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 416

SAN FRANCISCO, CA 94102

Monday, April 15, 2013

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A P P E A R A N C E S

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David Pilpel
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dated 9/30/2010
DPW Order No. 178,941
Letter to Hearing Officer,
dated 4/23/2012
Letter to City Administrator,
dated 5/25/2012
2012 Rate Board Order
DWP Order No. 180,442 (David Pilpel)

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Monday, April 15, 2013 1:03 p.m.

P R O C E E D I N G S

DIRECTOR NURU: Good afternoon, everyone. I'm Mohammed Nuru from the Department of Public Works, the City and County of San Francisco. This is a continuation of the Director's Hearing on Recology's application for an increase in residential refuse rate collection and disposal rates. Today is Monday April 15th.

The agenda for today is in the back of the room on the table on the side there. As in every hearing, we will reserve the last period for public comment. Speaker cards are available at the table. I will ask that you fill them out so I have an indication of the number of people who are wishing to speak today. You may also convey your comments to the Ratepayer Advocate, Mr. Peter Deibler. I appreciate your patience as we wade through the details.

Before we go any further, I would like to introduce Mr. Freddie Reppond, who will transcribe our meeting today. I request everyone who speaks today, witnesses and others, to please bear in mind that Mr. Reppond has a very tough job, so please speak clearly into the microphone so that he can hear your entire testimony.

Okay. Based on the progress we made Friday, the order of business for this afternoon is as follows: We will start the hearing with cross-examination of the company representatives on topics listed on the agenda, which include, one, new programs; two, contingent schedules; three, incentive programs; four, regulatory fees; and, five, the cost-of-living adjustments.

City staff will begin with questions on each topic. The Ratepayer Advocate will then be given an opportunity to ask questions on each topic as well. I'd suggest that can we conduct the questioning by both City staff and Ratepayer Advocate on each topic before moving on to the next topic to perhaps avoid confusion and possibly recalling of witnesses.

Does that work for everyone in the room?

That's fine?

So before we start the cross-examination, does the company have any additional comments that you would like to make as a follow-up to Friday's hearing or material you'd like to enter into the record?

MR. BAKER: Good afternoon, Mr. Nuru.

Yes, we do. In discussions with Mr. Owen and Mr. Legg, the next order of business that we would suggest would be to have Mr. Glaub and Mr. Braslaw come up together and both continue their examination together. That would be perhaps a more efficient way, since one may have information about a topic or the other may.

And after they come up, I have a few short questions to ask each of them to complete the examination that we did on Friday. And then they will be available for cross-examination at that point.

DIRECTOR NURU: So we will agree and we should proceed as requested.

MR. BAKER: Shall they sit at these two seats right here?

DIRECTOR NURU: Yeah, both of them can at those two seats.

And I believe both of you have been sworn in from Friday, so let's proceed.

JOHN GLAUB and JON BRASLAW,

having individually previously appeared and placed under oath, testified as follows:

CONTINUED DIRECT EXAMINATION

MR. BAKER: Let me first ask you a couple of questions, Mr. Glaub, to finish up what we were talking about on Friday. In particular, we were talking about the Contingent Schedule 2 to address the proposed construction of what's called the west wing addition?

MR. GLAUB: Correct.

MR. BAKER: And you testified about the estimated costs of that work.

So I would like to add to the record a couple of exhibits to address that. The first one is an email from Mr. Glaub to Robert Haley, Jack Macy, and Douglas Legg, dated February 4, 2013, which includes as an attachment to the email conceptual design drawings for the development of the proposed west wing project.

So I'd like to have that marked and admitted as Exhibit 29, I believe. Is that right, Mr. Owen?

MR. OWEN: Yes.

MR. BAKER: Mr. Glaub, could you please briefly describe what Exhibit 29 is.

MR. GLAUB: Exhibit 29 is the transmittal of a conceptual design package for the proposed west wing project. It includes elevations, drawings, plan views, section views of the facility, prospective views, cost estimate, estimated cost of the project, and a cover transmittal that summarizes various features of the project.

MR. BAKER: Who prepared the conceptual designs that are attached?

MR. GLAUB: The conceptual designs were prepared by our design team consisting of William McDonough Partners FFP Architects, here in San

Francisco, and Arup Project Engineers.

MR. BAKER: So then I would like to mark as the next document, which would be Exhibit 30, an email from John Glaub to Jack Macy, with copies to Mr. Haley and Mr. Legg, dated February 27th, 2013, which has as an attachment cost estimates and proposals from EBD Consultants for the construction of the proposed west wing addition. So we'd like to offer that and have that admitted as Exhibit 30, please.

MR. OWEN: We'll mark the prior document as Exhibit 29 and receive it into evidence. It's a document of approximately 13 sheets? And the cover sheet is a print-out of an email from John Glaub to Robert Haley, dated February 4, 2013.

We'll mark the next document as Exhibit 30 and receive it into evidence. The document is approximately 20 sheets. The cover is the print-out of an email from John Glaub to Jack Macy, dated February 7, 2013.

(The documents referred were marked and admitted into evidence as Exhibits 29 and 30.)

MR. BAKER: Mr. Glaub, can you tell us what Exhibit 30 is, please?

MR. GLAUB: Yes. Exhibit 30 was the

transmittal of further cost estimate information for the west wing project. It included three documents. One was a one-page summary of the cost breakdown. The second document was the detailed cost estimate from TBD Consultants. That was ten pages of cost-estimating breakdown. And the third document was a list of cost-estimating projects that TBD Consultants has prepared for projects in San Francisco showing their local experience including many for the City and County of San Francisco itself.

MR. BAKER: What is the estimate of the total cost of this project?

MR. GLAUB: $6.6 million.

MR. BAKER: And that's what you testified to on Friday?

MR. GLAUB: Yes, sir.

MR. BAKER: Then I'd like to ask a couple of questions of Mr. Braslaw about Exhibit 27, which deals with Contingent Schedule 1.

Mr. Braslaw, Mr. Glaub testified about this on Friday and described the role that the concept weighted average cost of capital plays in this presentation. Can you give us a little more detail as to what that concept is and how it applies to Contingent Schedule 1?

MR. BRASLAW: Yes. The weighted average cost of capital is the cost of basically the resources that an entity has to invest. So weighted average cost means the cost of their debt and the cost of their equity.

MR. BAKER: And how was the weighted cost of capital calculated for purposes of Contingent Schedule 1?

MR. BRASLAW: We used weighted average cost of capital for public waste industry companies that are readily variable on the Internet. We used an average weight of the three of the larger public companies. We then further weighted it for Waste Connections, which is most similar to Recology. We calculated average weighted/average weighted cost of capital -- average/average -- and then we adjusted it for the size of Recology relative to those much larger public companies.

One of the elements in calculating the return or the cost of capital is the size of an entity, because generally it impacts the return.

MR. BAKER: And I take it that you believe 8.25 percent is a reasonable weighted average cost of capital factor to use in this situation?

MR. BRASLAW: I do. In fact, the public companies generally have access to capital markets which would tend to drive that rate down slightly. So it's probably a slightly lower rate than if we calculated with a lot more specific information.

MR. BAKER: And why is, in your view, the weighted average cost of capital an appropriate factor, as opposed to, say, a borrowing rate on debt?

MR. BRASLAW: Generally people use weighted average cost of capital to evaluate investments and to determine whether an investment is an appropriate thing for a company to undertake. Even if you purchase something through borrowing, generally companies need to maintain a balance of debt and equity investments. So if you borrowed for a certain investment, you would have to employ your equity capital in another investment to maintain that balance. So, again, it's generally, rather than looking at borrowing rates, we look at cost of capital on an overall basis to determine what's appropriate in terms of return.

MR. BAKER: Thank you.

And, actually, I do have other documents I want to introduce through Mr. Glaub, if I might return to you for a moment.

Does the presentation of costs in this application include a business license fee that is imposed by the City of Brisbane?

MR. GLAUB: Yes, it does.

MR. BAKER: Can you tell us how that particular fee came about and what it's for?

MR. GLAUB: The fee was initiated by the City of Brisbane because in part -- just as a bit of background, a major portion of our site and operations are in the City of Brisbane.

MR. BAKER: This is the Tunnel/Beatty site?

MR. GLAUB: Tunnel/Beatty site. So the City of Brisbane initiated through ballot measure a tax on recycling operations greater than 100,000 tons per year. The City Council passed a resolution placing that ballot initiative on the ballot; and it was approved by the voters and it has now taken effect.

MR. BAKER: And this was approved by the voters in November of 2011; is that right?

MR. GLAUB: Yes, that is correct. November 8th, 2011.

MR. BAKER: So let me offer as Exhibit 31 a resolution of the City Council of the City of Brisbane putting that particular matter on the ballot.

MR. OWEN: We will mark the document as Exhibit 31 and receive it into evidence. The document is two sheets bearing the title, "Resolution No. 2011-35."

(The document referred to was marked and received into evidence as Exhibit 31.)

MR. BAKER: So, Mr. Glaub, I think you mentioned this, but this particular matter passed at the election of the Brisbane voters; is that right?

MR. GLAUB: Yes.

MR. BAKER: How much of a license fee is imposed on Recology as a result of this new license fee?

MR. GLAUB: So the ballot measure approved charging a business license tax up to $3 million per year for any recycling establishments that recycle 100,000 tons or more of material during any single calendar year, subject to an annual increase of 3 percent or consumer price index, whichever is higher.

Following the approval of that ballot measure the City Council passed another resolution implementing the measure. And in the resolution that was passed by the Council to follow up on the ballot measure, they established some other tiers within the allowed business tax so that any business establishment recycling more than 100,000 but less than 500,000 would only be subject to a $2.1 million business license tax. Over five hundred thousand tons per year would be the full three million. So currently our operations are under 500,000; and we would anticipate they will stay under that until new zero waste facilities would be constructed. So the current business license tax which has taken effect this year is $2.2 million per year.

MR. BAKER: And is Recology paying that to the City of Brisbane?

MR. GLAUB: We are making a payment by June 30th of 2013 of that; and then subsequent payments of $2.1 million split evenly into two payments, December and June.

MR. BAKER: The refinement of this license fee to have tiered payments at different levels of operation, was that the result of discussions with the City of Brisbane about the possibility of building a new zero waste facility there?

MR. GLAUB: Yes, it was.

MR. BAKER: Tell us a little bit about why that caused the City of Brisbane City Council, in your view at least, to reduce the fee.

MR. GLAUB: City of Brisbane understood that until those larger impacts occur within the City of Brisbane's limits it would be fair to lower that amount for current operations, but that when the full-scale operations would go into effect in their city that it would increase to the full amount.

MR. BAKER: And is the property purchase that you described for us on Friday on a prospective basis that makes that Contingent Schedule 1, that would be for the facility that might cause Recology then to have to pay a higher fee because of the construction of more operations in Brisbane; is that right?

MR. GLAUB: That is correct.

MR. BAKER: Let me offer and have admitted as Exhibit 32 a resolution of the City Council of Brisbane, dated October 15th, 2012, that sets forth the tiered plan that Mr. Glaub just described.

MR. OWEN: We will mark the document as Exhibit 32 and receive it into evidence. The document is one sheet bearing the title, "Resolution No. 2012-36."

(The document referred to was marked and received into evidence as Exhibit 32.)

MR. BAKER: Thank you.

Mr. Glaub and Mr Braslaw will be available for cross-examination.

CROSS-EXAMINATION

MR. LEGG: We're going to start out with questions about Contingent Schedule 1. We're going to follow up with some questions about the Brisbane fee.

Tom Bruen is going to ask the first set of questions about Contingent Schedule 1.

MR. BRUEN: Good afternoon. I think most of these questions are for Mr. Glaub, who introduced Exhibit 27 on Contingent Schedule 1.

But, Mr. Braslaw, if you want to chime in, feel free to do so.

Mr. Glaub, on page 6 of Exhibit 27 there's a list of properties on Contingent Schedule 1 and of their ownership?

MR. GLAUB: Page 6?

MR. BRUEN: Yes, if you'd look at page 6, at the list of owners of the parcels.

And my first question off the top of my head is are those still the entities that own these properties or have they changed hands since this appraisal was done?

MR. GLAUB: I believe these are still the current property owners.

MR. BRUEN: Okay now. Do you know if, as to each of these owners, Recology has made an offer to purchase the properties in question?

MR. GLAUB: The majority of the owners here in this table, Oyster Point Properties and Tuntex, multiple parcels are actually owned by the company Universal

Paragon Corporation. Yes, we have made two letter offers to Universal Paragon Corporation.

MR. BRUEN: What is the status of the most recent offer?

MR. GLAUB: We've had some dialogue back and forth, but it's the -- Universal Paragon has indicated it would like to wait until the draft EIR for their project is out and, I believe, through the comment period. That draft EIR is due out June 1st. So they're about to enter a public stage in the CEQA process. And they have indicated that they would prefer to delay further negotiations until that time.

MR. BRUEN: Is this EIR for a project on property that you want to purchase or property that would be severed in the event the Geneva extension takes place?

MR. GLAUB: Both.

MR. BRUEN: So the owner wants to do a project subject to CEQA which would cover some of the land you want to acquire?

MR. GLAUB: That's correct.

MR. BRUEN: And would that project be inconsistent with your acquiring the land?

MR. GLAUB: Yes.

MR. BRUEN: All right. So is it fair to say that Universal Paragon has indicated they do not want to sell?

MR. GLAUB: We don't have any definitive "no" answer from them.

I might also point out that in this EIR process there is a community-preferred alternative that the City of Brisbane had the EIR consultant analyze as a result of their solicitation of input from the stakeholders in the community. This community-preferred alternative is called the "Recology variant." It covers the property that we are trying to purchase. That is, as I indicated, the community-preferred alternative in this process.

MR. BRUEN: Okay. Is it fair to say that Universal Paragon Corporation has said they're willing to sell you the property if their project that's the subject of this EIR process is not approved?

MR. GLAUB: That has not been a condition of our discussions.

MR. BRUEN: But is that your understanding as a practical matter of what their intent is?

MR. GLAUB: Could you repeat that question?

MR. BRUEN: Yeah. As a practical matter they want to develop their own project on the property and if it's approved as part of this EIR project, they're not going to sell the project to Recology?

MR. GLAUB: That could be an outcome, yes.

