

COMMONWEALTH OF PENNSYLVANIA

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MUNICIPAL AUTHORITIES ACT OF 1945

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HOUSE AND SENATE LOCAL GOVERNMENT COMMITTEES

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Room 8E-B East Wing  
State Capitol Building  
Harrisburg, Pennsylvania

Wednesday, August 11, 1993 - 1:00 p.m.

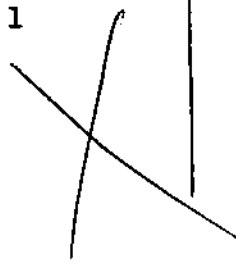
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BEFORE:

- Honorable Frank A. Pecora, Acting Chairman
- Honorable Thomas Tangretti, Acting Chairman
- Honorable William F. Adolph, Jr.
- Honorable Michael Bortner
- Honorable Lawrence Curry
- Honorable James W. Gerlach
- Honorable Anthony Melio
- Honorable Timothy Pesci
- Honorable Eugene Porterfield
- Honorable Larry O. Sather
- Honorable Leo J. Trich, Jr.
- Honorable Patricia Vance
- Honorable John N. Wozniak

COPY

KEY REPORTERS  
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ALSO PRESENT:

Dave Lucas, Executive Director  
Senate Local Government Committee

Virgil Puskarich, Executive Director  
Local Government Commission

Judith A. Eschberger, Esquire  
Senate Democratic Caucus

Kathi Schue  
House Legislative Assistant

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1                   CHAIRMAN PECORA: Good afternoon. I am  
2 Senator Pecora, Chairman of the Senate Local  
3 Government Committee. Today's meeting is the  
4 final public hearing convened by the House and  
5 Senate Local Government Committees on the  
6 Municipal Authorities Act of 1945.

7                   I'm joined today by Representative Tom  
8 Tangretti, Representative Lawrence Curry,  
9 Representative Anthony Melio, Representative  
10 Joseph (sic) Pesci, Representative Larry Sather,  
11 and Virgil Puskarich who is supposed to be here,  
12 and Representative Adolph on my right.

13                   At today's hearing we plan to hear a  
14 wide range of testimony regarding both the  
15 strengths and weaknesses of the Municipal  
16 Authority system as it exists today in  
17 Pennsylvania. We decided to hold these hearings  
18 for several reasons.

19                   Some members of the Local Government  
20 Committee in both the House and Senate had  
21 expressed an interest in investigating how  
22 different authorities were functioning  
23 throughout the Commonwealth. This interest was  
24 stirred by an anticipation of the report that  
25 the Local Government Commission recently issued

1 which examines authorities as directed by House  
2 Resolution 354 of last year.

3 These hearings were convened to solicit  
4 further testimony on this subject from those  
5 that are involved with the operation of or  
6 affected by authorities on a day-to-day level.  
7 In truth, there are few people who are not  
8 affected by the operation of the municipal  
9 authorities in Pennsylvania.

10 There are over 2,700 single and multi-  
11 purpose authorities operating in Pennsylvania,  
12 serving at least parts of all 67 counties in our  
13 state. Here in Dauphin County alone there are  
14 over 50 authorities to provide a wide range of  
15 services to the residents.

16 It is clear that because of the number  
17 of people and millions of dollars involved in  
18 the operation of authorities, it is important to  
19 recognize the strengths and weaknesses that have  
20 developed since the authorities were organized  
21 based on the guidelines of the Municipal  
22 Authorities Act of 1945. It is even more  
23 important because of the manner in which the  
24 authorities are organized.

25 Under the guidelines of the Act of

1 1945, authorities operate on an independent  
2 basis, free from much control by outside groups,  
3 but because they are established to borrow money  
4 and provide important services to great numbers  
5 of Pennsylvania residents, the authorities  
6 cannot operate in a vacuum. Too many lives  
7 depend upon the services they provide. It is  
8 our hope that the members of the General  
9 Assembly, those that operate the authorities,  
10 and the citizens of Pennsylvania, will all  
11 benefit from the insights provided by those who  
12 testify today.

13           Before I introduce the first speaker, I  
14 would like to introduce Representative  
15 Tangretti.

16           REPRESENTATIVE TANGRETTI: Thank you,  
17 Senator, very much. Welcome everybody. I am  
18 very happy to co-chair these hearings with  
19 Senator Pecora. The Subcommittee on Counties  
20 was given the authority by the Local Government  
21 Committee earlier this summer to look into the  
22 Municipal Authorities Act. It was almost  
23 unanimous in terms of the members of Committees'  
24 interest in doing this as a result of some  
25 information and discussion that occurred in our

1 Committee with the Municipal Authorities  
2 Association, members and other individuals.

3           Although we need to be looking at  
4 municipal authorities and how they do their  
5 business in terms of rates and their mission and  
6 personnel practices and the services that they  
7 provide, I think we also must keep in mind, and  
8 I mentioned this in the first hearing, that we  
9 also are asking the municipal authorities for  
10 their very valuable and substantial input on how  
11 we can make the act better.

12           It seems that as a result of these  
13 hearings there is a defensive posture being  
14 taken by municipal authorities, and perhaps,  
15 rightfully so in some regard. But I think we  
16 need to understand that we want to also ask the  
17 municipal authorities how we can make the act  
18 better from their perspective. After all, they  
19 are the ones that have to work and operate under  
20 that act, and have been for a number of years.  
21 This is the first comprehensive ever to look at  
22 the Municipal Authorities Act since it was  
23 instituted and written and passed in 1945.

24           I welcome everybody here today and I  
25 look forward to the testimony. Thank you, Mr.

1 Chairman.

2 CHAIRMAN PECORA: Thank you,  
3 Representative Tangretti. First, let me say  
4 that we have a copy of a letter from  
5 Commissioner Ted Simon from Westmoreland County.  
6 I want to enter it into the testimony, but I  
7 will not read it. I will provide copies in the  
8 future to the members of the Commission. I'll  
9 let you read it in case you have any questions  
10 on it.

11 We will begin today with Don Anderson  
12 who is speaking on behalf of the Franklin City  
13 Rental Property Owners Association.

14 REPRESENTATIVE TANGRETTI: While we are  
15 waiting for Mr. Anderson to take his seat, we  
16 were joined in the interim by Representative  
17 Gerlach and Representative Trich.

18 CHAIRMAN PECORA: Yes, sir, Mr.  
19 Anderson.

20 MR. ANDERSON: Mr. Chairman, members of  
21 the Senate, members of the House: This is Mr.  
22 Harry Shelly, our Vice President. He will speak  
23 first and then I will summarize.

24 CHAIRMAN PECORA: Thank you.

25 MR. SHELLY: The purpose of this



1 testimony is to make you aware of the  
2 inconsistencies among authorities' policies,  
3 unreasonable and unequitable regulations  
4 determined by municipal authorities for water  
5 and sewer systems.

6 No. 1. According to the Authority Act  
7 a property owner is responsible for tenant  
8 overdue service bills. The reference is  
9 Violation, Section 4, Article 2, page 11,  
10 paragraph H.1 and page 14 of the Municipal  
11 Authorities Act. This is unreasonable because  
12 the property owner is not furnishing the service  
13 and has no control over tenant's usage, and in  
14 our opinion is unconstitutional to make one  
15 person responsible for another person's debts.

16 Reasons: Landlord cannot control  
17 tenant's abuse of utilities.

18 Landlords do not furnish public  
19 utilities and should not be held responsible for  
20 potable water or sewer services.

21 Authorities should be held responsible  
22 to furnish service to each tenant by some  
23 accurate and reasonable means.

24 Tenant should be responsible to  
25 authorities system for usage and billing.

1           Tenants should be required to place an  
2           adequate cash deposit at the time of the utility  
3           is turned on. The cash deposit should be used  
4           only for the purpose of payment for unpaid  
5           utility bill.

6           No. 2. Monthly rate charges for  
7           unoccupied rentals for property is also  
8           unreasonable. The St. Thomas Sewer Authority  
9           does not charge monthly rates for vacant mobile  
10          home units, but charges for vacant apartments  
11          and homes.

12          Monthly, quarterly rate charges for  
13          unoccupied rentals or properties should be  
14          eliminated after the first 30 days of no usage.  
15          An amendment or amendments to the Authority Act  
16          is required.

17          Peters' Sewer System has the highest  
18          rate charge. That's \$35 a month.

19          It is unreasonable to charge the same  
20          rate for a non-usage as for full usage.

21          Devices such as valves, switches are in  
22          place to control usage of water, sewer,  
23          utilities by authorities.

24          Rates should be determined by usage,  
25          water meters or number of persons per unit.

1           No. 3. Rates and charges must be  
2 uniform and reasonable for all similar  
3 utilities. Some authorities charge the same  
4 monthly rate for a single-person unit as for a  
5 multi-person unit. Rates should be determined  
6 by operating, processing and overhead expenses;  
7 for example, solely by authority board; not  
8 hired employees.

9           A flat monthly rate charge is unfair  
10 and unacceptable. Retired persons are on a  
11 fixed income which provides no flexibility for  
12 monthly rate increases. Rates should be uniform  
13 and reasonable. Reference: Section H page 13  
14 of the Municipal Authorities Act.

15           No. 4. A survey of several authorities  
16 operating in Franklin County provided a wide  
17 difference in establishing policies and monthly  
18 rates and charges for unoccupied rental units.  
19 Systems surveyed: Antrim, Greene, Peters, St.  
20 Thomas, Upton, Chambersburg and Mercersburg.  
21 Only those systems completed in last few years  
22 charged for unoccupied units. This unreasonable  
23 trend should not continue.

24           Every system is engineered and designed  
25 as a first-start; therefore, system costs also

1 increase. System engineers do not use past  
2 technologies to decrease system engineering  
3 costs.

4 No. 5. We believe the authority boards  
5 are unaccountable to no one except Common Pleas  
6 Courts, and this gives the authority boards too  
7 much power to make unreasonable policies that  
8 are not in the best interest of the public use.  
9 Professional advisers have too much control over  
10 board members. Nobody can afford the legal fees  
11 to fight the authorities in court, as the  
12 authorities have unlimited funds by raising the  
13 rates and through their state organization which  
14 can assess each authority for legal fees.

15 Individuals on authority boards should  
16 be held accountable for unreasonable and unfair  
17 actions and policies. The system should be  
18 managed for the user's benefit. Reference:  
19 Section 4, Article 2, Municipal Authorities Act.

20 Users should be involved in  
21 establishing policies that are in the best  
22 interest of the users. Authority board members  
23 should be responsible to a local governing body  
24 elected by users. Authority should be held  
25 accountable for their unreasonable actions. The

1 authority board should be controlled by an  
2 organization similar to the PUC.

3 Our recommendation is that more  
4 standardization should be exercised over  
5 authority operation for collection of monthly  
6 rates over the entire state. Monthly rates  
7 should be based on water usage or number of  
8 users for one unit. Monthly rates should be  
9 determined by other adjacent areas rather than  
10 independent areas. All systems should not  
11 charge for vacant rentals or properties.

12 Sewer systems are designed to meet  
13 years of expansion and additional usage,  
14 eliminating the need to charge for vacant  
15 properties and rentals.

16 Utility systems, mainly sewer, can be  
17 designed and managed to eliminate the need to  
18 charge property owners a monthly rate for  
19 unoccupied rentals or properties. The survey  
20 showed systems operating before about 1985 did  
21 not charge for unoccupied units. Systems that  
22 have come on-line since 1985 do charge for  
23 unoccupied units. An amendment to the proper  
24 Authority Act is required to prohibit this  
25 unreasonable practice. Families moving into the

1 sewered area should offset the vacancies.

2 New starts should overcome the need to  
3 charge monthly rates for vacant properties and  
4 lower the monthly rate charges. The increases  
5 in users should decrease the monthly charge  
6 rates.

7 Our request is that your effort to make  
8 laws for authorities, provide uniform and  
9 reasonable service in accordance with other  
10 public utilities will be appreciated by members  
11 of the Franklin County Rental Property Owners  
12 Association and the citizens of Franklin County.  
13 The Municipal Authorities Act of 1945 needs to  
14 be amended to correct the unreasonable rate  
15 charges and policies made by authority boards.  
16 More strict guidelines should be established for  
17 authority boards.

18 Amendments should be established to  
19 include users views and prevent the hostile  
20 feelings that exist between users and boards.  
21 All municipality authorities should be  
22 controlled by a state organization to  
23 standardize rates and policies.

24 Amendments should be established on a  
25 fair, reasonable and equitable basis that are

1 uniform for all users. The amendments should  
2 include approval of other types of individual  
3 septic systems that are approved by EPA or DER.  
4 Amendments should be added to the Municipal  
5 Authorities Act of 1945 to the establishment of  
6 wage attachment for unpaid utilities and  
7 accelerated evictions from the leaseholder.

8 It is unreasonable to force a property  
9 owner to pay for a dead beat tenant's utilities  
10 while losing five to six months' rent. The Act  
11 of 1945 may have been a reasonable and workable  
12 document. Changes must be made to control  
13 fraud, greed, and dishonest behavior of  
14 authority boards; property owner's rights to  
15 terminate utility after one unpaid bill at  
16 option of the property owner.

17 Thank you very much.

18 MR. ANDERSON: In summary, gentlemen,  
19 when I first received the list of speakers for  
20 today, my first thought was, that as outnumbered  
21 as we are, I better get a bugle to call John  
22 Wayne and the U.S. Calvary in to rescue us.

23 Now I ask you, if these authorities had  
24 been operating for the benefit of the people of  
25 Pennsylvania, which was the purpose and intent

1 of this act, especially Section 4, Article 2,  
2 why do the authorities have any need for the  
3 Pennsylvania Municipal Authority Association?  
4 Why do the authorities need a state municipal, a  
5 state authorities association attorney when each  
6 authority employs a local attorney? Could it be  
7 that the authorities want to frighten and  
8 intimidate the public to silence, or could it be  
9 that they feared a truth threatens their little  
10 kingdoms? And to protect that kingdom they  
11 bring pressure upon elected officials.

12 So we ask you, how does this benefit  
13 the people of Pennsylvania?

14 The package that you have been given in  
15 our opinion shows complete disregard by the  
16 authority boards to the Municipal Authorities  
17 Act; complete indifference to the public  
18 concerns by secretly changing rules, raising  
19 rates, refusing to let the public see or have  
20 copies of the minutes of their meeting, their  
21 charters, et cetera; fraudulent actions, and the  
22 possibility of being directly or indirectly  
23 responsible for the death of one man. You will  
24 find that on page 10 in this packet that you  
25 were given.



4           1                   That man that died, the day he was  
2 buried, his wife got a letter from this  
3 authority that unless she paid this money, they  
4 were going to fine her \$100 a day. That's  
5 caring for the public? No way, Hosea.

6                   This is the last of four joint hearings  
7 on the Municipal Authority Act of 1945. I'm  
8 sure that you have heard of numerous complaints  
9 and horror stories about the municipal boards  
10 across the State of Pennsylvania. The  
11 complaints and horror stories that you have  
12 heard are from the voice of Pennsylvania  
13 citizens, the taxpayers, the voters, your  
14 constituents. We ask that you, our elected  
15 officials, hear that voice and correct the  
16 mistakes that were made by a former  
17 administration.

