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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING

3

BEFORE THE COMMITTEE ON LAW AND GOVERNMENT

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Room 400, City Hall
Philadelphia, Pennsylvania
Monday, June 7, 1999
10:25 a.m.

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11 RESOLUTION 990388 - Authorizing the Council Law and
12 Government Committee to conduct a full and
13 comprehensive investigation of the proposal to
14 transfer regulation of the Philadelphia Gas Works
15 from the jurisdiction of the Philadelphia Gas
Commission to the State Public Utilities
Commission, and the impact such transfer will have
on the ratepayers of the utility and the citizens
and government of Philadelphia.

16

PRESENT: COUNCILMAN DAVID COHEN, Chair
17 COUNCILWOMAN MARIAN B. TASCO
COUNCILMAN ANGEL ORTIZ
18 COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN FRANK DICICCO
19 COUNCILMAN FRANK RIZZO
COUNCILMAN DARRYL CLARKE

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

3 COUNCILMAN COHEN: The Committee on Law
4 and Government is now in session to continue the
5 hearings that began last Wednesday when the
6 committee held an emergency session with respect
7 to Resolution No. 990388, the resolution which
8 authorizes the Council Law and Government
9 Committee to conduct a full and comprehensive
10 investigation of the proposal to transfer
11 regulation of the Philadelphia Gas Works from the
12 jurisdiction of the Philadelphia Gas Commission to
13 the State Public Utilities Commission, and the
14 impact such transfer will have on the ratepayers
15 of the utility and the citizens and government of
16 Philadelphia.

17 I've asked my colleague Councilwoman
18 Marian Tasco, who is Chair of the Gas Commission,
19 to sit with us today since she has for a long time
20 been very faithfully conducting her duties as
21 Council appointee to the Gas Commission and serves
22 currently as Chair of the Gas Commission.

23 For this hearing, I sent invitations in
24 writing -- and those letters will be made a part
25 of the record of this committee -- to Mayor

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2 Rendell, to State representative John Perzel, who
3 is also the Majority Leader of the House
4 Representatives, and to State Senator Frank
5 Salvatore. And to date, I have no response
6 whatever from Representative Perzel, or Majority
7 Leader Perzel, or from Senator Salvatore.

8 And Mayor Rendell told me, during his
9 appearance here Friday before the Public Safety
10 Committee, that he would try to be here, and if
11 not, would see that his office is represented.
12 For whatever that answer may mean or for whatever
13 it's worth, I'm just reporting what he said to me.
14 I guess my hesitation is that it seemed clear to
15 me that when the interests of Philadelphians are
16 at stake, it would appear to me that the Mayor,
17 who's the leader of the City, would be up and
18 front, waving a flag, calling upon Philadelphians
19 to support their right to have the Home Rule
20 Charter, which regulates the Gas Commission. I
21 would think he would be leading the fray against
22 any attacks to take away the powers of the City of
23 Philadelphia. But then, again, that's my point of
24 view, and the Mayor may have a different point of
25 view, and we may be exploring that later this

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2 morning.

3 Now, is Representative Thomas here? I
4 would like to extend a courtesy because I know
5 he's due in Harrisburg. He just had a press
6 conference on this issue, and I would like to
7 invite him to be the first speaker before the
8 committee.

9 I note Mr. Givens, the President of the
10 Gas Workers Union, is here. Do you wish to be
11 heard this morning, Mr. Givens?

12 MR. GIVENS: No, Councilman.

13 COUNCILMAN COHEN: All right. The
14 answer was no.

15 And in the course of time, I hope we're
16 going to hear from the thousands of constituents
17 of the Majority Leader, of Representative Perzel,
18 those who are currently senior citizens enjoying
19 the discount that the Gas Works offers, as well as
20 those in his constituency who enjoy the benefits
21 of the low-income discount provided by the Gas
22 Works through action of the Gas Commission.

23 We'll wait for a moment till we get the
24 response from Representative Curtis Thomas.
25 Somebody just went out in the hallway just to

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2 check. He made a strong statement in defense of
3 Philadelphia's maintenance of complete
4 jurisdiction of the Gas Works through the auspices
5 of the Gas Commission. And he stated that in
6 Harrisburg, he will be speaking against any
7 proposal that would seek to transfer the power of
8 the Gas Works over to the State Public Utilities
9 Commission away from the Philadelphia Gas
10 Commission.

11 Now, is Mr. Hayllar in the room?

12 MR. HAYLLAR: Yes, sir.

13 COUNCILMAN COHEN: Would you come
14 forward, please.

15 And that's Mr. Dworetsky? Fine.

16 For the record, sitting here currently
17 is Councilwoman Marian Tasco, Councilman Frank
18 Rizzo, and myself. And Councilman Ortiz is on his
19 way in. All the members of the committee have
20 been notified several times about the hearing as
21 recently as ten minutes ago.

22 (Ben Hayllar comes forward.)

23 COUNCILMAN COHEN: Mr. Hayllar, let me
24 first ask you, are you here representing the Mayor
25 when he said that he would have a representative?

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2 Are you he, or are you here in some other
3 capacity?

4 MR. HAYLLAR: I think I represent
5 probably a host of different capacities. The
6 Mayor did not ask me to represent him, but as
7 Director of Finance for the City and since there's
8 no other party from the Mayor's Office, I assume I
9 have that responsibility as well.

10 COUNCILMAN COHEN: Okay. We'll let the
11 lawyer untangle what that means by way of
12 representation.

13 MR. HAYLLAR: I wear many hats today.

14 COUNCILMAN COHEN: Many hats. I notice
15 Mr. Dworetzky here but since he's no longer the
16 City Solicitor, I assume he's here in a private
17 capacity. Could you describe the capacity in
18 which you appear.

19 MR. DWORETSKY: I'm here as counsel for
20 the City in connection with the deregulation of
21 the natural gas industry in Harrisburg.

22 COUNCILMAN COHEN: When you say counsel
23 for the City, could you be more specific? Is it
24 for the Mayor's Office, is it for the Gas Works,
25 is it for the Gas Commission?

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2 MR. DWORETSKY: No, I think the easiest
3 way to say it would be the Mayor's Office because
4 I was asked by the Mayor's Office to get involved
5 about a year ago when the first legislative agenda
6 began in Harrisburg on the subject. And I have
7 served in that capacity since. I've worked
8 closely with representatives from the Gas
9 Commission, from City Council, and from PGW in
10 that process.

11 COUNCILMAN COHEN: And during the
12 course of the session this morning, we will ask
13 for further explanation of the last statement you
14 made. We're not sure. For example, as a
15 Councilmember, I have not been involved in any
16 discussions. I don't know to what extent
17 Councilwoman Tasco, as Chair of the Gas
18 Commission, was or was not. I don't know whether
19 the President of City Council or any other members
20 were. And so I'll be asking for amplification in
21 due course.

22 We're very concerned about this
23 legislation, very concerned that the Majority
24 Leader of the House of Representatives is not here
25 because I think it's his first duty to represent

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2 the constituency which elects him and which will
3 be strongly and adversely affected were this
4 legislation to become effective.

5 I'm very concerned that Senator
6 Salvatore is not here because my analysis, over
7 the weekend of numbers of constituents in each of
8 the districts that are represented by
9 Representative Perzel and are represented by
10 Senator Salvatore, indicates to me that there are
11 thousands of citizens who are in their respective
12 districts who are covered by the senior-citizen
13 discounts and by the low-income discounts that are
14 made available by the Gas Works.

15 And I would like to hear their version
16 as to why they think that's a bad policy and ought
17 to be eliminated.

18 And, Mr. Hayllar, let me put to you so
19 you can answer -- do you want to make a general
20 statement first?

21 MR. HAYLLAR: If you would. I have
22 prepared testimony which I sent to you on Friday.

23 COUNCILMAN COHEN: Right.

24 MR. HAYLLAR: And in deference to the
25 time of everybody involved, if you don't mind, I

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2 will summarize it.

3 COUNCILMAN COHEN: Would you go ahead
4 and summarize it.

5 MR. HAYLLAR: Yes.

6 COUNCILMAN COHEN: And we'll make the
7 written statement a part of the record.

8 MR. HAYLLAR: For well over a year,
9 members of the Administration, the Gas Works, the
10 Gas Commission, and City Council have been working
11 with State legislatures and regulators as they
12 contemplated deregulating natural gas utilities in
13 Pennsylvania. This has been a long, arduous
14 series of meetings in Harrisburg that have been
15 going on for well over a year now.

16 Our position has been, and continues to
17 be, that the Philadelphia Gas Works should not be
18 included in legislation pertaining to
19 investor-owned utilities, the deregulation of
20 natural gas since we are, unlike other utilities
21 in the State, save one, we are an arm of City
22 government.

23 COUNCILMAN COHEN: Let me just
24 interrupt for a moment to note the presence of
25 Councilman Nutter at the hearing.

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2 Please go ahead, Mr. Hayllar.

3 MR. HAYLLAR: To be specific, we do not
4 have investors who look to us for appreciation in
5 the stock value and increase in dividends. We are
6 a City-owned utility with a multitude of owners,
7 each with different requirements that the Gas
8 Works must attempt to address. This is quite
9 different than what is found in investor-owned
10 utilities.

11 However, Philadelphia Gas Works
12 provides approximately half of the natural gas
13 that's sold in the state of Pennsylvania, so it
14 should come as no surprise that there are those
15 who would like to open up this market on their own
16 behalf.

17 While I would point out that
18 allegations about the Gas Works are frequently
19 made and it's frequently criticized, you cannot,
20 as the Gas Commission staff has pointed out in
21 these charts, you cannot really make that case
22 looking at the residential rates that we charge.
23 When you compare our rates to other residential
24 rates charged by other utilities in the State, we
25 are comparable. We are particularly when you

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2 compare our rates to other northeastern United
3 States cities and their gas rates. We have room
4 for improvement, we can point to many areas where
5 we need to do a better job. But when you look at
6 the average residential rate, we are not out of
7 line, we are far from being the most expensive,
8 and we do an incredible job.

9 We are also particularly opposed to the
10 notion that the Philadelphia Gas Works should be
11 regulated by the Public Utility Commission. The
12 reasons stated last week by a number of speakers
13 are the same reasons that we have. We would point
14 out that despite claims made by the advocates of
15 using the PUC, it is almost certain that if the
16 regulatory climate were changed, that the gas
17 rates for the residential customer would go up.
18 Certainly, the cost of regulation would increase.
19 Last year, the Gas Commission cost \$1.7 million to
20 fulfill its various duties. The fees charged
21 public utility by the Public Utility Commission
22 and other statutory required bodies have the cost
23 of deregulation exceed \$2 million.

24 In addition, restructuring an audit
25 costs would obviously add at least another million

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2 dollars of costs to the process. We would be
3 required to hire additional outside counsel with
4 PUC Harrisburg-located experience, adding further
5 costs.

6 We are concerned, as are many of the
7 people who have been spoken to you last week, that
8 the effect of the senior citizen discounts, our
9 programs for low-income people, and the discount
10 that is provided to the City government and School
11 District would be jeopardized by such a move.

12 The biggest problem we have -- the
13 biggest problem we have is that having the PUC
14 regulate the Gas Works would violate the
15 commitment that we have with the people who hold
16 \$800 million of PGW debt. Because the
17 methodologies of the PUC and the Gas Works are, by
18 law, quite different, the simple act of changing
19 the regulatory authority diminishes the position
20 of bondholders and would generate a technical
21 default.

22 As Director of Finance for the City of
23 Philadelphia, I am, by my oath of office and my
24 position of the job I have, I am required to
25 attempt to protect the debt of the City and its

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2 agencies. The Gas Works' debt is supported by
3 covenant with the bondholder that would have the
4 Gas Works net revenue be 1.5 times its debt
5 service. We have always made this covenant.
6 However, if the Gas Works, if PGW is unable to
7 meet this 1.5 debt service ratio, City law
8 requires the Gas Commission to provide us with the
9 rates that the covenant can be kept. This is very
10 strong protection for the people who have
11 purchased our debt.

12 Because the PUC does not have such a
13 requirement concerning a utility debt, the mere
14 act of making the change in regulatory agents
15 would hurt the position of the people who hold our
16 bonds. We believe, upon the advice of our
17 counsel, that it would generate suits not only
18 from our bondholders but from the large insurance
19 companies that insure PGW debt.

20 Tomorrow, we will be pricing a
21 refinancing of old PGW bonds for substantial
22 savings, savings that we need this year because of
23 the warm weather and the lack of revenue that came
24 in accordingly. And also, we will be seeking
25 \$100 million of new capital funds for new

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2 projects; many of these projects purely fall in
3 the category of safety -- safety to our employees,
4 safety for our customers. A fundamental change in
5 the covenant with the purchasers of our bonds
6 would end our ability to complete this
7 transaction.

8 Recognizing the enormity of the
9 problem, Mr. Dworetsky, on behalf of the City, has
10 dealt with staffers in Harrisburg, as we have been
11 for the last year, to provide them with language
12 that would avert the financial calamity. This
13 work has been ongoing, and copies of the language
14 that have been going back and forth have been
15 disseminated broadly to representatives of
16 Council, the Commission, and the Administration.

17 COUNCILMAN COHEN: Sir, please, could
18 you -- specifically, when you say "representatives
19 of Council," could be directly specific. Who have
20 you communicated this particular information to
21 and when?

22 MR. HAYLLAR: To 14 people. Every time
23 there has been a proposed change, a response, and
24 a proposed change again trying to protect the
25 bondholders of our debt, that material has been

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2 disseminated to, I believe, 14 people. Of the 14
3 people, they include the staff of the Gas
4 Commission, Gas Commission consultants, Council's
5 attorneys, and Council's technical staff.

6 COUNCILMAN COHEN: You've just
7 disseminated the information.

8 MR. HAYLLAR: I have been over a year.
9 It's no secret. This has been broadly
10 disseminated ever since we started this process of
11 deregulation well over a year ago.

12 COUNCILMAN COHEN: Has it been so
13 broadly disseminated that the Mayor has apparently
14 chosen to be concerned about the investors but not
15 about the senior citizens and the low-income
16 people of Philadelphia?

17 MR. HAYLLAR: I don't think that
18 statement's true, sir.

19 COUNCILMAN COHEN: Well, please --

20 MR. HAYLLAR: The Mayor has opposed --

21 COUNCILMAN COHEN: Well, please
22 indicate why you don't think so.

23 MR. HAYLLAR: Okay. The Mayor has
24 opposed the deregulation and has particularly
25 opposed the notion that the PUC should regulate

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2 the Gas Works.