MR. BRUEN: You have a broker representing Recology in connection with these negotiations?

MR. GLAUB: Yes, we do.

MR. BRUEN: What is the Recology entity that you're proposing would purchase these properties?

MR. GLAUB: At this point we are considering that entity to be Recology San Francisco.

MR. BRUEN: So that would one of the rate-regulated entities?

MR. GLAUB: Yes.

MR. BRUEN: And what's the brokerage firm you're using?

MR. GLAUB: Cliff Company.

MR. BRUEN: Cliff Company?

MR. GLAUB: Cliff Company.

MR. BRUEN: What is the relationship between the appraised value in the Cushman & Wakefield appraisal, which is part of Exhibit 27, and the price you're proposing to purchase the properties for? In other words, are you simply taking the price out of this appraisal and making that your offer? Or are you looking at each individual parcel to see whether it's developed or undeveloped, et cetera, in making specific offers?

MR. GLAUB: So we took the Cushman & Wakefield appraisal at $24.75 for this land and made an offer to Universal Paragon of $25 per square foot.

MR. BRUEN: What numbers are you offering to purchase the other property for?

MR. GLAUB: We're working separately with the Papenhaus Group. That, on a square footage basis, would probably be higher than that.

MR. BRUEN: Do you have an option to buy or anything in place with any of those owners?

MR. GLAUB: No.

MR. BRUEN: So no agreements as of yet?

MR. GLAUB: No.

MR. BRUEN: Now, as I understand Recology's proposal, it is that, once you have enough property in your judgment acquired, you're going to trigger the contingent schedule. And the amount of carrying cost would be based on the actual purchase price of each of those properties -- the combined cumulative purchase price, rather than this appraisal amount; is that right?

MR. BRASLAW: Yeah, that's correct.

MR. BRUEN: So in other words, Contingent Schedule 1 has a total of $15 million. At this point that's an estimate. And is it the proposal that it would be a lower amount but not a higher amount than 15 million? Or is the proposal that it would be whatever you end up paying for the property would be treated as the purchase price for determining carrying costs, based on this weighted cost of capital?

MR. BRASLAW: It's a not-to-exceed number. So it's up to the 15 million. Because they're several parcels and because there's some still negotiations to be done in variability, we based the 15 on our estimate of the cost of acquiring all the parcels. But, again, if we acquired the majority enough that we believe it constituted what we needed to proceed, it may be somewhat lower. But that was a maximum-not-to-exceed number.

MR. BRUEN: If you cannot acquire the Universal Paragon Property, does that basically block your plans to acquire property for a zero waste facility? In other words are those parcels central to your expansion plans?

MR. GLAUB: We believe they're essential to our expansion plans.

MR. BRUEN: And if they are going through an EIR process, do you have any estimate as to when the final approval hearing before the Brisbane City Council will take place on that project?

MR. GLAUB: No.

MR. BRUEN: Has the EIR been published in draft form yet?

MR. GLAUB: An administrative draft was circulated several months ago, but the draft EIR is scheduled for issuance on May 1st. And they're looking at a 120-day comment period. Beyond that, the schedule is somewhat uncertain.

MR. BRUEN: Realistically, do you have an estimate as to how long it would take you to acquire enough properties to trigger Contingent Schedule 1? Would you say like a two-year time frame is realistic or longer?

MR. GLAUB: We've been at this for several years and we have been in close communication with the City and County of San Francisco on these efforts. We are hoping that there will be positive developments that will present a win-win situation for both parties and that we move ahead as quickly at possible.

MR. BRUEN: Just getting back to this $15 million that is derived from the Cushman & Wakefield appraisal, that number is a cap; but, otherwise, the appraisal value becomes irrelevant for purposes of triggering Contingent Schedule 1; and that trigger will be based on the actual purchase price of the properties?

MR. BRASLAW: Correct.

MR. BRUEN: Thank you.

What's the expected date for the Geneva Avenue extension, do you know?

MR. GLAUB: That's also unknown.

MR. BRUEN: Is the occurrence of that extension a predicate to your being able to buy these properties in any way?

MR. GLAUB: No.

MR. BRUEN: Have any of the owners indicated to you that they're willing to split the parcels and sell you only a portion of the parcels that would be on your side of the Geneva Avenue extension or have they indicated they want to sell the entire parcel?

MR. GLAUB: We haven't had that level of discussion. In general, what we are requesting is that split that you're referring to -- and we presented an exhibit on Friday that showed those split parcels. The remainder, the other portion of the property, is on the other side of the Geneva extension where Universal Paragon wants to also develop their project. So it would make sense that they would retain those portions of those parcels.

MR. BRUEN: If you are forced to buy an entire parcel rather than just the split portion on your side of the proposed Geneva Avenue extension, is Recology proposing to have the carrying costs for the entire parcel included in the rate base or just the parcel that would be on your side of the extension?

MR. GLAUB: I just don't think that's a realistic scenario. One of those parcels is very, very large, extending southward. It in itself is over 20 acres. We only need a portion of that.

MR. BRUEN: So when you say it wouldn't be a realistic scenario, are you saying that you wouldn't include in the rate base any portion of the parcels that are on the other side of the Geneva Avenue extension?

MR. GLAUB: I wouldn't think -- no.

MR. BRUEN: Do you have conceptual plans yet for a zero waste facility on this property?

MR. GLAUB: Yes, we do.

MR. BRUEN: Are they in written forms -- some kind of CAD drawings or something like that?

MR. GLAUB: Yes.

MR. BRUEN: Do you know if the City has seen those plans?

MR. GLAUB: Several times.

MR. BRUEN: Okay. And would that facility require you to acquire all of these parcels or just a portion of them?

MR. GLAUB: We would believe we need all of these parcels.

MR. BRUEN: And what is going to be on these parcels? I assume they're going to be some kind of structure or building. Is there going to be parking and other ancillary facilities?

MR. GLAUB: Well, the overall -- it's going to be the integrated complex serving -- providing the infrastructure for all of our operations in San Francisco. So, in addition to -- the major buildings are for processing of the green stream, the blue stream and the black stream. In addition to that, we need all the supporting infrastructure for maintenance of vehicles, household-hazardous-waste management, our artist-in-residence program, public education facilities. So there's quite a number of different buildings that are part of this.

The existing transfer station and construction and demolition recycling facilities would remain as they are. And on these current plans that's about the only remaining buildings that wouldn't be redeveloped.

MR. BRUEN: Now, would you be moving operations on the land you currently own onto this new land?

MR. GLAUB: Probably.

MR. BRUEN: Are there plans to not use or sell off any of the property you currently own if you acquired this additional property?

MR. GLAUB: I don't -- I'm not aware of any plans.

MR. BRUEN: You are proposing, if I'm correct, that the carrying costs for the land be included in the rate base for as long as 15 years before the properties are developed?

MR. GLAUB: Yes.

MR. BRUEN: Why such a long period of time?

MR. GLAUB: I believe that time frame followed regulatory framework used by the California Public Utility Commission. That's why we were just using that as a framework.

MR. BRUEN: But if you do acquire the land and you already have conceptual plans for use of the property, is there any reason you wouldn't proceed with construction in short order?

MR. GLAUB: Well, there are -- we would need to obtain funding approval from the City and County of San Francisco through a similar rate process as this. Obviously, we need environmental permitting as well. Other than that, full steam ahead.

MR. BRUEN: Do you see any reason why that process would take more than, say, five years?

MR. GLAUB: Before construction began?

MR. BRUEN: Yes.

MR. GLAUB: I hope it would not.

MR. BRUEN: Between the time you acquire the property and it is developed for this zero waste facility, does Recology propose to use the properties in the interim for any purpose?

MR. GLAUB: Well, we very well could. Because we are so space constrained, we're always looking for additional land to work with.

MR. BRUEN: So you might move truck parking, bin storage, maybe some operations on to the land?

MR. GLAUB: Those would be examples of fairly easy operations to move to the land.

MR. BRUEN: Would any of these properties not be used for your franchise operations in San Francisco as soon you acquire them?

MR. GLAUB: No.

MR. BRUEN: So you wouldn't be in a position to rent property out to cover your carrying costs? You're going to use the property right away upon acquiring the property?

MR. GLAUB: That's our plan. If there are any existing lease obligations that we need to honor, then they'll be certainly reflected in the rate setting as well.

MR. BRUEN: In the case that you receive rental, what would you do with the rental income?

MR. GLAUB: Rent would be a source of revenue that would be deducted from rate revenues.

MR. BRUEN: Do you know if there are any there long-term leases on that property that would interfere with your ability to develop it?

MR. GLAUB: No, I'm not aware of any long-term leases.

MR. BRUEN: Is some of the property you're about to acquire located on an old landfill site?

MR. GLAUB: Yes.

MR. BRUEN: Have you done any environmental due diligence on property?

MR. GLAUB: We have environmental due diligence on our property that's on that same site, yes.

MR. BRUEN: What did that indicate?

MR. GLAUB: I would have to provide the date of landfill gas, groundwater monitoring that we have obtained on our site.

MR. BRUEN: Okay. But as of today, have you done something called Phase 1 on the property that you're looking at acquiring?

MR. GLAUB: No, we have conducted a Phase 1.

MR. BRUEN: Has the owner.

MR. GLAUB: I'm not sure. I don't know the answer to that question.

MR. BRUEN: Do you know if Recology is planning on doing a Phase 1 investigation before it acquires the property?

MR. GLAUB: Yes. We would conduct Phase 1 before we finalized the purchase.

MR. BRASLAW: Actually, Recology, under its credit agreement -- under its corporate credit agreement -- would be required to provide Phase 1 analysis of any property, especially purchases of that magnitude, before proceeding. So that's something that the companies are contractually obligated to do. It is something that we do as normal practice. As a prudent buyer, we would do Phase 1. And likely, since it's an old landfill, you'd do Phase 2 analysis before proceeding.

MR. BRUEN: I asked because obviously I would be concerned about the City ending up including cleanup costs in the rate base if that appeared to be a problem.

Okay. Now, Recology is proposing that the ratepayers cover the carrying costs of the land. Am I correct that the proposal is that carrying cost no longer be included in the rate base when the zero waste facility is developed on property?

MR. GLAUB: Yes. We would expect that when the new zero waste facilities went into effect, were constructed and went into effect, a new rate-setting methodology for associated costs would be put into place.

MR. BRUEN: Would that just cover depreciation of facility and the equipment or would that also include the purchase price of land in some fashion?

MR. GLAUB: We haven't -- I think that rate process would determine that.

MR. BRASLAW: And it not clear yet. We haven't actually contemplated process of cost recovery. I think in normal practice some recovery of that land cost or some rental would be incorporated into a rate process, but that's not something that the companies determine at this point. And, again, I think, speaking to your question, this proposal is really just to cover the cost until such time that the facility is developed or such time that we go through a further regulatory process to address funding of the facility.

MR. BRUEN: And how would you determine the time when the facility is deemed to be developed? Would it be the first payment for construction or have you thought that far in your analysis?

MR. GLAUB: We have not. It's not clear at this point. We did use that trigger for the other contingent schedule, something that's much obviously closer on the horizon. We have not gone through and developed a more detailed plan for funding or cost recovery related to these facilities. It's anticipated that these facilities would be developed over a period of years and in phases. Therefore, it may contemplate a series of rate processes or a comprehensive process that would put basically put funding in in stages.

MR. BRUEN: So you might propose that the carrying costs for some parcels cease because there's a facility on that parcel or parcels and ask other parcels that the carrying costs would continue until they're developed at a later time?

MR. BRASLAW: That certainly would be possible. And that's something that, again, as we've proposed in the schedule that the carrying costs would cease at such time that there was essentially some trigger in terms of development of the parcel.

MR. BRUEN: Now, I'd like to talk a little bit about the concept of ratepayer participation and any gain from the sale of the land. I believe your proposal is that, if for some reason the land is not developed for a zero waste facility and is later sold by Recology, that the ratepayers would receive a return of their carrying costs capped by any gain on the land?

MR. BRASLAW: That's correct.

MR. BRUEN: But if you're going to use the land for existing franchise operations, even if you don't develop it for zero waste, realistically is there any prospect that you'd ever propose to sell the land?

MR. GLAUB: We are not contemplating selling the land. We just included that possibility to cover ratepayers in such case that that would occur.

MR. BRASLAW: In theory, if there was an alternative facility site or some other reason why the land wasn't developed and it appropriate to sell that land as opposed to using it for operations under some other configuration, we wanted to include a mechanism in the proposal such that the carrying costs that were provided would be paid out of any net proceeds out of any gain associated with selling the facility.

We wanted to be clear that this was not a proposal intended to allow us to go buy some land under a speculative proposition and then sell it and realize some gain. We recognize the fact that by requesting the reimbursement of carrying costs that it comes with it an obligation towards the ratepayers.

MR. BRUEN: If you look at Exhibit 26, which is the colored map that shows some parcels with some bright colors and also it shows your existing land and facilities that are not colored in, what entity owns the land that is not colored in? Is that Recology of San Francisco?

MR. GLAUB: Recology of San Francisco.

MR. BRUEN: Do you know if the carrying costs or acquisition costs for that land was -- has been included in Recology of San Francisco's rate base?

MR. BRASLAW: I believe it has. And, further, on other portions of the site where our current operations exist those parcels are owned by various entities. I believe some are owned by Sunset Scavenger, by Recology Sunset. Some are owned by a separate Recology subsidiary that owns the property. And my understanding is that recovery of those land costs from those various entities have been included in the rate base over the years.

MR. BRUEN: As lease payments or what?

MR. BRASLAW: A variety of things, depending on the owner and the nature of the recovery. So some of the facilities are recovered through depreciation. Some of it was recovered through property rentals from one entity to another.

MR. BRUEN: Is there any protocol or understanding in place that if the existing Recology land is sold that there would be some benefit to ratepayers from any gain on the sale of that land?

MR. BRASLAW: That's not something we've addressed at this point. So I believe it would be something that would -- our expectation is it would be part of the rate process as we looked at funding a zero waste facility.

MR. BRUEN: Okay would you agree with me that if you are able to acquire these properties that are in bright colors on Exhibit 26 that that would increase the value of your existing land holdings by giving you a larger contiguous parcel?

MR. GLAUB: Yes.