18                   In the long run, your decision may  
19 speak volumes regarding your administration's  
20 position on the type of conduct and tactics  
21 which are permissible in the operation and  
22 management of municipal authority boards.

23                   I thank each and every one of you for  
24 giving us the opportunity to make our views  
25 known, and that we stand ready to help this

1 Committee in any way possible. Thank you.

2 CHAIRMAN PECORA: Thank you, Mr.  
3 Anderson. Before we see if there's any  
4 questions, I'd like to introduce Senator Mike  
5 Bortner who is present and Representative John  
6 Wozniak who's sitting next to Representative  
7 Bortner.

8 One question I have on the previous  
9 gentleman, Mr. Anderson, is, you gave the  
10 indication that if someone did not pay their  
11 bill that was a renter, then the property owner  
12 was responsible for the debt.

13 MR. ANDERSON: Yes, sir. May I refer  
14 you to the packet that was given to you, page 5.  
15 This particular tenant moved out in 1989. In  
16 1992, three years later, Guilford Water  
17 Authority presented me with a \$300 bill, three  
18 years after this person had moved and wanted me  
19 to pay it.

20 I will point out as I do here, at this  
21 particular time, point in time, the charge was  
22 \$25 a quarter. You're talking about three years  
23 of water bills. Why didn't Guilford Township  
24 try to collect this money? Why didn't they shut  
25 off the service? This is the type of stuff that

1 we are putting up with.

2 CHAIRMAN PECORA: Thank you, sir. Are  
3 there any other questions? Representative  
4 Tangretti.

5 REPRESENTATIVE TANGRETTI: Just as a  
6 follow-up to the Senator's question, are you  
7 aware whether or not this is a practice that is  
8 in operation by all the authorities, or is it  
9 unique to your situation?

10 MR. ANDERSON: My property is connected  
11 to the Guilford Water Authority, but it is not,  
12 and I repeat, not limited to them. The other  
13 authorities do the same thing.

14 In the Municipal Authorities Act, which  
15 is right here, it says I, as a landowner, am  
16 ultimately responsible for that bill. You will  
17 see cases in here where they have taken the  
18 landlords to court. It's all documented. But,  
19 the point I'm making is this: Guilford Water  
20 Authority at this point will not put the bill in  
21 a tenant's name. They will only put it in my  
22 name. Now, where in this act does it say they  
23 can do that?

24 REPRESENTATIVE TANGRETTI: That's  
25 really the question I was asking. Are you aware

1 of any authorities that do put it in the  
2 tenant's name? There's nothing that prohibits  
3 them from putting it in the tenants' name?

4 MR. ANDERSON: Yes.

5 REPRESENTATIVE TANGRETTI: It says that  
6 the landlord is responsible. There's nothing  
7 ultimately responsible, correct?

8 MR. ANDERSON: I'll read you the --

9 REPRESENTATIVE TANGRETTI: That's okay,  
10 you don't have to do that. I'm suggesting,  
11 though, there's nothing that prohibits them from  
12 putting the bill in the tenant's name, is there?

13 MR. SHELLY: No, sir, there isn't.

14 MR. ANDERSON: Sir, let me ask you a  
15 question, please. Will you give me your  
16 checkbook and sign the checks and let me fill in  
17 the amount? Would you, please? Because that's  
18 what you're asking me to do for my tenants.  
19 You're asking me to do the same thing. Why  
20 should I do it?

21 REPRESENTATIVE TANGRETTI: I'm not  
22 asking you to do anything. I just wanted to  
23 clarify that one point.

24 MR. ANDERSON: That's what it adds up  
25 to.

1 CHAIRMAN PECORA: Senator Bortner.

2 REPRESENTATIVE BORTNER: I want to make  
3 sure I understand this. Maybe it's a follow-up  
4 to that. You're responsible, you're stating,  
5 for the water bills.

6 MR. ANDERSON: Water, sewer, electric  
7 bills.

8 REPRESENTATIVE BORTNER: But you don't  
9 collect that as part of the rent?

10 MR. ANDERSON: Some do and some don't.

11 REPRESENTATIVE BORTNER: I'm asking --

12 MR. ANDERSON: It comes under unfair  
13 practice.

14 REPRESENTATIVE BORTNER: I'm asking  
15 you. You don't collect that \$25 as part of the  
16 rent?

17 MR. ANDERSON: No.

18 REPRESENTATIVE BORTNER: Why not?

19 MR. ANDERSON: Why not? Because I want  
20 to be honest with my tenants. If I added  
21 another \$25 a month to their rent, that would  
22 give me \$75 every quarter. How do I know they  
23 are going to use \$75 worth of water or they are  
24 going to use \$35, which is the minimum? I have  
25 no way of knowing that.

1           REPRESENTATIVE BORTNER: So this isn't  
2 their meter?

3           MR. ANDERSON: The houses that I have  
4 are single-family dwellings. Each of them have  
5 an individual meter. Whenever they send me the  
6 bill I go to my tenant. I give them the bill  
7 and fortunately my tenants give me a check for  
8 that water bill. I'm being made a bill  
9 collector. Why should I be?

10           REPRESENTATIVE BORTNER: Because you're  
11 renting the property. Would your properties be  
12 very valuable without water or sewer service?

13           MR. ANDERSON: Some of my properties  
14 had septic tanks in them that were in good  
15 operation that I paid to hook onto a sewer  
16 system. The municipal water that we have was  
17 originally there whenever I moved there in 1955.  
18 At that time it was a privately-owned water  
19 company owned by a gentleman by the name of  
20 Colt. Guilford Authority took it over.

21           REPRESENTATIVE BORTNER: I understand  
22 your argument about being fair to your tenants.  
23 It just seems to me that if I were in your  
24 position, the way I would protect myself is, if  
25 I was going to be responsible for the bills, I'd

1 collect it monthly and I'd make sure it was paid  
2 and then I would never have to deal with this  
3 issue.

4 MR. ANDERSON: Wouldn't it be a lot  
5 simpler, if whenever a tenant gets the utility  
6 turned on -- and I have done it when I was a  
7 renter. I put up a cash deposit with the  
8 utility guaranteeing that I would be paying  
9 their bill. After about a year or two years,  
10 I'm not sure which, the utility gave me back the  
11 deposit after they discovered that I paid my  
12 bills.

13 REPRESENTATIVE BORTNER: The advantage  
14 the utility has of holding a property owner  
15 responsible is that there's a property on lien  
16 if it's not paid.

17 MR. ANDERSON: I'm ultimately  
18 responsible. It's in the law.

19 REPRESENTATIVE BORTNER: Right.

20 MR. ANDERSON: What right do they have  
21 to tell me it has to be in my name? In my name?  
22 Why can't it be in the tenant's?

23 REPRESENTATIVE BORTNER: I guess the  
24 answer that they would probably give is because  
25 the person responsible for the bill ultimately

1 is the person who they consider getting the  
2 service.

3 MR. ANDERSON: The Municipal  
4 Authorities Act covers that, sir. It says in  
5 there, and it was amended and put into practice,  
6 that single-family dwellings, they can take and  
7 notify me 30 days after the first bill becomes  
8 due. At that point I am responsible for all  
9 billing, but it has to be one bill 30 days past  
10 due. It's wrote right in here, sir.

11 REPRESENTATIVE BORTNER: You have  
12 answered my question. I just wanted to make  
13 sure I understood the policy that you had as a  
14 property owner in terms of collecting your own  
15 bills from the tenants. Thank you.

16 MR. ANDERSON: Could I just continue a  
17 little bit on that? You will find back here in  
18 the back starting on page 26, to give you a good  
19 idea -- These people, by the way, are not  
20 members of our organization. They are concerned  
21 citizens.

22 These people run Shalom Christian  
23 Academy. It's a school in Franklin County.  
24 They had heard that the waterline was coming  
25 through from Guilford Township. They took and



1 they contacted Guilford. Guilford told these  
2 people that they can get an engineer in to  
3 decide how much water they would need at that  
4 time and for expansion. They did this.

5 The engineer come up with the fact that  
6 they had to have at least an inch and a half  
7 waterline. Guilford Water Authority, and it's  
8 in black and white, charged them \$1500 for this  
9 line. Shalom Academy today has a meter. On the  
10 part of the meter leading to the building  
11 there's an inch and half line. From the water  
12 main leading into the meter there's two, three-  
13 quarter inch lines.

14 Guilford Township Water Authority right  
15 here in black and white tries to claim they get  
16 the water pressure from those two, three-quarter  
17 inch lines that they would have from an inch and  
18 a half. It's right there. It's all documented  
19 and it's on the letterheads of the authorities.  
20 This is not right. It doesn't work right.

21 CHAIRMAN PECORA: Representative  
22 Wozniak.

23 REPRESENTATIVE WOZNIAK: Thank you, Mr.  
24 Chairman. I happen to agree with the gentleman.  
25 We had a problem in Greater Johnstown. My

1 sewage authority was very laxed in going after  
2 the bills. It turns out they had about \$300,000  
3 worth of bills outstanding. Suddenly they said,  
4 well, we want this money back. Of course, they  
5 went not to the people that weren't paying  
6 because the bills were going directly to the  
7 tenants, so to speak, and the tenants weren't  
8 paying it. Some of these people were in arrears  
9 for a year, year and a half.

10 For some reason the onus becomes the  
11 owner of the property, the landlord to pay these  
12 arrears. There was some discussion and it seems  
13 to have worked out for the most part.

14 But it brought to a very crucial issue  
15 as to who is ultimately responsible for paying  
16 their water, their own electric, their gas, et  
17 cetera. I don't think the Authority, I don't  
18 where they are coming from in being able to go a  
19 year and half without coming down on somebody  
20 not paying their bills and letting it go that  
21 far to begin with.

22 I think we have to seriously looking,  
23 as we talk about personal responsibility, how  
24 far the liability should be on the owner of the  
25 property versus the responsibility of that

1 person who is using those services. I don't  
2 think the onus should be placed on the property  
3 owner. We should find more ways to get a hammer  
4 on to the renters, if you want to call them  
5 that, and on the Authority to possibly make  
6 through documentation or letter to get to the  
7 owners of properties if they have somebody that  
8 indeed is delinquent in their payment schedule.

9 I think fear of turning off your water  
10 or your gas, your electric should be sufficient  
11 enough to bring these people to come down on and  
12 not to go after property owners, because a lot  
13 of these people, at least in my community,  
14 aren't driving around in Mercedes Benz or  
15 anything. They are just regular folks like  
16 everybody in this room. It's a business and  
17 they decided to make this income for their  
18 retirement. Thank you, Mr. Chairman.

19 CHAIRMAN PECORA: Thank you,  
20 Representative. Thank you, Mr. Anderson, and  
21 thank you for bringing to our attention  
22 especially the bill, the water wasn't shut off  
23 for three years and you weren't notified.

24 MR. ANDERSON: Thank you.

25 REPRESENTATIVE MELIO: Mr. Chairman,

1 could I just ask one question?

2 CHAIRMAN PECORA: Yes, Representative.

3 REPRESENTATIVE MELIO: When you had all  
4 these problems and apparently you've had quite a  
5 few, what recourse did you have? Who did you go  
6 to see?

7 MR. ANDERSON: Sir, if you go to the  
8 township supervisors, if you go to the mayor,  
9 the borough council, and I hate to say this, you  
10 people have given them a blanket to wrap around  
11 themselves, a blanket of protection. First  
12 thing they tell you is that they are not, cannot  
13 control the Municipal Authority, and they are  
14 right. Because once these people are appointed  
15 to the Municipal Authority Board and they are  
16 appointed from one- to five-year terms, it's a  
17 staggering situation. They cannot be removed  
18 except by Common Pleas Court or by dissolving  
19 the Municipal Authority.

20 These people have nobody, absolutely  
21 nobody that can do anything. The only thing  
22 you've got is the court. No one can afford to  
23 take and afford it, because these municipal  
24 authorities have unlimited funds. They can go  
25 back and they can hold a meeting and vote to

1 triple, quadtriple (sic) the rates that they  
2 charge because of legal fees. You have no  
3 recourse. They don't have to show any  
4 justification, so how can you fight them? It's  
5 unlimited money, and it's my money, because I  
6 would be paying to their legal defense, plus any  
7 lawyer that I would hire.

8 It's the same with the state  
9 authorities now. It's my money that is paying  
10 the Pennsylvania Municipal Authorities  
11 Association. It's my money that is paying the  
12 Municipal State Association's attorney because  
13 that money comes from my district, from the  
14 rates I pay for those utilities.

15 REPRESENTATIVE MELIO: Then you feel  
16 that there should be some entity, someone you  
17 should be able to go to with a problem?

18 MR. ANDERSON: Someone that can put  
19 some control on it so that a common person can  
20 get some action, something similar to the Public  
21 Utility Commission.

22 We had a rate increase about three  
23 years ago from Guilford Water Authority. Do you  
24 know the reason they gave for this rate  
25 increase? We haven't had one in four years, so

1 they increased the rates and tell you they  
2 haven't had one in four years. That's it.  
3 That's all they had to tell you.

4 REPRESENTATIVE MELIO: Thank you, Mr.  
5 Chairman.

6 CHAIRMAN PECORA: Representative Pesci.

7 REPRESENTATIVE PESCI: Sounded for a  
8 minute like we were talking about school boards.  
9 My question is, whenever you go to rent a unit  
10 out, who alerts the utility, whether it be gas,  
11 water, sewage, to have it turned on?

12 MR. ANDERSON: The tenant.

13 REPRESENTATIVE PESCI: The tenant  
14 notifies the utility in all cases of all  
15 utilities in the units that you rent?

16 MR. ANDERSON: That's right. They're  
17 responsible.

18 REPRESENTATIVE PESCI: That's all I  
19 wanted to know.

20 MR. ANDERSON: Then I get the bill and  
21 then they put them in my name.

22 CHAIRMAN PECORA: Thank you, Mr.  
23 Anderson. I appreciate you answering all the  
24 questions.

25 Before the next person I'd like to

1 introduce Senator Eugene Porterfield is here and  
2 Representative Pat Vance. Next on the agenda,  
3 is Beverly A. Cigler, Pennsylvania Program to  
4 Improve State and Local Government. Beverly.

7  
5 MS. CIGLER: I'm Bev Cigler. I'm the  
6 Professor of Public Policy in Administration at  
7 Penn State-Harrisburg, and I'm also the Director  
8 of the Pennsylvania Program to Improve State and  
9 Local Government. Let me explain what that is  
10 because it sets my comments in the context of  
11 some other things that you've heard.

12 There is a national organization called  
13 the Coalition to Improve Management in State and  
14 Local Government. You all have the booklet that  
15 was produced on Authority. It's a Standards  
16 booklet. I'm a research associate of that  
17 organization and had been doing some national  
18 research in Canada and the U.S. over the last  
19 few years on basically regional authorities in a  
20 variety of fields, especially in the economic  
21 development and water and sewer fields.

22 Being a research associate for the  
23 coalition, I suggested to them that I saw enough  
24 out there in terms of problems and poor  
25 management practices and major policy questions

1 that the coalition perhaps ought to do something  
2 about it. So, they commissioned me to put  
3 together a publication that looked at what I  
4 thought were the major issues or problem areas  
5 on authorities. Then that very large report was  
6 taken by someone that testified at your  
7 Monroeville hearing, Chris Altenburger, a  
8 retired professor from Pitt. She took my bigger  
9 report and reduced it to the Standards for  
10 Pennsylvania.

