

ORIGINAL

-----Docket No
 Pennsylvania Public Utility Commission :
 v. Philadelphia Gas Works :
 Requesting a general rate increase :R-00006042;
 of \$65,000,000 :R-00006042,
 Further Hearing :C0001, et al.

Pages 765 through 890

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Hearing Room One
State Office Building
Philadelphia, Pennsylvania

Thursday, May 24,

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

CYNTHIA W. FORDHAM, Administrative Law Judge

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16
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18
19
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21
22
23
24
25

WITNESS INDEX

WITNESSES DIRECT CROSS REDIRECT RECROSS

Janice Davis 771
 (By Ms. Appleby) 772
 (By Ms. Burak) 775
 (By Mr. Bertocci) 778
 (By Mr. Keene) 800
 (By Judge Fordham) 804

Mr. Lelash 805
 (By Mr. Clearfield) 807

Mr. Knudsen
 (By Mr. Bertocci) 869
 (By Judge Fordham) 879
 (By Mr. Clearfield) 880

1	<u>NUMBER</u>	<u>EXHIBITS</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
2				
3	<u>EGW</u>			
4	(Statement of Davis 7.0) ✓	805		805
5	(Lelash CE-1 document)	822		--
6	✓(Lelash CE-2 document)	827		868
7				
8				
9	<u>OCA</u>			
10	✓1 (Statement)	806		869
11				
12	✓1-S (Statement)	806		869
13				
14	<u>CEPA</u>			
15	CE-1 (document)	869		885
16	<u>PICGUC</u>			
17	✓1 (Statement)	885		887
18	✓1-S (Statement)	886		887
19	✓1 (Exhibit)	887		887
20	✓2 (Exhibit)	887		887

21
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P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE CYNTHIA WILLIAMS FORDHAM:

1
2
3 Good morning. I am Administrative Law Judge Cynthia Williams
4 Fordam. This is the time and place for a further hearing in
5 the matter of Pennsylvania Public Utility Commission versus
6 Philadelphia Gas Works at Docket R-00006042. There are 71
7 individual complaints filed in this case, and then there were
8 13 other C dockets that have been added to this case.

9 At this time I would ask the counsel to enter
10 their appearance, beginning with PGW.

11 MR. CLEARFIELD: Good morning, Your Honor.
12 I'm Dan Clearfield, representing, PGW along with co-counsel.

13 MR. HOLLAND: Good morning, Your Honor. I am
14 Wendell Holland. I represent the company.

15 MR. COHEN: Good morning, Your Honor, I am Walter
16 Cohen, from Obermayer, Rebmann, Maxwell and Hippel.

17 MR. SIMMS: Good morning Your Honor, Johnnie
18 Simms, representing the Office of Trial Staff.

19 MR. KEENE: Good morning, Your Honor, Stephen
20 Keene and Christy Appleby for the Officer of Consumer Advocate.

21 MS. BURAK: Good morning, Your Honor, Charis Burak
22 on behalf of Philadelphia Industrial and Commercial Gas.

23 MR. GRAY: Good morning, Your Honor, Stephen Gray
24 on behalf of the Office of Small Business Advocate.

25 MR. BERTOCCI: Good morning, Your Honor, Philip

1 Bertocci on behalf of CEPA, Acorn, TAG and Action Alliance.

2 JUDGE FORDHAM: As I indicated, this is a further
3 hearing in this matter. We have had two days of hearings so
4 far. I believe we have one witness from PGW this morning and
5 then Mr. Knudsen and Mr. Lelash.

6 MR. CLEARFIELD: Yes, Your Honor. Just a
7 housekeeping, Mr. Knudsen is going to try to make it as soon as
8 he can today. If he does not, if he is not able to appear after
9 Ms. Davis is finished we had discussed it with the parties, we
10 would just reverse the order and go with Mr. Lelash, and finish
11 him up, and then have Mr. Knudsen at the end.

12 MR. HOLLAND: There is a second housekeeping
13 matter, Your Honor. It involves the cross-examination of
14 Mr. White yesterday by Mr. Simms. We spoke to Mr. Simms. It
15 concerns I suppose the expiration of the customer charge at
16 \$11.65. I believe Mr. Simms asked Mr. White when that expired
17 and Mr. White testified that it expired September first. We
18 discussed with Mr. Simms that in fact, the customer charges
19 presently in place does not expire until these rates are put in
20 effect pursuant to the interim settlement agreement.

21 JUDGE FORDHAM: Okay.

22 MR. HOLLAND: If the record could reflect that
23 correction I would appreciate it and defer to Mr. Simms if he
24 cares to add.

25 JUDGE FORDHAM: Mr. Simms.

1 MR. SIMMS: I concur with the statement by Mr.
2 Holland, and as reflected in the interim settlement. And the
3 matter will probably be discussed further in our briefs.

4 JUDGE FORDHAM: Thank you.

5 MR. CLEARFIELD: Your Honor, PGW calls Janice Davis.

6 JUDGE FORDHAM: Ms. Davis, I need you to stand for
7 me to swear you in.

8 JANICE DAVIS,
9 having been duly sworn, testified as follows:

10 DIRECT TESTIMONY

11 JUDGE FORDHAM: You may be seated. Would you
12 state your name and business address for the record please.

13 THE WITNESS: My name is Janice Davis. My address
14 is 1401 JFK Boulevard, Room 1330, Philadelphia, Pennsylvania
15 19102.

16 JUDGE FORDHAM: Thank you. Mr. Clearfield.

17 MR. CLEARFIELD: Thank you, Your Honor. Ms. Davis
18 is sponsoring just one piece of testimony. She gets the award
19 for the least amount of pre-prepared testimony in this
20 proceeding, PGW Statement 7.0, and her exhibit is JD-1, which
21 is her curriculum vitae. Ms. Davis is available for cross-
22 examination.

23 JUDGE FORDHAM: Mr. Simms, do you have anything?

24 MR. SIMMS: No cross, Your Honor.

25 JUDGE FORDHAM: Mr. Keene?

1 MR. KEENE: We have limited cross, Your Honor.
2 Ms. Appleby will be doing the cross of Ms. Davis.

3 JUDGE FORDHAM: Okay.

4 CROSS-EXAMINATION

5 BY MS. APPLEBY:

6 Q. Ms. Davis, my name is Christine Appleby. I am with the
7 Officer of Consumer Advocate. I will be asking you a few
8 questions. At page four, line seven of your testimony, you
9 indicate that the City is relying on the 18 million payment from
10 PGW for the City's budgeting purposes. What is the City of
11 Philadelphia's current annual budget?

12 A. Our current annual budget is 2.8 billion dollars.

13 JUDGE FORDHAM: Please keep your voice up,
14 Ms. Davis.

15 BY MS. APPLEBY:

16 Q. Looking now at your rebuttal testimony at pages four and
17 five, where you discuss redirection of City funds for other
18 purposes. Am I correct that it is a decision of the City
19 through its City Council and Mayor as to how to spend expected
20 city revenues from taxes and the PGW payments?

21 A. Yes.

22 Q. So the decision to redirect City funds from a specific
23 program would have to be made at the level of city government,
24 correct?

25 A. Yes.

1 Q. You would agree with me that one of the City's
2 considerations should be the provision of safe and affordable
3 gas service?

4 A. Yes. Now moving onto Mr. Knudsen's testimony on
5 Tuesday. He testified that PGW provides an array of services
6 and social programs, including senior citizen discount program
7 and customer responsibility program, beyond that of traditional
8 utility services. What procedure is used to decide which social
9 programs are provided by the City, and which are provided by
10 PGW?

11 A. The City has certain mandated services. We don't share
12 decision making with PGW on which they are going to serve and
13 which we will. We provide those services that are required by
14 our Municipal Charter to be provided.

15 Q. You have testified before the Philadelphia Gas Commission
16 proceedings involving PGW, correct?

17 A. Yes.

18 Q. In August of 2000 you testified regarding the number of
19 families that would fall behind in payments as a result of the
20 rate increase requested, is that correct?

21 A. Yes.

22 Q. I believe that estimate you provided was 24,000
23 additional families?

24 MR. CLEARFIELD: Objection, Your Honor. This is
25 outside the scope of her rebuttal testimony. It has nothing

1 to do with the testimony that she submitted here.

2 MS. APPLEBY: I'm sorry, I beg to differ. In this
3 particular case, she is talking about the affects of what the
4 social programs would have on this -- the affects on PGW of the
5 particular programs that are going to be in place.

6 MR. CLEARFIELD: Where has she testified about that?

7 MS. APPLEBY: In this particular case what she is
8 stating is what the City's funds are, in this particular case,
9 able to put towards PGW, and how that is going to affect PGW,
10 and what the City is able contribute. Therefore, how that is
11 going to affect the City and the people in the City.

12 MR. CLEARFIELD: Yes. But that has nothing to do
13 with how, to what extent, if at all, or to what extent a rate
14 increase by PGW will create additional delinquencies. By the
15 way, the rate increase at the end of this case would actually be
16 a rate decrease when the GCR is put in this place, which was not
17 something being considered in August of 2000.

18 So I just think it's outside the scope of what
19 she's here to testify about. You know the PGC proceeding is a
20 much more wide ranging proceeding, and she was presented for
21 many other issues. That does not mean that those questions
22 become relevant here for Ms. Davis.

23 MS. APPLEBY: The impact of the granting back of
24 the 18 million dollars is highly relevant to this particular
25 proceeding.

1 JUDGE FORDHAM: Give me a minute.

2 MR. CLEARFIELD: The impact is not an issue that
3 Ms. Davis is here to testify about. Her testimony is about the
4 Administration's ability or inability to grant back the 18
5 million dollars because of the severe budget concerns that the
6 City has right at the moment.

7 MS. APPLEBY: Your Honor, our point in this
8 particular case is the impact that it is going to have on the
9 City. She has testified previously about the impact that it is
10 also going to have on the families in the PGC proceedings.

11 MR. CLEARFIELD: I'm confused --

12 JUDGE FORDHAM: Give me one minute.

13 MR. CLEARFIELD: I'm sorry.

14 JUDGE FORDHAM: Based on my reading of Ms. Davis'
15 testimony, she is responding to the impact of the 18 million
16 dollar payment to the City, as opposed to dealing with the
17 various customers. Therefore, I will sustain PGW's objection.

18 MR. CLEARFIELD: Thank you, Your Honor.

19 MS. APPLEBY: That's all I have then.

20 JUDGE FORDHAM: Okay. Ms. Burak.

21 MS. BURAK: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. BURAK:

24 Q. Good morning, Ms. Davis. My name is Charis Burak. I am
25 here on behalf of Pennsylvania Area Industrial and Commercial

1 Users. I just have a few questions for you today. Beginning on
2 page 4, line 15 of your rebuttal testimony, you indicate that
3 the City should not be required to reallocate funds in order to
4 avoid an otherwise justified rate increase for PGW; is that
5 correct?

6 A. Right.

7 Q. If the PUC concludes that the 65 million dollar increase
8 requested by PGW is unjustified, but finds that a lessor
9 increase, for example, 35 million dollars, is justified, should
10 the City then be required to reallocate funds to make up the
11 difference?

12 A. No.

13 Q. Do you also believe that the City should not be required
14 to reallocate funds in order to avoid an unjustified rate
15 increase for the City -- excuse me -- for PGW?

16 A. No.

17 Q. So you would agree that the City should provide PGW
18 assistance, rather than requiring PGW's rate payers to be
19 charged unjust and unreasonable rates?

20 A. No.

21 Q. You would prefer PGW's customers to be charged unjust and
22 unreasonable rates rather than have the City provide any type of
23 funds to PGW, is that correct?

24 A. The rate payers should bear the cost of providing the
25 service. That's not something that the City should have to do.

1 Q. Even if those rates would be unjustified in the eyes of
2 the PUC?

3 MR. CLEARFIELD: Your Honor, I am confused. If
4 the rates are unjustified, then they will not be charged. So if
5 the PUC is going to make a decision, whatever the decision is,
6 becomes the determination of the appropriate rate increase for
7 PGW.

8 MS. BURAK: Your Honor, I'm mainly just asking for
9 Ms. Davis' opinion. At this point in her testimony she
10 indicates that 65 million dollars is a justified rate increase.
11 The PUC has not made a determination yet as to whether or not it
12 is justified.

13 JUDGE FORDHAM: So you are talking about if it's
14 unjustified in the eyes of Ms. Davis, who is testifying, as
15 opposed to the Commission's ruling in an unjustified. . .

16 MS. BURAK: Yes, Your Honor.

17 JUDGE FORDHAM: Can you answer that?

18 THE WITNESS: The company's request is a justified
19 request, and as such the City should not alter its budgetary
20 plans in order to cover anything that is not charged.

21 MS. BURAK: Thank you. That's all I have, Your
22 Honor.

23 JUDGE FORDHAM: Anyone else have anything for this
24 witness? Mr. Bertocci.

25 MR. BERTOCCI: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. BERTOCCI:

3 Q. Ms. Davis, you are the Finance Director for the City of
4 Philadelphia?

5 A. Yes.

6 Q. That makes you the City's highest ranking financial
7 officer, right?

8 A. Yes.

9 Q. So in terms of knowledge of budgetary affairs you are
10 probably right up there with the Mayor in terms of the
11 understanding of the nuts and bolts of the City's finances?

12 A. Right by behind the Budget Director.

13 Q. You agree that generally PGW has been mismanaged under
14 the previous city administrations?15 MR. CLEARFIELD: Objection. Outside the scope of
16 rebuttal testimony.

17 JUDGE FORDHAM: Sustained.

18 BY MR. BERTOCCI:

19 Q. In your testimony you make reference to ways in which the
20 City has sought to help PGW; is that right?

21 A. Yes.

22 Q. And if the City has sought to help PGW, doesn't it imply
23 that PGW has certain needs that it has not been able to fulfill
24 through its rates?

25 A. Yes.

1 Q. And those needs reasonably come from its past financial
2 history?

3 A. Yes.

4 Q. And its needs also come from problems that it has had
5 with its billing system?

6 MR. CLEARFIELD: Are you referring to any specific
7 assistance, Mr. Bertocci? I would object, because it's vague.

8 MR. BERTOCCI. I am referring to the 45 million
9 dollar City advance.

10 MR. CLEARFIELD: I was asking for clarification.
11 You gave it to me. Ms. Davis, do you need the question read
12 back?

13 THE WITNESS: I understand, the billing system,
14 yes.

15 BY MR. BERTOCCI:

16 Q. And the needs have been associated with the fact with
17 that short-term commercial credit program had been tapped out,
18 isn't that correct?

19 A. Yes.

20 Q. On page two of your testimony, line ten, you have that in
21 front of you?

22 A. Yes.

23 Q. You say that the 45 million dollar City advance would
24 cost approximately two to three million dollars annually if
25 PGW had to get it from some place else than the City. Now

1 that's not the cost to the City, is it?

2 A. No.

3 Q. Have you estimated the cost in lost interest to the City?

4 A. No, we have not.

5 Q. On page two, line seventeen, you say, in this fiscal year
6 the City, the Philadelphia Housing Authority, and the Board of
7 Education all agreed to prepay certain remaining annual natural
8 gas bills?

9 A. Yes.

10 Q. Aren't these agencies billed monthly like other
11 customers?

12 A. Yes.

13 Q. So when you say annual natural gas bills, you mean --
14 what do you mean exactly by that?

15 A. We prepaid our bills for the remainder of the year.

16 Q. When you say certain, what do you mean by that?

17 A. They were the remaining bills, the bills that were
18 remaining.

19 Q. Were these agencies current on their bills with PGW at
20 the time the agreement was made to pay certain annual bills?

21 A. I can only speak for the City, and we were. I would have
22 to defer to other members . . .

23 MR. CLEARFIELD: If it's important we can provide
24 the information to Mr. Bertocci. I don't think she has that
25 information with her right now.

1 BY MR. BERTOCCI:

2 Q. So what you are saying that the City would not be in
3 control of what the Philadelphia Housing Authority does or the
4 Board of Education?

5 MR. CLEARFIELD: Objection. She just said she
6 didn't know . . .

7 THE WITNESS: I don't know.

8 JUDGE FORDHAM: Objection overruled.

9 THE WITNESS: We don't pay their bills. We pay
10 our bills.

11 BY MR. BERTOCCI:

12 Q. In the case of PHA, were you aware that there was an
13 outstanding dispute concerning what was owed?

14 A. I'm not involved in the billing.

15 Q. So you wouldn't know whether the resolution of the
16 dispute was part of the establishment of this amount prepaid?

17 A. I would have to leave that to one of PGW staff to
18 answer.

19 Q. On page two, line 27, you say that the City pays the
20 present salary of interim present and CEO, Kumar Kishinchand,
21 the interim president.

22 MR. CLEARFIELD: Mr. Bertocci, I think on the
23 official copy that's on page three, line three and four.

24 THE WITNESS: Yes, we do. It's on page three,
25 line three and four.

1 MR. BERTOCCI: I'm sorry, I'm using what I got
2 from E-mail.

3 BY MR. BERTOCCI:

4 Q. If there is a problem, Ms. Davis, say it isn't what you
5 think it is and we will stop.

6 A. I was looking for it.

7 Q. I'm sorry. Mr. Kishinchand is the Water Commissioner, is
8 he not?

9 A. He was the Water Commissioner.

10 Q. His place as Water Commissioner has not been -- he has
11 not been replaced as Water Commissioner?

12 A. There is an interim Water Commissioner.

13 Q. So wasn't the City bound to pay his salary in any event?

14 A. We were bound to pay his salary, but we are now paying
15 someone else as the acting Water Commissioner. And he is not at
16 the Water Company, providing a service that he would have,
17 instead he's at PGW.

