

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS
DIRECTOR'S HEARING ON PROPOSED REFUSE RATES
2013 REFUSE RATE APPLICATION

CITY HALL
1 DR. CARLTON B. GOODLETT PLACE, ROOM 408
SAN FRANCISCO, CA 94102

Friday, April 12, 2013

Pages 1-146

REPORTED BY: FREDDIE REPPOND
FREDDIE REPPOND, STENOGRAPHIC REPORTER
(415) 469-8867

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A P P E A R A N C E S

FOR DEPARTMENT OF PUBLIC WORKS:

Mohammed Nuru, Director
Douglas Legg
Nathan Rodis
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4645
(415) 554-6920

FOR DEPARTMENT OF THE ENVIRONMENT:

David Assmann
Robert Haley
11 Grove Street
San Francisco, CA 94102

FOR OFFICE OF THE CITY ATTORNEY:

Thomas Owen, Deputy City Attorney
Thomas M. Bruen, of Counsel
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682

FOR THE RATEPAYERS:

Peter Deibler, Ratepayer Advocate

FOR THE COMPANY:

Michael J. Baker, Esq.
Gabriel White, Esq.
ARNOLD & PORTER
Three Embarcadero Center, 7th Floor
San Francisco, CA 94111-4024
(415)471-3143

MEMBERS OF THE PUBLIC:

David Pilpel
Nancy Wuerfel
Irene Creps
Jeanette Berger

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1 Friday, April 12, 2013

1:03 p.m.

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

3 DIRECTOR NURU: Good afternoon, everyone. Let
4 the hearing please come to order.

5 Ladies and gentlemen, I am Mohammed Nuru, the
6 Director of Public Works for the City and County of San
7 Francisco. I will be the hearing officer for these
8 proceedings. The date is April 12th, 2013. And this is
9 the first in a series of hearings to discuss the City's
10 residential refuse rates.

11 On March 14 of this year, an application to
12 raise residential rates was filed with the Chair of the
13 San Francisco Refuse Collection and Disposal Rate Board.
14 The application was filed by Recology Sunset Scavenger,
15 Recology Golden Gate, and Recology San Francisco. We
16 refer to these three companies collectively as Recology,
17 or the Applicant.

18 The application is for the rate year starting
19 on July 1st, 2013, and includes a formula to change
20 rates annually for cost-of-living adjustments. The COLA
21 adjustments will continue until there is a new rate
22 order. The application seeks a rate increase equal to
23 an average of 21.51 percent for each residential and
24 apartment customer. Recology also proposes to introduce
25 a fixed household charge and separate charges for

1 containers for recyclables and compostable materials.
2 That is the blue and green bins. Recology is also
3 proposing changes on how apartment charges are
4 calculated, introducing a fixed charge for each
5 apartment and credits for recycling and composting
6 volumes.

7 These hearings are conducted to discuss the
8 costs and services that go into calculating refuse
9 collection and disposal rates. The City is required to
10 hold these hearings under an ordinance enacted by the
11 voters in 1932. In addition to the rules set forth in
12 the ordinance, DPW has adopted rules of procedure for
13 these hearings. Copies of the procedures are available
14 at the back of the room. The planned agenda for today's
15 hearing is in the back of room.

16 I will go over briefly how we plan to proceed
17 today and in subsequent hearings. We have this room
18 only until 5:00, so I ask you to help me stay on
19 schedule.

20 We begin with introductions.

21 Before we go any further, I would like to
22 introduce Mr. Freddie Reppond, who will transcribe our
23 meeting today. I request that everyone who speaks
24 today, witnesses and others, to please bear in mind that
25 Mr. Reppond has a very tough job. So please speak

1 clearly and into the microphone so that he can take your
2 entire testimony.

3 One more piece of housekeeping. I would like
4 the DPW clerk to make an announcement concerning DPW's
5 efforts to comply with Title VI of the Civil Rights Act
6 and ask your cooperation with the public participation
7 survey.

8 Mr. Nathan Rodis, please proceed with your
9 announcement.

10 MR. RODIS: Good afternoon.

11 Title VI of the Civil Rights Act requires
12 equal and equitable access to the Department of Public
13 Works program activities and services. To document that
14 the department is in compliance with Title VI, we ask
15 that everyone attending and participating in today's
16 hearing complete a public participation survey.
17 However, this survey is optional and completing it is
18 not required for participation. The data that you
19 provide will be analyzed and used to ensure residents
20 and stakeholders in the community are involved in the
21 refuse rate hearing process. The information will not
22 be used for any other purposes.

23 You will find this survey on the sign-in
24 table. Please place completed survey forms in
25 collection boxes.

1 Thank you.

2 DIRECTOR NURU: Thank you, Nathan.

3 Now I'd like to introduce some of the other
4 City staff who are here and will be participating on the
5 proceedings.

6 We start with Douglas Legg, head of finance
7 and budget at DPW.

8 Robert Haley, head of zero waste program at
9 Department of Environment.

10 David Assmann, deputy director for the
11 Department of Environment. Is David here? He'll be
12 here soon? Okay. All right.

13 Tom Owen, deputy city attorney, who will
14 represent the City on legal matters in these
15 proceedings. Want to stand up so people see?

16 Tom Bruen, special counsel for the City.

17 And Peter Deibler, who is the taxpayer
18 advocate. His job is to facilitate the participation of
19 residential ratepayers. And I hope that you will
20 consider him to be your resource in this process.

21 Okay. Let's talk about the proceedings. I
22 want to say a few things about these proceedings. The
23 1932 ordinance requires the DPW director to make a
24 decision on the residential refuse rates within 90 days
25 of the application being filed. For us, that date is

1 June 12th. During the 90-day review period there will
2 be several hearings which will allow the Applicant
3 companies and the public to put before me information,
4 concerns, and recommendations regarding the issues
5 raised by this application.

6 The Director has a duty to recommend just and
7 reasonable rates and to order studies and investigations
8 beyond assertions of Applicant and the claims of the
9 companies. I have requested that City staff review and
10 evaluate the rate application and to make further
11 necessary studies. And the staff's findings and
12 recommendations will be presented in future hearings.

13 Some of you may have attended our workshops
14 which we held on January 17th and March 21st of this
15 year. Those workshops were required by the last
16 Director's Order from 2006. Those workshops were
17 intended to be a more informal way of obtaining
18 information about rate increase requests. They were not
19 reported and were much more casual than these hearings
20 will be.

21 These proceedings will be on the record. That
22 means they will be transcribed and will become evidence
23 and the basis for my decision. Unless information is
24 submitted on the record, I cannot consider it in making
25 any decision and the Rate Board cannot consider it in

1 reviewing my decision. Information obtained and
2 exchanged at the workshops were not on the record, so
3 anything submitted or discussed at those workshops needs
4 to be resubmitted here to be considered. Anything said
5 at these hearings and any document introduced as an
6 exhibit will be considered to be part of the hearings
7 records. I will weigh this information in making my
8 decision.

9 The purpose of today's hearing is to hear
10 testimony from the companies in support of their
11 application; to ask the companies about the application;
12 and to hear public comment on the application. The
13 companies and the City will be introducing exhibits
14 which will become evidence in the proceedings. Anyone
15 planning to introduce exhibits should bring several
16 copies of each so that everyone can follow along.

17 Let's go over today's agenda. In a few
18 minutes, the companies will be allowed to make an
19 opening statement. After the opening statement, the
20 companies will present their detailed case and introduce
21 exhibits and expert testimony in support of the
22 application.

23 Today we will also hear from City staff on the
24 City's costs that go into the residential rate. We
25 sometimes refer to these costs as "impound account

1 costs," so called after the name of the account.

2 We will also hear about the special reserve
3 fund.

4 We will then hear from the Ratepayer Advocate
5 about his efforts to inform and engage with the public
6 about the rate application.

7 We will reserve the last period of today's
8 hearing and of everyday's hearing for public comment.

9 This hearing will be continued till next
10 Monday, April 15th, also beginning at 1:00 p.m., but in
11 Room 416. The topics for the Monday session are also
12 listed on the agenda. And if time permits, we may take
13 up one or more of those items today. We also have two
14 more hearings scheduled for Monday, April 22nd, and
15 Wednesday April 24th, at which we will hear further
16 testimony from the companies and the City. And the
17 Ratepayer Advocate will have a chance to ask questions
18 of their witnesses. Again, we will take public comment
19 each day before we adjourn. The agenda for those two
20 days will be posted on DPW's website next week.

21 Members of the public are welcome to
22 participate in these proceedings in two ways. First,
23 members of the public may speak during public comment
24 period and may offer materials to be included as an
25 exhibit in the hearing record. Members of the public

1 may also engage with the Ratepayer Advocate, who will do
2 his best to represent the public's interests during
3 cross-examinations. Mr. Deibler will be present at all
4 the hearings.

5 If you desire to speak during the public
6 periods, please fill out a speaker's card which are
7 available in the rear of the room and give it to the DPW
8 clerk, Nathan Rodis. I will apply time limits uniformly
9 to members of the public wishing to speak.

10 After this initial set of hearings in April,
11 City staff will prepare a draft report on the
12 application based on the testimony at the hearings and
13 any additional information staff has gathered. The
14 staff report is scheduled to be released around May 10
15 and will be the subject of additional scheduled hearings
16 for May 20th and May 22nd. I believe that these
17 hearings should allow for all issues to be raised and
18 commented on by all parties. However, if necessary,
19 additional hearings will be scheduled before I issue my
20 report and recommended order in early June.

21 I would also note this year we have an
22 additional requirement pursuant to Article XIII D,
23 Section 6, of the California Constitution, also known as
24 Proposition 218. Under this provision any residential
25 customer or property owner may submit a written protest

1 against the application to me. I will hold a separate
2 hearing on May 30th at 2:00 p.m. to consider written
3 protests received of that date. If more than half of
4 the ratepayers file a written protest against the
5 application, the City will not approve the application.
6 The guidelines for submitting written protest are
7 available on DPW's Website in three languages, English,
8 Chinese, and Spanish. And copies are also available at
9 the back of room.

10 Please note that while the public comment for
11 and against the application will be taken on every
12 hearing date, protest under Proposition 218 must be in
13 writing and must conform to the requirements specified
14 in that article to be considered valid. Those
15 requirements are spelled out in the guidelines. Written
16 protests may be submitted at any of these hearings, at
17 the May 30th hearing, or by delivering to DPW offices in
18 Room 348 here in City Hall in advance of the May 30th
19 hearing.

20 Also, if you want to be notified of future
21 hearings, if you want a copy of the recommendations I
22 will make to the Rate Board, or if you want to be
23 notified of the hearings before the Rate Board, please
24 make sure you have printed your mailing address or email
25 address clearly on the sign-in sheet.

1 We will talk about the Rate Board proceedings.
2 As required by ordinance, I will file my report on the
3 recommended order no later than June 12th of this year,
4 2013, to the Chair of the Rate Board. Any party
5 objecting to my recommendations must file an objection
6 within 15 days with the Chair of the Rate Board. If no
7 objections are filed, then my recommended order will be
8 deemed the order of the Rate Board and will take effect
9 no earlier than August 1st. If any objections are
10 filed, then the Rate Board will hold a hearing on those
11 objections. Based on the record from this hearing, the
12 Rate Board can grant or deny the objections. As noted,
13 the Rate Board is not permitted to consider any new
14 evidence beyond what is presented in the record of these
15 hearings during this 90-day review period. In the event
16 that the Rate Board does not make a decision within 60
17 days, my recommended order will be deemed final.

18 I would like to reiterate one point that I
19 just mentioned. If you don't like the results that come
20 out of the hearings at this level, you make an objection
21 to the Rate Board and the Rate Board will make the final
22 decision. Because the Rate Board is like an appeals
23 court, the Rate Board will not hear new evidence. The
24 Rate Board will only hear arguments relating to the
25 evidence and recommendations developed in these DPW

1 hearings. So this is the place where you get your
2 position on the record and put in any evidence that you
3 have.

4 Ready to begin. We have these hearing rooms
5 for only a limited time. Please help me make sure that
6 everyone can speak and be heard at the hearings by
7 arriving on time and using the time effectively. If you
8 do not get a chance to speak, please come back to a
9 later hearing or submit your comments in writing. I
10 encourage you to share your comments with the Ratepayer
11 Advocate.

12 We are now ready to proceed. Please remember
13 that ringing and use of cellphones, pagers, and other
14 sound producing electronic devices is very distracting;
15 and I must request you refrain from the use in this room
16 during this hearing.

17 Are the companies ready to present their case?

18 Do you wish to make an opening statement?

19 OPENING STATEMENT BY THE APPLICANT

20 MR. BAKER: Yes, we do.

21 Good afternoon, Mr. Nuru and counsel and
22 staff. My name is Mike Baker. I am with the law firm
23 Arnold & Porter in San Francisco. And we represent the
24 Applicants, Recology, Sunset Scavenger, Recology Golden
25 Gate, and Recology San Francisco.

1 Let me also introduce who is with me today:
2 My colleague Gabriel White, who will be examining some
3 of the witnesses; and two company representatives who
4 will be among our principal witnesses, Jon Braslaw,
5 who's assistant group manager for Recology San Francisco
6 operations and who is second in command to San Francisco
7 group manager, John Legnitto, who we're very pleased is
8 with us today as well. And another principal witness
9 will be John Glaub, who's seated behind me, who's
10 director of administration and facilities for the San
11 Francisco operations.

12 On behalf of Recology, we appreciate the
13 opportunity to be here today to talk about Recology's
14 collection and recycling programs in San Francisco. I'm
15 going to spend the next 15 minutes or so providing an
16 overview of the rate increase that Recology seeks in
17 order to sustain these programs and to provide new
18 programs and services that Recology and the City have
19 jointly developed.

20 This application is presented against the
21 backdrop of two important initiatives taken over the
22 last several years by the City's Board of Supervisors.
23 The first of these initiatives occurred in 2002 when the
24 Board adopted a resolution committing the City to
25 achieve 75-percent diversion by the year 2010 and

1 setting a further ambitious goal of eventual zero waste.
2 The City exceeded the 2010 goal and last year announced
3 that diversion had reached 80 percent, a remarkable
4 achievement. And Recology, City officials, City
5 residents, and businesses all deserve praise for that.

6 The second Board of Supervisors initiative
7 that has a bearing here took place in October of 2009,
8 when the City's mandatory recycling ordinance took
9 effect, one that is the strongest in the nation. Both
10 Board initiatives are important drivers for this rate
11 application.

12 With regard to zero waste, the application
13 includes new programs to continue to push the City
14 forward toward its zero waste goals. You will hear
15 about a pilot program to recover more materials for the
16 black bins. You'll hear about new incentive discount
17 plans to encourage more recycling. You'll hear about a
18 possible property purchase for a new zero waste
19 facility. Zero waste is an important driver in these
20 hearings, not only because of the related programs but
21 also because of the expenditures required to move closer
22 to zero waste; that is the expenditures required to
23 effectively separate and process recyclable and
24 compostable material.

25 With regard to the second Board of Supervisors

1 initiative that I mentioned, mandatory recycling, you
2 will hear through the testimony how residential and
3 business customers are in fact recycling and composting
4 more. Greater diversion means less trash to the
5 landfill, which is obviously a good thing.

6 But more diversion also encourages customers,
7 quite properly, to migrate to smaller and less expensive
8 bins. The current residential pricing system is based
9 solely on the black bin. Therefore, migration to the
10 smaller and less expensive black bins has meant reduced
11 revenue to the companies over the past few years.
12 Revenue has also been negatively impacted by the
13 economic downturn that began in the fall of 2008. And
14 you will hear testimony and see some charts that we
15 prepared that show how both mandatory recycling and the
16 economic downturn have impacted the companies' revenues,
17 making these developments over the past few years rate
18 drivers as well.

19 Which brings us to the current rate
20 application. Recology's last rate application was filed
21 seven years ago, in 2006. At that time the Director and
22 the Rate Board put in place rates that applied for five
23 years. During that five-year period and since then up
24 to today, Recology's expenses have risen, but its
25 revenues have not, the reason being, as I mentioned,

1 less trash going into the black bins due to mandatory
2 recycling and the economic downturn. So a significant
3 portion of Recology's rate increase is to bring rates
4 back in line with expenses.

5 Over the last few years the usual matching of
6 expenses and rate revenues that's part of this process
7 has gotten out of kilter and this application is in part
8 designed to correct that imbalance.

9 It's also important to keep in mind that the
10 last rate increase took effect in July of 2010, which
11 was the beginning of the fifth and last year of the
12 five-year rate cycle. Therefore, rates have not changed
13 at all for the past three years. And during this
14 period, as I mentioned, expenses have continued to rise,
15 in part, to handle the greater volume of recyclables and
16 greenwaste that the mandatory recycling ordinance
17 encourages. No increase in rates for the last three
18 years is a further driver for the rate increase Recology
19 now seeks.

20 As Mr. Nuru mentioned, Recology seeks a rate
21 increase that averages 21.51 percent per customer. For
22 a typical single-family residence, the increase would be
23 from the current rate of \$27.91 a month to \$34.51 a
24 month, a monthly increase of \$6.60.

25 Recology calculates the residential rates it

1 is requesting the same way it has done in the past; that
2 is, it projects its collection expenses for the next
3 year and compares those expenses to the revenue it
4 expects to collect from sources other than residential
5 customers, principally revenue from commercial customers
6 and from the sale of recycled commodities.

7 The net costs that remain, plus the operating
8 ratio, the OR, together establish the amount of revenue
9 needed from residential customers to cover allowable
10 collection expenses. Recology seeks no change in the OR
11 or the profit margin approved in the last rate hearings,
12 so the focus here will be as in the past on Recology's
13 proposed San Francisco expenses and its projected
14 revenue from sources other than residential ratepayers.
15 And as we know, Recology has presented the City with
16 detailed schedules and back-up that have been the
17 subject of the workshops and have been scrutinized over
18 the last few months. And those will be the subject of
19 testimony in the days to come.