3 COUNCILMAN COHEN: What has he done to
4 get support out in the communities of
5 Philadelphia? Besides letting the individuals
6 that you've identified know, what has he done, for
7 example, analogous to what he's doing on the
8 proposed gun legislation that he supports and is
9 trying to rally the people of Philadelphia to
10 support?

11 MR. HAYLLAR: He has --

12 COUNCILMAN COHEN: What has he done of
13 a similar nature to support retention by the City
14 of control over the Gas Works?

15 MR. HAYLLAR: Well, regulatory
16 authority and control are two different things.
17 We keep ownership of the Gas Works. Council, as
18 the representatives of the owners of the Gas
19 Works, that's not diminished.

20 The Mayor has sent, as you know,
21 Representative Perzel a lengthy and detailed
22 letter pointing out the problems of moving the
23 regulatory authority. He has had conversations
24 personally with Perzel and others.

25 COUNCILMAN COHEN: Well, we don't know

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2 what those conversations are because the
3 appearance is that when on the one hand, you state
4 that you're in opposition to legislation, but on
5 the other hand, work to try to perfect legislation
6 which will not hurt the investors but will
7 continue to hurt the users, particularly the
8 senior citizens and the low-income discount
9 people, it looks as if what counts are actions,
10 not word. And that's the reason why the people
11 throughout the City are very concerned about the
12 position of Philadelphia is.

13 If the citizens of Philadelphia, the
14 senior citizens are threatened by this transfer of
15 jurisdiction, if they are threatened, if
16 low-income people are threatened, what has the
17 Mayor done to protect them?

18 MR. HAYLLAR: He --

19 COUNCILWOMAN CLARK: He hasn't hired
20 any -- he hired Mr. Dworetsky, who's a very able
21 person. He's hired him to protect the investors,
22 but what has he done to protect the people of
23 Philadelphia?

24 MR. HAYLLAR: I think over the eight
25 years of the Rendell administration, you will find

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2 a long list of accomplishments in many areas where
3 the Mayor has evidenced his concern and commitment
4 to every resident of the City.

5 He has opposed this move because we do
6 not wish to create a second equally onerous
7 problem: that is the default of our debt. That
8 does not mean that we support going before the
9 PUC. We oppose it, we opposed it for a year, and
10 we oppose it now.

11 COUNCILMAN COHEN: Well, I would like
12 to suggest that the Mayor ought to show by his
13 action, that he opposes it. He ought to be here,
14 he ought to be rallying the people of Philadelphia
15 as to how important this is.

16 (Applause.)

17 COUNCILMAN COHEN: 'Cause otherwise,
18 otherwise, it seems to me that he speaks with a
19 forked tongue, and I don't know out of which side
20 of the mouth he's speaking.

21 MR. HAYLLAR: The Mayor has opposed
22 vigorously the notion of having the regulatory
23 authority move to the Public Utility Commission,
24 and he has acted on that.

25 On the other hand, the Mayor is not

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2 going to stand by and allow the credit rating of
3 the City, as well as the Gas Works, be tarnished
4 by an imprudent act. They are two separate
5 problems. As Director of Finance, I am obligated,
6 by my oath of office, to make certain that the
7 credit worthiness of the City is protected.

8 I recognize that you --

9 COUNCILMAN COHEN: And the way you do
10 that, Mr. Hayllar, is to protect and seek to
11 preserve the Home Rule Charter which makes illegal
12 any legislation that would attempt to take control
13 of the Gas Works away from the City of
14 Philadelphia.

15 (Applause.)

16 MR. HAYLLAR: We have done that.

17 COUNCILMAN COHEN: You haven't done
18 that yet. You can't really do it unless the
19 threat becomes real, and the action to be taken is
20 a mobilization of the people of Philadelphia to
21 prevent this legislation, and thereafter, to take
22 whatever legal actions are available to preserve
23 the Home Rule Charter.

24 The Home Rule Charter is not something
25 that subsists at the will of the State

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2 legislature. The Home Rule Charter is different
3 from other kinds of legislation. It was a grant
4 in perpetuity to the City of Philadelphia, the
5 right and the power to control its own destiny.

6 MR. HAYLLAR: There is a wonderful old
7 movie called "Dr. Strangelove," where one of the
8 two countries in nuclear confrontation, it turns
9 out, has developed a doomsday device so that in
10 the event that the other country attacks them, the
11 entire world blows up. I don't think that's a
12 practical way of solving this problem.

13 COUNCILMAN COHEN: No, no --

14 MR. HAYLLAR: You don't create a second
15 huge problem with cataclysmic results for the City
16 and the Gas Works, trying to stop a poorly
17 conceived idea that somebody in Harrisburg has.

18 COUNCILMAN COHEN: Well, it's not a
19 huge problem at all. The second problem would be
20 dealt with if it ever had to be dealt with, just
21 as we dealt with the financial problems of the
22 City in the past.

23 But the real problem that exists is the
24 problem affecting the senior citizens and the
25 low-income users of the Gas Works because what

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2 this threatens is to have our senior citizens
3 freeze this winter, and the same with respect to
4 the low-income people.

5 And it seems strange to me that you're
6 worrying about how you're going to handle the
7 investors, all of whom have sufficient funds to
8 invest money in ownership of bonds issued by the
9 City of Philadelphia, but you're not at all
10 concerned about the people who really need the gas
11 services.

12 (Applause.)

13 MR. HAYLLAR: That's neither true nor
14 fair. We have demonstrated repeatedly our concern
15 for those programs. In fact, as acting president
16 of PGW, I'm implementing them. But to suggest
17 that because we're trying to protect the credit
18 worthiness of the City and our obligation to
19 people who bought our debt, that that suggests we
20 support going before the PUC is justifiable.

21 COUNCILMAN COHEN: The way you protect
22 the interests of the City is to oppose this
23 legislation.

24 MR. HAYLLAR: We are.

25 COUNCILMAN COHEN: Not to lay down a

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2 red carpet and tell people, "But if you really
3 want this legislation, this is the way to do it."
4 And that's how the story comes out to us.

5 You made a very excellent case when you
6 showed that the there was no basis whatever for
7 the takeover from the point of view of the rate
8 structure under PGW.

9 MR. HAYLLAR: Mm-hmm.

10 COUNCILMAN COHEN: Because columnists
11 in Philadelphia and others who are rapacious and
12 greedy and can't wait to get their hands on the
13 PGW in order to turn it into profit-making machine
14 for them at the expense of the citizens of
15 Philadelphia, they just can't wait to grab hold of
16 it. They don't spend even time, they're afraid to
17 even have a public hearing for fear that the
18 information you gave us at the outset of your
19 testimony will be made known, that there's no
20 basis whatever in fact, in law, under any
21 circumstance that would justify the legislation by
22 the State.

23 And it seems to me that the efforts of
24 the City ought to be concentrated on maintaining
25 local control, because we're all elected by people

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2 who have entrusted to us the responsibility for
3 seeing to it that the Home Rule Charter is
4 maintained.

5 (Applause.)

6 COUNCILMAN COHEN: All right, proceed.

7 MR. HAYLLAR: Thank you.

8 COUNCILMAN COHEN: And I'd like you to
9 go further in the early part of your testimony,
10 Mr. Hayllar, with respect to showing that the rate
11 structure of the Gas Works is comparable to the
12 rate structure of other -- of so-called private
13 utilities.

14 MR. HAYLLAR: In a comparison of
15 regulated Pennsylvania utilities, the Philadelphia
16 Gas Works, if you used the 100 MCF a year -- which
17 is not the true average, but for mathematical
18 purposes, it's a lot easier to do it with 100 as
19 opposed to 104. The average residential user in
20 Philadelphia pays \$858.44 a year in a normal year
21 at 100 MCF a year. This compares with UGI, which
22 charged 981 cents a year and is equitable with
23 \$1,032 a year. Other utilities are slightly
24 less. PECO, for example, would be approximately
25 \$833 a year. So we are in the mid-range.

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2 the Northeast that have similar economic issues
3 confronting them -- for example, large numbers of
4 low-income people -- you find that in the analysis
5 that we did in 1987, that we were the second
6 lowest. Baltimore was \$70 a month; we were \$71 a
7 month. The good people of New York City paid \$20
8 more a month than the people of Philadelphia did.

9 That suggests that in urban areas,
10 which are more expensive because of the high
11 number of low-income people, the high number of
12 receivables, the fact that very often, to fix and
13 to get out of pipe, you have to go through
14 concrete, you don't dig through soft dirt. That
15 these expenses show that the Gas Works in
16 Philadelphia has done a good job compared to other
17 city Gas Works.

18 I understand the Gas Commission staff
19 has listed their analysis based on more recent
20 tariffs, which basically shows the same issue,
21 that the Philadelphia Gas Works is competitive
22 with other large cities in the Northeast. It is
23 unfair to say, as Senator Salvatore has said
24 frequently, that we are the most expensive
25 supplier. When you compare our residential rates,

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2 that does not prove to be the case.

3 COUNCILMAN COHEN: Councilwoman Tasco?

4 COUNCILWOMAN TASCO: Thank you. Good
5 morning. Mr. Hayllar.

6 MR. HAYLLAR: Good morning.

7 COUNCILWOMAN TASCO: Along that line,
8 there was an article written by Russel Beyers in
9 the Daily News where he quoted from the PMC
10 report.

11 MR. HAYLLAR: Yes.

12 COUNCILWOMAN TASCO: The Philadelphia
13 Management --

14 MR. HAYLLAR: The Public Financial
15 Management.

16 COUNCILWOMAN TASCO: Yes.

17 MR. HAYLLAR: The Public Financial
18 Management, about, I guess, six months ago, was
19 commissioned to analyze the potential of selling
20 the Gas Works, was it a viable argument. I
21 believe that the report demonstrated that selling
22 the Gas Works is not a viable option.

23 COUNCILWOMAN TASCO: But I believe, if
24 I'm correct, that Mr. Beyers quoted from that
25 report that Philadelphia -- PGW had some of the

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2 highest rates in the country. And I want to know,
3 how did they come to that conclusion?

4 MR. HAYLLAR: Well, it's not in the PFM
5 report. Public Financial Management did not say
6 that. It is often said of us, and as you know as
7 Chairwoman of the Gas Commission, that's not the
8 case.

9 COUNCILWOMAN TASC0: Mm-hmm.

10 MR. HAYLLAR: We can do better and will
11 do better on our costs but we are certainly not
12 the highest when you compare us with other cities
13 in the Northeast.

14 COUNCILWOMAN TASC0: Okay. Well, could
15 you tell me then, how does deregulation impact on
16 the cost of gas in relationship to PGW?

17 MR. HAYLLAR: It would require us to
18 revise our rate structure, our tariff, so that
19 more of the cost would be borne fully by
20 transportation; and that is the billing, customer
21 service, pipes, pipe repair, function of the
22 company. And that it wouldn't matter to us
23 whether we had people purchase gas from us or from
24 another supplier; it would flow through the pipes.

25 Interestingly enough, when you look at

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2 our rates, we are in a position where we probably
3 could withstand competition because we are able to
4 purchase gas at a lower rate than most other
5 utilities. They would have to pay the
6 transportation rate within the city that everybody
7 else would have. So while we would want to keep
8 it low, it wouldn't advantage them one way or the
9 other.

10 We would basically be supplying the
11 infrastructure, the pipes, the billing, and so
12 forth for anyone who wanted to sell gas. We could
13 handle that. The problem with it is, we have been
14 set up to purchase -- and we do it very well --
15 gas and sell it to our people as an efficient cost
16 as we can that are in danger of doing that.

17 COUNCILWOMAN TASCO: So if a marketer
18 decides to come in and Philadelphia's opened up
19 under this whole legislative deregulation process
20 and marketers come into Philadelphia to provide
21 choice to our customers, would they save any money
22 by buying gas from a marketer?

23 MR. HAYLLAR: That has yet to be
24 proven. Much of the savings that would have been
25 generated was the fact that other utilities pay a

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2 5 percent gross-receipts tax. Because we are
3 municipally-owned, our customers don't pay that.
4 The State is eliminating the gross-receipts tax on
5 natural gas delivered starting in January of next
6 year. So 5 percent of the additional costs that
7 the marketer could have saved just went away.

8 I don't know and I don't profess to be
9 an expert, but I don't know that there's enough of
10 a difference left that you would see much of a
11 price difference between what we purchase our gas
12 for and what somebody else does. That's yet to be
13 proven.

14 COUNCILWOMAN TASC0: Okay. Do you have
15 more questions for him?

16 COUNCILMAN COHEN: Yes. The one
17 experience we have had in Philadelphia with
18 so-called business management was the recent
19 experience where we changed the whole management
20 and we hired, I believe, three different people
21 from three different areas of work -- somebody in
22 finance, somebody I think in marketing, and the
23 chief executive.

24 MR. HAYLLAR: All utility
25 professionals.

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2 COUNCILMAN COHEN: They were all
3 utility professionals. And it was touted this was
4 the way that the Gas Works should go because it
5 was the way that the former company -- I'm trying
6 to think of their name, that the Mayor had hired.

7 MR. HAYLLAR: UGI -- oh, Phoenix was --

8 COUNCILMAN COHEN: Phoenix.

9 MR. HAYLLAR: They were a turnaround
10 company. They were there for only a short period
11 of time.

12 COUNCILMAN COHEN: Well, it seemed like
13 a long time to many of us.

14 MR. HAYLLAR: And it was to the
15 employees.

16 COUNCILMAN COHEN: But I think it was a
17 couple of years, and that may be long or short,
18 depending on how you view it.

19 MR. HAYLLAR: Yes.

20 COUNCILMAN COHEN: But this was to --
21 this new business management was really to bring
22 in business. And what we learned is that private
23 business apparently permits credit cards to be
24 used for personal business, that moving account
25 expenses can go to the ceiling, that it doesn't

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2 matter what you agree to limit your expenses to --
3 they can be very high.

4 Now, if that was any example of
5 business management -- and we're told that was
6 because I saw comments in the newspapers from
7 other utilities saying they saw nothing unusual in
8 the various credit card stories that were being
9 circulated in the press, that that was common in
10 business practices -- I don't think that touts
11 business management very highly.

12 My experience over many years -- I have
13 many complaints about PGW. Generally they relate
14 to service for low-income and for senior citizens
15 and to the length of time it takes to respond to
16 calls. But I have many times spoken very highly
17 about the quality of service of the employees of
18 PGW and of the management that I've had direct
19 experience with.

20 And to have any notion that by bringing
21 in professionals, that's going to have any impact,
22 to me, is sheer nonsense based upon the record.
23 If that's what's being touted as a basis for
24 trying to take this public service company and
25 turn it into a profit-making company for a few

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2 investors at the cost to senior citizens, at the
3 cost to low-income, and the cost to all
4 Philadelphians of having their own public service
5 gas company, which is responsive, I believe -- I
6 believe that a city-opened public utility company
7 like the Gas Works is much more responsive than
8 privately-owned companies.