18 Q. You are paying someone else from the ranks of the Water
19 Department; is that right?

20 A. Yes. And whenever you pay for a service that you are
21 receiving in some other place it's considered that the other
22 place is taking the benefit. So PGW is benefitting by the fact
23 that the salary is being paid.

24 Q. I was focusing more on the out-of-pocket cost to the City
25 to Mr. Kishinchand being where he is.

1 A. Okay.

2 Q. So that's a conclusion, there is no out of costs?

3 A. There is no additional costs but it is a benefit to PGW.

4 Q. On page three, my line one, the question has to do with
5 deferral of 18 million dollar City payment.

6 MR. CLEARFIELD: That the City has deferred?

7 MR. BERTOCCI: The City, one of the things
8 that . . .

9 MR. CLEARFIELD: It's on five and six.

10 MR. BERTOCCI: Lines five and six.

11 MR. CLEARFIELD: Page three.

12 BY MR. BERTOCCI:

13 Q. Lines five and six, you say the City has assisted PGW by
14 allowing it to defer until June 30, 2001, making its annual
15 payment to the City?

16 A. Yes.

17 Q. That involves, however, a payment with interest?

18 A. Yes.

19 Q. And that interest amount is about \$200,000?

20 A. Yes, it is.

21 Q. Now in the summer of 2000, toward the end of PGW's fiscal
22 year on August 31st, you issued a commitment to grant back the
23 five million in project revenues to PGW, if it was necessary in
24 order to meet debt service coverage, isn't that right?

25 A. Yes.

- 1 Q. In the past. To whom was that commitment issued?
- 2 A. The letter went to the company and to their auditors.
- 3 Q. So it was something in writing?
- 4 A. Yes.
- 5 Q. Isn't it true that the City might have, if necessary,
6 provided a backstop of up to ten million dollars?
- 7 A. In the fiscal . . .
- 8 Q. In the last fiscal year.
- 9 A. Yes.
- 10 Q. If it had been necessary to provide five or ten million
11 dollars, what would the mechanism that would have been used?
- 12 A. It would have been granted back to the company.
- 13 Q. It would have been a grant back to the company. Would
14 you have had to get City Council approval for that?
- 15 A. No.
- 16 Q. Would you have had to amend the budget?
- 17 A. No, it was within remaining appropriations. We had
18 remaining appropriations at that point.
- 19 Q. Now the City's fiscal year begins July first, right?
- 20 A. Yes.
- 21 Q. PGW's fiscal year goes from September first?
- 22 A. Yes.
- 23 Q. So when you are at August 31st, which is the crucial date
24 for debt service coverage for PGW, you are about three months
25 into the City's fiscal year, is that right?

1 A. Yes.

2 Q. So when you are saying what the City does, can you
3 explain a little bit more to us what that means, you can just
4 grant back the -- you have received funds from PGW, an 18
5 million dollar grant in the prior fiscal year, right?

6 A. Yes.

7 Q. Now you are in a subsequent fiscal year and you are
8 saying that your office can just come up with five million
9 or ten million dollars . . .

10 A. I would have been instructed to make a grant to the
11 company in some amount in order to ensure that they made
12 coverage.

13 Q. Who would instruct you to do that?

14 A. By letter from the Mayor.

15 Q. That money comes from grant revenue fund?

16 A. Yes.

17 Q. Is that the proper term, the grants revenue fund?

18 A. The grants revenue fund, it's our grants category within
19 the general operating budget.

20 Q. What is a grants category? Just so everyone knows.

21 A. It's the category that is used to make grants to other
22 agencies and individuals.

23 Q. That grants fund is part of your operating budget?

24 A. Yes, it is.

25 Q. On page three, it's still page three, but further down to

1 line 16, you talk about, you say that PGW is a municipal
2 utility, is intended to be self-sufficient.

3 MR. CLEARFIELD: Eighteen through nineteen.

4 MR. BERTOCCI. Thanks.

5 BY MR. BERTOCCI:

6 Q. Then a few lines further down you say "Customers are not
7 asked to provide a return on the cash working capital or on
8 equity." Isn't the 18 million that PGW pays to the City,
9 doesn't that come from rate payer funds?

10 A. Yes, it does.

11 Q. So if the 18 million dollars was not paid, wouldn't PGW
12 still be self-sufficient?

13 A. The 18 million is required by the PFMC agreement, and as
14 such it's part of their rate making requirement.

15 Q. Now you say a little further down on the same page, that
16 "None of the ordinances authorizing PGW'S current financing
17 mechanisms assumes or requires the City to act like a
18 conventional utility investor or owner."

19 A. It's on page four, lines one and two. It starts on page
20 three and ends on four.

21 Q. Thanks. Is that a statement made on advice of counsel?

22 MR. CLEARFIELD: Yes.

23 BY MR. BERTOCCI:

24 Q. What would a conventional utility investor or owner do
25 that PGW is not required to do?

1 A. Since PGW is a municipal organization, I am not certain
2 what your conventional utility would be required to do. I can
3 only say what PGW's and the City's relationship is. I can't
4 speak on other relationships.

5 Q. I remember us having a similar conversation back on
6 August 21st, when we were both much younger.

7 A. Much, much, younger.

8 Q. And at that time you said "The 18 million is a return on
9 equity and isn't really tied to how well PFMC manages or does
10 not manage."

11 MR. CLEARFIELD: Is that at the PGC?

12 MR. BERTOCCI: That was before the Gas Commissioner
13 on August 21st.

14 BY MR. BERTOCCI:

15 Q. Do you recall making a statement to that affect?

16 A. I don't recall it specifically, but I probably did.

17 Q. Would you like to check in the transcript?

18 A. No, I trust you.

19 Q. You were speaking for the City then, right?

20 A. Yes.

21 Q. Is that still the City's view?

22 A. That's still the City's view. It's also a payment if you
23 want to look at it for use of facilities of our assets. Those
24 are City assets PGW is using to generate income. It's not an
25 unusual thing or unreasonable payment for use of those assets.

1 Q. Those assets would have been paid for by rate payer funds
2 haven't they?

3 A. The initial investments were City funds.

4 Q. Do you know when and what City funds were ever invested
5 in PGW?

6 A. I would have to go back and check to give you specific
7 amounts.

8 MR. CLEARFIELD: Are you talking about in 1846?

9 THE WITNESS: Yes, it was originally a city
10 utility.

11 BY MR. BERTOCCI:

12 Q. So maybe back in 1846, that's the basis?

13 A. Starting back then, yes.

14 Q. And then . . .

15 A. They also operate in the city's streets. If they were in
16 many cities they would pay a franchise tax for operating in the
17 city's streets for making cuts in the streets. So it's not an
18 unusual payment for being in the city, and taking advantage of
19 city services.

20 Q. Philadelphia found it desirable to have a city utility,
21 gas utility, municipally owned in contrast to other cities in
22 other places, right?

23 A. Yes.

24 Q. The reason for maintenance of such a system constitutes
25 probably a recognition of the importance of utility service,

1 of gas service at affordable prices to Philadelphia residents?

2 A. I would assume that that is the reason.

3 Q. And probably a recognition of the difficulty of assuring
4 affordable service under Philadelphia's urban conditions, at
5 least since the Second World War, such utility service without
6 municipal ownership; is that right?

7 A. I am not really qualified to go that far.

8 Q. You say that, I am on my page four, I think you are a
9 little further down, you say that the City is not in a position
10 to offer any additional monetary assistance to PGW. Don't you
11 agree that whether or not to grant back the 18 million is a
12 policy decision?

13 A. It's a policy decision driven by the financial realities
14 of the City of Philadelphia. We have the School District that
15 needs money, among other things. The City is just not in a
16 position to give up the 18 million. It's not that we have a
17 desire to harm anyone. It's just that we are currently unable
18 to do it. The uncertainties facing the City, especially around
19 the School District, what might be required to continue public
20 education in the city, just does not allow us to give PGW the 18
21 million.

22 Q. But you recognize that the provision of residential gas
23 service ranks right up there with essential municipal services,
24 police, fire, education. It's in the same class, right?

25 A. Yes.

1 Q. It is a high priority for Philadelphia residents to have
2 safe, efficient and affordable service, right?

3 A. Right.

4 Q. Without gas heat many Philadelphia houses would be
5 uninhabitable, right?

6 A. I would assume.

7 Q. And economic job development and job creation, that is
8 linked to prices of gas, right?

9 A. I am not qualified to make that leap.

10 Q. In making the kind of decision that you are making with
11 regard to whether or not to grant back 18 million, you tried to
12 balance the interest of the City against the interest of
13 customers, wouldn't you?

14 A. The customers are the City. So there is no balancing.
15 They are either rate payers or taxpayers. They will pay through
16 their rates or pay by foregoing services. There is no balancing
17 to be done. They are the same people.

18 Q. Wouldn't you agree that high -- that if some of the costs
19 of PGW in these circumstances were borne by the City, talking
20 about 18 million, wouldn't you agree that that cost would be
21 spread more broadly and more equitable through the tax system,
22 as opposed to through the rate system?

23 A. The rate payers receive the service, the rate payers
24 should pay for the service. Taxpayers who are not receiving gas
25 service, shouldn't pay for gas service they're not receiving.

1 Q. Isn't this a situation where you say, you talk about tax
2 payers paying for gas service. But, in fact, isn't it the
3 situation where rate payers are paying for the City, they are
4 paying the 18 million to the City?

5 A. That is. . .

6 Q. Not vice versa?

7 A. That's part of their requirement under the PFMC
8 agreement, and as such it is a legitimate cost to the rate
9 payers. The fact that it goes back to the City does not in any
10 way change the nature of that payment.

11 Q. But if that money didn't go to the City are you saying
12 that taxpayers would be paying for PGW?

13 A. Yes, they would then have to bear the burden of the City
14 not receiving that 18 million. Some service would be cut.

15 Q. Do you agree with many of the people that testified at
16 the Public Input Hearing that PGW's current rates are higher
17 than they can afford?

18 MR. CLEARFIELD: Objection, outside the scope of
19 her testimony.

20 JUDGE FORDHAM: Sustained.

21 MR. BERTOCCI: Your Honor, I think this is -- she
22 is discussing policy, and she is denying that she is balancing
23 anything. But in fact I think I am allowed to question her on
24 issues that might be related to the balancing.

25 MR. CLEARFIELD: No, he's not, Your Honor.

1 He's allowed to question her on her testimony, and the answer
2 she gave. She's testifying that the City does not have the
3 money to fund and otherwise legitimate rate increase, otherwise
4 other legitimate city programs would have to be reduced.

5 If he wants to ask her questions about how it
6 affects city residents and citizens and taxpayers who would lose
7 a city program, or not have a school refurbished because we
8 can't make an otherwise appropriate rate increase, he can ask
9 those questions. But not about whether rate payers can pay.

10 MR. BERTOCCI: Your Honor, I think it stacks the
11 deck. I am not entitled to talk about the lady who says that
12 she is stressed to the limits of elasticity in a Public Interest
13 Hearing. But they are entitled to cry about the School District
14 and about the Police Department and Fire Department.

15 MR. KEENE: Your Honor, they objected to the
16 OCA's questions about the impact on the City's social programs.

17 MR. CLEARFIELD: No.

18 MR. KEENE: If they don't get the 18 million
19 dollars from PGW.

20 MR. CLEARFIELD: Your Honor, that was not the
21 objection. The question has to do with the impact of rate
22 payers of not having rates that reflected or didn't reflect the
23 18 million. I objected, and you sustained that objection.
24 What I am saying it's legitimate to question her about the
25 affect on the City and the citizens if the City has to find

1 18 million dollars by reducing a social program or raise taxes.

2 But she is not here as an expert on what will
3 happen if the rates go up by 65 million dollars in a base rate
4 case. That's not what she's here for. Mr. Bertocci had a whole
5 array of witnesses he could ask those questions to. I think in
6 fact he did ask most of those questions. Ms. Davis is not the
7 person to ask those questions.

8 This is argument. Mr. Bertocci has his position.
9 The City is expressing the facts as they see it.

10 MR. KEENE: Your Honor, if that is -- if what
11 Mr. Clearfield said is correct, then I would request the
12 right to ask the questions about the impact on the City's
13 social programs that he objected to, and which you sustained.

14 MR. CLEARFIELD: I am confused. I thought the
15 question specifically was what would be the impact on rate
16 payers.

17 JUDGE FORDHAM: That's what I thought the question
18 was.

19 MR. KEENE: Your Honor, we wanted to ask a
20 question about her testimony that the increase in rates that
21 PGW requested last year resulted in additional social costs
22 to the City.

23 JUDGE FORDHAM: We're talking about the bottom of
24 page four of her testimony about the City's contingency fund and
25 surpluses?

1 MR. KEENE: No, Your Honor, what Ms. Davis has
2 testified is that the City cannot afford to grant back the 18
3 million dollars. And we wanted to explore with her that if the
4 rates are raised, and it does have an impact on social program
5 costs for the City, if rates are raised because the City does
6 not grant back the 18 million dollars.

7 This is really a crucial issue in this case, Your
8 Honor, what the City's responsibility is here. I think it would
9 be helpful to the Commission if Mr. Bertocci and the OCA are
10 allowed to explore those issues.

11 MR. CLEARFIELD: Your Honor, we are not going to
12 allow this witness to testify about everything in this case
13 about affect on rate payers. She is not here for this purpose.
14 Now I misunderstood the question. I thought the question was,
15 how would the increased billings affect customers. That's a
16 question that should have gone to some other witness. She's
17 not here for that.

18 If I misunderstood then I did. I don't even
19 remember what Mr. Bertocci's question is at this point.

20 MR. BERTOCCI: Your Honor, maybe there is
21 another way to deal with this. And that is after all she said
22 that rate payers are taxpayers. I can question her about the
23 affect of these increase rate payers on the taxpayers which she
24 is concerned -- the increased rates on the taxpayers that she is
25 concerned about.

1 These people, taxpayers, suffer the affects on the
2 kind of distribution that is made between costs which are
3 allocated to the PGW and costs which are allocated to the City.

4 MR. CLEARFIELD: That's transparently just a
5 ruse. You can't start asking her questions about how the rates
6 will affect rate payers by just saying well they are also
7 taxpayers. That's one of our positions. She is not here for
8 that purpose. She's here to testify about what is in her
9 rebuttal testimony. The City does not have 18 million dollars
10 without reducing valuable social programs.

11 If you want to ask questions about that, you can
12 ask them. We had lots of witnesses who could testify about the
13 affect of the 65 million increase on rate payers.

14 JUDGE FORDHAM: Page four of Ms. Davis' testimony,
15 in the first answer she does talk about how the annual 18
16 million dollar payment to the City has been budgeted for City
17 programs and for the next several years. At the bottom she
18 talks about the City's contingency funds and reported surpluses
19 have been severely stressed by unforeseen expenses. She lists
20 the City's School District as one of those unforeseen expenses.
21 Then she mentions that if City's funds were re-directed to PGW,
22 it would abandon planned expenditures in support of the City's
23 children and schools or other taxpayer services.

24 If Mr. Bertocci or OCA has cross-examination
25 regarding those issues, I will allow it.

1 MR. KEENE: Thank you, Your Honor.

2 JUDGE FORDHAM: Mr. Bertocci, you may continue.

3 MR. BERTOCCI: Thank you, Your Honor.

4 BY MR. BERTOCCI:

5 Q. Is your policy decision concerning what some people say,
6 non-existence of the 18 million dollar payment of grant back,
7 is that influenced by your belief that the legal, City's legal
8 right to 18 million is especially strong?

9 MR. CLEARFIELD: Objection. That calls for legal
10 conclusion.

11 MR. BERTOCCI: It asks her policy, a person who
12 makes policy decisions, Your Honor. I think weighs a range of
13 different kinds of alternatives. I am asking whether one of the
14 factors is that they feel that they can, that their position
15 on 18 million is strong enough so that they would rather put
16 resources some place else?

17 JUDGE FORDHAM: I think you lost me.

18 MR. CLEARFIELD: I withdraw the objection.

19 THE WITNESS: Our decision is based primarily on
20 our inability to afford it. That is the primary driver.

21 BY MR. BERTOCCI:

22 Q. The issue of affordability is an issue which involves
23 judging whether you can afford 18 million as opposed to, for
24 instance, debt service payments on stadiums, for instance, is
25 that right?

1 A. Those generate revenue to cover themselves. The debt
2 service payments will be paid for out of their revenue generated
3 from the stadiums and related work. The decision on the 18
4 million is looked at in conjunction with those services like the
5 School District where we have 213 million children requiring an
6 education, that don't give us a return to cover the costs. The
7 18 million is made in light of those types of decisions, not any
8 that are self -- that generate revenue to cover themselves.

9 Q. The investments in the stadium, debt service in the
10 stadium you will not recover that revenue certainly within the
11 next few years?

12 A. That revenue, the annual debt service will be more than
13 covered by what will be generated from the annual stream.

14 Q. What will be after the stadiums are built?

15 A. No, starting when they are under construction, there are
16 wage taxes that are generated in more than sufficient amount to
17 cover the debt service from the very beginning. The stadiums
18 are self-sufficient from day one.

19 Q. You wouldn't regard 18 million investment in PGW as a --
20 as something that would actually have a return over the long run
21 in terms of the health of that utility and its role in the
22 Philadelphia economy?

23 MR. CLEARFIELD: Objection. Your Honor, this is
24 purely argument. She has answered these questions at least five
25 times. It's purely argument. Mr. Bertocci thinks that the

1 City should write a check for 18 million dollars out of some
2 slush fund that he apparently thinks exists. Ms. Davis has
3 represented the City and says it does not have the money. He
4 can argue in his brief that he does not believe her. This is
5 not helping anything. We are just plowing over ground we have
6 already covered.