20 Now, apart from the numbers that make up and
21 support a rate increase, this application has two policy
22 objectives. The first, as I've mentioned, is to
23 continue the development of programs aimed at furthering
24 the City's progress towards zero waste. The second is
25 to introduce a new rate-making structure to begin

1 charging customers in a way that does not rely solely on
2 the black bins. The current pricing structure based on
3 the black bins only is no longer sustainable as
4 customers continue to recycle more and use the black
5 bins less.

6 Therefore, you will hear about Recology's
7 proposal to reduce the price of the black bin but add
8 for the first time a base charge per residential
9 customer and a charge for each of the blue and green
10 bins.

11 For apartment customers, Recology is proposing
12 a volume-based discounting system similar to the one
13 that is now used for commercial customers that was
14 introduced successfully in 2006. These discount
15 formulas are designed to encourage and reward recycling
16 and composting. You'll hear how the new pricing
17 structure will work and see how it will affect different
18 types of single-family residents and apartment
19 customers.

20 Unlike Recology's past two rate applications,
21 which were for five years each, this one is for one year
22 only. The reason is that Recology anticipates filing a
23 new rate application once plans for new zero-waste
24 facilities are further developed. In the meantime
25 Recology requests that a COLA mechanism be approved to

1 allow for rate adjustments in subsequent years until
2 such time as a new rate application is filed. The COLA
3 mechanism Recology proposes is similar to the one
4 approved by the Director and the Rate Board in 2006,
5 with one refinement to more accurately account for
6 healthcare costs.

7 So the Recology companies welcome the scrutiny
8 that is an important part of this process. And as you
9 will hear, the company and its employees are
10 enthusiastic about the many programs that Recology
11 offers, programs that were listed over two, three pages
12 in the narrative that accompanied the application. And
13 these programs are ones that Recology offers with the
14 City's support. And you'll hear about how these
15 programs benefit the City, its residents, and the
16 environment. To sustain these programs and to develop
17 more, Recology now seeks this rate adjustment, the first
18 one in three years.

19 So with that, I'll step down and let you hear
20 from the people who run the programs and who have done
21 the number-crunching and have prepared the analyses that
22 you will hear about. Thank you very much.

23 Shall we call our first witness then?

24 DIRECTOR NURU: Yes, you may call your first
25 witness.

1 support to John Legnitto, our group manager.

2 Q. Are you familiar with the rate application
3 that Recology has submitted that we're talking about
4 here today?

5 A. I am.

6 Q. And you played a role in the preparation of
7 that?

8 A. I did. I was primarily responsible for the
9 development of the application and coordination of the
10 team involved in putting it together.

11 Q. Can you summarize for us the sequence of
12 events that has proceeded the filing of the application.

13 A. The companies filed a notice -- a letter of
14 notice of application -- in September of 2012. We filed
15 a draft application in December of 2012. And then,
16 based on comments, input, suggestions from the City,
17 from the public, we filed the final application on March
18 14th.

19 Q. And could you look please at Exhibit 1 in your
20 binder there. Is Exhibit 1 the rate application that
21 was filed?

22 A. It is.

23 MR. BAKER: Let me just ask a housekeeping
24 matter as to how you'd like to handle exhibits. Should
25 we mark it for identification, like in court, and move

1 their admission? Or would you like to do it in some
2 other way?

3 MR. OWEN: I think if you'd simply state that
4 you're moving a particular document into the record.
5 For those that we don't already have at the dais, hand
6 it to the clerk to hand it to me. And then I'll hand it
7 to the reporter to actually be marked.

8 MR. BAKER: All right. So I move the
9 admission of -- pardon me.

10 MR. LEGG: And assign a number.

11 MR. OWEN: Yes.

12 MR. BAKER: So then I move the admission of
13 Exhibit 1.

14 MR. OWEN: All right. We will mark this
15 document as Exhibit 1 and receive it in evidence. It's
16 a document of approximately 85 sheets. And the top
17 sheet appears to be a transmittal letter dated March 14,
18 2013, from Recology to Ms. Naomi Kelly, City
19 administrator.

20 (The document referred to was
21 marked and received into evidence
22 as Exhibit 1.)

23 BY MR. BAKER:

24 Q. Mr. Braslaw, can you summarize for us what
25 the application consists of, by reference to the tabs

1 that appear.

2 A. The application consists of a cover letter, a
3 narrative summary which describes the programs that the
4 companies are proposing along with some information
5 about cost elements, and a reconciliation of the reasons
6 for the increase. It's got then a set of detailed
7 expense and revenue schedules for Sunset Scavenger and
8 Golden Gate Disposal and then a second set of schedules
9 for Recology San Francisco. Finally, it's got an
10 appendix, which is modifications to the standardized
11 format as required by the application process by the
12 ordinance.

13 Q. So the detailed schedules that relate to
14 Recology Sunset Scavenger and Recology Golden Gate are
15 behind the tab that says "RSS/RGG"?

16 A. Correct.

17 Q. And the detailed schedules that relate to
18 Recology San Francisco are behind the tab "RSF"?

19 A. Correct.

20 Q. Since March 14th, 2013, when this application
21 was submitted, are there any modifications to the
22 application?

23 A. We have made some minor modifications to the
24 application, primarily to clarify certain things that
25 were contained within the application.

1 Q. Could you take a look at Exhibit 2, please.
2 What is Exhibit 2?

3 A. Exhibit 2 is a list of changes that we're
4 proposing to include in the application to the
5 application.

6 Q. And what's Exhibit 3?

7 A. Exhibit 3 is a revision to the narrative
8 summary, which is one of the items that's listed on the
9 list on Exhibit 2. Actually, it's three of the items.
10 Excuse me.

11 Q. So Exhibit 3 is a revision of the narrative
12 summary that is part of Exhibit 1 to show the changes?

13 A. Correct.

14 Q. Can you tell us where the changes are in
15 Exhibit 3, the narrative summary?

16 A. The first change is on page 13 in the zero
17 waste incentives section. It was -- actually, the
18 change was the elimination of a sentence that was
19 included in the original application discussing where
20 the first tier would be set in subsequent years. That
21 sentence was eliminated, as it really wasn't applicable
22 to the way that those incentives are intended to be set.

23 Q. So it's the sentence that says, "First, tier
24 targets in subsequent years will be based on expected
25 changes in baseline tonnage." That sentence has been

1 deleted?

2 A. Correct.

3 Q. Any other changes in the narrative summary?

4 A. There are two additional changes, the first on
5 page 17. Item 4 under breakdown of revenue increase, it
6 reads, "Additional funding of City departments and
7 assumption of abandoned material collection program
8 increases required revenues by 1.8 percent." In the
9 revision it is 3.2 percent. Actually, that was an error
10 in the original submission. The correct number is
11 3.2 percent.

12 Q. Any other changes to the narrative?

13 A. And then finally, on page 18, item 6, which is
14 the decrease in other expenses, that should be 2.4
15 service, as opposed to 2.3. That was just a rounding
16 difference.

17 Q. And that change has been made in Exhibit 3?

18 A. Correct.

19 Q. Let me move the admission of Exhibit 2 and
20 Exhibit 3, please.

21 MR. OWEN: We will mark the first document as
22 Exhibit 2 and receive it into evidence. It's a single
23 sheet with the title "Post-Filing Changes to Final
24 Application."

25 We will mark the second document as Exhibit

1 No. 3 and receive it into evidence. It is a 20-sheet
2 document approximately and bears the title "2013 Rate
3 Application Narrative Summary, March 14, 2013."

4 (The documents referred to were
5 marked and received into evidence
6 as Exhibits 2 and 3.)

7 BY MR. BAKER:

8 Q. Now, Mr. Braslaw, could you turn to Exhibit 4.

9 A. Yes.

10 Q. What is Exhibit 4?

11 A. Exhibit 4 is a copy of Schedule B-1, Schedule
12 B-2, and Schedule B for the Recology Sunset, Recology
13 Golden Gate application and the Contingent Schedules 1
14 and 2 associated with that.

15 Q. So does Exhibit 4 consist of schedules from
16 the rate application, Exhibit 1, and showing the changes
17 that have been made since the application was submitted?

18 A. That's correct. The first change on Exhibit
19 B-1 is actually the elimination of something that really
20 no longer is applicable.

21 Q. And what was that?

22 A. That was -- there was a single-can rate that
23 was included on Schedule B-1. But actually, in fact,
24 the companies are proposing to calculate rates in a
25 different manner and that rate really was no longer

1 applicable. We submitted the change for clarification.

2 Q. And what about change to Schedule B-2?

3 A. Likewise, the change for Schedule B-2 was
4 submitted for clarification. It now includes the
5 calculation of a typical monthly charge for a typical
6 residential customer.

7 Q. And what about the change to Schedule B of
8 Contingent Schedule 1?

9 A. The change to Schedule B of Contingent
10 Schedule 1 and Schedule 2 are both similar to the change
11 to B-1. We eliminated the single-can rate that was no
12 longer applicable.

13 Q. Do any of the changes reflected in Exhibit 4
14 cause the requested rate increase to change at all?

15 A. No. They're for clarification purposes only.

16 MR. BAKER: I move the admission of Exhibit 4,
17 please.

18 MR. OWEN: We will mark the document as
19 Exhibit 4 and receive it into evidence. The exhibit is
20 a four-sheet document. The top sheet is labeled
21 "Recology Sunset Scavenger/Recology Golden Gate Rate
22 Application, Schedule B-1, Rate Calculations Total
23 Revenues."

24 (The document referred to was
25 marked and received into evidence

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as Exhibit 4.)

MR. BAKER: Thank you.

Q. Let's now turn to the rate application itself and what the components of the requested rate increase are. Let me ask you look at Exhibit 5, please.

Is Exhibit 5 a chart that depicts the breakdown of the rate increase that is set forth in the narrative of the application itself?

A. That's correct, as corrected.

Q. And am I right that the narrative portion of the narrative that is depicted in this slide is on page 17 of the application?

A. Correct.

Q. So at the bottom we see 21.51 percent. That is the average-per-customer rate increase that's sought; is that right?

A. Correct.

Q. Let's look at the first item here, collection revenue shortfall. And what does the 16.1 percent represent?

A. That represents the amount of revenue differential between what's needed to support the expenses and all the programs and what was approved in the last rate, basically.

Q. So 16.1 percent -- 16.1 is 16.1 percent of the

1 total of 21.5. If we add all these numbers up together,
2 we'll come up with 21.51?

3 A. That's correct.

4 Q. All right. Now, we're going to come back to
5 the collection revenue shortfall in a minute and spend
6 more time on that. But let's continue with the summary.

7 What is the second item, recycling revenue
8 shortfall?

9 A. That's the difference between the amount of
10 recycling revenue that is included in the application
11 and what was approved in the last rate. The percentage
12 increases are measured against what was approved in the
13 last cycle and therefore what we're kind of moving
14 against today.

15 Q. So in coming up with your -- with the rate
16 application, putting this chart aside for a minute,
17 describe the process that is used. In other words, the
18 focus on expenditures, revenues, et cetera, in order to
19 determine how much additional revenue is needed.

20 A. The process really is a ground-up process
21 which starts with the expenses. So the company goes
22 out, looks at what programs are in place, what programs
23 that we're anticipating operating, and calculating the
24 expenses related to those programs.

25 We then look at the revenue that is going to

1 be generated from the current rates in the context of
2 those programs and the customers that are then existing
3 to determine the base revenue. The difference
4 essentially is -- turns into the rate increase.

5 So what we look at is building up the
6 expenses, coming up with the revenue requirement, and
7 then measuring that revenue requirement against current
8 revenue. And the difference between those two numbers
9 is the requested rate increase.

10 Q. What role does the revenue received from
11 commercial customers play in that analysis?

12 A. It's part of the base revenue, so it's part of
13 what offsets the costs of providing the service, so the
14 remainder is what you need to collect from the
15 residential and apartment customers.

16 Q. And what role does the revenue that you
17 receive from the sale of commodities play in this
18 analysis?

19 A. That likewise is used to offset costs. The
20 sale of commodities are at Recology San Francisco. So
21 they're used to offset the tipping fee that's charged
22 for materials that the collection companies bring to the
23 processor to be processed.

24 Q. So going back to Exhibit 5, in talking about
25 the recycling revenue shortfall, you mentioned that you

1 had compared your projections for that number with what
2 had happened in the past rate process. Did I get that
3 right?

4 A. That's correct.

5 Q. Can you explain why you did that.

6 A. Because the last rate was approved in 2011,
7 essentially that would be the revenue base that we would
8 use to measure whatever changes were occurring in the
9 current rate application. So we use 2011 essentially as
10 a base to kind of identify the areas that are driving
11 the need for a rate increase. And recycling -- a
12 differential in recycling revenue was one of those
13 areas.

14 Q. So the rate hearing was in 2006. Why did you
15 mention 2011?

16 A. 2011 was the fifth year of the last rate
17 cycle. So those rates were actually set in 2006. They
18 were set for the five-year period, 2011 rate year being
19 the fifth year of that cycle.

20 Q. So part of your process that you did this time
21 was to project recycling revenue for Rate Year 2014 and
22 compare it to what had been assumed back in 2006 for the
23 year 2011? Did I get that right?

24 A. That's correct.

25 Q. We will also spend some more time talking

1 about that, but let's continue now in this Exhibit 5.

2 Anticipated migration, 1.6. What does that
3 refer to?

4 A. That refers to the movement that we see with
5 our customers from black-bin service to more blue and
6 green service, basically moving from trash service to
7 more diversion services. Because those services are
8 provided at a greater discount, that basically reduces
9 the amount of revenue that we receive. Based on our
10 historical experience, we believe that, even though we
11 apply for a certain amount of revenue, we won't receive
12 all of that because people will change their behavior.
13 It's part of the underlying motivation for putting
14 together the application and proposing the structures
15 that we have is to motivate people to change their
16 behavior. This is an estimate of what we believe to be
17 the revenue loss that will result from that change.

18 Q. This is revenue loss during the next rate
19 year?

20 A. Correct, during Rate Year 2014. All of these
21 estimates that you see there are related to Rate Year
22 2014.

23 Q. Does this assumption regarding anticipated
24 migration apply to all your customers across the board
25 or only some of your customers?

1 A. It actually only applies to the apartment
2 sector and the commercial sector. So even though we
3 have encouraged residential customers to migrate to
4 smaller cans and we've been providing outreach to
5 explain what benefit they'll get, we have not included
6 any migration assumption related to residential
7 customers in the application. We have included
8 apartment migration and commercial migration.

9 Q. If you had assumed some level of migration to
10 smaller black bins by residential customers, would that
11 have caused your rate application to seek a higher
12 increase or a lower increase?

13 A. It would --

14 Q. Not a "lower increase." Would it cause you to
15 request rates to go up or down?

16 A. It would have changed -- it would have
17 increased the percentage by which we were requesting the
18 rates to go up by. It would make the increase go
19 higher, depending on whatever assumption was used to
20 determine the magnitude of migration.

21 Q. And why is it that the companies in this case
22 chose not to assume any migration by residential
23 customers, even though you're encouraging it?

24 A. There were a couple of reasons, the first of
25 which is that the companies recognize that there's some

1 risk and we believe that there will be some migration,
2 that we have a strong motivation to move forward toward
3 zero waste. And we wanted to put this program in place.
4 It will encourage our customers to be able to basically
5 right-size their service. We will get a benefit
6 because, as people do right-size their service and they
7 reduce the amount of material that goes into the black
8 bins, then we would be able potentially to achieve
9 certain diversion goals -- zero-waste goals -- that are
10 built into the application and into the process.

11 Q. Let's move to the next item on this list, "3.2
12 of the 21.51 percent rate request is related to City
13 departments and abandoned material funding."

14 What does that refer to?

15 A. That refers to some components of the
16 application included to help fund City departments
17 related to litter control programs, related to
18 regulatory activities, and also for the assumption of
19 the abandoned-materials collection program. The City
20 requested that we analyze and put together a proposal
21 related to that program. Those things all together are
22 included in the 3.2 percent.

23 Q. Okay. We will hear more about the
24 abandoned-material program later. But can you just
25 describe that a little bit more? This is a function

1 that the City was performing and the City has asked
2 Recology to take it on; is that right?

3 A. That's correct. They've asked us to assume
4 most of the responsibility. There's still a component
5 that would remain with the City. That would be in
6 response to calls to the City's 311 system or the
7 identification of abandoned waste in the regular
8 operation of our service. And it would be collecting
9 those materials and then sorting for diversion and
10 disposal of whatever materials need to be disposed of.

11 Q. And there is a cost related to that additional
12 service. And that's what's in part referred to here?

13 A. That's correct.

14 Q. So then there's an item, "employee benefit
15 cost savings." What does that refer to?

16 A. Again, we're measuring against the estimated
17 costs. In 2011 there are a couple of areas where
18 there's some benefit cost savings. One was in workers
19 comp. In the original application in 2006 and in the
20 approved rates, the workers comp costs was actually in
21 excess of what we are projecting for 2014. So there was
22 a savings there.

23 In addition, there's a savings related to
24 post-retirement medical benefit that was adjusted as
25 part of the last cycle of negotiations with the union

1 and it's part of our current collective bargaining
2 agreement that we were able to enjoy some cost savings
3 that is reflected back into the application.

4 Q. So these changes have actually caused the
5 amount of the requested increase to go down?

6 A. That's correct.

7 Q. Then there's the last item on here, "other
8 decreased expenses," 2.4 percent. What does that refer
9 to?

10 A. Right. That's a combination of other things
11 that are lower than where they were projected to be as
12 of the last rate cycle. So, again, a combination of
13 things. There's some professional services. There is
14 some allocation changes. There's, again, several
15 categories that were actually lower than where they were
16 in the last cycle.