9 And I think that if anybody really were
10 genuinely interested in turning it around, they
11 would come forth with some solid evidence -- not a
12 cartoon that appeared in the Daily News very
13 recently, which indicated that only one-fifth of
14 the bill for Gas Works is due to the expense of
15 producing gas. It had a list of all other kinds
16 of items as contributing to the gas bill. And I
17 thought it was a very unfair attack on the City
18 system. Did you see that cartoon?

19 MR. HAYLLAR: Yes, I did.

20 COUNCILMAN COHEN: Well, tell me what
21 your response is.

22 MR. HAYLLAR: I was embarrassed for the
23 1900 people that work at the Gas Works. They
24 deserve better than the flogging they get,
25 particularly in one paper.

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2 I would point out that on Friday of
3 last week, the company introduced a program where
4 we're utilizing our vehicles -- of which we have
5 about 950 of them, and our radio equipment, which
6 is in all of our vehicles. And we've logo-ed the
7 trucks with a logo that says, "Kids Safe." And
8 the point is that if a child in the streets of
9 Philadelphia feels threatened by anything, they go
10 to the PGW van, the PGW van will call the police
11 or their parents and get the right authority out
12 there.

13 And this is something that we do
14 anyway, but we're now taking credit for it and
15 we're trying to be a little bit more of a safety
16 net on city streets, 'cause that's the only place
17 you'll find our trucks -- I hope -- so they'll
18 help protect our children.

19 I would note that the papers that were
20 most interested in flogging the employees of PGW
21 didn't bother to report that in any way, shape, or
22 form. And I think that shows, to some extent, the
23 unfairness of the problem we have.

24 We've brought a lot of this on
25 ourselves. Former management made mistakes that

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2 -- they weren't private business practices, they
3 just made mistakes. Two of the three made
4 mistakes that were embarrassing to the company,
5 and we're going to have to live down. But I
6 always feel, when those things happen, embarrassed
7 for the people who work there.

8 We have many second-generation,
9 third-generation employees -- their fathers, their
10 uncles, now their mothers and their daughters --
11 working at the gas company. They take a great
12 deal of pride in what they do. They deliver a
13 safe, efficient product for 512,000 customers in
14 Philadelphia. And I think they deserve better
15 than what they've gotten.

16 COUNCILMAN COHEN: Mr. Hayllar, my
17 public career probably goes longer than anyone
18 else's in this room. I first became a Councilman
19 32 years ago. At that time, at that time, there
20 was a strong demand by the same kind of people who
21 are making the demand now for sale of the Gas
22 Works to private industry because they apparently
23 just feel this would be a wonderful opportunity to
24 convert this into a profit-making mechanism, no
25 matter what the cost to the citizens of

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2 Philadelphia, for a small group investors. And I
3 think it's outrageous that legislators elected by
4 the City of Philadelphia would in any way
5 participate in carrying out such a plan.

6 Now, is there anything further that you
7 wish to add before Mr. Dworetsky testifies?

8 MR. HAYLLAR: No. I think if you think
9 back on our conversation for the last 40 minutes,
10 Councilman, you and I are in agreement on virtually
11 every point. I understand your disagreement, but
12 as Director of Finance for the City, I feel I have
13 an obligation. But on these points, you and I are
14 in agreement.

15 COUNCILMAN COHEN: Well, I think we're
16 basically all in agreement on the technical
17 facts. The question involves, how does one
18 prevent a state legislative body from taking over
19 the reins of government in a local municipality?
20 And because this is not a new effort, it's been
21 repeated over centuries, that's the reason why the
22 Home Rule Charter was passed by the people of
23 Philadelphia back in the late '40s, more than 50
24 years ago.

25 And the essence of home rule against

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2 such legislation that's passed by the state from
3 time to time regulating various activities of life
4 in Philadelphia, the essence of home rule was to
5 grant these rights in perpetuity and to forbid the
6 State legislature from ever having the power to
7 take back this authority.

8 And it seems to me absolutely wrong for
9 the City to sit back quietly and only participate
10 in committee hearings and only give advice as to
11 how we protect the investors in the City's bonds
12 without taking the full step of fighting on behalf
13 of all the citizens of Philadelphia and repelling
14 this attack by the State.

15 (Applause.)

16 COUNCILMAN COHEN: Councilman Rizzo?

17 COUNCILMAN RIZZO: Mr. Hayllar, in the
18 event that the legislation goes through in
19 Harrisburg, we hear that it could affect the
20 senior citizens' discount and other -- the bond
21 ratings and the bonds that we have.

22 MR. HAYLLAR: Mm-hmm.

23 COUNCILMAN RIZZO: I haven't read
24 anything or had anyone respond to say if there
25 would be. What has the proponents of this

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2 legislation said about the discount to our senior
3 citizens? How do they plan to protect that?

4 I haven't heard one of them say that
5 they plan to eliminate that. How legally can they
6 continue with that discount, even though we would
7 become regulated by the Public Utility
8 Commission?

9 MR. HAYLLAR: I believe Mr. Dworetsky
10 is in a better position to discuss that particular
11 question. I have not talked to any of these
12 people other than to voice our opposition to what
13 they're doing.

14 COUNCILMAN RIZZO: Has there been any
15 response to these claims that we are making here
16 locally, that some of these benefits to our senior
17 citizens and other discussion points here today,
18 what we can do? I'll ask the counsel to respond
19 to that.

20 MR. DWORETSKY: There is a draft
21 amendment which has not yet been introduced in the
22 House or the Senate. As I understand where the
23 current draft is, there's a provision that would
24 -- excuse the term -- would "grandfather" people
25 who are currently in the senior-citizen program in

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2 Philadelphia, and those who would become eligible
3 to be in the program through the date that PGW's
4 restructuring proceeding was completed, which is
5 stated to be sometime in the middle of 2002.

6 So those people who come in to the
7 program qualify for the program up to that date,
8 under the current amendment, would be included in
9 that, and that would continue -- unless City
10 Council determined to change the program.

11 COUNCILMAN RIZZO: What about the issue
12 with bonds?

13 MR. DWORETSKY: The bond issue has been
14 addressed in the amendments. And assuming the
15 amendments are passed in the form that I last saw
16 them in, there is a provision that requires the
17 PUC to set rates pursuant to the same methodology
18 for determining the overall revenues of the City
19 as the Gas Commission applied under the management
20 agreement.

21 COUNCILMAN RIZZO: Are there, as far as
22 you know, any issues that we're discussing today
23 that appear to be negative of an oversight or
24 regulation that the PUC become the regulator that
25 have not been addressed? Could you point out any

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2 that are not being dealt with. Apparently, two of
3 the major concerns, apparently, legislation is
4 dealing with that.

5 COUNCILMAN COHEN: Councilman Rizzo, he
6 did --

7 MR. DWORETSKY: Let me say that I think
8 there are --

9 COUNCILMAN COHEN: Could you just hold
10 it for a minute.

11 Councilman Rizzo, he did not address
12 the question of senior citizens fully. It's not
13 been taken care of. I just want it to be
14 corrected for the record.

15 COUNCILMAN RIZZO: Well, I understand
16 that, but the -- go ahead, continue.

17 MR. DWORETSKY: Well, I think that the
18 City's position on this legislation from the time
19 we started was that the determination of whether
20 there should be competition in Philadelphia or not
21 and how the Gas Works was operated was a matter
22 for local concern and should be determined by
23 local option. So that has been our primary
24 position in all of the discussions on the
25 legislative side.

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2 Obviously, that's not something that is
3 included in the amendments. We proposed as far
4 back as a year ago as a structure under which the
5 Gas Commission and City Council would make a
6 determination of whether there would be customer
7 choice in Philadelphia. And then if so, how it
8 would be implemented. We proposed the idea that
9 the Gas Commission would supervise a restructuring
10 proceeding in the same way that the PUC does, and
11 that idea has been unacceptable to the State.

12 COUNCILMAN COHEN: And let me just for
13 a moment mention the presence of Councilman Ortiz,
14 a member of the committee, vice chair of this
15 committee.

16 COUNCILMAN RIZZO: Well, I look at this
17 as two different issues -- deregulation and coming
18 under the control of the Public Utility
19 Commission.

20 Just to comment briefly on
21 deregulation. I remember a statement, and I won't
22 identify person that said it, that one of the
23 obvious -- if PGW ever became available for sale,
24 and the scenario was that PECO Energy purchased
25 PGW or deregulation came in, that we could never

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2 compete with PGW or with -- excuse me, with PECO
3 Energy if they ever started to go after our
4 customers if deregulation became available to
5 Philadelphia PGW customers. I remember that
6 statement being made that said it would be the
7 demise of PGW if deregulation ever hit.

8 My -- do I recollect that statement
9 being made?

10 MR. HAYLLAR: I sure hope I didn't make
11 it, because I don't think it's true. I think that
12 we could compete with PECO. I'm not sure I'd want
13 to compete with some companies in the west that
14 have vast storage capability, but I think we
15 could. Our cost of gas is comparable to PECO's.
16 In terms of purchasing the gas, our distribution
17 costs would be borne by all the customers anyway,
18 but the cost of gas, we're pretty good.

19 So I don't think that PECO is the great
20 fear. And no offense to your former employer, but
21 we always like to compare ourselves to PECO 'cause
22 they have historically set a fairly low bar for us
23 to make comparisons with.

24 There are companies out there that are
25 a lot cheaper, but in this region, with the

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2 problems of Southeastern Pennsylvania, we could do
3 it.

4 COUNCILMAN RIZZO: Well, based on that,
5 if deregulation becomes effective, it would be a
6 very, very rough time for PGW to compete with the
7 Enrons and some of the other companies that would
8 be going after PGW customers. Is that accurate?

9 MR. HAYLLAR: It would be a new world,
10 and what you might see is that your larger
11 customers going off, we would still charge them a
12 transportation rate to get the gas to their
13 boiler. But you would see more and more --
14 nobody's going to go after the low-income
15 consumer. They would stay with PGW. So the
16 customers that pay, in this scenario, would
17 possibly go to another company, and we would have
18 the people who have problems making payments.

19 COUNCILMAN COHEN: So the cost to the
20 City could actually increase. The impact on the
21 City budget could be very harmful if there were
22 deregulation.

23 MR. HAYLLAR: Ultimately, there is a
24 scenario that says that, yes.

25 COUNCILMAN COHEN: 'Cause government

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2 exists for the purpose of leveling playing fields,
3 of giving everybody equal opportunity, of seeing
4 that people don't freeze and don't starve.

5 No private company ever has that
6 obligation; its only obligation is to their
7 shareholders, and that obligation is to maximize
8 profit, no matter what the impact is on everybody
9 else in the society. Isn't that true?

10 MR. HAYLLAR: I believe that's correct.

11 COUNCILMAN RIZZO: Well, no, excuse
12 me. In all fairness, the Public Utility
13 Commission does have protection to prevent that.
14 Just look at the electric companies that have
15 safety checks to prevent people from freezing to
16 death. They don't necessarily always work, but
17 they're there.

18 COUNCILWOMAN TASCO: Mr. Dworetsky, I
19 want to go back to the senior citizens' discount.
20 I want to be very clear on what you're saying.
21 You're saying -- am I correct to interpret that
22 you believe that the legislation amended would
23 allow for those people who presently receive the
24 senior citizens' discount to be grandfathered in,
25 and that those people who become senior citizens

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2 up until the time this legislation takes place,
3 until the year 2003?

4 MR. DWORETSKY: It's through the end of
5 the restructuring proceeding. I estimate 2002,
6 2003.

7 COUNCILWOMAN TASC0: They would be
8 included.

9 MR. DWORETSKY: Yes.

10 COUNCILWOMAN TASC0: But after that,
11 there would be no senior citizens' discount.

12 MR. DWORETSKY: I think that the fair
13 way to say this is that the statute leaves that to
14 the PUC, what program would be in place in the
15 future. The company would propose a program and
16 then PUC would then approve it. They wouldn't be
17 required to continue the current program for
18 people other than in the categories you've
19 mentioned so --

20 COUNCILWOMAN TASC0: Does the PUC
21 presently allow for senior citizens' discount?

22 MR. DWORETSKY: I don't believe they
23 have any programs like that in Pennsylvania.

24 COUNCILWOMAN TASC0: Is it my
25 understanding that it is illegal for them to allow

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2 senior citizens to have discounts?

3 MR. DWORETSKY: I think that that --
4 that may be true, I'm not sure. I haven't read
5 all the cases on how the senior citizen discount
6 would come out. But there is provisions that say
7 that rates can't be unjustly discriminatory.

8 COUNCILWOMAN TASC0: So, therefore,
9 under the present law, as it exists, PUC could not
10 allow for any further senior citizens' discount,
11 as the law presently exists.

12 MR. DWORETSKY: I think there's a legal
13 issue as to whether they would be able to.

14 COUNCILWOMAN TASC0: What moves you to
15 believe that they would change that position?

16 MR. DWORETSKY: I don't -- I don't
17 have --

18 COUNCILWOMAN TASC0: So then anyone
19 moving to becoming a senior citizen after the year
20 2003 would not be entitled to this discount based
21 on present rules and regulations.

22 MR. DWORETSKY: Unless they change
23 that, yes, that's correct.

24 COUNCILWOMAN TASC0: Okay. And local
25 government would have no jurisdiction in providing

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2 that service.

3 MR. DWORETSKY: No. That's right.

4 COUNCILWOMAN TASC0: All right. You
5 said that PUC would set, under the bond covenants,
6 they would set the rates to account for the bond
7 covenants that PGW has to meet every year.

8 MR. DWORETSKY: That's correct.

9 COUNCILWOMAN TASC0: How do they plan
10 to do that unless PGW is before them on a rate
11 case? How do we know each year that PGW would
12 make its bond covenants? Unless PGW's before them
13 every year with a rate increase request.

14 MR. DWORETSKY: PGW would have to take
15 the appropriate action to request rates if they
16 needed more rates than what were currently in
17 place.

18 COUNCILWOMAN TASC0: Well, right now,
19 PGW comes before the Philadelphia Gas Commission
20 every year with its budget.

21 MR. DWORETSKY: Correct.

22 COUNCILWOMAN TASC0: We have budget
23 oversight of PGW. We review their revenue and
24 expenditures, and we review whether or not they
25 will meet bond covenants. And since 1991, there

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2 has not been a rate increase.

3 Who will provide that oversight to see
4 that their budgets, the revenue and expenditures,
5 are on target on a yearly basis?