11           Basically what we are doing, using that  
12 work in progress, because I'm still working on a  
13 national report and doing work with a lot of  
14 other states and state legislatures. Whatever  
15 the coalition that was then housed at Carnegie-  
16 Mellon University in Pittsburgh moved and now  
17 they are in the State of Indiana, a big part of  
18 their work was in Pennsylvania. They  
19 essentially gave me the Pennsylvania portion of  
20 it. This group, the Pennsylvania Program to  
21 Improve State and Local Government, is an  
22 affiliate of that national organization; plus, I  
23 still work with the national organization.

24           It's a completely a non-partisan  
25 organization. I dropped the word management



1 from the title because I'm more interested in  
2 the interface between policy and management.  
3 I'm trying to put together sponsorship from all  
4 of the municipal associations, various state  
5 agencies in the state, and all of the  
6 universities that have units to try to work with  
7 state and local governments to help build their  
8 capacity and do practical -- policy relevant,  
9 practical relevant research.

10 I have some other things that I'll  
11 leave with you today. After we did this report  
12 on the standards that I know you already know a  
13 lot about and all have copies of, I see that you  
14 have produced copies here today for  
15 distribution.

16 I put together a statewide conference  
17 that was held a year ago--It was last October--  
18 with Ed Kylee (phonetic) from Pittsburgh,  
19 formerly of the Pennsylvania Economy League, and  
20 Chris Altenburger and myself, we all worked with  
21 this coalition. We had the conference here in  
22 Harrisburg, invited members of the Local  
23 Government Committees here in the legislature  
24 and had good attendance, also the various  
25 associations in the state, people from the

1 Department of Community Affairs and a lot of  
2 other organizations to try to just talk about  
3 the Standards book that we put out.

4 I noticed the remarks at the beginning  
5 about some defensive postures and so on. Well,  
6 that came through very much at the conference  
7 that we had. We just wanted to talk about good  
8 management and how we can move these  
9 associations forward to some uniformity and good  
10 management and instead, that session really  
11 started out with some people just digging  
12 trenches saying we should not have any  
13 authorities, there's too much fragmentation in  
14 the state. Let's blow up the whole system and  
15 start a new and other people getting very  
16 defensive.

17 I was in the process of putting  
18 together a follow-up meeting for that when I got  
19 a call this spring telling me that these  
20 hearings were to take place, so I have set that  
21 aside. I still plan to do that at sometime to  
22 try to bring all parties together and get some  
23 common ground on this. Hopefully, I won't have  
24 to do that after you do whatever you're going to  
25 do.

1           The other things I have to leave with  
2 you are some spin-off articles that have come  
3 out of this work that's been done. One is an  
4 article that was in City State magazine that  
5 actually looks at the top 50 authorities in the  
6 United States from a financial point of view and  
7 has an interview and gives you some background  
8 information. The other is something you've  
9 probably seen. It's a series that was done on  
10 the Harrisburg area public authorities by the  
11 local newspaper. Both of these played off of  
12 this Standards book that we put together.

13           Currently, the New York Times has taken  
14 some interest in this work. They have got a  
15 reporter working on a project. I've got a Ph.D  
16 student looking at bond indebtedness of  
17 authorities in Pennsylvania, which is a whole  
18 other story, if you'd like to talk about that,  
19 and several other smaller projects going with  
20 students on Pennsylvania authorities.

21           In addition, I should tell you that in  
22 terms of getting help with your task, there's a  
23 lot else going on around the United States.  
24 Last week I got a call from the legislature in  
25 Kansas asking me if I would be willing to help

1       them because they are opening up some hearings,  
2       and so on, on authorities. The week before that  
3       it was the State of Indiana. I've also recently  
4       had calls from West Virginia and the State of  
5       New York. Specifically, the State of New York  
6       wants to follow the Standards kind of approach  
7       for dealing with authorities. There's an awful  
8       lot going on.

9               My own feeling is that, one of the  
10       reasons there is such a big interest is that,  
11       the creation of authorities, the reason for  
12       their creation has actually changed. It's now  
13       heavily driven by national mandates. The more  
14       that EPA, for example, comes down with mandates,  
15       say in solid wastes, the greater the creation of  
16       things. And also, the fact that our problems  
17       are regional in nature leads to some great  
18       interest in regional solutions to problems.  
19       It's just easier to create a new unit like a  
20       regional authority than it is to try to deal  
21       with it government by government and trying to  
22       get them to work together.

23               But whatever, the point is, that I  
24       think that authorities are proliferating. They  
25       are the fastest form of government growing right

1 now in United States and that will continue to  
2 be so. Now is a very timely time to really take  
3 a look at how they work and try to do some fine  
4 tuning on the state law and the state practices  
5 in this state.

6 I could talk about a lot of things. I  
7 realize that Chris Altenburger went to the  
8 Monroeville session and that you all have this.  
9 Rather than be redundant and talk about these  
10 things, I would like to focus on something that  
11 this manual does not cover, and that is the  
12 difference between the large and small public  
13 authorities.

14 In fact, I'll go so far to say that  
15 when I did the research on this and had the idea  
16 for all of this, I had no intent of the  
17 coalition actually making recommendations to  
18 change the Municipal Authorities Act because I  
19 thought the problem was much more complex than  
20 that. Just as local governments in this state  
21 vary so much and you've got different  
22 classifications for dealing with them in terms  
23 of laws, I think authorities are the same.

24 On page 2 of this book you will notice  
25 that there is one little caveat in there, it

1 says, Very small authorities, especially the  
2 more rural ones of the state, may lack the  
3 resources to meet the standards fully.

4 Because of the size of these authorities, some  
5 standards may not be relevant, and others may  
6 need to be adapted to particular needs and  
7 circumstances.

8           So in the spirit of that, I'd say that  
9 my own feel in all of this is that, this book is  
10 good in the sense of best practice standards and  
11 things that everyone should strive for, but in  
12 terms of action we're having on these kind of  
13 hard and fast standards to definitively change  
14 every section of the Municipal Authorities Act I  
15 actually disagree. Because, I think that small  
16 authorities reflect the same kinds of  
17 characteristics as small governments in general;  
18 and that is, basically, we have governments in  
19 this state that are run by part-time volunteers.

20           A lot of the things in this booklet  
21 about managers, professional management, and  
22 totally separating who is on the municipal board  
23 from any representation on the authority board,  
24 et cetera, et cetera, are just plain and simply  
25 not as applicable to the small units. That's

1 where I will try to dwell on my remarks.

2           It seems to me that, as you approach  
3 this topic of public authorities, you are faced  
4 with the same kind of public problem that you  
5 always are faced with and you really have only  
6 four big broad choices. You can do nothing and  
7 say, if it ain't broke, don't fix it. I think  
8 that there's enough evidence out there that it  
9 isn't grossly broken. For example, the Local  
10 Government Commission report that looked at the  
11 50 largest authorities suggests some fine  
12 tuning.

13           On the other hand, I think that there  
14 are enough questions still lingering, and I'm  
15 sure you're picking these up as you hear people  
16 testify, that there is a lot of room for change  
17 to make the authorities run better and be more  
18 accountable to the public and to the creating  
19 unit. So, the do-nothing option to me does not  
20 seem like a very worthy one.

21           Another option that you can always use  
22 when you're faced with a public problem is just  
23 let somebody else handle it. In this case it  
24 would be, well, trust the authorities  
25 association to deal with this; trust that

1 municipal associations will educate the  
2 governing officials in the municipalities and  
3 they will build the capacity to better make  
4 authorities accountable and so on.

9  
5 To just choose that option I think is  
6 also pretty faulty. It's been a long time.  
7 It's been decades and that hasn't happened yet.  
8 So, I think working together with these other  
9 units is real important, but just taking the  
10 option of letting someone else worry about the  
11 problem does not seem reasonable either.

12 Which then leaves you with the two  
13 other options in life, and that is, either go  
14 the mandate law route, change the laws or  
15 require more mandates; or, build the capacity of  
16 authorities, technically, managerially, fiscally  
17 and so on.

18 My own preference is to not wholesale  
19 go in and just say that the Municipal  
20 Authorities Act has to be completely rewritten  
21 and come down with a lot of really sticky  
22 mandates that probably are not implementable  
23 because of the great diversity of authorities,  
24 both in terms of size of authorities, size of  
25 municipalities, and also types of authorities.



1           I think just like anything else in  
2 terms of government, there's good and bad.  
3 There's some wonderful examples of this state of  
4 highly professionalized authorities that work  
5 perfectly; that if we could find those and copy  
6 that and model those, it would be a wonderful  
7 thing to do.

8           On the other hand, there are many, many  
9 that are poorly run, and I have great sympathy  
10 for the remarks from the last speakers because  
11 there are all kinds of cases like that that I  
12 could document here in Pennsylvania, and  
13 actually all around the country. Pennsylvania  
14 experiences is really not very different than  
15 other states.

16           I think that the Standards book that  
17 the Coalition put together dramatically shows  
18 the need for greater attention to some best  
19 practices and some real glaring weaknesses in  
20 the Municipal Authorities Act that probably  
21 ought to be dealt with. Again, I'll talk to  
22 some of those.

23           The problem is really complex because,  
24 while you want to push for accountability in  
25 every way both to the public and to the creating

1 authority board, managerially, fiscally, and so  
2 on, you also need to have a great deal of  
3 flexibility in whatever laws exist simply  
4 because of the great diversity of the state and  
5 the authorities that we have.

6           There is a need for greater uniformity  
7 on some of the glaring things. For example, if  
8 you have a reporting requirement through DCA or  
9 some other body that might be created, then you  
10 need to enforce it. You need to have good  
11 penalties in case people don't comply, and so  
12 on.

13           Just to refresh everybody's memory,  
14 including the people that have not looked at  
15 this book, in the Standards Guide we dealt with  
16 some big broad areas where we thought there was  
17 a need for greater scrutiny. These cover the  
18 whole question of the creation of an authority  
19 in the first place. The argument that it should  
20 be for the right reasons:

21           As I said before, you're seeing a  
22 proliferation of authorities so it's something  
23 that you just can't deny looking at right now  
24 because of the regional nature of our problems,  
25 especially environmental problems, and the

1 mandates coming down from other governments  
2 leading to the need for regional kinds of  
3 solutions, and regional authorities make a lot  
4 of sense.

5           A second big part of our Standards  
6 Guide looked at trying to increase the  
7 effectiveness and accountability of the  
8 authority boards, covering everything from  
9 better oversight by the boards themselves, of  
10 the operation of the board to better oversight  
11 by the municipalities and looking at public  
12 participation and oversight.

13           Then we have a section on how to find  
14 and appoint qualified board members that covers  
15 everything from recruitment through open  
16 competitive processes, looking at problems of  
17 nepotism and favoritism; looking at the question  
18 that was brought up by the last speaker in terms  
19 of removal from the board for malfeasance or  
20 other reasons.

21           We have a section on recruitment and  
22 appointment of qualified managers. But as I  
23 said a moment ago, you have to qualify that by  
24 looking at small boards who can't possibly  
25 always have a full-time manager. I think

1 there's a need to look at consulting firms and  
2 what their role is in how qualified various  
3 consulting firms are.

4 Then we had some internal things that  
5 we developed standards for in terms of how the  
6 manager works with the board, how the manager  
7 deals with financing and other actors that deal  
8 with finances, and how to deal with the work  
9 force. And then finally in the book we have a  
10 major section that argues toward getting better  
11 authority financial management, and heavily  
12 deals with using best management practices in  
13 terms of accepting accounting principles,  
14 auditing principles and reporting requirements.

10

15 What I'd like to do now is, rather than  
16 go over all these kinds of things, just pull out  
17 some of the things that I think are absolutely  
18 necessary to deal with in terms of the current  
19 state of the practice in Pennsylvania and what  
20 some of the problems are and some ways out of  
21 that.

22 On the accountability and oversight  
23 kinds of questions, there's no question that the  
24 reason that authorities have gotten nicknames  
25 like secretive governments, hidden governments,

1 shadow governments, and all these books that  
2 have come out over the last few years is that  
3 they are fairly insulated and sometimes greatly  
4 insulated from public scrutiny and even scrutiny  
5 by their own creating jurisdictions.

6           On the other hand, you can easily argue  
7 that given the highly complex technical nature  
8 of what they do that they need some insulation  
9 from politics, et cetera, et cetera. It seems  
10 to me that the overriding question should be,  
11 given the needs of businesslike, highly  
12 technical organizations that are doing public  
13 tasks, how do we ensure the right amount of  
14 accountability without becoming so restrictive  
15 as to treat all local governments and all  
16 authorities of all sizes the same? You need  
17 some uniformity, but we don't need a lack of  
18 flexibility.

19           Some of the things that I think should  
20 be done that are a little bit different than  
21 what the coalition did with my recommendations  
22 is that, when they put together the recommen-  
23 dations for changing the law, almost all of  
24 these things were changes in the authority law  
25 on authorities. Whereas, I would argue that

1 authorities are local governments, created by  
2 local governments, and we ought to spend more  
3 time helping the local governments themselves  
4 ensure accountability of the boards. I would  
5 rather see better capacity building or training  
6 for local municipal officials on how to deal  
7 with boards in the first place. Why they should  
8 be created? Sometimes why they shouldn't; the  
9 types and qualifications of board members, and  
10 then the most important thing, help local  
11 governments write better ordinances to set up  
12 the governing structure for the authorities.

13 In my work all around the United States  
14 what I found is that, you could pass law after  
15 law about conflict of interest and all of these  
16 kinds of things, but unless you start with a  
17 really sound ordinance by the creating  
18 jurisdiction, there are going to be ways to beat  
19 all those kinds of things.

20 In fact, around the country I found  
21 people who were on authority boards that  
22 basically got bounced off because of conflict of  
23 interest charges, and now have more power than  
24 they ever had before when they're not on the  
25 board, because the personal relationships are

1 still the same. They can still talk to the same  
2 people, have the same kind of influences, and  
3 now they are even more insulated because they  
4 are not on the board, but they are doing more of  
5 the same thing that they want to do.

6           Again, I would rather see the state  
7 have some requirements on municipalities for the  
8 kinds of ordinances that they can create and  
9 give them some help, give them some model  
10 ordinances; have the Department of Community  
11 Affairs, or whatever agency that you want to  
12 deal with it, incorporate better assistance to  
13 the local officials that somehow deals with  
14 local authorities to train them better, and have  
15 somewhat of oversight on this requirement that  
16 the municipalities have title ordinances to  
17 govern their own authorities.

18           REPRESENTATIVE TANGRETTI: Ms. Cigler,  
19 I wonder if I could interrupt you one second. I  
20 know there's at least one individual and  
21 probably more have a lot of questions for you  
22 and, unfortunately, we are in a time constraint  
23 situation here. I'm wondering if -- I think  
24 pretty much you're following the standards and  
25 elaborating on the standards that were adopted.

1 MS. CIGLER: Not really. The standards  
2 I think are best management practices. I think  
3 a few of them make sense to incorporate in the  
4 Municipal Authorities Act. A whole bunch of  
5 them I think can be dealt with in a different  
6 way.