MR. BRUEN: How does Recology intend to finance the acquisition of the land?

MR. BRASLAW: It's not clear at this point. That would be something that we would generally go to our corporate folks to provide capital from various sources.

MR. BRUEN: Do you know if the plan is to use conventional real estate financing where you'd put 20 percent down and get a loan from the bank for the other 80 percent or could be something completely different?

MR. BRASLAW: It's unclear at this point. There's no definitive planning as to how to fund the acquisition.

MR. BRUEN: So let me ask you this question. If the plan is not to trigger Contingent Schedule 1 until you own a critical mass of property that allows you to go forward with the zero-waste facility, then at that time you'll know the exact purchase price you will have paid for those properties and you have agreed to cap that at $15 million in terms of calculating carrying costs, right?

MR. BRASLAW: Correct.

MR. BRUEN: So at the time you will have purchased property you're also going to know exactly how you've gone about financing the property. In other words, if you got a bank loan you're going to know how much the bank loan is and what interest rate you're paying, right?

MR. BRASLAW: Correct.

MR. BRUEN: If you use all shareholders equity you'll know that as well, correct?

MR. BRASLAW: Correct.

MR. BRUEN: So why wouldn't it make sense at the time that Contingent Schedule 1 is triggered, assuming the City were to agree to cover your carrying costs, to look at your actual carrying costs at the time, the actual percentage of shareholder's equity, if any, that's used to purchase the property, and then apply the operating ratio that's already been agreed on in prior rate makings as the appropriate way for determining a return to shareholders on their equity?

MR. BRASLAW: Well, as I kind of discussed earlier with respect to the weighted average cost of capital, there is a -- it's beneficial for companies and it's important to maintain a balance of equity and debt investment. If you incur too much debt, then it impacts your financial ratios, financial status. And it can increase the cost of that debt. So, again, looking at it we try to maintain that balance. So rather than looking at any specific investment and say this is a debt investment or this is an equity investment, by using the weighted average cost of capital, you balance that out and you remove any motivation to use one or the other in any specific instance. So in this instance, rather than using all equity capital as opposed to debt which carries much higher rate of return, it would make more sense to use a weighted average cost, because again over all of the investments that the companies would be making, we want to maintain that balance.

MR. BRUEN: Okay. But with respect to these specific parcels at the time you purchased them, you will have made the decision of how much debt to incur to buy the property. So you've made the determination as to the ratio between debt and equity, right?

MR. BRASLAW: That's correct.

MR. BRUEN: And you'll also know exactly how much your bank loan costs you at that point in time, right?

MR. BRASLAW: Correct.

MR. BRUEN: So then it's just a question, if you wanted to do a weighted cost of capital for this specific investment in these specific parcels, all you'd have to do is know how big your bank loan is and what the interest rate is on that and how much shareholders equity is used. And then you'd just have to figure out what's a fair return for shareholder equity, right?

MR. BRASLAW: That's correct. You could do a specific weighted average cost for the transactions that would be contemplated; and it would be specific to those transactions.

MR. BRUEN: And you could do it at the time you've actually purchased the property, so there wouldn't be any one suggesting that maybe the weighted average cost of capital over-compensates the company for its actual weighted cost for acquiring these properties?

MR. GLAUB: Let me speak to the question of timing. The reason we're proposing --

MR. BRUEN: Could you answer my question first though?

MR. GLAUB: Yes. I think the answer is yes. The reason we proposed a contingent schedule for the purchase of the property is because it's a very large expenditure on the part of the companies. And it is anticipated that it may very well occur between this rate process and the next rate process, because the next rate process is anticipated to occur once we move forward with the zero waste facilities. We're not going to move forward with zero waste facilities if we don't have the property. So logically this large expenditure occurs between this time and the next rate process. And that's why it's been proposed as a contingent schedule.

MR. BRUEN: I appreciate that. But it seems to me -- maybe I'll phrase this as a question so it's not an argument.

But it seems to me that if you are going to have to jigger with the schedule anyway, because you know the actual purchase price, it doesn't take that much effort at the time you're adjusting your rates to accommodate the carrying costs for the actual purchase price to also look at your actual cost of capital for those properties?

MR. GLAUB: Would that not be retroactive?

MR. BRUEN: That's another question, but --

MR. BRASLAW: But I think actually, to respond to your question, that's true. You can do the calculation each time. And if we acquire six parcels under this proposal or eight parcels and each one could be calculated with their specific weighted average cost of capital at the time of acquisition, if at the time that we determine to trigger a contingent schedule it wouldn't necessarily be retroactive. We would only use historical information as a basis to determine an interest rate at the time of the trigger. So it would be still be a forward-looking rate-setting event, but it would be based on the historical, again, specific weighted average cost for those investments, as opposed to a broader weighted average cost for the company as a whole.

MR. BRUEN: But when you say "historical," you'd be looking at the actual loan documents for the specific parcels. There wouldn't be any estimating involved at all.

MR. BRASLAW: That's correct.

MR. BRUEN: Okay. One other question. Why is Recology proposing that if the City were to use a weighted cost of capital approach which provides a return to shareholder equity as part of weighted cost of capital calculation, why are you then proposing then on top of that the company would also receive an operating ratio profit, because it seems to me that's a double return in shareholder equity?

MR. BRASLAW: I think the intent of using the weighted average cost of capital was to determine a reasonable carrying cost. I think the companies would still be subject to risk, which was really what drove the operating ratio and the return there. That was the rationale, to my knowledge. We didn't really contemplate double-counting in the context of your question.

MR. BRUEN: All right. Thank you.

MR. LEGG: I have a few follow-up questions about the weighted average cost of capital as proposed in your exhibit. As I understand at this time weighted average cost of capital and I think that's used in the Wiki-finance Web pages from the three companies that you provided, is a formula that includes the cost of equity, the cost of debt, the market value of the firm's equity and debt, the percentage of financing that is equity, the percent financing that is debt, and also the corporate tax rate.

MR. BRASLAW: That's correct.

MR. LEGG: But the way you presented Recology's weighted average cost of capital was through a series of averages and adjustments of other companies' cost of debt, market value of debt, percentage of financing. Isn't the data available so there's an actual formula with Recology's values that would show your weighted average cost of capital?

MR. BRASLAW: That data could be available at the corporate level. That's not something that we have access to.

And the reason that I use the public companies, generally public companies have access to broader capital markets and therefore the costs of their capital is somewhat lower. So we used it as a conservative approach to potentially under-estimate, as opposed to over-estimate the cost of capital.

The cost of capital does vary also. There's some volatility and by using public companies and public markets you tend to reduce that volatility a bit based on the market impacts.

MR. LEGG: In your calculations of what -- let me back up for a moment.

So the weighted average cost of capital that you're showing here, is this for Recology's San Francisco or this for the entire corporate entity of Recology?

MR. BRASLAW: That weighted average cost that you see here would be for the Recology entity. And again, as you said in your last question, it's a series of averages based on public companies. So it's, in fact, a proxy for a weighted average cost of capital for Recology based on public company weighted average costs of capital and an adjustment for Recology's size relative to Waste Connections.

MR. LEGG: Are Waste Connections, Republic Services, and Waste Management the only three publicly traded companies in your industry?

MR. BRASLAW: No. I believe there's probably seven or eight of any size. But the smaller companies tend to have higher cost of capital. Because these are three of the main and best-known public companies, we selected them for use.

MR. LEGG: Because on page 104 of your Exhibit 27 you show that the industry average, which is really just the industry of these three larger companies --

MR. BRASLAW: That's correct.

MR. LEGG: -- and then -- so I guess I'm --

while it may be true that smaller companies would have a higher cost of capital, it seems like this is a very small data-set from which to be making your calculations. Would you agree with that or do you think these -- just choosing these three companies was the best way to go about making this calculation?

MR. BRASLAW: I think that these three companies represent probably, again, the lower end of the industry average. You can see, based on size, actually the three companies are -- you could rank them 1-2-3 by size; and there are fairly significant differences in size. So that would indicate that it actually does matter to costs of capital. I would agree that you would get a more comprehensive industry average if we were to use more companies. And that's something that, based on the analysis that we've done, we could undertake that exercise and identify the five or six other public industry companies for which information is readily available.

MR. LEGG: In your exhibit you took the average of those three companies, which was 7.17 percent; and then you add back in Waste Connections, which you said was most similar, and you divided by two.

So in your estimate the way to find out what

Recology's -- well, the second step in figuring out what Recology's weighted industry average is would be to take the weighted avenue cost of capital for Waste Management and Republic Services and then count the same for Waste Connections two times. And that brings you to a new weighted industry average. Why did you do that?

MR. BRASLAW: We did it again because Waste Connections is more similar in size to Recology. We did make an adjustment for size, but Waste Connections was most similar in size. So again we did a weighting.

And if I could, this was an analysis to come up with, again, an industry-based weighted average cost of capital. We believe that it's on the conservative side. Generally for Recology, as a private company, as a smaller company would tend to carry a higher weighted average cost of capital. So we undertook this analysis on a public company basis. It's an estimate of a weighted average cost; so therefore you could undertake a sightly different methodology and potentially come out with a slightly different number, but this is an attempt to come up with an industry-based average.

MR. LEGG: But I can ask about -- then you did do an adjustment for size difference and you used the factor -- I'm not sure if this is mathematically what you did -- but you added a size factor of 1.54 percent as an adjustment factor. That was, again as you describe it, to alter this new weighted industry average to represent Recology's difference in size. How did you arrive at your adjustment factor? Is that --

MR. BRASLAW: We looked at the relative size of Recology and Waste Connections in terms of revenues and looked at the relationship between those two to come up with the adjustment factor.

MR. LEGG: Is that some math that you could show us, since it's not shown in the exhibit?

MR. BRASLAW: It's math that I'd have to go get. I can bring it to you and show --

MR. LEGG: Would you do that? That would be very helpful.

You said that you weighted it based on revenues. It sounds like that's part of your math. But revenues are actually not a factor at all in the definition of weighted average cost of capital.

MR. BRASLAW: No, the use of revenues was a representation of the size of the various entities. So we didn't use revenue in the determination of weighted average cost of any specific entity, but we used the revenue of Waste Connections and the revenue of Recology to determine the relationship between those two in terms of size.

MR. LEGG: But isn't market value of the firm's equity and market value of the firm's debt what would be the representative issues of size where weighted average cost of capital is concerned? Revenue seems to be something that is a representative of -- certainly could be a respective of size, but doesn't seem related to the cost of money.

MR. BRASLAW: But it isn't necessarily related to the calculation of weighted average cost; that's correct.

MR. LEGG: Thank you.

At this point we have some questions about the regulatory fees and the Brisbane fee.

And at one point, Robert, you were going to have Ann ask questions first. You want to ask your questions first at this point?

Okay. Go ahead.

MR. HALEY: So on Recology SF, Schedule C, the assumptions, page 9, there's a Section O, "Tax, licenses, and permits." And the last two sentences of that section mention a new annual Brisbane recycling fee.

And then later on Recology SF, Schedule L-2, "Licenses and permits," has a Brisbane license of $2.1

million for Rate Year 14.

Is this the business license you described earlier?

MR. GLAUB: Yes, it is.

MR. HALEY: Now, is there any way for Recology to avoid this tax and still provide San Francisco with current and expanded levels of service?

MR. GLAUB: No, we do not believe so.

MR. HALEY: Is it correct that this tax flows into RSF Schedules D and B as an operating rate expense?

MR. GLAUB: Yes.

MR. HALEY: And can you tell me why this isn't treated as a nonoperating ratio expense similar to RSF F2 impound account and J2 Altamont disposal fees?

MR. GLAUB: In our application we've considered it a fair and reasonable expense that's imposed on the company. I might add that that tax has been implemented this year and that the company will be paying $2.1 million dollars out of pocket that does not come from ratepayers.

DIRECTOR NURU: So I have one question for you.

With the proposal for a zero waste facility on this new property in Brisbane, will the employees and people working there -- will they be subject to the local hiring ordinance?

MR. GLAUB: We will abide by the City policies that pertain to our operations.

DIRECTOR NURU: So the answer is yes?

MR. GLAUB: Yes, if that's the policies.

DIRECTOR NURU: I will now ask the Ratepayer Advocate to come up and do some cross-examination.

CROSS-EXAMINATION BY THE RATEPAYER ADVOCATE

MR. DEIBLER: Good afternoon. John, I'd like to the follow-up with few questions.

I think on Brisbane I'd like to just make a statement perhaps more than a question, which is that I think that seems more like a pass-through than an expense that should be subject to the operating ratio.

MR. GLAUB: I would like to make the point that this is a risk that the company bears. These taxes and fees can change at any time, as they did since the last rates were put into place. As a I noted, we have paid $2.1 million that was unanticipated. That's a huge risk that the company took on and had to pay for. There's no guarantee that such taxes do not change between rate processes. So the companies, we think, bear legitimate risk that deserves an operating ratio.

MR. DEIBLER: And you're suggesting that the operating ratio is the best way to minimize risk to ratepayers?

MR. GLAUB: I'm suggesting that the operating ratio applies to expenses that bear risks for the company.

MR. DEIBLER: I'd like to turn to Contingent Schedule 1. There been quite a few questions on the weighted average cost of capital; and I'd like to follow up on a few of these trains of thought.

Return to equity is really about -- it has a number of elements, but a key element of that is risk to both borrower and to the lender in terms of ability to repay or get repaid the monies that have been borrowed. When you look at those three larger companies that you're comparing with, Waste Management Waste Connections, et cetera, are they generally operating in the marketplace? Are they operating under long-term contract? Are they operating as merchant facilities where they are entirely at risk for whether build-it-and-they-will-come? Whether, in fact, users will come? Some combination of that? How would you categorize their risk compared to the risk that Recology San Francisco faces in that regard?

MR. BRASLAW: I think, taking Waste Management as an example, they are a $10 billion company and I believe and that they have facilities that would be financed and subject to every conceivable and probably a lot of in conceivable risks well beyond what I could understand. But as a large company, they're subject to franchises, they are subject to public markets. They've got all kind of financing vehicles, various levels of equity ownership, debt in various markets. Quite complex.

MR. DEIBLER: Let me ask the question a different way. Is it accurate to say that this facility, if the land is purchased and a facility is developed, that you will, in fact, have a captive user, the ratepayers of San Francisco -- or the rate generators of San Francisco, I should say?