7 MR. BERTOCCI: That mischaracterizes my position.
8 I don't think there's just some slush fund out there. I think
9 it's a very serious question on the part of City as to how it
10 allocates resource. Anybody that went to Public Input Hearings
11 heard the pain that's out there, would understand this is a very
12 important question. People are entitled to have a ranking City
13 official come here, speak about it. I credit Janice Davis for
14 coming here, and struggling to answer these questions which are
15 difficult for anybody.

16 MR. CLEARFIELD: Your Honor, we have rules of
17 evidence. Mr. Bertocci has asked the question several times.
18 He has received the same answer several times. And he's gone
19 over and over this, and this is not appropriate. This is not a
20 criminal proceeding. He's not entitled to try to wear the
21 witness down over ten hours. He asked her why she has taken the
22 position. The rest is argument. He is literally arguing with
23 the witness.

24 JUDGE FORDHAM: Mr. Bertocci, do you have any
25 questions regarding any other social programs or any other

1 expenditures to the City that have been mentioned in Ms. Davis'
2 testimony?

3 MR. BERTOCCI: No further questions on the social
4 programs. Mr. Keene may. . .

5 JUDGE FORDHAM: That's what I was asking. Do you
6 have anything further?

7 MR. BERTOCCI: I have a couple more questions.

8 BY MR. BERTOCCI:

9 Q. On page four, lines five and six. You say the City had
10 anticipated 90 million of revenues from PGW for the years 2001
11 to 2005. Then you say that "Loss of some or all of this revenue
12 would be a significant hardship." I can understand 90 million
13 over five years might be a hardship. The question I have is
14 what about 18 million between now and the end of PGW's fiscal
15 2002, August 31st, 2002? That's over three City fiscal years.
16 That would be about six million a year for three City fiscal
17 years; isn't that right?

18 MR. CLEARFIELD: Objection. I don't understand
19 the calculations.

20 BY MR. BERTOCCI:

21 Q. We are in fiscal 2001 now, from the City's fiscal 2001 to
22 June 30th, we're in. And then fiscal, City's fiscal 2002 runs
23 to June of 2002. And in the meantime PGW's fiscal year, PGW's
24 present fiscal year, second fiscal year, which ends 2002. So,
25 the period between now and August 31st contains part of the

1 City's fiscal 2001, all the City's fiscal 2002, and part of the
2 City's fiscal 2003.

3 What I'm asking is, since the 90 million wasn't
4 something I ever proposed or anyone proposed, why don't we just
5 look at it from the point of view of 18 million between now and
6 August 31st of 2002? I am asking is that as difficult as 90
7 million over five years?

8 A. Well 18 million represents a significant amount of money.
9 It's not as significant obviously as 90 million, but it is
10 something that the City is unable to provide.

11 Q. Even with timing that permitted it to be spread over
12 three years?

13 A. It is not really three years.

14 Q. Three fiscal years.

15 A. The City still is in no position to give up 18 million.

16 MR. BERTOCCI: Thank you very much. I have no
17 further questions.

18 JUDGE FORDHAM: Mr. Keene.

19 MR. KEENE: I can be brief.

20 CROSS-EXAMINATION

21 BY MR. KEENE:

22 Q. Good morning, Ms. Davis, Steve Keene with the Office of
23 Consumer Advocate. In August of 2000 you testified before the
24 Philadelphia Gas Commission in a PGW proceeding; isn't that
25 right?

1 A. Yes.

2 Q. And again at that time you testified regarding the number
3 of families that would fall behind in payments as a result of
4 rate increases that were pending at that time, is that right?

5 A. I don't remember specifically, but that's correct.

6 Q. And I believe your testimony was that 24,000 additional
7 families would fall behind in payments as a result of that
8 requested rate increase; is that correct?

9 A. I don't remember that number.

10 Q. Would you accept that subject to check?

11 A. Yes.

12 Q. The date of your testimony in that proceeding was August
13 21st, 2000. That's the testimony I'm referring to. Would you
14 accept, subject to check, that increase in base rates requested
15 at that time was 52 million dollars?

16 A. Yes.

17 Q. And the GCR increase projected at that time was 97
18 million dollars?

19 A. Yes.

20 Q. Have you estimated -- have you estimated how many
21 additional families are likely to fall behind in payments at the
22 level of rate increase and the GCR that is being requested in
23 this proceeding?

24 MR. CLEARFIELD: Objection, Your Honor. And I
25 would ask that the entire line be stricken from the record.

1 The purpose, you indicated, Your Honor, that Mr. Keene would be
2 able to ask questions about the affect on the City of having to
3 provide additional services hypothetically if the customers had
4 problems with bills.Mr. Keene did not ask any questions about
5 that. He asked about the number of additional customers who
6 would be delinquent with PGW bills.

7 This witness isn't here for that. They are trying
8 to get testimony through Ms. Davis who is not aware of all of
9 the information.It's inappropriate. She did not testify to
10 this. I don't understand why these questions were not asked of
11 other witnesses who could provide complete answers. I don't
12 even know if those numbers are still true. I am not sure if
13 they were true when they were provided.

14 MR. KEENE: Your Honor, Mr. Clearfield said that
15 Ms. Davis is here to testify that the City cannot grant back 18
16 million dollars because it would result in cutting other social
17 programs and other City social programs. All we are trying to
18 establish here, if rates go too high it creates additional costs
19 for the City, additional social costs.

20 MR. CLEARFIELD: You didn't. . .

21 MR. KEENE: I will ask the question if
22 Mr. Clearfield is patient and lets me wrap this up.

23 JUDGE FORDHAM: Can you ask that question without
24 other questions related to the delinquencies? This witness is
25 from the City,I'm not sure she's in a position to answer that.

1 MR. KEENE: Well she testified in the Gas
2 Commission proceedings the City had done an estimate of how many
3 additional families would fall into arrearages based upon the
4 increase that was requested in that proceeding, last August.

5 JUDGE FORDHAM: We don't have anything . . .

6 MR. KEENE: I'm asking to see whether they have
7 looked at that and the impact it will have on social costs for
8 the City now.

9 JUDGE FORDHAM: She didn't testify in her rebuttal
10 testimony about that same type of testimony that she gave during
11 the Gas Commission proceeding, therefore, that is outside of the
12 scope. However, if you would like to ask her about the impact
13 on the City or the social programs, whether taxpayers, even rate
14 payers, I will allow that.

15 BY MR. KEENE:

16 Q. Ms. Davis, would you agree that families that fall behind
17 in payments of their utilities are at risk for being terminated?

18 MR. CLEARFIELD: Objection. She is not qualified
19 to testify on these issues, Your Honor. This is completely
20 outside the scope of testimony.

21 JUDGE FORDHAM: Let's go off the record.

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

23 JUDGE FORDHAM: We're back on the record.

24 BY MR. KEENE:

25 Q. Ms. Davis, has the City done any studies about the

1 additional social costs that it may incur, if PGW's rates are
2 set at a level which results in additional families falling into
3 arrearages or being terminated?

4 A. No.

5 MR. KEENE: That's all I have, Your Honor.

6 JUDGE FORDHAM: Any other party have anything?

7 Any redirect?

8 MR. CLEARFIELD: May I have a moment to. . .

9 JUDGE FORDHAM: Yes.

10 MR. CLEARFIELD: I have no redirect.

11 JUDGE FORDHAM: I have one question before we
12 leave Ms. Davis. On page three of your testimony, you talked
13 about it before, the City paying the salary of Mr. Kischichand.

14 THE WITNESS: Yes.

15 JUDGE FORDHAM: How long will the City pay that
16 salary?

17 THE WITNESS: As long as he is assigned to PGW or
18 until he goes back to his other job. We will continue until he
19 no longer is there.

20 MR. HOLLAND: Your Honor, if I can elaborate, I
21 think the interim settlement calls for new management at least
22 to be hired or appointed by about September 31st. So that is
23 one gauge.

24 JUDGE FORDHAM: I just wanted to make sure it was
25 not the end of either PGW's fiscal year or City's fiscal year.

1 So it will be past that time?

2 MR. HOLLAND: Yes.

3 JUDGE FORDHAM: Thank you, Ms. Davis.

4 THE WITNESS: Thank you.

5 MR. CLEARFIELD: I do not see Mr. Knudsen in the
6 courtroom. Your Honor, we would like to move into evidence
7 PGW'S Statement 7.0 in the company's exhibit.

8 JUDGE FORDHAM: Let's go off the record a minute.

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

10 JUDGE FORDHAM: We're back on the record. There
11 has been a motion to admit PGW Statement 7.0. Any objections?
12 Hearing none, it's admitted.

13 (Whereupon, statement marked for identification as
14 PGW Statement 7.0 was received into evidence.)

15 JUDGE FORDHAM: We have OCA witness, Mr. Lelash.
16 Please raise your right hand.

17 RICHARD W. LELASH,
18 having been duly sworn, testified as follows:

19 DIRECT TESTIMONY

20 JUDGE FORDHAM: You may be seated. Would you
21 state your name and business address for the record, please
22 spell your last name.

23 THE WITNESS: Yes. My name is Richard W. Lelash.
24 My business address is 1870 Acre Road in Reading, Connecticut.

25 JUDGE FORDHAM: Please spell your last name.

1 THE WITNESS: It's L-E-L-A-S-H.

2 JUDGE FORDHAM: Thank you. You may proceed,
3 Mr. Keene.

4 MR. KEENE: Thank you, Your Honor. Your Honor,
5 at this time I would like to have marked for identification,
6 OCA Statement Number One, which is the direct testimony of
7 Richard W. Lelash, on behalf of the Officer of Consumer
8 Advocate, and attached thereto are Schedules 1 through 17, and
9 an appendix of Mr. Lelash's regulatory testimonies from 1996 to
10 the present.

11 I would also like to have marked for identification,
12 OCA Statement Number 1-S, which is the surrebuttal testimony of
13 Richard W. Lelash on behalf of the Officer of Consumer Advocate,
14 and attached there are Schedules One and Two.

15 And pursuant to stipulation Mr. Lelash is prepared
16 to be crossed.

17 JUDGE FORDHAM: The documents that were mentioned
18 by Mr. Keene are so marked.

19 (Whereupon, OCA Statement marked Exhibit 1 for
20 identification.)

21 (Whereupon, OCA Statement marked Exhibit 1-S for
22 identification.)

23 JUDGE FORDHAM: Mr. Clearfield.

24 MR. CLEARFIELD: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. CLEARFIELD:

2 Q. Good morning, Mr. Lelash.

3 A. Good morning, Mr. Clearfield.

4 Q. Let's see if we can start off determining whether
5 there is some common ground between the company and your
6 recommendations. You agree, don't you, that there would be
7 serious negative consequences if PGW were to become in technical
8 default of its bond covenant?

9 A. Yes.

10 Q. You reviewed Ms. Bisgaier's testimony?

11 A. Yes.

12 Q. And she indicates that a technical default would result
13 in a downgrading of PGW's bonds to below investment rate status,
14 you don't disagree with that, do you?

15 A. Neither she nor I would know as a fact. But certainly
16 that would be logical indication.

17 Q. And that would have serious consequences to PGW's ability
18 to continue to issue bounds; is that fair?

19 A. PGW and for that matter the City as well.

20 Q. You also agree that the PUC should set the rates for PGW,
21 so that PGW has a reasonable assurance of a satisfying its bond
22 covenants?

23 A. Subject to things that were mentioned in my testimony,
24 yes, that's correct.

25 Q. Well you want to make sure they satisfy the bond

1 covenant, correct?

2 A. Well there is an issue, Mr. Clearfield, on how those
3 requirements are to be satisfied as far as who pays, but yes.

4 Q. The Commission should feel comfortable that the bond
5 covenants are going to be satisfied, from whatever sources. . .

6 A. That's correct.

7 Q. I think we said that if PGW was not able to maintain its
8 line of credit that backs up its commercial paper it would be
9 very serious consequences for both the company and its
10 customers, wouldn't you agree to that?

11 A. Yes.

12 Q. Similarly if PGW was not able to issue long-term debt, it
13 would be very serious questions for both the company and the
14 customers?

15 A. Yes.

16 Q. As a general matter, Mr. Lelash, all companies have a
17 need for cash working capital in order to have the cash to pay
18 other bills when they come due, don't they?

19 A. Yes.

20 Q. In fact, you testified in thousands of rate cases, on
21 allowance for cash working capital in company's rate base is a
22 common claim for an investor owned utility, right?

23 A. Yes.

24 Q. They would receive a return on that cash working capital
25 on the rate?

1 A. The cost of that working capital is incorporated into the
2 rate.

3 Q. You are not disputing that PGW has a cash working capital
4 need, if I understand your testimony, you are disputing where
5 the cash working capital should come from, is that a fair
6 characterization of your testimony?

7 A. Well we seem to be disputing both the amount and where it
8 comes from, but yes.

9 Q. Well you are not saying that they don't have a need?

10 A. No, it's clearly cash requirement for the company. The
11 quantification is perhaps at issue as well.

12 Q. Again, I believe you agree, don't you, that at least with
13 PGW, it has a need for liquidity or cash at the end of its
14 fiscal year in order to have sufficient cash to pay its short
15 term obligations, debt service, that come due in the next
16 several months after the end of the fiscal year, leading up to
17 the big January first debt service payment, that it has? Would
18 that be fair?

19 A. PGW would have an ongoing need for cash working capital
20 continuous.

21 Q. But doesn't it have a need to have a positive cash
22 working capital, I am not asking you to agree to a particular
23 amount, at the end of its fiscal year, in order to have enough
24 to pay its obligations in the next several months after that
25 fiscal year?

1 A. I think my answer I said yes, to that because it has a
2 continuing need, which of necessity would include year end.

3 Q. That's fair. If you want to tell me how I can interpret
4 your answer next time to get to yes, I would appreciate that.
5 But in terms of PGW's need for cash at the end of the year, and
6 would you agree that its need for cash working capital is
7 affected by the level of gas costs it incurs?

8 A. Yes.

9 Q. Again, just as a general matter, you understand that PGW
10 has access to GCR filing or 1307F mechanism that changes gas
11 costs on an ongoing basis to reflect its actual costs, don't
12 you?

13 A. Yes.

14 Q. That does not take away the cash working capital affect
15 of increased gas cost on the company, does it?

16 A. Well indirectly it does, if the GCR is readjusted upward
17 and the rates are collected for that gas, that's an improvement
18 in the cash position. So it's a balance, the costs obviously,
19 if gas costs go up, the company pays more in cash out. But by
20 the same token, with some lag on the billing basis you should
21 hopefully get it back.

22 Q. So there is a lag that they create cash working capital?

23 A. Yes.

24 Q. In fact in September, which is the period of time that
25 PGW's GCR or 1307F begins, even if it sets a GCR at a projected

1 level for gas costs for the next year, it's not going to start
2 collecting those increased amounts until it gets into the winter
3 heating season when it actually starts billing customers for the
4 majority of its usage, isn't that right?

5 A. The impacts of gas costs changes would be felt most
6 severely during winter because of the volume of gas.

7 Q. So the gas costs have gone up, they are collecting based
8 on MCF's during September, October, November, where usage and
9 sales are low, correct?

10 A. Lower.

11 Q. Lower. They are making gas costs payments at these
12 higher levels, which are not fully reflected in the GCR, so it
13 creates a cash working capital need, doesn't it?

14 A. There is no question that the company's cash working
15 capital requirements go up as the cost of gas goes up.

16 Q. Maybe I don't need to make this parenthetical, but some
17 of these things while they are very familiar to you and I, they
18 are not as familiar to the Commission. I just want to make sure
19 they are clear on the record.

20 A. Okay.

21 Q. Now with respect to PGW's cash needs I am right, aren't
22 I, in your original testimony you never provided a monthly cash
23 flow statement for FY, fiscal year 2001, where you compared
24 month by month the monthly disbursements and receipts of revenue
25 for PGW, did you?

1 A. No, I did not.

2 Q. And in your surrebuttal testimony you indicated that you
3 did not need to because you looked at Mr. Bogdonavage's estimate
4 -- there was an estimate of I guess it was five months actual,
5 seven months projected at the time, which showed a 37 million
6 dollar end of year cash balance. Do you remember that testimony?

7 A. Well there were several during that period. I think in
8 February the number was 37, one. Then I believe it was updated
9 in March, it was 34, three or four.

10 Q. In fact, the 34, three, rounded, that's shown on JRB,
11 two, page one?

12 A. I believe that's correct.

13 Q. If you want to get it out you can. But the questions are
14 going to be more general.

15 A. Do you have a specific reference?

16 Q. JRB-2, schedule attached, page one. It's the second
17 column to the left. I'm sorry, that's the wrong . . .

18 A. I figured I needed my glasses.

19 Q. I was so sure I had the right one, then I provided the
20 wrong one. It has the similar number, but that's not the
21 correct column. I apologize. It's JRB, page two, the third
22 column on the left.

23 A. Yes, that has ending cash of 30, well depending on your
24 assumptions.

25 Q. Thirty-four million?

1 A. Thirty-four is under the 18 million.

2 Q. Well let's just stick with how he has presented it.
3 That's the basis on which you concluded that the company had
4 adequate cash, right?

5 A. Well there were several other factors I considered. But
6 34 million is almost identical to the number that Mr. Knudsen
7 stated was end of period requirement. And that 34 million is
8 predicated on a bond flotation of 100 million. My understanding
9 is that the bond flotation will be somewhat higher.

10 So it was with reliance on the 34, understanding
11 that that moves, but also with the potential of additional
12 funding from the bonding, that made me draw the conclusion for
13 the fiscal year 2001, the cash would be adequate.

14 Q. You were not here for Mr. Bogdonavage's rejoinder
15 testimony earlier this week, were you?

16 A. No, I was not.

17 Q. Did you receive a report on that testimony?

18 A. Not on any specifics.

19 Q. Maybe we could do it this way. Would you accept subject
20 to check that Mr. Bogdonavage indicated that 34 million dollars
21 was influenced by the fact that it included a full 45 million
22 city loan?