7 REPRESENTATIVE TANGRETTI: There are a  
8 couple of things that you mentioned. I just  
9 wondered, since you are here in Harrisburg, I  
10 wonder if it would be possible for you to,  
11 perhaps at your convenience, sit down with staff  
12 and with some of us and deal with these issues,  
13 particularly the debt service thing that I think  
14 some of us would be very interested in hearing  
15 your comments on and your thoughts on.

16 MS. CIGLER: The data we have around, I  
17 think it's 577 or so of the authorities in the  
18 state since 1987 have issued debt that's  
19 outstanding. Of those it's something like 93  
20 have issued over ten million in debt. I think  
21 we know almost nothing about that in terms of  
22 bond --

23 REPRESENTATIVE TANGRETTI: I think it  
24 would be very, very helpful to the Committee, to  
25 both the House and Senate Committees if we had



1 the benefit of your expertise in a setting other  
2 than the hearing process because of the time  
3 constraints. The Senator and I just conferred  
4 that if it's okay with you, I think what we  
5 would like to do is go to questions, at least  
6 for the time being, and we'll open it up.

7 Anybody have questions? Representative Sather.

8 REPRESENTATIVE SATHER: Thank you very  
9 much. I enjoyed your testimony and it's very  
10 enlightening. You mentioned about small  
11 authorities as to large authorities. You say  
12 that very small authorities, especially in more  
13 rural areas of the state, may lack the resources  
14 to meet the standards fully, but I know of small  
15 authorities who have large staff.

16 MS. CIGLER: Yes. You will find every  
17 combination, but you're also going to find some  
18 governments out there in Pennsylvania that can't  
19 even find enough people to staff local  
20 government, to run for office. Therefore, when  
21 you start getting into really strict standards  
22 on no members, let's say of a governing body,  
23 municipal governing body can also be on an  
24 authority body, I think you run into some  
25 problems with just a straight mandate like that

1 or changing the law.

2 I have been all around the country. I  
3 see a lot of places where they allow ex officio  
4 members from the governing body to sit on the  
5 authority body, and then in the creating  
6 ordinance they require all kinds of reporting  
7 requirements. So that ex officio member really  
8 is a link or the liaison to the municipal body  
9 to do that in a very open way and it works. But  
10 I have seen other places where it doesn't work.

11 REPRESENTATIVE SATHER: Your Basic  
12 Principles No. 5, the authority functions in  
13 harmony with local government units and in a  
14 context with intergovernmental and intersectoral  
15 cooperation. I think therein lies a lot of the  
16 problem.

17 We have an authority that was created  
18 for a solid waste disposal unit, and there were  
19 some restrictions placed within the ordinance  
20 that created it, that budgets would have  
21 approval, but there's no teeth. There's no  
22 real -- It's just that they would submit their  
23 budget.

24 Even when you talk about gap, generally  
25 accepted accounting principles, whenever it's

1 right before them they're indicating that they  
2 have a serious problem and that they are going  
3 to have to raise tapping fees. Of course, they  
4 are looking at the long haul and saying, well,  
5 it's going to amortize itself over as they build  
6 the layers of this landfill. I see the harmony  
7 with local government is a real problem of this  
8 whole authority issue.

9 I have also an authority in one of our  
10 municipalities that raised their water rates by  
11 103 percent just recently. They filed with the  
12 PUC to increase their water rates by 103  
13 percent. I'm getting letters after letters from  
14 my constituents there saying what can they do.  
15 I'm trying to point them in the right direction.  
16 I think you have give them some additional force  
17 for them.

18 MS. CIGLER: Clearly, the way the  
19 current law is written that allows the creating  
20 jurisdiction to create the authority but not  
21 remove the members of the board, I think should  
22 be changed, reflecting what the last speaker  
23 said.

24 On the other hand, sometimes a local  
25 government might have a sewer plan, a long-range

1 plan and then they create an authority, but they  
2 do it with a pretty untight ordinance. That  
3 authority can just go off on its own and  
4 actually not pay any attention to the sewer plan  
5 that's been on books for several years.

6 It seems to me if you teach the local  
7 governments, give them some model ordinances,  
8 tighten up on those kinds of things and put the  
9 onus on the local governments to do what they  
10 should be doing in terms of required reporting  
11 and oversight, and so on, that that might be a  
12 better approach than just putting the onus on  
13 the authorities directly from the state.

14 REPRESENTATIVE SATHER: Thank you, Mr.  
15 Chairman.

16 REPRESENTATIVE TANGRETTI: Any other  
17 questions?

18 ( No audible response )

19 REPRESENTATIVE TANGRETTI: I have one.  
20 I asked Doctor Altenburger this. I'm curious to  
21 hear your answer to it. Very quickly, when you  
22 did your study, the question of oversight in  
23 terms of rate setting and the grievance  
24 procedure was apparently, for whatever reason,  
25 not addressed in any substantial way. Do you

1 have any comments in terms of how you would,  
2 other than what's in the standards in your terms  
3 of recommendations, see a procedure for some  
4 other means of oversight for those who do not  
5 have oversight now?

6 MS. CIGLER: First, let me explain why  
7 it wasn't in there. When I did all the work I  
8 was originally -- this was originally started as  
9 a project working with the National League of  
10 Cities, International City Management  
11 Association, National Farmers (phonetic) of  
12 state legislatures, groups like that, so my was  
13 directed at the national level. And then after  
14 my colleagues at the coalition saw the work,  
15 they said, well, we ought to really pilot this  
16 and do this in Pennsylvania.

17 So then it kind of took on a life of  
18 its own, and much of what actually ended up in  
19 terms of recommendations I disagree with. I  
20 don't disagree with the standards as ideals, but  
21 the actual recommendations. I think they didn't  
22 touch the rate setting because I didn't talk  
23 about it, because you couldn't do that in a  
24 global sense and deal with it nationally.

25 The last speaker here I thought had a

1 very interesting thing, analogy of a public  
2 utilities commission, a body that would deal  
3 with rate setting. I have to think about that  
4 long and hard, but that sounded like a pretty  
5 innovative and interesting idea. I'd suggest  
6 taking a hard look at that.

7 REPRESENTATIVE TANGRETTI: Do you think  
8 that we need to set up some sort of --

9 MS. CIGLER: Yeah. I think uniformity  
10 is a problem. You can talk about building  
11 capacity forever, but on some things that are  
12 just so important that you do require statewide  
13 way of dealing with it.

14 REPRESENTATIVE TANGRETTI: Thank you  
15 very much.

16 CHAIRMAN PECORA: Thank you, Beverly.  
17 I know you will have time I hope to spend with  
18 legislative staff.

19 MS. CIGLER: Sure.

20 CHAIRMAN PECORA: Next on the agenda is  
21 John Putt, President-Elect of Pennsylvania  
22 Municipal Authorities Association.

23 MR. PUTT: Good afternoon. My name is  
24 John Putt. I have served three, four-year  
25 terms, a total of 12 years as an elected

1 Susquehanna Township Commissioner. That might  
2 bring a smile to some of your faces since that  
3 township that has been making the news a lot  
4 recently. For four years my fellow commis-  
5 sioners selected me as their board president.

6 On December 1st, 1980, the Susquehanna  
7 Township Authority hired me as the Authority  
8 Manager; their first manager since receiving its  
9 State Charter on August 15th, 1946.

10 I served a term on the Capital Area  
11 Solid Waste Authority receiving this appointment  
12 by the Susquehanna Board of Commissioners

13 I was elected as a regional director to  
14 serve on the Pennsylvania Municipal Authority  
15 Association Board of Directors during the years  
16 1987 thru 1990. Presently, I'm serving P.M.M.A  
17 as the President-Elect.

18 With these qualifications, I feel  
19 confident in commenting on the day-to-day  
20 operations of one of the 3,000 authorities in  
21 the Commonwealth of Pennsylvania. However, the  
22 expressed opinions are my own and not  
23 necessarily those of the Susquehanna Township  
24 Authority.

25 The operation of the Susquehanna

1 Township Authority, at one time in the past,  
2 included a small water supply system; the  
3 financing of school buildings for the  
4 Susquehanna School District, and the collection  
5 of the sanitary wastewater from the township  
6 residences. Now the operation consists only of  
7 collection of wastewater. Sewage is transported  
8 to the City of Harrisburg for treatment.

9 One of the greatest advantages of an  
10 authority is its independence and political  
11 freedom. Members of an authority devote their  
12 energy to having the operations of the authority  
13 run in the most efficient manner, contrary to  
14 elected officials who frequently make  
15 appointments of professional people.

16 Today, for example, the Chairman is the  
17 Executive Director of the Commonwealth of Penn-  
18 sylvania Public Employees Retirement Commission.  
19 The Assistant Chairman is a successful attorney  
20 with one of Harrisburg's leading law firms. The  
21 Board Secretary is retired from the Commonwealth  
22 of Pennsylvania, and at the time of his  
23 retirement was Director of Procurement for the  
24 Department of Public Welfare. The Treasurer is  
25 a CPA and a partner in an accounting firm. The



1 Assistant Secretary is a retired architect; the  
2 Assistant Treasurer is a retired insurance agent  
3 who owned his own company, and the seventh  
4 member is a former school teacher and now works  
5 for a nationwide department store.

6 There are two minorities on the Board,  
7 one woman and one black. In the past, other  
8 professional people were appointed to the Board,  
9 such as a mechanical engineer, communications  
10 engineer, banking executives and lawyers. Back  
11 in the '70's, Senator John Shoemaker was  
12 Chairman of this Authority Board.

13 The excellent and desirable  
14 appointments to the Authority Board by the Board  
15 of Commissioners is the result of the fine  
16 cooperation and understanding between the two  
17 Boards. In the past years it was customary for  
18 two boards to meet at dinner and, occasionally,  
19 the township school board was included during  
20 the informal and unofficial meetings. The  
21 discussions pertained to the citizens of the  
22 township and how all these three boards could  
23 better serve them. With the establishment of  
24 the Sunshine law, these meetings were abolished  
25 due to restrictions imposed by the Sunshine law.

1           The citizens of Susquehanna Township  
2 have always been able to attend the authority  
3 meetings since it began back in 1946. Some  
4 citizens have taken advantage of the open-  
5 meeting policy. Proposed projects have been  
6 publicized, and at the these times public  
7 attendance has increased. A newsletter is  
8 published in the spring and fall by the Board of  
9 Commissioners and received by each household  
10 informing the sewer users of what's happening in  
11 their township authority. The public relations  
12 in Susquehanna Township is good.

13           It is unnecessary for me to take up  
14 your valuable time since all the technical  
15 aspects of authority operations can be found in  
16 printed publications such as the Municipal  
17 Authority Act of 1945, the Pennsylvania  
18 Department of Community Affairs that's called  
19 Municipal Authorities in Pennsylvania published  
20 in 1991, then again for your review is this  
21 recently printed Findings in the House  
22 Resolution 354 of 1992 prepared by the Local  
23 Government Commission.

24           In closing, I concede that a few  
25 authorities may not operate in strict accordance

1 with existing regulations, but as a whole, most  
2 Pennsylvania authorities do abide by the current  
3 laws. I think the existing method of appointing  
4 authority board members is the correct way to  
5 make appointments. I advise against election of  
6 authority board members because I have witnessed  
7 the results of elections to Board of Commis-  
8 sioners and school directors in Susquehanna  
9 Township and surrounding municipalities.

10 I know the official authority meetings  
11 are open to the public, but the public choose  
12 not to attend, and thus, miss the opportunity to  
13 learn about authority operations.

14 It appears to me the Municipal  
15 Authorities Act, 1945 Public Law 382 is an  
16 excellent piece of legislation, proven to be the  
17 necessary guidelines for all authorities to  
18 follow and should not be changed. Yes, some  
19 people can find fault with this document, as  
20 fault can be found by anyone about everything.  
21 All authorities are not identical, but have  
22 their particular needs. The Municipal  
23 Authorities Act of 1945 can be utilized by all  
24 authorities.

25 I have 13 years experience in my

1 Authority as manager and have become convinced  
2 that the municipal authorities in Pennsylvania  
3 is the ideal type of organization to provide the  
4 necessary utility service for the benefit of the  
5 people of the community they serve. They serve  
6 and perform this service in the most economical  
7 way. There's no reason for the authorities to  
8 make a profit for the investor-owners as there  
9 are no investors.

10 I view the investigation being  
11 conducted by the Local Government Commission as  
12 being appropriate to inform the members of the  
13 state legislature as to the importance of the  
14 local authorities and the importance of  
15 supporting all local authorities. As the old  
16 saying states, If it's not broken, improve upon  
17 it. If it ain't broke, don't fix it.

18 I wish to thank you and I do appreciate  
19 the privilege of appearing before this  
20 Committee. I would like to think my appearance  
21 was beneficial to you. It would be my pleasure  
22 to assist you in any way that I can in the very  
23 important work that this Committee is doing.

24 In closing, gentlemen, lady, I thank  
25 you all very much.

1           CHAIRMAN PECORA: Thank you, John. I  
2 appreciate on page 3, line 5 where you  
3 eliminated the last statement. Are there any  
4 questions from the members of the Board?  
5 Representative Melio.

6           REPRESENTATIVE MELIO: Sir, do you have  
7 a pay for the authority members? Do they  
8 receive a salary?

9           MR. PUTT: Yes, we do. Our appointing  
10 board provides for an eight-hundred-dollar-a-  
11 year salary.

12          REPRESENTATIVE MELIO: Thank you.

13          CHAIRMAN PECORA: Thank you,  
14 Representative. I smiled on that. Do we have  
15 one board that has a seven-thousand-a-year  
16 salary in your area?

17          MAN MAN: They make \$150 a meeting.  
18 They attend one meeting a year. A five-year  
19 term they make \$9,000. That was the last I  
20 heard. It may be more than that.

21          MR. PUTT: Could I make an additional  
22 comment on a previous statement here about the  
23 tenants being billed for their sewerage?

24          CHAIRMAN PECORA: That was --

25          MR. PUTT: This is very dangerous

1 because tenants move quite frequently and  
2 sometimes you never know where in the hell they  
3 are; whereas, the property owner stays there  
4 with his property and you know where he is. I  
5 am also the credit manager in my job. I'm  
6 constantly -- Two-thirds of my time is spent on  
7 collecting delinquent bills, so I talk with some  
8 knowledge of this particular subject.

9 CHAIRMAN PECORA: Yes, but Mr. Putt,  
10 his concern was, the user of the water should  
11 pay for it and not the tenant (sic). Also, he  
12 felt that you should not let a bill go like, in  
13 his case it was three years before the tenant  
14 moved out, so it was a back bill of three years.

15 Some change has to be made there if you  
16 intend to bill the property owner for the  
17 tenant's use of the water; that the property  
18 owner should be notified in either 30 days, 60  
19 days or 90 days that their tenant is not paying  
20 the water bill; instead of three years later  
21 finding it out, you owe a three-year bill; that  
22 the water was provided to that tenant. He had  
23 an idea there that brought to our attention, it  
24 was unjust to him to have to pay for someone's  
25 water bill for the three years.

1 MR. PUTT: If a person doesn't pay  
2 their sewer bill, the only recourse they have of  
3 course is to shut off the water.

4 CHAIRMAN PECORA: That is correct.

5 MR. PUTT: They cannot dig, they  
6 shouldn't dig up the sewer.

7 CHAIRMAN PECORA: How many months do  
8 you think it should be before the property owner  
9 is notified that their water bill has not been  
10 paid, and will they shut it off or not? That's  
11 what he wanted to know; if we can change the law  
12 to protect the property owner also.

