, OBVIOUSLY YOU SHOULD TAKE THEM
10 INTO CONSIDERATION.
11 MR. HELBING: DO YOU BELIEVE THAT THERE IS
12 ANYTHING IN YOUR TESTIMONY SUGGESTING THAT THE
13 ENHANCED CAP PROGRAM SHOULD BE PHASED OUT WITHIN
14 APPROXIMATELY THREE YEARS? IS THERE ANYTHING
15 INCONSISTENT WITH SOME OF THE MECHANISMS THAT THE
16 WATER DEPARTMENT SUGGESTED IN ITS QUESTIONING THIS
17 AFTERNOON?
18 MR. RUSSELL: I DO NOT, NO.
19 MR. HELBING: THANK YOU.
20 LATER ON, I BELIEVE IT WAS QUESTIONING FROM
21 COUNSEL FOR THE LARGE USERS GROUP. HE ASKED ABOUT
22 YOUR ASSUMPTION ABOUT WHETHER ENHANCED CAP
23 CUSTOMERS WERE TAKING ADVANTAGE OF OTHER STORMWATER
24 MANAGEMENT PROGRAMS, INCENTIVE PROGRAMS SUCH AS

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1 SMIP AND GARP. AND YOU, I BELIEVE YOU TESTIFIED
2 THAT YOU WERENT REALLY AWARE OF IT. DO YOU
3 CONSIDER THAT RELEVANT TO YOUR TESTIMONY ABOUT THE
4 NEED OR THE DESIRABILITY OF PHASING OUT THE
5 ENHANCED CAP PROGRAM?
6 MR. BAKARE: OBJECTION. RELEVANCY IS A
7 LEGAL CONCEPT.
8 HEARING OFFICER: WE CAN'T HEAR YOU AT ALL.
9 MR. BAKARE: RELEVANCY, TO MAKE SURE I
10 UNDERSTAND THE STATEMENT, YOU ARE ASKING IF HE
11 BELIEVES MY CROSS TO BE RELEVANT TO THE SUBJECT OF
12 HIS TESTIMONY?
13 MR. HELBING: I'M ASKING WHETHER HE
14 BELIEVES THE FACT YOU BROUGHT IT OUT IS RELEVANT TO
15 HIS UNDERLYING OPINIONS, HIS TESTIMONY. I CAN USE
16 A WORD DIFFERENT THAN RELEVANT.
17 MR. BAKARE: ILL WITHDRAW THE OBJECTION.
18 MR. RUSSELL: COULD YOU REPHRASE IT AGAIN?
19 MR. HELBING: SURE. I APOLOGIZE.
20 WHAT I'M ASKING IS WHEN MR. BAKARE ASKED
21 BEFORE, I BELIEVE HE ASKED WHETHER YOU WERE AWARE
22 OF HOW MANY CUSTOMERS AS PART OF THE ENHANCED CAP
23 PROGRAM WERE ALSO TAKING ADVANTAGE OF SOME OF THE
24 OTHER STORMWATER MANAGEMENT INCENTIVE PROGRAMS

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1 OFFERED BY THE DEPARTMENT. YOU SAID YOU WERE NOT
2 AWARE OF IT. WOULD THAT, ONE WAY OR ANOTHER, HAVE
3 ANY IMPACT ON YOUR OVERALL OPINION THAT THE
4 ENHANCED CAP PROGRAM SHOULD BE PHASED OUT?
5 MR. RUSSELL: OFFHAND, I DON'T THINK SO. I
6 WOULD ALSO MENTION THAT I THINK IN A WAY, THE
7 ENHANCED CAP PROGRAM IS A BIT OF A DISINCENTIVE FOR
8 CUSTOMERS TO TAKE ADVANTAGE OF THE INCENTIVE
9 PROGRAMS SIMPLY BECAUSE THEIR RATES ARE BEING
10 LIMITED FROM YEAR TO YEAR.
11 MR. HELBING: IS THAT THE CRUX OF YOUR
12 TESTIMONY, THAT IT'S CREATING A DISINCENTIVE?
13 MR. RUSSELL: I DON'T BELIEVE I SAID THAT
14 EXPLICITLY, BUT THAT IS IMPLICITLY THE TESTIMONY.
15 MR. HELBING: ONE LAST LINE OF
16 QUESTIONING. THERE WAS SOME BACK AND FORTH, I
17 BELIEVE MR. DASENT RAISED IT AND ALSO MR. BAKARE
18 RAISED IT TALKING ABOUT DYING A SLOW DEATH OF THE
19 ENHANCED CAP PROGRAM AND THE PHASE OUT.
20 I'D JUST LIKE TO COME BACK. I'M NOT SURE
21 WE EVER PUT ON THE RECORD EXACTLY WHERE THAT'S
22 COMING FROM. AND I'D JUST LIKE TO GO THROUGH THAT
23 AND ESTABLISH WHERE YOUR ASSUMPTION IS COMING FROM
24 AND TALK ABOUT YOUR FINAL CONCLUSIONS ARE.