23 A. Yes, the 34 million that you referenced does indeed take
24 into account the provision of the City loan.

25 Q. Would you accept, subject to check, that he testified

1 that it also includes the full amount available from the capital
2 funds, if you will, the ability to use the funds from the
3 issuance of new debt to fund operations or to reimburse PGW
4 for previously funded capital improvement at the amount of 24
5 million dollars?

6 A. His documentation for cash flows did not show that. But
7 I will accept that representation.

8 Q. Finally, would you accept subject to check that he also
9 testified that 34 million dollars includes the affect of
10 deferring certain gas purchases that the PUC authorized from
11 this fiscal year, that is the fiscal year ending August 2001
12 until the next fiscal year, about ten million dollars?

13 A. I actually think the number is a little more than that.
14 But, yes, I understand that it does incorporate a deferral of a
15 certain amount of gas purchases.

16 Q. All of those items are all one-time events, aren't they,
17 they are not the kind of normal things that you would expect to
18 see on a normalized projected basis?

19 A. Well as you are aware my testimony is that perhaps some
20 of those elements should be ongoing.

21 Q. So the only way we could include the 45 million as an
22 ongoing source of funds is if somehow the ordinance changed and
23 the City decided not to require the pay back of the 45 million
24 dollars, is that right?

25 A. Either through the mechanism of extending the 45 million

1 or through potentially other measures.

2 Q. But from a simple standpoint, that's a one-time event,
3 the 45 million loan is not something that the company has
4 regularly received?

5 A. No, as structured that was a one-time event.

6 Q. With respect to the money from the bond fund, if we would
7 look into the future to determine whether that kind of funding
8 will be available you would have to assume another bond issuance
9 at the end of the next year, wouldn't we, to be able to say that
10 that was a normal source of cash for the company?

11 A. Well given recent experience with the company, new bond
12 issuances are indeed relatively routine for operation.

13 Q. So the answer would be, you would agree that it would not
14 be normal unless -- in your view bond issuances on a yearly
15 basis is something you can expect for PGW?

16 A. Well hopefully not in long term, but certainly during the
17 past several years the company has relied on external bond
18 financing for substantial amount of its capital requirement.

19 Q. Well we all agree that that is not a good way to run the
20 company, is it?

21 A. That is not a good way to run the company.

22 Q. Do you know when in fact at this point in the company's
23 present five-year plan it is anticipating issuing another bond
24 to fund capital improvements?

25 A. I'd first ask for a clarification what five-year plan?

1 Q. I will strike that part. Do you know when they are
2 presently planning or anticipating that they will have to issue
3 another long-term bond?

4 A. I believe there was some discussion, I don't remember
5 the source, that there would be another bond potentially, I
6 believe around 18 months.

7 Q. So it would not be until, it would not be another bond
8 issuance at the end of fiscal year 2002, would there, under the
9 company's present plan?

10 A. Mr. Clearfield, I really can't tell you. That was just a
11 recollection on my part. I don't really know specifically what
12 the company's plans are.

13 Q. But if we take out the bond issuance just for the sake of
14 argument, you take out the City's loans, you take out the 11
15 million, this 34 million dollar positive, becomes considerably
16 negative number?

17 A. It would certainly be less.

18 Q. Now with respect to 12 months after the end of this FY
19 2001, you did not do any analysis of the level of cash that the
20 company was projecting at the end of fiscal year 2002, did you?

21 A. At the time that I prepared my testimony the company did
22 not have a forecast for 2002.

23 Q. Would that be no, you did not do that?

24 A. No, I did not analyze anything. As I stated in my
25 testimony I thought that the relevant time period for setting

1 rates in this proceeding was 12 to 18 months.

2 Q. I understand your position. But for the sake of
3 hypothetically maybe the Commission or the Administrative Law
4 Judge would like to know whether the company will be able to
5 continue to provide service at the end of 2002. So, you recall
6 that Mr. Bogdonavage very helpfully did present a schedule
7 showing the results of your recommendations on cash at the end
8 of 2002?

9 A. I believe that popped up here in the surrebuttal stage.
10 I would caution all of the people you are seeking to have look
11 at that that is extremely speculative. By nature of the time
12 interval that's involved and by nature of the uncertainty on the
13 company's collections, the uncertainty on the bonding status,
14 the uncertainty on its bad debt, it's very, very difficult, and
15 I would suggest very strongly, not appropriate to look that far
16 out.

17 I can understand the company's concerns for the
18 end of fiscal year and perhaps for several months thereafter.
19 But our goal here I certainly believe is to set rates based on
20 fiscal year 2001.

21 Q. Mr. Lelash, if we have an analysis that shows that
22 we are going to be in a serious negative cash position at the
23 end of fiscal year 2002, don't you believe that that is a
24 piece of relevant information that the Commission should
25 consider?

1 A. Mr. Clearfield, I don't wish to become argumentative
2 with you. But the company stated that they would be in bankrupt
3 position or physical crisis last fall, and we are now present
4 after an incredible number of very adverse affects and the
5 company is okay, it's stable.

6 So I am suggesting to you that I think that
7 looking out as the company has done, 18, 24 months out until the
8 end of fiscal year 2002, is just not helpful to the process of
9 setting rates in this proceeding.

10 Q. You would agree that the analysis that Mr. Bogdonavage
11 put in his rebuttal shows under your recommendation the company
12 would have a negative 32 million dollar cash balance at the end
13 of fiscal year 2002, which is August 31st, 2002, right? That he
14 used the same projection technique and forecasting methodology
15 that he used for fiscal year 2001 test year, hasn't he?

16 A. Well I was hoping in the broad sense to avoid. I do not
17 agree with the forecast that has been projected for 2002.

18 Q. Is that because of the gas costs?

19 A. Among other things, but certainly the gas costs, with the
20 addition of 106 million dollars of additional expenditures.
21 It's not even a question I believe it to be wrong, it is wrong.
22 It is not correct. And it is not a valid assumption.

23 Q. You do agree that Mr. Bogdonavage used Mr. White's
24 projection of gas costs, that Mr. White has used for his
25 recently filed, or soon to be filed GCR/1307F claim, don't you?

1 A. That was the representation made in discussing the
2 projection.

3 Q. Well you don't have any reason to dispute that
4 representation, do you?

5 A. I haven't seen it. I just don't know.

6 Q. Well would you accept subject to check the same
7 projections were used in both cases?

8 A. Well you implied by your question that it has not been
9 filed yet. Has it been filed?

10 Q. It's going to be filed on June first. It was prefiled
11 with the Commission. We provided all of those, yes. But
12 technically it gets filed on June first. But there is a 30 day
13 prefiling involved.

14 A. I'm aware of that.

15 Q. That's why I was . . .

16 A. It just has not been formally filed. I understand the
17 company's representations that when it files its GCR filing,
18 that it will contain the numbers that are reflected in the
19 company's projections.

20 Q. They have used the DRI, Standard and Poors DRI forecast
21 to come up with those numbers, right?

22 A. It's my understanding that Mr. White predicated it on
23 what we called DRI numbers, which are the gas forecasts for gas
24 available into the pipeline in the producing area. That's my
25 understanding of what underlies the forecasts.

1 Q. These are a couple of confirming questions. That DRI
2 forecast is the same forecasting methodology that the company
3 used in its last DCR, the first DCR that it filed with the PUC,
4 isn't it?

5 A. The company has typically forecasted based on the DRI,
6 and the DRI forecast has typically been changed before it has
7 been finalized.

8 Q. Is that a yes?

9 A. The DRI does not establish gas costs. It is the basis on
10 which the company files and frequently modified for updated
11 information, as I suggested to you would be very necessary now,
12 because Mr. White's forecast is very misleading as to the level
13 of gas costs.

14 Q. Mr. Lelash, I am just trying to confirm or establish on
15 the record that the DRI forecasting method that Mr. White used
16 in the present, 1307, is also the one which he used in the prior
17 case?

18 A. I believe the transcript will show that I already
19 answered that and said, yes.

20 Q. And you testified in the prior case?

21 A. Yes.

22 Q. Did you dispute the use of the DRI forecast as the basis
23 for coming up with the initial gas prices that were used for
24 that GCR filing, if you recall?

25 A. I have no problem, I have not stated a problem. Indeed I

1 believe if you would check the historical records, I believe I
2 was involved with the company, and I suggested the DRI as a
3 standard to utilize. But that does not necessarily mean that
4 the answer is correct. The DRI itself, the DRI index Mr. White
5 used, has been reduced downward by the company, by Standard and
6 Poors, subsequent to his use of it.

7 It is now considerably lower. Even the forecast
8 he used has now been officially lowered by DRI. Other forecasts
9 are well below it and the strip is well below it. The answer
10 is, while I appreciate and say that his methodology in doing
11 this is compatible with what has been done in the past, already
12 since that has been prepared, evidence is very strong that that
13 overstates gas prices.

14 Q. Your view is we should not be concerned about the cash
15 flow results that Mr. Bogdonavage showed for the end of fiscal
16 year 2002 because we can't have confidence that that is actually
17 going to be the company's gas costs during that period, because
18 it's a forecast it's going to be higher and it's going to be
19 lower?

20 A. The company forecasts increased by 106 million dollars.
21 I am going to suggest to you, will continue to suggest to you
22 that that is grossly overstated. So therefore making a
23 determination to say we are going to end up negative 34 million
24 in cash is an invalid statement because the underlying
25 assumption is incorrect.

1 Q. Well Mr. Lelash, did you make a cash flow analysis using
2 the company's original forecast that was put into, that they
3 submitted on January fifth for this fiscal year 2002 period?

4 A. No, I relied on the cash flows that were prepared by the
5 company.

6 Q. You did not dispute that level of gas costs that was
7 filed January fifth, when we made our initial filings, did you?

8 A. No, I did not.

9 MR. CLEARFIELD: Your Honor, can I have marked
10 for identification a three-page document which we have premarked
11 as PGW Cross-examination Exhibit One.

12 JUDGE FORDHAM: Do you want to put Mr. Lelash's
13 name in here?

14 MR. CLEARFIELD: If you would like, that's fine.

15 JUDGE FORDHAM: It will be PGW Lelash Cross-exam
16 Exhibit One.

17 (Whereupon, document marked PGW Lelash CE-1 for
18 identification.)

19 MR. KEENE: I would like a clarification of what
20 this is and where it came from?

21 MR. CLEARFIELD: I was going to try to do that
22 through Mr. Lelash.

23 JUDGE FORDHAM: Since this has just been given to
24 counsel. . .

25 MR. CLEARFIELD: What we have provided is an

1 analysis of Mr. Lelash's revenue requirement recommendations
2 displayed for the fiscal year 2002, with the original gas cost
3 projections, original FY 2001 projections that Mr. Bogdonavage
4 submitted in his original filing and that were contained in
5 volume two of his supporting information. That's the first
6 sheet. The second and third sheet have slight variations in
7 terms of the assumptions.

8 I would like to show Mr. Lelash and also ask him
9 some questions about, to show our projections, projections are
10 made exactly the same way as Mr. Bogdonavage's cash flow
11 statements that were put in the original case and also put into
12 his rebuttal testimony. As far as I know, I think in response
13 to questions this morning, Mr. Lelash says he does not take
14 issue with in terms of methodology. Obviously there are issues
15 about the inputs.

16 MR. KEENE: Your Honor, I am going to object. I
17 think this is completely unfair. We just saw this schedule.
18 Now they had an opportunity to put this in rebuttal if they
19 wanted to do it. They also had an opportunity to do rejoinder
20 this week. They have done it.

21 For them to come in on the last day of the hearing
22 while they are crossing our witness and throw a schedule in
23 front of him and expect him to answer questions is completely
24 unfair. It's too late. They had an opportunity to do this.
25 They did not.

1 MR. CLEARFIELD: Your Honor, this is standard
2 cross-examination. We have a right to confront the witness
3 based upon -- with respect to statements that he made. I asked
4 him whether he considered the cash affects of his recommendation
5 at the end of fiscal year 2002. He said no, because he was
6 concerned about the gas costs projections.

7 This schedule shows what happens if you put the
8 old gas cost projections in, the ones that he never took issue
9 with. And we have a right to ask him about that and to show
10 that the issue that he raised and to explore whether the issue
11 that he raised in terms of the reason why he was not concerned
12 about those cash projections is a valid issue or not.

13 It's standard cross-examination, Your Honor.

14 MR. KEENE: It's not standard to present a new
15 schedule this late in the proceeding. We did not have a chance
16 to do any discovery on it. I have not even had a chance to look
17 at it but for a minute. I don't think that is fair. They had
18 Mr. White do rejoinder about Mr. Lelash's testimony about gas
19 prices coming down. Mr. Bogdonavage has had an opportunity to
20 do rejoinder as well to Mr. Lelash's surrebuttal.

21 So the purpose of this is to cross Mr. Lelash on
22 his surrebuttal and on his direct testimony. It's not an
23 opportunity for the company to put in additional schedules this
24 late in the game. It's just not fair, Your Honor.

25 MR. CLEARFIELD: Your Honor, I asked Mr. Lelash

1 questions about his position about cash flow at the end of 2002
2 during his cross-examination. He answered he was not concerned
3 about that. I'm not trying to mischaracterize his testimony,
4 but for among other reasons that he disputed the accuracy of the
5 gas cost projections that Mr. White put in and Mr. Bogdonavage
6 relied on in his rebuttal.

7 This schedule shows that when you change the gas
8 costs projection and you go back to the original gas cost
9 projections that Mr. Lelash never took issue with. It shows
10 what happens using the same methodology at the end of fiscal
11 year 2002.

12 I want to ask him whether that's a concern to him
13 or not. That's perfectly valid cross-examination.

14 JUDGE FORDHAM: I guess one of the problems we're
15 having with anything to do with all of this, August 31, 2002, is
16 the question as to whether that is relevant or not.

17 MR. CLEARFIELD: I understand that is the issue
18 that the other parties want to take. But our position is that
19 the cash flow method requires that we examine what the actual
20 cash flows are going to be for the company during the period of
21 time that the rates are going to be in affect. I understand
22 that is argument. We are going to have to put that in our
23 brief. If that is the case, if we do have to be concerned with
24 what the company's cash position is going to be in this period,
25 or at least a year out, then this is relevant.

1 Now if the Commission decides we are not going to
2 look at this, we're only going to look at FY 2001, then so be
3 it. We will show why our rate increase is justified on that
4 basis. But this is to explore that issue.

5 MR. KEENE: Your Honor, if that's their case they
6 should have put it in their direct case. In fact, they tried to
7 do it in their rejoinder testimony and their rebuttal case. We
8 had cross of everybody on those issues. This is just an attempt
9 to introduce another schedule late in the game to bolster that
10 case. They had the chance and they didn't.

11 You know 2002, they haven't even filed their
12 operating budget with the Gas Commission for this year. This
13 is all speculation.

14 MR. CLEARFIELD: Your Honor, that's argument.

15 MR. KEENE: We can deal with that in the briefs.

16 MR. CLEARFIELD: This is . . .

17 JUDGE FORDHAM: Because this is relating to August
18 31st, fiscal year ending August 31st, 2002, also because it has
19 been submitted to the witness, and this is the last day of the
20 hearing, during his cross-examination, I will not allow any
21 testimony on this.

22 BY MR. CLEARFIELD:

23 Q. Have you made any analysis of the cash affects on the
24 company at the end of 2002 if you use the original gas costs
25 projection the company submitted in January, Mr. Lelash?

1 Did you submit any analysis of that?

2 A. No.

3 Q. So you don't know whether the company will have enough
4 cash or not enough cash to pay its bill at that period?

5 A. That is correct.

6 MR. CLEARFIELD: Your Honor, I have another cross-
7 examination exhibit which we first premarked as Exhibit One and
8 now is changed to Exhibit Two. I suppose we should keep it
9 as. . .

10 JUDGE FORDHAM: Yes.

11 MR. CLEARFIELD: This is several questions and
12 answers that Mr. Lelash provided in his discovery. I would like
13 to have it marked as PGW cross-examination Lelash Exhibit number
14 Two.

15 JUDGE FORDHAM: Shall be so marked.

16 (Whereupon, document marked PGW Lelash Exhibit
17 CE-2 for identification.)

18 BY MR. CLEARFIELD:

19 Q. Before I get to that though, let's assume, Mr. Lelash,
20 for the sake of argument that Mr. Bogdonavage is right and gas
21 costs are as he projected them and as the company has reflected
22 them in the GCR, and your recommendation produces a negative 32
23 million dollar balance at the end of fiscal year 2002. Where
24 does the company get that money?

25 A. Where do they get what money?

1 Q. You agree if they have a negative 32 million dollar
2 balance they will have a whole set of obligations that they will
3 not be able to pay when they come due in the months following
4 August 31st, 2002, won't they?

5 A. Well given your hypothetical, which I would state I don't
6 necessarily agree with obviously, there are other sources, such
7 as funding from the City. There are potentially incremental
8 sources as I stated, the bond appears to be slated to be issued
9 higher than 100 million, which is an assumption in the baseline
10 case. The company, although there is a question on it might
11 very well do better on its collections.

12 They have a substantial, I believe a 200 million
13 plus receivable outstanding and conceivably the company will do
14 better than what it anticipates and could realize funds from
15 liquidating those receivables into receiving cash.

16 So there are a number of things that could, in
17 your hypothetical, balance what you claim to be a 32 million
18 dollar deficiency.

19 Q. Were you aware that Mr. Bogdonavage testified that the
20 140 million dollars, the additional amount cannot be used for
21 capital fund, that the additional amount, between 110 and 140 is
22 for re-financing of existing obligations or part of existing
23 obligations?

24 A. I was not aware of that, but I will take your
25 representation.

1 Q. If that's true, and again the record will speak for
2 itself, that would not be a source of funding for the company
3 to make up this huge deficit?