13 MR. PUTT: We have the policy in  
14 Susquehanna Township that the property owners  
15 are billed for their sewer. This eliminates an  
16 awful lot of work on the part of the authorities  
17 because if the tenant moves out, then you see  
18 you have extra work.

19 CHAIRMAN PECORA: Are you talking about  
20 the sewage now or the water?

21 MR. PUTT: I beg your pardon.

22 CHAIRMAN PECORA: Are you talking the  
23 sewage also?

24 MR. PUTT: I'm talking just about the  
25 sewage in this case.

1 CHAIRMAN PECORA: About the sewage.

2 MR. PUTT: Yes. As I said, we only are  
3 now handling sewer collection in Susquehanna  
4 Township with our Authority.

5 CHAIRMAN PECORA: In other words,  
6 you're a water authority?

7 MR. PUTT: The water is supplied by two  
8 different companies. One is the City of  
9 Harrisburg for a certain portion of the township  
10 and the other portion of the township is by the  
11 Dauphin Consolidated Water Company.

12 CHAIRMAN PECORA: We thank you, sir.  
13 Representative Vance.

14 REPRESENTATIVE VANCE: Does the  
15 Authority determine the fees of the bond council  
16 and the township solicitor when you do bond  
17 issues, or who determines that fee?

18 MR. PUTT: It's a combination of our  
19 bond council, our engineer and our board.

20 REPRESENTATIVE VANCE: The three of you  
21 determine the fee, is that what you're saying?

22 MR. PUTT: Yes. The engineer has the  
23 biggest responsibility in this particular rate  
24 study because he's familiar with the engineering  
25 costs involved.



1 REPRESENTATIVE TANGRETTI: I'm sorry.

2 CHAIRMAN PECORA: Representative  
3 Tangretti:

4 REPRESENTATIVE TANGRETTI: Have you  
5 ever had any -- Anytime you've increased the  
6 rates, has anybody ever taken the Authority to  
7 court?

8 MR. PUTT: No.

9 REPRESENTATIVE TANGRETTI: How long has  
10 the Authority been in effect?

11 MR. PUTT: We were organized in 1946,  
12 the year after the Authority Act became  
13 effective.

14 REPRESENTATIVE TANGRETTI: No one has  
15 complained to the extent of any rate increases  
16 that they felt inclined to go to Common Pleas  
17 Court?

18 MR. PUTT: They have not -- In the 13  
19 years that I have been manager have not taken us  
20 to the Commonwealth Court, but they have  
21 complained I can guarantee you that. When they  
22 come to the window to pay their bill there are a  
23 lot of complaints registered.

24 REPRESENTATIVE TANGRETTI: If I can  
25 just offer an editorial comment, Mr. Putt,

1 that's the point. Fact of the matter is, the  
2 only place they have to complain is to somebody  
3 who doesn't do anything about it if, in fact,  
4 there is a way of doing anything about it in the  
5 first place. Their only recourse is to go to  
6 court, which most people can't afford to do.

7 I think that's where the credibility  
8 problem really comes to the nexus of what we're  
9 looking into; and that is, there's no recourse.  
10 There's no grievance procedure other than a very  
11 expensive one and a very complicated one for the  
12 ordinary citizen. Thank you.

13 MR. PUTT: Our committee studies the  
14 rates. Then they bring it before the Board in a  
15 public meeting. Then again it is presented in  
16 all its detail of why --

17 REPRESENTATIVE TANGRETTI: Not to  
18 interrupt you, but I can assure you when West  
19 Penn Power, Columbia Gas or People's Gas, or  
20 whoever else in another utility has to present  
21 to the Public Utility Commission a request for a  
22 rate increase, they have done tremendous amounts  
23 of study and they can justify every nickel. I  
24 can show you cases where the Consumer Advocate  
25 has gone in there and said, that is an

1 inappropriate requests for these reasons and  
2 note that request has been reduced.

3 I would suggest to you and I would  
4 submit to you that there are instances that  
5 municipal authorities have presented rate  
6 increases with absolutely no one with expertise  
7 who has any ability to argue whether it's right  
8 or wrong. Giving the benefit of the doubt to  
9 the authority, we all assume that they are  
10 right. There are people who suggest to you that  
11 perhaps that is not the case, however. Thank  
12 you.

13 CHAIRMAN PECORA: Any other questions?

14 ( No audible response )

15 CHAIRMAN PECORA: Being no questions, I  
16 want to thank you, Mr. Putt. Next on the agenda  
17 is David Milan, North Penn Water Authority. You  
18 can proceed, David.

19 MR. MILAN: Good afternoon, my name is  
20 David Milan. I'm the Executive Manager of the  
21 North Penn Water Authority, which is a regional  
22 water authority serving approximately 21,000  
23 customers in 17 municipalities in and around  
24 Lansdale, Pennsylvania. It is an honor and a  
25 pleasure to be here to present my views about

1 municipal authorities in the Commonwealth of  
2 Pennsylvania.

3 I have read the report that was  
4 completed in accordance with House Resolution  
5 354 of 1992, and am impressed with unbiased,  
6 non-partisan tenor of the document. It reflects  
7 the way in which the overwhelming majority of  
8 municipal authorities conduct their daily  
9 business throughout the Commonwealth.

10 As I am sure you are aware, a municipal  
11 authority is an extension of the Commonwealth.  
12 We are completely self-contained, non-profit  
13 entities. Our customers are, in essence, our  
14 stockholders and they all benefit from the fees  
15 they pay for water service. Unlike private  
16 utilities, no money is disbursed to outside  
17 stockholders, and unlike municipally-run  
18 utilities, no money can be diverted to a general  
19 fund for use elsewhere. All revenues are plowed  
20 back into the authority to meet operations and  
21 maintenance expenses, to repay bonds and to fund  
22 capital improvements.

23 As a result, we are constantly making  
24 improvements to our water supply and  
25 distribution system the better to serve our

1 customers. One of the pat phrases we hear these  
2 days is crumbling infrastructure. Our water  
3 supply and distribution system is that  
4 infrastructure and it is not crumbling in our  
5 case because we do not have outside pressures to  
6 divert funds from these necessary and vital  
7 purposes.

8 One of the issues addressed in the  
9 report concerns accountability. We realize that  
10 we are a service organization, and we are  
11 dedicated to providing superior service to our  
12 customers. That includes being responsive to  
13 their problems and concerns. North Penn Water  
14 Authority has water quality and customer service  
15 departments whose employees are trained to  
16 record and respond to customer complaints as  
17 quickly as possible. On the rare occasion when  
18 a customer is not satisfied after speaking to  
19 individuals from these departments, the call is  
20 directed to me. If I cannot satisfy their  
21 concerns, then the customer can take the issue  
22 to the Board of Directors.

23 I'm extremely fortunate to have what I  
24 consider to be the finest Board of Directors in  
25 the Commonwealth. Ten individuals serve on our

1 Board, one from each member municipality. They  
2 represent professionals from a variety of  
3 fields. They are insurance agents, engineers,  
4 bankers, entrepreneurs, attorneys, businessmen  
5 and scientists. It is this diversity that makes  
6 our Board so unique. They are volunteers,  
7 receiving no salary or stipend whatsoever, who  
8 are appointed to five-year terms by the  
9 municipality in which they live. They serve for  
10 no other reason than the responsibility they  
11 feel for being a member of their community, and  
12 they take that responsibility very seriously.

13 Because they are professionals, our  
14 directors demand that NPWA be run professionally  
15 and responsibly, as do I. They act as a buffer  
16 to insulate our Authority from partisan  
17 influences while addressing the concerns of  
18 their constituents. This insures that the needs  
19 of our customers are met fairly, efficiently and  
20 cost-effectively. I firmly believe, once again,  
21 that the overwhelming majority of the Municipal  
22 Authority Board of Directors are made up of  
23 individuals with the same motivation and  
24 purpose.

25 This brings me to another area of

1 concern. We have board members who have served  
2 for almost as long as our Authority has been in  
3 existence. They bring a wealth of knowledge and  
4 experience for which there is no substitute. We  
5 also have board members who are just beginning  
6 their tenure. They bring new ideas and insights  
7 that complement senior members. Imposing any  
8 sort of term limits or shortening of terms  
9 would, in my opinion, constitute a disincentive  
10 to serve for the individuals who we need the  
11 most, the citizens who have a long-term  
12 commitment to their community, and thus, a long-  
13 term commitment to the Authority.

14 In addition, tying an authority board  
15 member's tenure to the tenure of elected  
16 municipal officials would erode the very  
17 foundation of the Municipal Authorities Act,  
18 which is to remove political pressures from the  
19 equation and place the operation and oversight  
20 in the hands of the people who are directly  
21 affected by, and therefore, have the highest  
22 stake in the operation of the authority--our  
23 customers.

24 When a customer-related issue comes  
25 before the Board, they take the matter very

1 seriously. There is no sentiment regarding  
2 jurisdictional boundaries. The problem belongs  
3 to the Authority and the Board works together to  
4 resolve the issue regardless of whether the  
5 customer lives within a member municipality,  
6 which brings me to another issue.

7 NPWA owns and operates a number of  
8 satellite systems at the fringes of our service  
9 area. These are stand-alone systems that are  
10 not interconnected to our main supply and  
11 distribution system, and in many cases, are not  
12 located within a member municipality. We  
13 assumed ownership of these small water systems  
14 at the request of the previous owners because  
15 they found it was becoming more and more  
16 difficult to function economically under the  
17 increasing cost of the state and federal  
18 regulations.

19 As a regional authority, we are able to  
20 distribute those costs over a wider customer  
21 base and realize economies of scale that benefit  
22 all customers. As a result, our rates are  
23 competitive with public utility rates and are  
24 generally below private water utility rates  
25 throughout the Commonwealth.



1           The regionalization is a trend that is  
2 being encouraged by United States Environmental  
3 Protection Agency, the Commonwealth of Penn-  
4 sylvania Department of Environmental Resources,  
5 the Pennsylvania Public Utilities Commission,  
6 and the Delaware River Basin Commission for just  
7 this reason: Regional water companies, be they  
8 municipal authorities or private utilities, can  
9 provide better service to their customers at a  
10 more reasonable and competitive rate. We can  
11 also maintain sufficient staff to keep abreast  
12 of and comply with all existing and pending  
13 environmental regulations.

14           However, a great many boards would  
15 hesitate to take on these satellite systems if  
16 they were required to afford membership to every  
17 municipality served by the Authority. It is not  
18 a jurisdictional or provincial issue. It is  
19 more because large boards become extremely  
20 cumbersome and unwieldy. Such a requirement  
21 would, in our case, force us to restructure our  
22 Board and require further commitment from the  
23 individuals serving on the Board. Again, this  
24 would be a disincentive to serve because of the  
25 increased time commitments.

1           We have a responsibility to our Board  
2 of Directors to give them all the information  
3 they need to make informed decisions regarding  
4 the future of the water authority. We have a  
5 responsibility to our customers to provide a  
6 safe, reliable supply of water at a reasonable  
7 price. We have a responsibility to our bond-  
8 holders, through our bond indenture, to meet  
9 specific fiscal standards.

10           Every one of our employees is aware of  
11 those responsibilities and every one of our  
12 employees is committed to meeting those  
13 responsibilities. I firmly believe that the  
14 majority of the municipal authorities throughout  
15 the Commonwealth feels the same.

16           The Municipality Authorities Act has  
17 been extremely effective in its purpose of  
18 providing municipal services to customers at a  
19 reasonable rate. One or two authorities have  
20 chosen to abuse the system, but overall,  
21 Municipal Authorities are staffed by  
22 conscientious employees and are overseen by  
23 dedicated Board of Directors who serve because  
24 they want to contribute to their community.

25           The system works extremely well. Your

1 report recognizes that fact. Amending the act  
2 to reduce the autonomy and thus, the  
3 effectiveness of the authorities of the Common-  
4 wealth would, in my opinion, be a disservice to  
5 the people who can least afford it--the  
6 customers.

7 Thank you for the opportunity to  
8 present my views on this issue.

9 CHAIRMAN PECORA: Thank you, Dave. Are  
10 there any questions? Representative Trich.

11 REPRESENTATIVE TRICH: Thank you,  
12 Senator. First of all, let me indicate to you  
13 that there were a couple of things that caught  
14 my attention in your testimony, the first of  
15 which deals with your position of being against  
16 term limitations, which I concur with by the  
17 way. It's a sensitive issue with all of us.

18 The other thing seriously that did  
19 catch my eye, and is one I guess a little bit  
20 unrelating to what we're talking about today but  
21 certainly something I'm very interested in, and  
22 that is, trying to find as many avenues as  
23 possible where the regionalization concepts make  
24 sense. I'm going through that with  
25 municipalities back home on a variety of areas.

1           You had mentioned that the  
2 regionalization trend is something that is being  
3 supported by a variety of groups both at the  
4 national and state level, and it certainly has  
5 been beneficial to your particular authority.

6           Have you seen that regionalization has  
7 also brought about the opportunity for funding  
8 that, perhaps, you might not otherwise acquired?  
9 Are there in fact carrots out there that are  
10 helping on some of the regionalization-type  
11 projects?

12           MR. MILAN: As far as the North Penn  
13 Water Authority is concerned I really can't  
14 answer that. We explored, for instance,  
15 PennVest funding and found that by going with  
16 our own bond issues we could do it much more  
17 economically through our own bonding  
18 capabilities. Because we are a large authority  
19 we have a very good bond rating and have managed  
20 to meet coverage or exceed coverage every year  
21 that we have been in existence.

22           So, in the case of a large regional  
23 authority, I think it's better as a stand-alone  
24 authority because it has a better bonding  
25 capacity. You can get money a lot cheaper to

1 fund our capital improvements to expand and  
2 serve the additional customers.

3 REPRESENTATIVE TRICH: Thank you.

4 CHAIRMAN PECORA: Thank you,  
5 Representative Trich. Any other questions?  
6 Representative Melio.

7 REPRESENTATIVE MELIO: I have heard a  
8 lot of the people who have testified say that  
9 there's no profit to be made, no investment.  
10 You don't have to worry about investors. What  
11 about the people who buy the bonds, don't they  
12 make a profit?

13 MR. MILAN: I imagine they do, yes.

14 CHAIRMAN PECORA: Thank you,  
15 Representative. Representative Sather.

16 REPRESENTATIVE SATHER: Thank you very  
17 much, Mr. Chairman. In your comments you're  
18 pleased with the results of House Resolution  
19 354.

20 MR. MILAN: Yes; overall, yes.

21 REPRESENTATIVE SATHER: That's a  
22 qualifier.

23 MR. MILAN: That right.

24 REPRESENTATIVE SATHER: So, let's talk  
25 about 8 and 9, it says, customer complaints and

1 ratemaking. There are some recommendations. Do  
2 you concur with those recommendations and does  
3 your Authority presently abide by those? It  
4 wouldn't cause them any problems?

5 MR. MILAN: Regarding customer  
6 complaints, like I said in my testimony,  
7 customer complaints come ultimately through me  
8 to the Board. In the overwhelming majority of  
9 the cases, I can satisfy the customer and we  
10 take care of it. We are very conscientious  
11 about satisfying our customers. Because  
12 basically, that's what we are in the business of  
13 doing is providing service to our customers. If  
14 somebody is not satisfied we find out what the  
15 problem is and we fix it.