6 MR. DWORETSKY: The statute doesn't
7 deal, as I understand it, the current state of
8 amendments, it doesn't deal with the budgetary
9 process. It doesn't give the PUC the authority to
10 deal with PGW's budgets.

11 COUNCILWOMAN TASCO: So then there
12 would be no State oversight in terms of budget
13 management or local oversight for budget
14 management of PGW?

15 MR. DWORETSKY: No direct budgetary
16 approval. I think that part of what the PUC does
17 has impact on the budget and what programs can be
18 in the budget. But you're right that there's no
19 State budgetary approval process like the Gas
20 Commission does.

21 COUNCILWOMAN TASCO: And you can't
22 speak for the legislators who've introduced this
23 legislation. What do you see the legislation --
24 how does it provide better management oversight of
25 PGW than presently exists with the Gas Commission

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2 and City Council?

3 MR. DWORETSKY: I agree with what is on
4 this first Charter, that PUC is not a management
5 body, it doesn't provide management. And the
6 cases are filled with both the courts and the
7 Commission stating that the role of the PUC is not
8 the Citizen Board of Directors or to provide
9 management.

10 The role of the Public Utility
11 Commission is to regulate the company and for the
12 company to manage itself.

13 COUNCILWOMAN TASC0: And could you tell
14 me --

15 COUNCILMAN COHEN: Which is really a
16 step backwards, isn't it?

17 MR. DWORETSKY: It's different.

18 COUNCILMAN COHEN: From ensuring sound
19 business operating procedures.

20 MR. DWORETSKY: I think it's a
21 different system than the one that has been
22 followed by the Gas Commission.

23 COUNCILMAN COHEN: Well, it's the same
24 system that a private utility uses. A private
25 utility sets its own budget, sets its own goals,

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2 is responsive apparently to investors, to a board
3 of directors.

4 But nobody really manages a private
5 company other than people directly involved with
6 that company so that this outside control, which
7 now exists, this outside supervision, would just
8 disappear. The supervision that City Council and
9 the Gas Commission now provide would completely
10 disappear.

11 MR. DWORETSKY: I don't agree with
12 that, no.

13 COUNCILMAN COHEN: Well, tell me why.

14 MR. DWORETSKY: Well, I don't think the
15 legislation deals with the management issue. I
16 think it says that PGW will now be subject to the
17 regulatory approvals of the PUC but it doesn't say
18 that the City will no longer manage PGW, it
19 doesn't say that PGW's no longer a City asset, and
20 the City will have to manage PGW.

21 COUNCILWOMAN TASCOT: Point of order.
22 How does the Daily News -- you can't answer this
23 'cause this is a rhetorical question -- and the
24 State legislators come to the conclusion then that
25 these amendments will, in placing PGW under the

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2 PUC, will better manage PGW? How does one come --
3 how can you look at the legislation and come to
4 that conclusion?

5 COUNCILMAN COHEN: Not on the basis of
6 what you said. You said that they're not
7 interfering in any way with the current
8 management. So you're saying that despite their
9 statements that this action is necessary in order
10 to kind of protect PGW from the terrible
11 management it now suffers from, you're saying that
12 actually, the bill itself explodes the theory
13 itself because it doesn't substitute any other
14 kind of management.

15 COUNCILMAN RIZZO: Councilman?

16 COUNCILMAN COHEN: Yes, Councilman
17 Rizzo?

18 COUNCILMAN RIZZO: Could they be -- and
19 again, speculation, could they be saying that they
20 won't permit rate increases to be approved as a
21 result of mismanagement?

22 MR. DWORETSKY: I -- the traditional
23 way that the PUC regulates utilities is, they
24 disallow costs that have been incurred by the
25 utility into the rate structure. And the penalty

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2 of not approving those costs generates reduced
3 rates and penalizes the shareholders of that
4 company. That's a difficult structure to make
5 work for PGW. And that's the reason -- excuse
6 me?

7 COUNCILMAN ORTIZ: The citizens of
8 Philadelphia are the shareholders of PGW.

9 MR. DWORETSKY: Yes, that's true.

10 COUNCILWOMAN TASCO: So who will pay
11 for the mistakes made by management? Should they
12 create some initiatives that are not productive,
13 profitable, who will bear the cost of that
14 expenditure not approved by the PUC?

15 MR. DWORETSKY: That's a very good
16 question. That's really, I think, the reason why
17 it's been important to participate in the language
18 on the bonds. Because if the legislation were
19 approved without any specific treatment for the
20 bonds, we'd have that very problem, that there
21 would be a disallowance of rates if there were a
22 management problem, and it could result in us
23 violating the bond covenant.

24 So what the amendments, in the form
25 that I last saw them in, in which I understand

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2 that they intend to introduce them in that form,
3 is to provide -- the PUC has to set the rates so
4 that they cover the bonds. Regardless of whether
5 they agree with the expenditures of the company,
6 they have a legal requirement to set the rates so
7 that they meet the bond covenant.

8 COUNCILWOMAN TASC0: While at the
9 table, are the issues that we've just raised
10 discussed in terms of who pays? Because, usually,
11 supposedly since 1991, PGW hasn't been before the
12 Commission for a base rate increase. And it's
13 moving now to the year 2000, and they're managing
14 this company on a daily basis. And when they go
15 to seek a rate increase, there are a lot of
16 initiatives or expenditures that are not approved
17 by the PUC.

18 Who pays? Again, who pays?

19 MR. DWORETSKY: Well, the -- I think
20 the answer is that if the failure to approve those
21 expenses would mean there isn't sufficient funds
22 to meet the bond covenant, they would not be able
23 to disapprove the expenses. If there were more
24 than enough to meet the bond covenant, which, as
25 you know, is not just debt service, it's 150

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2 percent of that debt service, at that point then,
3 it would be the City that would pay.

4 COUNCILWOMAN TASC0: The City? Does
5 that mean the City government, the General Fund or
6 the ratepayer?

7 MR. DWORETSKY: Well, it means the -- I
8 guess it's really the gas enterprise fund in which
9 the City's interest in PGW is calculated.

10 COUNCILWOMAN TASC0: Does this
11 legislation abolish the Gas Commission?

12 MR. DWORETSKY: It provides that when
13 it becomes effective on June 30th of 2000, that
14 the Gas Commission is abrogated to the extent and
15 consistent with the State statute.

16 COUNCILWOMAN TASC0: And what happens?
17 Is there a new authority?

18 MR. DWORETSKY: There is no new
19 authority set up by the State legislation. That's
20 left to the City.

21 COUNCILWOMAN TASC0: Let's separate
22 this discussion out from the amendments that will
23 be or intended to be or that are discussed and
24 deregulation. So let's take away the amendments
25 and let's talk about deregulation. And if -- as I

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2 understand it, and my Commission staff was a part
3 of the collaborative, that we asked to have forum
4 to look at the whole issue of deregulation, and I
5 know the new legislation that came on board did
6 not have Philadelphia in the deregulation. Is
7 that true?

8 MR. DWORETSKY: Yes, that's true.

9 COUNCILWOMAN TASC0: So Philadelphia
10 was not going to be a part of deregulation.

11 MR. DWORETSKY: It was not going to be
12 in part of the statute at all, that's correct.

13 COUNCILWOMAN TASC0: Right. Up until
14 the time we had a discussion -- we had a
15 collaborative, for the record, Mr. Chairman.
16 There was a Philadelphia collaborative made up of
17 representatives from the Gas Commission, City
18 Council, PGW, the Mayor's Office, a number of key
19 stakeholders that met in Harrisburg from the
20 initial time that this whole issue of deregulation
21 was discussed.

22 And at the time we raised the question
23 as to what would it do for the ratepayer in
24 Philadelphia, there was no answer to that, will we
25 save any money? The discussion just went away.

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2 MR. DWORETSKY: That's correct.

3 COUNCILWOMAN TASCO: The deregulation
4 issue became another discussion, what, last year?

5 MR. DWORETSKY: Yes.

6 COUNCILWOMAN TASCO: And Philadelphia
7 was not part of the proposal, right?

8 MR. DWORETSKY: That's right.

9 See, what happened was that the PUC
10 called together about 60 stakeholders in the
11 industry in Pennsylvania, and the City decided,
12 through the progress described by Councilwoman
13 Tasco, that we should participate in that process,
14 and we participated extensively in the process.
15 There was a separate working group from --

16 COUNCILMAN COHEN: Did I miss
17 something, sir? I don't want to interrupt, but
18 just get me clear.

19 MR. DWORETSKY: Sure.

20 COUNCILMAN COHEN: I did not recognize,
21 as part of the collaboratives, any representation
22 of ordinary citizens of Philadelphia -- say,
23 senior citizens or low-income people.

24 Was there some group that was supposed
25 to be representing their interests as part of this

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2 collaborative?

3 MR. DWORETSKY: In Harrisburg, in the
4 overall collaborative that was convened by the
5 PUC, there were a number of representatives of
6 low-income, senior citizens, and other advocacy
7 groups.

8 COUNCILMAN COHEN: From the
9 Philadelphia area?

10 MR. DWORETSKY: From the Philadelphia
11 area and elsewhere. There was Public Utility Law
12 Project in Harrisburg, Action Alliance for Senior
13 Citizens was there.

14 COUNCILMAN COHEN: How about Action
15 Alliance of Philadelphia?

16 MR. DWORETSKY: Yeah, they were there.

17 COUNCILMAN COHEN: They were there.

18 MR. DWORETSKY: Yeah.

19 COUNCILMAN COHEN: And they've been
20 kept informed, all of these groups, about what's
21 been happening?

22 MR. DWORETSKY: Well, let me put this
23 in context. We're talking now about a year to 18
24 months ago. This is the big PUC process, 60
25 different parties -- low-income, community

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2 advocates, State utilities, and municipalities.

3 And as a part of that process, they
4 broke into various working groups. There was a
5 separate working group for municipals, of which
6 there were only two -- PGW and one other very
7 small borough utility. And in that working group,
8 all the problems that Councilwoman Tasco has
9 raised now, plus, you know, 50 other ones that
10 were raised by all of the different City people,
11 were put on the table. And we talked about that
12 with the other people from the different parts of
13 the state that came in there.

14 And I think there was an agreement
15 there that the City's problems were unique, we
16 were not the same as the jurisdiction of
17 utilities. And I don't think we succeeded in
18 persuading people that we should ultimately be
19 treated differently as far as competition was
20 concerned, but I think we did do a good job of
21 convincing them that they could --

22 COUNCILWOMAN TASCO: We didn't persuade
23 our State representatives from Philadelphia that
24 we shouldn't be a part of that. I think the rest
25 of the people understood that, don't you agree?

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2 MR. DWORETSKY: Well, I think that the
3 governor's office was not supportive of our
4 position. I think that the House --

5 COUNCILMAN COHEN: Well, that would be
6 clear. The governor doesn't even pretend to speak
7 for ordinary people. He is interested, as he's
8 made very clear, in business and only in
9 business. So why would you expect to convince
10 him?

11 MR. DWORETSKY: Sometimes I have this
12 very high and un -- ridiculously overinflated idea
13 of my persuasiveness, but I did not succeed in
14 that case.

15 COUNCILMAN COHEN: Well, in this case,
16 naivete.

17 MR. DWORETSKY: Naivete.

18 COUNCILMAN COHEN: But that's a good
19 quality to have on many occasions.

20 MR. DWORETSKY: Let me just finish,
21 though, just to make sure we got the time line
22 straight.

23 That process ended in a deadlock -- not
24 with Philadelphia, but between other parts of the
25 interest group. And the whole legislation got

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2 stuck on whether the State would repeal the
3 gross-receipts tax. And it really died at that
4 point.

5 When it came back, the rest of the
6 state -- the other utilities -- had reached some
7 type of resolution on their issues, other than
8 this tax issue. And when the tax issue was
9 resolved, they were ready to go.

10 And so the bill was introduced without
11 the City in it because the City's issues really
12 hadn't been addressed. I don't think there'd been
13 a determination that the City would never be
14 addressed -- it was just that we were not at that
15 point, ready to go, and they hadn't addressed our
16 issues, and so that's what happened.

17 Then once got into the legislative
18 process now as opposed to the PUC process, then
19 there was an impetus to bring PGW in.

20 COUNCILMAN COHEN: When was that?
21 Could you give us some idea of the time?

22 MR. DWORETSKY: Yeah. It was really
23 this year, it was in the winter of this year.

24 COUNCILMAN COHEN: You mean back in
25 January?

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2 MR. DWORETSKY: It was in that time
3 frame, because --

4 COUNCILMAN COHEN: December, January,
5 February?

6 MR. DWORETSKY: Yes. Because we
7 submitted -- our working group, our City working
8 group submitted extensive lists of problems with
9 the legislation in March.

10 COUNCILMAN COHEN: Well, since that
11 time, since, say, last December, January, February
12 of this year, what meetings have taken place
13 between the City and the Philadelphia delegation
14 in the House and in the Senate?

15 MR. DWORETSKY: I really can't say that
16 I know that.

17 COUNCILMAN COHEN: Well, who would know
18 that? Because it would seem to me that once the
19 legislation was introduced that did not deal with
20 Philadelphia's issues, that it was clear that
21 there was a problem at hand. Was that the time at
22 which they indicated they were going to include
23 Philadelphia in the process of deregulation?

24 MR. DWORETSKY: Yes. Maybe I was
25 unclear in my answer before.

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2 I don't know of any briefing of the
3 delegation as a, you know, get together and sit
4 down and talk with the whole delegation. If there
5 has been one, I didn't participate in that.

6 COUNCILMAN COHEN: Well, you know, it's
7 like A-B-C. And I don't understand it. Anybody
8 who knows anything about politics, if a problem
9 comes that's going to affect the constituencies of
10 the Philadelphia representatives, then you bring
11 those folks together and say, Do you know that
12 this problem exists? And we've got to mobilize to
13 find a way to defeat it because we think it's
14 harmful.

15 Now, that apparently has never been
16 done. Instead, what's been assumed is that
17 Governor Ridge and his party, I assume -- you
18 know, I don't know how they're counting the
19 votes. But it's assumed that Governor Ridge and
20 the dominant party, apparently, has the votes to
21 pass this no matter how it affects
22 Philadelphians. And that's something that I don't
23 believe.

24 I believe that if the constituents of
25 the City and State representatives and State

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2 senators know about this problem, they will take
3 the necessary action so that no Philadelphia
4 representative at the Senate level or the House of
5 Representatives level will in any way support this
6 legislation. And if that happens, there won't be
7 any such bill endangering Philadelphia senior
8 citizens, low-income customers, and everything
9 else that goes along with it.