4 A. If in fact those funds are encumbered then they would not
5 be available, but that does not speak to as I say possibility of
6 generation of additional cash from receivables or from funding
7 from the City.

8 Q. Let's take each one. Essentially you have not disputed
9 the company's claim for accounts receivable or bad debt in the
10 test year, in fact, you recommended that it be increased, didn't
11 you?

12 A. I went from what was, as I understand it, about a 65
13 million dollar bad debt allowance to the company's revised
14 schedule or revised forecast which had 72.

15 Q. That's an increase?

16 A. That would be an increase, yes.

17 Q. So really what you are saying is that if the company has
18 additional cash it should go to the City?

19 A. No, what I am suggesting is since I have made in my 21
20 million dollar recommendation allowance for 72, the company has
21 a fairly good shot at beating that. If they beat that they will
22 free up cash.

23 Q. But you are not making an adjustment to anticipate
24 that they will beat that, are you, in your testimony or in the
25 adjustments that you made in the case? In fact, you suggested

1 that it would be higher than what the company, even what the
2 company . . .

3 A. Well what the company filed, not what the company was
4 currently projecting. My understanding is that Mr. Knudsen has
5 brought to the record good news relative to collections. My
6 understanding is that, this was represented to me, I don't vouch
7 it, but I think statements have been made previously that the
8 company is now collecting at better than anticipated levels.

9 Q. That wasn't the testimony, Mr. Lelash. The testimony was
10 that with the assumptions of bad debt expense that they already
11 made their collection projections were hitting target. Does
12 that change your view?

13 A. You're saying, assuming a 72 million dollar writeoff?

14 Q. Yes.

15 A. Having taken that off the table, if you will . . .

16 Q. It's hitting the target on that basis?

17 A. Right.

18 Q. That's not cause for celebration, is it?

19 A. Well it's my understanding that the company asserts that
20 its billing systems are back on line. I know that remedial
21 action is being taken in the Call Center. There is an attempt
22 to improve the procedures that are used there, and one would
23 hope with those factors in place that there may be improvement.

24 Q. Well let's try to put this in perspective, Mr. Lelash.
25 If in fact the company is right, and it needs 35 to 40 million

1 dollars positive at the end of the fiscal year, take fiscal year
2 2001, and they are at zero, or they are at a negative point,
3 point in terms of cash at the end of the fiscal year, and as we
4 talked about that if we remove the non-normal items, it would
5 have a negative balance at the end of this fiscal year, fiscal
6 year, 2001.

7 That's a substantial chunk of dollars, that's 30
8 to 40 million dollars that they would have to obtain somewhere,
9 if your proposed rate increase is allowed. Isn't the only real
10 source that they will have for that be the City or major source
11 for that?

12 A. Let me reiterate that we are deep into one of your
13 hypotheticals here.

14 Q. I know you always enjoy my hypotheticals.

15 A. I certainly like to remind everybody that we are in the
16 middle of this hypothetical. You are asking to quantify in a
17 time period out in the future.

18 Q. No, I'm taking it back to the end of fiscal year 2001.
19 If in fact we are right, those dollars will be negative, if you
20 took them on a normalized basis and the company needed to get a
21 substantial amount of dollars, on a positive basis, the majority
22 of those dollars would have to come from the City if they
23 couldn't come from rates?

24 A. I disagree. What you are selectively doing in your
25 hypothetical is assuming bad news, which is understandable

1 in a rate proceeding. But there are other factors. If you have
2 a free form hypothetical here, let's assume that the company's
3 bad debts went back to its historical levels.

4 Q. How much could that produce?

5 A. I have not done a calculation, but my guess is perhaps
6 20, 25 million dollars.

7 Q. If our cash needs is represented by the difference
8 between our claim and your recommendations, 65 versus 21, then
9 we're talking about close to 45 million dollars that we would
10 need to meet the targets in the financial goals that we set
11 forth in our case . . .

12 A. Absolutely not, because the 65 requirement by the
13 company and my 21, five recommendation will not affect the
14 current fiscal year at all.

15 Q. On an ongoing basis though . . .

16 A. That was not your question. You had said to me that the
17 hypothetical was talking about using gas cost rates, and what
18 the affect would be at the end of the current fiscal year. Now
19 are we back to talking about fiscal year 2002 again? I thought
20 your hypothetical was predicated on what would happen in fiscal
21 year 2001.

22 Q. Well we can do it either way.

23 A. I am asking you to tell me which way we are doing it
24 because you seem to be jumping back and forth.

25 Q. Well let's use fiscal year 2001, and let's take out all

1 the non-normal items, so that the company is in a significant
2 negative position at the end of fiscal year 2001, if you remove
3 the City loan, and assume that that will have to be paid back,
4 is not available, remove the capital fund because that is not
5 going to be available on an ongoing basis, and you make an
6 adjustment for 10 to 15 million dollars for gas costs that would
7 be deferred into the future period.

8 So if they have that kind of negative balance,
9 using a normalized kind of hypothetical analysis of cash flow,
10 they have a significant hole, if they only receive 21.5 million
11 dollars. Aren't they going to have to look to the owner, isn't
12 the owner the only entity that will be able to come up with that
13 kind of money to put them in a position to pay their bills?

14 A. No. You have taken us into the realm of making
15 assumptions, what if's, to the existing forecast of fiscal year
16 2001. You're making hypothetical assumptions that a series of
17 bad events will happen. I could sit and give you an equally
18 optimistic or a flip side of that by making a number of
19 hypotheticals that would be favorable.

20 What I am suggest to you, is that I have not done
21 that analysis, and I will have to tell you I don't necessarily
22 believe that you have done any analysis to make the hypothetical
23 assumptions that you are giving. And I would, therefore,
24 suggest that this is a futile exercise. This is akin to saying
25 what if the Federal Government gave the City of Philadelphia a

1 100 million grant to PGW.

2 Q. Is that available?

3 A. I don't know, but it's as equally likely as a lot of the
4 hypotheticals that you're making.

5 Q. Mr. Lelash, let's try it this way. All I am trying to
6 establish, you in your testimony, testified already, that the
7 Commission, that is the PUC, should not allow cash flow and
8 working capital to be the basis for any rate relief. Do you
9 remember testifying to that?

10 A. Yes.

11 Q. If you look at your PGW Cross-examination, Lelash Exhibit
12 Two, if you look at number seven and eight that are contained in
13 there, your Answer to Interrogatories that we posed to you, look
14 at 7-B. You said that, "Mr. Lelash assumes that the company's
15 working capital will be provided from funds from operations,
16 third-party loans and loans of equity provided by the City of
17 Philadelphia." Do you see that?

18 A. Yes.

19 Q. Am I understanding that you believe to the extent that
20 the company has a cash working capital deficiency caused by your
21 recommendation, in other words, they don't have enough cash to
22 pay their bills when they come due, that you believe the City at
23 least in part, should provide that cash, either through a grant
24 back of the 18 million dollars or a loan or some other fashion?
25 Is that fair to say?

1 A. Well you have two premises, one that I believe that the
2 working capital for fiscal year 2001 is insufficient, which I do
3 not. But yes, if unforeseen events come up I am suggesting that
4 one of the considerations that the PUC should make would be the
5 potential of the City back stopping of the operations, yes.

6 Q. The City should provide assistance and not get -- so that
7 the Commission would not have to raise rates to produce the cash
8 working capital, is that right? That's what you're saying,
9 isn't it?

10 A. No.

11 Q. Okay.

12 A. Because obviously I have recommended to the PUC that it
13 give a rate increase to the company, but as to the magnitude at
14 some point in time I believe that the justification for the
15 rates does not warrant additional rate increases to the rate
16 payers, but the PUC should look to funding from several sources,
17 one of which would certainly be the City, that's correct.

18 Q. Just to clarify, you mentioned third-party loans. I
19 think you already mentioned that the commercial paper line of
20 credit is maxed out, correct?

21 A. Well the company has certainly represented that right now
22 it was maxed out at about 97 million. As I understand it, the
23 issue on renewal is unclear at this time.

24 Q. If we were to determine the cash working capital needs of
25 PGW, the way in which investor owned utilities cash working

1 capital needs are determined would you use a lead lag study or
2 some other estimation method to do that?

3 A. Lead lag is one. There are a variety of ways of
4 estimating.

5 Q. Is that one-eighth method?

6 A. Well one-eighth is not really used any more. The balance
7 sheet method is used, and lead lag is used. There are a variety
8 of ways that working capital are calculated for an investor
9 owned. I would just so thta there is no confusion on the
10 record, rate payers are asked to pay a return on the working
11 capital, they are not asked to provide the working capital.

12 Q. If we could, the one-eighth method is sort of a fast way
13 of coming up with an approximation of the cash working capital
14 that the company would need, would you agree with that?

15 A. No, the lead lag method, to my knowledge is essentially
16 not utilized.

17 Q. Lead lag, I'm sorry, did I say lead lag?

18 A. I think you said formula method.

19 Q. And you answered by lead lag. You meant the one-eighth
20 method?

21 A. The one-eighth method is generally not -- I have not
22 researched it recently, but the last time I did I would say
23 it has pretty much been discredited.

24 Q. But it has been used by the PUC in gas rate proceedings,
25 would you accept that subject to check?

1 MR. KEENE: Objection, Your Honor. He has
2 already said that this is not utilized. This is well beyond the
3 scope of his direct, his direct and surrebuttal testimony.

4 MR. CLEARFIELD: No, it's not, Your Honor, we are
5 trying -- he is indicating that the company has a cash working
6 capital need beyond his recommendations, they should get it from
7 some other source. I'm trying to determine what the size of the
8 cash working capital amount might be for this kind of company,
9 if we look to some other source. I was asking him questions in
10 a way of trying to identify that. He does not have to agree
11 that the one-eighth method is the right method to use. It's
12 just one method to make an approximation.

13 MR. KEENE: If he does not believe that it's the
14 right method then why ask him questions about it. It's just not
15 relevant.

16 JUDGE FORDHAM: There are three methods that have
17 been identified, would you accept his proposal from any one of
18 the three methods?

19 MR. CLEARFIELD: I certainly would. But the
20 problem is none of us will be able to -- I don't believe you can
21 estimate sitting here the amount of cash working capital that
22 PGW would need on any method other than the one-eighth method.

23 Could we, Mr. Lelash?

24 THE WITNESS: I don't think you could do it on
25 any of the methods.

1 BY MR. CLEARFIELD:

2 Q. Well the one-eighth method takes the total non-cash
3 operating and maintenance expenses and determines as a
4 percentage, in essence, one-twelfth of those.

5 A. Which is one of the primary reasons why I don't use that.

6 Q. But if you use that . . .

7 MR. KEENE: Objection, Your Honor, the company
8 does not use it. We're not using it in this proceeding. I
9 don't believe this is a proper line of cross-examination.

10 MR. CLEARFIELD: Your Honor, I have a right to
11 ask this witness about his recommendations. He said the cash
12 working capital should come from other sources, not from rate
13 payers, if his recommendation is insufficient. I am trying to
14 find out how much cash working capital he thinks we should get
15 from other sources.

16 JUDGE FORDHAM: If we cannot make a determination.

17 MR. CLEARFIELD: Let me try it this way.

18 JUDGE FORDHAM: Let's take a five-minute break.

19 (Whereupon, break taken for court reporter to
20 change paper.)

21 JUDGE FORDHAM: We're back on the record.

22 Mr. Clearfield.

23 BY MR. CLEARFIELD:

24 Q. Let's continue with this discussion, try it this way. You
25 have considerable experience in the utility industry, don't you?

1 A. Yes.

2 Q. You have examined hundreds of companies, their cash
3 working capital requirements; haven't you?

4 A. I have looked at cash working capital for a number -- I
5 have not done that frequently in the last let's say five years.

6 Q. But based on your preexisting experience, approximately
7 how much cash in the bank at any one time would you expect or
8 believe a company that has 800 million dollars in revenues would
9 need?

10 A. I think the easiest way, and I don't want to frustrate
11 you in your line, I would suggest that the company initially set
12 100 million dollar short-term line, which would be used for
13 working capital. So that obviously, which is the company's
14 opinion, as to a reasonable amount for working capital
15 requirements.

16 Q. Let's just take it a step forward. At this point that is
17 maxed out and the company has indicated its need for additional
18 rate increase to obtain additional working capital. So if we
19 weren't going to get it through rates, we would have to obtain
20 another 100 million dollars from some source to replace what we
21 would get from rates; isn't that fair?

22 A. No, there are a couple of premises to your question, but
23 I think at this time when you have exceedingly or you certainly
24 had exceedingly high wholesale natural gas prices there would be
25 an expectation that the company's working capital requirements

1 -- this is really almost the worst conditions that you could
2 imagine. As we back off of those very high wholesale prices I
3 believe that the company's working capital would come down and
4 the company would free up some excess, not excess, but will free
5 up some additional incremental cash.

6 Q. But isn't it your position that we have to look at fiscal
7 year 2001, the circumstances that are existing in that fiscal
8 year to determine the company's financial conditions and its
9 revenue requirements?

10 A. I am suggesting to you that hopefully, for example, this
11 summer there will be additional cash made available from
12 collections. I know the company right now given the conditions
13 is cutting back on expenditure levels. There are additional
14 ways. I am not denying to you, I have said that I believe the
15 City should step forward and during what I consider to be a
16 transitional period, should step in, and backstop the company to
17 a degree.

18 Q. Well how much would that be? I'm not trying to ask you
19 to pinpoint exactly where the other dollars would come. But
20 accounting for these other sources that you mentioned, how much
21 would the City have to contribute if the company is not going to
22 obtain its cash working capital from rates? Can you give me an
23 approximation, please?

24 A. It's extremely difficult to tell. By virtue of the fact,
25 you're suggesting to me that the company has done a projection,

1 and has a projection with a positive 34 million. You are now
2 suggesting in a hypothetical that it's zero.

3 Q. Well I am saying that Mr. Bogdonavage testified that it's
4 zero, if you would remove non-normal sources of cash.

5 A. There are, and I am not trying to be facetious, there
6 are probably 100 different elements that one would look at to
7 determine how cash flow may play out between now and the fiscal
8 year. Yes, there are bad events that can happen and yes, there
9 are some favorable events that can happen.

10 So for you to ask me, well quantify this thing,
11 look there is no way to quantify, there are pluses and minuses.
12 That's why we use the test year concept.

13 Q. Well let's do it this way, let's pull back a second and
14 try it one more way. That is without going into the specifics
15 of the test year, if the company was attempting to identify cash
16 working capital from a -- strike that. You have already said
17 100 million dollars would be roughly the amount of cash working
18 capital that you thought the company would need. You are not
19 identifying the sources, just 100 million dollars that would
20 produce enough cash so that it would not have to ask rate payers
21 to pay additional rates, to produce the cash working capital,
22 Is that fair?

23 A. No. It's a long question, too. What I said was that was
24 the company's measurements of what it believes, I am assuming,
25 extrapolating that if they had 100 million line, that probably

1 was their assumption of the requirement.

2 Q. Well the problem I have with that, Mr. Lelash, that you
3 raised it, so I thought you said that that was reasonable.

4 A. No.

5 MR. KEENE: Your Honor, that's not what he said.
6 He said that the company's short-term line of credit was 100
7 million dollars. I don't know how many ways Mr. Lelash can say that
8 he can't quantify this need for cash working capital. It seems
9 to be going nowhere.

10 JUDGE FORDHAM: Well the original question was how
11 much would PGW need, that was the eight million -- how much did
12 you . . .

13 MR. CLEARFIELD: In terms of the contribution of
14 cash working capital how much would the company --

15 JUDGE FORDHAM: You mentioned eight . . .

16 MR. CLEARFIELD: For an 800 million dollar
17 company.

18 JUDGE FORDHAM: For an 800 million dollar company.
19 And Mr. Lelash said that he believed that, he laughed first --

20 MR. CLEARFIELD: He does it a lot on my questions.

21 JUDGE FORDHAM: And then he said he believed that
22 the company thought they needed 100 million dollars. And that
23 was what he is basing his answers on.

24 MR. CLEARFIELD: Mr. Lelash, Do you accept that
25 characterization?

1 THE WITNESS: Yes.

2 BY MR. CLEARFIELD:

3 Q. And would you also agree that your testimony is that if
4 in fact that was going to be the way the company would produce
5 its cash working capital, some portion would have to come from
6 the City, in the present circumstances?

7 A. Yes. I don't want to become argumentative. Obviously I
8 have not done a study to tell you what the deficiency is. But
9 if there is a deficiency it is my testimony that the City be
10 looked to as one of the alternatives that PGW would have to
11 close the gap.

12 Q. You heard Ms. Davis' testimony this morning, were you
13 here for that?

14 A. Yes.

15 Q. She testified that the City does not have a substantial
16 sum of money to contribute to PGW unless it reduces its other
17 programs. Is that a fair characterization?

18 A. There is no question . . .

19 Q. I mean, that's what she said.

20 A. She said that the City would not have the resources to
21 provide stop gap fund. That is her testimony.

22 Q. You are not disagreeing that, in fact, if the Commission
23 were to accept your testimony it would be requiring the City to
24 make these choices about which programs to fund, to choose
25 between schools, for example, or stadiums and PGW?

1 MR. KEENE: Objection, Your Honor. If the
2 Commission accepts Mr. Lelash's testimony then they don't
3 need to go to the City.

4 MR. CLEARFIELD: Yes, they do, because they will
5 be in very big trouble if they get 21.5 . . .

6 MR. KEENE: The company's forecast, not
7 Mr. Lelash's forecast.

8 MR. CLEARFIELD: There is no forecast on
9 the planet that would allow this company to survive under
10 Mr. Lelash's . . .