MR. GLAUB: That is not established.

MR. DEIBLER: And you consider a real risk at this point that you might purchase land that, although you've had discussions with San Francisco staff that if there would be a decision not to go ahead, then you would be left with that land. Do you consider that a real risk?

MR. GLAUB: Well, it is a possibility. But there is no -- at present there is no agreement in place such as a flow control agreement to this facility for a. Given period of time?

MR. BRASLAW: That's a risk maybe to the

operation.

The other thing is that the return is subject to the regulatory process, similar to a process we're going through right now. And so there's risk that the return won't be there, that the City, for whatever reason, makes some determination that there would not be a recovery. So I think that there's risk there also.

MR. DEIBLER: Well, the question is, I guess, how appreciable that risk is. Maybe that's hard to know at this time.

But let's proceed and say the property is purchased; it's acquired; the facility is developed. At that point you're operating in an evergreen context -- right -- again, with a captive user for an indefinite period of time. Would that be accurate?

MR. GLAUB: I wouldn't characterize it that way.

MR. BRASLAW: I think, as you know, we operate under an ordinance. That ordinance does not have a specific termination or expiration date, but it is subject to the will of the voters of San Francisco and could be subject to change at any time.

MR. DEIBLER: But functionally, I think we could consider it that, right?

MR. BRASLAW: I don't consider it that functionally, because I believe that risk is real. And as we saw last year, the potential is certainly there for that structure and business arrangement to be challenged. So, in fact, it probably -- it is a much greater risk than having a 10- or 20-year -- having a long-term contract -- because it is subject to -- it is subject to the will of a third party, or in this case the voters of San Francisco.

MR. DEIBLER: And one other factor is, if the facility is developed, then you would have another stream of revenue associated with that, correct? In an operating ratio there would be costs associated with operating the facility and that would be an additional revenue, correct?

MR. BRASLAW: That's our expectation.

MR. DEIBLER: Correct.

So I guess I would just request the City, in considering the amounts of percentage, the weighted average cost of capital and comparing that to other companies, to take those factors into account. The idea that there is a captive user, a single user, that perhaps, arguably, that it's an evergreen arrangement and would, even if that evergreen arrangement were to end, would there really be an issue of stranded assets or not? I doubt there would be. That there would be other users that would step forward in one form or another to use that facility. And, finally, that there will be a future stream of capital or rather a revenue associated with the use of that facility that helps also provide return to shareholders as well assurance to borrowers that they will get paid back.

One question I have -- we haven't actually used the term "cap" -- but maybe one way to know about this for now, following up on Mr. Bruen's line of questioning, which I think was a very good one, about looking at the weighted average cost of capital at the point in time and under the circumstances that are specific to that purchase, whether it makes sense to reset some sort of cap and that that would be now set through the process, however that's done, in terms of thinking about what a fair weighted average cost of capital is for Recology.

There was a question, also, about other forms of finance. One that wasn't mentioned by Mr. Bruen perhaps was thinking that -- I don't know if it's appropriate or might be appropriate, not for the land but for a facility, would be California Pollution Control Authority Financing, which would be lower interest rate, attractive. And in the recent past there's been a lot of money available for that and interest in finding projects on the part of the State of California. So I would encourage you to take a look into that as well other private options and perhaps for the City to consider whether that's something they would want to be a partner in. I think you have to be a sponsor probably. I'm not sure of the terminology for that kind of financing to be available.

MR. BRASLAW: Actually, the companies have financed facilities in San Francisco; and we've purchased operating equipment under California Pollution Control Financing Authority monies. So we have included that. And as the companies -- as Recology -- would look at its -- calculate the cost associated with any acquisition, if funds came from a CPCFA financing, that would be included in the calculation if that was the methodology that we ended up with in terms of calculating the WAC.

MR. DEIBLER: In terms of actual costs --

MR. BRASLAW: Actual costs.

MR. DEIBLER: -- in time?

MR. BRASLAW: Correct.

MR. DEIBLER: Thank you.

I just want to clarify one thing, also. You feel that you could be in a situation where you would purchase property that for one reason or another -- say you don't get enough parcels to make the facility viable but you own pieces of them -- that you would potentially continue to own that property and use it for other uses?

MR. BRASLAW: Again, I don't think that we have --

MR. DEIBLER: That's not the point.

MR. BRASLAW: There's no plan -- there is no plan. There's been no specific planning done to analyzed that scenario whereby we acquired some parcels and then determined that we couldn't do a larger development.

My expectation is that we would look to some kind of design adjustments. But it's not clear. We don't know what would happen under that scenario.

MR. DEIBLER: Okay. Thank you.

Just one last question -- or comment, I guess, for the City, in particular. I don't need an answer right now. But I don't know what the long-term -- let me back up for a second -- whether there's been a precedent in previous rate orders for disposition of land that is purchased through the rates in terms of future sale at some point in time for whatever reason. How the ratepayers benefit from that sale or don't. How Recology benefits or doesn't. Is there a formula or is that a case-by-case basis?

And that's a final comment. Thank you.

DIRECTOR NURU: Thank you.

So I think this will complete cross-examination of the company on those issues. I think we'll move to ratepayer advocate cross-examination on DPW staff.

MR. LEGG: Do we want to do that today or keep going with the company?

Peter, do you have a preference about whether we do that today or on Monday next week?

I think we should. I think we should have Messrs. Glaub and Braslaw stay here. I believe that the companies actually -- this may be a good time to introduce exhibits on the proposed COLA mechanism. I know you've brought some consultants that provided the subjects today. Maybe we should do that presentation and then maybe the City is prepared to do cross-examination on that issue.

DIRECTOR NURU: Okay. We can take a 15-minute break. We will resume at 2:45.

(Break from 2:30 to 2:45 p.m.)

DIRECTOR NURU: Welcome back. And at this time I will ask for the companies' presentation on the cost-of-living adjustments.

So I believe, Mr. Baker, we can proceed.

MR. BAKER: Thank you, Mr. Nuru. We'd like to call as our next witness, William Brause, please.

DPW CLERK: Will you please raise your right hand. Do you solemnly swear that the testimony you're about to give today is the truth to the best of your knowledge?

THE WITNESS: I do.

HERMAN WILLIAM BRAUSE,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAKER:

Q. Would you please state your full name.

A. My name is Herman William Brause. I go by Bill Brause.

Q. What is your occupation?

A. I'm a CPA, a partner with the CPA firm of Armanino LLP.

Q. How long have you been a CPA?

A. I've been a CPA for approximately 12 years and I've been with the firm for -- working on my 19th year now.

Q. Do you have an area of specialty at the Armanino firm?

A. Yes. I am one of two partners that are in charge of our solid-waste practice. I've been working with various-size solid waste companies since my first day with the firm.

Q. Were you retained by Recology to do some work in connection with this rate application?

A. Yes, I was.

Q. And in particular were you asked to do some work regarding a COLA mechanism?

A. Yes, I was.

Q. What did you do in that regard?

A. We were asked to revise the existing COLA mechanism that has been a component of previous rate applications.

Q. And give us your general understanding of how the current or -- withdrawn.

Give me your general understanding as to how the COLA mechanism that was approved at the last rate hearings operates.

A. Sure. So the COLA mechanism essentially is a combination of indexes that are used to take the existing operating expenses, allocate those out, and come up with a cost-of-living adjustment that would be applied going forward to those expenses.

Q. Does the COLA mechanism that was approved in

2006 have different components to it?

A. Yes, it does.

Q. And what are those components?

A. Well, I guess I should back up. The current COLA mechanism that I worked on introduced a new component to the COLA mechanism, which is a health and welfare component as well as the change to the labor component as well.

Q. And what were the components of the COLA mechanism that were utilized and approved in 2006?

A. In 2006 there was a fixed labor component; a variable cost component; a diesel fuel component, which was new for that year; as well as a capital cost component.

Q. And you have been involved in formulating a modified proposal for this rate application; is that right?

A. Correct.

Q. Have the factors that were utilized in 2006 bee retained?

A. Correct.

Q. Have any been added?

A. We added this year a component for health and welfare.

Q. Let me offer up Exhibit 33, which is a report from the Armanino firm dated March 14, 2013, entitled "Cost-of-Living Adjustment COLA Mechanism."

The clerk has given you three documents that we're going to use with Mr. Brause and the one on top will be Exhibit 33.

MR. OWEN: We'll mark the first document as Exhibit 33 and receive it into evidence. The document is about 15 sheets and bears the title "Cost-of-Living Adjustment COLA Mechanism."

(The document referred to was marked for identification and admitted into evidence as Exhibit 33.)

BY MR. BAKER:

Q. What is Exhibit 33, Mr. Brause?

A. Exhibit 33 is our report and supporting work papers on the cost-of-living adjustment mechanism.

Q. If you could turn to the fifth page of the document, which would be the fourth page of the report -- the print is obviously small and nobody in the audience can read it.

And I'm not going to go into this in great detail at all, Mr. Brause. I'll leave that for cross-examination. But can you just generally describe what this table tells us.

A. Yes, sir. So what this table, which is Table 1, tells us is -- and essentially what Armanino did was complete similar procedures which had been done in a prior rate application. But it uses the established different indices for the components that were part of last rate application as well as a new indices for the health and welfare component that has been added and a new indices for the inflation factor for the labor component. And it creates a weighted average of each of those different components.

So in the -- all of the operating expenses for the collection services are then allocated to one of these specific exponents. And you come up with a percentage of expenses within that component that's applied to the index. And then that creates what we call the weighted fixed COLA component.

Those are all added up to come up with a theoretical bottom-line percentage COLA mechanism adjustment.

Q. So by way of example, what percentage of the COLA mechanism is due to inflation factors for the cost of fixed labor?

A. So for the cost of fixed labor, the index that was used is actually three percent, as stated in the labor agreement. Labor-related costs make up

57 percent, roughly, of the total operating expenses. So on an weighted-average basis, that represents 1.72 percent of the total COLA calculation.
Q. And then by further example, the new health and welfare component -- what percentage of that is the total COLA weight?
A. So in total COLA weight, it's 0.72 percent.
Q. But what -- I'm having trouble asking this question. But you said the labor component is 57.05 percent. And so what percentage of the overall COLA formula is health and welfare?
A. Okay. So out of total expenses, it's 10.87 percent.
Q. And how is it that the various weighted percentages were determined?
A. The weighted percentages are based on -- it's just proportionate to the total -- the operating expenses that are categorized within that specific component divided by the totally operating expenses.
Q. Does Exhibit 33 include your work papers whereby the various weights were calculated?
A. Yes, it does.
Q. Now, in this Table No. 1 that we were looking at, there's a column for 2013 and 2014. What do those two columns represent?

A. Well, both are examples of what the COLA increase would be using the established indexes from the prior rate application as well as the operating expenses that were presented as Schedule D. We extrapolated those out to 2014 as well so that you could see the impact.

Q. And what would be the COLA increase using the formulas as proposed?

A. So in 2013 it would be 3.1 percent; 2014, 6.1 percent.

Q. So we ask that Exhibit 33 be admitted, please, Mr. Owen.

MR. OWEN: I believe that was done already.

BY MR. BAKER:

Q. Okay. So let's move on now to Exhibit 34. What is Exhibit 34, Mr. Brause?

A. Is that the rate survey?

Q. No. Exhibit 34 -- sorry -- is the fixed-versus-variable cost analysis.

A. I'm sorry. We were retained by the company to complete procedures on an analysis of fixed-versus-variable costs included as Schedule D -- the costs included in Schedule D.

Q. Schedule D of the application?

A. Yes.

Q. What is your understanding as to why you were asked to do an analysis of fixed-versus-variable costs?

A. It's my understanding that the company was including a fixed component in the rates and the new application. And then they asked us to go through and do an analysis from a standard cost standpoint of fixed-versus-variable costs for collection services.

Q. And did you reach a conclusion from that analysis?

A. Yes, we did.

Q. What was your conclusion?

A. Our conclusion was that approximately sixty-two and a half percent of their operating expenses could be classified as fixed in relation to collection services.

Q. And what's your understanding as to the percentage of the overall rate that's being categorized as fixed costs in this current application?

A. My understanding is that it's roughly five dollars, which would be significantly less than the 63 percent that we calculated here.

Q. So is it fair to say that, based on your calculation, the fixed cost could actually be a higher percentage of the overall rate adopting the analysis that you did?

A. That is correct.

MR. BAKER: So we would like Exhibit 34 to be admitted.

MR. OWEN: We'll mark the document as Exhibit 34 and receive it into evidence. The document is six sheets bearing the title "Fixed Versus Variable Cost Analysis."

(The document referred to was marked into evidence and received as Exhibit 34.)

BY MR. BAKER:

Q. So lastly, Mr. Brause, could you please look at what's been marked as Exhibit 35, "Armanino Rate Survey as of January 31, 2013." You have that?

A. Yes, I do.

Q. What is it?

A. Armanino, for probably a couple of decades, has completed a rate survey periodically. Try to do it every year. It's a broad representation of residential and commercial lines of business and standard rates for a broad spectrum of the cities in the greater Bay Area.

Q. And are you personally involved in the preparation of these periodic rate surveys?

A. Yeah, I oversee the process.

MR. BAKER: So we ask that Exhibit 35 be

admitted, please.

MR. OWEN: We will mark the document as Exhibit 35 and receive it into evidence. The document is eight sheets bearing the title "Rate Survey as of January 31, 2013."

(The document referred was marked for identification and received into evidence as Exhibit 35.)

MR. BAKER: So we offer Mr. Brause for cross-examination.

DIRECTOR NURU: Okay. Mr. Legg, would you like to examine the company?

MR. LEGG: I would. And is Mr. Braslaw or Mr. Glaub -- because I have some questions that are not just about the formula itself, but some-- the theory behind --

MR. BAKER: Sure. Perhaps Mr. Braslaw can join.

MR. LEGG: Welcome back.

MR. BRASLAW: Thank you.

CROSS-EXAMINATION BY THE CITY

MR. LEGG: I guess the first question I have is for Mr. Brause, which I see that in the weighting factor that Mr. Baker was just reviewing with you that you're using the current year, Rate Year 13, in determining of the weights?

MR. BRAUSE: Correct.

MR. LEGG: But Rate Year 13 has not been completed yet, so we are basing this on estimates or what?