17 Q. So this is also an item that has caused the
18 amount of the requested increase to be less than it
19 otherwise would be; is that true?

20 A. That's correct.

21 Q. Let's go back up to the first item,
22 "collection revenue shortfall." And talk about how --

23 Let me move admission of Exhibit 5, please.

24 MR. OWEN: We will mark the document as
25 Exhibit 5 and enter it into evidence. The document is a

1 single sheet entitled "Components of Rate Increase."

2 (The document referred to was
3 marked and received into evidence
4 as Exhibit 5.)

5 BY MR. BAKER:

6 Q. This looks like a complicated document. It is
7 a little complicated, but we're going to use it as a
8 tool to talk about some of the other items we want to
9 talk about.

10 The application that Recology submitted for a
11 rate increase in 2006 was for how many years?

12 A. It was for a five-year period.

13 Q. So in that application did Recology include
14 projections for revenue and expenses for each of those
15 five years?

16 A. Yes.

17 Q. And the rates that were ordered by the
18 Director and the Rate Board were different for each of
19 those five-year periods, reflecting the expenses and
20 revenue that had been presented; is that true?

21 A. That's correct.

22 Q. Now, the five years would have been for Rate
23 Years 2007, 2008, 2009, 2010, and 2011; am I right?

24 A. That's correct.

25 Q. So let's look at the first line of this

1 document, which says, "Revenue projected in 2006 rate
2 application before COLA." So under Rate Year 2009, the
3 number 207 appears; what does that represent?

4 A. That represents the revenue that was actually
5 approved in the 2006 rate schedule for Rate Year 2009.

6 Q. When you say "the revenue that was approved,"
7 what does that mean exactly?

8 A. The rate application covered revenues for each
9 of the five-year period. And then during the process we
10 evaluated those projections along with other elements of
11 the application. And the Director and ultimately the
12 Rate Board approved those revenues as part of the final
13 rate. So they were used to calculate the final rates
14 that were approved in 2006.

15 Q. Did that mean that you were guaranteed to
16 receive that level of revenue in each of those future
17 years?

18 A. No. They were projected in those future
19 years.

20 Q. So the numbers that appear next to it, Rate
21 Year 2010 and 2011, similarly, those were the revenue
22 numbers that were projected for each of those years in
23 the rate order issued in 2006; is that right?

24 A. That's correct.

25 Q. And these are millions, right?

1 A. Yes.

2 Q. Now, the 2006 rate order also included a COLA
3 mechanism; is that right?

4 A. That's correct.

5 Q. And what is a COLA mechanism?

6 A. COLA is cost-of-living adjustment. It's a
7 mechanism to reflect changes primarily related to
8 inflationary increases.

9 Q. And did the rate order include a formula for
10 calculating COLA on a yearly basis?

11 A. It did.

12 Q. And give us a brief summary of what that
13 formula was.

14 A. The formula included various components that
15 were designed to reflect anticipated changes in
16 different categories of expenses.

17 As an example, labor had a certain index. It
18 grew at a certain rate. Certain costs were increased
19 by the Consumer Price Index. Other costs were
20 increased by the Producer Price Index. Certain costs
21 had zero increase because they were fixed at the time
22 that they were put in place; and so they weren't
23 expected to increase with inflation.

24 Q. So again looking at the projected revenue
25 number, the \$207 million, 211, 250 million, am I right

1 that if we were to look at Schedule B-1 of the 2006 rate
2 application we would see those number?

3 A. That's correct.

4 Q. And there's a footnote there that makes
5 reference to that.

6 Now, the COLA adjustment, it says, "7.5
7 percent in Rate Year 2009." What does that represent?

8 A. That represents the cumulative adjustment from
9 Rate Years 2008 and 2009. This is the cumulative COLA.

10 Q. What was the COLA adjustment in Rate Year
11 2008?

12 A. In Rate Year 2008 it was 2.99.

13 Q. Actually, that's reflected in Footnote 2,
14 isn't it?

15 A. I should be looking at that.

16 Q. So below the 7.5 percent is the number
17 222 million. What does that represent?

18 A. That represents 1.075 percent of 207.

19 Q. And --

20 A. So it just represents adjusting the revenue to
21 grow it by the amount of the cumulative COLA that you
22 see in the second line.

23 Q. So in other words, 222 million represents the
24 revenue that was projected to be received in Rate Year
25 2009 adjusted for the COLA that was applied?

1 A. Correct.

2 Q. And that's been true for the next numbers
3 as -- 229 million and 243 million for those years?

4 A. That's correct.

5 Q. Now, the next item is actual revenues from
6 collection operations, 220 million. What does that
7 represent?

8 A. That represents the actual revenues that we
9 received in Rate Year 2009 stated on the same basis as
10 the 2006 rate application.

11 Q. So in other words, the projection adjusted for
12 COLA is 222 million. You came in at 220 million, pretty
13 close.

14 A. That is correct.

15 Q. Now, the footnote here refers to Schedule F-1
16 of the current rate application. If we turn to Schedule
17 F-1, will we see that exact number of 220 million for
18 Rate Year 2009?

19 A. We will not see the exact number. The rate
20 application changed slightly in form. And so some of
21 the dollars that are in the 2006 application were
22 basically in a different place in the current
23 application so we stated them on the same basis for
24 consistency.

25 Q. If we went to Schedule F-1 of the 2013

1 application, the revenue shown for Rate Year 2009 would
2 be what?

3 A. For 2009, it would be 223.

4 Q. 223. So there's a \$3 million difference
5 there?

6 A. Correct.

7 Q. And if you look across the revenue from
8 collection operations in the subsequent years, 216
9 million, 223 million, 217 million, 216 million are the
10 numbers that appear on Schedule F-1, approximately 3
11 million higher than each of those?

12 A. Three to three and a half million. And
13 they're pretty consistent through those years.

14 Q. So when you -- then the number below the last
15 row here is revenue shortfall versus 2006 projections.
16 What does that depict?

17 A. So that depicts the difference between what
18 was projected in the 2006 rate order adjusted for COLA
19 against what we actually received. So the two is
20 actually a minus two, because our actual revenues were
21 \$2 million less than the revenues that were approved,
22 adjusted for COLA.

23 Q. And then what about in the subsequent years?

24 A. It's calculated the same way. So in that
25 first year, as you stated, we were pretty close. Then

1 \$2 million. In Rate Year 2010 our actual revenues were
2 about \$13 million less than what was projected. And in
3 Rate Year '11, it's about \$20 million less.

4 Q. And it looks like revenue during this entire
5 period Rate Year 2009 through -- well, let me first say
6 Rate Year '13, we're not quite finished with that one
7 yet, are we?

8 A. Correct.

9 Q. That will end on June 30 of this year?

10 A. Correct.

11 Q. So is the number projected revenue for Rate
12 Year '13 of 216 million; is that an educated projection?

13 A. It is. And if anything, it may be slightly
14 high. We may come in slightly below that.

15 Q. So your actual revenues from collection
16 operations, this row right here, has been fairly flat
17 for the last five years; is that a fair statement?

18 A. That's correct.

19 Q. And to what do you attribute that?

20 A. We think that the revenue -- we have seen some
21 degradation based on migration and based on changes in
22 economic activity, but that's been offset in part by
23 recycling prices that have helped kind of stabilize the
24 overall revenue.

25 Q. Have you obtained any data from your

1 operations that give any indications about migration?

2 A. I have.

3 Q. What do you have in that area?

4 A. Let's see. In migration I looked at over the
5 last few years and in fact the percentages of materials
6 that we are collecting have changed pretty considerably.
7 When I look back to 2006, so kind of take a longer look
8 than this; but from 2009 the trend is accelerated. We
9 have moved from about 70-percent trash to the total
10 collection to about 51 percent. Trash has gone down
11 cumulatively in the last six years above 13 percent. So
12 we've seen the migration in that sector.

13 The commercial sector is, in fact, more
14 accelerated. And there the same cumulative adjustment
15 is about 23 percent. And what we saw in the commercial
16 sector is that the reduction in the amount of trash
17 jumped from again the 9-percent number over three years
18 to 16. So we saw definitely a significant acceleration
19 in migration during that time.

20 Q. Are you familiar with the mandatory recycling
21 ordinance in San Francisco?

22 A. I am.

23 Q. When did that take effect?

24 A. That took effect in October 2009.

25 Q. Has Recology seen any impacts from the

1 mandatory recycling ordinance?

2 A. We have. As I mentioned, we've seen an
3 acceleration of the move from black-bin and black-stream
4 service to more of the recycling and composting service.
5 We saw an acceleration definitely in the apartment
6 sector and also with restaurants and some of the other
7 commercial sectors.

8 Q. Has Recology seen any impacts from the
9 economic downturn?

10 A. We have. And as it shows on the chart, the
11 downturn started really in October of 2008 and then
12 mandatory came in a year later and we've seen the
13 effects basically of both of those things. So initially
14 we saw the impacts of the economic downturn in Rate Year
15 '10. And early '11 that started to stabilize, but we
16 saw some continued impacts from the move to greater
17 recycling and composting services.

18 Q. Why is it that the mandatory recycling
19 ordinance and the economic downturn impacted your
20 revenues?

21 A. The economic downturn impacted the revenues,
22 because, as there was less activity -- economic
23 activity -- people downsized their service. We saw that
24 people really went -- they moved towards minimizing
25 their costs as they were working to maintain their

1 businesses through the recession. We've also seen from
2 the mandatory, again, movement, because as mandatory
3 went in we worked closely with the City on an
4 implementation and a compliance program. And as we've
5 done that, we have continued to roll-out recycling and
6 composting to additional residents and apartment
7 customers.

8 Q. In your analysis have you been able to
9 distinguish the impact from the mandatory recycling
10 ordinance, as opposed to the economic downturn?

11 A. We have not. And when we did our analysis,
12 those two things were so closely intertwined in the way
13 that we keep our records that it was really impossible
14 to separate those with any degree of accuracy. And any
15 separation would be an allocation process that could
16 vary very significantly, depending on the way you built
17 the assumptions.

18 Q. So going back to Exhibit 6 and looking at the
19 actual revenue numbers for the years we're looking at
20 here, am I right that revenues remained flat, even
21 though there was a rate increase that took effect in
22 Rate Year 2010 and another one that took year in Rate
23 Year 2011?

24 A. That is correct.

25 Q. Now, if we move over to the right-hand side of

1 the document, what does the number 265 represent?

2 A. 265 million. That is the total revenue
3 requirement that's contained within the rate application
4 based on all of the expenses that are included in the
5 application and the operating ratio.

6 Q. Would we find the number 265 million in the
7 application some place?

8 A. We would. It is --

9 Q. We should hope so, right?

10 A. I hope so.

11 It's on Schedule B-1, about the middle of the
12 page.

13 Q. Then what does the number 218 represent?

14 A. 218 represents the revenue that we anticipate
15 at current rates. So that's the revenue generated by
16 all of the customers at the current rate that
17 essentially is available today to support the programs
18 in place and what we are proposing.

19 Q. And the difference between those two numbers
20 is 47 million?

21 A. That's correct.

22 Q. What does that represent?

23 A. That represents the increase that the
24 companies are requesting to support the programs as
25 presented in the application.

1 Q. So how does the number 47 million get
2 translated into what the companies are requesting by way
3 of a rate increase?

4 A. That gets applied to the various sectors.
5 Actually, first the 47, when you do the math, that
6 represents 21.51 percent from the 218. So that's the
7 math to get to the magnitude of the increase requested.

8 Q. Now, if your revenues had actually been what
9 was projected back in 2006 for the last of the five
10 years, namely 243 million, if your revenue today was 243
11 million instead of 216 million, would your request for
12 rate increase be less?

13 A. Absolutely, it would be.

14 Q. And what would be the percentage if that were
15 to have been the case?

16 A. It would be, I believe, under nine percent,
17 about eight and a half percent. It would be the
18 difference between the 243 and 65, so it would be 22
19 million over the 243.

20 MR. BAKER: I move the admission of Exhibit 6,
21 Mr. Owen.

22 MR. OWEN: We will mark the document as
23 Exhibit 6 and receive it into evidence. The document is
24 a single sheet with the title "SF Collection Revenue
25 Projections and Actuals, Rate Year 09 through Rate Year

1 14, Dollars in Millions."

2 (The document referred to was
3 marked and received into evidence
4 as Exhibit 6.)

5 MR. BAKER: Mr. Nuru, I'm going to turn to a
6 different subject now, which I'm happy to do, but I just
7 wanted to see whether you wanted to take a break at this
8 point or whether you wanted to proceed?

9 DIRECTOR NURU: I think we should proceed.
10 I'm planning for a break at 3:00 o'clock.

11 MR. BAKER: Thank you.

12 Q. Mr. Braslaw, does this application include any
13 changes in the rate-making structure for residential
14 customers?

15 A. It does.

16 Q. What is that change?

17 A. The change that we're proposing really brings
18 some pretty fundamental changes to the structure. As
19 you mentioned in your opening statement, that currently
20 the rate is based on the size of the black bin only. So
21 basically the revenues generated off that black-bin
22 service, as we've seen the success of the programs and
23 as we've seen migration and we just talked about the
24 impact on our revenue.

25 So we proposed a structure for residential

1 customers that starts to move away from that really and
2 reflect where we are in the cycle of the programs and
3 to reflect the success of the programs. The new
4 structure includes a base charge, which would be
5 applied per dwelling unit. It includes some small
6 charges for recycling and composting bins; and then it
7 includes a charge for the 32-gallon black bin.

8 Q. Let's turn to Exhibit 7 and use that as a way
9 to illustrate the changes that are being proposed.
10 Let's start with the sample at the top. You see Sample
11 1 there?

12 A. Yes.

13 Q. And what does Sample 1 show us?

14 A. Sample 1 represents a typical residential
15 customer with three 32-gallon containers -- trash,
16 recycling, and composting containers. So under the
17 column that's entitled "current rate," you see that
18 there's one number in that column near the trash line.
19 And that's \$27.91, the current -- basically, the current
20 32-gallon rate for a single 32-gallon customer.

21 Under the new rate the components that I
22 mentioned, if you look, the trash rate has gone down
23 from 27.91 to 25.51. That component of the rate has
24 gone down.

25 But there are additional components -- the

1 recycling charge of \$2, the composting charge of \$2 and
2 a base-unit charge of five dollars. The base-unit
3 charge is intended to represent some of the fixed costs
4 of the program. So that would be things like customer
5 service, regulatory costs, et cetera. The total new
6 rate would be \$34.51 for this customer, this type of
7 customer, for an increase of \$6.60.

8 Q. So does this customer have an opportunity to
9 change its service and thereby save money?

10 A. They do. The minimum service requirement for
11 a residential single-family residential customer is
12 20 gallons. We currently offer a 20-gallon bin for
13 trash service.

14 Q. So this customer could trade in their --
15 convert their --

16 A. They'd trade in their 32-gallon trash bin for
17 a 20-gallon trash bin. They would be reducing their
18 overall service by 12 gallons. But their new rate, as
19 you can see in the column on the right under "new rate,"
20 would be 24.94. It would be a reduction of \$2.97 from
21 the current 27.91. So by moving to a smaller black bin,
22 they'll be able to reduce their rate.

23 MR. BAKER: We move the admission of Exhibit
24 7, please.

25 MR. OWEN: We will mark the document as

1 Exhibit 7 and receive it into evidence. The document is
2 a single sheet entitled "Residential Customer Downsized
3 Black Bin."

4 (The document referred to was
5 marked and received into evidence
6 as Exhibit 7.)

7 BY MR. BAKER:

8 Q. Let's now look at an exhibit entitled
9 "Down-sized Black Bin and Up-sized Blue Bin." What does
10 Exhibit 8 shows?

11 A. Exhibit 8 is basically that same typical
12 32-gallon customer that's got three 32-gallon bins, but
13 we want to demonstrate the impact of making changes to
14 their service. If this customer moves to a 20-gallon
15 trash bin but moves to a larger recycling bin, they now
16 actually have 20 extra gallons of service. Because
17 they've got a larger recycling bin, their new monthly
18 rate is 26.94. It's still 97 cents, about a dollar,
19 less than what they're paying today. So this customer,
20 in fact, has more volume of service, can get more
21 service, and can still see their rate go down from where
22 it is today by moving from a 32-gallon trash bin to a
23 20-gallon trash bin.

24 MR. BAKER: So we move the admission of
25 Exhibit 8, please.

1 MR. OWEN: We will mark the document as
2 Exhibit 8 and receive it into evidence. The exhibit is
3 a single-sheet document entitled "Residential Customer
4 Down-sized Black Bin and Up-sized Blue Bin."

5 (The document referred to was
6 marked and received into evidence
7 as Exhibit 8.)

8 BY MR. BAKER:

9 Q. Moving now to Exhibit 9, what does Exhibit 9
10 show us?

11 A. Exhibit 9 is a residential customer. It's a
12 three-unit-building. Residential customers are from one
13 to five units. This is a customer that has three units.
14 You see under base-unit charge the number three there.
15 Again, their current rate is based on the volume of the
16 trash that they -- the service that they receive, the
17 \$83.73, that's their current rate based on a 96-gallon
18 trash container. Under the new proposed rate structure,
19 again, the elements that we've discussed, their trash
20 bill specifically goes down to \$76.53. They have a \$6
21 charge for a 96-gallon recycling container. They've got
22 a \$4 charge for a 64-gallon composting bin and they have
23 a \$15 base-unit charge. That's five dollars per unit
24 times the three units. Their new total bill, \$101.53.
25 It's an increase of \$17.80 from their current rate.

1 That increase is about 21 and a quarter percent. And I
2 point out that it's lower than the 21.05 because the
3 amount of the rate increase for any individual customer
4 is going to be determined by their service
5 configuration, the volume, the frequency, the size of
6 the containers.