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1 SO THERE WAS SOME DISCUSSION BEFORE ABOUT
2 PHASING IT OUT OVER THREE DECADES. CAN YOU EXPLAIN
3 WHERE SPECIFICALLY IN THE RECORD THAT ASSUMPTION
4 CAME FROM, THAT IT WOULD BE PHASED OUT OVER
5 APPROXIMATELY THREE DECADES?
6 MR. RUSSELL: YES. WE LOOKED AT A RESPONSE
7 TO AN INFORMATION REQUEST. AND AT THAT POINT, THE
8 DEPARTMENT INDICATED THAT THEY EXPECTED IT TO
9 DIMINISH BY ABOUT 100,000 A YEAR. AND IT WAS
10 LIMITED OUT TO 2021. BUT IF YOU TAKE THAT 100,000
11 AND DIVIDE THAT INTO THE TOTAL LEVEL OF THE
12 PROGRAMS TODAY, THAT'S 30 SOMETHING YEARS. IF YOU
13 DIVIDE 3.5 MILLION BY 100,000, IT'S 35 YEARS.
14 HEARING OFFICER: YOU SAY THE PROGRAMS. DO
15 YOU MEAN THE ENHANCED CAP OR ALSO SMIP AND GARP?
16 MR. RUSSELL: NO. THE ENHANCED CAP.
17 MR. HELBING: THE \$3.5 MILLION FOR THE
18 ENHANCED CAP BUDGET, CAN YOU TELL ME WHERE THAT
19 CAME FROM IN THE RECORD?
20 MR. RUSSELL: IT CAME FROM THE COMPANY'S
21 FILING.
22 MR. HELBING: CAN I REFRESH HIS
23 RECOLLECTION SO WE HAVE A SPECIFIC REFERENCE?
24 HEARING OFFICER: SURE.

20 (Pages 74 to 77)

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1 MR. HELBING: I'M GOING TO PUT IN FRONT OF
2 YOU PWD STATEMENT 9B ON PAGE 8. DOES THAT HELP?
3 MR. RUSSELL: YEAH. THAT'S EXACTLY WHERE IT
4 CAME FROM. THERE IS A SCHEDULE AT THE BOTTOM THAT
5 LISTS THE REVENUE IMPACT THROUGH 2021.
6 MR. HELBING: THANK YOU.
7 I BELIEVE THAT'S ALL I HAVE. THANK YOU.
8 HEARING OFFICER: I HAVE A COUPLE
9 QUESTIONS. MR. BAKARE, WHY DON'T YOU WAIT A
10 SECOND. I'LL ASK MY QUESTIONS AND THEN COME UP
11 PLEASE.
12 MR. BAKARE: CERTAINLY.
13 HEARING OFFICER: I WANT TO GO BACK. THERE
14 WAS COLLOQUY BETWEEN YOU AND MR. DASENT ABOUT
15 CHURCHES AND CHARITIES, NONPROFITS NOT BEING ABLE
16 TO TAKE ADVANTAGE OF SMIP AND GARP. CAN YOU
17 EXPLAIN TO ME WHY THEY COULDN'T? WHAT IS IT ABOUT
18 THEM? AND IS IT ALL CHURCHES AND ALL CHARITIES NO
19 MATTER HOW BIG, NO MATTER HOW SMALL?
20 MR. RUSSELL: NO, I DON'T THINK IT'S ALL.
21 IT'S A LIMITED POPULATION. IT'S PROBABLY EITHER
22 ONE OF TWO FACTORS. EITHER THEY CAN'T AFFORD TO DO
23 IT OR THEY DON'T HAVE THE PHYSICAL SETUP OF THE
24 PROPERTY, THE PROPERTY DOESN'T ALLOW FOR IT.

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1 HEARING OFFICER: THAT'S NOT A FUNCTION OF
2 THEM BEING A CHARITABLE ORGANIZATION, THAT'S JUST A
3 FUNCTION OF THE WAY THEIR BUILDINGS ARE?
4 MR. RUSSELL: YEAH, OR CONDITIONS OF THEIR
5 LAND, THE LAND THAT THEY ARE ON.
6 HEARING OFFICER: WHAT I'M GETTING AT IS
7 THERE WAS SOME, IT FELT TO ME AS IF THERE WAS A
8 SUGGESTION THAT PART OF THE REASON TO KEEP ENHANCED
9 CAP WAS TO PROTECT CHURCHES AND NONPROFITS THAT
10 COULDN'T TAKE ADVANTAGE OF SMIP AND GARP. IF I
11 UNDERSTAND WHAT YOU ARE SAYING, SOME CAN'T FOR THE
12 SAME REASONS THAT SOME BUSINESSES CAN'T? THAT IS
13 TO SAY THEIR PROPERTIES ARE NOT AMENABLE?
14 MR. RUSSELL: I THINK SO, YES.
15 HEARING OFFICER: WHY COULDN'T THEY AFFORD
16 IT IF IT'S A GRANT PROGRAM, THE SMIP AND GARP?
17 MR. RUSSELL: TO THE EXTENT IT WAS, IT COULD
18 BE COVERED BY GRANTS. YES, THEY SHOULD BE ABLE TO
19 AFFORD IT.
20 HEARING OFFICER: BUT NOTWITHSTANDING, ARE
21 THERE SOME UPFRONT COSTS OR SOME COPAY; IF YOU
22 WILL, THAT SOME INSTITUTIONS CAN'T EVEN RAISE?
23 MR. RUSSELL: TO TELL YOU THE TRUTH, I'M NOT
24 SURE. I THINK I WAS JUST TAKING HIS STATEMENT AT

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1 FACE VALUE.
2 HEARING OFFICER: YES. AND PROBABLY YOU ARE
3 NOT THE RIGHT WITNESS FOR ME TO HAVE ASKED THAT,
4 BUT IT CAME UP DURING YOUR TESTIMONY. THANK YOU
5 VERY MUCH.
6 MR. BAKARE, YOU HAD SOME MORE QUESTIONS
7 BASED ON THE REDIRECT?
8 MR. BAKARE: YES.
9 I JUST WANT TO CLARIFY A STATEMENT MADE ON
10 REDIRECT WHERE I BELIEVE YOU STATED THAT EVEN IF
11 CUSTOMERS IN THE ENHANCED CAP PROGRAM WERE
12 IMPLEMENTING STORMWATER MANAGEMENT PRACTICES, THAT
13 WOULDNT CHANGE YOUR RECOMMENDATION TO END THE
14 PROGRAM EARLY; IS THAT CORRECT?
15 MR. RUSSELL: I'M NOT SURE I FOLLOW YOU.
16 MR. BAKARE: IF I RECALL THE EXCHANGE
17 CORRECTLY BETWEEN YOU AND COUNSEL, COUNSEL
18 REFERENCED MY STATEMENT THAT YOU HAD NOT PERFORMED
19 AN INVESTIGATION OF WHETHER ENHANCED CAP CUSTOMERS
20 ARE PARTICIPATING IN THE SMIP OR GARP PROGRAMS.
21 AND YOU THEN STATED IN RESPONSE, THAT THEIR
22 PARTICIPATION IS NOT, WOULD NOT IMPACT YOUR
23 RECOMMENDATION TO END THE ENHANCED CAP PROGRAM
24 EARLY, WITHIN THREE YEARS OR SO? IS THAT A