10 And I just fail to -- this is why it
11 seems to those of us that have some knowledge of
12 how a political process works interpret the
13 Mayor's failure to act, failure to mobilize people
14 is tantamount to going along with the Governor's
15 ideas. And we're wondering, why is he doing
16 that? We dismiss future political ambitions
17 because we certainly hope that's not been in the
18 Mayor's thoughts because he's the Mayor of the
19 City until the end of this year. So we hope that
20 his first thought is what's important to
21 Philadelphia.

22 I just don't understand why once it
23 became clear, why the Mayor didn't immediately
24 call all the State senators and representatives
25 representing Philadelphia together and said, We

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2 face a really problem here. And I think it would
3 have been done on a bipartisan basis.

4 Had that been done, you wouldn't have
5 to spend all this time, Mr. Dworetsky. I'm not
6 trying to make you lose fees, but I think even you
7 would be willing to lose your legal fees if we
8 could save self-government for Philadelphia. I'd
9 like to see you be spending your time preparing
10 the City's legal position, if that ever became
11 necessary, in defense of the Home Rule Charter.

12 MR. DWORETSKY: Well, as you point out,
13 there clearly are implications for the Charter.
14 The statute does repeal portions of the Charter,
15 and it is the first time that I've seen State
16 legislation do that.

17 I mean, I think you understand, you
18 know, my role in this has been to try to make sure
19 that if a bill is passed, that it contains
20 provisions that are protective of the -- that
21 address the major problems that the working group
22 identified and --

23 COUNCILMAN COHEN: Well, the reason we
24 asked the Mayor to appear is, we understand that
25 both of you, you know, don't make the policies,

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2 that only the Mayor makes the policies on behalf
3 of the City administration. And the reason we
4 wanted the Mayor here was so that we didn't have
5 to raise these issues with you because each of you
6 is very limited in your ability to answer, because
7 only the Mayor has the ability to change a policy
8 or to explain what his policy is.

9 And it's kind of shocking to me to see
10 that the Mayor has chosen to ignore Philadelphians
11 by not coming here. He didn't do that Friday when
12 he was interested in something that we strongly
13 favor, and I think Council probably unanimously
14 favors the gun control legislation. But he was
15 here to help rally Philadelphians. I'm just
16 wondering why he isn't here to help rally
17 Philadelphians in this case to save their Home
18 Rule Charter, you know, to save the rights that we
19 have built up.

20 Obviously, at the State level, rural
21 people who have no knowledge of Philadelphia's
22 problems may have a different approach, you know,
23 to how Philadelphia ought to deal with this
24 problem. It's always easy to do it from a
25 distance. But if you're living in a situation, I

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2 have trouble believing that the rural legislators
3 are going to vote to have Philadelphians freeze
4 this coming winter or the winter that follows.

5 Well, look, I think it's time that --
6 could both of you remain here on behalf of --

7 COUNCILWOMAN TASC0: I have another
8 question.

9 COUNCILMAN COHEN: Councilwoman Tasco?

10 COUNCILWOMAN TASC0: I haven't finished
11 yet.

12 I support Councilman Cohen in that an
13 attack on the Home Rule Charter seems to me would
14 have been the answer to address that issue. I
15 mean, you start today with attacking the Charter
16 or removing your powers and then some other move
17 comes down the line.

18 So I have to go on record to question
19 the sincerity of the Mayor. Yes, he did send a
20 letter. That is, you know, you can wink and nod
21 and do what you have to do but, on the other hand,
22 be supportive of what's going on.

23 For the record, also, Councilman Cohen,
24 we have had for the last two or three years the
25 whole discussion of governance around the

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2 Philadelphia Gas Works and the role of the Gas
3 Commission. And sometimes there has not been a
4 lot of pleasure with the Commission in terms of
5 some of the decisions we have made or have not
6 made. And there may be some support to remove the
7 Gas Commission and use this as a way to get rid of
8 the Commission because we do provide oversight of
9 PGW.

10 So that was just an editorial comment
11 there.

12 COUNCILMAN COHEN: Councilwoman Tasco,
13 wasn't there recent action in which the Mayor
14 asserted himself to dismiss a member of the Gas
15 Commission?

16 COUNCILWOMAN TASCO: He did that too.
17 And there have been many discussions around
18 governance relative to the Gas Commission and the
19 role of the Gas Commission that plays with PGW.
20 We were criticized for micro-managing and we were
21 told not to micro-manage until we got new
22 management in. New management came in and we let
23 them manage, so now we're criticized for not
24 micro-managing. So, I mean, you're damned if you
25 do, you're damned if you don't.

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2 But in any case, there are some people
3 who are unhappy with the Gas Commission.

4 Let me just ask you a question,
5 Mr. Dworetsky. What role have you played in this
6 whole issue of deregulation and the amendments?
7 And how long have you been involved? And when did
8 you begin to work on the amendments relative to
9 the whole issue the deregulation?

10 MR. DWORETSKY: There was a -- we got
11 -- when we first got the first draft amendments
12 that were drafted in the House Republican caucus,
13 it was, I think, in February. And what I did was,
14 we have this working group that we mentioned
15 before of 14 or 15 people, and we had a big
16 meeting in my office and we put together a list of
17 the major problems that we could all identify with
18 respect -- with respect to the amendments as they
19 were done.

20 And we sent off that list to the State
21 in the middle of March. And from the middle of
22 March, I have been getting -- I got a response
23 from the State with respect to those amendments,
24 and I have drafted language that dealt with
25 particular points in that, and circulated it to

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2 the working group. So it's been in that time
3 frame.

4 COUNCILWOMAN TASC0: Let me ask you
5 this question. When you saw the amendments
6 presented in the way that they were to attack the
7 Home Rule Charter, as former City Solicitor, did
8 your red flag go up to say to the Mayor, We should
9 address this issue rather than trying to help the
10 legislators draft the amendment to take away the
11 power of the City to oversee the PGW?

12 MR. DWORETSKY: Well, Councilwoman, I
13 mean, if you're asking me whether I like these
14 amendments and whether I support the amendments
15 and whether I thought the amendments were a good
16 idea from the beginning, the answer is, I don't.
17 And I think that that's been very clear.

18 COUNCILWOMAN TASC0: Well, what would
19 you advise the Mayor to do if you were City
20 Solicitor around this issue? To go along with it
21 and help them take away the power of the Gas
22 Commission and the power of City Council? Or
23 would you fight the process of taking away --
24 attacking the Home Rule Charter?

25 MR. DWORETSKY: Well, I think the

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2 issue about fighting this legislation from a legal
3 perspective, through litigation, doesn't even come
4 up until the legislation is passed.

5 In the meantime, I think -- and I would
6 have told the Mayor when I was City Solicitor, and
7 I think it's the responsible position is that if
8 there's any chance to make sure that legislation
9 which is passed does not include language which
10 causes either a technical default or a fact
11 default on the bonds, we should try to do that. I
12 think that's the responsible thing to do.

13 I know it's not -- that doesn't mean
14 that the legislation is supported.

15 COUNCILMAN COHEN: Well, that depends
16 on the circumstance. If the Mayor were at the
17 same time leading a fight against this and taking
18 these steps that you're talking about, that might
19 be one thing. But the record is clear that all
20 the Mayor is doing is saying to the leadership
21 that wants this new legislation, This is the way
22 to do it and to minimize the damage to
23 Philadelphia.

24 And many people, we are told on very
25 good authority, many people assume that that means

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2 that the Mayor supports this legislation. I am
3 told that the common opinion among Republicans in
4 the House and the Senate is that the Democrats are
5 also on board; therefore, you Republicans ought to
6 be on board, because the Democrats in Philadelphia
7 support this legislation. That is common
8 knowledge throughout Harrisburg you won't find any
9 responsible political analyst there concluding
10 differently.

11 What you're talking about is a very
12 sophisticated legal defense which, under certain
13 circumstances, is appropriate. But in this case,
14 it has all the earmarks of, We accept the
15 inevitable, therefore just put in this language so
16 we can protect Philadelphia's investors. Forget
17 about the senior citizens, forget about the
18 low-income people 'cause they don't really count.
19 It's only people that have money to invest that
20 really count. And that's the message that's gone
21 forth throughout the State.

22 And if that's not the message the Mayor
23 wants to be circulating, then I think the Mayor's
24 got to come out and make mighty clear that he's
25 against this legislation and that he will fight it

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2 to the very end. And if he does that, he will
3 mobilize all of the representatives in the Senate
4 and House, irrespective of party.

5 Because I cannot believe for a moment
6 that any representative at the State House or the
7 State Senate would support this legislation 'cause
8 every one of them have large numbers of senior
9 citizens and large numbers of low-income
10 constituents right in their own district. But
11 they're all just going along because they think
12 the Mayor wants us to go along and he's going to
13 protect us, he's going to tell us that, Gee, there
14 was never any chance of defeating this.

15 And, of course, the Mayor knows better
16 than that. The Mayor's a pretty good politician,
17 and he knows had he wanted to, he could have
18 killed this a long time ago.

19 (Applause.)

20 COUNCILMAN COHEN: And now that he's
21 let it go this far, it's urgent now because he's
22 the one that's going to be held accountable if
23 this bill passes.

24 And you know the silence from the two
25 candidates for mayor is deafening. I haven't

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2 heard a word in protest from either the Democrat
3 nominee, who was nominated three weeks ago, or
4 from the Republican nominee, who officially was
5 nominated three weeks ago. It seems to me they
6 both ought to be out in front together with this
7 Mayor leading the parade.

8 They joined him when the Mayor led the
9 fight against the retirement benefits. Sam Katz
10 and John Street sent him letters saying to the
11 Mayor, We support your being tough and not giving
12 increases to the retirees. It certainly seems to
13 me that they owe everybody in Philadelphia the
14 responsibility to support the Mayor and to lead
15 the fight against this bill becoming law. And if
16 the Mayor refuses to do it, certainly the two
17 candidates ought to do it on their own.

18 (Applause.)

19 COUNCILWOMAN TASC0: Councilman Cohen,
20 I have another question.

21 COUNCILMAN COHEN: Councilwoman Tasco,
22 go ahead.

23 COUNCILWOMAN TASC0: We talked earlier
24 about the creation of a new authority. Is that a
25 part of the new proposed amendments?

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2 MR. DWORETSKY: It doesn't create a new
3 authority, but it would give the City the power to
4 create an authority, a municipal authority.

5 COUNCILWOMAN TASC0: To do what?

6 MR. DWORETSKY: It's pretty flexible.
7 It could be either gas supply or gas
8 distribution. The current Municipal Authorities
9 Act, which gives Council the power to create
10 authorities, doesn't include gas. So this would,
11 in essence, give you that authority with respect
12 to a gas utility as well.

13 COUNCILWOMAN TASC0: Would the
14 authority have a budgetary oversight of PGW?

15 MR. DWORETSKY: The details of how an
16 authority would get the assets, none of that is
17 dealt within the statute and how the authority
18 would deal with budgetary matters. It's just an
19 option that is given under the last draft of the
20 amendments for the City to create an authority for
21 that purpose, if the City desired to do so.

22 COUNCILWOMAN TASC0: So who has
23 legislative oversight of PGW?

24 MR. DWORETSKY: Today?

25 COUNCILWOMAN TASC0: In this new

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2 legislation.

3 MR. DWORETSKY: The City does.

4 COUNCILWOMAN TASC0: The City does,
5 okay. So who would oversee the budget of PGW?

6 MR. DWORETSKY: Well, under the current
7 structure, obviously, it's the Gas Commission.

8 COUNCILWOMAN TASC0: But the Gas
9 Commission's going to be abolished. Let's look at
10 the future. Who's going to have budgetary
11 oversight?

12 MR. DWORETSKY: Well, it could easily
13 come back to City Council, and it could be done
14 through Council as you do other departments. And
15 you could provide separately by, you know, the new
16 version of the governance.

17 COUNCILWOMAN TASC0: Is there any
18 reason to abolish the Gas Commission in this new
19 legislation?

20 MR. DWORETSKY: Is there a reason to?
21 Well, I guess if you accept the premise that
22 you're going to substitute a different regulator,
23 there is reason.

24 COUNCILMAN COHEN: Well, the City isn't
25 much of a regulator, is it? Didn't the newspapers

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2 report recently about a million and a half dollars
3 being spent on a homeless shelter with no
4 supervision as to the expenditures, no way at all
5 of finding out what happened to that million and a
6 half dollars? That's the City's oversight, you
7 know, that part of the City directly under the
8 authority of the Mayor.

9 Incidentally, let me note for the record
10 the presence of Councilman Frank DiCicco.

11 So I don't know when you say the City
12 will have authority, it doesn't -- I mean, the
13 fact that the City has authority doesn't mean
14 anything. The City lets money be spent without
15 checking on anything.

16 MR. DWORETSKY: No, I don't think
17 that's right. All I mean is that the governance
18 of PGW is not addressed in the statute. That's
19 been an issue for the City a long time, and it
20 remains an issue for the City. And that's done
21 through the different components of City
22 government -- through City Council, through the
23 executive branch.

24 And there's no reason to think that
25 that's going to be obviated by the statute. I

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2 mean, this statute makes it probably more
3 important that the City determine how it wants to
4 govern PGW.

5 COUNCILMAN COHEN: But it's taking away
6 the power from the City. It's saying in certain
7 areas, You're not going to be able to do anything
8 because you're going to be subject to the same
9 rules that private utilities are under the PUC;
10 therefore, out goes the senior-citizen discount,
11 out goes the low-income discount, out goes a whole
12 series of regulations with respect to gas
13 shutoffs.

14 MR. DWORETSKY: Councilman Cohen, in
15 fairness --

16 COUNCILMAN COHEN: And if you have an
17 outside agency suddenly deciding whether certain
18 expenditures are appropriate or not, how can you
19 say the City maintains the authority when these
20 important areas are being taken away from City
21 control and being turned over to the State?

22 MR. DWORETSKY: Well, I think there are
23 two different components that we're talking
24 about. One is governance and one is regulation.
25 And there are areas, you're quite right, there are

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2 areas where they get very close. And there are
3 some times -- and Councilwoman Tasco would agree
4 with me on this, there are areas where it's hard
5 to tell when your regulatory arm is really your
6 governance arm or vice versa.

7 But in many areas, the governance is a
8 separate thing than regulation, and governance
9 remains with the City, and the City's policy
10 decisions with respect to many matters that PGW
11 currently has will continue in the future.

12 COUNCILWOMAN TASCO: The only group
13 that's confused about governance and the
14 regulatory body has been this group sitting at
15 this table. The ability to regulate and to
16 manage, and with the Commission's authority to
17 oversee the budget process, it helps to keep the
18 rates from going up.