7 Q. So the exact percentage increase could vary
8 some from customer to customer is your point?

9 A. That's correct.

10 Q. Still maintaining the overall average of
11 25.51 percent?

12 A. Correct.

13 Q. Now, could this person save any money by
14 changing service?

15 A. Absolutely. You see in the blue box on the
16 right this specific customer, by moving their trash
17 service from a 96-gallon bin to a 64-gallon bin, it
18 reduces their trash cost to 51.02. And still the other
19 components remain, as we've discussed -- the \$6 for
20 recycling, \$4 for composting, \$15 for base-unit charges.
21 The total -- new total is 76.02, a reduction of \$7.71,
22 or about 9 percent from their existing service.

23 MR. BAKER: Move the admission of Exhibit 9,
24 please.

25 MR. OWEN: We'll mark the document as Exhibit

1 9 and receive it into evidence. The document is a
2 single sheet entitled "Residential Customer One to Five
3 Units, Down-sized Black Bins."

4 (The document referred to was
5 marked and received into evidence
6 as Exhibit 9.)

7 BY MR. BAKER:

8 Q. Let's move now to apartment customers.

9 What does Exhibit 10 show us?

10 A. Exhibit 10 shows us calculated rate, the
11 current rate, and the new rate for a typical apartment
12 customer. There's some elements of the calculations
13 that are a little bit more complicated than what we saw
14 for the residential customers. That's because our
15 proposal includes a different rate structure for the
16 apartment segment and apartment customers. The
17 structure is a discounted volumetric structure whereby
18 the customer is charged for all their volume and they
19 receive a discount based on the amount of diversion
20 volume they have as a percentage of their total volume.

21 Q. So we'll walk through this in some detail, but
22 is this a rate structure that you've previously used or
23 something similar to this?

24 A. It is. It's similar to the commercial rate
25 structure. The reason that we've proposed this rate

1 structure in the apartment segment is that apartment
2 customers have quite a bit of variability in terms of
3 their service. So based on the size of the buildings,
4 based on the level of diversion recycling and
5 composting, based on the constraints of service and
6 therefore changes in the frequency, all of those things
7 serve to create a lot of variability. We wanted to
8 propose a structure that we felt was more reflective of
9 that customer group and also provided a clear economic
10 incentive for them to move to greater diversion
11 services; and we believe that this structure is
12 reflective of those goals.

13 Q. So let's walk through this customer's current
14 bill of \$167.46 a month. Tell us how that is
15 determined.

16 A. Basically that's determined based on the
17 amount of trash service. So the apartment customers
18 today are treated the same as residential customers. So
19 the bill -- the fee for service is based on the volume
20 of trash. So this customer could have two 96-gallon
21 recycling containers. They could have six and the bill
22 would be same as what you see here. So there's no
23 change for changes in the recycling and composting
24 today, but only -- it's really only driven by the volume
25 of trash service.

1 Q. So if this customer makes no changes in their
2 service, how will their bill change?

3 A. Their bill will change -- first, we'll kind of
4 work from the middle up and down. The base-unit charge
5 again, consistent with what we are proposing in the
6 residential side, is a base-unit charge for each
7 dwelling unit. So that's six. You see \$30. Say, \$5
8 charge for each of the dwelling units. That covers the
9 fixed costs of the system.

10 Then the next component is that for all of
11 the volumetric service there would be a gross -- kind
12 of a gross amount calculated related to that. So those
13 dollars, the 153.06 and the 51.02, those are based on
14 the size and quantity of containers. The base charge
15 for each 32-gallon of service is consistent with the
16 residential 32-gallon black-bin service. So it's
17 basically calculated at 25.51 for 32 gallons. You can
18 see under the composting line for a 64-gallon bin it's
19 51.02, which is two times the 25.51. So that's the
20 gross volumetric charge. And then that volumetric
21 charge is subject to a discount based on their
22 diversion. And the way that's calculated is first a
23 diversion percentage is calculated, which is the total
24 volume of diversion service against the total volume of
25 all services. That in this example is the 57 percent.

1 Q. So let's stop there just a second. Am I
2 pointing next to the asterisk to the formula that tells
3 you what the diversion percentage is?

4 A. That's correct.

5 Q. And it's a ratio?

6 A. Right.

7 Q. A fraction. And what's the numerator of the
8 fraction?

9 A. Diversion service, which is recycling and
10 composting services.

11 Q. And in this particular example what's the
12 number that would appear in the numerator?

13 A. The number is 192 plus 64. I have to do the
14 math. It would be 158.

15 Q. So that's two times ninety-six plus --

16 A. Two fifty-eight, excuse me.

17 Q. So that's two times --

18 A. Two times ninety-six plus one times
19 sixty-four.

20 Q. And the total is what?

21 A. I believe it's 258. I don't know. Somebody
22 can check my math.

23 Two-fifty-six. Thank you. Been away from
24 accounting for too long.

25 Q. And then what's the denominator?

1 A. The denominator is 256 plus 192 -- hang on.

2 Q. You didn't know there was going to be math on
3 this test.

4 A. Four-hundred-forty-eight.

5 Q. Four-hundred-forty-eight. Good.

6 So 256 divided by 448, hopefully, will be 57
7 percent?

8 A. I hope so.

9 Q. But yet the discount percentage is only
10 47 percent. So why is that?

11 A. That's correct. Because we've proposed to
12 provide discounts that are equal to the diversion less
13 10 percent. And the reason that we proposed this part
14 of the structure is that, because of mandatory recycling
15 and composting and because the programs are already
16 starting to become more mature, we believe that there's
17 a minimum amount of recycling and composting that all
18 customers are expected to do. That minimum amount we
19 determine at this point is 10 percent isn't subject to
20 the discount because, again, we believe that that's kind
21 of an expectation of the customers. So anything in
22 excess of that 10 percent we provide as a discount,
23 there's an upper limit that we're proposing in the
24 structure; and that would be a discount of 75 percent;
25 and that would be based on diversion percentage of up to

1 85 percent.

2 Q. So looking at this particular example, the
3 diversion discount is \$167.86; is that right?

4 A. Correct.

5 Q. How was that number calculated?

6 A. That is 47 percent of the sum of the
7 volumetric charges. 153.06 twice and the 51.02.

8 Q. Now, then there's an additional item here
9 called "Cap Credit in Year 1." What does that refer to?

10 A. Cap credit in Year 1 is based on another
11 element of the proposal. We propose, in order to allow
12 the apartment customers time to get acclimated to the
13 new structure and ultimately to migrate their service
14 and really right-size their service, which we expect
15 they'll do over time, that we've proposed a cap of
16 25 percent in the first year. So whatever the current
17 bill -- the current fee charged by the customer, the new
18 rate won't go up more than 25 percent during that first
19 year. The \$9.95 is the amount necessary to bring in
20 this example, that customer's adjustment, down to
21 25 percent, 125 percent of the 167.46.

22 Q. So this customer, if they make no change in
23 service, will see their rate go up from 167.46 to
24 \$209.33?

25 A. That's correct.

1 Q. Now, could this customer make changes in
2 service in order to save money?

3 A. They could. Again, even though the new
4 apartment structure has a volumetric charge associated
5 with all volumes of service, that the recycling and
6 composting services which result in diversion and
7 discount percentages are significantly less than the
8 cost of trash service. So this customer, by moving one
9 of their 96-gallon trash containers to a recycling
10 container, they've still got the same amount of volume.

11 So if you added up the first three numbers,
12 it's equal to the first three numbers in the column to
13 the left under "new rate." But their diversion
14 discount is significantly greater because they've
15 increased their diversion percentage and consequently
16 their discount percentage.

17 Q. So the total for this customer, if they switch
18 out a black bin for a blue bin, would be \$140.71; is
19 that --

20 A. Correct, which would be a decrease from where
21 they are today.

22 Q. Last on this exhibit there's a note that says
23 "Does not include premium surcharges, key, elevation,
24 and, distance." What's that refer to?

25 A. That is correct. Many of the apartment

1 customers have what we call charges for premium
2 services. If the companies go in, they use a key to
3 gain access to the bins, then there's a charge related
4 to that key. Those charges are not included in the
5 example, but they're part of the cap. So the companies'
6 proposal includes that cap of 25 percent in the first
7 year. That includes a cap basically all-in for all
8 charges, including those premium charges.

9 Q. Are key, elevation, and distance charges new
10 in this application?

11 A. No they are not. They exist today.

12 MR. BAKER: I'll move the admission of Exhibit
13 10, please.

14 MR. OWEN: We will mark the document as
15 Exhibit 10 and receive it into evidence. The document
16 is a single sheet entitled "Apartment Customer
17 Once-a-week Service, Trade in the Black Bin for a Blue
18 Bin."

19 (The document referred to was
20 marked and received into evidence
21 as Exhibit 10.)

22 BY MR. BAKER:

23 Q. Let's look at our last example, which is
24 Exhibit 11. What does this example show us?

25 A. This example shows us an apartment customer --

1 a significantly larger customer. Again, if we start in
2 the middle with the base-unit charge you can see that
3 there's 25 units. So this is a customer, fairly
4 significant-sized building that's got some different
5 characteristics. You can see in the third column under
6 "Frequency" that this is a customer that in this example
7 has service six days week. What that indicates is they
8 don't have a lot of room and even though they've got a
9 lot of units and they have a lot of service, the service
10 is built on frequency, as opposed to built on the number
11 of containers. So the rate is calculated the same way
12 because volumetric charges are essentially the size of
13 the container times the number -- of the number of
14 containers and the number of times that it's serviced.
15 Under the current rate, again it's calculated the same
16 way. Based on the black-bin service, there's no
17 separate charges for recycling or composting. And
18 there's no base-unit charge. The total for this
19 customer is \$565.18.

20 Q. So what will happen to this customer under the
21 new rate?

22 A. Under the new rate, they'll have a volumetric
23 charge for all of the service and they then will --
24 those charges will be discounted by the diversion and
25 discount percentage. You can see the percentage

1 calculated below in the orange. That's the result --
2 the \$730 is the application of the 53-percent discount
3 to the volume charges. They're subject to the \$125
4 charge, is the number of units times the base charge per
5 unit. And then they also would have a cap credit in
6 Year 1 of \$65.97 to limit their increase to 25 percent
7 increased from the 565.18.

8 Q. Now, we saw earlier how customers like this
9 might be able to save money by switching a black bin for
10 a blue bin or a green bin. But if this customer does
11 not want to change the configuration of its bins can the
12 customer save any money by changing the frequency of
13 service?

14 A. Right. Again, the volumetric charge is based
15 on the size of the bins and the frequency of service.
16 So my moving the frequency from six times a week to five
17 times a week, they'll be able to reduce their bill. You
18 can see under the new calculations of \$604.60, it's
19 above the current rate; but it's below -- it's certainly
20 below what they would otherwise be subject to and it's
21 below the 25-percent cap. You can see there's no line
22 in there under cap credit. That's because their
23 increase is, in fact, less than that and there's no need
24 to apply the cap. It looks like their increase is
25 probably about 10 percent.

1 MR. BAKER: I have no further questions of
2 Mr. Braslaw at this time. He's available for
3 cross-examination. We expect to bring him back later in
4 the hearings to talk about some of the specific expense
5 items, but we wanted to limit his testimony right now to
6 this overview that we've provided. We will follow his
7 testimony with some testimony from other witnesses
8 regarding new programs and other overview issues; and
9 then we will return later with Mr. Braslaw and others
10 with regard to some specific expense items that may be
11 of interest.

12 DIRECTOR NURU: Okay.

13 MR. OWEN: Before we release Mr. Braslaw, do
14 you want to introduce Exhibit 11?

15 MR. BAKER: Yes, I do. Thank you for
16 reminding me.

17 MR. OWEN: We will mark the document as
18 Exhibit 11 and receive it into evidence. The document
19 is a single sheet entitled "Apartment Customer Reduced
20 Frequency of Service."

21 (The document referred to was
22 marked and received into evidence
23 as Exhibit 11.)

24 DIRECTOR NURU: Okay. Thank you.

25 So I think I'll recommend we now take a

1 15-minute break. And when we come back, we'll begin the
2 session by hearing from the witness, if that's okay with
3 everyone.

4 [Whereupon a break was taken from
5 2:45 p.m. to 3:00 p.m.]

6 DIRECTOR NURU: We will now hear from two City
7 witnesses on City costs. If the DPW clerk can swear in
8 the witnesses, thank you. If we begin that process. I
9 believe the Department of Environment first.

10 DPW CLERK: Good afternoon, sir. Please raise
11 your right hand.

12 Do you solemnly swear that the testimony
13 you're about to give today is the truth, to the best of
14 your knowledge?

15 THE WITNESS: I do.

16 DPW CLERK: Thank you.

17 MR. OWEN: Before we start, I just want to
18 remind everyone that if you're going to speak and
19 introduce exhibits, we're asking that you bring at least
20 five copies, if possible, so we can circulate them to
21 all the parties and everybody can follow along with the
22 proceedings.

23 My name is Tom Owen. I'm a deputy city
24 attorney advising the City in these proceedings.

25 The City's first witness will be David

1 Assmann.

2 DAVID ASSMANN,

3 Having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. OWEN:

6 Q. You've been sworn in, Mr. Assmann. Could you
7 state your name for the record again and spell your last
8 name.

9 A. David Assmann. Last name is spelled
10 A-s-s-m-a-n-n.

11 Q. And your position?

12 A. I'm deputy director of the San Francisco
13 Department of the Environment.

14 Q. And how long have you served in that position?

15 A. Since August of 2000.

16 Q. What are your general duties?

17 A. My general duties are I oversee a number of
18 program areas within the department. I have some
19 specific responsibilities in relationship to areas that
20 are covered by the impound account and zero waste,
21 toxics reduction, environmental justice, and
22 greenbuilding.

23 Q. What is the impound account?

24 A. The impound account is a fund that is used to
25 cover fees that are assessed at the landfill and to

1 cover specific City costs for the Department of Public
2 Works and the Department of the Environment.

3 Q. How much money is included in the impound
4 account under the application for the Department of the
5 Environment?

6 A. \$8,893,753.

7 Q. Do you happen to know approximately what the
8 cost would be to the average individual ratepayer?

9 A. To the best of our calculations it amounts to
10 seven cents a month per household.

11 Q. Thank you. At this point can you explain how
12 the department would be using those funds and how the
13 costs were calculated?

14 And you don't have to wait for me to ask
15 questions.

16 A. Okay. The way we calculate a cost is based on
17 an allocation that we developed for the last rate
18 process, which is based on 62 percent of the funding is
19 used for zero waste programs; 31 percent for
20 toxics-reduction programs; 5 percent for greenbuilding
21 programs; and 4 percent for environmental justice
22 programs.

23 And I would like to introduce as an exhibit
24 an overview of the impound account project areas for
25 the Department of the Environment which outlines

1 approximately 50 projects that are funded by the
2 impound account. And this is a detailing of how we
3 would spend the money in each of the different program
4 areas. It was developed in conjunction with each of
5 the program areas and following the guidelines in terms
6 of percentages that we have been abiding by since 2005.

7 Q. Thank you. Do you have copies we can provide
8 to the Applicant at this time and the Ratepayer
9 Advocate?

10 A. I do. The Advocate was sent one yesterday.
11 I've already sent this to the Ratepayer Advocate.

12 MR. OWEN: We will mark the document as
13 Exhibit 12 and receive it into evidence. The document
14 is approximately six sheets with the title "Impound
15 Account Projects SF Environment 2013-2014."

16 (The document referred to was
17 marked and received into evidence
18 as Exhibit 12.)

19 BY MR. OWEN:

20 Q. You may proceed.

21 A. Well, I was not going to go through the entire
22 list of projects that's in here, other than to say that
23 the vast majority of them relate to project within zero
24 waste in terms of implementing the mandatory recycling
25 and composting ordinance, neighborhood composting

1 campaigns, curbside auditing, green apartments,
2 commercial building outreach, material processing,
3 construction and demolition debris, recycling, checkout
4 bags, food-service ware, and a variety of projects for
5 City government in addition to zero waste event auditing
6 and outreach programs associated with all of those
7 programs.

8 Under the toxics reduction program we have a
9 number of programs aimed at reducing the amount of
10 toxic materials that are produced and also programs to
11 divert materials from landfill dealing with special
12 wastes which are barred from landfill in California.
13 Working on programs like drug take-back programs,
14 healthy nail salons, green-cleaning programs, and toxic
15 reduction programs for municipal agencies.

16 Q. Could you describe the approval process for
17 expenditures from the impound account?

18 A. Okay. There are several sets of processes we
19 go through to develop programs. First, we have a
20 strategic planning process for the department that we'll
21 go through and outline priority areas for each of our
22 program areas.

23 Our second analysis of what we would do every
24 fiscal year is, based on our budget process which is
25 prepared internally, taken to our Commission. It goes

1 through a committee of our Commission, then goes
2 through the full Commission. It is then submitted to
3 the Mayor's budget office, runs through the Mayor's
4 budget process. Then goes to the Board of Supervisors
5 and it is run through the Board of Supervisors' budget
6 process. So there are a number of steps in the way of
7 developing a budget and a program plan each year.

8 We also have internal checks and balances in
9 terms of approval processes for any expenditures that
10 run through program managers and through the deputy
11 director or the director to authorize any expenditures
12 out of the impound account. We now annually audit the
13 impound account. We have -- since 2010, I believe
14 there's an analysis done every year of how
15 impound-account funding is spent. We also track all
16 our time through an online tracking system so that all
17 our hours are logged to make sure that impound-account
18 hours are properly allocated and accounted for. So we
19 have a number of different programs to ensure that
20 money is appropriately used.

21 Q. Is the size of allocation to the City
22 departments in this rate application commensurate with
23 the size of past rate applications?