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1 CORRECT STATEMENT OF YOUR RESPONSE TO COUNSEL?
2 MR. RUSSELL: I BELIEVE IT IS, YES.
3 MR. BAKARE: SO IN YOUR, ON PAGE 1 OF YOUR
4 TESTIMONY, YOU STATED THAT THE ENHANCED CAP DOES
5 NOT PROVIDE ADEQUATE INCENTIVE FOR CUSTOMERS TO
6 IMPLEMENT STORMWATER MANAGEMENT PRACTICES ON
7 PRIVATE PROPERTY. AND AS I UNDERSTAND YOUR
8 STATEMENT NOW, YOU ARE SAYING THAT EVEN IF THOSE
9 CUSTOMERS WERE DOING JUST THAT, IT WOULD NOT CHANGE
10 YOUR RECOMMENDATION?
11 MR. RUSSELL: I'M JUST NOT FOLLOWING YOU.
12 MR. BAKARE: WHAT I'M TRYING TO CLARIFY IS
13 YOU SEEM TO BE STATING THAT THE ENHANCED CAP
14 PROGRAM DOES NOT OR I THINK IN YOUR WORDS,
15 DISINCENTIFIES THE STORMWATER MANAGEMENT
16 PRACTICES.
17 MR. RUSSELL: TO AN EXTENT.
18 MR. BAKARE: BUT YOU HAVE NOT PERFORMED AN
19 ANALYSIS OR INVESTIGATION AS TO WHETHER THOSE
20 CUSTOMERS, THE ENHANCED CAP CUSTOMERS ARE
21 IMPLEMENTING STORMWATER MANAGEMENT PRACTICES?
22 MR. RUSSELL: NO. I ASSUME SOME ARE AND
23 SOME ARE NOT. I JUST DIDN'T LOOK AT THEM
24 INDIVIDUALLY.

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1 MR. BAKARE: SO AS I UNDERSTAND IT, ARE YOU
2 SAYING ANY CUSTOMER, IF THERE WAS ANY RATE RELIEF,
3 ANY RATE MITIGATION WHATSOEVER, NO MATTER HOW SMALL
4 OR HOW LARGE, THEN THAT'S A DISINCENTIVE TO
5 IMPLEMENT STORMWATER MANAGEMENT PRACTICES IN YOUR
6 ASSESSMENT?

7 MR. RUSSELL: I THINK IT'S MORE OF AN
8 INCENTIVE THE LARGER THE BILLS ARE -- SORRY, THE
9 LARGER THE BILLS WOULD BE WITHOUT THE ENHANCED
10 CAP.

11 MR. BAKARE: SO YOU OPPOSE RATE MITIGATION
12 AS A PRINCIPLE FOR CUSTOMERS IMPACTED BY THE
13 STORMWATER FEES?

14 MR. RUSSELL: NOT AT ALL, SIR.

15 MR. BAKARE: WHAT LEVEL OF RATE MITIGATION
16 THEN WOULD YOU BE COMFORTABLE WITH?

17 MR. RUSSELL: I WOULD BE COMFORTABLE WITH A
18 LEVEL THAT ALLOWS CUSTOMERS TO TAKE ADVANTAGE OF
19 THESE PROGRAMS. AND THEY BECOME AWARE IF THEY
20 DON'T TAKE ADVANTAGE OF THEM, THE PROGRAM IS GOING
21 TO BE ENDING. AND IF THERE ARE CASES BEYOND THAT
22 WHERE THEY CANNOT, FOR WHATEVER REASON, COUNSEL
23 MENTIONED SOMETHING EARLIER FOR THE DEPARTMENT,
24 PERHAPS THERE SHOULD BE SOME SPECIAL CIRCUMSTANCES

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1 HEARING OFFICER: YES, BUT I'D LIKE TO
2 FOLLOW UP BEFORE YOU DO THAT.

3 SO IF YOU TAKE AS GIVEN SOME OF THE
4 CONCERNS THAT HAVE BEEN RAISED BY COUNSEL, COULD
5 THOSE BE RESOLVED WITHOUT DOING A SPECIAL
6 CIRCUMSTANCE? COULD THOSE BE RESOLVED WITH A
7 FIVE-YEAR CAP, A FIVE-YEAR PROGRAM OR SIX OR
8 WHATEVER? IN OTHER WORDS, A LONGER END PERIOD?

9 MR. RUSSELL: WELL, THAT WOULD CERTAINLY BE
10 A COMPROMISE. I THINK FIVE YEARS IS NOT
11 UNREASONABLE. THREE YEARS I THINK IS MORE
12 REASONABLE. BUT IF THERE IS PARTICULAR CUSTOMERS
13 THAT ARE JUST SO SEVERELY IMPACTED THAT THEY EITHER
14 CAN'T GET OFF OR CAN'T TAKE ADVANTAGE OF THE
15 INCENTIVE PROGRAMS, THEN PERHAPS THERE NEEDS TO BE
16 SPECIAL TREATMENT FOR THOSE CUSTOMERS.