MR. BRAUSE: I'm using the Schedule D expenses.

MR. LEGG: So you're using the estimated expenses for the current year?

MR. BRAUSE: Correct.

MR. LEGG: So the largest weighted area is the fixed-labor inflation rate. And under the proposed COLA formula -- and this follows what's in the collective bargaining agreement -- the COLA adjustment is going to be based on either CPI or a floor of three percent of a ceiling of six percent; is that correct?

MR. BRAUSE: My understanding of the agreement is that it would be between three and six percent predicated on a COLA mechanism that's in the agreement. What was used for this purposes was the lowest end of three percent.

MR. LEGG: Mr. Braslaw, so the collective bargaining agreement guarantees at least a three-percent wage increase July 1, 2015, 16 -- and when does --

MR. BRASLAW: It's actually January 1 is when the adjustments are. So it's January 1 of '14, '15, and '16; and it runs through the end of December 2016 -- the current collective bargaining agreements.

MR. LEGG: Okay. I'd like to ask a little bit about the new health and welfare component of this. What is the minimum level of effort, such as hours worked per week, that an employee must work to be eligible for health benefits at Recology?

MR. BRASLAW: I believe that the minimum is 80 hours her month for a casual employee. So employees that are considered in the casual pool, it would be 80 hours per month.

MR. LEGG: And are the benefits for those for less than full-time employees prorated at all, meaning does the company pay the full cost of their health insurance?

MR. BRASLAW: Not to my knowledge. I know the company complies with the minimum requirements in the City, but to my knowledge they don't pay full benefits for part-time employees.

MR. LEGG: Do you know what percentage of the -- I'm just trying to figure out what the universe of the healthcare cost at Recology includes.

MR. BRASLAW: I'd have to go back and find that from our HR folks.

MR. LEGG: Okay. Thank you. That would be great.

The proposed health and welfare index allows Recology to pass through the entire amount of increases averaged -- the average increase over a five-year period. That entire increase is reflected then in the COLA mechanism?

MR. BRASLAW: Correct.

MR. LEGG: Okay. I guess I'd like to know what effort has Recology undertaken to control its healthcare costs and what are you intending to do control healthcare costs, since these increases can -- if this mechanism is adopted -- can merely -- essentially be passed through to ratepayers?

MR. BRASLAW: I believe that we will or plan to have some direct testimony related to healthcare costs. But I can speak to my knowledge of what Recology has done as a company.

There are several kinds of health initiatives that the company has undertaken. A contract with Healthy Roads that provides guidance for employees and their families to improve their health, encourages preventive checkups, includes incentive-like contests for people to exercise regularly or eat healthier things like that. That's one of the things that we've done.

Also, part of the health and welfare renewal process is looking at the markets and going out and doing our best to get competitive rates. Given the structure of the collective bargaining agreements, there's a limitation as to the number and types of changes that can be made to the health and welfare program as it applies to union employees.

We have -- or Recology has -- during last year beginning in January implemented changes to the employees not covered under those collective bargaining agreements, including increasing copayments, adjusting the prescription drug benefit to encourage use of generics drugs, and some other changes to the structure of the benefits for those groups of employees.

MR. LEGG: Employees under the collective bargaining agreements though, do they have a co-pay for medical care?

MR. BRASLAW: It depends on the type of coverage that they elect. So they have choices in terms of type of coverage. We provide Aetna coverage at a couple of different levels. There's also a Kaiser and a Health Net. So under the Aetna program, depending on the type of coverage that's elected, will determine whether and what level of copayments they have.

MR. LEGG: What percentage of your employees choose a plan that requires a copayment?

MR. BRASLAW: I don't know. I'd have to go get that information.

MR. LEGG: City of San Francisco, a couple of years ago, voters passed legislation requiring employees to be paying a portion of their healthcare benefit for retirement. And the City has started to have employees pay a greater share of their healthcare costs. Has Recology been instituting any programs like that either for existing or new employees?

MR. BRASLAW: Well, again, for existing employees and actually would apply to new employees, Recology has made changes where it's not contractually restricted from doing so. Again, that includes changing copayments, changing of ultimate participation levels in terms of kind of the ultimate limits of coverage.

MR. LEGG: I'd like to switch gears and ask about the fixed component, which is now called the capital-cost inflation factor; is that correct?

MR. BRASLAW: Yes.

MR. LEGG: Are there any cost items other than existing capital that are not projected to increase during the period reflected by this application?

MR. BRAUSE: No, not that I'm aware of.

MR. LEGG: I can hold up on this question, if needed, but I'm interested in the recycling revenues, which I know were based on a five-year average. And since we're doing a one-year rate, are you contemplating in this application that we would fix commodity price estimates at the current five-year average and that they would not change -- the recycling revenues would not change over the period until the next rate application?

MR. BRASLAW: That's correct. We're really setting the rate for the one-year period. So we have done an evaluation of our expected tonnage and the recycling prices to determine recycling revenues. It would be our expectation that that same level of revenue would occur in future periods.

MR. LEGG: Okay. Do you have any other questions?

William Schoen, who is a consultant to the City, has a couple of questions about COLA as well.

MR. SCHOEN: Jon, if I could just ask, following up on one of the questions Douglas had, you mentioned that there are contractual restrictions to the health and welfare changes that can be made in the collective bargaining agreements. Can you explain what those are? And is that just for the current agreements or is that a perpetual limitation?

MR. BRASLAW: The collective bargaining agreements describe the health and welfare under a maintenance-of-benefits clause. So under that clause, in order to make changes to the health and welfare benefits, it would be subject to collective bargaining. It would be something that we'd have to go to the union and essentially bargain before there was any -- before the company had any ability to make changes.

MR. SCHOEN: Okay. With respect to fuel, California No. 2 diesel is the index that's being referenced. And I'm wondering if that's the best or most appropriate means for adjusting fuels where we have a predominance of bio-diesel and natural gas as the fuel component.

MR. BRAUSE: The index that we used was the index that was used and went through the process last time, so we did not change that.

MR. SCHOEN: Would you might suggest some adjustment to that, given the lack of diesel fuel as a primary component in the fuel costs?

MR. BRASLAW: Absolutely. And it's contained in the application, the various types of fuels that we use. And if there's an index that better reflects the composition of fuel consistent with our proposal, that's something that certainly would make sense. As long as it is something that is readily identifiable and measurable, then we could include it in the formula.

MR. SCHOEN: Sort of along the same lines in terms of the indices, can you talk about the rationale for the use of the Producer Price Index as opposed to the CPI or some other indexes for the expenses that are adjusted?

MR. BRAUSE: Again, in this particular case the PPI, Producer Price Index, was what was used in the previous filing. And I think that you'd see in RRI situation, Rate Refuse Indexes, that you'll have a combination of CPI and PPI as well.

MR. SCHOEN: A representative of a Bureau of Labor Statistics suggested that the PPI was not something they recommended for adjustment clauses due to the double-counting of certain expenses, as they referenced both wood and finished-wood products; there's some compounding. And I'm wondering if you can speak to that concern and whether or not, again, there might be a more appropriate index than CPI that doesn't carry that potential double-counting?

MR. BRAUSE: Yes. So I'm not familiar with the double-counting. What I am familiar with is the PPI, which generally is going to recognize and create an index from the seller's side. So the producer's side, obviously, as it's being used in the COLA mechanism, I think that's applicable. But CPI is more from the buyer's side. And I believe that the CPI that's used here has a large component that's food-driven, which does not seem applicable. So when I went through it, I was comfortable with the PPI index for those expenses.

MR. SCHOEN: I'd like to just touch on the labor component, the fixed-labor component again. That is three-percent floor tied to the CPI. But as it's applied, it applies, it looks to me, like nonunion wages as well. And is that correct?

MR. BRAUSE: Give me one sec.

MR. SCHOEN: I'd guess I'd reference the corporate management --

MR. BRASLAW: That's correct?

MR. BRAUSE: I just want to verify which --

MR. SCHOEN: Sure. So I guess the question is, given that we use the CPI as a measure for the change in labor for the nonunion employees, whether it makes sense to eliminate the floor and tie it to the CPI and not tie it to the union limitation.

MR. BRAUSE: I think that's a company decision and not a decision for what I was tasked with.

MR. BRASLAW: Again, that would suppose that the changes in wages would follow CPI. We'd have to go back and look at historical, but that's not an unreasonable measure in terms of the expectation for the nonunion wages.

MR. SCHOEN: The CPI or the union?

MR. BRASLAW: The CPI.

MR. SCHOEN: The CPI as it is, without a floor.

Let me just talk about in terms of timing of the comparative indices. And I believe we're proposing a month-to-month -- you're proposing. Or the formula involves a month-to-month comparison?

MR. BRAUSE: Yeah. We use the same format as the prior application, or prior submission, of the COLA.

MR. SCHOEN: Would you -- can you comment on use of a 12-month rolling average, as opposed to a month-to-month to eliminate potential anomalies, in particular with respect to fuel as the biggest concern, where you can have some very significant increases from month to month that can skew the month-to-month comparisons, whereas if you're using a 12-month rolling average, you account for those over time?

MR. BRAUSE: What we used, again, was previous. My opinion is that I've seen it month to month as well as rolling averages. A lot of times it's predicated on the agreement at hand and how that is specifically written.

What we did in this case was used -- well, I should back up.

Originally, when we were preparing this, we were going to extrapolate a COLA out. So we were going to use the most readily available month that we had. Unfortunately, due to timing, as an example, we didn't have April. So we weren't able to use an April index, because those had not been issued yet.

MR. SCHOEN: Okay. I think that does it for the COLA.

DIRECTOR NURU: I'd like to invite the Ratepayer Advocate to ask questions now.

CROSS-EXAMINATION BY THE RATEPAYER ADVOCATE

MR. DEIBLER: Thank you. I just have a question or two. My first question, I think, is -- and I just received three exhibits, as we all did. And I haven't really had a chance to look at those. Will there be another opportunity if there's further follow-up questions based on this?

DIRECTOR NURU: Yes, there will.

MR. DEIBLER: Thank you.

I just have two comments or questions at this point. One thing that I just heard quite a bit in back and forth was that we did what we did in 2006 in the last application. So I would hope that in reviewing the application -- and that may make perfect sense -- but in reviewing the application and really look at it in real time now and make sure that what we're applying in each of the categories makes sense now, not what it did in 2005 to '06.

And one quick question clarification, just so I understand it, is it accurate the weights are fixed for the first year and stay the same? Or do the weights vary each year? Once you assign a weight to a category that percentage allocation to the category is going to change over time. How does that work?

MR. BRASLAW: It's intended in our proposal that the weights are fixed at the time of determining the final rate for 2014.

As Bill explained in his example, he used the numbers from the rate application as the basis to determine the weights. It's our intention that the final -- basically, the final rate as adjusted with whatever final adjustments are, would be used to determine those weights. And then those weights would be fixed. In order to do it on actual basis you'd have to go through and do a bunch of analysis. That really wasn't contemplated, that there's going to be another process to do that during the interim. So we would fix those weights at the end of this process and then use those weights going forward into whatever years the COLA mechanism applied to.

MR. DEIBLER: Okay. Thank you.

I would just request that the Department of Public Works maybe look at the numbers both ways -- fixed weights first year that stay fixed and then make some assumptions about what if we didn't keep them fixed but we readjusted based on actual expenses moving forward and then applied each of the indices. What would that look like? And pick the formula that is most advantageous to ratepayers.

DIRECTOR NURU: Thank you.

What other topics for cross-examination?

MR. LEGG: Next up, Robert Haley has some questions about incentive programs.

MR. BAKER: Can I release Mr. Brause?

DIRECTOR NURU: At this time, I believe so.

MR. LEGG: Yes, I believe Mr. Brause can go home or perhaps back to his place of employment.

DIRECTOR NURU: So Mr. Haley will ask questions on incentive programs at this time.

MR. HALEY: So I'd like to discuss the zero waste incentives for a moment.

The application narrative summary, pages 12 to 13, proposes an evolved zero waste incentive structure based only on landfill tons. And the first year, as is described -- the first tier -- I'm sorry, would be RSF, Schedule E, page 6, Rate Year 14, tons of 353,267. Those are the total disposed tons. And you would add to that from the same Schedule E, page 3, the Rate Year 14, 13,050, Sunset Tunnel and Beatty trash diverted tons.

Why do you propose adding these diverted tons into that Tier 1?

MR. GLAUB: The diversion from the trash processing operation was proposed to be added back because it would take us to a place where we essentially are going into this new rate year beginning on July 1st. It includes unproven black-bin processing operations that we are going to be implementing, but we have proposed that the Tier 1 tonnage be pegged at a point where we are without those operations.

MR. BRASLAW: And it's our expectation that as we begin that process it's one intended to divert material from landfill, but it's also intended kind of as a research-and-development project that we are going to undertake prior to development of the zero waste facilities. And it's our expectation that in the first year there's going to be a lot of adjustment, there's going to be changes while we figure out what the best operation is and the most efficient way to do the processing. And so we believe that, even though we put in an estimate of what we hope to get, there is a considerable amount of work because it is a new process that we haven't started yet.

MR. HALEY: And also in the narrative on page 13, the last sentence of the second paragraph essentially asks that when zero waste incentives are not achieved the companies be allowed to propose to utilize those funds for new diversion programs subject to Department of Environment and Public Works approval.

Can you explain your rationale for this request?

MR. GLAUB: The fact that those levels have not been reached would indicate that more resources need to be diverted towards achieving those levels of diversion from landfilling. So we would propose that, in close cooperation with the City, we would be able to identify proposed operations that would offer promise for increasing the levels of diversion away from landfilling.

MR. HALEY: Those are the only questions I have on that subject.

MR. LEGG: Can I follow-up with a outcome of -- this is really a comment.

Are we going to have some kind of table that shows tons for each of the four proposed tiers? It's not here. And I know that the City Administrator is asked to make a determination -- I believe it's the City Administrator -- every year as to whether those goals have been met and the directors of Public Works and environment are asked to advise on that. But I don't really have -- I don't think the director has enough of a guide to make a statement at the end of year as to whether Tiers 1 through 4 have been met.

MR. GLAUB: We will submit an exhibit with table that you are requesting. It's all prepared and ready to go.

MR. LEGG: Thank you.