24 A. Absolutely. We actually, in calculating the
25 request, we used COLA to determine how much we should

1 ask for this time. It is strictly a COLA increase over
2 the last rate process.

3 Q. And to the best of your knowledge is this
4 allocation roughly proportional to what other
5 communities receive from franchise arrangements or --

6 A. It is roughly proportional. There are other
7 communities that receive more and some others that
8 receive less but, yes, on a rough basis, absolutely.

9 Q. Thank you. Turning to the special reserve
10 surcharge, can you explain basically what that is?

11 A. The special reserve charge was set up to deal
12 with unforeseen expenses between rate applications that
13 the companies may incur. And it was set up to have a
14 minimum of \$15 million in it. It was funded by a
15 surcharge that fed into this fund and then withdrawals,
16 having gone through an approval process, would be taken
17 out of the fund to deal with unforeseen expenses. The
18 decision was made in the last rate process to
19 discontinue putting additional money into the special
20 reserve. We determined there was sufficient funding in
21 the special reserve to deal with any unforeseen
22 circumstances.

23 The special reserve is required to stay in
24 place until after the landfill agreement has ended.
25 And the Rate Board has up to five years to determine

1 disposition of that fund after the agreement has
2 concluded.

3 Q. Is there anything else you'd like to add about
4 either the impound account special reserve or any other
5 part of the City's side of the rate application?

6 A. The only thing I'd like to add on the special
7 reserve -- and it's not really related to special
8 reserve. It's just that we are and have been going
9 through a landfill search process and that at the
10 termination of this landfill agreement we will have in
11 place a new agreement. At this point -- and I ran the
12 numbers again this morning -- we are projected to run
13 out of capacity sometime in January of the 2016.

14 MR. OWEN: Thank you. You are excused.

15 DIRECTOR NURU: Thank you.

16 And we'll now call a City witness from the
17 Department of Public Works.

18 MR. OWEN: The City's next witness is Mr.
19 Douglas Legg.

20 DPW CLERK: Good afternoon. Please raise your
21 right hand, sir.

22 Do you solemnly swear that the testimony that
23 you're about to give today is the truth, to the best of
24 your knowledge?

25 THE WITNESS: I do.

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DPW CLERK: Thank you.

DOUGLAS LEGG,

Having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OWEN:

Q. Could you please state your name again for the record, spelling your last name.

A. Douglas Legg, L-e-g-g.

Q. And what is your current position with the City?

A. I'm manager of finance, budget, and performance with the Department of Public Works.

Q. How long have you served in that position?

A. I have been in that position since 2004.

Q. What are your general duties?

A. I manage all of the department's budget activities, our grants from outside agencies, and management to make sure that our various bureaus and programs are staying within budget during the year. I also am responsible for our performance measurement systems and tracking how well we are doing at providing our services, tracking the volume of requests and services that we provided, and also looking at how we are serving different parts of the city.

Q. Do you have any specific duties in connection

1 with waste management and the refuse rate process?

2 A. Yes, I do. As part of our occasional -- the
3 Department of Public Works' occasional responsibilities
4 for setting refuse rates, I'm the primary staff person
5 who is examining and leading a team of consultants
6 examining the companies' refuse rate application this
7 year. I had a similar experience in 2006.

8 And I also evaluate on an annual basis
9 requests for the COLA adjustment based on the approved
10 mechanism and make recommendations to the Director and
11 the City Administrator on withdrawals from the special
12 reserve account.

13 Q. You've heard Mr. Assmann's description of the
14 impound account. Is there anything you'd add to that?

15 A. Well, in addition to the regulatory fees and
16 the portion of the impound account that funds programs
17 at the Department of Environment, since 2005 there have
18 been impound account funds that have been allocated to
19 the Department of Public Works for many of our costs
20 related to the management of materials on city streets
21 and sidewalks.

22 And so over the years the amount of money has
23 been increased in that account. And as of the 2012
24 rate process we're currently receiving about \$3.88
25 million to deal with these kind of refuse-related

1 services, including litter patrol, block sweeping, all
2 kinds of sidewalk/street-sweeping activities, the
3 collection of abandoned materials from the streets, as
4 well as the cost of moving materials from -- instead of
5 taking them and dumping them in a pit at our yard, back
6 in 2004 we started transporting materials directly to
7 the transfer station at Tunnel and Beatty. And that
8 had a significant increase on our expenses.

9 I'd actually like to go on and just talk a
10 little bit what is included in this rate application,
11 because there are some new items. And to begin that
12 process, I do have an exhibit I'd like to introduce,
13 which is a memorandum titled DPW -- I'll let you read
14 the title of that.

15 MR. OWEN: We'll mark the document as Exhibit
16 13 and receive it into evidence. The document is two
17 sheets. It's a memorandum dated April 11, 2013, to
18 Mohammed Nuru, Director, from Douglas Legg. "Subject:
19 DPW funding included in Recology 2013 refuse rate
20 application."

21 (The document referred to was
22 marked and received into evidence
23 as Exhibit 13.)

24 BY MR. OWEN:

25 Q. I think you can proceed now.

1 A. Okay. I'd like to briefly describe what's in
2 this memorandum, because it does describe the full
3 \$5.72 million that DPW is requesting as part of this
4 year's rate process. As I said, for some years we've
5 been including in the rates recovering a portion of our
6 expenses for collection and disposal of materials on
7 City streets. Our total expenditures last year which is
8 the last year where we have final figures, was about
9 \$20.7 million.

10 So the \$3.88 million that we're requesting
11 for those services that are described in the exhibit
12 equal approximately 18, 19 percent of our total
13 expenses in that category. And we do get other funding
14 sources to pay the remaining 82 percent or so of the
15 those costs, including funds from tobacco and cigarette
16 litter fee that's collected. So there are a variety of
17 sources that pay for our services; and the impound
18 account is one of those, one of those funding sources.

19 In this application we are also proposing a
20 couple of new expenses that we would like to be
21 included as covered by the impound account. First, we
22 are proposing to add an enhanced education compliance
23 and outreach program to combat illegal dumping of
24 refuse on city streets and public property.

25 Illegal dumping has turned into and is

1 becoming more and more of a problem in the city. And
2 it is actually affecting neighborhoods in every part of
3 the city. There are certain hotspots that we have
4 where the problems are very, very bad -- in the Mission
5 and the Bayview. But we're receiving literally
6 thousands of calls a year. Because of this -- and we
7 believe a lot of the problem is that residents,
8 apartment dwellers, others do not have adequate refuse
9 service. So we want to start really enforcing the law
10 and making sure that people are disposing of their
11 materials properly and not essentially creating a
12 public nuisance which causes the need to collect a lot
13 of this material.

14 The program is going include both outreach
15 education efforts, but also the classifications that we
16 are proposing to add to our budget this year are able
17 to write citations -- and we have a public hearing
18 process where we follow those citations through -- and
19 nuisance ordinances where we can collect penalties.
20 The ultimate goal is not to collect fines, though. The
21 ultimate goal is to have people comply with City codes,
22 making sure they're disposing of their materials in a
23 proper way.

24 Secondly, we have added a total of \$845,000
25 to the impound account this year because we need to

1 start a replacement programming for our public litter
2 cans on the streets. These are the litter cans that
3 are on corners throughout San Francisco near bus stops,
4 on commercial corridors. There are approximately 3,000
5 of those in the City. Those receptacles are getting
6 pretty old and damaged. They're subject to a lot of
7 vandalism. And we're also seeing a lot of scavenging
8 from those receptacles were people are actually tearing
9 off doors, breaking doors, removing liners, and
10 stealing liners. So we are proposing to start a
11 program of replacing them with more attractive cans,
12 but cans that are also more difficult to break into and
13 that have more functional recycling tops on them, which
14 we believe lead to less digging through the garbage and
15 spreading litter around on the streets.

16 That amount of money is enough to install 450
17 receptacles each year. And, assuming about 10 percent
18 of costs would go toward installation, we would plan to
19 replace about that many each year as those funds are
20 requested.

21 There is also \$33,000 a year that's collected
22 that is intended to pay for DPW's expenses in rate
23 processes like this one. We are anticipating another
24 major rate application in three years. And so we would
25 collect that \$33,000 a year. And at the time of rate

1 process that we're anticipating in three years, we
2 would have a hundred thousand dollars that would pay
3 for our expert consultants and expert staff time that
4 we need to bring on board.

5 The memo also has some discussion -- and I
6 won't go into it here -- about the shifting of
7 abandoned materials collection from DPW to Recology.
8 And they have included in their costs and Mr. Braslaw
9 talked about those expenses in his presentation. We
10 believe that by having Recology take over that service
11 they will have a dedicated group of people. They also
12 are going to be much better at separating waste. We
13 collect over 10,000 mattresses a year from City
14 streets. Almost all of those go into our packer trucks
15 and get sent to the landfill. Recology is going to be
16 using a different configuration for collection of those
17 materials and so is going to be able to divert quite a
18 bit more from landfill and it will really help our zero
19 waste goals.

20 I'd also like to talk a little bit about an
21 issue that's been raised in the three rate processes
22 that I've been a part of in 2006, 2010, and 2012. And
23 that is the issue of including any of these costs for
24 City services in the impound account and as part of the
25 rate base. This issue of DPW's refuse-related issues

1 has been raised and addressed in several previous rate
2 hearings. And at the direction of the Rate Board and
3 the 2012 proceedings we are devoted entirely to this
4 issue.

5 At that time DPW presented evidence on the
6 cost of services DPW performs, review of what other
7 cities include in their refuse rate base, as well as an
8 analysis of the 311 service calls for abandoned
9 materials which we believe showed that the collection
10 of materials was coming from areas with high
11 concentrations of both residential apartment and
12 commercial activities.

13 The independent hearing officer from the
14 Department of Public Health in 2012 heard the evidence
15 and affirmed the inclusion of these DPW costs in the
16 rate base. And upon appeal the Rate Board again
17 approved the use of the impound account funds for these
18 DPW services.

19 For the sake of brevity, I'd like to
20 introduce several documents from the 2012 rate
21 proceedings into the record for this hearing. I'd like
22 to do that now.

23 First, I have the hearing officer's report on
24 the 2012 refuse rate application .

25 MR. OWEN: Exhibit 14 in evidence will be a

1 approximately six-sheet document bearing the title
2 "Hearing Officer's Report 2012 Refuse Rate Application."

3 (The document referred to was
4 marked and received into evidence
5 as Exhibit 14.)

6 MR. LEGG: Next I have a report from
7 consultants HDR titled "Municipal Refuse Collection
8 Rates Comparative Analysis, Dated April 20, 2012." This
9 report includes information on several comparable cities
10 and enumerated the range of services and programmatic
11 activities that are included in the refuse rates of
12 those cities.

13 MR. OWEN: That will be Exhibit 15 in evidence
14 It's approximately six to eight sheets bearing the title
15 "San Francisco Department of Public Works Municipal
16 Refuse Collection Rates Comparative Analysis, Dated
17 April 20, 2012."

18 (The document referred to was
19 marked and received into evidence
20 as Exhibit 15.)

21 MR. LEGG: Next is the staff presentation from
22 the March 22, 2012, workshop. And it includes
23 characterization of DPW-collected-refuse jurisdictions
24 and other jurisdictions that include City services in
25 their rate base.

1 MR. OWEN: We will mark the document Exhibit
2 16 and receive it into evidence. The document is two
3 sheets bearing the title "Public Workshops San Francisco
4 Residential Refuse Rate Allocation of Refuse Rates
5 Surcharge."

6 (The document referred to was
7 marked and received into evidence
8 as Exhibit 16.)

9 MR. LEGG: And finally I'd like to submit DPW
10 311 call data, which tabulates reports of abandoned
11 materials and plots the locations of those calls on the
12 City base map with City zoning types such as
13 residential, commercial, mixed-use, et cetera.

14 MR. OWEN: We will mark the document as
15 Exhibit 17 and receive it into evidence. The document
16 is two sheets bearing the title "2012 Refuse Rate
17 Hearing April 23rd, 2012, San Francisco Department of
18 Public Works, Bulky Item Collection Requests."

19 (The document referred to was
20 marked and received into evidence
21 as Exhibit 17.)

22 MR. LEGG: That concludes my testimony.

23 At this time I would like to suggest that
24 Mr. Assmann come back. He's not going to be with us,
25 unfortunately, next week because of changes in the

1 schedule of the hearings. And so we would like, if
2 possible, to have the Ratepayer Advocate do some
3 cross-examination of Mr. Assmann.

4 And then I'll be available for
5 cross-examination next week. But hopefully we have some
6 time to get more of the Companies' presentation in today
7 before public comment.

8 DIRECTOR NURU: That's fine.

9 CONTINUED DIRECT EXAMINATION OF DAVID ASSMANN

10 BY MR. OWEN:

11 Q. Mr. Assmann, you've already been sworn.

12 One quick question: Is it correct that the
13 collection -- that Recology does not get applied to the
14 impound account or COLA?

15 A. That's correct.

16 MR. OWEN: Thank you.

17 CROSS-EXAMINATION OF DAVID ASSMANN

18 BY MR. DEIBLER:

19 Q. Mr. Assmann.

20 A. Hello.

21 Q. I think I'll start with Mr. Legg's last item,
22 if I might, regarding the 2010 rate hearing process and
23 the question that he mentioned has come up before
24 regarding, I guess you could say, the nexus between the
25 services that are provided through the impound account

1 and use of residential refuse rates to pay for those. I
2 don't know if his assessment was specific to programs
3 from the Department of Public Works or whether it was
4 more umbrella in nature, but I wondered if you felt that
5 those same exhibits that have been introduced apply also
6 to the programs at DOE.

7 A. Well, I haven't examined the exhibits that DPW
8 has introduced. I can tell you that our programs are
9 put together based on -- first of all, the impound
10 account is funded by all sectors, not just residential
11 rate payers, but also commercial ratepayers in the City
12 as well.

13 We design programs that fall within the
14 connection to refuse rates within those sectors. So we
15 look at the overall set of programs as being ones that
16 have to be connected to refuse rates that have to be
17 relevant to refuse rates. We designed internal
18 guidelines for that. We've actually presented those at
19 previous rate processes on what programs are eligible
20 or not eligible for the use of impound funds. In fact,
21 that percentage allocation I referred to earlier was
22 based on one of these assessments. So we do make sure
23 there is a connection between the programs we offer and
24 the general use of refuse rate funds.

25 Q. So it's accurate that refuse customers other

1 than residential and apartment customers are also
2 providing funding through the refuse rates to the
3 impound account?

4 A. That's correct.

5 Q. And helping to fund programs of both
6 departments?

7 A. Correct.

8 MR. DEIBLER: Thank you. I have a few more
9 questions -- one question, if I might, Mr. Nuru, just as
10 process, as Mr. Assmann won't be here Monday. If there
11 are further questions, is it possible on the third or
12 fourth day of the hearings that those could be asked?

13 DIRECTOR NURU: Yes.

14 MR. ASSMANN: I will be here for the other
15 hearings. The only hearing I can't be at is Monday's,
16 because the schedule has changed.

17 MR. DEIBLER: Thank you.

18 Q. Exhibit 12 which you introduced, on page 12 of
19 that exhibit, there's a statement that the relative
20 allocation of funding between the four broad areas of
21 programs in the department of environment, quote, "were
22 fixed, based on legal and other considerations during
23 the last refuse rate process."

24 I'm curious if you could quickly, briefly talk
25 about those legal and other considerations?

1 A. I can tell you that we did have guidelines
2 that were submitted to our Commission in May of 2007
3 that were based on a number of background documents,
4 including a memo from the deputy city attorney in 2001
5 on use of refuse rate proceeds; another memo from the
6 City Attorney's office in 2007 on the use of impound
7 account funds on environmental justice projects; and
8 also looking at the set of projects that we were putting
9 together in conjunction with the types of programs that
10 were related to refuse rates. So we have assigned a set
11 of guidelines.

12 We brought those to our Commission. Combined
13 with the legal advice we had received, we came up with
14 those percentages. And I can supply that -- I'm happy
15 to supply that memo from 2007 that we submitted to our
16 Commission and which was actually approved by our
17 Commission in 2007.

18 Q. I would appreciate that. Thank you.

19 One related question. Just from a
20 programmatic point of view, your allocations are sort of
21 frozen in time. Or do you have some opportunity from a
22 programmatic and budget point of view to look at changes
23 that occur over time and to reallocate if necessary?

24 A. We actually did an analysis based on how our
25 percentages were going into this process and determined

1 that they were still appropriate, that things had not
2 changed dramatically and we did not need to change the
3 allocation from what they were seven years ago.

4 Q. Thank you. Page 13 of Recology's narrative
5 summary for the final application, the combined summary
6 for the three companies, references the City's creation
7 of an extended producer responsibility fund, EPR fund,
8 and describes a toxics-collection incentive program. Is
9 that program approved? It's not clear from the
10 application whether that's something that's been
11 approved and is in place or it's in discussion.

12 A. It's being proposed as part of this rate
13 application, so it's a new program.

14 Q. Okay. And is it true or accurate to say that
15 this EPR fund, when it's set up, that will be funded
16 entirely by funds from manufacturers for end-of-life
17 issues for products and will not be funded through the
18 refuse rates?

19 A. That's correct. It's all outside funding.

20 Q. Great. Thank you.

21 One question on the public litter cans.
22 There's also -- I think reference was made in some
23 materials -- I think from the Department of Public
24 Works, actually -- that the City is working with
25 Recology to process the contents of the public litter

1 containers to recover recyclable materials. My
2 understanding is that's not happening now; is that
3 correct?

4 A. That is correct.

5 Q. And is that in terms of working on -- is that
6 part of this application from a rate point of view?
7 Would there be increased costs or maybe decreased costs
8 related to recovering those materials?