17 HEARING OFFICER: YOU ARE NOT RECOMMENDING A
18 SPECIFIC TREATMENT DESIGN AT THIS POINT?

19 MR. RUSSELL: NO. I THINK COUNSEL KIND OF
20 LAID OUT A PLAN THAT MIGHT BE VERY APPROPRIATE IN
21 THIS CASE, COUNSEL FOR THE DEPARTMENT.

22 HEARING OFFICER: PLEASE, MR. HELBING.

23 MR. HELBING: REALLY QUICKLY.

24 MR. RUSSELL, AS AN EXPERT IN RATE DESIGN,

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1 FOR THOSE FEW.

2 MR. BAKARE: AS I UNDERSTAND WHAT YOU ARE
3 SAYING NOW, THE PARTICIPATION OF CUSTOMERS IN THE
4 ENHANCED CAP PROGRAM IMPLEMENTING STORMWATER
5 MANAGEMENT PRACTICES IS THEN RELEVANT TO YOUR
6 OPINION ON WHETHER THE PROGRAM SHOULD CONTINUE OR
7 NOT? BECAUSE YOU DID NOT JUST NAME THE
8 PARTICIPATION AS A FACTOR IN WHETHER TO ASSESS
9 CONTINUATION OF THE PROGRAM?

10 MR. RUSSELL: I DON'T THINK I DID. I'M NOT
11 SURE, I'M NOT SURE I MADE THAT CONNECTION.

12 MR. BAKARE: I'LL REPHRASE IT LIKE THIS.
13 WITHOUT KNOWING WHETHER CUSTOMERS ARE IN THE
14 ENHANCED CAP PROGRAM, ARE IMPLEMENTING MITIGATION,
15 STORMWATER MITIGATION MEASURES OR NOT, WITHOUT THAT
16 KNOWLEDGE, YOU ARE SAYING THAT YOU ARE COMFORTABLE
17 RECOMMENDING A SUBSET OF THE PROGRAM WITHOUT HAVING
18 INVESTIGATED THAT ISSUE?

19 MR. RUSSELL: WITH THE CAVEAT THAT THERE MAY
20 BE SOME SPECIAL CIRCUMSTANCES THAT WOULD REQUIRE
21 SPECIAL CASES THAT WOULD BE HANDLED SEPARATELY.

22 MR. BAKARE: THAT'S ALL I HAVE.

23 MR. HELBING: CAN I ASK ONE QUICK REDIRECT
24 QUESTION TO TRY TO CLEAR THIS UP?

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1 RATE PROCEEDINGS, IS IT POSSIBLE FOR YOU TO LOOK
2 SIMPLY AT WRITTEN POLICIES AS THEY ARE BEING
3 IMPLEMENTED BY A RATE-SETTING PROCEEDING OR BY A
4 WATER DEPARTMENT IN THIS CASE, AND JUDGING SOLELY
5 BY WHAT'S WRITTEN IN THE POLICY, MAKE A JUDGEMENT
6 AS TO WHETHER THAT POLICY CREATES AN INCENTIVE OR
7 DISINCENTIVE FOR CERTAIN POLICY OUTCOMES?

8 MR. RUSSELL: I THINK THERE IS CASES WHERE
9 IT COULD BE AND CASES WHERE IT COULDN'T BE.

10 MR. HELBING: IN THE CASE WE ARE TALKING
11 ABOUT HERE, THE CASE THAT MR. BAKARE WAS REFERRING
12 TO IN TALKING ABOUT PHASING OUT THE ENHANCED CAP
13 PROGRAM AND THE INCENTIVES TOWARDS, THE INCENTIVES
14 THAT THAT WOULD CREATE OR THE DISINCENTIVES THAT
15 THAT WOULD CREATE FOR ENHANCED CAP CUSTOMERS, IS
16 THAT ONE OF THE SITUATIONS WHERE YOU CAN LOOK AT
17 THE POLICY AS ITS WRITTEN AND DETERMINE WHETHER
18 THAT CREATES A POSITIVE OR AN ADVERSE INCENTIVE OR
19 DESIRABLE POLICY OUTCOMES?

20 MR. RUSSELL: YES, YOU CAN.

21 MR. HELBING: THANK YOU.

22 HEARING OFFICER: I ISSUED A MEMO ORDER,
23 GOLLY, LAST WEEK NOW WITH RESPECT TO TESTIMONY
24 CONCERNING MR. COLTON, I THINK AND MR. HANES WHO

22 (Pages 82 to 85)

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1 HAD SOME CUSTOMER SERVICE RECOMMENDATIONS. AND WE
2 QUESTIONED, DO WE HAVE THE JURISDICTION? AND I
3 SAID, LETS NOT TALK ABOUT THAT NOW BECAUSE IT WILL
4 JUST GUM US ALL UP. BUT YES, DO PLEASE BRIEF IT.
5 I WONDER IF THE SAME THING APPLIES TO THE
6 SUGGESTION ABOUT SHORTENING THE CAP PROGRAM. IS
7 THAT A RATE ISSUE OR IS THAT A PROGRAM ISSUE? AND
8 IF IT'S A PROGRAM ISSUE, DO WE HAVE ANY
9 JURISDICTION? IM NOT SAYING ONE WAY OR ANOTHER.
10 IM JUST INVITING YOU, IF YOU WANT TO, TO COMMENT
11 ON THAT QUESTION.
12 MR. RUSSELL: ITS CERTAINLY A --
13 HEARING OFFICER: IM SORRY, SIR. THIS IS
14 NOT FOR YOU. ITS A LEGAL QUESTION.
15 MR. RUSSELL: OKAY.
16 MR. DASENT: WE WOULD BE HAPPY TO BRIEF
17 THAT.
18 MR. HELBING: LIKEWISE.
19 MR. POPOWSKY: I HAVE A QUESTION THAT
20 ACTUALLY REALLY GOES TO MR. DASENT, BUT HE CANT
21 TESTIFY. BUT MAYBE ONE OF THE EXPERTS CAN, EITHER
22 MS. WILLIAMS.
23 THE IMPLICATION I GOT FROM YOUR
24 CROSS-EXAMINATION WAS THAT THERE ARE TWO CATEGORIES