Can I follow up on what Mr. Haley was just asking about concerning using diversion incentive funds for essentially what sounds like research and development and investment in new technologies that may allow greater diversion? How does that differ from what you're proposing right now? What the companies are proposing to do is you start testing equipment that we're purchasing with contingent schedule two dollars or that you -- I can't remember if there is equipment there, but we are proposing to buy-trash-processing equipment in this rate application. Is your proposal that if that doesn't work or doesn't work well enough that we would buy new and emerging technologies not yet contemplated with these funds?

MR. GLAUB: Yes. These funds would be for expenditure on resources over and above what is in the rate application itself.

MR. LEGG: Would you envision that to be primarily capital equipment or would that be additional labor for manual sorting or what do you envision might be the next steps that could happen?

MR. GLAUB: Yes. We would envision that it would encompass capital expenditures as well as annual operating expenses for such items as labor, utilities.

MR. BRASLAW: The intent is that we would propose additional programs that would increase diversion. And again, as John said, that may include operation of those programs. It may include outreach. It may include capital. So the intent -- really the intent of the incentives as they're constructed and even as they were in place historically was to push diversion along and to build something in place to promote that.

Our proposal is such that those monies that were intended for diversion, if our programs are successful we invest our own money and meet those goals, then those monies are basically paid back to the company. If we don't then those same monies are still used for diversion purposes, but rather that the companies come back to the City and say, Here's a proposed use that we believe would allow us to increase diversion. And then the City would provide their guidance, oversight, support if they believed that was an adequate project.

MR. LEGG: Thank you.

Do the companies have any redirect on incentive programs?

MR. BAKER: We'll have a chart on the 22nd. So we will complete direct at that time, but we don't have any other redirect now.

MR. LEGG: Okay.

DIRECTOR NURU: At this time I will ask for the Ratepayer Advocate to come and ask questions.

MR. DEIBLER: I do have a question or two. Or a comment or two.

Exhibit 19, which was the ratepayers' comment on the final application, page 3 and 4, make a request regarding the diversion incentives. So I'd like to just address that at this point.

Aside from the question of the incentives in principle or the incentive amount, which I don't have particular concerns about if they're concerned and if they have do achieve City goals, I do have a concern about transparency in terms of how the information is presented at a couple of levels.

One is that on the forms themselves there's a number of places where there's a 91-percent operating ratio and then the 89 percent is applied so it makes sense in each of the forms. It's kind of hard to follow that versus having -- and maybe I've just missed the form -- one place where there's a discreet summary of what that incentive payments would be.

The other issue more globally is that by -- yes, it would need to be part of the rate adjustment in order to be funded obviously, but it's not compensation. And I think it's an important distinction, as was made in that exhibit, that to think of, if you will, a base compensation which does not include those diversion incentives. Those are earned if they're paid.

So yes, the rate adjustment may be for X amount but the compensation to Recology again is a lesser amount, lesser by that amount of the diversion incentives.

And following up on the -- we also mention that concern in that exhibit and it's been voiced here about what happens if the incentives are not earned and that pool of money is sitting there. I think we just request that, whatever happens to that point, that would be a process so the public can understand why the goals were not met -- I don't mean it in a punitive way. There may be perfectly good reasons why they weren't met. But just that that's an open process that's understood and that there be the opportunity for public testimony about what is the best way at this point in time or that point in time on the margin spend monies to increase diversion to meet those goals, based on where things are at that point in time, in terms of facilities, processes, et cetera.

And the last question I'd like to ask -- or comment -- is are those funds kept -- monies put into a discreet fund? Is there a diversion incentives fund that will get $3.8 million?

MR. HALEY: Yes, there is a special diversion incentive account.

MR. DEIBLER: Okay. Thank you very much. And those are my comments.

DIRECTOR NURU: Thank you. So we'll ask the companies to come up and start presentation on less than weekly advance materials. Is that what we're going to do next?

MR. BAKER: Mr. Nuru, I just wanted to

indicate the witnesses that we have for the rest of day that we are fine to take this one next, but I just wanted to give you a road map a little bit of what other topics we were intending to present today.

In addition to the less than weekly, which would be Mr. Giusti. He's also going talk about community outreach. Mr. Quillen is here today talk about the abandoned waste program and city cans. And then Adam Tabak, who's the corporate controller, is here today to talk about health and welfare costs and pension costs as they factor in both to the rate application and into the COLA mechanism, to supplement the testimony from Mr. Brause.

So I was going to have Mr. Tabak next because it related to Mr. Brause's testimony on COLA, but I'm indifferent on the matter. If you'd rather have Mr. Giusti now, it's fine.

DIRECTOR NURU: We're fine with going with Mr. Tabak.

I would about 4:20 open up for public comment, so we can see how far we get to.

MR. BAKER: All right. Why don't we have Mr. Tabak come up.

DIRECTOR NURU: That's fine. Thank you.

DPW CLERK: Do you solemnly swear that the testimony you're about to give today is the truth, to the best of your knowledge?

MR. TABAK: I do.

DPW CLERK: Thank you.

ADAM TABAK,

having been sworn, appeared and testified as follows:

DIRECT EXAMINATION

BY MR. BAKER:

Q. Would you please state your full name for the record.

A. Adam Tabak.

Q. What is your job?

A. I'm the corporate controller for Recology.

Q. How long have you had that position?

A. I've been the corporate controller for four years. I've been with the company for eight years.

Q. Did you play a role in the preparation of this rate application?

A. Yes, I did.

Q. Did you play a role with respect to the analysis of health and welfare and pension costs?

A. I did.

Q. Could you please look at the rate application and in particular the section of the rate application that is behind tab RSS/RGG. Do you have the rate application there?

A. Which schedule are we looking at?

Q. Schedule D.

A. I don't have it in front of me, but I'm familiar. Yeah.

Q. What is Schedule D?

A. Schedule D shows all of the operating expenses.

Q. And are there specific line items for pension and health insurance?

A. Yes, there are.

Q. They're toward the top.

A. Yes, that's correct.

Q. And the line item for health insurance for Rate Year 2014 is how much?

A. 18,775,653.

Q. Okay. Lean a little closer to your microphone so the court reporter can here you Mr. Tabak. And Mr. Pilpel can hear you too.

So is there a schedule where it shows you that 18-million-dollar number is arrived at?

A. Yes. It's in Schedule G-3.

Q. Turning to Schedule G-3, we see that number again toward the middle of the page on the right-hand column, $18,775,653, right?

A. Yes.
Q. So can you tell me how that number was calculated?
A. Sure. It's compiled of three components. The first one is the health insurance. The second one are reinsurance fees; and the third one is the RSP.
Q. Employees of Recology have a choice of health plans; is that right?
A. Yes, they do.
Q. What are the choices?
A. Choices are -- we provide medical, dental, prescription drugs, vision, other health and medical benefits. For medical, the choices would be Aetna, Kaiser, Health Net.
Q. And if an employee chooses Kaiser, the company pays the premium for the employee?
A. Yes, that's correct.
Q. And if the employee chooses Health Net, the same thing applies?
A. Yes.
Q. What if the employee chooses Aetna?
A. For Aetna, it's self-insured.
Q. So tell us what that means.
A. That means that the company bears the cost of the claims.

Q. What role does Aetna then play?
A. Aetna manages the claims on behalf of the company.
Q. So in determining what your projected health costs are going to be for those three providers, namely Kaiser, Health Net, and Aetna, am I right that for Kaiser and for Health Net you can look at the premium costs?
A. Correct.
Q. But for Aetna how do you go about it?
A. We engaged Mercer, who is our benefits consulting firm, and requested that they provide estimated costs. And they -- we requested the costs from Mercer.
Q. How did Mercer go about analyzing the costs for employees that select Aetna, which is the self-insured position?
A. They looked at historical costs and inflated them based on trends, market data, and industry guidelines.
Q. Why does Recology offer an option which is self-insured?
A. It provides greater plan design flexibility. We exclude certain costs by the removal of the insurer margins. And, in addition, an employer in general can

expect to save five to ten percent by the avoidance of certain other ancillary costs, based on my understanding from the consultants.

Q. During the draft application process and the run-up to those hearings were you asked questions by City consultants regarding how the numbers were arrived at for health and welfare?

A. Yes.

Q. Who in particular --

A. William Schoen asked me questions.

Q. And did you provide him information in that regard?

A. Yes, I did.

MR. BAKER: And this would be exhibit what?

MR. OWEN: We'll mark the document as Exhibit 36 and receive it into evidence.

(The document referred to was marked for identification and received into evidence as Exhibit 36.)

BY MR. BAKER:

Q. Exhibit 36 is a collection of pages. And there's a number that appears on the top right-hand corner of each page, going from No. 1 to No. 31. Do you see that?

A. Yes.
Q. Did you put those numbers on there?
A. I did.
Q. And did you send this packet of documents to Mr. Schoen?
A. I did.
Q. When did you do that? March 19th, 2013, does that sound about right?
A. That sounds about right.
Q. Did you also play a role in determining how the health and welfare costs should factor into the COLA proposal?
A. Yes.
Q. And you heard testimony of Mr. Brause regarding the COLA formula, correct?
A. Yes.
Q. What factor is used in that COLA formula for healthcare cost? What inflation factor?
A. I requested that Mercer provide an inflationary factor based on historical costs to increase it.
Q. And what factor did they arrive at?
A. It was 6.6 percent.
Q. If you look at Exhibit 36, you have a couple of letters in here from Mercer that you sent on to

Mr. Schoen; am I right?
A. Yes.
Q. And one of those letters is dated March 8th, 2013; and it appears on pages 10 and 11 of this exhibit?
A. Yes.
Q. And is this the report that you received from Mercer in which they provided you the 6.6 percent inflation factor?
A. Yes.
Q. And there's a further letter from Mercer -- you actually have two pages 11 marked here. So the second page 11 there's a March 8th letter, same date, from Mercer to you. And what is contained in that letter?
A. That letter describes how Mercer determined our rates for the self-insured portion for the Aetna rates.
Q. And did you perform the calculations as well?
A. I did. I took those rates and extended them out to project future years' cost.
Q. And does this package include the work papers that you provided Mr. Schoen to demonstrate how you did that?
A. Yes.
Q. So let's turn now to pension. And as we noted

earlier, there's a line item for pension in Schedule D. It's of all the operating expenses, am I right?

A. Correct.

Q. And there's another schedule that describes how the line item for pension was calculated, am I right?

A. Yes.

Q. What schedule is that?

A. G-2.

Q. So Schedule G-2 is page 60 of Exhibit 1. And can you tell us what is shown on Schedule G-2?

A. Sure. G-2 shows an allocation of 25 million expected contributions into the pension plan across the participating companies, broken out between Sunset Scavenger and Golden Gate and then separately Recology San Francisco and other, summing up to the total contribution for the year starting on a fiscal-year basis and then converted to a rate-year basis.

Q. Where did the number 25 million come from?

A. Twenty-five million was based on the collective bargaining agreement that the company has.

MR. BAKER: Let's get that into evidence then. Is this 37, Mr. Owen?

MR. OWEN: Correct. We will mark the document as Exhibit 37 and receive it into evidence. The document is approximately 15 sheets with the title "Collective Bargaining Agreement 2012-2016 between Recology Sunset and Recology Golden Gate and Sanitary Truck Drivers and Helpers Union, Local 350 IBT."

(The document referred to was marked for identification and received into evidence as Exhibit 37.)

BY MR. BAKER:

Q. Mr. Tabak, do you recognize this as the current collective bargaining agreement between Recology Sunset and Recology Golden Gate regarding certain of your employees?

A. Yes, that is it.

Q. And does Recology have other collective bargaining agreements with other employees of Local 350 who perform different types of jobs?

A. Yes.

Q. Turn, if you would, to page 12 of the collective bargaining unit. You'll see the heading there "Maintenance of Benefits." You see that? Oh do you not have a copy?

A. I do not.

Q. That puts you the disadvantage.

Page 12?

A. Yes.
Q. And then going over to page 13, there's a section there that talks about the pension plan?
A. Yes.
Q. Is there a portion in here that makes reference to this $25 million pension obligation that you mentioned?
A. Yes, it's in page 14, paragraph G.
Q. That's your understanding of the company's obligation with regard to that number?
A. My understanding is that the company is required to be 90-percent funded by the year September 30th, 2016. And in order to do so, the company will be required to make a $25 million contribution, as calculated by our third-party actuaries.
Q. Is it possible that it could be less than 25 million?
A. It is possible.
Q. And when you say 90 percent, 90 percent of what?
A. 90 percent funded, meaning our assets divided by our accumulated benefit obligation would be 90 percent.
Q. Did the company do anything to determine

whether a $25 million contribution would be sufficient?
A. Yes.
Q. What did you do?
A. We hired a third-party expert actuary to perform the calculations.
Q. Who is that?
A. Towers Watson.
MR. BAKER: Exhibit 37 is a letter from Towers Watson to Mr. Tabak, March 25, 2013. We would offer this into evidence, Mr. Owen.
MR. OWEN: We will mark the document as Exhibit 38 and receive it into evidence. The document is five sheets and it is a letter dated March 25th from Towers Watson to Mr. Adam Tabak.
(The document referred to was marked for identification and received into evidence as Exhibit 38.)
MR. BAKER: So I said 37, but I was wrong. It's 38.
MR. OWEN: 38.
MR. BAKER: Thank you.
Q. Mr. Tabak, what is Exhibit 38?
A. It's a letter from Towers Watson to myself describing pension plan funding projections that they

provided to us, their methodology, and the assumptions that went into the calculations. In addition, the attachment has an exhibit showing the results of their calculation.

Q. And what information did you take from this letter as it relates to the sufficiency of the 25 million?

A. Can you please repeat that question?

Q. Sure. What information was conveyed to you in this letter that relates to the question as to whether or not 25 million is sufficient or not? Take it another way, what did you ask Towers Watson to do with regard to the 25 million number?

A. We asked them to ensure that the funding percentage 90 percent at September 30th, 2016, and that it met other requirements under ERISA and the Pension Protection Act.

Q. You wanted to know whether 25 million would be enough to get you to the 90 percent?

A. Yes.

Q. And what did they tell you?

A. The projections show that in 2016 we're at 90 percent.

Q. Did Towers Watson also advise you with regard to the allocation of the 25 million among Recology

Golden Gate, Recology Sunset, and the other companies?