11 MR. KEENE: That's not a proper question, Your
12 Honor.

13 BY MR. CLEARFIELD:

14 Q. The point that I was making, if in fact the cash working
15 capital came from the City, and the City if we accept Ms. Davis'
16 testimony that some other program would have to be reduced, you
17 are testifying that that doesn't trouble you, that it's
18 perfectly acceptable for the City to have to make those kind of
19 choices because of its obligations under the management
20 agreement of other places? Would that be fair?

21 A. We're going afield but just to state my opinion, because
22 you asked it, in a 2.8 billion dollar budget company, I am
23 confident, excuse me, the City, I am confident, could find 18
24 million dollars. There are contingencies funds within the
25 budget. We're talking such a very small percentage of it.

1 So I appreciate, and I am not in any way
2 suggesting that Ms. Davis is not giving her view of the
3 situation, that is that the finances for the City are tight.
4 But obviously the finances for PGW are potentially tighter.

5 So I believe that the City not only should, but
6 probably could come up with the 18 million -- if it is required.
7 And I am not saying that it's necessarily going to be required.
8 You are saying it is. I am not sure of that fact.

9 Q. Would you turn to your answer to request number 27 in the
10 packet. I was focusing on the answer to B. Now your 21.5
11 million dollars was calculated to allow the company absolute
12 minimum coverages allowed under its debt service coverage
13 covered, isn't that right?

14 A. Yes, that's what we are discussing.

15 Q. In this answer you indicate though that the coverages of
16 up to two times would be reasonable, assuming that I guess the
17 funds would come from other sources to make up the two times.
18 Is that a fair characterization of your answer?

19 A. No. I think the question is quite generic in nature.
20 It's suggesting what would be reasonable. I suggested the zone
21 -- I was surprised actually, I was doing subsequent reading and
22 I believe the PGC had set at the level of 1.6 to 1.9. But
23 certainly something in excess of 1.5 would be reasonable. And
24 the only thing I am saying there you have to put that reasonable
25 range into a context of what overall rates are.

1 Obviously I said numerous times, right now overall
2 rates are very high. And so I believe that a regulator would go
3 to the bottom end of the acceptable range during this transition
4 period. If gas costs were down 200 million dollars from what
5 they are today I suspect that reasonable rates could go higher
6 up in the range.

7 Q. But if we look at this two point times, two times, as a
8 reasonable range, PGW . . .

9 A. That's not my testimony. What I am telling you, it is a
10 range, given circumstances, but given the current circumstances,
11 it has to be at the low end of that range.

12 Q. Well the low end was 1.75 times, you said range of 1.75
13 times to two times, also would be reasonable. Didn't you say
14 that in your Answer to Interrogatories?

15 A. It would be reasonable as a generic answer. In the
16 current circumstances I'm suggesting, and I have very clearly
17 stated my testimony, the coverage should be at a minimal level.

18 Q. Mr. Lelash, we asked you what would a range of -- what
19 would a contingency factor in with debt service coverages be for
20 PGW. That's what the question was, and you said 1.75 two times
21 would be reasonable. Do you see that answer?

22 A. Yes.

23 MR. KEENE: Also would be reasonable.

24 BY MR. CLEARFIELD:

25 Q. Doesn't that mean that you believe that coverage level of

1 two times, assuming produced from all sources of fund, which I
2 presume you mean, you mean including the 18 million dollars,
3 would be a reasonable level of coverage for the company to
4 achieve as a result of this rate increase?

5 A. I find it hard to believe that you are trying to use this
6 when I am telling you and clarifying what I said. So let's
7 really make it so we won't have any misunderstanding. I will
8 withdraw this answer, and let me give you a new answer, which I
9 think is the same answer. But let me give it to you. A range
10 that is suggested here is within a reasonable range for the
11 company to earn.

12 In the current circumstances, as was very clearly
13 pointed out in my testimony, I stated that the PUC should set
14 rates to the minimum level of coverage because of the
15 circumstances that are extant right now.

16 Q. And that would be . . .

17 A. So now this range is not applicable. Five, ten years
18 from now, gas costs down a couple hundred million dollars,
19 further up in the range. That is my answer. I don't want you
20 to mischaracterize that, and I don't want you to refer back to
21 that. That is my answer.

22 Q. Forgive me, Mr. Lelash. I was just going by what you
23 said in your interrogatories.

24 A. I don't think what I just said is in conflict with what
25 ia stated here. But I certainly have given a clarification now.

1 Q. It's your testimony. . .

2 A. Which you don't like . . .

3 Q. . .that in this context or in this environment the
4 company should receive no contingency or cushion over and above
5 the absolute minimum coverages that it needs to meet its bond
6 coverages, for the reasons that you state?

7 A. For the next 12 to 18 months, that's correct. That is
8 what I am stating.

9 Q. In fact, if we go forward over the next 12 months, the
10 numbers that you provided in your testimony for the Commission,
11 are fully normalized numbers? In other words, the sales are all
12 based on normal weather, right?

13 A. It is my understanding, yes, they are. I am not sure
14 whether you used the 4600 or the 450. But basically, yes.

15 Q. The 45, 55 was used.

16 A. Okay.

17 Q. But it's a normal level of sales, normalized level of
18 sales?

19 A. That's my understanding.

20 Q. And if in fact in the next year, when the rates are in
21 effect the company experiences a considerably warmer than normal
22 winter it's going to receive less income than it would receive
23 under normal circumstances; isn't that right?

24 A. Less or more depending on the weather.

25 Q. I just said if it's warmer they would receive yes?

1 A. And I would say to you if it was colder, they would
2 receive more.

3 Q. That's fine. I should have expected you to add that. If
4 it is warmer and they do receive less revenue and less income,
5 they will not make the coverages that you indicated, all othe
6 things being equal?

7 A. Well I think that's an unfair assumption to take one
8 element and say if they don't fulfill this, they wouldn't do it.

9 Q. I said all other things being equal.

10 A. I think that's an unrealistic assumption.

11 Q. Well I get to make the assumptions, Mr. Lelash. This is a
12 hypothetical. Hypothetically all other things being equal, it's
13 five percent warmer than normal, you have given them absolutely
14 no contingency, no cushion, it's five percent warmer than normal
15 next year, they're going to default on their bonds, aren't they?

16 A. No.

17 Q. All other things being equal.

18 A. No.

19 Q. How would that be? There wouldn't be a technical default
20 on their bonds?

21 A. I mean we're talking about how many angels can be on the
22 head of a pin.

23 Q. That's my next question.

24 A. Let me just state it this way. If they fail to
25 make their coverages, they won't make their coverages.

1 But I don't think that's a likely event.

2 Q. Okay. If in fact you set the rates, saying there was a
3 contingency of say two times, in fact, you set the revenue
4 requirements that they would achieve at two times coverage, it
5 would be much less likely that if they had a normal than warmer
6 winter they would be at risk of technically defaulting on their
7 debt service coverage, wouldn't you agree with that?

8 A. Warmer weather and a host of other things would hurt the
9 coverage tests and would obviously put the company, would make
10 it more difficult to do it. But since we're harping on this
11 thing, I will also mention the tightness of the coverage test
12 was modified by the company itself and made easier.

13 And had the company not done the two classes of
14 debt and changed the covenant provision, they would have had far
15 more latitude when they made coverage. And this is something
16 that the company did. So obviously it wasn't terribly concerned
17 about contingencies, when it changed the formulas. Had it been
18 concerned about contingencies, they wouldn't have changed.

19 Q. Are you referring to the 1998 bond ordinance?

20 A. Yes.

21 Q. The last time I checked PGW doesn't pass ordinances, only
22 the City does. So the company didn't change the coverage, did
23 it?

24 A. Are you suggesting that PGW had no input into the
25 process?

1 Q. Mr. Lelash, it's a bond ordinance passed by City
2 Council.

3 A. Well under your clarification, I will change, the City
4 apparently did not think that the company needed contingencies.

5 Q. What you are referring to is the fact that Mr. Knudsen
6 discussed in his rebuttal that in 1998 the coverage tests for
7 bonds that are issued from 1998 forward in a sense only had to
8 be one times coverage to greatly simplify it, whereas the bonds
9 that were issued prior to 1998 had to have a full 1.5 times
10 coverage to satisfy the bond covenant; is that right?

11 A. I believe the essence of it was that in calculating the
12 new coverage tests for the new issues of one percent could be
13 assumed on the old bonds, thereby, in making the 1.5 on the new
14 bonds easier to obtain.

15 Q. So when you referred to the coverages that were set by
16 the PGC, in past years prior to 1998, they were set on the
17 stricter coverage tests, the tests that was a true 1.5 times
18 coverage, weren't they?

19 A. Yes, and apparently the City decided that was
20 unnecessary.

21 Q. But the point that I am making, you can't compare the
22 standard that the PGC set at 1.7 I think you mentioned and 1.9,
23 prior to 1998, with the current standard because they have
24 significantly changed the coverage calculations, correct?

25 A. I honestly don't -- I just recall reading that 1.6 to 1.9

1 statement. I don't know the time frame. It might have been
2 before or might have been after.

3 Q. Do you remember Mr. Knudsen's testimony that prior to the
4 change in 1998 when the bond covenant, debt service covenants
5 were calculated because they were a full 1.5 times, that in fact
6 produced enough cash working capital ordinarily for the company,
7 so that it didn't need to ask for additional allowances of cash
8 working capital. Do you remember that testimony?

9 A. Yes. By fulfilling the old standard, euphemistically
10 calling it that, the company had a far better chance to
11 accumulate retained earnings I believe that Mr. Knudsen said
12 that 20 million dollars was a quantification of what has been
13 left on the table because of that change.

14 Q. Now . . .

15 A. We were talking about the need for contingency. I would
16 say that not very long ago apparently the City decided that it
17 really didn't need a lot of contingency, because they
18 liberalized the coverage test. That's all I'm saying.

19 Q. I understand what you're saying.

20 A. Okay.

21 Q. Now that produces a need to find cash working capital
22 from other sources, in order to meet its debt service?

23 A. Well I refer to that as retroactive rate making. I know
24 you don't.

25 Q. You mentioned affordability a couple of times, page four

1 of your testimony of your surrebuttal you indicate that you
2 believe that rate payers can only afford to pay the lowest
3 possible base rate at this point?

4 A. Yes.

5 Q. In answer to request four of our interrogatories, we
6 asked you the basis for your view that customers could not
7 afford to bear any more rate increases. Am I right that you're
8 referring there to the transcript from the Public Input
9 Hearings?

10 A. Yes.

11 Q. You also mentioned bad debt, uncollectable. Beyond those
12 items that you list then I take it that you have not referenced
13 or don't know of any study that compares PGW's rate levels
14 versus the change in the cost of living in Philadelphia or any
15 other comparable comparison over time?

16 A. My basis, if you are suggesting now aside from this
17 evidence that I quoted, is there indications of PGW's rates
18 relative to others. I would just suggest that in other
19 jurisdictions where I operate, the commissions have not provided
20 the gas companies with full recovery of gas price. Because of
21 the unprecedented nature of the increase this year, there have
22 been a number of utilities that have been forced to hold their
23 gas cost level lower than would be otherwise indicated.

24 The basic reason for that, I will parenthetically
25 say, their increases would have been a lot less than what PGW

1 has actually taken. The PUCs or regulatory boards or commissions
2 in those instances have held back under a determination that the
3 rates at those levels were unreasonable to collect.

4 Q. But that doesn't have anything to do with any study
5 about the ability of present customers to pay the present rates?

6 A. Let me just say . . .

7 Q. For example . . .

8 A. Well let me just tell you how I extrapolate. I believe
9 that the demographics in Philadelphia would indicate generally
10 speaking, a lower ability to pay than in most other areas. What
11 I'm suggesting that in most other areas that I'm familiar with,
12 the commissions held back increases of gas costs on the basis
13 that they would not represent reasonable rates to the rate
14 payers.

15 Q. They deferred them?

16 A. They deferred them, yes.

17 Q. You have not done any studies to determine what portion
18 of an average family's disposable income is the PGW bill over
19 time, have you?

20 A. I have not done such a study.

21 Q. Did you review the engineering reports comparison of a
22 typical winter bill for various Pennsylvania utilities?

23 A. I was not aware that they had a study, a contemporary
24 study, so . . .

25 MR. KEENE: If we could have a minute, Your Honor.

1 MR. CLEARFIELD: If you have not reviewed it, then
2 we don't need to have the discussions.

3 THE WITNESS: Well I question whether the
4 engineering study had anything that measures the impact of the
5 rates after the large GCR increase. I just was asking for
6 clarification, did that engineering report do its study in that
7 environment?

8 MR. CLEARFIELD: Yes. What you are looking at, is
9 it B-32?

10 THE WITNESS: I have B-32 in front of me.

11 MR. KEENE: Yes, it is. B-32 of the Black and
12 Veatch study, Your Honor.

13 BY MR. CLEARFIELD:

14 Q. As Mr. Sullivan testified yesterday, that was performed
15 at the time after the GCR increase had gone into affect, all of
16 the GRC increases had gone into effect, did not include the 65
17 million dollars case rate increase, it does include the interim
18 rate.

19 A. Does it say that?

20 MR. KEENE: I don't recall that.

21 JUDGE FORDHAM: Give me one minute.

22 MR. CLEARFIELD: It includes all of those numbers,
23 that was the testimony, if we have to -- we can submit an
24 affidavit to that effect.

25 THE WITNESS: As I say, unfortunately the document

1 that you referenced me to does not have a time interval.

2 MR. CLEARFIELD: I understand.

3 BY MR. CLEARFIELD:

4 Q. Would you accept, subject to check, on the assumption
5 that that includes all of those increases that I have just
6 indicated, including the interim, it would indicate that PGW's
7 rates are relatively competitive or compare favorably with the
8 rates of the other companies in the surrounding service
9 territories, doesn't it?

10 A. Well I would suggest to you that that is not a definitive
11 answer to the question I think you are seeking, because I don't
12 the demographics of the rate payers in Philadelphia would be
13 comparable to the demographics for those people being served by
14 these companies.

15 Q. That's a fair point. In fact, at least that's one factor
16 that you would consider, the comparability of the rates?

17 A. Yes. Obviously, yes.

18 Q. You know that PGW has the largest CAP or CRP program of
19 any gas utility in Pennsylvania, 60,000 participants? Would you
20 accept that subject to check?

21 A. Columbia has a very large program as well on a per capita
22 basis. You're asking me, I wasn't trying to play coy with you,
23 and say no. I believe that on a pre capita penetration basis,
24 Columbia's, which I think is slated to go up to 30,000, may be
25 comparable.

1 But PGW certainly has one of the broadest
2 participation in the CAP program.

3 Q. And examining that comparison again, are you aware that
4 Mr. Knudsen presented a schedule that showed that at the end of
5 this base rate case, assuming that the GCR that PGW would be
6 filing would be put into affect, just at that level that in fact
7 residential customers would realize a 2.8 percent reduction in
8 their bill, even if the full rate increase was allowed?

9 A. I understand Mr. Knudsen made statements to that affect.

10 Q. Does that impact your view of the affordability of rates
11 coming out of this proceeding?

12 A. Yes.

13 Q. For rate of customers?

14 A. It's like the stock market, it's a relative thing.

15 Q. I have just one other line, that has to do with your
16 statements about prior rate making methodology. If you look at
17 question three or answer to question three in the package of the
18 Cross-examination, Exhibit Two, Mr. Lelash, we asked you if you
19 would agree that the prior rate making methodology used by the
20 PGC was set forth in Section Seven of the Management Agreement.
21 Do you see that in "A"?

22 A. Yes.

23 Q. Your answer was "It is Mr. Lelash's understanding that
24 the PGC did not establish long-term revenue requirements for
25 PGW, but rather established annual operating budget. "

1 Do you see that?

2 A. Yes.

3 Q. Do you have the exhibit that Mr. Bogdonavage put in that
4 included the '82 and '83 rate proceedings, orders of the PGC?

5 A. No.

6 MR. CLEARFIELD: Exhibit JRB Rejoinder Two,
7 Your Honor. I have a copy. Do you have a copy for him?

8 BY MR. CLEARFIELD:

9 Q. Mr. Lelash, you were not here on Tuesday. With Your
10 Honor's permission, the first several tabs are the three
11 documents that make up the 1982 rate proceeding, rate order by
12 the PGC. The last tab is the document that reflects the 1983
13 rate proceedings for the PGC. Mr. Bogdonavage testified to that
14 on a Tuesday.

15 A. Okay.

16 Q. Do you understand that?

17 A. I am with you so far.

18 Q. If you don't mind, go to the first tab, the document that
19 is marked opinion and order. It says filing date June 19, 1981.

20 A. Yes, I have that.

21 Q. Turn to page five.

22 A. Yes.

23 Q. You see the first paragraph there under discussion. Do
24 you want to read that, you can read it to yourself, then I can
25 ask you a question. Whichever way you would like to do it.

1 A. Yes, I have read it.

2 Q. Doesn't that indicate, doesn't that say in this rate
3 proceeding that PGC was bound in the first instance by the
4 PFMC Agreement in setting rates?

5 A. Yes, that's what it says.

6 Q. Would you accept, subject to check, that there is a
7 similar statement in the 1983 rate order that is attached here?

8 A. I would accept that.

9 Q. So in fact you were wrong when you said that the PGC did
10 not use Section Seven of the Management Agreement to set rates
11 for PGW in the past?

12 A. No, I'm really not wrong.

13 Q. Well we just demonstrated that they said in their order
14 that they did use it.

15 A. May I explain? It's a very simple explanation, you would
16 consider it a technicality, but the PGC in utilizing the
17 Management Agreement fundamentally uses it to set a budget.
18 That budget then is utilized on a secondary basis to set revenue
19 priority, historically has.

20 And what I am suggesting to you that it is a
21 two-step process. To set the budget, yes, that's what it is
22 used for. It's really strictly speaking in my opinion, is
23 really not a blueprint for rate setting per se. It's a budget
24 document.