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1 OF CUSTOMERS THAT YOU WERE PARTICULARLY CONCERNED
2 ABOUT. ONE IS CUSTOMERS, CHURCHES AND NONPROFITS
3 FOR THE REASONS WE ALL UNDERSTAND THE DIFFICULTY.
4 AND THEN YOU IMPLIED, I THINK, THERE IS A GROUP OF
5 CUSTOMERS WHO WOULD BE UNABLE TO MITIGATE.
6 AND WHAT I WAS TRYING TO FIGURE OUT IS WHAT
7 ARE THE REASONS WHY? AND THAT SOUNDED TO ME, AND
8 MAYBE MS. WILLIAMS IS THE RIGHT ONE. ITS SOUNDS
9 TO ME YOU THINK CUSTOMERS ARE PHYSICALLY UNABLE TO
10 DO THE STEPS WE WOULD WANT THEM TO DO. AND MAYBE
11 YOU CAN JUST GIVE SOME EXAMPLES FOR THE RECORD.
12 MS. WILLIAMS: THATS ABSOLUTELY CORRECT.
13 THERE ARE SOME PROPERTIES THAT ARE CURRENTLY
14 PARTICIPATING IN OUR ENHANCED CAP PROGRAM THAT THEY
15 HAVE ALREADY TAKEN ADVANTAGE AND WORKED WITH US TO
16 OBTAIN STORMWATER CREDITS. AN EXAMPLE IS THE
17 SCHUYLKILL CENTER FOR ENVIRONMENTAL EDUCATION.
18 THEY ARE A VERY LARGE ENVIRONMENTAL NONPROFIT. THE
19 PROFIT IS MOSTLY PERVIOUS GROUND, GRASS AND
20 WOODLANDS. WE HAVE ALREADY ADJUSTED THEIR
21 STORMWATER CHARGE TO THE MAXIMUM POSSIBLE VIA
22 CREDITS. HOWEVER, THEIR RATE INCREASE IS STILL SO
23 LARGE THAT THEY ARE BEING, ALLOWED THEM TO
24 GRADUALLY GET TO FULL CHARGE, BUT ITS STILL VERY

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1 BURDENSOME TO THEM EVEN WITH THE MAXIMUM CREDITS
2 AVAILABLE TO THEM. THATS ONE EXAMPLE AND OTHERS
3 THAT ARE SIMILAR IN NATURE.
4 MR. POPOWSKY: I WAS AT THAT CENTER
5 SATURDAY.
6 HEARING OFFICER: IN MY MIND, WHAT I THOUGHT
7 OF, THE FIRST THING I THOUGHT OF WAS A BUILDING
8 THAT HAD NO CURTILAGE AND A ROOF THAT WAS NOT
9 SUSCEPTIBLE TO GREENING. WOULD THAT BE ANOTHER
10 EXAMPLE?
11 MS. WILLIAMS: YES. SO I THINK WHEN YOU
12 ARE TALKING ABOUT NONPROFITS AND THE LIMITATIONS
13 FROM NONPROFITS AND CHARITABLE ORGANIZATIONS MOVING
14 FROM CAP TO SMIP AND GARP AND CREDITS, PROPERTY
15 LIMITATIONS DO ARISE. BECAUSE WHILE THERE MAY BE
16 AN OPPORTUNITY FOR A BUILDING WITH RESTRICTIONS
17 SUCH AS THAT, IT WOULD BE SO INTENSIVE IT WOULD
18 COST A LOT. AND THE GRANT, THE SMIP AND GARP GRANT
19 WOULD ONLY COVER A PORTION.
20 SO ASKING A NONPROFIT OR A CHARITABLE
21 INSTITUTION TO COME UP WITH THE BALANCE OF A
22 PROJECT COST IS REALLY RESTRAINING AND RESTRICTIVE
23 FOR THEM TO BE ABLE TO MOVE FORWARD WITH A
24 PROJECT?

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1 HEARING OFFICER: COULD BE FOR A BUSINESS AS
2 WELL?
3 MS. WILLIAMS: IN CERTAIN CASES YES.
4 HEARING OFFICER: FOR A CUSTOMER, THEY
5 WOULD HAVE TO MAKE A COST BENEFIT CALCULATION OF
6 THEIR OWN IF CAP CONTINUES, WHETHER THEY ARE BETTER
7 OFF PUTTING UP WHAT ILL CALL THE COPAY FOR THESE
8 MORE INTENSIVE SMIP AND GARP INVESTMENTS OR WAITING
9 IT OUT ON THE ENHANCED CAP?
10 MS. WILLIAMS: CORRECT. THATS OFTEN OUR
11 EXPERIENCE WORKING WITH OUR CUSTOMERS. WE WORK
12 WITH THEM TO EVALUATE WHAT CAP PROVIDES THEM IN
13 TERMS OF STORMWATER CHARGE RELIEF VERSUS THE
14 ALTERNATIVE OF PARTICIPATING IN SMIP AND GARP AND
15 GETTING CREDITS.
16 MY EXPERIENCE WITH THE PROGRAM SO FAR IS
17 THAT CAP REALLY ALLOWS MANY OF OUR NON-RESIDENTIAL
18 CUSTOMERS A LITTLE BIT OF TIME, A CUSHION, IF YOU
19 WILL, TO REALLY EVALUATE THE POTENTIAL OF A SMIP
20 AND GARP PROJECT TO THEN GET THEM CREDITS. SO ITS
21 BEEN AN EFFECTIVE TOOL FOR US TO REALLY CONTINUE TO
22 PROMOTE THIS SMIP AND GARP GRANT PROGRAMS SO THAT
23 OUR CUSTOMERS ARENT SO HEAVILY BURDENED UP FRONT
24 AND MAKING, PERHAPS TAKING ACTION THAT WE REALLY,