9 A. I would have to defer to my colleague here to
10 answer that question.

11 DPW CLERK: Good afternoon, sir. Please raise
12 your right hand.

13 Do you solemnly swear that the testimony you
14 are about to give today is the truth, to the best of
15 your knowledge?

16 THE WITNESS: I do.

17 ROBERT HALEY,

18 Having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. OWEN:

21 Q. Could you state your name for the record and
22 spell your last name.

23 A. Robert Haley, H-a-l-e-y.

24 Q. And what's your current position with the
25 City?

1 A. Zero waste manager with the Department of
2 Environment.

3 Q. How long have you been served in that
4 capacity?

5 A. About 11 years.

6 Q. And what are your responsibilities?

7 A. I oversee all aspects of zero waste for the
8 Department of Environment.

9 MR. OWEN: Thank you.

10 MR. DEIBLER: Thank you.

11 THE WITNESS: So I believe your question was
12 is processing of the trash component of the public
13 litter part of this rate application and -- is that
14 correct?

15 BY MR. DEIBLER:

16 Q. Well, I may have misunderstood -- let me ask a
17 clarifying question, which was that there is no separate
18 recyclables collection at this time in the container; is
19 that accurate? So it is all collected as one stream?

20 A. There are recyclables tops on some of the
21 litter cans. All of the public litter cans have a main
22 body for trash. And that material is currently
23 landfilled, unless somebody pulls some bottles and cans
24 out of it prior to being recollected by Recology.

25 Q. So to the extent that there is separate

1 collection of recyclables, those materials are being
2 recovered now as part of, I would assume, ongoing
3 activity?

4 A. It's being -- the material in the tops and
5 even some material from the bottoms is being recovered
6 by people scavenging materials, essentially.

7 Q. Not by Recology?

8 A. No.

9 Q. So these references to processing --
10 physically black-bin processing for the litter cans for
11 recovery of recyclables is inaccurate?

12 A. In fact, in the application, we'll be getting
13 into the trash processing. It's processing selected
14 loads of trash and some of that trash will come from the
15 public litter cans.

16 Thank you.

17 CONTINUED CROSS-EXAMINATION OF DAVID ASSMANN

18 MR. DEIBLER: I had -- I'd like to ask Mr.
19 Assmann -- three more questions, if I might? I'll try
20 to be quick here.

21 Q. Does Recology receive profit on either impound
22 account fund or special reserve account?

23 A. No.

24 Q. They're not part of the operating ratio,
25 correct?

1 A. No.

2 Q. Thank you. In the event that at the point
3 that rates are adjusted in some form, if rate revenues
4 in the future experience a shortfall from that project,
5 similar to what Recology has told us is happening in
6 recent years, would the funding of the impound account
7 still occur at the level that's approved through this
8 process?

9 A. Yes. The rate revenue going down does not
10 de-obligate the companies from paying for the impound
11 account.

12 Q. So is some form of guarantee implicit or
13 explicit?

14 A. Well, that's what the rate process is all
15 about yes.

16 Q. Okay. Thank you. And so there wouldn't be
17 any circumstances under which that wouldn't occur once
18 the impound account is set -- the amount is set that it
19 would be funded?

20 A. That's correct.

21 MR. DEIBLER: Okay. Thank you.

22 Mr. Nuru, I have no further questions at this
23 time.

24 DIRECTOR NURU: Okay. Thank you, Mr. Deibler.
25 I think we will swear you in and hear the Ratepayer

1 Advocate presentation on outreach.

2 DPW CLERK: Good afternoon, sir. Please raise
3 your right hand.

4 Do you solemnly swear that the testimony you
5 are about to give today is the truth, to the best of
6 your knowledge?

7 THE WITNESS: I do.

8 PETER DEIBLER,

9 Having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 PETER DEIBLER: I've already warned the City
12 Attorney that I have eight exhibits. But I'll try to
13 make that the last.

14 BY MR. OWEN:

15 Q. And if you could state your name for the
16 record, position, and how you got that position.

17 A. Yes. My name is Peter Deibler. I'm serving
18 as the Ratepayer Advocate and I'm a senior manager with
19 the HF&H Consultants LLC in Walnut Creek. And I've been
20 with that firm for seven years, largely in that
21 capacity.

22 BY MR. LEGG:

23 Q. Mr. Deibler, could you also just briefly state
24 how you became the Ratepayer Advocate?

25 A. For these proceedings?

1 Q. For these proceedings.

2 A. My firm responded to a request for proposal
3 issued by the Department of Public Works and the Office
4 of Contract Administration to provide these. And we
5 proposed that I would be the individual to provide them.
6 And I am also assisted by several staff in the company.

7 MR. LEGG: Thank you.

8 MR. DEIBLER: One second here. I'm switching
9 gears.

10 I'd like to give a brief presentation. The
11 presentation itself will be my first exhibit. I have
12 sets of the exhibits, so maybe I should just give them
13 all to you now.

14 MR. OWEN: And if you could distribute to the
15 parties at the same time, that would probably speed
16 things up.

17 MR. DEIBLER: So, quickly, thank you for the
18 opportunity to provide an overview of the role and
19 responsibilities of the Ratepayer Advocate in this
20 process. This slide has our contact information in
21 terms of Website, phone, and email.

22 I'd like to speak quickly first the roles and
23 responsibilities, the primary activities.

24 First, I think it's to act as an independent
25 party. It's a key aspect of the role of the Ratepayer

1 Advocate to be independent from every other aspect of
2 the process in terms of both the City and the company.

3 To provide the public clear information
4 regarding the proposed new rates and in this case a new
5 rate structure.

6 To assist members of the public in providing
7 verbal and written comment and to represent the views
8 and concerns of ratepayers in the proceedings, in the
9 workshops, and in the hearing.

10 Related to the hearing specifically, assisting
11 members of the public in providing comment and again
12 representing their views.

13 Providing independent summary review of the
14 draft and final application from Recology with provision
15 of written comment.

16 And then listening to presentations and
17 cross-examining as appropriate.

18 I want to come back to the second bullet for a
19 moment, for providing independent summary review of the
20 application. Just, it's important to stress that the
21 Ratepayer Advocate role is not to replicate the review
22 of the application that's being done and conducted by
23 the City in any means. It is at a more summary level,
24 as I mentioned. And our goal is to raise questions,
25 make sure that issues and concerns are addressed in one

1 form or another through the process, and not so much to
2 be diving into the details.

3 Three slides now that are a key part of why I
4 want to get this entered into the record, the
5 presentation itself. This is a summary of the outreach
6 efforts that have been done regarding the Ratepayer
7 Advocate role, specifically but also in general,
8 regarding the process itself. And these are activities
9 conducted primarily by the Department of Public Works in
10 coordination with the Ratepayer Advocate. And in each
11 instance the Ratepayer Advocate role has been described
12 in the information, whatever form it is being conveyed,
13 along with contact information, how to find us.

14 So the Board of Supervisors, members
15 individually and collectively, in workshop and hearing,
16 press releases and notices. The Website -- DPW's
17 Website provides a description of the Ratepayer Advocate
18 role. And a link to our Website, which I'll come back
19 to in a little bit. And then key City agencies. So you
20 can see on that slide.

21 And for stakeholders, information has been
22 disseminated to at least these five organizations: the
23 Association of Realtors, Housing Rights Committee, San
24 Francisco Tenants Union, and Small Property Owners
25 Association. And, correspondingly -- and I won't read

1 them all -- but the neighborhood organizations around
2 the City, the Coalition for San Francisco Neighborhoods
3 itself, as well as a number of the individual
4 neighborhood associations.

5 And the third and last slide regarding the
6 public outreach. A variety of news outlets, including
7 ones specific to the city. And there are a few of
8 those -- the San Francisco Neighborhood Newspaper
9 Association and each of its 14 papers, et cetera.

10 And I think important to note the last bullet
11 there -- various other English-language,
12 Chinese-language, and Spanish-language newspapers and
13 blogs; and social media through the DPW's Twitter
14 account.

15 So I'd like to talk just a little bit about
16 the Ratepayer Advocate Website. This is really the
17 primary avenue for providing information that we are
18 using to the public. We have a large amount of
19 material, fairly large, posted to it. Some of the key
20 aspects are a summary of the rate review process. These
21 are sort of portals to lead people into the site
22 discussion of the RPA role, the schedule for the
23 workshops and hearings, et cetera.

24 As I mentioned, just to jump down to the
25 bottom, links to the DPW rate site, the DOE site, and

1 the Recology Websites.

2 I'm going to talk about these materials just a
3 little bit more when I introduce some of these as
4 exhibits. But, quickly, in the RPA materials key
5 aspects of what's on the Website include the
6 following -- a summary of the final application in three
7 languages. That's the one piece that has been
8 translated into Cantonese and Spanish. And that is a
9 succinct summary of what it actually means to what the
10 impacts would actually be to individuals. Workshop
11 summaries; quick, short summaries of each of the two
12 public workshops. Comments on both the draft and final
13 applications. Several requests to Recology along the
14 way. And finally some comments of our own.

15 These are kind of interesting statistics.
16 We've had 561 Website views. This is in about two
17 months. Website went live about the 15th of February.
18 The largest single day was 62 views, I believe.

19 And on the Website there's information about
20 how to contact us. There's a phone number where you can
21 leave a message. And we have received and returned
22 calls as well as an email address. And as you can see,
23 we've received six emails and eleven phone calls which
24 we have received and generally responded to a few of
25 those that was not a request or response or didn't seem

1 that one needed to be made. However -- and I believe
2 that will be part of the second hearing will be the
3 introduction of comments that have been received. They
4 are all strong comments and heartfelt comments. And
5 some of the folks -- for instance, emails have six or
6 seven things that they've focused on. SO there's a lot
7 of content there for people that have taken the time to
8 provide input.

9 And I've also had two meetings with interested
10 members of the public. And I will be likely posting
11 some times for drop-in public access prior to the
12 hearing time for maybe at least two or three of the next
13 dates.

14 These are the items. At this point I guess
15 maybe I can just describe these briefly, Tom, and then
16 enter each one? Would be that the correct way to do
17 this? This is sort of a series of exhibits that you
18 have there.

19 MR. OWEN: That will be fine or you can
20 describe them all and then we can enter them all into
21 the record. That's fine, too.

22 MR. DEIBLER: Well, the first is the
23 presentation itself. As I mentioned, I particularly
24 wanted to get the Department of Public Works outreach
25 efforts into the record as part of it.

1 The second of the comments on the final
2 application from April 2nd, those are -- I'd like to
3 enter that one. The summary of the second workshop,
4 which was completed on March 26th. The workshop, I
5 believe, was held the 17th of March.

6 The second request to Recology, which is No. 4
7 from March 25th.

8 Number 5 is a summary of the final
9 application. And that is the one that there were
10 actually three versions: English, Spanish, and Chinese.

11 Comments on the initial application, which
12 were from March 14th.

13 Our first request to Recology from March 14th
14 also, which is No. 7.

15 And then a summary of the first workshop,
16 which was held on the 21st of January, I believe, which
17 was completed on the 24th of January.

18 And I will be entering these into the record.
19 There are items, particularly on the summaries -- the
20 comments on the final and draft application, that could
21 be the subject for cross-examination later in the
22 proceedings.

23 MR. OWEN: Okay. We will mark these documents
24 as Exhibits 18 through 25, respectively, and receive
25 them into evidence.

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(The documents referred were
marked and received into evidence
as Exhibits 18 through 25.)

MR. DEIBLER: Thank you. If I can close my
presentation.

DIRECTOR NURU: Thank you.

So I think we will now open for public
comment. If I could see how many people would like to
comment from the public. I have three cards here. A
showing of hands? Okay.

So public comment will be five minutes per
person. And I'll ask David Pilpel to come up first.
And you'll be sworn in.

MR. PILPEL: Actually, if we are making public
comment, do we need to be sworn in or not?

DIRECTOR NURU: Yes, you should.

MR. OWEN: It depends. If you intend to
provide factual information that you'd like the Hearing
Director to consider, then you probably should be asked
to be sworn in.

MR. PILPEL: If we just have comments at this
hearing then do we not need to be sworn in at this time?

MR. OWEN: If it's just argument, then, no,
you don't need to be sworn in.

MR. PILPEL: Okay. I don't have any documents

1 today, so I'll reserve that opportunity for the future.

2 Good afternoon. David Pilpel. I've been
3 involved in these procedures for a number of years. I
4 have some comments and questions at this time and I will
5 supplement these with some written documents that I will
6 be putting together as a result of the presentations
7 today. And I'm sure you'll be hearing from me further
8 in the future.

9 First, with respect to the exhibits that were
10 entered and the application itself, is it possible for a
11 copy of the application to be available for the public
12 at the hearing; and as exhibits are entered, to add
13 those to the binder so that we can have that same
14 opportunity? And could there also be a location where
15 those exhibits are kept in DPW's offices or some other
16 location so outside the hearings there will be access
17 for the public?

18 DIRECTOR NURU: The answer is yes. And I
19 think at both the DPW office we can make those
20 available, too.

21 MR. PILPEL: Great. Appreciate that.

22 I actually had a couple of questions for
23 Mr. Assmann, if today is the day that he's here, if I
24 could just present those now; and you can -- I don't
25 know how this works.

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DIRECTOR NURU: You have five minutes so --

MR. PILPEL: So the questions that I have for Mr. Assmann: He made a comment related to the Altamont landfill agreement that, according to the latest projections, we still have capacity through January of 2016. If the City could introduce an exhibit showing that and perhaps showing the landfill tonnage from the last five or seven years perhaps, since the '06 rate application, that would be helpful, so that we can see what the tonnage has been and what the available capacity is. That would help. I look forward to an exhibit to that end.

I would also want to expand on the question that Mr. Deibler asked about the impound account and essentially a nexus question with respect to residential ratepayers and ratepayers generally. If, in fact, the impound account funds are coming from single-family residents, apartment, and commercial customers and presumably City or other municipal accounts, if there's some way to account for the revenues by customer class and the expenses in programs by program category.

Essentially, I would like to understand if municipal customers are paying roughly what the City is expending through the impound account for the municipal zero waste sector. That would be helpful. And

1 similarly for residential and commercial.

2 And I wanted to understand further if Mr.
3 Assmann would be asserting a nexus between residential
4 ratepayers and the benefit that they receive from
5 Department of Environment zero waste programs. I
6 continue to believe that the direct costs of collection
7 processing and disposal -- I believe "disposition" is
8 the word used in the 1932 ordinance -- are appropriate
9 costs for residential ratepayer. I think it would be
10 helpful to have on the record what the programs and
11 costs that Department of the Environment bears and how
12 that relates to residential ratepayers by whatever
13 argument the City would use.

14 I have a number of other questions and
15 comments that have come up as a result of the
16 presentations today. I don't know that I want to get
17 into those right now, because they're fairly detailed
18 and I want to have a chance to think about them over the
19 weekend. So perhaps I can just put those in writing and
20 we can come back to further comment next week.

21 But I think this has been very helpful today.
22 And I wanted to thank you for the opportunity to begin
23 my public comment today.

24 DIRECTOR NURU: Thank you. We will accept
25 that in writing and we will have other hearings where

1 there will be public comments.

2 MR. PILPEL: Looking forward to that.

3 DIRECTOR NURU: Thank you.

4 MR. PILPEL: Thank you.

5 DIRECTOR NURU: Next, if I can ask Jeanette
6 Berger to come up.

7 MS. BERGER: I probably won't come to the
8 other hearings. But I'm mostly concerned about the
9 remark about the hotspots, because in the OMI there were
10 paint cans that has been on the street for weeks and
11 weeks and even more weeks and never get picked up.

12 And my main concern is that if people get a
13 smaller garbage can, that's fine. But they are going to
14 have to reduce the garbage. That's not going to happen,
15 not when you have, like in my neighborhood, two-bedroom
16 house, like, with maybe ten people living in it.

17 You can reduce the garbage can, but you're
18 going to have to reduce the amount of garbage you put
19 out. That's not going to happen. But I guarantee you
20 what will happen is they will throw it on the sidewalk
21 or put in wherever they feel like putting it, because
22 they're not going to agree to pay more. And when the
23 rates go into effect, everybody is going to be shocked
24 beyond belief and call up the representative and
25 complain about it. That's just common fact.

1 And I talked -- I see, because of what I do
2 for a living, the garbage can being emptied. And I did
3 yell at them, but they get more garbage on the sidewalk
4 than they do in the truck. If you sign a 20-year lease
5 on the truck, that doesn't do for San Francisco what
6 it's supposed to do.

7 And people have to go ahead and bag the
8 shredded material. Businesses don't. A lot of people
9 don't. But the garbage man gave me a note on my garbage
10 can that I have to bag my shredded material, because
11 when it's windy it blows all over the street. That's
12 another problem. You have to clean the streets and keep
13 the sidewalks clean. Then we can talk about raising the
14 rates.

15 I never ever put my black can out. But I
16 still have to pay an arm and a leg, I think it's two or
17 every three months. And as soon as I get my bill, it's
18 in the mail to the garbage company. Why should I have
19 to pay every week for a black can I never put out?

20 I called the Recology people. "Well, you have
21 to pay for the other people." That's the remark I got.

22 So I think those issues should be addressed
23 before you go ahead and gorge the taxpayers and
24 investors and stakeholders. They can sweep the streets
25 and the curb. They're not that high and mighty. They

1 think they are, but they're not. They can sweep the
2 streets and, you know, whatever. That would help the
3 City out a lot, make our streets nice and clean.

4 So, please, those are issues that please try
5 to think about. Thank you.

6 DIRECTOR NURU: Thank you for your comments.

7 Next, we have Irene Creps.

8 MS. CREPS: You want to swear me in?

9 DPW CLERK: Good afternoon, ma'am. Please
10 raise your right hand.

11 Do you solemnly swear that the testimony
12 you're about to give today is the truth, to the best of
13 your knowledge?