16 In instances when that isn't  
17 satisfactory to our customers, they have come  
18 before the Board. Oddly enough, though, I have  
19 been with the Water Authority for five years and  
20 my predecessor was there at the beginning in  
21 1965, so it's been 20 or 30 years, and virtually  
22 never does anyone come to a board meeting. They  
23 are publicized. They are public meetings, open  
24 meetings and hardly ever have an occasion when  
25 anybody comes. Since I have been there, there's

17

1 only twice somebody has come to our Board  
2 meeting and complained. The Board has taken it  
3 under consideration, has told me to fix the  
4 problem and I fixed it.

5 REPRESENTATIVE SATHER: Are these  
6 pre-published; in other words, in advance like  
7 they show the year --

8 MR. MILAN: Yes.

9 REPRESENTATIVE SATHER: -- or are they  
10 done each month or quarterly, or however you had  
11 to do it?

12 MR. MILAN: They are done on an annual  
13 basis in January of each year.

14 REPRESENTATIVE SATHER: So if I missed  
15 that January notification, I may fail to know or  
16 may realize that there was an authority meeting  
17 to take place?

18 MR. MILAN: Sure, but they can call the  
19 Authority up and we meet the fourth Tuesday of  
20 every month. It's pretty good.

21 REPRESENTATIVE SATHER: I have to say  
22 this. I think for the most part the majority of  
23 the authorities do act in good conscience and in  
24 good faith. It's those others that we are  
25 dealing with here. It gets to this No. 9 also,

1 it says that Section 4 (b) be amended to require  
2 the special public hearing be held for rates,  
3 and it further goes on to define.

4 MR. MILAN: That was an interesting  
5 conclusion that they came to. In my case, I  
6 think I'm going to implement that unilaterally  
7 on our Board. We don't really get complaints.  
8 We get the letters from our customers when we  
9 have rate increases, but we don't get serious  
10 complaints about it because our Board is  
11 extremely concerned about maintaining the fiscal  
12 responsibility.

13 We have one board member who, I think  
14 ever other sentence is fiduciary responsibility  
15 to his customers or to his constituents. We  
16 are very conscientious about that. Our rates  
17 were raised last year three and a half percent,  
18 which was basically to cover the cost of living  
19 increase.

20 REPRESENTATIVE SATHER: So when you see  
21 a problem as far as your rate structure, you  
22 tend to it yearly --

23 MR. MILAN: That's correct.

24 REPRESENTATIVE SATHER: -- not allowing  
25 the problem --



1           MR. MILAN:   Some authorities will hold  
2 off a rate increase for five years and then they  
3 have 25 or 30 or 40 percent rate.

4           REPRESENTATIVE SATHER:   Or 103.

5           MR. MILAN:   Or 103 percent rate  
6 increase.   We do a little bit longer-range  
7 planning than that.   We are much more careful  
8 about that; trying to project our capital, our  
9 income, and our bond indebtedness to try and  
10 figure out what the rates are going to be and  
11 how they are going to be covered.

12           So yeah, we feel it's better to  
13 increase a little bit if it's necessary every  
14 year than to wait for four or five years and  
15 then hit them with a 70 percent rate increase.  
16 That's not fair to our customers.

17           REPRESENTATIVE SATHER:   Thank you, Mr.  
18 Chairman.

19           CHAIRMAN PECORA:   Thank you,  
20 Representative.   Any other questions?

21           ( No audible response )

22           CHAIRMAN PECORA:   Seeing none, I want  
23 to thank you, David, for giving us your time and  
24 information.

25           Next on the agenda is Jim Rudy, Sunbury

1 Municipal Authority. Thank you, Mr. Rudy. You  
2 may proceed.

3 MR. RUDY: Senator Pecora, lady,  
4 gentlemen: My name is Jim Rudy and I'm the  
5 General Manager of the Sunbury Municipal  
6 Authority. Our Chairman, Attorney Joey  
7 Storaska, very much wanted to present this  
8 testimony. However, a court appearance this  
9 afternoon precludes his attendance.

10 As a matter of background, the Sunbury  
11 Municipal Authority is an operating authority.  
12 It was originally formed as a sewer authority  
13 and later acquired the privately-owned Sunbury  
14 Water Company. More recently it moved into  
15 solid waste when it assumed the solid waste  
16 transfer station from the City of Sunbury.  
17 Along with that responsibility it assumed a  
18 \$200,000 debt from the city.

19 Finally, this year the Authority  
20 volunteered to assume flood control from the  
21 city due to serious budgetary problems  
22 encountered by that entity. We are somewhat  
23 unique because we have four major responsi-  
24 bilities rather than the typical one or two of  
25 most authorities. I know we stand alone, in

1 that, we are the first operating authority to  
2 run a flood control system within the Baltimore  
3 District of the Army Corps of Engineers.

4 We serve a population base of 13,000,  
5 primarily within the City of Sunbury, but also  
6 into the Upper Augusta Township of the north and  
7 east of our city limits. Our combined annual  
8 operating revenues are about \$2.6 million. To  
9 date for the first seven months of 1993, we are  
10 on a proportionate track to maintain both  
11 levels. We operate our systems with 28  
12 personnel, all are full time with the exception  
13 of one part-time office person.

14 We were one of the 50 largest  
15 authorities across the state which were asked to  
16 provide input to the Local Government Commission  
17 study of authorities which was recently  
18 released. And I concur that was an excellent  
19 piece of work, and we concur on the provisions  
20 of No. 8 and No. 9. I'll talk to one of those  
21 in my testimony.

22 We believe that the Pennsylvania  
23 Municipal Authorities Act, as amended, serves as  
24 an excellent structure for the operation of our  
25 very complex authority. There are several items

1 which we understand are periodically considered  
2 for possible amendment to the act. Let me  
3 present our perspectives on some of those items.

4 Term Limits for Board Members. Our  
5 current seven-member Board provides broad  
6 experience to the management and the staff,  
7 including representatives from business,  
8 engineering, law and education. One of the  
9 chief policy considerations of the Municipal  
10 Authorities Act is to permit a board with  
11 collectively broad experience to become very  
12 familiar, if not expert, with a small number of  
13 technical operations. The experience of our  
14 Authority shows that this policy is to be  
15 promoted. Term limits, however, militate  
16 against this policy. Term limits rob an  
17 authority of expertise that may only be acquired  
18 over time.

19 Officer Payments. Five members of our  
20 Board receives \$20 for attendance at our  
21 Authority Board meetings. In addition to our  
22 normal monthly meeting held, we hold an average  
23 of six or more special planning meetings each  
24 year. We advertise the date of each of our  
25 meetings. In coordination with the paper on the

1 Sunday prior to the monthly board meeting, it's  
2 announced in Community Calendar. Additionally  
3 and for special meetings, we advertise it two  
4 weeks prior when we have a special planning  
5 meeting.

6 The two officers of the Board, Chairman  
7 and the Treasurer, are paid \$35 per monthly  
8 meetings due to the fact that they must weekly  
9 co-sign each and every check cut by the  
10 Authority management. These rates always have  
11 been set by the Board, rates and officer rate  
12 have been set by the establishing body; in this  
13 case the city. Although it would have no  
14 current impact on our Authority, we would  
15 support the setting of officer compensation as a  
16 function of the establishing body.

17 Bidding and Contracting. The current  
18 language on bidding is reasonable and holds us  
19 accountable for our decisions. As a matter of  
20 information, it's highly unusual for our  
21 Authority to award a contract to other than a  
22 low bidder meeting all specifications of a  
23 contract. In the recollection of various  
24 members of our Authority and upon review of our  
25 records, the award of a contract other than the

1 low bidder was done on one occasion in the past  
2 20 years.

3 As pertains to the last change to allow  
4 three telephonic quotes to make purchases of  
5 over \$4,000, but under \$10,000, this is a  
6 workable approach. We generally request a short  
7 letter with the quote so as to have a written  
8 record for our files for the three-year required  
9 period after making such a purchase.

10 Employees Living Within a Service Area.  
11 Periodically, there is proposed legislation to  
12 require that all employees must maintain their  
13 residency within an authority's service area.  
14 We believe the operation and maintenance of  
15 water, wastewater, flood control and solid  
16 wastes systems requires technically, oriented  
17 skilled employees. It is not always possible to  
18 meet those requirements within the city limits  
19 of Sunbury.

20 By broadening our search area about 10  
21 miles around Sunbury, we essentially cast a net  
22 that increases in size by about five times.  
23 This allows a greatly increased possibility of  
24 finding the right technically qualified person  
25 for the position. Authorities, whether small or

1 large, need highly skilled and certified  
2 personnel in order to provide safe services to  
3 our customers and to maintain compliance with a  
4 myriad of regulatory agencies. Our experience  
5 shows that our Authority would be weakened, not  
6 helped, by residency requirements.

7 P.U.C. Regulations. Your recent Local  
8 Government Commission study of the 50 largest  
9 authorities indicated that authorities generally  
10 charge lower rates than do regulated utilities.  
11 We also believe our Authority provides at least  
12 the same, if not better services, than those  
13 regulated by the PUC. We know our rates are  
14 generally lower. We have proven our  
15 performance.

16 For example, a few years ago we  
17 conducted an informal survey of the water and  
18 sewer rates of the cities and communities of  
19 similar size that surround Sunbury. Some were  
20 authorities, but there were substantial number  
21 of water companies either owned by the  
22 Pennsylvania American Water or the Roaring Creek  
23 Water Companies. We conducted this survey just  
24 prior to acting on a 10 percent rate increase  
25 and wanted to see where we stood in comparison

1 to other communities in our area. We stood as a  
2 second cheapest of the 12 communities, even  
3 after we calculated a 10 percent increase. The  
4 only time it had lower rates is only somewhat  
5 more than half the size of our service  
6 population. The cost of PUC regulation would  
7 only increase cost to our customers.

8 Rates. We did not always hold public  
9 hearings prior to enacting a rate increase. Our  
10 Board has recently debated this issue and it was  
11 determined that such public hearings should be  
12 held. With our rates historically being one of  
13 most economical in the area, periodic rate  
14 increases typically were seen as necessary and  
15 required by our customers. Of course, our  
16 meetings are public and for years we placed on  
17 our agenda a period at the start of our monthly  
18 meetings for any citizen to address the Board.

19 However, when we recently assumed  
20 responsibility for flood control, we had to  
21 determine a brand-new rate structure. We held a  
22 public hearing prior to the adoption of a  
23 proposed rate structure and budget for that  
24 department for 1993. We intend to make this the  
25 procedure for any future rate increases for our



1 Authority. We support a change in legislation  
2 to make that a requirement.

3 Accountability. Our Board members are  
4 accountable to our customers and to their  
5 community. That accountability takes place as  
6 they and all our customers pay their appropriate  
7 user fees for the services we provide. All of  
8 our Board members are members of many service,  
9 business and church organizations. They are  
10 truly out in the community and interact with our  
11 customers. This represents a substantial  
12 opportunity to receive feedback as to how the  
13 management, staff and our employees are  
14 providing services and maintaining our systems.

15 The area media also carefully reports  
16 on our major activities. We provide press  
17 releases on all major activities and those which  
18 may be of interest to our customers. We release  
19 approximately 20 to 25 press reports each year.  
20 We receive heavy coverage from the area  
21 newspaper, the radio stations, and even have  
22 consistently been covered by the Harrisburg  
23 Patriot, the television stations out of the  
24 Wilkes-Barre and Scranton region. In recent  
25 past years this coverage by independent

1 reporting has been extremely positive. Our  
2 Board members consistently want to continue to  
3 serve and are consistently re-appointed because  
4 they do a good job.

5 There is one other subject area which  
6 we feel is important to address. It is, how we  
7 help our city government. Over the years we  
8 developed expertise to manage and operate  
9 complex water and sewer systems for Sunbury.  
10 This released a huge management burden from the  
11 City Council and Mayor who have other full-time  
12 employment while they try to run a city on a  
13 part-time basis. Sunbury does not have a city  
14 manager or administrator.

15 In 1987, due to city budgetary  
16 problems, the Authority agreed to assume  
17 responsibility for City's solid wastes transfer  
18 station, which was in debt and losing money.  
19 Our Board agreed to have its management try to  
20 provide that service without losing money or to  
21 close it down. We turned it around and have  
22 operated in the black since 1990 while providing  
23 a valuable service to our customers.

24 Again in 1992, our Board was approached  
25 by Council with a request to help them meet its

1 budget of 1993. The only way our Board could  
2 help was to take over a technical project in  
3 which we had expertise to manage and operate.  
4 They volunteered to take over the flood control  
5 system for the City of Sunbury. To date, that  
6 project has tested our skills, but we have made  
7 significant progress in our first seven months.

8 In addition to establishing annual  
9 flood control maintenance user fees, our Board  
10 is looking to see what help may be available  
11 from state and federal levels to bring that  
12 system up to where it should be. Both our State  
13 Representative Merle Phillips, and Senator Ed  
14 Helfrick are being asked to see what help may be  
15 available at that level. Our new Congressman,  
16 Tim Holden, has already been to Sunbury to be  
17 briefed and to view the deteriorated system.  
18 One of the highest priorities within his  
19 district is to seek appropriation of \$300,000  
20 federal funding for the Army Corps of Engineers  
21 to conduct a detailed engineering study of the  
22 Sunbury flood control system.

23 Attached to this testimony is an  
24 article recently published in the Authority  
25 magazine. This article explains how we

1     harnessed our energy and resources to get  
2     through the spring flood of this year. The  
3     Susquehanna River rose to 27.5 feet, the third  
4     highest level in the past 147 years. The system  
5     held together. The wall and levee kept the  
6     river and Shamokin Creek out of Sunbury. Our  
7     internal pumps, the largest with a pumping  
8     capacity of 47,500 gallons per minute, worked  
9     and we were able to pump the stormwater and our  
10    treated effluent sewer water out against the  
11    head of the rising waters. Also attached are  
12    two positive editorials from the local newspaper  
13    which address our role in flood control.

14             In summary, our Board and management  
15    run all authority operations on a strict  
16    business level. We take pride in carefully  
17    checking all available means to get the most  
18    value for our customer dollars. For many years  
19    we have maintained both a short-term and a  
20    long-term capital improvement program. Within  
21    our capabilities our own employees accomplish  
22    much of the needed repair and maintenance of our  
23    systems.

24             In recent years we passed the necessary  
25    resolution to enable us to take advantage of

1 piggy-back purchase via state contracts. We  
2 often bounce those rates off of Sunbury or area-  
3 based vendors and sometimes they will meet or  
4 offer a price less than the state contract  
5 prices.

6 A computer buy in 1991 was made via the  
7 state contract. This saved us the added  
8 administrative expense of developing bidding  
9 documents while getting a good buy at the same  
10 time.

11 In Sunbury, we run one of the best  
12 recycling programs in the state, having already  
13 received the Governor's Waste Minimization Award  
14 for 1991. We keep our costs down while  
15 providing that curbside and drop-off service to  
16 our customers at no cost. We came up with an  
17 innovative use of volunteer labor. We use work  
18 release prisoners from the Northumberland County  
19 Prison, welfare workers on the workfare program,  
20 and persons sentenced to community service in  
21 lieu of incarceration. A recent positive news  
22 article which describes that program is attached  
23 as part of this testimony.