A. Yes.

Q. Is their advice to you on that also contained in Exhibit 38?

A. Yes.

Q. Where is that?

A. It's in the exhibit. It's on the second page of the exhibit.

Q. Second page of the letter?

A. Second page of the attachment to the letter of the exhibit.

Q. All right. And that's the document that's entitled "10-year Projection of Fiscal Year Contributions"?

A. Correct.

Q. Dated November 27, 2012, in the bottom left hand corner?

A. Yes.

Q. And are the numbers that are reflected in this attachment the numbers that were carried over to Schedule G-2 of the application?

A. Yes.

MR. BAKER: I don't have anything further. Thank you.

MR. LEGG: We don't have any questions for

Mr. Tabak at this time. We'll let you know if we need to have him come back though. Do you have --

DIRECTOR NURU: The Ratepayer has questions for him.

CROSS-EXAMINATION BY THE RATEPAYER ADVOCATE

MR. DEIBLER: Mr. Tabak, hello.

Q. In Exhibit 36 there was reference to a letter, I believe, on page 10 and 11. I don't have it right in front of me, but it talked about the weighted average over the five-year period. It's 5-4-3-2-1 weighted average?

A. Yes.

Q. My question is just is that a common or most common way to do a five-year projection? Are you aware if that's the best way to do it, projecting healthcare costs for that?

A. I don't have the expertise to answer that. However, in their letter they do note that, based on market data and industry guidelines, their analysis would indicate higher inflationary factor. And that's also contained in the letter.

Q. Do you have past experience with that method of weighting?

A. I don't.

MR. DEIBLER: Okay. Thank you. No further questions then.

DIRECTOR NURU: Okay. Thank you.

Any other cross-examination from the City? Okay. Thank you.

I will ask for presentation on less than weekly and community outreach from the company.

MR. WHITE: May I call Mr. Giusti, please?

DIRECTOR NURU: Mr. Paul Giusti.

DPW CLERK: Raise your right hand.

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

THE WITNESS: I do.

DPW CLERK: Thank you.

PAUL GIUSTI,

having been sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WHITE:

Q. Would you please state your name for the record?

A. Paul Giusti.

Q. Would you spell your name for the reporter, please?

A. G-i-u-s-t-i.

Q. What is your position with the companies?

A. I'm the community and government affairs manager.

Q. How long have you been with the companies?

A. I've been in this position a year and I've been with the company 35 years.

Q. As part of your responsibility are you responsible for community outreach?

A. I am.

Q. Is there money included in the rate application for community outreach?

A. Yeah.

Q. Do you know about how much?

A. I think -- I don't want to guess.

Q. That's fine. Well, let me ask this another way. What's included in the funds that are requested in the rate application? What is that money going to pay for?

A. The money goes mostly for education around composting, recycling. So a lot of brochures, mailers, community meetings, those types of things. School tours.

Q. Now, are there any sorts of activities that the company engages in that might be considered involvement in the community in some sense but are not included in this community outreach money?

A. Sure. Yes. Things like sponsoring dinners or going to events that may be held by a community group that we would do presentations to, but not -- for example, Conservation Corps. We hired Conservation Corps to go out and put new stickers on bins because the old stickers were faded and worn out. So we considered that educational outreach. And we also attended their annual fundraiser, which we didn't consider outreach.

Q. So the stickers are included and this money attending that dinner?

A. Was not.

Q. Not a part of this money.

Okay. Now, could you say just a word about how community outreach fits in the goals of the City and Recology with respect to this application?

A. Sure. Maybe I'm biased, but I think outreach is one of the major goals to this, especially in our new rate application. We're going to change some rate structures on the educational side. I think education and outreach is going to be crucial to show people how the incentives to recycling and composting can save them money while they're meeting the mandate goals around composting and recycling.

Q. So it's part of achieving zero waste?

A. I think it's a crucial part of achieving zero waste.

Q. Do you have anything else to add on community outreach? And then we'll turn to less than weekly.

A. Nope.

Q. Okay. Offering an exhibit regarding the less than weekly.

Now, Mr. Giusti, we've been referring to the program as "less than weekly." I understand there are alternative names for this.

A. Sure. "Pay per setout" is maybe a more accurate way to describe it.

Q. For the sake of the court reporter, could you spell "pay per setout"?

A. P-a-y p-e-r s-e-t-o-u-t.

Q. So generally could you tell us on a broad level what are we talking about this program.

A. So in general what we're talking about is the black trash cart not being set out on a weekly basis like the blue recycling or green composting cart are. And the reason being is the success, I think, of the recycling and composting programs has allowed us to hear time and time from our customers about how there's nothing in their black cart, about how they already aren't putting their black cart out less than weekly or not putting their black cart out every week.

And so we wanted to have a system in place that would allow folks to not put their black cart out. Considering there's no more food waste in it and no recyclables in it, they don't need to put it out every week. And when they don't put it out, we would incentivize them to do so by giving them a discount.

Q. And it's still expected that they would put out the recyclables and compost every week, right?

A. That's correct. They would need to put out the recyclables and compost every week, but the black cart not.

Q. Why is that?

A. Well, first of all, the green cart -- I think it goes without saying -- if there's food waste in there or organic matter in there, I think for public health reasons you would want that collected weekly. And I think just general sanitation we would want that collected weekly.

And then the recyclables, I think, just to -- once again, in the recyclable container you do have fibers, you have newspaper, junk mail -- things like that I think are better collected weekly. And I think that's where the bulk of volume is going to be is in the blue carts. So since the green carts and blue carts would fill up each week, we'd expect that we would need to collect those weekly.

Q. So going forward you expect the black cart to shrink and blue cart and the green cart to grow?

A. I would expect to see it continue to shrink and, yes, the blue and green continue to grow.

Q. Okay. Now, has the company already had some experience in this sort of program?

A. Yes, we have. In September of 2012, last year, we instituted a route -- actually two routes, a second route, also, in the Sunset District, where we put some equipment in the truck called Routeware that allows us to do a computer route onto the truck. And the driver follows a sequence. And then we capture the data as we go along. So if people don't put their black cart out weekly, we track that through a passive data-collection system, so it's really not the driver dumping it in but the car itself triggers that it was picked up. And if it wasn't picked up, we assume it wasn't out and that customer gets a discount.

Q. In the program described in the rate application how are these current activities going to change?

A. We would expand. We would expand the number of routes to three additional groups, which would be what we currently called the "Fan 3" routes, the trash and the recyclables and the organics routes. Three organics routes. Each organics route now covers about three of the Fan 3 routes. So we would have three Fan 3 routes and one organics route and three of those groups.

Q. And the cost of the expansion are included in the rate application?

A. Yes, they are.

Q. Let me ask you to turn to the exhibit that I ended around, the first two pages of it -- is it fair to say that that's a narrative basically describing what we just talked about?

A. Better than I have orally, yes.

Q. Let me ask you to turn to the third page of that exhibit.

A. Okay.

Q. What is shown on this third page?

A. What's shown on the third page is the cost for rolling out those new routes that we talked about as well as the monthly operating costs for new routes and the existing routes that we already have on the program.

Q. Okay. Let me direct you to the bottom of that page. And the center column shows some numbers there. Could you tell me what is described on those bottom lines?

A. So the bottom line would be, first, is what we are estimating as the monthly discount credits. So what the total of that would be and the credit back to the customer for not putting out the black cart. And then the total cost for Rate Year 14 are below that, as well as the total cost included in the rate application as submitted and the change between this year and next year.

Q. Okay. So there was a little bit of a change? Describe that change for me.

A. So the change is what the -- what it is -- what we have incurred as far as to set the route up, the two routes that we -- existing routes that we have.

Q. Okay. All right. Now, you said that a big portion of cost is the monthly discounts?

A. That's correct, yes.

Q. What other costs are involved?

A. There's costs of purchasing the equipment that needs to go into the truck, the set up of it. There's some training of the drivers. Also, we need to go out and audit the routes and equip the bins so that they're ready for this data collection system. And so that is really just a lot of up-front work.

We have to sequence the route so that the computer knows in what sequence the driver is going to then run that route. We have to make sure that folks have the size carts that we think they currently have that we have in our computer system. So there's a bit of data-checking there to make sure that we have the right information to begin with. And then some work behind the scenes making sure we tie the cart number to the account so that when we dump that black cart, the right customer gets charged for it.

Q. Okay. Anything else you'd like to say about costs of the program?

A. No.

Q. Let me ask you to turn to the next page of the exhibit. It's titled Pay per Setout Percentage of Customers Receiving Credits." " What does this page describe?

A. This payment describes our experience with how many people take advantage of not putting their black cart out weekly and actually get the discount.

Q. So this is based on the test program that is already in place and running?

A. That's correct.

Q. Actual numbers, not projections?

A. Actual numbers.

Q. Okay. Generally, can you characterize what you learned from --

A. You know, what we've learned is for the routes that we're currently running it's about 27 percent -- between 25 to 27 percent participation.

The other thing we've learned is that the more outreach we do, the more participation we get. Which makes sense. When we teach people how they can save money, they take advantage of saving that money.

Q. Now, let me ask you a question about the expansion of the program. You described that there are going to be three new areas, three new routes that are going to be added.

A. Actually, three new groups of routes. So it's actually going to be 12 routes, if my math is right. It will be 12 existing routes and the routes themselves won't change. The geographic area of them won't change. The scope of work won't change. What will change is they will get data collection equipment in the truck. They'll get sequenced routing equipment in the truck and they'll receive the training on how to do the program and we'll outreach, obviously, to those routes too.

Q. So these three new groups of routes are already existing routes, they're just going to have a new program as part of --

A. Exactly, correct.

Q. And are they distributed geographically across the city?

A. They are. Yes. You know, the routes we started with were actually some of the better recyclers in the city. And we thought, with all the other issues we have on setting up equipment, let's make it easy on ourselves. Let's use some routes that are already doing a good job and that we're already hearing from those folks about asking us when can we start putting our cart out less than weekly or can we get a smaller than 20-gallon cart, which has logistical problems to it. So we thought we would start with those routes.

But now we need to see how it is going to work in other parts of the city, maybe parts of the city that are more challenging to collect recyclables in or the demographics have made it more challenging to reach those folks. So we want to make sure the program is going to work for all of San Francisco.

Q. So it's important for that reason to happen?

A. I think it's crucial, yeah.

Q. To have several new routes in order to get the information you need?

A. Absolutely.

MR. WHITE: I would move the admission of the exhibit.

MR. OWEN: We'll mark the document as Exhibit 39 and receive it into evidence. The document is four sheets with the title "Less than Weekly Service Proposal Summary."

(The document referred to was marked for identification and received into evidence as Exhibit 39.)

BY MR. WHITE:

Q. Mr. Giusti, do you have anything else to add on the pay per setout program?

A. No. It's been a fun project to work on and an exciting one, I think.

MR. WHITE: No further questions.

DIRECTOR NURU: Any cross-examination for Mr. Giusti from the City?

MR. HALEY: We'd like some time to take a look at the exhibit. And we may have some questions at a later hearing.

DIRECTOR NURU: Okay. How about the Ratepayer Advocate?

CROSS-EXAMINATION BY THE CITY

BY MR. LEGG:

Q. May I ask -- I don't know if Paul will know. I'm trying to understand where the 1.4 million and the 1.2 million dollars are represented. Are they part of other costs on Schedule D in the collection companies?

A. I can't answer that.

MR. LEGG: Maybe John Braslaw can just come up.

MR. BRASLAW: They are distributed amongst various line items. It includes supplies, other expenses for outreach. It includes labor costs. It includes lease costs. So the expenses of the program are distributed amongst the line items to which they would apply. The reason that we provided the exhibit that you see is so there's one place where the entire cost of the program as proposed is presented in order to facilitate our evaluations.

MR. HALEY: I'd just like to add that it also includes some revenue offsets, in addition to expenses.

MR. BRASLAW: That's correct. The revenue offsets are also included in the application. You can see that in Schedule F-1.

MR. LEGG: And the lines "Total Cost for Rate Year 2014" and "Total Costs Included in Rate Application as Submitted." I didn't understand. Are there $182,000 in cost that you're now requesting that were not in the submittal a month ago?

MR. BRASLAW: That's correct. When the original submittal -- actually, many of the line item costs have decreased from the original submittal. When we submitted the application, the costs related to rolling out the program were not all included. So there were some costs actually where it says labor for -- under the roll-out section, one of the last lines before you get to monthly operating costs, the $78,000 per year. Those costs overall were not included in the application.

Likewise, there's a change to the amount of consider that we're estimating. And those two things together make up the 182,000. So those are the two changes that led to an increase in costs.

MR. LEGG: But you submitted some amended schedules on Friday, but did they include these additional costs?

MR. BRASLAW: The amended schedules on Friday did not include these additional costs.

MR. LEGG: And are you going to be submitting these additional cost or is this being provided for our information?

MR. BRASLAW: Right now, it's provided for your information. It's our intention that at the time that we understand any other adjustments that we review and agree to that we will produce a new set of schedules that will reflect those adjustments. So these are adjustments that we're proposing.

I assume, as we go through this process, if there's a change and that's a change that we all agree to then, we'll make those further changes and then update the schedules so we don't have to do it each time we address an issue.

MR. LEGG: I understand. While you're here, have you provided a kind of breakdown or a back-up schedule for what are listed as Other costs on Schedule D? Or is that something -- there's a line item at the very bottom of Schedule D called "Other." And -- you discussed what other expenses are in Schedule C, but there's no real breakdown I've seen of what makes up that line item on Schedule D.

MR. BRASLAW: Right. That's something we've discussed with the City's consultants and we've provided information to them as part of a larger exhibit. The primary component of that -- the majority of that -- is community outreach that Mr. Giusti described.

MR. LEGG: Okay. Thank you.

MR. HALEY: I just have a clarification now. Going back to pay per setout. I believe I heard Mr. Giusti say in reference to the change at the bottom of that exhibit -- the 182,517 -- that those costs may have been incurred so far. Is that correct or did I misunderstand that?

MR. GIUSTI: I thought that's what it was. No, I'm mistaken.