25 Q. Mr. Lelash, once they set the budget in cases or years in

1 which the company has asked for a rate increase, and they use
2 the same process to set the rate, don't they?

3 A. No, I don't believe they have.

4 Q. Turn to the order on the last tab, Mr. Lelash, page six,
5 that would be the '83 rate proceeding.

6 A. Right.

7 Q. Page six, do you have that?

8 A. Yes.

9 Q. I'm going to read this one, because I'm having trouble
10 understanding your testimony. This is the '83 rate proceeding,
11 PGC decision. It says "Section Seven, Paragraph One of the
12 Agreement," that's the Management Agreement, "requires inter
13 alia that the Commission fix and regulate rates and charges for
14 supplying gas to customers which will in each fiscal year
15 produce revenues at a minimum." Then it lists four different
16 things. Do you see that?

17 A. Right.

18 Q. Doesn't that indicate that they are required to use
19 Section Seven of the Management Agreement to set rates for PGW?

20 A. No. Because it's very clear that if you were to look at
21 the budgets and the analysis that was done by the PGC, over
22 let's say, the last three or four years, it's very clear that
23 the company had working capital requirements far in excess of
24 the level of rates that were set by the company.

25 Q. You're talking about -- I'm sorry.

1 A. So it is obviously clear that in doing its rate setting
2 process for at least three or four of the last years the PGC did
3 not set rates predicated on reasonable working capital for the
4 company. Now that's a little bit more current than the 1980's.

5 And I am saying to you if that was true and
6 absolute, how in the world could PGC, have set rates to allow
7 the company to fall into the financial crisis that it is in now,
8 and has been a slow process, it has been a continuing process.

9 The answer is, the PGC was not setting rates based
10 on the requirements of the management agreement. The second step
11 -- they set a budget on what they felt was appropriate, but in
12 setting rates, they clearly were not fulfilling the management
13 agreement.

14 Q. I'm totally confused. Are you speaking of the last three
15 or four years prior to the jurisdiction being transferred?

16 A. Yes.

17 Q. When was the last base rate increase for PGW, before the
18 PGC, if you know?

19 A. It was in 1992.

20 Q. So in fact what you're saying that the PGC did not grant
21 a rate increase to PGW in the last four years, because PGW did
22 not asking for a rate increase; isn't that right?

23 A. The PGC is supposed to set rates according to the
24 agreement. I'm saying in the past four to five years they
25 obviously did not follow the letter of the grant. And

1 it's irrelevant to me whether the company filed a base rate
2 increase. They are overseeing and setting rates, year in and
3 year out, that is their responsibility.

4 What I'm saying, clearly they did not factor in
5 provision of management agreement in judging whether the rates
6 should be changed or not. They left them the way they were.

7 Q. Do you know in the Management Agreement or any other
8 document, PGC even has authority to revise PGW rates upwards
9 if the company hasn't asked for a rate increase?

10 A. I have never see a prohibition on a regulatory authority
11 which would not allow them on their own motion to open an . . .

12 Q. You don't know of any provision that would . . .

13 A. All I'm saying is I have testified and worked before
14 many, many jurisdictions, I have never seen a jurisdiction that
15 doesn't have the authority. But you can represent it doesn't.

16 Q. I think I understand your position, but let's go back to
17 instances where PGW asked for a rate increase, which is what I
18 thought we were all talking about. Would you agree in every
19 instance in which PGW asked for a rate increase, the PGC
20 indicated that it was bound by Section Seven of the Management
21 Agreement to set rates that covered all of the items that are
22 listed on page six of the '83 rate order?

23 A. The document speaks for itself. I wasn't around . . .

24 Q. Is that a yes?

25 A. Since they said they did, I assume they do.

1 Q. One of those items is a reasonable amount of cash working
2 capital, isn't that right?

3 A. One of the provisions is a reasonable amount of working
4 capital, correct.

5 Q. Every case in which PGC set rates for the company, it had
6 to determine a reasonable amount of cash working capital for
7 PGW, correct?

8 A. You are representing that it had to. Whether they did or
9 didn't is the issue. I'm sure they did.

10 Q. Were you aware that Mr. Bogdonavage testified that at
11 least three of the cases of the eight cases in the last, I guess
12 since the mid 70's were specifically cash working capital cases,
13 driven by the company's need for additional cash?

14 A. If he said that, he said that.

15 Q. Were you aware of that before you submitted your
16 testimony?

17 A. I have no personal knowledge of it.

18 Q. So you were not aware of that when you submitted your
19 testimony?

20 A. No.

21 Q. One other case, is the '83 case, which is the second
22 tab. I think you said you weren't around at that time?

23 A. Well I was around.

24 Q. You testified in that case, didn't you?

25 A. In which case?

1 Q. In the 1983 rate proceeding.

2 A. I think I possibly did.

3 Q. So you probably reviewed the order at that time, wouldn't
4 you expect?

5 A. I would expect.

6 Q. Wouldn't you agree, and you can check the document, that
7 the PGC made a specific allowance for cash working capital over
8 and above the amount that was needed for debt service?

9 A. I really don't remember.

10 Q. Would you accept subject to check that they did?

11 MR. KEENE: The document is an exhibit. It speaks
12 for itself, Your Honor.

13 MR. CLEARFIELD: Well I asked the witness to
14 accept something subject to check. He can either say no or
15 yes. It's in the document. I was just sort of moving this
16 along. I know Mr. Lelash is quite capable of looking at these
17 documents.

18 THE WITNESS: Thank you.

19 MR. CLEARFIELD: And reading.

20 THE WITNESS: I will accept your representation
21 that it says that.

22 BY MR. CLEARFIELD:

23 Q. You testified in that proceeding, and do you recall what
24 the Public Counsel's position was in that case with respect to
25 cash working capital?

1 A. I represented the Public Counsel. It was a very complex
2 case.

3 Q. Dig back.

4 A. It was a situation again of at that time relatively high
5 gas costs, and collections were not going well for the company.
6 And I tell you my only, my major recollection from the case was
7 that the entire rate increase was premised on the company's
8 inability to collect its revenues. So, yes, my recollection
9 would affirm what you're saying.

10 Q. Do you recall in that case that Public Counsel testified
11 that the rates for PGC, I'm sorry, PGW, should be set only to
12 cover -- strike that. You recall in that case they did permit a
13 specific allowance for cash working capital? I'm sorry, if you
14 just said that, I apologize.

15 A. Yes.

16 Q. Let's look at the '82 case. Did you testify in that
17 case, do you recall?

18 A. I don't recall.

19 Q. Would you accept, subject to check, and you can take a
20 look at it, in the 1982 case, the People's Counsel specifically
21 argued that the rates for PGW should be set only to cover debt
22 service and should not include any allowance for cash working
23 capital, and any cash working capital that the company needed
24 should be "borrowed from the City or outside sources to meet
25 those needs"?

1 A. If I testified to that, obviously it's consistent with
2 what I'm saying now. I don't recall. I will accept your
3 representation that it says that.

4 Q. Would you turn to the Supplemental Opinion of the '82
5 case, which is the second tab in?

6 A. Keep going.

7 Q. Page seven.

8 A. I have it.

9 Q. The paragraph starts, "Since the Court in Action
10 Alliance" --

11 A. Yes.

12 Q. -- "has found that the ordinance/agreement to have the
13 effect of the act of assembly, and that the cash flow method,
14 which includes inter alia the annual fixed payment to the City,
15 prevails we now conclude that the Commission is governed and
16 bound by the terms of the said ordinance agreement and that the
17 cash flow method comprised of all of the items contained in
18 Section Seven of said ordinance agreement is just and reasonable
19 for rate making purposes in this case. Accordingly, we reject
20 all arguments to the contrary. "

21 Do you see that?

22 A. Yes.

23 Q. So in that provision the PGC rejected the Public
24 Counsel's position that cash flow should be obtained from
25 sources other than rates?

1 A. In that case.

2 Q. And that's exactly your position in this case, isn't it?

3 A. Let's stick with this one. In that case they said that
4 it was controlling and resulted in just and reasonable rates.

5 Q. But in this case you are making essentially the same
6 argument, to the extent that the company has additional cash
7 flow needs they should get it from the City, among other places?

8 A. Among other places, under the conditions that we are
9 facing right now.

10 Q. How could that position possibly be consistent with the
11 prior rate making methodology and requirements of PGC when they
12 rejected that exact position?

13 A. The PGC obviously can make determinations on a case by
14 case basis. My belief is that it's not as hard and fast a rule
15 as you are suggesting. Certainly not for the PUC, which I think
16 is really the end result of where we are going to, and that is,
17 if the PUC utilizes quote, the procedures used by the PGC
18 historically, do they have to, to every sentence and requirement
19 and follow that in setting rates. And it's my belief, and I
20 have stated this, it's my belief they do not.

21 Q. I guess we have to see what the Commission says about
22 that?

23 A. I think that's a very wise thing to do.

24 MR. CLEARFIELD: Your Honor, I believe that
25 concludes my cross-examination with this caveat, that there are

1 one or two additional interrogatory answers here that I would
2 like to include in the packet and have moved into the record
3 because they state Mr. Lelash's position. I can do cross on
4 them and develop them, but if we can move them into the record
5 we will be finished.

6 MR. KEENE: I have no objection, Your Honor.

7 JUDGE FORDHAM: PGW Cross-examination, Lelash
8 Exhibit Two is admitted without objection. Mr. Keene.

9 (Whereupon, the aforementioned document was
10 received into evidence.)

11 MR. KEENE: Your Honor, if I could have just a
12 moment.

13 JUDGE FORDHAM: We're back on the record.
14 Mr. Keene.

15 MR. KEENE: We have no redirect for Mr. Lelash.

16 JUDGE FORDHAM: Thank you, Mr. Lelash. You may be
17 excused from the stand.

18 THE WITNESS: Thank you, Your Honor.

19 JUDGE FORDHAM: Would you like to move the
20 exhibits?

21 MR. KEENE: Yes, Your Honor, move for the
22 admission of OCA Statement Number One and attached exhibits
23 and OCA Statement Number 1-S and attached exhibits.

24 JUDGE FORDHAM: Hearing no objections, they are
25 admitted without objection. Thank you.

1 (Whereupon, OCA Statement No. 1 and OCA Statement
2 No. 1-S were received into evidence.)

3 JUDGE FORDHAM: Mr. Knudsen has been recalled.
4 He has already been sworn. You're still under oath.

5 Mr. Bertocci.

6 MR. BERTOCCI: Your Honor, could we go off the
7 record just for a moment?

8 (A discussion was held off the record.)

9 JUDGE FORDHAM: Back on the record. Mr. Bertocci
10 has distributed CEPA's Cross-examination Exhibit One.

11 (Document marked CEPA CE-1 for identification.)

12 CROSS-EXAMINATION

13 BY MR. BERTOCCI:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. I refer you to CEPA, question CEPA 1-1.

17 A. Yes.

18 Q. CEPA, in connection with this interrogatory, CEPA is
19 requesting an adjustment of \$41,000. This question asks about
20 PGW's policy regarding employee parties, celebrations, and it
21 asks -- and PGW's response is, "We have only one of these. We
22 have no written policy, we only have one employee celebration,
23 what they call a Quarter of Century Banquet attended by active
24 and retired employees. " Is that response correct to the best of
25 your knowledge?

1 A. That's historically correct, yes. We did not pay for it
2 this year. It was budgeted but not paid for. So adjustment if
3 you want to make one would be appropriate.

4 Q. So PGW cancelled the party for fiscal year 2001?

5 A. No, it has been funded by participants.

6 MR. CLEARFIELD: Covered dish.

7 THE WITNESS: BYO covered dish.

8 JUDGE FORDHAM: That's for fiscal year 2001.

9 BY MR. BERTOCCI:

10 Q. Moving to the next one, CEPA 1-8.

11 A. Yes.

12 Q. The next series of Interrogatories deal with company
13 cars. CEPA is requesting an adjustment of \$50,000 in connection
14 with 23 unmarked cars which are used for commuting and personal
15 use by PGW management. I refer you to CEPA 8. The page that
16 follows CEPA 8, is that a list of the automobile bills, and the
17 persons to whom they are assigned?

18 A. You said it was 40 of them?

19 Q. On that I think there are 33.

20 A. I want to be precise. I don't want to follow Mr. Lelash,
21 and not be precise here. But 33, that's fine.

22 Q. And that breaks down as 11 cars that are used in category
23 one, which is commuting and business use and 22 cars in category
24 two, which is commuting use, business use and personal use,
25 right?

1 A. Yes.

2 Q. And commuting use means going from work to a person's
3 home in the City of Philadelphia, right, and back?

4 A. That's correct.

5 Q. And all of these management employees live within the
6 City of Philadelphia because there is a residency requirement,
7 is that right?

8 A. Some of them are grandfathered. If they worked for the
9 company I think before 1983 or four, they do not have to live in
10 the City limits.

11 Q. There is generally a requirement that management live
12 within the City limits?

13 A. That's a general requirement. That has been imposed by
14 management since 1984.

15 Q. Personal use, the definition of personal use, would be
16 any kind of use that a person wants to use for the automobile,
17 is that right?

18 A. Yes, by and large.

19 Q. For use of automobile for personal use the person using
20 that, to the extent that the person using that automobile for
21 personal use, as opposed to commuting use, they must pay a
22 mileage fee to the company of approximately 15 cents a mile?

23 A. For commuting and personal use there is a fee, yes.

24 Q. Okay.

25 A. I would say that because there is a slight distinction.

1 Actually Mr. Beiden is the better witness for this, but I will
2 answer.

3 Q. As I understand it for commuting use the employee does
4 not pay anything?

5 A. That's not correct. Commuting there is a fee regardless
6 of whether you commute or for personal use.

7 Q. What is the fee for commuting use?

8 A. Right now I'm paying a mileage fee of 15 cents per mile,
9 that applies to whether it's commuting or personal.

10 Q. So your testimony is that people who use the car for
11 commuting use . . .

12 A. It's not free. There is a charge.

13 Q. For both commuting use miles and the other personal use
14 miles?

15 A. That's correct.

16 MR. CLEARFIELD: Mr. Bertocci, if this helps we
17 will double check that. I recognize there is an answer to an
18 interrogatory that indicates . . .

19 MR. BERTOCCI: I thought that was so undisputed I
20 did not bother to include that interrogatory in the new packet.

21 MR. CLEARFIELD: But you had it in the old packet.
22 Mr. Knudsen is testifying that that is slightly different than
23 that. Mr. Bogdonavage confirmed that. But we will double
24 check, and if there is a misunderstanding we will report it to
25 you or as a data request on the record.

1 MR. BERTOCCI: Could we go off the record, Your
2 Honor?

3 JUDGE FORDHAM: Sure.

4 (A discussion was held off the record.)

5 JUDGE FORDHAM: Let's go back on the record.
6 There was a question about the last interrogatory, CEPA 8.
7 The answer that Mr. Knudsen gave, not to this particular
8 Interrogatory, but to another Interrogatory relating to this,
9 was different from the answer previously given. Mr. Clearfield
10 has indicated that Mr. Bogdonavage has indicated Mr. Knudsen's
11 answer is correct.

12 Mr. Clearfield indicated he would have that
13 checked and get that information to Mr. Bertocci either this
14 afternoon or prior to the close of the record, and if there is
15 additional information that is needed that Mr. Bertocci should
16 contact him and that information would be forthcoming.

17 MR. BERTOCCI: Thank you.

18 BY MR. BERTOCCI:

19 Q. CEPA 1-9, this is a, the procedures used by -- a policy,
20 PGW's policy concerning reporting, and bookkeeping concerning
21 cars used for commuting and for business -- excuse me -- for
22 commuting and for personal use. Do you agree that this policy
23 speaks for itself?

24 MR. CLEARFIELD: Is this the present policy,
25 Mr. Knudsen? Can you make sure that that is the case?

1 THE WITNESS: I believe it speaks for itself. I
2 think this is the standing policy right now. If there are any
3 differences we'll supply that as well.

4 BY MR. BERTOCCI:

5 Q. The next Interrogatory is CEPA 1-18. That asked for the
6 costs, the annual costs to PGW providing personal company cars
7 to PGW management employees in fiscal 2000 for commuting,
8 business and other personal use. The response indicated, if you
9 do the arithmetic, the cost was 1,984.26 per vehicle. We are not
10 disputing the way in which the cost, at this time the way in
11 which it was calculated.

12 Do you have any objection to that figure as to the
13 cost of providing a car to an employee for commuting and
14 personal use?

15 A. I'm only smiling because I'm having a very difficult
16 time. We put in a new computer system. We've not had good
17 numbers for a period of time. I'm looking at the numbers,
18 inquiring how they were derived. But I will accept them.

19 Q. CEPA 1-20, also another policy of PGW, I don't think it's
20 inconsistent with the Policy Number 776.01, which was previously
21 discussed. Do you agree that this policy speaks for itself?

22 A. I think it speaks for itself.

23 Q. CEPA is requesting an adjustment of \$195,000 having to
24 due with the PGW cafeteria. Would you agree that the document
25 attached to CEPA 1-21 is the current contract with Aramark?

1 A. Can I be clear on something, what is the derivation of
2 the 195,000 as the premise?

3 Q. The 195,000 is the amount I understand was budgeted in
4 the fiscal 2001 budget for the cafeteria subsidy.

5 A. I will accept that subject to check. I want to be sure
6 that's what was shown there. What are you proposing for the
7 automobiles at this point?

8 Q. \$50,000. That was based on a -- if there were 33 cars,
9 we think at the most ten cars is absolutely generous.

10 A. Do I get one?

11 Q. If you want. The 23 unmarked cars, we are asking for an
12 adjustment reflecting 23 unmarked cars being used for commuting
13 and business use or commuting, business, personal use by those
14 two categories.