14 MS. CREPS: Yes, I do.

15 DPW CLERK: Thank you.

16 MS. CREPS: Recology says that the rates need
17 to be increased by 21.5 percent because they are losing
18 revenue as customers switch to smaller and cheaper black
19 bins. But is that the whole story? Recology plans to
20 change where they dump our San Francisco trash. Instead
21 of taking it to the closer Altamont landfill, where they
22 have been doing so for many years, which is located near
23 Livermore, they intend to haul San Francisco's trash
24 almost two to three times as far to their own landfill
25 in the Sacramento Valley, the Ostrom Road landfill near

1 Wheatland.

2 Doesn't hauling trash a longer distance cost
3 more money? Then they have to build a railroad spur
4 several miles to get to their landfill. And Beale Air
5 Force Base, located nearby, has a railroad spur part
6 way. But they have denied Recology the use of their
7 railroad spur. So Recology has to spend more money to
8 increase the length of their own railroad spur. Now,
9 that is going to cost them money. In addition, San
10 Francisco has canceled Recology's contract to take our
11 trash to Wheatland because Recology first needs to do an
12 EIR, another cost. Furthermore, there are environmental
13 costs.

14 Recology, I ask you, why take our San
15 Francisco trash to the Sacramento Valley beside valuable
16 farmland and walnut orchards and a high water table
17 within a floodplain, where you initially need to spend
18 much more money? Save money and save the environment
19 and keep our trash in the Intercoast Range far from farm
20 and from high water tables from the Sierra Nevada
21 Mountains. I really -- I ask you that.

22 I know this area because my grandfather came
23 to California in 1850. And he settled in the Wheatland
24 area. And the land in which you have your landfill
25 formerly belonged to my aunt. I know that area more

1 than any other area of California.

2 And I just -- it disappoints me terribly to
3 think that we in San Francisco are a green city and we
4 love our state, we love the farmland, which agriculture
5 is one of our major industries. And should San
6 Francisco take our trash, spend more money, and take our
7 trash to the Sacramento Valley?

8 I thank you.

9 THE COURT: Thank you.

10 So I'm looking at the clock. It's a little
11 after 4:00 and -- oh, one more public comment.

12 Thank you. Nancy Wuerfel.

13 Is there any more public comment today? Okay.

14 MS. WUERFEL: Good afternoon. I thank you for
15 having these hearings. I have a couple of comments.

16 The first one is I would like to ask the City
17 Attorney a very indelicate question, which I hope you'll
18 get back to us on at a future hearing.

19 I consider the ratepayer money that's going to
20 DPW that would be used for rendering citations for
21 violations money-laundering. And I will tell you why.
22 It's not that I'm going to be happy about letting
23 anybody off the hook for doing illegal work. But I
24 think it's a very bad precedent, if not outright
25 illegal, to take ratepayer money and deposit the

1 proceeds of those fines into the general fund. You
2 can't tell me that's okay. You just can't.

3 If you want to have citations and City general
4 fund pays for people, be my guest. These SOBs that are
5 leaving mattresses around need to pay a fine. But I
6 don't want to set a precedent where you hire six people
7 and they go out and they educate and they hand out fines
8 and the City Treasurer's Office gets this money and then
9 comes back and it's an offset. This is a laundering
10 system I don't think is a good idea. And I recommend
11 you look into this very deeply, because I'm sure the
12 State of California has got some issues on this, at
13 least I do.

14 So let's be careful about giving you a million
15 dollars that you call outreach, when indeed it sounds to
16 like this is a problem. Now, if you want to propose
17 legislation for the Board of Supervisors to rebate that
18 money into this program, I am not opposed to it. But
19 I'm opposed very much to using ratepayer money into the
20 general fund. I think I've that said pretty clearly.

21 Second thing is I'd like to suggest that with
22 the \$4 million that the ratepayers are going to be
23 offsetting your budget, I have not heard anything from
24 your department, sir, that's telling me what you're
25 doing with that extra four million. I'd like to

1 recommend that you start doing more for the street
2 trees. But I don't want to just give you \$4 million
3 that is offsetting your original cost for cleaning up
4 the streets and not know what is going to be outcome of
5 that benefit to you. I think that's fair that you tell
6 me now that it's on my rate bill. And I'm still paying
7 taxes in this town. You need to tell me what else is
8 going on with your budget. So I'll wait to hear from
9 you next time.

10 The last things I want to mention is that the
11 Examiner has been doing some good things about bringing
12 us up to date. In today's paper -- I read it right
13 before I came down here -- it talks about the rates are
14 going up, but it mentions a thing by a spokesman by the
15 name of Adam Alberti. I don't know who he is. But he's
16 quoted saying that, if you are able to reduce your waste
17 altogether, you could go down even further than the
18 20-gallon limit.

19 I mention that to you because, whether this is
20 a true statement or not, people are reading it; and they
21 are thinking they could possibly get even below the
22 rates that you're talking about. You need to understand
23 that we read the paper and this is our bible. Look
24 who's here today. Just a few of us. So somebody's got
25 to get the word out. Can we get lower than a 20-gallon

1 waste bin? Can that happen? Can you really reduce
2 these costs, because people might be responsive to that.

3 And the last thing is the other issues having
4 with the rip-offs. People -- everybody I talk to is
5 madder than hell that people go and steal the blue bins.
6 I saw the information at the workshops. And I
7 appreciate the fact that Recology has done a fine job in
8 explaining where the recyclables have gone and they
9 don't feel that the blue cans and everything are that
10 badly hit. Well, that's not our perception.

11 And maybe the cost could be offset through the
12 ratepayer if there was a better control, because these
13 people are out every single day of the week. There is
14 not a day in a residential neighborhood that people
15 aren't having their bins gone through. And it's sort of
16 an invasion of privacy on top of everything else. So I
17 just want to bring to your attention.

18 What we're reading and how we are seeing this
19 and we're judging you, the City government. And we're
20 judging Recology, because we're saying, "Why in the hell
21 are you going to charge me more when you don't do
22 anything about collecting the money that's right there
23 on the street?" Whether it's the big outcome of money
24 or not, that's not the perception. The perception are
25 people are mad and they're very angry about this.

1 People say, "Are you going down there? You got to tell
2 them." So I'm telling you on behalf of all of us.

3 Thank you very much. And I will look forward
4 to at least the answers from each of you on what's
5 happening to my \$4 million replacement and if it's legal
6 for us to launder money this way. Thank you.

7 DIRECTOR NURU: Thank you.

8 Okay. If there's no more public comment, I
9 will close public comment.

10 And we have about 45 minutes and I will ask if
11 the companies want to continue their presentations at
12 this time.

13 MR. BAKER: Well, we have Mr. Braslaw
14 available for cross-examination. Does the Ratepayer
15 Advocate and the City wish to cross-examine him now?

16 MR. LEGG: We're not ready to cross-examine
17 Mr. Braslaw yet. We don't have any questions ready.

18 I could be ready to be cross-examined by the
19 Ratepayer Advocate.

20 MR. DEIBLER: [inaudible, off mic]

21 MR. LEGG: Mr. Baker, I'd rather -- 45 minutes
22 is a chunk of time. I'd rather have you guys start
23 whatever presentation you have for Mr. Glaub today so we
24 can finish Mr. Glaub's presentation on Monday and have
25 some time for cross-examination. If you guys don't want

1 to do that, I can be available for cross-examination
2 from the Ratepayer Advocate. But we're going to lose --
3 I know you guys have spoken about the need for more
4 time. I think we'll lose time on our calendar if we
5 don't start with you guys.

6 MR. BAKER: We're prepared to proceed with
7 another witness, but I'm just offering Mr. Braslaw for
8 cross-examination if the Ratepayer Advocate would like
9 to do that now.

10 MR. DEIBLER: [inaudible, off mic]

11 MR. BAKER: All right. Actually, we want to
12 call Mr. Crosetti next.

13 MR. LEGG: That would be fine.

14 MR. WHITE: Mr. Nuru, my name is Gabriel
15 White. I'm with Arnold & Porter. I'll be examining Mr.
16 Crosetti.

17 DIRECTOR NURU: Okay.

18 Swear in the witness.

19 DPW CLERK: Good afternoon, sir. Please raise
20 your right hand.

21 Do you solemnly swear that the testimony
22 you're about to give today is the truth, to the best of
23 your knowledge?

24 THE WITNESS: I do.

25 DPW CLERK: Thank you.

1 MIKE CROSETTI,

2 Having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. WHITE:

5 Q. Good afternoon, Mr. Crosetti.

6 A. Good afternoon.

7 Q. Could you please state your name for the
8 record and spell your last name.

9 A. Mike Crosetti, C-r-o-s-e-t-t-i.

10 Q. And what is your position with Recology?

11 A. I am the general manager of Recology San
12 Francisco.

13 Q. Could you say something generally about your
14 responsibilities?

15 A. I am responsible for all the processing
16 operations in San Francisco for Recology.

17 Q. How long have you been with the companies?

18 A. Nine years.

19 Q. Okay. Mr. Crosetti, are you familiar with the
20 program outlined in Recology's application called trash
21 processing?

22 A. Yes I am.

23 Q. Generally, what is that program?

24 A. Well, the company has plans to begin
25 processing black-cart trash for the purpose of

1 extracting organic material that can be used for either
2 composting or anaerobic digestion.

3 Q. Where is the company going to be conducting
4 that processing activity?

5 A. It will be done on the west side of the
6 existing transfer station.

7 Q. Okay. Is Recology presently processing any
8 portion of the black-cart stream in this way?

9 A. We have done some tests on black-cart
10 processing, but no production-scale work.

11 Q. So is this the first production-scale
12 processing you'll be doing with the black cart?

13 A. This will be the first, yes.

14 Q. What do you mean by "production-scale"? What
15 sort of scale are we talking about?

16 A. We are talking a hundred-plus tons a day of
17 material that we'll be processing.

18 Q. Okay. How does that compare to the total
19 black cart stream?

20 A. The black-cart stream is about up to 1,400
21 tons a day five days a week.

22 Q. Now, let's go into the procedure that you'll
23 be doing a little bit more. What sort of equipment do
24 you need for this processing?

25 A. Yes. We'll need a size reducer that we'll be

1 using as a bag breaker, a star screen, and a
2 bio-separator in addition to some conveyors that work
3 with these machines.

4 Q. Can you describe the process? Black-cart
5 material arrives at the facility. What happens to that
6 load as it goes through the process?

7 A. Once the truck unloads on the transfer-station
8 floor, a loader will put it into the size-reducer
9 back-breaker. And then the material is fed on to a
10 screen. This is a star screen, a flat-table screen.
11 The larger material flows across the top of the screen.
12 The smaller material, two-inch and under, falls beneath
13 the screen. The larger material go over a platform or a
14 table that sorters will be able to pick bottles, cans,
15 and paper from. The unders from this process will go to
16 the bio-separator, a third piece of equipment, that does
17 some further screening and separates that material into
18 two streams, one that is organic-rich and the other that
19 contains mostly nonorganic material.

20 Q. Okay. Now what happens to those two streams
21 of material that come out of the bio-separator?

22 A. Well, the organic-rich material is either
23 going to go to anaerobic digestion or composting. The
24 other stream is really rejects that will probably be
25 landfilled.

1 Q. Okay. Now, in terms of the overall goals of
2 the City and Recology with respect to the sort of
3 thematic goals of the City and Recology with respect to
4 this rate proceeding, how does this processing of black
5 stream fit in?

6 A. Well, first it provides some diversion. We're
7 hoping to get about 50 tons a day of diversion right
8 now. But then it provides some insight and experience
9 to how we approach zero waste and how to scale this up
10 into larger facilities that can process more material.

11 Q. So is it true to say that it's part of the
12 learning process that's going to be necessary for
13 building larger-scale processing?

14 A. Yes, it is true what you're saying.

15 Q. With respect to this new program that's going
16 to be implemented now, how much is that going to cost?

17 A. Well, we've translated to how much it would
18 cost in the rate for a residential 32-gallon cart at 12
19 cents a month.

20 Q. Is there anything else you'd like to add about
21 the processing?

22 A. No, not at this time.

23 Q. Then let's move on another program. Are you
24 familiar with the toxics-collection incentives programs.

25 A. Yes, I am.

1 Q. What is that program?

2 A. The Department of Environment has established
3 performance targets with incentives with the goals of
4 increasing the capture rate of batteries, fluorescent
5 tubes, and paint.

6 Q. Okay. Now, by "incentives" means Recology
7 gets paid something, right?

8 A. That is right.

9 Q. And it has to collect a certain amount of
10 certain types of materials --

11 A. That's correct.

12 Q. -- in order to get those payments?

13 A. Uh-huh.

14 Q. What are the specific kinds of materials that
15 are part of the toxics-collection incentives?

16 A. Batteries, fluorescent tubes, and paint.

17 Q. Right. And how are the incentive payments
18 structured?

19 A. Well, they're structured in two tiers. And in
20 order to earn the incentive, we have to reach each
21 tier -- we have to reach each material type, each tier.
22 So we have to get all three. I don't know if I said
23 that right, but we have to hit the tier on all three
24 materials to earn the incentive.

25 Q. Right. So there are two tiers; is that

1 correct?

2 A. Yes.

3 Q. Then for each tier you have to meet goals for
4 each of three types of materials -- paint, household
5 batteries, fluorescent lamps -- in order to get paid?

6 A. That's correct.

7 Q. Now, I think you mentioned who sets the
8 tonnage targets?

9 A. The Department of Environment sets tonnage
10 targets.

11 Q. Okay. Are they level each year? Are the
12 targets each year going forward the same?

13 A. Oh, no. They increase starting with Rate Year
14 '14. And going on to '15 and '16, they increase each
15 year.

16 Q. Okay. What's sort of activities is the
17 companies contemplating to meet these targets?

18 A. I think the most effective would be to
19 increase outreach, let the residents of San Francisco
20 know what programs are available to dispose of
21 batteries, fluorescent tubes, and paint. And that would
22 be probably be the most effective way to increase the
23 numbers.

24 Q. Now, there are two tiers we talked about.
25 What happens if the company makes it to Tier 1 but

1 doesn't meet the goals set for Tier 2?

2 A. If we don't make Tier 2, the company would be
3 allowed to propose a new program or maybe the expansion
4 of an existing program to utilize the money, subject to
5 the approval of the Department of Environment and DPW.

6 Q. Okay. Now, the money for these to be paid out
7 for these incentives, how much of that is coming from
8 the ratepayer?

9 A. None of it's coming from the ratepayer. It's
10 all money from manufacturers providing end-of-life
11 management for these products.

12 Q. Okay. Do you have anything to else to add on
13 the toxics-collections incentives?

14 A. I don't. No.

15 MR. WHITE: Then I think you're excused for
16 now.

17 DIRECTOR NURU: Thank you.

18 MR. BAKER: So I take it you'd like to reserve
19 cross-examination for Mr. Crosetti till later also?

20 MR. LEGG: Yes.

21 MR. BAKER: Then we'll call John Glaub.

22 Before we start, let me hand out the exhibits
23 I'm going to use with Mr. Glaub.

24 DPW CLERK: Good afternoon, sir. Please raise
25 your right hand.

1 Do you solemnly swear that the testimony that
2 you're about to give to the Court is the truth, to the
3 best of your ability?

4 THE WITNESS: I do.

5 DPW CLERK: Thank you.

6 JOHN GLAUB,

7 Having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BAKER:

10 Q. Good afternoon, Mr. Glaub, could you state
11 your full name for the record, please?

12 A. John Glaub, G-l-a-u-b.

13 Q. What is your job?

14 A. Manager of group finance and administration in
15 San Francisco.

16 Q. For what company?

17 A. Sunset Scavenger Company, but I work
18 regionally -- all three companies.

19 Q. All three companies being Recology --

20 A. Recology Sunset Scavenger, Recology Golden
21 Gate, and Recology San Francisco.

22 Q. How long have you worked for one or the other
23 Recology companies?

24 A. I've worked for Recology for 16 years in
25 total.

1 Q. Before it was called Recology?

2 A. And its predecessor, right.

3 Q. Norcal Waste Systems?

4 A. Right.

5 Q. What role have you played in this particular
6 rate application?

7 A. I've played many roles. We've worked in
8 assembling all of the various cost schedules that were
9 part of the rate application; developing the various
10 components of the application, starting with alternative
11 structures for the new rate methodology; as well as some
12 of the programs and zero waste facility development.

13 Q. The application includes Contingent Schedules
14 1 and 2; is that right?

15 A. Yes.

16 Q. Lets talk first about Contingent Schedule 2;
17 what is that?

18 A. Contingent Schedule 2 concerns the
19 construction of an expansion to our existing transfer
20 station on the western side of the transfer station.
21 It's known as the "west wing expansion." We have
22 identified this what we call a near-term facility
23 expansion opportunity providing us with additional
24 infrastructure in San Francisco. We are very
25 site-constrained presently at our Tunnel and Beatty

1 site. And prior to constructing and implementing a
2 major site redevelopment for our zero waste facility,
3 this was one opportunity that we found would give us
4 some additional infrastructure in the near term.

5 Q. For what purpose is this space -- this
6 additional space intended?

7 A. The initial purpose for this space was
8 intended for the continued development of new processing
9 technologies to achieve zero waste.

10 Q. Do the plans for this additional space have
11 anything to do with what Mr. Crosetti just described?

12 A. What Mr. Crosetti just described is
13 independent of the plan for the west wing. What Mr.
14 Crosetti described is a processing operation that would
15 be implemented in our existing infrastructure in the
16 transfer station. So in the existing building this
17 proposed west wing expansion, as part of Contingent
18 Schedule 2, would provide adjacent additional space
19 which can certainly augment the operations that Mr.
20 Crosetti described; or they could be for completely
21 different types of processing development.