19 I mean, you put the rate process in
20 Harrisburg and you have the governance issue over
21 here someplace, who manages the company in terms
22 of their ability to manage their own
23 expenditures? 'Cause we've had some problems with
24 some initiatives that have been brought before the
25 Commission that have not been well-thought

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2 through. And because we raised that issue, we
3 have saved the ratepayers money because we stopped
4 it at the door instead of allowing it to go
5 through and then coming back and saying, Oh, that
6 wasn't a good idea, let's raise the rates and let
7 the ratepayer pay for this, 'cause the City's
8 certainly not going to pick it up.

9 So only the confusion has come about
10 because there are some people who don't
11 particularly like the way the Commission has had
12 oversight, budgetary oversight and thorough
13 budgetary oversight by some competent staff, which
14 raise some very crucial issues. And that's why
15 this Gas Commission is being recommended to be
16 abolished, but it doesn't have to be abolished.

17 COUNCILMAN COHEN: Mr. Dworetsky, why
18 are we doing the dirty work for those who want to
19 take away rights from citizens?

20 (Applause.)

21 COUNCILMAN COHEN: Why are we providing
22 an excuse for Representative Perzel and Senator
23 Salvatore to say later, Oh, they thought this is
24 what the City of Philadelphia wanted. You know,
25 this legislation, we work with the City of

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2 Philadelphia all the time. For a year and a half,
3 they've been meeting with our committee, they gave
4 us the language that they wanted inserted.

5 They didn't give us any language that
6 said the rights of senior citizens shall be
7 protected and that the PUC, if it takes
8 jurisdiction, will have to honor the commitment
9 made to our senior citizens. You didn't give them
10 any language to protect the low-income people, did
11 you? You gave 'em language to protect the
12 investors 'cause that's all Philadelphia was
13 interested in.

14 (Applause.)

15 COUNCILMAN COHEN: Why do you want to
16 give them that cover? If Perzel and Salvatore and
17 anybody else want to take away the rights of
18 people, let them come out and proclaim it, and let
19 the people respond to that.

20 But you're permitting a stealth attack
21 on the rights of the people. And that's why the
22 people are suspicious as to the role of the Mayor
23 and what the Mayor's policy really is. They
24 believe the Mayor supports this bill that's in
25 Harrisburg, despite his statement on the record in

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2 opposition.

3 MR. DWORETSKY: Well, as I've said now
4 a couple times, what I have tried to do is to make
5 sure that the legislation, if it's passed, is
6 protective of the bonds and deals with the other
7 issues identified by all the constituencies.

8 COUNCILMAN COHEN: Why aren't you
9 interested in the rights of the senior citizens
10 and the low-income customers?

11 MR. DWORETSKY: I think you
12 misunderstand the positions that we took from the
13 very beginning of this process. We not only said
14 that the decisions about senior citizens and
15 low-income should be local decisions; we said that
16 all the decisions concerning how PGW should be
17 operated in the future should be determined
18 locally. That's been our position. We had a full
19 draft chapter of the bill.

20 COUNCILMAN COHEN: Then why didn't you
21 include that kind of language into the bill? When
22 did you tell them that together with the
23 investors, these are the other interests that have
24 to be protected from possible PUC change?

25 MR. DWORETSKY: All those discussions

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2 happened. I mean, you're --

3 COUNCILMAN COHEN: But you didn't put
4 it in the language, did you? saying that this
5 bears the imprimatur of the Mayor's approval? The
6 Mayor says any bill has to contain this. As well
7 as the protection of the rights of investors, it
8 has to protect the other interests.

9 Why didn't you give them language which
10 protection the Gas Commission as the continuing
11 authority? Why do we have to create another body
12 when we have a Gas Commission with complete
13 representation -- two members of City Council, two
14 members from the Mayor's Office, and the City
15 Controller appoints the fifth member. It seems to
16 me that's fully representative.

17 And this comes from me. I don't always
18 agree with the Gas Commission. I filled
19 Councilwoman's ears on a number of occasions with
20 complaints about their decisions. But that's the
21 best form of representation that I know that we
22 could have. You have the legislative body
23 involved, you have the Mayor, and you have the
24 City Controller. They're the top officials of the
25 City. That's where there ought to be

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2 responsibility.

3 So why didn't you include that the Gas
4 Commission will remain the regulatory --

5 MR. DWORETSKY: I suggested that in the
6 legislation from the very beginning that the City,
7 in --

8 COUNCILMAN COHEN: I have trouble
9 understanding the difference --

10 MR. DWORETSKY: -- the current
11 structure and that the City be able to legislate
12 for what senior citizen program there would be,
13 what low-income program there would be.

14 COUNCILMAN COHEN: Yes.

15 MR. DWORETSKY: They have that
16 language, they had a full chapter that was
17 designed to create local control over the PGW
18 deregulation and a local determination of whether
19 there would be.

20 I can't tell you they didn't -- it's
21 not that they didn't get the language. The
22 question is whether they are amenable to the
23 language. I've negotiated into the statute those
24 provisions which there was room to negotiate.

25 Is that perfect? No, it's not

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2 perfect. Is the statute something that we like?

3 No, it's not something that we like. Is it better
4 than what it was? You bet it's better.

5 COUNCILMAN COHEN: Well, I haven't
6 heard a public statement by the Mayor saying that
7 unless this bill contains full protection for
8 senior citizens, for low-income customers of the
9 Gas Works, and protects on the stoppages of
10 service, that unless it contains those protections
11 in addition to investor protections, this City
12 will oppose this legislation in every form and
13 everywhere, and calls upon all of its
14 representatives to vote no on this bill.

15 Why doesn't the Mayor say that if
16 that's his position?

17 (Applause.)

18 MR. DWORETSKY: Well, I think you're
19 asking a rhetorical question. You have said
20 several times that you think the Mayor should be
21 out in front in terms of the legislative
22 initiative.

23 COUNCILMAN COHEN: Right now.

24 MR. DWORETSKY: You said that. I can't
25 speak for the Mayor on that.

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2 COUNCILMAN COHEN: Well, I understand
3 that you can't speak for the Mayor, and the Mayor
4 apparently doesn't want to speak for himself
5 because, apparently, he's not willing to make
6 these statements.

7 What has been known in Harrisburg is
8 that the Mayor is willing to live with this bill
9 if it contains investors protection, and you can
10 forget the rest. Whatever we've given you, we've
11 given you for the record. So our witnesses can
12 tell that to City Council when they raise
13 questions.

14 MR. DWORETSKY: I don't think that
15 that's true. I think it's been quite clear that
16 the City's position has been opposed to this
17 legislation from the beginning.

18 And the amendments we opposed, and the
19 question is whether the amendments, undrafted,
20 without any improvement, that we should fight over
21 those and we should try to get them better. And
22 the decision was made to improve those amendments.

23 And I think that whatever the
24 amendments today, they are much better than when
25 they started.

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2 COUNCILMAN COHEN: Well, not so far as
3 the senior citizens rights are threatened, not so
4 far as those who benefit from the times when the
5 gas cannot be shut off, not so far as the
6 low-income customers. They're not benefitted, and
7 I don't think the citizenry in Philadelphia in
8 general is benefitted because all I think that's
9 going to happen is the rates are going to
10 skyrocket, just as they do with cable TV, just as
11 they're doing in the telephone business. As soon
12 as you put private enterprise in, the need for
13 profit-making takes precedence over the need for
14 services to people. And that's what's going to be
15 happening here.

16 Unless there are any other questions of
17 these witnesses, I would like to call Mr. Kimmerle
18 of the Gas Commission.

19 But I would like to ask Mr. Dworetsky
20 and Mr. Hayllar to stay in case questions come up
21 and there are differences of opinion.

22 (Mr. Kimmerle comes forward.)

23 COUNCILMAN COHEN: Thank you,
24 Mr. Kimmerle. Would you identify yourself, sir,
25 for the record.

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2 MR. KIMMERLE: Yes. My name is George
3 Christian Kimmerle.

4 COUNCILMAN COHEN: And could I ask you,
5 because I think we've had probably a more
6 extensive discussion of many of the aspects, I'd
7 like to ask you to summarize and to state any
8 differences that you feel are important for this
9 committee to have.

10 MR. KIMMERLE: Thank you. You'll
11 recall that I testified before the Council.

12 COUNCILMAN COHEN: The Chair notes the
13 presence of Councilman Clarke, Councilman Darryl
14 Clarke. Or Councilman Clarke. There's only one
15 Councilman Clarke. There's a Councilwoman Clark,
16 but they spell their names differently, right?

17 COUNCILMAN CLARKE: Yes.

18 COUNCILMAN COHEN: We're pleased to see
19 you here.

20 Mr. Kimmerle, proceed.

21 MR. KIMMERLE: Thank you.

22 Instead of going on, I'll trying to
23 work from memory. I don't have the current
24 statements. But essentially, there is --

25 COUNCILMAN COHEN: Bring your

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2 microphone closer to you, as close as you see it
3 is to me so that everybody in the audience can
4 hear as well as members of the committee.

5 MR. KIMMERLE: Essentially the
6 legislation moving through Harrisburg will be
7 composed of --

8 COUNCILMAN COHEN: And, Mr. Kimmerle,
9 the microphone belongs right in front of you, not
10 to the side.

11 MR. KIMMERLE: Okay.

12 COUNCILMAN COHEN: That's it.

13 MR. KIMMERLE: Is that better?

14 COUNCILMAN COHEN: That's much better.

15 MR. KIMMERLE: Okay. Essentially, the
16 legislation that's moving through Harrisburg today
17 consists of what I call the "core legislation,"
18 which is the legislation designed to provide,
19 quote/unquote, customer choice to all gas
20 consumers in the State of Pennsylvania. And I'm
21 also aware that there is language circulating that
22 would amend the legislation to bring the City of
23 Philadelphia under the terms of the core
24 legislation, and at the same time, have
25 fundamental changes on the regulatory structure of

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2 the Philadelphia Gas Works.

3 The core legislation would essentially,
4 what they call, "unbundle" the distribution
5 systems in Pennsylvania. It would allow gas
6 marketers to enter the market for the first time,
7 and it would continue the monopoly status of the
8 pipe companies, or PGW or PECO, to deliver gas
9 within their service territories.

10 There are some weaknesses in the core
11 legislation from the consumer's perspective. It
12 does a couple of things. First, with PUC
13 approval, gas distribution companies would be
14 allowed to exit the regulated gas sales market.
15 That's an important component because no one has
16 been able to demonstrate within the collaborative
17 process -- and in fact, I've asked the PUC on
18 numerous occasions, Has anyone reviewed the
19 economic impact of this legislation? The result
20 is no, there has been no analysis of the
21 legislation.

22 The testimony that we received in '97
23 said that gas rates could be reduced by as much as
24 20 percent net of the gross receipts tax. The
25 testimony is now silent. And when the PUC and

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2 others are asked, why is the legislation being
3 moved forward? it's to provide customers choice.
4 It's not to provide reduced gas prices 'cause
5 there's no basis for that argument. And in fact,
6 it's likely the that gas prices will go up in the
7 state of Pennsylvania as a result of legislation.

8 There are also some sleeper pieces in
9 the core legislation. To the extent that a
10 utility continues to provide gas service, the
11 legislation provides a new option that hasn't been
12 available in the state before, and that's to
13 provide monthly adjustments to gas costs.

14 And in the case of the amendment that's
15 been drafted to deal with the Philadelphia Gas
16 Works, not only is there provision for providing a
17 monthly gas cost adjustment, but there's also a
18 provision for a monthly non-gas cost adjustment --
19 without review; it is reviewed at a later date.
20 This comes to the core of costs in the City for
21 gas.

22 The Philadelphia Gas Commission this
23 year turned down PGW's requests for a monthly gas
24 cost adjustment on the basis that it would expose
25 the consumers to a very volatile gas market,

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2 particularly during periods of dislocation. As an
3 energy professional, I've lived through two
4 significant dislocations in the oil market. I
5 think, sir, you'll remember the gas lines in the
6 early '70s, and you'll remember the dislocation
7 that happened in the international energy gas
8 markets in the '80s.

9 This volatility will now be pushed
10 through to gas customers on a monthly basis. Just
11 like now when you go to the gasoline pump, you pay
12 today's price; that same thing is going to happen
13 to residential customers.

14 The other core piece of the legislation
15 that will have an impact on the PGW and the
16 ratepayers in Philadelphia is the concept of a
17 provider of last resort. The provider of last
18 resort in the core legislation is designed to
19 provide gas service to those customers who a gas
20 marketer chooses not to serve, a customer who
21 chooses not to be provided by a marketer, or
22 third, in the event that a gas marketer defaults
23 on its obligation to deliver gas.

24 Now, if you look at that population,
25 who are the people that the gas marketers are not

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2 going to go after aggressively? I would assume
3 that if I was in that business, I am not going to
4 provide competitive rates to people who have
5 troubled credit histories.

6 To the extent that -- so the other
7 group is a situation where a gas marketer fails to
8 make delivery. And why would that happen? I've
9 been in the energy business now for over 20 years,
10 and I have seen marketing organizations declare
11 bankruptcy so that because they could not meet
12 their obligations to deliver energy during periods
13 of dislocation in energy markets.

14 Under the core legislation, the
15 provider of last resort would have to step into
16 the market with no notice at all, secure gas at
17 the market price, and deliver it to PGW
18 customers. The provider of last resort
19 obligation is almost impossible to plan for
20 because the real impact comes from dislocations in
21 the energy market.

22 As a result, we're going to have people
23 bundled into a group of customers served by a
24 provider of last resort. And that group of
25 customers are probably going to have substantially

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2 above-market costs for their natural gas
3 commodity.

4 Let me move on.

5 COUNCILMAN COHEN: Well, Mr. Kimmerle,
6 I'm not sure I understand what it is that you're
7 saying, and I --

8 MR. KIMMERLE: What I am saying is that
9 the core legislation is going to result in an
10 increased cost in gas to a significant portion of
11 the Philadelphia population, bottom line.

12 COUNCILMAN COHEN: Because if there is
13 choice --

14 MR. KIMMERLE: Because if there is
15 choice, the aggressive market is not going to
16 serve portions of the population.

17 COUNCILMAN COHEN: Does the company
18 chosen have the right to refuse?

19 MR. KIMMERLE: The provider of resort
20 does not have a right to refuse, and that's why
21 the provider of last resort will be the expensive
22 provider of gas service in the City.

23 COUNCILMAN COHEN: But all other
24 providers do have the right.

25 MR. KIMMERLE: That's right. They're

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2 in business, they're just like the grocery store.

3 They can --

4 COUNCILMAN COHEN: But I thought a
5 utility had a responsibility that -- oh, I guess
6 that's when the utility has a monopoly.