15 A. If I understand, you made, on some basis you made a
16 distinction between people in management who require a car for
17 some particular business purpose that they should have a car on
18 a regular basis.

19 Q. Wouldn't you agree that a car that is being used for
20 commuting and personal use should have some direct benefit to
21 rate payers?

22 A. Yes, I do.

23 Q. That is CEPA's standard, too.

24 A. If I might. . .

25 MR. CLEARFIELD: We'll get a chance to do that.

1 BY MR. BERTOCCI:

2 Q. Coming back to the cafeteria, I was going to ask you to
3 verify. It's my understanding, from the Philadelphia Gas
4 Commission proceeding, that \$195,000 had been budgeted for
5 fiscal 2001 for the payment to Aramark in connection with the
6 cafeteria?

7 A. I will accept that.

8 Q. Would you agree that CEPA 1-21 is the contract that is in
9 effect?

10 A. Yes.

11 Q. CEPA 1-23 is a response to an Interrogatory concerning
12 what is the formula by which the Aramark subsidy/refund is
13 determined. That's more of a summary of what is in the contract
14 itself. CEPA recognizes the contract controls. Would you agree
15 with that?

16 A. Yes.

17 Q. CEPA 1-24 was a review of the amounts, total sales of,
18 basic contract elements for calculating the refund, going back
19 to 1996. So 1996 through the year 2000. Do you accept that as
20 an accurate history of previous costs of the calculation of a
21 subsidy or a refund for the cafeteria?

22 A. Yes.

23 Q. You agree that all of these figures, subsidy/refunds, in
24 cases from 1996 through the year 2000 all of them involved not a
25 refund to PGW from Aramark, but a payment from PGW to Aramark?

1 A. Correct.

2 Q. Would you also agree as a general matter, without getting
3 into details of how much a meal costs, that PGW cafeteria does
4 not come anywhere near providing a meal to every -- to even a
5 quarter of PGW employees on an annual basis?

6 A. Well it's designed as a facility for the headquarters
7 building. I don't know what we have in there, 400 people or
8 something like that. It's designed to provide service because
9 there are no restaurant facilities really within convenient
10 walking distance of Montgomery, unless you want the carts at
11 Temple.

12 Q. You're generally familiar with the Philadelphia custom of
13 trucks which go to places where there are demands for delicious
14 food?

15 A. Talking dirty water hot dogs. We can get into now if you
16 like, Mr. Bertocci, I think just as a matter of common courtesy
17 to employees that you provide something on the order of a
18 civilized opportunity for a meal.

19 Q. You would agree that providing a space, these numbers
20 don't include, approximately \$70,000 in costs for maintaining
21 the cafeteria, throughout the year; is that right?

22 A. The cafeteria space you mean?

23 Q. The cafeteria space.

24 A. Well the whole first floor, portion of the floor, devoted
25 to eating services, no, we don't. I think that's right.

1 Q. PGW also pays for capital costs of a kitchen. It pays
2 for janitorial services. It pays for garbage disposal, all of
3 the things associated with the cafeteria, is that right?

4 A. As far as I know, that's right.

5 Q. This contract was really last negotiated -- has not been
6 re-negotiated since 1974, right?

7 A. Unfortunately, yes.

8 Q. So PGW really hasn't explored the possibility of
9 providing a civilized space, vending machines, things that do
10 not require a payment of a quarter of a million dollars a year?

11 A. I don't consider vending machines appropriate nutrition.
12 We have a problem. The problem is we have 400 or so employees
13 who need access to eating facility, hot food, appropriate menus
14 that's what this facility is designed to provide. In terms of
15 the Aramark, subsidy, it's a bit of misnomer. But I will accept
16 your term. It's a cost plus contract.

17 I have had conversations with Aramark sometime in
18 the past, which say look, the reason that we have a subsidy,
19 because the food is not good enough and service is not good
20 enough. If we were to pass more people through this restaurant
21 facility, the subsidy would go down. I have said that they have
22 a period of about six months to prove that they can put this
23 thing on a paying basis that substantially reduces or eliminate
24 the subsidy or they would not be there, we would out source the
25 -- put out an RFP for an alternate supplier of services.

1 The issue, it's a function of quality of the food,
2 ability of them to provide timely service when people want it.
3 And that's where we are right now.

4 Q. So it's fair to say you believe that the standard for
5 operating the cafeteria, that there should be at most a minimal
6 subsidy? I don't want to dispute your use of the term, but that
7 essentially the cafeteria, once space has been provided for by
8 PGW, and reasonable capital costs, that food services itself
9 should pay for itself?

10 A. As a matter, general matter, yes.

11 MR. BERTOCCHI: No more questions, Your Honor.

12 JUDGE FORDHAM: I have one related to that last
13 remark from Mr. Knudsen. When did you make this remark to
14 Aramark, and when is the six months up?

15 THE WITNESS: There have been ongoing discussions.
16 I only got into it a month or six weeks ago. There have been
17 conversations with, in fact, Mr. Ambrose, who provided these
18 responses, has had conversations with them. I wasn't pleased
19 with the lack of progress. I reaffirmed our position with
20 them. They are now much more attentive to our requirements.
21 I met with executives with Aramark, said this is it, you either
22 deliver for us or you're out. There were immediate changes and
23 we are seeing some other improvements.

24 JUDGE FORDHAM: Any other parties have anything
25 for Mr. Knudsen?

1 MR. CLEARFIELD: Your Honor, I think we could use
2 a few minutes to go over these issues, if you could indulge us.

3 JUDGE FORDHAM: Let's take five minutes.

4 MR. CLEARFIELD: Maybe ten.

5 JUDGE FORDHAM: Ten minutes.

6 (Whereupon, a brief recess was taken.)

7 JUDGE FORDHAM: Back on the record.

8 REDIRECT EXAMINATION

9 BY MR. CLEARFIELD:

10 Q. First with respect to company cars, do you have a
11 clarification as to the company's policy with respect to
12 reimbursements for commuting use for management employees?

13 A. Yes. I'm looking at my own situations, it wasn't as
14 simple. It's more complex. We'll put this on one response.
15 All personal use is presently calculated at 13 cents a mile.
16 I thought it was 15, looking at changes, to make sure it is
17 compensatory.

18 JUDGE FORDHAM: Please keep up your voice.

19 THE WITNESS: All personal use is calculated at 13
20 cents per mile. Commuting only, with no personal use, it's \$3.00
21 per day for tax purposes. So it's reflected on your tax return
22 as a \$3.00 per day income to you. Commuting with personal use,
23 this gets terribly complicated, I will read it, and then we'll
24 clarify it, commuting with personal use, all non-business miles
25 taxed at the IRS rate of 34 and a half cents per mile.

1 Then a deduction of 13 cents for personal use is
2 taken so that no employee has a deduction for personal use after
3 13 cents. I'll clarify all of this in a response to you. To
4 your point, I was not clear. For commuting there is no per mile
5 charge. It's a daily charge that is recognized as additional
6 income to the employee. But there is no compensation back to
7 the company for that, which was your point.

8 MR. BERTOCCI: By the charge you mean. . .

9 THE WITNESS: No money coming back from the
10 employee to the company, it's simply a tax deduction.
11 I mean, additional, it's taxable income.

12 MR. BERTOCCI: Taxable income to the employee for
13 the benefit of having a car for commuting, is calculated as
14 taxable income to the employee, and recorded as such on the
15 company's books.

16 THE WITNESS: Right. Commuting, no personal use,
17 relatively few.

18 BY MR. CLEARFIELD:

19 Q. Would you explain how this policy benefits rate payers,
20 the policy to allow management to have cars for personal and
21 commuting use?

22 A. Look, I think there are two issues here. One, what is
23 common practice. A great many utilities do provide cars for
24 employees for a variety of purposes. So I don't think we're
25 unique in that regard.

1 Secondly, we're having a very difficult time
2 retaining our people, particularly senior executives. There
3 is an enormous temptation because of experience that they have
4 developed at PGW, because of this particular context within the
5 industry and the fact that compensation levels for us are lower
6 than comparable levels in our sister utilities. For example, we
7 lost somebody from marketing, took a demotion in terms of three
8 levels of grade and got a substantial raise in the process. She
9 went from PGW into PECO. There seems to be a shortcut between
10 Ninth and Montgomery and 23rd and Market.

11 So to answer the question, I think maintaining,
12 allowing people to have cars for their own purposes in these
13 instances is a traditional compensation item. I think you have
14 to look at this question in the larger context of the industry
15 practices and the uniqueness of PGW's circumstance and what we
16 can offer employees as benefits.

17 Q. Do you have anything else with respect to the cars?

18 A. No.

19 Q. With respect to the cafeteria payment that PGW makes
20 currently, how does maintaining cafeteria at the headquarters
21 provide a benefit to rate payers?

22 A. It's a substantial benefit. Even if, having it there,
23 not only as a matter of just decency in terms of the location
24 that we are in. But it is enormously efficient for the
25 company. I would say, I don't know how many, for the times that

1 I go down there, most people do not sit in the plaza area. They
2 take their meal back to their desks. So rather than people
3 doing a full hour or half hour, depending on where they are in
4 the organization for lunch, they often just go down and get
5 lunch, go back. I get a lot of productivity benefits. Those
6 get passed onto customers.

7 I think on the face of it, it looks like there may
8 be some inequity here. Given the overall picture and benefit
9 that we are deriving, I think it's a cost well incurred. That's
10 not to say it can't be a managed cost. It should be lower. I
11 think that's right.

12 Q. Just to clarify, you indicated you were looking at
13 changes, you're not looking at changes that would preclude the
14 possibility of continuing to offer the subsidy, if necessary?

15 A. No, let's assume we put an RFP out, and we had to entice
16 someone to come out and offer the service, I would pay that
17 gladly. Again, the benefits are enormous for having that.

18 Q. To clarify, how many employees are at Montgomery?

19 A. Six to seven hundred, not four hundred.

20 Q. Have to be a big truck on the street?

21 A. You would have long lines.

22 Q. Can you tell us whether the Philadelphia Gas Commission
23 ever directed you not to make any of these expenditures?

24 A. Directed the company?

25 Q. Yes.

1 A. I don't remember them having done this, specifically for
2 this. in any of the proceedings.

3 Q. Did they make any disallowances for any of these items?

4 A. Not that I know of. I stand to be corrected by
5 Mr. Bertocci if he has another memory, but, no.

6 Q. Has the company taken steps to ensure these expenditures
7 are at the lowest reasonable level?

8 A. Yes, certainly from the cafeteria, program that I just
9 described, I am quite adamant, there is no reason, if in fact
10 our subsidy is a function of throughput, the quality of the
11 food, quality of service, there is no basis for that. We'll
12 improve it.

13 In terms of cars, the fleet is aging, and we have
14 not been replacing cars. We are trying to keep that cost under
15 control as well.

16 Q. One last question, if in fact the Commission were to
17 disallow the items as included in revenue requirements, what
18 would the options be in the company with respect to policies?

19 A. If all else being equal, we don't have a lot of options.
20 These happen to be relatively small items, but let's assume
21 larger items, we felt compelled to spend the money, for whatever
22 reason, and it had to disallowed, then something else has to
23 give, it falls to the bottom line. It affects the coverage,
24 profitability of company.

25 Q. Would you have to consider discontinuing the policy?

1 A. Sure. These as I say, are important because they I think
2 they represent issues of equity between employee and customers.
3 But if they're emblematic of other costs, sure you would have to
4 cut them out, no question.

5 Q. If we could get the 65 million dollars would you take a
6 disallowance on these items? I withdraw that.

7 A. Happily.

8 MR. CLEARFIELD: That's all we have.

9 JUDGE FORDHAM: Anything else, Mr. Bertocci?

10 MR. BERTOCCI: No questions. I need to move this
11 into evidence, Your Honor.

12 MR. CLEARFIELD: No objection.

13 MR. BERTOCCI: I would like to move CEPA
14 Cross-exam Exhibit Number One into evidence.

15 JUDGE FORDHAM: Hearing no objection, so admitted.

16 (Whereupon, document marked for identification as
17 CEPA CE Exhibit No. 1 received into evidence.)

18 MS. BURAK: I need to move into the record the
19 testimony of Mr. Baudino. I have before me two documents. The
20 first consists of direct testimony of Mr. Richard A. Baudino, as
21 well as four exhibits, RAB-1 through RAB-4. I would like to have
22 this identified and marked as PICGUG Statement Number 1.

23 JUDGE FORDHAM: Shall be so marked.

24 (Whereupon, documents mentioned above were marked
25 as PICGUG Statement No. 1 for identification.)

1 MS. BURAK: The second document is the surrebuttal
2 testimony of Mr. Baudino. And I would like this identified as
3 PICGUG Statement Number 1-S.

4 JUDGE FORDHAM: So marked.

5 (Whereupon, document marked PICGUG Statement No.
6 1-S for identification.)

7 MS. BURAK: In addition, Your Honor I have two
8 exhibits at this point that I would like to include in the
9 record. These are, the first exhibit is a one-page exhibit
10 consisting of page number 54 from PECO Energy Company's tariff.
11 The main purpose for this, this page is addressed by Mr. Baudino
12 in his direct testimony.

13 JUDGE FORDHAM: PGW'S tariff?

14 MS. BURAK: No, it's PECO Energy's tariff.
15 Mr. Baudino references this page in his testimony. Mainly
16 for ease of citing purpose throughout the proceeding we thought
17 it might be best to make it an exhibit.

18 In addition, Exhibit Number Two, two pages of
19 Columbia Energy's tariff, also referenced by Mr. Baudino in his
20 testimony. I will be happy to pass this out to the parties.

21 (PECO tariff was marked as PICGUG No. 1.)

22 (Columbia tariff was marked PICGUG No. 2)

23 MS. BURAK: At this time I would like to move
24 PICGUG Statement Number 1 and PICGUG Statement Number 1-S and
25 PICGUG Exhibit 1 and PICGUG Exhibit Number Two into the record.

1 JUDGE FORDHAM: Any objections?

2 MR. HOLLAND: No.

3 JUDGE FORDHAM: Hearing none, the documents are
4 admitted without objections.

5 (Whereupon, the aforementioned documents were
6 received into evidence.)

7 MS. BURAK: Thank you.

8 JUDGE FORDHAM: I believe that is all for the
9 various testimony. I will just quickly go through to make sure
10 we have not missed anything. On May 22nd we had the statements
11 and exhibits of Barbara Bisgaier. Next we had Mr. Sullivan's
12 Statement Eight and exhibits. Next we had Mr. White's statement
13 and exhibits and Rejoinder Exhibit. We had Mr. Bogdonavage's
14 statements and exhibits and rejoinder exhibits. Then we had
15 Mr. Knudsen's statements and exhibits and rejoinder exhibits.

16 However, Statement 1.2 with Exhibits TEK three
17 through six were marked on that day, but admitted the next day.
18 On May 23 we had Mr. Gorman's statements and exhibits, Volume 3.
19 Next we had Mr. Lukens' statements and exhibits. Next we had
20 Mr. Wheaton, Administrative Counsel witnesses' statements,
21 exhibits, and Attachment One, which was a management audit. We
22 had Mr. Metro's statements and exhibits, Mr. Keim's statements
23 and exhibits, Mr. Kubas statements and exhibits, Mr. Deardorff's
24 statements and exhibits, Mr. Miller's statements and exhibits,
25 Mr. Kalcic's statements. Mr. Weakley's statement and exhibits.

1 Then today we had Ms. Davis, Mr. Lelash's
2 statements and exhibits and the cross-examination, PGW Lelash
3 cross-examination Exhibit 2. And then next we had CEPA Cross-
4 Examination Statement, excuse me, Exhibit Number One. And then
5 the direct surrebuttal and exhibits for Mr. Baudino.

6 MR. HOLLAND: Your Honor, I just wanted to confirm
7 Mr. Knudsen's supplemental rebuttal was admitted yesterday, as
8 was TEK 3 through six.

9 JUDGE FORDHAM: Yes, I did say it was marked on
10 the 22nd, but admitted on the 23rd. I believe that's it. We
11 also had scheduled hearings for Friday, May 25th, Wednesday,
12 May 30th, and Thursday, May 31st. There is no need for those
13 hearings. Those hearings are cancelled. We said the close of
14 the record would be on May 31st. We do have a couple things
15 outstanding. So I'll still leave the close of the record on
16 May 31st.

17 On the 23rd there was a request that Mr. White
18 provide information to Ms. Burak regarding the date of a
19 meeting. Then today there were some requests for Mr. Bertocci.

20 Do you need anything else, Mr. Bertocci?

21 MR. BERTOCCI: No.

22 JUDGE FORDHAM: So that's the only outstanding
23 thing, the date of the meeting from Mr. White to Ms. Burak?

24 MR. CLEARFIELD: I think Mr. Knudsen indicated
25 that he would summarize for . . .

1 MR. BERTOCCI: When I said no, I thought you meant
2 in addition to what they were going to provide.

3 JUDGE FORDHAM: So There are two outstanding
4 things, the on-the-record request for Mr. White, and the
5 on-the-record request for Mr. Knudsen.

6 MR. CLEARFIELD: Yes.

7 JUDGE FORDHAM: Anything further? The main briefs
8 are due on Thursday June 21st, and reply briefs will be due on
9 Friday, June 29th. I will give you some more information. I
10 will send out a briefing order with more information regarding
11 the format of the briefs.

12 Anything else we need to do before we end today.
13 I would like to thank the parties. Off the record.

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

15 JUDGE FORDHAM: Back on the record. On the
16 record I will thank the parties for their participation and look
17 forward to the briefs. Thank you very much.

18 MR. CLEARFIELD: Thank you.

19 MR. KEENE: Thank you.

20 MS. BURAK: Thank you, Your Honor.

21 (Whereupon, at 1:35 p.m. the hearing was
22 adjourned.)

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