MR. BRASLAW: That testimony actually is not reflective of costs that are incurred. It's the difference between what was included in the application as it was submitted as part of Exhibit 1 and what we're now proposing in the program, given updated information and again adjustments that we've made to reflect what we think is the appropriate scope of the program.

MR. HALEY: So is it then safe to assume that none of the costs here were included in Rate Year 13 and these are incremental costs for Rate Year 14?

MR. BRASLAW: That's correct. These are the costs that are reflective of what would be incurred in Rate Year 14. There were costs associated with outreach in Rate Year 13. There are costs associated with supplies. But because of the way the rate application was built, that it's not incremental year by year but rather that the costs that are shown in this exhibit reflect what we would anticipate incurring in Rate Year 2014 were we to implement the program as we have proposed it.

Again, there are dollars in Rate Year 13 in various line items related to this program because we did move forward to implement the first two routes before we entered into this process so that we can start to understand the impacts of promoting a program like this.

DIRECTOR NURU: Any other questions or cross-examination, Ratepayer Advocate?

MR. DEIBLER: I'm aware that it's about 4:20. So I'll give you a choice. I can ask some questions now. Or if you prefer we wait, I may have some more once I've reviewed the material.

DIRECTOR NURU: While we have the people on stage, go ahead and ask the questions.

CROSS-EXAMINATION BY THE RATEPAYER ADVOCATE

MR. DEIBLER: Okay. I'll ask just a few. Thank you.

I want to ask on this form -- I think it's the one we've been talking about, the new expenses. Did you mention -- was there mention of a net revenue offset? Does that relate to these expenses?

MR. BRASLAW: That's correct. And if you look at the last line before the totals where it says "Monthly Discount Credits Estimate for Rate Year 2014" is 643,000, those are credits that we anticipate providing to participants when they don't set their cart out basically.

MR. DEIBLER: Right. So the 1.4 million would be a net cost?

MR. BRASLAW: No. That would be a total cost. Those are not revenue offsets in the sense that it's not additional revenue that we're getting. It's a cost of the program. So said another way, of a million four about 640,000 represents discounts provided to customers who are participating in the program.

MR. DEIBLER: Represent lost revenue.

MR. BRASLAW: Correct.

MR. DEIBLER: Thank you. I want to just go back do general public education and outreach, if I might ask you a question. This was a question from the member of the public which was, how does Recology intend do advertise, if you want to put it that way, the availability of -- or the opportunity -- to reduce costs, to reduce their rates by downsizing or the various other options that are available under the new rate structure?

And I guess maybe a second part of that question from me would be to think about, you've done this in the commercial area, how do you think of the outreach being similar or different when you now apply that new concept in the residential setting?

MR. GIUSTI: Great. In many ways it will be similar to how we did it in the commercial sector in meeting with customers, talking with them. Probably more so on the residential side. We'll do outreach through community meetings like we're out right now doing talking to folks about it and letting them know the rate process is happening and here's what the commercial rate structures is going to look like under the proposals.

And then we use the other vehicles that we've always used. Things like our newsletter -- quarterly customer newsletter -- that we put in the bill. We do flyers. We do -- cart hangers are a pretty effective way of communicating. So I think just all those different kinds of methods work pretty well.

MR. DEIBLER: It makes sense to have sort of a block-by-block sort of advocate, someone who is interested in making it work locally within their community -- a customer; and have them have information about how this works and people can talk to him them. Just given the complexity of -- maybe something to think about maybe.

MR. GIUSTI: Sure. We could think about it. You know, I have to tell you I think, just from doing years of community meetings, those folks come to the community meetings and end up electing themselves their neighborhood mayors.

MR. DEIBLER: They're already armed.
MR. GIUSTI: So, yeah, they're already armed. We usually do work through them. They take our information. They say, "Can I get some of those stickers to hand out to other people", things like that. But, yeah, we'd be open to that.
Also, I think a lot of times our drivers are our best ambassadors. They talk to the customers. They have that conversation. You know, the best time I think to talk to folks about recycling and composting is while you're collecting their recycling and composting. You actually have their attention and it's a good time work with them and talk with them.
So, you know, I would imagine, like we do always, we're going to meet with our drivers. We tell our drivers what's up, what's going on, what's new. And then they communicate it also to their customers. So I think we can use a multitude of ways to do the communication.
MR. DEIBLER: And on the commercial side, if I understand correctly -- I assume you still have this -- you have an online calculator for commercial customers to understand their options and sort of play with it?
MR. GIUSTI: Although it's not so much a rate calculator. It's a diversion calculator. So it let's

them play with the levels of service and then determine what their diversion rate would be under those different levels of service.

MR. DEIBLER: Okay. Have you thought of doing something similar for residential and maybe even more for apartments or maybe apartment managers and owners, having the capability to sort of run the numbers, make it a nice video-game sort of approach?

MR. GIUSTI: Right. I think that's such a great idea. We already have it on line. So I actually have to say on the apartment side, though, we need about another two weeks to get that one up and running. But we have the residential calculators online and up and running.

MR. DEIBLER: Okay. Great. Thank you.

I'd like to reserve the opportunity to ask some questions about the less than weekly collection at a future time. Thank you.

DIRECTOR NURU: Thank you.

At this time I would like to open it up to public comment. Can everyone wishing to speak give me a show of hands so that I can allow time for people to be able to speak? We have about three. Do we have cards? We do have cards.

Okay. I'll allow five minutes per person for public comment. This is public comment only. You do not need to be sworn in unless you also intend to present material you'd like placed into the record. If that's the case, I'll have the clerk swear you in. Also, when you come forward, please state your name so that the court reporter can enter it into the record. Thank you.

And let's proceed with the first speaker, who is Mr. James Bond.

MR. BOND: I'd like to be sworn in, because I want to go on the record here.

DPW CLERK: Please raise your right hand.

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

MR. BOND: Yes.

DPW CLERK: Thank you.

JAMES BOND,

having been sworn, testified as follows:

MR. BOND: Okay. First, let me rush to point out that if these guys are looking to float financing at eight and a quarter, I'd like to get piece of that action, okay?

As far as this real estate proposal that was brought up at the beginning of the meeting concerning

Universal Paragon and getting jerked around by Brisbane and San Mateo County, I don't know why that's a foregone conclusion, because right across the road literally is this place called Candlestick Park. And I understand the Rec and Park Department might be interested in putting that property on the market and subsequently then they don't have to pay fees and licenses, et cetera, to San Mateo County and/or Brisbane.

As far as this meeting here, this proposal, this entire thing, I think that it's appropriate that the entire comprehensive proposal be available. And specifically today there was, like, an Exhibit 39 presented concerning this pay per setout. And I think that it's more than appropriate to expect that that type of thing be available to the public in advance so that they can study it and comment on it.

On that particular subject, let me say this: Years ago -- I forget how many years ago it was -- but in any case, they had a program where you could put out your black cart once a month. And they did away with it because they said they couldn't swing it. And now -- so I don't know again what this Exhibit 39 says and what the specifics are, but I think that it's appropriate to at least give the consumer an option that if they only produce enough garbage to put the black bin out once a month, that they should have that option, because personally it's been chafing me for a long time to be paying for service to have phantom garbage removed that doesn't exist.

Another subject that has been chafing me for years is the matter of the float. And if the garbage company wants to take that issue off the table, well, it's real simple. All you got to do is increase the deadline. Here's your bill. It's due on a certain date. The water company does it. The phone company does it. My bookie does it. Everybody does it, okay? So then they're none of this question about you get the bill in January and you're paying for April.

That should do it for today. Thank you very much.

DIRECTOR NURU: Thank you.

Mr. James Haas. Okay.

Mr. David Pilpel. You're deferring your speaking? Okay.

Ms. Nancy Wuerfel.

That concludes your public speaking for today.

Nancy, go ahead.

MS. WUERFEL: Thank you very much. I just have a few comments. I want to ask how low can you go on the deferred setouts? I mean is this down to once a month, every other month? I'm serious. We need to quantify what this program would be looking like, because I can see people crawling between the cracks thinking, Good, I'll save five out of six months and store it up. I mean things like that happen. So there needs to be some real serious regulations.

Also, I would like to request that future rate applications, which looks like will be coming more frequently than before, I'd like to start seeing things by program. When I listen to Mr. Giusti doing his best to describe these things, then hearing that the costs and the revenue is dispersed amongst the individual line items, I can't see that and neither can anybody else. So in the interests of transparency, I really want to see if there are programs. And, indeed, there are many of them.

Let us start for the first time for everybody to understand that of the $220 million that is collected is for programs A, B, and C, so that they are then quantifiable, comparable with other cities in the California area, that we're talking about comparing rates that are reasonable. Let's start talking about programs so that people can say, okay, "This is a dammed good investment. It only costs me or costs the ratepayers this amount of money"; or, "What the hell are you talking about with these programs?"

We need to have that level. And there's no way anybody can figure out the entire businesses, so let's try to get down to a real person's level of understanding things. And, again, I'm recommending this now, because I'm hearing that we'll be back and forth between each other probably every two years.

And the last thing I want to talk about is something that has probably never been on the docket before, which is this acquisition of land. I want to suggest that City departments have surplus land. And I know there's a regulation on the books that says if we have surplus land that's not needed for a City purpose, it goes into an affordable housing account. Chris Daly did this.

But I want to talk about this right now today, because I am very concerned about paying San Mateo County and the City of Brisbane these amounts of money -- millions of dollars -- over time. Let's assume that this is going to go on for 50 years. We're talking big chunks of cash. So I want to talk. For the first time I want this body to require the surplus land of different departments to be put out there so we can see is there a possibility of having that land bought for a nominal amount so that it not only saves the ratepayers, it saves us this ongoing fee that is going to be paid to another county.

Also, we talk about the workers. I don't know how you're going to make somebody hire workers from San Francisco. I don't know how that's going to be put in the rates to meet our requirements of hiring locally. So I just want to put that on the docket.

I know it's not part of what anybody wanted to hear today, but I'm very concerned about the proposal of buying land. And I'm not completely clear how I get the benefit from that. I understand zero waste, but how do I -- do I own a piece of the rock down there in San Mateo County? It's not clear to me.

Thank you.

DIRECTOR NURU: Thank you, Nancy.

All right, David.

MR. PILPEL: I do need to get sworn in today, because I've got documents.

DPW CLERK: Please raise your right hand.

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

MR. PILPEL: I do.

DPW CLERK: Thank you.

DAVID PILPEL,

having been sworn, testified as follows:

MR. PILPEL: David Pilpel. And I didn't properly introduce myself on Friday.

Other than following these matters for many years, I'm a member of at least a couple of organizations that care very much about zero waste and getting there, namely the Northern California Recycling Association, on whose board of directors I currently serve, and the Sierra Club, although I'm not representing either one of them today.

I also just left out on the table copies of the notice of the scoping Wednesday night at the Planning Department with regard to the Yuba rail hub proposal. There was a speaker on Friday who apparently is not here today that was inquiring about that, which is not expressly before you today.

So to start on the documents, since Mr. Legg introduced some items on Friday with respect to the 2012 proceedings, I had a number of exhibits from my side of that I wanted to contribute.

To start with, there's an August 2nd, 2010, letter from myself to Peg Stevenson, who was the hearing officer for that set of proceedings.

Maybe I'll just -- we'll do them as a bunch.

An August 31st letter that was the objection to the hearing officer's report.

The remarks I prepared and delivered at the Rate Board hearing Thursday, September 30th, 2010, Rate Board.

The notice of decision and order of Rate Board from the hearing on September 30th, 2010.

DPW Order No. 178,941 implementing the action of the Rate Board in the 2010.

But wait there's more. And an April 23rd, 2012, letter to Greg Wagner, who served as the hearing officer in 2012.

May 25th letter to Naomi Kelly, the Chair of Rate Board, objecting to the hearing officer's report and recommended order in 2012.

The rate board's order and findings from 2012, dated July 9th, 2012.

And, finally, DPW Order 180,442, which implemented the 2012 Rate Board decision .

I would also note in particular 2012 Rate Board order had a particular requirement for this rate-setting process relative to the abandoned waste issue, which I believe is being addressed, and urge DPW and the Department of Environment to publish certain reports and provide a more robust forum for public engagement. I would direct you to those urgings and requirements to ensure that they're being addressed in this proceeding.

With respect to the DPW programs that Recology is proposing to take over, it's not clear to me from the four-page letter that was introduced on Friday for each of those discreet programs what the City's cost is and what Recology's cost is proposed to be and how the level of service varies. If, for example, the City is now paying a million one-hundred thousand for abandoned waste pickup and Recology is proposing to do roughly the same service rate for eight hundred thousand dollars, then I would probably like that idea. If it's the reverse, then I probably don't like that idea. But it's difficult to tease that out from the letter.

I see I've used my time. I have a couple of other thoughts --

DIRECTOR NURU: Real quick.

MR. PILPEL: Okay. And just to finish on the DPW issue for today, in the past two rate proceedings there was a hearing officer appointed from other City departments because it largely turned on the question of these DPW programs and use of the special reserve account. This particular proceeding is largely not about that, but does have an element of that.

So I'm wondering out loud how you, as the DPW director, deal with that inherent conflict. It seems to me that's a potential problem of serving two masters, where you on the one hand need to ensure just and reasonable rates, but at the same time you have a responsibility as the head of a City department with issues of general fund support. How that gets addressed is important and interesting to me.

If you deem it best, I'll reserve the rest of the issues for a future hearing or put them in writing. I look forward to talking about land and Brisbane and ratepayer equity.

DIRECTOR NURU: Good.

MR. PILPEL: Thank you very much.

DIRECTOR NURU: Thank you.

I will call Jim Haas one more time. Is he here? No Jim. Okay.

MR. OWEN: We will mark these documents collectively as Exhibit 40 and receive them into evidence. There are approximately 20 pages as described by the witness -- 20 sheets.

(The documents referred to were marked for identification and received into evidence as Exhibit 40.)

DIRECTOR NURU: Okay. At this time we will conclude for today and we will continue this hearing on Monday, April 22nd, at 1:00 p.m. in Room 408. We will post an agenda for that day as well as for the final scheduled hearing day of Wednesday, April 22nd, by mid-week on DPW's Website. I am optimistic that we can complete the examination of all our specialty application next week.

So I would like to thank everyone for participating in these proceedings. We are adjourned. Thank you.

(Hearing adjourned at 4:45 p.m.)

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