22 Q. When does Recology propose that this
23 additional space be constructed?

24 A. We would propose constructing it as soon we
25 would receive approval. But because there's going to be

1 a bit of a time lag and we have a one-year rate, it was
2 proposed as a contingent schedule for which the cost
3 would only go into effect once we reach a milestone.
4 That milestone has been identified as and described in
5 the rate application as the first payment to the
6 building contractor. So essentially as building
7 construction began, which would mean that all design
8 work was completed, building permits were obtained, and
9 environmental permits were achieved, and we're ready to
10 start.

11 Q. Have plans yet been prepared for this
12 addition?

13 A. We have conceptual plans. The next phase of
14 design would be developing construction drawings that
15 would be submitted to the building department. Much
16 more detailed design level for actually constructing the
17 building from.

18 Q. In Contingent Schedule 2, is a price estimated
19 for this work?

20 A. Yes.

21 Q. How much is that?

22 A. The cost of the entire project is estimated at
23 \$6.6 million on a construction basis. However -- and
24 that would be incurred by Recology San Francisco itself.
25 But on an annualized basis, that would be passed along

1 in the tipping fee by means of depreciating it over a
2 20-year period. So the annual cost to Recology San
3 Francisco would be \$330,000 which would impact their
4 tipping fee by 56 cents is what we estimate. That
5 tipping fee then is passed on to anyone who brings
6 materials to Recology San Francisco, which is
7 predominantly Recology Sunset Scavenger, Recology Golden
8 Gate, but also outside customers -- self-haul, public
9 small contractors.

10 And we've estimated -- it's kind of an
11 overall estimate. As early testimony from Mr. Braslaw
12 pointed out, we are not -- in this rate application and
13 the change to a new zero waste structure with fixed
14 costs, base charges, blue and green charges,
15 everybody's rate is going to be changed a little bit
16 differently. But, on average, it's going to be about
17 four cents for a collection customer.

18 Q. If the Director and the Rate Board approve
19 Contingent Schedule 2, when would you anticipate the
20 assessment of this additional amount to begin? That is
21 when do you believe that rates would be affected?

22 A. That would be an estimate of the permitting
23 and construction schedule -- and permitting usually
24 being the most uncertain in terms of predicting a
25 schedule. But probably maybe 18 months, if everything

1 goes well.

2 Q. And the overall costs that you said --
3 6.6 million?

4 A. Yes.

5 Q. What's the basis of that?

6 A. That cost estimate was prepared by TBD
7 Consultants, a third-party consultant who examined the
8 construction plans, the conceptual plans prepared by our
9 architect and engineers, and developed that estimate.

10 Q. Once this area is completed, what are the
11 companies' initial plans for use of the area?

12 A. In the year between the completion of
13 construction and then the implementation in the future
14 of our new zero waste facilities, we envision this
15 building housing processing equipment to process the
16 trash, the black-bin stream. We envision working
17 closely with the Department of Environment to determine
18 exactly what those processing operations would be
19 between our proposals to them and their review of
20 technologies in other places around the world and
21 collaboratively identify what those operations are going
22 to be, implement them, run them -- in many ways similar
23 to what Mr. Crosetti described, taking it into
24 operational scale where this is going to be run on a
25 daily basis and learning from that process, making

1 modifications, maybe adding another step or here or
2 there, another piece of equipment processing.

3 Q. So you mentioned the possibility of the
4 development of zero waste facilities sometime in the
5 future?

6 A. Yes.

7 Q. Can you describe that in more detail, as to
8 what the thinking is on that.

9 A. We have developed plans for a major site
10 redevelopment at our Tunnel and Beatty location that
11 would involve construction of several very large
12 buildings, three of them processing buildings devoted to
13 the black, blue, and green streams. We have some other
14 major infrastructure improvements that have to be made
15 as part of that, such as a maintenance facility; and we
16 would also be addressing a new public disposal facility,
17 as well as new household-hazardous-waste-management
18 facilities as part of that. So it's quite a major
19 project. It would be something that would be most
20 likely phased in over probably a three-phase
21 construction project, possibly in the range of about
22 nine years, if everything went according to plan.

23 Q. And what benefits would the City receive and
24 the ratepayers receive from this new zero waste facility
25 that is not currently available? In other words, why do

1 it?

2 A. To achieve the City's policy goals of zero
3 waste.

4 Q. And why would new facilities be required to do
5 that?

6 A. Our current facilities are not capable of
7 achieving that.

8 Q. Capable in what regard? Don't have the proper
9 equipment?

10 A. Don't have the proper equipment nor space.

11 Q. So what about the space issue? Could the zero
12 waste facility that you're talking about be constructed
13 on Recology's existing property in the Tunnel/Beatty
14 area?

15 A. No, it cannot. Our architects and engineers
16 have been examining this for several years and have
17 concluded that our current property is insufficient to
18 provide for the zero waste facilities of the future.

19 Q. So is Recology considering any steps to
20 address the problem of lack of sufficient space?

21 A. Yes. We have been exploring the purchase of
22 land with the adjacent landowners; and we have begun
23 that process of offers to the landowners to obtain the
24 land that we think is needed to construct the
25 facilities. And I may add that we have been in close

1 communication with the City about our plans for zero
2 waste facilities, about those needs for additional land,
3 and what those activities have been in efforts to obtain
4 the additional land.

5 MR. BAKER: Let me show you a map here, which
6 we can make the next exhibit in order. What number
7 would that be, Mr. Owen?

8 MR. OWEN: 26.

9 MR. BAKER: 26.

10 Q. All right. To orient us here, Mr. Glaub, am I
11 right that the existing transfer station is right here?

12 A. There it is, yes.

13 Q. And this is Beatty Road?

14 A. Correct.

15 Q. Going along there?

16 A. Yes.

17 Q. And Tunnel Road is right here. And right here
18 is where Sunset Scavengers' former office is, right?

19 A. They're a little bit up Beatty Road from
20 there. We currently have operations offices in the
21 location that you pointed on the corner of Beatty and
22 Tunnel; and it also serves as the cart-assembly
23 warehouse. Right where your pen is pointing, those are
24 maintenance facilities and the former Sunset office.

25 Q. What are the parcels that are in color, A

1 through H?

2 A. So those are parcels that we are attempting to
3 acquire they are shown because they're all different
4 assessor's parcels, so different parcels on the
5 assessor's parcel map. Most of them are actually owned
6 by the same landowner, but there are a total of about
7 three landowners involved there.

8 Q. Are those parcels that are in color located in
9 the county of San Francisco?

10 A. No, they are not. They are located in San
11 Mateo County.

12 Q. So does the county line between San Francisco
13 and San Mateo roughly run along Beatty Road?

14 A. No. It's actually shown on that slide. It's
15 about three-quarters to the left. Start at the left
16 side, about one-quarter over.

17 Q. Right there?

18 A. Right there. That's the county line.

19 Q. So as it currently happens, the transfer
20 station is in San Francisco and the various maintenance
21 facilities and other properties owned by Recology that's
22 to the left of Beatty Road is in San Mateo County?

23 A. Yes, that's correct.

24 I might just point out, since we haven't
25 addressed it, there is a large piece of land, also in

1 gray, to the south of Beatty Avenue. That's also our
2 property.

3 Q. This property right here is owned by Recology
4 as well?

5 A. Yes. That's the site of some maintenance
6 operations and our roll-off department.

7 Q. So -- I'm sorry?

8 A. There is a curving line that runs from
9 southwest to northeast that forms the end of various
10 colored parcels. And the reason those parcels are
11 defined that way is because that is the planned
12 alignment of the Geneva extension. The Geneva extension
13 is a major transportation improvement that's been
14 planned for well over ten years. It would involve
15 extending Geneva Avenue from Bayshore Boulevard over the
16 tracks and eventually to the Candlestick Point
17 intersection and also with a flyover to Harney Way and
18 onto Bayview and Candlestick Point. So that line is
19 kind of the edge of the right-of-way of the development
20 of the Geneva extension, which is why we've proposed
21 that it would be appropriate for the companies to
22 acquire the land north of the Geneva extension and make
23 them contiguous with our existing property to provide
24 the room necessary for zero waste facilities.

25 There's two other parcels in kind of orange

1 and red at the bottom of the screen on the west side
2 there. They are actually west of Tunnel Avenue. And
3 they are shown because they provide a very unusable
4 little strip of land between the railroad that runs
5 there and Tunnel Avenue. And the City of Brisbane has
6 expressed a willingness to relocate Tunnel and tuck it
7 up against the railroad right-of-way and then providing
8 -- and then we would essentially effectively be able to
9 take that additional land as well, Parcels G and H. So
10 that's all part of our land acquisition efforts.

11 Q. So I have reoriented the map so it's now in
12 the north-south configuration; is that right?

13 A. That's correct.

14 Q. Does the top right there show the square
15 footage and the acreage of the parcels that are in
16 color?

17 A. Yes, it does.

18 Q. And total acreage is 13.88 acres
19 approximately, which is the same as 604,000 square feet?

20 A. Yes.

21 Q. Approximately. Is Recology making efforts to
22 acquire the parcels that are in color?

23 A. Yes.

24 Q. What efforts have been made so far?

25 A. We have a commercial real estate agent working

1 on our behalf. We have submitted two offer letters to
2 the primary landowner, which is Universal Paragon
3 Corporation. And we've been exploring arrangements with
4 other landowners.

5 Q. Has Recology obtained an appraisal for the
6 value of the property?

7 A. Yes, we have.

8 Q. And how much is that?

9 A. We actually have obtained two appraisals, one
10 in 2010; but we updated it in 2012 to make it more
11 current so we could submit our offer letters and a more
12 current estimate. That estimate is about 24.75 per
13 square foot.

14 Q. So \$24.75 per square foot times 604,000 square
15 foot is approximately what?

16 A. It's approximately \$15 million.

17 Q. Is there any assurance at this time that
18 Recology will actually be able to buy these parcels?

19 A. No.

20 Q. So Recology has included nonetheless a
21 contingent rate request with regard to this acquisition.
22 Tell us how that contingent rate schedule would work.

23 A. Well, we had proposed that the contingent rate
24 schedule would only become effective once Recology took
25 possession of the land, so, again, making it a

1 contingent schedule if and only if that happens.

2 And we have proposed a methodology for
3 compensating the company for the carrying cost
4 associated with the purchase of the land, which as we
5 just identified is a significant number, about
6 \$15 million probably as a starting point; and we
7 actually expect it to probably end a little north of
8 there.

9 Q. Don't tell the seller that though.

10 A. No.

11 Q. Okay. No one from the seller is here. They
12 will never know.

13 How does the formula for Contingent Schedule 1
14 translate a \$15 million purchase price into an annual
15 carrying cost for compensation in the rates?

16 A. Okay. We have proposed a methodology for
17 reimbursement that follows the utility regulatory
18 framework that covers land acquisition acquired for
19 future use. This is a methodology that's in use in
20 other utility rate settings. And while it is not
21 necessarily applicable -- it is used by the California
22 Public Utilities Commission, I should add -- it does
23 provide a common framework that is used in similar
24 rate-setting processes.

25 Q. Is this particular methodology described in

1 the thick packet of papers that would be our next
2 exhibit?

3 A. Yes.

4 MR. BAKER: So we would offer this, Mr. Owen,
5 as exhibit what now?

6 MR. OWEN: This would be 27. Do you want to
7 move both exhibits now?

8 MR. BAKER: Yes, I would. Thank you.

9 MR. OWEN: Okay. As Exhibit 26, which we will
10 receive into evidence, it's a single sheet, a map
11 bearing the title "Proposed Recology Property."

12 The second document, which we will mark as
13 Exhibit 27 and receive into evidence, is an
14 approximately 57-sheet document bearing the title
15 "Methodology for Calculation of Carrying Costs for Plant
16 Held for Future Use, Contingent Schedule 1."

17 MR. BAKER: Actually, on Exhibit 27 the pages
18 are numbered and there's writing, in some cases, on both
19 sides, so it looks like it's 107 pages all together.
20 You said 57.

21 MR. OWEN: 57 sheets.

22 MR. BAKER: Oh, 57 sheets. Very good.

23 MR. OWEN: To track down things by size in the
24 future.

25 MR. BAKER: Thank you. And while we are at

1 it, we have one other document that pertains to this
2 presentation, which is a letter from me to Mr. Nuru
3 dated April 11th, 2013, which lays out the legal
4 framework for regulatory rate-making concept that Mr.
5 Glaub just referred to, namely the plant held for future
6 use. So if we could mark and have that accepted as
7 Exhibit 28, please.

8 MR. OWEN: Yes.

9 (The documents referred were
10 marked and admitted into evidence
11 as Exhibits 26, 27, and 28.)

12 BY MR. BAKER:

13 Q. All right. Let's go to Exhibit 12, Mr. Glaub.
14 Does Exhibit 27 on its first page describe the cost
15 recovery methodology that you just outlined?

16 A. Yes.

17 Q. Okay. And can you tell us in a little more
18 detail exactly how it would work. If the property is,
19 in fact, sold -- if the property is purchased for
20 \$15 million, when would Contingent Schedule 1 trigger a
21 rate increase?

22 A. It would trigger a rate increase when Recology
23 took possession of the property.

24 Q. What if Recology under this proposal took
25 possession of some but not all the parcels?

1 A. There is some language in the exhibit that
2 addresses that point.

3 Q. And the language indicates that Recology could
4 make a judgment as to when it had sufficient parcels to
5 trigger but that it could only trigger once; is that
6 correct?

7 A. That is correct.

8 Q. Now, how would the annual carrying cost be
9 calculated under this proposal?

10 A. The reimbursement would be calculated using
11 the weighted average cost of capital for that capital
12 expenditure.

13 Q. And what is the weighted average cost of
14 capital?

15 A. It is the weighted average cost of debt and
16 equity to a company.

17 Q. In the proposal for Contingent Schedule 1,
18 what weighted average cost of capital have you used?

19 A. 8.25 percent.

20 Q. How did you come up with that number?

21 A. That was based on an industry analysis and
22 adjustment made for the size of the companies.

23 Q. And if you turn to Attachment 3, which is page
24 104 of this exhibit -- do you have the exhibit there?

25 A. I don't think I do.

1 Q. Well, that certainly is a handicap. You're
2 brave at getting through this.

3 A. I know it pretty well.

4 Q. So this exhibit has a single cover page which
5 we have just been talking about and then it has three
6 attachments; is that right?

7 A. Correct. That is correct.

8 Q. Let's quickly walk through it first. The
9 first attachment begins on page 3. And what is that
10 attachment?

11 A. That is an appraisal of the property prepared
12 by Cushman & Wakefield.

13 Q. And is that the appraisal that you referred to
14 earlier that appraised these parcels at -- what did you
15 say? 20?

16 A. 24.75 per square foot, yes, it is.

17 Q. Now, this appraisal is actually for not only
18 these parcels that are depicted in color on Exhibit 26
19 but also some other parcels; is that right?

20 A. Yes. It essentially conducted on the entirety
21 of the parcels as they exist. But a portion of them
22 will lie both under the Geneva extension and then to the
23 south of the Geneva extension. So our efforts are to
24 acquire the land north of the Geneva extension, which is
25 depicted by the colored portions of those parcels. The

1 real estate appraiser didn't have that -- didn't work
2 with that type of information. They just looked at the
3 parcels themselves.

4 Q. But is it correct this appraisal from Cushman
5 & Wakefield includes the parcels depicted in color on
6 Exhibit 26?

7 A. Yes.

8 Q. Then going further through the exhibit,
9 there's an Attachment 2, also?

10 A. Yes.

11 Q. Attachment 2 is, in fact, Exhibit 26 again,
12 right?

13 A. Yes.

14 Q. And then Attachment 3 is what?

15 A. Attachment 3 is the presentation of the
16 weighted average cost of capital.

17 Q. And that shows how you went about arriving at
18 8.25 percent as the factor used for that purpose; is
19 that right?

20 A. Correct.

21 Q. And could you describe again just very briefly
22 the methodology that you used to come up with 8.25?

23 A. I think on that point I'm going to defer to
24 Mr. Braslaw as far as the detail of that calculation.

25 Q. But you mentioned that it's based at looking

1 at industry averages?

2 A. Industry averages of other firms and
3 adjustment for the size of the companies.

4 Q. Okay. Then going back to the first page of
5 Exhibit 27, what did you do with the 8.25-percent number
6 in order to calculate the proposed carrying costs?

7 A. We multiplied the 8.25 percent times the
8 purchase price, which was the capital expenditure.

9 Q. Now, does Recology's proposal account for the
10 possibility that the property might not be developed
11 after all for whatever reason and Recology would choose
12 to sell it?

13 A. Yes, it does.

14 Q. How does the proposal address that situation?

15 A. The proposal includes a provision where
16 Recology would reimburse ratepayers up to the
17 accumulated payment for the cost of capital over the
18 years, up to the proceeds of the sale.

19 Q. And if a zero waste facility is built on this
20 property, as it's contemplated, and put into use, would
21 the carrying costs surcharge stop?

22 A. Yes. We would then address that in a
23 subsequent application for cost reimbursement for those
24 new facilities.

25 Q. Just like you receive cost recovery now for

1 facilities that you use; is that right?

2 A. Yes.

3 MR. BAKER: This is a good time to stop. I
4 actually have nothing further of this witness on these
5 subjects.

6 DIRECTOR NURU: Okay. Thank you.

7 So it's five o'clock. I think at this time we
8 would like to continue the hearing on Monday, April 15,
9 at 1:00 o'clock. The room will be 416. And we'll pick
10 up the agenda items that are listed from today. And I
11 think it's been a great day, so thank everyone for
12 participating in these proceedings.

13 And we'll adjourn.

14 (Hearing adjourned at 5:00 p.m.)

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