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1 THAT WOULD BE HARMFUL TO THE PROGRAM IN GENERAL.
2 MR. BRUNWASSER: COULD I ASK ONE QUICK
3 QUESTION?
4 IS THERE, HAVE YOU BEEN KEEPING TRACK? IS
5 THERE A RUNNING TOTAL OF THE VALUE YOU ARE
6 RECEIVING FROM THESE PROJECTS WHICH I GUESS WILL
7 JUST CONTINUE TO RISE OVER TIME AS MORE GET
8 INVOLVED AND DO MITIGATION ON THEIR OWN
9 PROPERTIES? OBVIOUSLY, YOU MUST HAVE SOME RECORD
10 OF WHAT YOU ARE AVOIDING AND HOW MUCH?
11 MS. WILLIAMS: ABSOLUTELY. AS DAVID KATZ
12 MENTIONED BEFORE, SMIP AND GARP, THE PROJECTS THAT
13 RESULT FROM THE SMIP AND GARP GRANT PROGRAM ARE
14 COMPLETELY INTERVAL TO THE COMPLIANCE WITH OUR
15 CONSENT ORDER AND AGREEMENT. SO WE TRACK ALL OF
16 THOSE PROJECTS IN THE RESULTING GREEN ACRES IN OUR
17 COMPLIANCE MODEL FOR THE CONSENT ORDER AGREEMENT.
18 AND WE TRACK THE COSTS, WE TRACK THE GREEN ACRES
19 AND THAT'S ALL ROLLED UP INTO OUR COMPLIANCE
20 MODEL.
21 MR. BRUNWASSER: IF IT'S NOT BURDENSOME OR
22 IF YOU HAVE THE DATA OR CHART ALREADY IN HAND
23 SHOWING HOW THIS ADVANTAGE OR WHAT HAS HAPPENED IN
24 THE PROGRAM THUS FAR, I THINK, I KNOW I WOULD LIKE

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1 TO SEE IT.
2 MS. WILLIAMS: OKAY.
3 HEARING OFFICER: I THINK WE ARE AT
4 TRANSCRIPT 7 NOW.
5 MR. DASENT: WE HAD 7 AS THE 2012
6 SETTLEMENT SEASON REQUESTED. THAT WAS 7. SO WE
7 ARE UP TO 8. I HAVE A RUNNING TOTAL. THAT'S
8 FINE.
9 HEARING OFFICER: I DO TOO BUT I WAS TOO
10 LAZY TO GO BACK AND LOOK. SO THANK YOU.
11 STORMWATER MANAGEMENT GREEN ACRES SAVINGS
12 BENEFITS.
13 THIS WILL AGAIN EXPOSE MY NEWNESS TO THESE
14 TOPICS AND MY IGNORANCE. BUT WAS IT EVER
15 CONSIDERED TO HAVE AN ORDINANCE OR SOMETHING THAT
16 SAID, THOU SHALT DO WHATEVER CAN BE DONE OR SOME
17 OTHER TEST OF, IF YOU CAN MEET THESE CRITERIA, YOU
18 MUST PARTICIPATE?
19 MS. WILLIAMS: NO. WE HAVEN'T GONE SO FAR
20 AS TO LOOK AT THAT JUST YET. BUT MORE SO, WE HAVE
21 SPENT A LOT OF TIME AND RESOURCES WORKING WITH OUR
22 CUSTOMERS AND PROPERTY OWNERS TO EDUCATE THEM TO
23 THE MAXIMUM EXTENT POSSIBLE ABOUT WHAT THEIR
24 OPTIONS ARE AND HOW MUCH THAT MIGHT COST SO THAT

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1 THEY ARE IN THE POSITIVE BEST POSITION POSSIBLE TO
2 MAKE THAT COST BENEFIT ANALYSIS IN THE DECISION TO
3 PARTICIPATE.
4 HEARING OFFICER: DO YOU HAVE ANY WAY OF
5 KNOWING OR HAVING ESTIMATE OF HOW MANY, TWO THINGS,
6 HOW MANY NUMBERS OF BUSINESS ACCOUNTS AND/OR
7 BUSINESS REVENUES ARE NOT SUSCEPTIBLE OF TAKING
8 ADVANTAGE OF SMIP AND GARP?
9 MS. WILLIAMS: WE DON'T. AND I WOULD SAY
10 THAT THAT ANALYSIS WOULD BE SOMETHING THAT WOULD BE
11 ALMOST IMPOSSIBLE FOR THE DEPARTMENT TO DO ALONE.
12 IT REQUIRES THE KIND OF INVESTIGATION OF SITE
13 CONDITIONS THAT IS NOT PERMISSIBLE BY OUR STAFF.
14 WE WOULD NEED VERY DETAILED ENGINEERING
15 INFORMATION, SUBSERVICE UTILITY LOCATION, DRAINAGE
16 PLANS, ETCETERA. WE DON'T HAVE ACCESS TO THAT
17 INFORMATION IN-HOUSE.
18 MS. KUMAR: TO WHAT MS. ERIN WAS SAYING,
19 THE GARP PROGRAM, JUST TO GET ON THE RECORD FOR
20 CLARITY. THE GARP PROGRAM IS NOT INDIVIDUAL OWNERS
21 COMING IN AND APPLYING FOR THE GARP. IT'S A
22 DEVELOPER, WHAT THEY CALL AGGREGATOR WHO HAS TO
23 COME AND APPLY FOR A GARP PROGRAM. SO THAT
24 AGGREGATOR USUALLY TYPICALLY HAS A BUNCH OF