24 Our water department manager, Jim  
25 Lewis, was selected as the Pennsylvania Operator

1 of the Year in 1991 by the national level  
2 American Water Works Association out of Denver.  
3 That same year he was one of 12 national water  
4 experts selected by the America's People to  
5 People Ambassador program to visit the Soviet  
6 Union. This group spent two weeks in the Soviet  
7 Union in September of 1991 to share their  
8 knowledge to assist that country's 1950's level  
9 of technology in water and wastewater treatment.

10 Recently, our sewer department's  
11 pre-treatment program was nominated by EPA  
12 Region III, a five-state area plus the District  
13 of Columbia, to compete for the 1993 National  
14 Pre-Treatment Award for Excellence. The  
15 Pre-Treatment is an EPA mandated program which  
16 requires those cities with major industries to  
17 regulate the levels of industrial discharge into  
18 the local sewer systems. This ensures our sewer  
19 plant's ability to meet its discharge limits as  
20 a major discharger into the Susquehanna Basin.

21 I would like to add, Act 9 of 1992,  
22 referred to as the Publicly Owned Treatment  
23 Works Penalty Law, is an excellent piece of  
24 legislation which is now a valuable part of our  
25 Pre-Treatment program in Sunbury.

1           We work very hard to maintain good  
2 community relations within our community. We do  
3 that through responding as soon as possible to  
4 appropriately address the needs and concerns of  
5 any customer who surfaces an issue. We do it  
6 through liberal use of press releases and being  
7 responsive to the needs of local and regional  
8 media inquiries. We do it by publishing a  
9 newsletter twice per year which primarily  
10 focuses on recycling, but which also addresses  
11 other major areas of Authority operations.  
12 Copies of our most recent newsletter plus  
13 another article published recently in the  
14 Authority magazine capsulizes our overall  
15 approach to this very important area.

16           In closing, the real strength in  
17 authorities is that boards represent groups of  
18 people who acquire technical knowledge over time  
19 and formulate attitudes just on those projects.  
20 There are important collection and balances in  
21 place. But on the other hand, projects of this  
22 type require a steady hand. We don't change  
23 every time the political winds change. We have  
24 stability and long-time acquired knowledge of  
25 the important infrastructure which we control

1 for our customers

2 We feel we are representative of a  
3 well-run operating authority. Because we  
4 perform more functions than most, we feel our  
5 views and experiences deserve your analysis and  
6 consideration. Nothing is broken in the  
7 Pennsylvania Municipal Authorities Act. As in  
8 most legislation, it is time for careful review  
9 and, perhaps, a little more fine tuning where  
10 appropriate. That concludes my testimony. I'm  
11 ready for questions.

12 REPRESENTATIVE TANGRETTI: Thank you,  
13 Mr. Rudy, very much. Questions?

14 ( No audible response )

15 REPRESENTATIVE TANGRETTI: I have just  
16 a couple. How do your rate setting and your  
17 billings work with respect to the four areas of  
18 responsibility that you exercise?

19 MR. RUDY: The most recent example, the  
20 flood control, was a tough cat to skin. The  
21 most efficient way after studying the situation  
22 was to take a look at our sewer EDU structure,  
23 for the dwelling unit. We already had account  
24 numbers for all the sewers used. We had it in  
25 the computer system. We chose to spread the



1 charge broad based throughout the community  
2 rather than hitting business hard or industry  
3 harder. What we did, \$25 per living unit per  
4 EDU; two-family home, apartment upstairs,  
5 downstairs, \$50 per year. Any commercial  
6 organization, non-profit organization, et  
7 cetera, everybody paid \$50 per year; industrial,  
8 schools, \$100 per year.

9 We heavily publicized that, proposed  
10 those ideas, covered them in the area  
11 newspapers, public hearing. We had about 12  
12 pretty aggressive people come to the meeting.  
13 We briefed them on the state of the system, what  
14 we were proposing to do enough to gather minimal  
15 funds to keep it operating, to make some slight  
16 improvements, it worked fine.

17 We are primarily on a flat rate  
18 structure for residential, metered for  
19 commercial, industrial both for water and for  
20 sewer. Solid waste, the only rate structure is  
21 per ton. At the transfer station we weigh it,  
22 compress it and we truck it to the landfill.  
23 That's passed along to individual customers  
24 through private coverage only.

25 REPRESENTATIVE TANGRETTI: And all four

1 of those operating systems are billed  
2 individually?

3 MR. RUDY: Yes, sir.

4 REPRESENTATIVE TANGRETTI: All four of  
5 those, the revenues generated for the purposes  
6 of only of those operating?

7 MR. RUDY: Yes, sir.

8 REPRESENTATIVE TANGRETTI: No  
9 commingling?

10 MR. RUDY: No, sir, no, sir. Very  
11 important, we've got one budget and four  
12 departments, and we've even broken out recycling  
13 separately. We don't want to be accused of  
14 upping our tapping fees to pay for recycling to  
15 say no user fees. We have separate fees for  
16 that.

17 In fact, we make money on recycling all  
18 of the materials we pick up and over-aggressive  
19 use of going out and get personal recycling to  
20 get performance grant monies. That's why we  
21 established a separate CD. Maybe my prisoner of  
22 volunteer labor will dry up some years down;  
23 maybe that won't be sparked three or four years.

24 Right now we have \$80,000 in a  
25 recycling account of performance grants of Act

1 104 of Central Pennsylvania legislature and that  
2 accrues interest. We take liberal use of the  
3 grant programs, those will dry up ultimately.  
4 If, in fact, we have to contract that service  
5 out because my water and sewer employees, I just  
6 can't pull them away to do that. We've  
7 contracted it out for two, three, four years.  
8 If that money ever dried up there would be a  
9 user fee. I think we can always keep it  
10 operating in the black and won't have to charge  
11 anybody.

12 REPRESENTATIVE TANGRETTI: In your  
13 final statements you mentioned that you felt  
14 that there probably should be some fine tuning  
15 to the Municipal Authorities Act and you were  
16 here when we opened the hearings at one o'clock.  
17 I had indicated that I'm looking for authority  
18 members, executive directors, those involved for  
19 recommendations on how we can improve the act  
20 from your point of view.

21 Have you had any specific fine tuning  
22 recommendations other than what we --

1  
23 MR. RUDY: I mentioned public hearing.  
24 Complaints, I have no problem with that. But as  
25 the previous gentleman said, they come to me

1 first. They come to my water department manager  
2 first, the sewer department manager first and  
3 they are solved at the lowest levels. Just this  
4 morning while I was fine tuning this testimony,  
5 someone came in and said, what's this flood  
6 control insurance? Didn't understand. I went  
7 out and showed him a copy of why we established  
8 the fee and how it's set; gave him a picture of  
9 80 percent of the city inundated in 1946 when  
10 the river was 23 feet. I said, hey, it was 27.5  
11 feet in the spring. We were high and dry;  
12 complex to operate. Address them immediately;  
13 get to them and put out the little fliers, and  
14 they don't surface to the Board.

15 REPRESENTATIVE TANGRETTI: You're not  
16 suggesting that we put that in the act?

17 MR. RUDY: No.

18 REPRESENTATIVE TANGRETTI: Is there  
19 anything that you see is a need with respect to  
20 amending the act specifically to make it better  
21 for you as an operator?

22 MR. RUDY: I can offer no specific  
23 improvements. I'm relatively new, three and a  
24 half years, but I've got my feet on the ground  
25 and running pretty good right now.

1           REPRESENTATIVE TANGRETTI: I would say  
2 so. Thanks very much. Thank you for your  
3 testimony. I'm sorry, Representative Sather.

4           REPRESENTATIVE SATHER: I can find  
5 nothing to compete in your testimony other than,  
6 you provide "Community Relationships; A Success  
7 in Sunbury", and I see you attired as a turkey  
8 hunter, you may not have the appropriate amount  
9 of orange (phonetic).

10           MR. RUDY: I supplied the testimony on  
11 that. I was against (inaudible word) orange but  
12 I complied with the (inaudible word).

13           REPRESENTATIVE TANGRETTI: The next  
14 individual on the agenda is George Aman, the  
15 Solicitor for Pennsylvania Municipal Authorities  
16 Association.

17           MR. AMAN: Thank you for the  
18 opportunity to give you some comments on the  
19 status of authorities from the standpoint of the  
20 Solicitor for the Pennsylvania Municipal  
21 Authorities Association. I've been a partner in  
22 a large Philadelphia law firm for some time  
23 specializing in municipal finance. I have  
24 worked on virtually every type of local  
25 government entity in Pennsylvania, including

1 counties, cities, school districts, boroughs,  
2 townships and various types of special-purpose  
3 entities, including authorities. I can  
4 confidently say that municipal authorities in  
5 Pennsylvania are among the best run entities of  
6 all those with which I have worked. Of course,  
7 I believe that a great majority of all local  
8 government entities in Pennsylvania are  
9 reasonably well run. Municipal authorities are  
10 different, however, in several ways. Let me  
11 explain.

12 First, let me mention a bit of history,  
13 because those who cannot remember history are  
14 condemned to repeat it. Authorities are not  
15 unique to Pennsylvania. They are a national  
16 phenomenon which had its greatest growth in the  
17 pre-war depression era, but the use of  
18 authorities has recently been increasing. The  
19 authority movement first gained force in the  
20 depression due to the financial distress of many  
21 municipalities, resulting in the decline of  
22 infrastructure. Actually though, the financial  
23 distress merely made worse certain tendencies  
24 which have always existed in local government  
25 when an elected body is charged with operating a

1 public utility.

2 I'm interested that the Coalition to  
3 Improve State and Local Governments discussed  
4 authority water sewer systems. I think in  
5 fairness they should contrast and compare  
6 authority systems with those operated by  
7 municipal governments themselves. I am  
8 confident they would find that authority systems  
9 in the main are better run than those operated  
10 by municipal entities. The reason is because of  
11 the tensions that I am talking about, the  
12 tensions between the requirements of politics  
13 and the requirements of operating a large public  
14 utility, professional management, large amounts  
15 of capital and long-range planning.

16 The focus of elected officials  
17 frequently is on the shorter term and especially  
18 upon keeping tax increases to an absolute  
19 minimum. As a result, during the depression and  
20 often subsequently, infrastructure systems were  
21 starved by local elected officials in order to  
22 save even more essential services, such as  
23 police protection, while keeping taxes low.

24 That is why it has not been uncommon  
25 for utility revenues to be transferred from the

1 utility fund to the general fund in order to  
2 subsidize other parts of the municipal  
3 government. It's always been politically easier  
4 for elected officials to raise water and sewer  
5 rents than to raise taxes, and a water and sewer  
6 system can operate for a short period of time  
7 with deferred maintenance, but the ultimate cost  
8 of this procedure is very high.

9 Another problem grew during the  
10 depression. The high rate of unemployment  
11 created pressures on elected officials to find  
12 jobs for deserving political supports. However,  
13 the cost of political hiring in a  
14 technologically-oriented enterprise such as  
15 water treatment can also be quite high.

16 In summary, authorities thus were  
17 invented to reduce the tension between the  
18 requirements of public utility operations and  
19 the natural tendencies of elected government  
20 officials, by the means of establishing a  
21 quasi-independent body to run a public utility  
22 on a business-like basis.

23 Authority board members would be  
24 appointed rather than elected. They would be  
25 insulated from politics, to a degree, by the



1 staggered terms of board members. This  
2 arrangement was developed intentionally with a  
3 goal in mind. An appointed board of experienced  
4 management people would be able to make rate  
5 increases, where necessary, for purposes of  
6 adequate maintenance and improvements, without  
7 fear of political retribution.

8 Ladies and gentlemen, you've heard a  
9 lot about the complaints where rates are raised,  
10 but when rates are not raised when it's  
11 necessary to do so, service declines and then  
12 you will get complaints of a different kind.  
13 Predominately in the nation we have the latter  
14 kind of problem, complaints of inadequate  
15 service and nobody thinks about that side of the  
16 corner, apparently, have to date recently.

17 A qualified board whose sole purpose  
18 was to provide a service would run the public  
19 utility as much as possible like a private  
20 business. No profit however is involved; no  
21 payment of taxes. And the gentlemen who asked  
22 about bondholders getting profit, bondholders do  
23 not receive profits. They receive interest, a  
24 fixed rate based upon the money market at the  
25 time the bonds are sold. That's like borrowing

1 money from a bank. That is not profit. The PUC  
2 was established to basically limit the amount of  
3 profit which can be paid to stockholders by  
4 stockholder-owned utilities. There is no profit  
5 in authorities.

6 I'd like to call this privatization  
7 without profit. The modern trend for  
8 privatization recognizes the tensions that we  
9 have just been discussing, but in turning  
10 operations over to a private corporation saddles  
11 the public with paying indirectly for taxes and  
12 profits of a new private company.

13 Authorities Have A Great Record. I'm  
14 not going to read that whole paragraph. I  
15 believe that several hundred authorities in  
16 Pennsylvania can stand on the record of  
17 performance of service at a reasonable rate over  
18 the years.

19 Credit for this impressive record is  
20 shared by many groups, not the least of which,  
21 however, is the governing boards of munici-  
22 palities which should be praised for appointing  
23 civic-minded, qualified, experienced business  
24 people to run -- to serve on authority boards.

25 I might add there, that in the few

1 cases where authority boards have been guilty of  
2 some abuse, I would bet you that the problem can  
3 be traced back to the elected officials who  
4 appointed, repeatedly, people who were not  
5 qualified to those authority boards. You cannot  
6 look just at the authorities. You must look at  
7 the elected boards in these municipalities in  
8 the few instances where there have been abuses.

9 By the way, I would like before I go on  
10 to correct misinformation that was given  
11 previously about the Authorities Act. In the  
12 hearing in Bristol it was stated by an elected  
13 official that when he arrived in office, he was  
14 confronted with a number of lame duck  
15 appointments made by the outgoing board.  
16 Someone said, oh, this must be corrected.

17 Well, ladies and gentlemen, it has been  
18 corrected. The act was amended a few years ago.  
19 It's not a matter of a bill pending that was  
20 implied at that hearing. The act was amended,  
21 board terms, and on the first day of January, so  
22 that the lame duck people who were defeated in  
23 the election in the fall do not have the power  
24 to fill the vacancies. So that in terms of a  
25 staggered board, it does not take three years.

1 It only takes two years. After you take office  
2 you can appoint in January one person of your  
3 choice, and the following two Januarys you can  
4 appoint someone else. But, a staggered term  
5 provides the measure of needed independence for  
6 authority boards.

7 Of the most politically-oriented  
8 authorities in existence in Pennsylvania now  
9 there are one or two parking authorities in  
10 large cities where there are a large number of  
11 politically appointed -- politically-sponsored  
12 employees. I want to tell you, parking  
13 authority law does permit the removal of  
14 authority board members automatically by the  
15 appointing body. I don't think we want to put  
16 the parking authority model into the water and  
17 sewer authorities.

18 I couldn't disagree more strongly with  
19 Professor Cigler. I think that the staggered  
20 terms that political independence to a degree is  
21 a necessary element if you're going to have  
22 authorities at all.

23 Forgive me if I sound too intense, but  
24 I have been involved in this for some period of  
25 time. I really do feel strongly about it.