7 MR. KIMMERLE: That's when it's a
8 regulated business. But the gas marketer is not a
9 regulated business.

10 COUNCILMAN COHEN: So they will have no
11 responsibility to provide gas to people of low
12 income.

13 MR. KIMMERLE: They will have an
14 obligation, as established by the PUC. The
15 question comes down to, how far will the PUC go in
16 structuring an obligation to serve all customers?
17 I know in the private sector, you can design your
18 marketing campaigns and your advertising campaigns
19 to target customers.

20 During the Hawes administration of PGW,
21 there was a plan to mine the PGW customer base to
22 identify those customers most likely to buy
23 selected products. The gas marketer is going to
24 mine the City of Philadelphia and identify those
25 customers who they want to choose, and they will

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2 design the marketing programs to target those
3 customers.

4 COUNCILMAN COHEN: To target, for
5 example, industrial and commercial users 'cause
6 they're the highest volume users?

7 MR. KIMMERLE: I believe that we've
8 already seen the testimony from Connectiv Energy,
9 who was testifying on the part of Green Mountain
10 Energy and Shell Oil, that they would not
11 participate in the unbundled market in
12 Pennsylvania because the legislation itself is
13 poorly drafted and does not allow them to make a
14 return on the residential customer.

15 COUNCILMAN COHEN: Well, that's a --
16 would I be wrong if I said it sounds to me like
17 this opens the door to companies taking the cream
18 of the crop and leaving the City with the burden
19 of serving the customers that have economic
20 problems?

21 MR. KIMMERLE: I believe that's true.
22 I also believe that it's deceptive to say that the
23 senior-citizen discount would continue under the
24 proposed legislation. The purpose of the
25 legislation is to provide customers choice.

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2 At the present time, the way the
3 senior-citizen discount is structured, a senior
4 citizen receives a 20 percent discount off all of
5 the charges of PGW. To the extent that a senior
6 citizen takes advantage of a price being offered
7 from a marketer, only the transportation portion
8 of the PGW rate would be discounted. The gas
9 component of their bill would not.

10 As a rule of thumb, we assume that
11 about 50 percent of a customer's bill is for the
12 commodity of gas and about 50 percent is for the
13 commodity of transportation. So that even the
14 assumption that the senior-citizen discount would
15 continue is a fallacy.

16 And at the risk of going beyond reason
17 on this testimony, the legislation also provides
18 that if competition doesn't develop in a market
19 within five years, that the PUC will reconvene a
20 collaborative to figure out ways to make
21 competition work.

22 What's happened in the Canadian
23 experience and is happening in other parts of the
24 country is that the utilities have been somewhat
25 more effective in maintaining their market share.

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2 And now, the thrust in Canada is how do we drive
3 the utility out of the gas business altogether?

4 This goes to the very core of the
5 senior-citizen discount because to the extent that
6 five years from now, the market's determined not
7 to be competitive, the PUC could regulate PGW as
8 the regulated entity out of the gas sales business
9 altogether. And even those senior citizens who
10 are grandfathered would lose their discount on the
11 commodity gas.

12 COUNCILMAN COHEN: Well, thank. You
13 you've given much added weight to the threat of
14 the senior citizens' discount. You're saying
15 basically that they would lose half of their
16 discount because only a portion of it would be
17 covered by the senior citizen's discounts. That's
18 for those that the legislation contemplates
19 grandfathering in.

20 Other newly senior citizens -- we hope
21 they live and get to become senior citizens --
22 they would not get it after the year 2003?

23 MR. KIMMERLE: No, they would get it
24 after the year 2003, but five years after the
25 effective date of the legislation.

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2 COUNCILMAN COHEN: But new people who
3 become senior citizens after that date.

4 MR. KIMMERLE: No, the new people would
5 not be -- under my understanding of the last draft
6 I read, new people would not be eligible for the
7 discount.

8 COUNCILMAN COHEN: Right.

9 MR. KIMMERLE: What we're also saying
10 is that those people who are eligible for the
11 discount and grandfathered in could very well lose
12 their discount over time because of further review
13 that competition didn't develop in the
14 Philadelphia market.

15 COUNCILMAN COHEN: Okay. Thank you.

16 Are there any questions of Mr. Kimmerle
17 from any members of the committee?

18 (No questions.)

19 COUNCILMAN COHEN: If not, thank you
20 very much. I'm going to ask you, is there
21 anything else you wanted to add?

22 MR. KIMMERLE: If I may, sir.

23 COUNCILMAN COHEN: Go ahead.

24 MR. KIMMERLE: I've been sitting in the
25 collaborative process since the beginning. In

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2 fact, Councilwoman Tasco testified as early as
3 1997 on this piece of legislation.

4 In an earlier life, I was employed by
5 Conrail, and the corporation made a decision that
6 deregulation of the rail industry would be in the
7 best interests of the company. And as part of
8 that effort, we mobilized all of the employees, we
9 mobilized all of the management to do a
10 grass-roots lobbying campaign of the legislators
11 in Washington. At the same time, management of
12 the company was aggressively lobbying in
13 Washington to promote deregulation of the rail
14 industry.

15 I have been involved in other lobbying
16 campaigns, both on the part of the National Coal
17 Association, and more recently, on the part of the
18 National Association of Utility Regulatory
19 Commissioners. And in each case, there has been
20 developed a strategy as to how to accomplish the
21 goals of the organization. First, there is a
22 definition of what was the goal; the second was,
23 how then do we accomplish our goals.

24 I've been very frustrated as a member
25 of the City's collaborative with respect to

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2 unbundling. It seems to me from the very
3 beginning of the process that the strategy has
4 been to develop the best deal we can for the City
5 under the terms of the legislation. The City
6 began drafting language that ultimately appears in
7 this legislation early on in the process, far --
8 when you're in the municipal section, language was
9 drafted and circulated amongst the participants in
10 the municipal section.

11 We initiated meetings with the
12 Governor's staff. At that time, we were drafting
13 language and circulating it that would protect the
14 bondholders. But we didn't see and we haven't
15 seen a strong concerted effort to develop a
16 strategy for defeating the amendment.

17 As recently as last week, I had the
18 opportunity to meet with a number of State
19 legislators, and they were surprised to learn that
20 the legislation was even moving. I had an
21 opportunity to talk to some of the others, and we
22 were saying that based upon the work of
23 Mr. Dworetzky and Mr. Hayllar in Harrisburg, they
24 assumed that the City was behind the legislation.
25 I asked them about the letter from the Mayor.

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2 They said the letter from the Mayor -- that's
3 dated. We haven't seen any opposition to this
4 legislation or to the amendment of the legislation
5 from the City.

6 They're working under the assumption
7 that based upon the silence in the City, that the
8 City is in agreement with the forms of the
9 legislation.

10 Thank you.

11 COUNCILMAN COHEN: Thank you very much,
12 Mr. Kimmerle. The observations you have made are
13 in conformity with what my independent survey of
14 what's going on in Harrisburg reports.

15 Councilman Ortiz?

16 COUNCILMAN ORTIZ: I think it's very
17 clear that no strategy for defeating the amendment
18 was ever structured. I think the strategy was to
19 make the amendment as palatable as possible, but
20 not to defeat it as such.

21 MR. KIMMERLE: Let me add to that. It
22 took me close to four years to understand the
23 nuances of the governance of PGW. I had to ask
24 myself for three years who I worked for.
25 Ultimately, I found out I'm an employee of PGW, I

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2 think.

3 But I've seen the strategy in
4 Harrisburg to be something along the lines of
5 Atila the Hun being at the gate, and we have a
6 beautiful city. And the decision's been made that
7 instead of putting the City at risk, we'll give
8 Atila a road map as how to enter the City with the
9 least amount of damage.

10 Thank you.

11 COUNCILMAN COHEN: Well, that's what
12 we're fearful but the way to change it is to bring
13 about a change in the Mayor's policy, and we're
14 hoping the Mayor will respond to that. And if he
15 doesn't, I think that initiative will be taken by
16 members of City Council to bring about that
17 change.

18 I think it's absolutely urgent that the
19 constituencies of the different representatives
20 and the different senators representing
21 Philadelphia be informed as to what may be
22 happening, and that they find out from their
23 representatives and the senators what their
24 position is. I don't think the senators and
25 representatives should have the protective

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2 covering of saying, well, they never understood
3 what this legislation was about, and had they
4 understood it, they would have been opposed to
5 it.

6 I'm fearful that the City's policy is
7 giving credence to the statements to be made at a
8 later time by the representatives and senators
9 that we thought Philadelphia supported this, we
10 never knew it, you know, created any kind of
11 problems for anybody, or we would have been
12 against it. And I think we've got to shatter that
13 kind of story and make sure that the elected
14 representatives are held responsible for their
15 actions.

16 We thank you for your statement. Any
17 questions?

18 (No questions.)

19 COUNCILMAN COHEN: I see no questions
20 from members of the committee.

21 We thank you very much and I also ask
22 you to remain just for -- I think the remainder of
23 the testimony is going to be very brief. But I'd
24 like to ask you as I've asked Mr. Dworetsky and
25 Mr. Hayllar to remain just in case some questions

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2 came up.

3 Mr. Given, I understand that as
4 President of the Union, you may have anybody else
5 come up with you if you wish to.

6 (Joe Given comes forward.)

7 COUNCILMAN COHEN: And there's a
8 representative, I think, of TAG that's going to --
9 are you with Mr. Givens? Then you can please sit
10 with him. Very good, sir.

11 MR. GIVEN: Thank you, Councilman. I
12 don't have any prepared testimony.

13 COUNCILMAN COHEN: Identify yourself
14 for the record.

15 MR. GIVEN: My name's Joe Given,
16 G-I-V-E-N, President of the Gas Works Employees
17 Union, Local 686 (SEIU).

18 I don't have a prepared statement, and
19 I wasn't going to make any statement. But after
20 listening to the testimony, I think I've got to
21 clarify both the union and labor's position on
22 this bill.

23 We were part of the task force for the
24 last year and a half out in Harrisburg. We
25 testified as early as 1997 for Tedyffrin Township,

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2 Chester County, on this issue. Our position has
3 always been that we were against deregulation.
4 Our position is now that we're against
5 deregulation, and we're also against these
6 amendments for putting us under the PUC.

7 Labor put together a group of labor
8 leaders through the AFL-CIO in Harrisburg to
9 attend these meetings. This bill, Senate Bill
10 601, as you know, we are not in the bill --
11 meaning PGW. This bill, I believe, is on the
12 floor today in Harrisburg. The bill will go back
13 to the House and I believe the bill number we were
14 talking about before was 937. And as you know
15 now, State Senator Salvatore and Representative
16 Perzel have an amendment to this bill.

17 This amendment to this bill stinks, to
18 put it in plain words. This is nothing more than
19 what they did with electric deregulation where
20 they snuck the electric deregulation in in the
21 middle of the night on the back of the Taxi Cab
22 Medallion Bill.

23 We've been out there for two years,
24 labor, a coalition of people from the city, have
25 gone to these meetings, and we came away just as

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2 recently as three weeks ago that we were not a
3 part of this bill, and then that's when this
4 amendment came up.

5 Labor's big concern was that there was
6 no protection for the workers. There was no
7 protection that if a company came in and started
8 merging or if somebody came in and bought another
9 company, there was no protection for the people as
10 far as if they would be laid off, or workers'
11 right as far as who would do the work. There was
12 a lot of safety concerns. They were the two main
13 issues that labor had. When this bill came out of
14 the Senate, the issues weren't this. So they have
15 their own amendment that they're trying to
16 introduce for workers' protection.

17 Through the whole process of all of our
18 testimony, like I said, I think that the way
19 they're dealing with this now, they're trying to
20 pull us in in the last two weeks, right before
21 they go on a summer session. And I'm kind of
22 confused, I think, like you are as to where the
23 City stands on this. We get mixed signals from
24 PGW, from the administration of the Mayor, and
25 even out of Harrisburg, as you've said, because

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2 we're under the understanding also that there
3 might be some Democrats jumping on this.

4 But all the people that we talked to
5 out in Harrisburg, the PUC, the State legislators,
6 they don't really care if we're in this bill or
7 not. But there is a concern that if it's coming
8 from Perzel's office, they will vote with him
9 because he is from the Philadelphia area. And I
10 think a clear message has to come out of
11 Philadelphia here, where are we on this bill? Are
12 we for it or are we against it?

13 Like I says, Gas Workers Local 686 has
14 always been against this bill, from the beginning.
15 We feel that there is nothing in this bill that
16 protects the workers, there's nothing that
17 protects the senior citizens, there's nothing that
18 protects the rates. There's no savings in this.

19 Last week, in the Wall Street Journal
20 -- and I have a copy of it here today -- they had
21 a situation to where what electric deregulation
22 has done and how the salaries of the people have
23 escalated, and they give names. And I could share
24 that with you later. I don't want to bother you
25 by reading it all. And how much money these

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2 corporate have made on the back of deregulation,
3 on the back of the workers, on the back of the
4 ratepayers.

5 And like I said in the beginning, this
6 bill stinks.

7 Thank you.

8 COUNCILMAN COHEN: Thank you very much,
9 Mr. Givens.

10 (Applause.)

11 COUNCILMAN COHEN: Are there any
12 questions?

13 (No questions.)

14 COUNCILMAN COHEN: I think your
15 concerns are well-placed. Because, as I
16 understand it, probably if we go by tradition, the
17 first thing a new company would do -- and
18 incidentally, I think all of this is preliminary to
19 finally readying PGW for sale to some private
20 company in order to convert it into a
21 profit-making company rather than a public service
22 company that serves the people of Philadelphia.

23 And I think your concerns are true
24 'cause in all of those cases, the efforts have
25 been made by new employers to get rid of the

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2 workforce, terminate all contracts that exist, and
3 treat everybody as brand-new employees.

4 So I think your worries and concerns
5 are well-placed. And we thank you for appearing
6 here today.

7 MR. GIVENS: Thank you for your time.

8 COUNCILMAN COHEN: I have note of a
9 further witness from TAG.

10 (Dennis Pollard comes forward.)

11 MR. POLLARD: Thank you, Mr. Chairman.
12 I'm Dennis Pollard, and I'd like to move admission
13 of my entire prepared written statement -- I don't
14 want to read it -- in its entirety. But I have
15 four main arguments to make for you.

16 COUNCILMAN COHEN: Very good. The full
17 statement will be admitted into the record.

18 MR. POLLARD: The first statement --
19 and, again, I analyzed the public policy and
20 legislation for Tenants Action Group.

21 The first statement is this. The
22 Public Utility Commission of Pennsylvania lacks
23 the staff and the ability to properly and
24 completely review the Philadelphia Gas Works. The
25 Pennsylvania Public Utilities Commission, or the

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2 PUC, deals with for-profit, private utilities.