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1 PROPERTIES ON BEHALF OF WHICH THE AGGREGATOR COMES
2 AND APPLIES FOR THE GARP. SO IN THE CONTEXT OF
3 WHAT WE CALLED ABOUT ENHANCED CAP, THAT IS ALSO THE
4 REASON WHY AN INDIVIDUAL NONPROFIT PROPERTY CANNOT
5 SIMPLY COME AND APPLY FOR GARP.
6 HEARING OFFICER: THANK YOU.
7 DID YOU WANT TO HAVE YOUR WITNESS RESPOND
8 AT ALL TO THESE?
9 MR. BAKARE: I WASN'T SURE IF WE WERE ON
10 THE RECORD. WE ARE ON THE RECORD. NEVER MIND. I
11 WAS GOING CONTRIBUTE. AS I'M NOT A WITNESS, I WILL
12 WITHHOLD FURTHER COMMENT.
13 HEARING OFFICER: I WANTED TO SEE IF MR.
14 RUSSELL, THESE QUESTIONS FROM THE BENCH PROMPTED
15 ANY INFORMATION THAT YOU WANTED TO GET THROUGH TO
16 US, OR WHETHER YOU HAVE GIVEN US THE INFORMATION
17 YOU WANT TO GIVE US?
18 MR. RUSSELL: NO. I TEND TO AGREE WITH
19 WHAT'S BEEN SAID. SO I DON'T HAVE A PROBLEM WITH
20 IT.
21 MR. DASENT: WE WOULD HAVE SOME BRIEF
22 REJOINDER, A COUPLE, THREE QUESTIONS IF YOU WOULD
23 PERMIT IT.
24 HEARING OFFICER: CERTAINLY.

24 (Pages 90 to 93)

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1 OFF THE RECORD.
2 (WHEREUPON, A DISCUSSION WAS HELD OFF THE
3 RECORD.)
4 HEARING OFFICER: BACK ON THE RECORD. MR.
5 DASENT.
6 MR. DASENT: YES.
7 MS. WILLIAMS, CAN YOU TELL US THE NUMBER OF
8 ACCOUNTS THAT ARE IN SEPARATE SEWERS AREAS AND IS
9 PROTECTED BY THE PROGRAM?
10 MS. WILLIAMS: SO IF YOU LOOK AT OUR
11 EXISTING CAP CUSTOMERS, MORE THAN HALF ARE SERVICED
12 IN THE SEPARATE SEWER AREA. OF THE 289 ACCOUNTS WE
13 WOULD PROJECT TO BE IN THE PROGRAM IN FISCAL 19,
14 167 WOULD BE IN THE SEPARATE SEWER AREA, 122 ARE IN
15 THE COMBINED SEWER AREA.
16 MR. DASENT: WHY IS THIS SIGNIFICANT?
17 MS. WILLIAMS: I KNOW THERE ARE CUSTOMERS
18 IN THE SEPARATE SEWER AREA THAT WOULD TRANSITION
19 OUT OF THE CAP PROGRAM AND INTO THE SMIP AND GARP
20 GRANT PROGRAM WOULD NOT PROVIDE US BENEFIT IN TERMS
21 OF GREEN ACRES THAT WE WOULD COUNT TOWARDS OUR
22 CONSENT ORDER AND AGREEMENT BECAUSE THEY ARE
23 SERVICED BY THE SEPARATE SEWER AREA.
24 MR. DASENT: ARE YOU AWARE OF CUSTOMERS

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1 THAT HAVE TRANSITIONED TO THE SMIP AND GARP FROM
2 THE ENHANCED CAP PROGRAM?
3 MS. WILLIAMS: YES. IN FACT, TO DATE,
4 APPROXIMATELY 40 CUSTOMERS HAVE ALREADY
5 TRANSITIONED FROM THE CAP PROGRAM TO THE SMIP AND
6 GARP PROGRAM AND NOW ARE RECEIVING STORMWATER
7 CREDITS. WE ANTICIPATE ANOTHER 25 ACCOUNTS THAT
8 ARE ALREADY IN OUR SMIP. ALREADY HAVE SMIP AND GARP
9 GRANTS APPROVED WILL HAVE THE PROJECTS CONSTRUCTED
10 SOON AND WILL THEREFORE BE TRANSITIONED FROM CAP TO
11 CREDITS.
12 MR. DASENT: THANK YOU.
13 MR. KATZ, DO CUSTOMERS IN THE ENHANCED CAP
14 PROGRAM STILL HAVE INCENTIVES TO TRANSITION TO SMIP
15 AND GARP?
16 MR. KATZ: YES, THEY ABSOLUTELY DO. IN
17 ADDITION TO DOING ALL OF THE ENVIRONMENTAL WORK FOR
18 THE DEPARTMENT, I ALSO ADDRESS A LOT OF ISSUES THAT
19 BUSINESSES ALL OVER THE CITY HAVE, WHETHER
20 STORMWATER RATES OR OTHER BILLINGS OR ENVIRONMENTAL
21 ISSUES. AND IN DRAFTING THE CAP, AS I PUT THE CAP
22 REGULATION TOGETHER, I SPOKE WITH A LOT OF
23 BUSINESSES. AND THEY SAID THAT EVEN WITH CAP,
24 THEIR PROPERTY VALUES STILL GO DOWN TREMENDOUSLY.

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1 BECAUSE WHEN IT COMES TIME TO SELL THEIR PROPERTY,
2 THE BUYERS DON'T LOOK AT WHAT THEIR BILL IS ON YEAR
3 1, THEY LOOK AT WHAT THEIR BILL WILL BE IN YEAR 10.
4 AND SINCE BUYERS ONLY PAY EIGHT OR TEN TIMES
5 EARNINGS, THEY GET A COMMENSURATE REDUCTION.
6 SO IF YOU HAD REVENUE OF \$5000 AND ALL OF A
7 SUDDEN IN TEN YEARS YOUR BILL IS DOWN \$1000 A
8 MONTH, \$4000. THEY WOULD BASE THAT OVERALL BID ON
9 THAT \$4000 WHAT THE RATES WILL BE.
10 I HAVE HEARD BY MANY, MANY, MANY BUSINESSES
11 EVEN WITHIN CAP, IT HAS AN ADVERSE EFFECT ON THEIR
12 PROPERTY VALUE. THEREFORE, THERE IS TREMENDOUS
13 INCENTIVE EVEN IN CAP FOR THEM TO PARTICIPATE IN
14 SMIP AND GARP.
15 AND THEN THERE IS ALSO THE OBVIOUS REASON
16 WHY THEY WANT TO PARTICIPATE IN SMIP AND GARP,
17 BECAUSE THEIR BILLS WILL KEEP ON GOING UP AND UP
18 AND UP. THEY DON'T LIKE TO SEE THAT. THEY DON'T
19 WANT TO PAY THEM. GARP AS A GRANT PROGRAM ALLOWS
20 THEM TO GET MONEY FROM US AND TO REDUCE THEIR
21 BILLS.
22 ONE OTHER COMMENT. THE CAP AND THE
23 ENHANCED CAP PROGRAM WAS REALLY WHAT ALLOWED
24 BUSINESSES TO SUPPORT THE TRANSITION. IT WAS AN

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1 UNDERSTANDING THAT WE REACHED BECAUSE THEY WERE
2 GOING TO PAY A VERY HIGH DISPROPORTIONAL AMOUNT OF
3 THEIR REVENUES NOW IN STORMWATER. BUT THEY AGREED
4 TO THAT AND WE AGREED IT WOULD BE FAIR AND
5 REASONABLE. AND TO CHANGE THAT NOW WOULD REALLY
6 ADVERSELY AFFECT THE PROGRAM. I THINK IT WOULD
7 KIND OF AFFECT OUR CREDIBILITY. AND I THINK WITH
8 ALL DUE RESPECT, IT WOULD JUST BE VERY, VERY BAD
9 PUBLIC POLICY AT THIS TIME.
10 MR. DASENT: THANK YOU. THAT'S ALL WE
11 HAVE.
12 HEARING OFFICER: ANY CROSS ON THE
13 SURREBUTTAL?
14 MR. HELBING: IF I CAN JUST ONE QUICK
15 QUESTION FOR MR. KATZ BASED ON WHAT YOU WERE JUST
16 SAY ABOUT PUBLIC POLICY. THIS MAY TAKE ME A SECOND
17 TO FIND. MAYBE I CAN DO IT WITHOUT HAVING THE
18 DOCUMENT IN FRONT OF ME.
19 ARE YOU FAMILIAR WITH THE REGULATIONS
20 REGARDING THE ENHANCED CAP PROGRAM?
21 MR. KATZ: YES.
22 MR. HELBING: IS THERE OR IS THERE NOT A
23 CLAUSE IN THERE THAT SPEAKS ABOUT THE ENHANCED CAP
24 PROGRAM CAN BE, I DON'T HAVE THE LANGUAGE IN FRONT

25 (Pages 94 to 97)

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1 OF ME, I CAN FIND, BUT CAN BE MODIFIED, CHANGED OR
2 AMENDED AT ANY TIME?
3 MR. KATZ: IT'S PROBABLY THERE JUST BECAUSE
4 GOOD DRAFTING OF REGULATIONS ALWAYS WANTS YOU TO
5 GIVE FLEXIBILITY. SO IT'S GOOD LAWYERING.
6 MR. HELBING: MAY IT ALSO HAVE BEEN A
7 CONDITION OF THE SETTLEMENT AGREEMENT IN THE LAST
8 RATE CASE?
9 MR. KATZ: I DON'T KNOW. I DON'T KNOW
10 OFFHAND. IT COULD BE. I'M NOT AWARE OF IT.
11 MR. HELBING: THAT'S ALL. THANK YOU.
12 HEARING OFFICER: REDIRECT?
13 MR. DASENT: NOTHING FURTHER.
14 MR. BAKARE: MAY I HAVE ONE MINUTE TO
15 DIGEST THAT RECENT LINE OF QUESTIONING?
16 NO, NOTHING.
17 HEARING OFFICER: THANK YOU VERY MUCH.
18 THANK YOU TO THE WITNESSES THIS MORNING AND
19 COUNSEL. AND WE ARE ADJOURNED UNTIL MONDAY.
20 (WHEREUPON, THE DEPOSITION WAS CONCLUDED AT
21 1:15 P.M.)
22 (WHEREUPON, THE WITNESS WAS EXCUSED.)
23
24

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1 REPORTER'S CERTIFICATION
2
3
4 I HEREBY CERTIFY THAT THE WITNESS WAS DULY
5 SWORN BY ME AND THAT THE DEPOSITION IS A TRUE
6 RECORD OF THE TESTIMONY GIVEN BY THE WITNESS.
7
8 _____
9 SHEILA J. KLOS
10 REGISTERED PROFESSIONAL REPORTER
11 COMMISSIONER OF DEEDS
12
13 (THE FOREGOING CERTIFICATION OF THIS
14 TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF
15 THE SAME BY ANY MEANS, UNLESS UNDER THE DIRECT
16 CONTROL AND/OR SUPERVISION OF THE CERTIFYING
17 REPORTER.)
18
19
20
21
22
23
24

26 (Pages 98 to 99)

STREHLOW & ASSOCIATES, INC.
(215) 504-4622

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