3 It's been said again and again, and it needs
4 repeating that the Philadelphia Gas Commission is
5 the only authority with the knowledge, the staff,
6 and the understanding to review.

7 And one reason for this is quite
8 simple. For-profit private, utilities have
9 extensive reports and filings which are sent to
10 the Securities and Exchange Commission. So in
11 other words, the work is already done with respect
12 to going over budgets and making sure the
13 companies are operating properly.

14 This is not so with respect to our
15 Philadelphia Gas Commission. They take the time,
16 and it's an arduous amount of work, to review the
17 necessary documentation.

18 Second is that the PUC is not a super
19 board of directors. And by that, what I mean is
20 that the PUC does not and the PUC will not closely
21 review what the Philadelphia Gas Works does. It
22 doesn't have the time, it doesn't have the
23 experience, which is one reason why it's proper in
24 that this body should continue to push for local
25 control.

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2 The only way, as I see it, that the PUC
3 can regulate the Gas Works, as it does with its
4 private utilities, is to reduce the profit
5 margin. Well, companies that are not for profit,
6 companies like the Philadelphia Gas Works do not
7 look towards their profit margin as the main
8 entity of making money, so the PUC cannot reduce
9 the profit margin -- that is, reduce the amount of
10 revenue and dividends that would go to
11 stockholders. The only alternative by not
12 granting PGW rate increases will be, in effect, to
13 penalize residents and tenants of the City of
14 Philadelphia. As has already been stated, the
15 Philadelphia Gas Commission has not allowed the
16 Gas Works to increase its rates. And at the same
17 time, customer rates have remained low.

18 If the PUC, in turn, regulates the Gas
19 Works, and by the same token, does not
20 hypothetically allow Philadelphia Gas Works to
21 increase rates, what the Gas Works can then do is
22 pass on any costs to the consumer, to the
23 residents and tenants of Philadelphia. The Gas
24 Commission is the buffer that keeps the Gas Works
25 from arbitrarily raising its rates without

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2 impacting the citizens and residents of
3 Philadelphia.

4 The third item is the senior-citizen
5 discount. And as someone who used to practice
6 law, let me state that the wording of this is
7 quite important. Yes, the Perzel amendment does
8 not literally end the current senior-citizen
9 discount, but it does phase it out over time.

10 Currently, as the amendment reads,
11 current senior citizens who are currently
12 receiving the discount will continue to do so.
13 However, those who become senior citizens after
14 the legislation takes effect will not be eligible
15 for the discount. Also, those current senior
16 citizens who have, for whatever reason, not
17 applied for the discount but later find that they
18 need it will not be eligible.

19 And the last item is simply that
20 whatever difficulty that TAG or any other
21 organizations may have had with the Gas Commission
22 in the past, it remains true that the best, most
23 capable, most qualified entity to supervise the
24 Gas Works is the Gas Commission. And it's for one
25 simple reason -- local control, accountability.

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2 If for, whatever reason, the Gas
3 Commission were to sleep on its job, the Mayor is
4 subject to recall or reelection in the future,
5 members of the City Council who sit on the Gas
6 Commission are subject to recall and reelection.
7 But if control goes to the Gas Utilities
8 Commission, the citizens of Philadelphia, the
9 residents of Philadelphia no longer have the
10 ability to remove an entity or an individual who
11 is not acting in the best interests of the City of
12 Philadelphia.

13 I will take your questions if you have
14 any.

15 COUNCILMAN COHEN: Well, we thank you
16 very much, Mr. Pollard, for your statement. We're
17 hoping, we've hoping that as a result of this
18 hearing and the general reawakening of the people
19 of Philadelphia to a knowledge about this threat
20 to their interests, that the Mayor will begin to
21 act in conformity with the statement of
22 opposition. This committee is prepared to
23 cooperate with the Mayor in every way, we're
24 prepared to join him in a press conference, we're
25 prepared to go with him to go to Harrisburg, to do

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2 lobbying, we're prepared to join with him and
3 appeal to all the people of Philadelphia.

4 Out of respect for his office, we
5 believe he is the one that ought to take the
6 initiative, and we will prepared to cooperate with
7 him.

8 But we think the danger is great and
9 imminent, and we think the Mayor ought to be out
10 in front, and we're willing to have him assume the
11 leadership, which we think rightfully belongs to
12 him, to lead this fight on behalf of all
13 Philadelphians.

14 And your analysis, I think, is very
15 sound, and we thank you for its presentation
16 today.

17 MR. POLLARD: Thank you.

18 (Applause.)

19 COUNCILMAN COHEN: The public advocate,
20 Mr. Knudsen, are you here?

21 MR. KNUDSEN: Yes.

22 (Mr. Knudsen comes forward).

23 COUNCILMAN COHEN: We'd like you to
24 come forward, and you've heard the testimony, and
25 I believe you were here when we had the emergency

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2 meeting on Wednesday. We'd be pleased to hear any
3 final comments from you.

4 MR. KNUDSEN: Just to be very brief,
5 the conversations this morning, thus far, have
6 been sort of the political objective.

7 COUNCILMAN COHEN: Would you speak
8 directly in the microphone.

9 MR. KNUDSEN: The conversations this
10 morning have gone to the political aspects of this
11 problem. I think there is a mechanical problem as
12 well, and that is that these transitions are not
13 going to be without costs to PGW. This is an
14 organization that is in not great shape
15 financially and organizationally. It has
16 undergone a lot of trauma.

17 This legislation is asking the City and
18 PGW and the customers to spend money they don't
19 have, that they are putting at risk the
20 implementation of major initiatives because what
21 this legislation requires is a lot of activity on
22 the part of the senior management team, on the
23 part of the entire organization. They will
24 undergo a major management audit. This is not a
25 simple process, particularly in an organization in

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2 the condition in which PGW finds itself right now.

3 Moreover, there are restraints on the
4 company in terms of rate caps, in terms of
5 inability to change tariffs that impose a level of
6 inflexibility that PGW shouldn't be under, I feel,
7 in the next 18 to 24 months. There should be the
8 flexibility to answer tactical issues that will
9 come up and that this company has historically had
10 to address over the last four or five years.

11 So I would simply raise another
12 concern, and that is for the organization and its
13 ability to implement this change in a manner that
14 I think would be successful and would put an
15 enormous burden on everybody throughout the
16 organization -- senior management and personnel.

17 COUNCILMAN COHEN: My only comment,
18 Mr. Knudsen, would be that I don't see that this
19 change could ever be successful if we consider as
20 a barometer of change the interests of
21 Philadelphia citizens. I just don't see any
22 possibility of movement to the PUC as being
23 positive. I see it has being harmful.

24 MR. KNUDSEN: Right.

25 COUNCILMAN COHEN: And we're pleased to

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2 have you mention these items -- they're very
3 specific and they're very important for everybody
4 to consider.

5 MR. KNUDSEN: Thank you.

6 COUNCILMAN COHEN: Thank you very much.

7 Are there any other people who wish to
8 be heard today? Come forward, please, and
9 identify yourself.

10 (Jean Boon comes forward.)

11 MS. BOON: Good morning. I'm Jean
12 Boon, the secretary of the Action Alliance of
13 Senior Citizens.

14 COUNCILMAN COHEN: Go ahead, please.

15 MS. BOON: Many of our members wanted
16 to be here today but they were advised on the
17 radio by the City Health Department to stay home
18 because of the heat. In fact, our President would
19 have liked to have been here.

20 Action Alliance of Senior Citizens is
21 calling on all Philadelphia members of the General
22 Assembly to oppose legislation to be considered
23 this week in Harrisburg to open the Pennsylvania
24 natural gas market to deregulation. Action
25 Alliance has been, and still is, conducting a

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2 postcard drive. We've sent out thousands of
3 postcards to the State legislators telling them we
4 do not want to put PGW under the PUC. So if they
5 say they don't know anything about it, that isn't
6 correct. They have all received -- and especially
7 Mr. Perzel.

8 We want the authority for gas to
9 continue to be under the local control. We have
10 more than a thousand signatures from Mr. Perzel
11 and Salvatore's districts against losing control
12 of PGW. When we wanted to meet with Mr. Perzel,
13 he would not see us. Until we had a huge rally
14 outside, he finally agreed to see a few people.

15 Unlike electric deregulation,
16 Pennsylvania ratepayers have little to gain with
17 natural gas deregulation and much to lose in the
18 long run, said our president, George DePasquale.
19 This is a 120,000-member organization, when we
20 count the actual members and all their families.
21 Action Alliance is a 26-year-old membership
22 organization with 220 affiliated senior clubs, and
23 they may have from 50 to 100 or more members in
24 each one of those clubs.

25 It is clear now that we have to wait

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2 until we can assess the impact of electric
3 deregulation on consumers before we go into
4 natural gas deregulation. There are still a lot
5 of questions to be answered about how the Public
6 Utility Commission has handled the consumer
7 education part of the deregulation in the
8 electricity industry. There is no need to rush
9 into natural gas at this point.

10 And as an aside, I would say that I
11 imagine everyone present here today knows that
12 only a third and then only two-thirds of the
13 ratepayers were to be admitted to electric
14 deregulation, but that was terribly
15 undersubscribed because the so-called education
16 program that PECO was awarded the right to do was
17 a disinformation campaign. So people, even if
18 they could have received better rates, many of
19 them remained unaware of it and were given the
20 impression, "We have always been here for you,"
21 said PECO, "we are safe," and many people were
22 afraid to turn their purchasing over to another
23 company.

24 What will we have when it's gas
25 deregulation and they're told they have to look

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2 for another company? How many explosions will we
3 have in Philadelphia?

4 Senior citizens and other consumers are
5 particularly concerned about the dismantling of
6 programs that help people on fixed incomes and the
7 poor pay for their gas bills. Mr. DePasquale
8 continues that this current legislation might be
9 amended to include the Philadelphia Gas Works. If
10 that happens, it is very likely that the 20
11 percent senior discount will disappear, and other
12 programs to help the poor will also disappear.
13 And we heard that.

14 And today Mr. Kimmerle told us what I
15 was not aware of -- I'm not sure others are aware
16 of -- cherry picking. This is what we see when
17 the banks close. First Union came in against our
18 hopes and closed banks. And when the neighborhood
19 has no banks, where do people cash their checks?
20 At the check-cashing store, which takes a usurious
21 rate, and this is what would be happening with
22 gas. If you are low-income, have a bad record of
23 payment, you will not be chosen, you will not be
24 the chosen few to get the rate discount. You will
25 have to be told to go to that other place,

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2 analogous to the check-cashing store, which is the
3 Gas Works of last resort, and they may put their
4 rates wherever.

5 It's the same as a person who needs
6 automobile insurance, if they have an accident,
7 their rate goes up. And if they try to get
8 another place, they have to have a scheduled rate,
9 a higher rate. That's no way to treat people.

10 They're asking every member of the
11 General Assembly to consider postponing any
12 consideration of natural gas deregulation until we
13 can actually answer all of the these questions.

14 Thank you very much.

15 (Applause.)

16 COUNCILMAN COHEN: Thank you very
17 much. We're sorry Mr. DePasquale was not here.
18 We wish him well.

19 MS. BOON: Yes, thank you.

20 COUNCILMAN COHEN: And tell the senior
21 citizens it may well be time for action quickly
22 and strongly.

23 MS. BOON: And if I may, Mr. Cohen, I
24 would really like to thank you very much for all
25 your efforts on our behalf over many years.

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2 COUNCILMAN COHEN: Thank you, thank
3 you.

4 Mr. Hayllar, I wonder if would will
5 come to the table. Councilman Rizzo has brought
6 up a matter that the committee would like
7 clarification on. We understand or we hear
8 reports that there may be a contract search -- a
9 search for a new management of PGW?

10 MR. HAYLLAR: No.

11 COUNCILMAN COHEN: Could you bring us
12 up to date. We understood there was an RFP out.

13 MR. HAYLLAR: No. An RFP will be going
14 out either this afternoon or tomorrow, dealing
15 with the management of PGW's assets and gas
16 supply. It was brought to our attention sometime
17 ago, and after a series of about 15 meetings with
18 other companies, including other utilities that
19 many of us participated in, we determined that it
20 was -- it is in the public's best interest to
21 determine if there could be savings that could be
22 derived by having a third party manage or assets
23 and our gas simply.

24 In theory, a company that is managing
25 the gas supply for a variety of utilities would be

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2 sharing the peak days -- in other words, the day
3 where the demand for gas was at its absolute
4 maximum and, therefore, you could purchase more
5 economically. We want to test that with an RFP
6 which has been prepared, and it's been circulated,
7 I think, about two weeks ago for comment. We've
8 finished the compilation of the comments. That
9 will go out today or tomorrow.

10 COUNCILMAN COHEN: Does that kind of
11 matter go before the Gas Commission?

12 MR. HAYLLAR: The Gas Commission -- the
13 Chairwoman has been a participant. We have
14 circulated drafts of it. Ultimately, if it's a
15 contract, it would come before City Council. As
16 we've said earlier, our goal is to, if we believe
17 that there is a substantial value to the
18 ratepayers, we would like to have this before
19 Council this fall.

20 COUNCILMAN COHEN: Councilman Rizzo,
21 any questions?

22 COUNCILMAN RIZZO: No.

23 COUNCILMAN COHEN: Are any questions
24 from any members of the committee?

25 (No questions.)

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2 COUNCILMAN COHEN: If not, thank you
3 very much. And I want to express appreciation to
4 you and to Mr. Dworetsky for your patience, and we
5 hope your influence will go in the same direction
6 that was indicated here say, and that you will be
7 urging within your powers that the Mayor lead this
8 campaign.

9 MR. HAYLLAR: Thank you.

10 COUNCILMAN COHEN: Thank you very much.

11 The committee will -- you know, has
12 made the offer to cooperate with the Mayor to a
13 press conference or to a delegation to Harrisburg
14 and to work with him in any way to mobilize the
15 public because of the imminence of action by the
16 State legislature.

17 This committee is going to stand in
18 recess until tomorrow, at 12 o'clock. And at 11
19 o'clock, there's a Committee of the Whole, and the
20 Committee on Law and Government will convene
21 immediately at the end of that meeting and no
22 later than 12 o'clock tomorrow to consider what
23 the situation is and what action needs to be
24 taken.

25 We hope that you will communicate with

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2 the Mayor. We would hope to hear from the Mayor
3 by noon tomorrow with respect to what action he
4 thinks is desirable to take.

5 Thank you very much. We stand in
6 recess until 12 o'clock tomorrow.

7 (Adjourned at 12:39 p.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Monday, June 7, 1999, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COUNCIL COMMITTEE ON LAW AND GOVERNMENT
RESOLUTION NO. 990388

_____,
JOSEPHINE CARDILLO,
Registered Professional Reporter