1            Authorities are the best way of  
2 encouraging intermunicipal cooperation.  
3 Authorities also provide the best method of  
4 solving another chronic governmental problem in  
5 Pennsylvania--the problem of inflexible  
6 municipal boundaries. Lacking any effective  
7 annexation or merger laws, municipal boundaries  
8 in Pennsylvania have been frozen almost since  
9 the horse-and-buggy days. Pennsylvania has many  
10 more, and hence, many smaller political  
11 subdivisions than other states of similar size.  
12 Now, the smaller geographic size of munici-  
13 palities often impedes the operation of water  
14 and sewer systems on the most economic basis.

3  
15            A major national trend has been under  
16 way to provide municipal service on the basis of  
17 natural service areas. This is particularly  
18 essential in the case of services like water and  
19 sewer which are dependent upon large capital  
20 investment in plants. The users can bear the  
21 cost of these plants more easily if the cost can  
22 be distributed over a larger capital base.

23            The Chester Water Authority pays for  
24 debt service ten cents per thousand gallons of  
25 water Mr. MacEwen told me after the hearing in

1 Norristown. Smaller authorities may pay two,  
2 three, four or five times that much for debt  
3 service on a unit basis because they do not have  
4 the large enough base to spread their capital  
5 investment over.

6 Also, there is significant economies of  
7 scale in providing the service through larger  
8 plants serving a watershed. This trend has  
9 been given increased force by reason of the  
10 increased regulations by both state and federal  
11 government covering water and sewer systems.

12 I mention here the requirement to  
13 filter all service water supplies. As a result  
14 of a thorough study, the Pennsylvania Department  
15 of Environmental Resources is engaged in a  
16 campaign to encourage the combining of small  
17 water systems. DER conducted a study on this as  
18 you'll recall. They discovered that a system  
19 having fewer than 2,000 users would be nonviable  
20 in terms of its long-term finances. So there is  
21 an act, Act No. 5, which recognizes this and  
22 provides for assistance for studies and methods  
23 of combining these small, very small nonviable  
24 systems.

25 The Chairman asked for a positive

1 recommendation. Gentlemen and lady, I think you  
2 should fund Act No. 5. Act No. 5 provides for  
3 grants to local governments that have small  
4 systems and want to combine them into a larger  
5 system, and inevitably under the umbrella of a  
6 joint authority.

7           Pennsylvania is fortunate to have many  
8 water and sewer systems which, on an intergrated  
9 basis, serve more than a single municipality.  
10 Sometimes these are joint authorities, sometimes  
11 not. In northern Montgomery County there are  
12 two authorities in adjoining areas. North Penn,  
13 you heard the Executive Director of North Penn  
14 Authority, has 10-member municipalities although  
15 it serves in all portions of 17 muncicipalities.

16           Now, right next door to North Penn is  
17 North Wales. North Wales has only one  
18 incorporating member municipality, but it serves  
19 in all or parts of seven municipalities. I defy  
20 you to you find the difference in the quality of  
21 service between these two authorities. Both are  
22 highly regarded, professionally managed and very  
23 successful.

24           Moreover, there has been little  
25 interest by the users of either of these systems

1 who happen to live in municipalities which are  
2 not members to gain, quote, representation on  
3 either authority board. That is a fact. Why?  
4 Because in each system all users are charged the  
5 same water rates and receive the same identical  
6 service regardless of whether they live in a  
7 member municipality or not.

8           There is another critical factor--  
9 influencing the attitude of users. They know  
10 that the rates are set at a level which will  
11 provide no more than the amount needed for  
12 operation, debt service and improvements. How  
13 do they know? They know because all the  
14 revenues are paid into separate funds created by  
15 the indenture and they cannot be siphoned off  
16 for other purposes. There are no dividends to  
17 stockholders and no subsidies to the member  
18 municipalities. Both authorities share another  
19 characteristic--dedicated, experienced board  
20 members with a single goal of providing the best  
21 water service at the lower price. I think you  
22 will agree with me when you heard the boards of  
23 various authorities described today.

24           It has been suggested that each  
25 municipality served by an authority should have



1 a seat on the board. In many cases, however,  
2 only a small portion of a municipality is  
3 served. There is often a real need to add  
4 customers on the other side of the boundary, but  
5 imagine the effect if an authority, created or  
6 supported for many years by one or two  
7 municipalities, were suddenly controlled  
8 indirectly by three or four outlying  
9 municipalities. The initial members of an  
10 authority would be reluctant to provide service  
11 across a municipality boundary if that were the  
12 penalty.

13 So, in some cases this will also create  
14 unwieldy boards as was mentioned earlier.  
15 Chester Water Authority serves 37  
16 municipalities. You could not have an authority  
17 board with 37 members on it. The automatic seat  
18 idea would, in reality, create a big obstacle to  
19 extending service where needed without regard to  
20 municipal boundaries. In other words, they will  
21 not extend to a municipality if the new  
22 municipality gets a board seat for merely having  
23 10 or 20 customers.

24 We have frozen municipal boundaries in  
25 Pennsylvania with many adverse effects. Should

1 we then effectively freeze utility service areas  
2 too? The ability of a place like Chester Water  
3 Authority to grow and serve where needed is a  
4 very important part of this picture.

5 Authorities are already well regulated.  
6 It was stated that authorities should not  
7 operate in a vacuum. Actually, they do not.  
8 They are controlled indirectly through the  
9 appointive process of the act by their  
10 incorporating municipalities.

4  
11 If the rates are too high, in two years  
12 they can be turned around by new appointments.  
13 The criticism dies down when people understand  
14 that the rates are there to provide a service,  
15 to provide operating and debt service costs.  
16 Authorities are also under the control of  
17 municipalities where they serve in a number of  
18 respects even if you're not a member.  
19 Authorities are subjected to the local zoning  
20 laws in each municipality where they own  
21 facilities.

22 Second, a sewer authority may only  
23 install facilities in accordance with the  
24 applicable sewage facility plant of the host  
25 municipality, filed with DER and approved

1 pursuant to Act 537. It was stated here earlier  
2 today that oh, well, you can have Act 537 plan  
3 but the Authority can march off in any direction  
4 it wants to. Ladies and gentlemen, that is  
5 really not true because permits must be obtained  
6 from DER for extensions. You will not get them  
7 if you extend into an area contrary to an Act  
8 537 plan.

9 And if an authority doesn't extend  
10 where the municipality wants it to serve  
11 pursuant to Act 537 plan, the municipality can  
12 take the Authority before DER and appeal to the  
13 Environmental Hearing Board. It's not just a  
14 board meeting or the Court of Common Pleas.  
15 There are regulatory agencies in Pennsylvania  
16 other than the PUC.

17 I might say they are also a lot more  
18 efficient and expeditious. I have sat through  
19 some PUC rate hearings. Ladies and gentlemen,  
20 you do not want to subject anybody to that. Ask  
21 the Boroughs Association. Ask any municipality  
22 which has been through a PUC proceeding and they  
23 will tell you it is a terribly wasteful  
24 cumbersome process, which often proves with very  
25 little positive result.

1                    Authorities are regulated by DER, by  
2 EPA. They are also subject to the Open Records  
3 Act, the Sunshine Act, the Ethics Act, the  
4 Political Subdivision Tort Claims Act, the  
5 Public Works Contracts Regulation Law, and  
6 numerous laws governing public employees, and  
7 many other matters.

8                    Every two years I put together a  
9 reprint of the Municipal Authorities Act. There  
10 is an appendix in it. It has, I would say a  
11 hundred statutes which apply to authorities. I  
12 try to collect every one that applies to  
13 authorities. Ladies and gentlemen, there is  
14 very little law applicable to municipalities  
15 which is not also applicable to authorities.  
16 They are well regulated and also by the  
17 Authorities Act.

18                    Let me say one thing more about the  
19 Authorities Act if I may. The Authorities Act  
20 has not been frozen since 1945. It has been  
21 amended very recently to regulate the tapping  
22 fees. There were a few authorities that were  
23 abusing the tapping fee privilege, so it was  
24 fought, lengthy process of negotiation with a  
25 homeowners association, resulted in a lengthy

1 amendment creating a formula for tapping.

2           The result of the formula has been,  
3 that was approved and agreed to by the  
4 homeowners association that most authorities  
5 have the power to raise tapping fees more than  
6 they would have than they had before. But the  
7 point is that, a regulation was established  
8 there that all parties could live with, but it's  
9 cumbersome and it involves additional  
10 engineering expense, and time, and so forth.

11           There was a reference made to the  
12 problems of landlords of multi-family apartment  
13 buildings. This was a problem which was brought  
14 to the Authorities Association a couple of years  
15 ago. Ladies and gentlemen, the act has been  
16 amended through negotiation between P.M.A.A. and  
17 the State Association of Apartment Landlords.  
18 One of the members of that association is a  
19 legislator, Representative Lloyd. I don't know  
20 whether he's still here, in the House, or  
21 whatever, but anyway, he took an interest in  
22 this. We negotiated H.1 and H.2 of the  
23 Authorities Act.

24           The Authority is required to notify the  
25 landlord within 30 days after the bill first

1 becomes overdue. In the case of water where  
2 there is a power to turn off the service, the  
3 Authority may not charge the landlord for a  
4 service rendered 90 days -- The owner shall not  
5 be liable for any service which the Authority  
6 provides to a tenant 90 or more days after the  
7 tenant's bill first becomes due. This was  
8 negotiated with the State Association of  
9 Landlords--notice and a limited period.

10 The case cited relating to the Guilford  
11 Water Authority must be obsolete. Either that  
12 or they are not following the law, or the people  
13 that presented testimony didn't know about the  
14 amendment, but I refer you to Representative  
15 Lloyd on that subject.

16 My only point is, there had been  
17 piecemeal amendments made to this act over the  
18 years when needed and piecemeal amendments can  
19 be made again. We can talk about ones which  
20 might be made. You could require that a copy of  
21 the annual report to the DCA be made to the  
22 incorporating municipality.

23 One thing that occurred to me is, you  
24 could make it easier to add new municipal  
25 members to a joint authority. Right now if you

1 have a five-member -- a joint authority with  
2 five municipalities being members of it, to add  
3 one more member, the governing bodies of all  
4 five frozen townships must approve of that  
5 before it can take place. Maybe this should be  
6 done by three-quarters' vote, all but one or  
7 two-thirds or something, but that would be one  
8 way to facilitate the enlargement of joint  
9 authority.

10 There isn't a great movement by  
11 municipalities to get into -- They know the  
12 service is good. You talk to the people in the  
13 service area of the Chester Water Authority or  
14 the North Penn, North Wales, places like that,  
15 they will tell you that it doesn't matter  
16 whether you're a member municipality or not.

17 Authorities have been successful over  
18 the years operating in the status given to them  
19 by the act, as the courts have interpreted the  
20 act, which makes them agents of the state rather  
21 than of any municipality.

22 Gentlemen, you must decide, ladies,  
23 whether you want to have political control of  
24 authorities or not. The elected officials had  
25 the systems for a century and, frankly, it was

1 not operating properly when authorities were  
2 first created. It is now working by and large  
3 properly. If control of all of these systems is  
4 put back in the elected officials, you will see  
5 a rise again of the same problems of starving  
6 systems, of milking systems to pay the police  
7 salaries. I do not recommend that you remove  
8 the essential independence of authorities.

9 Now, I've talked much too long, I'm  
10 sorry. I will be happy to answer your  
11 questions.

12 REPRESENTATIVE TANGRETTI: We  
13 appreciate your testimony. Just a couple of  
14 questions, if I may. Would you conceive, sir,  
15 that there may be joint authorities out there  
16 who are in jurisdiction that aren't represented  
17 and are not treating those jurisdictions  
18 properly either in terms of service or rates?

19 MR. AMAN: I cannot assure you that  
20 every single authority is pure. All I'm saying  
21 is that, if you enact the bill which is now  
22 pending saying to authorities, you must either  
23 give us a seat on the Board or submit to PUC  
24 jurisdiction, they will do neither. They will  
25 not extend to another municipality and they will



1 not submit to PUC jurisdiction. The cost and  
2 time involved in the PUC rate case is exorbitant  
3 for most of the systems we are talking about.  
4 It really is.

5 REPRESENTATIVE TANGRETTI: You are  
6 talking about Mr. McCall's (phonetic) bill, of  
7 course.

8 MR. AMAN: Yes.

9 REPRESENTATIVE TANGRETTI: That's one  
10 avenue that we are looking at to deal with that  
11 particular aspect. I was particularly intrigued  
12 by your comments starting at the bottom of page  
13 3 with respect to why people think that your  
14 municipal authorities are charging the  
15 appropriate amount; that the rates are in  
16 compliance with whatever factors they consider.

17 One of the reasons you say, all the  
18 rate users know that the rates are set at a  
19 level to provide no more than the amount needed  
20 for operation of debt service and improvements.  
21 Then you go on to say why it is the case because  
22 of the way the law is set up in terms of how the  
23 money is to be used.

24 I would submit to you that there are  
25 municipal authorities who are charging rates

1 that you would even be concerned about in this  
2 Commonwealth, and I cite one specifically in my  
3 district that charges 6000 minimum gallons  
4 whether used or not for water service.

5 Now, those people, notwithstanding the  
6 act in its present form, I can assure you do not  
7 think that that money is used only for operation  
8 and debt service, and that they are only  
9 collecting what they need. Now, whether they  
10 are right or not is a question that remains to  
11 be seen, but the only recourse, and you heard me  
12 say this before, is to go to Common Pleas Court.

13 I'm suggesting, and in fact I'll ask  
14 you, do you think that's a fair option for an  
15 aggrieved ratepayer?

16 MR. AMAN: I do. Yes, sir, I  
17 absolutely do. Let me explain just a little bit  
18 why. The Local Government Commission in  
19 conjunction with the PUC studied the rates of  
20 the 50 largest authorities in Pennsylvania.  
21 Their conclusion was that rates were not too  
22 high; that there is no motive for an authority  
23 to charge more than it needs. I mean, these  
24 people live in the community. Why would they  
25 charge --

1           Now, you asked me about the 6000-gallon  
2 minimum. There's a conception that if you don't  
3 use the water you shouldn't have to support the  
4 system. But, the economics and the legal  
5 decisions are to the contrary for this reason.  
6 An authority must borrow money and build a plant  
7 for an estimated use, overall use.

8           The availability of the service to a  
9 property is a valuable thing whether the system  
10 is used or not. If a homeowner goes to Florida  
11 for the winter and shuts off his water, the  
12 expenses of the Authority do not change. The  
13 large bulk of their expenditure is in either  
14 capital costs or operating costs which do not  
15 vary based upon the volume of service.

16           REPRESENTATIVE TANGRETTI: What do you  
17 tell the widow who couldn't use possibly a  
18 thousand gallons a month or 2000 in a billing  
19 period, rather, who's on a fixed income and who  
20 gets billed for 6000 gallons and couldn't  
21 possibly use that much. What do you tell that  
22 person?

23           MR. AMAN: Well, tell her this; that an  
24 Authority instead of having a 6000-gallon  
25 minimum could have a flat rate based upon the

1 value to her of the availability -- the value of  
2 her real estate reflects the fact that water and  
3 sewer service are available to her. If she goes  
4 to Florida, if she goes into the hospital and  
5 doesn't use any water, the Authority still has  
6 to pay its bills.

7 REPRESENTATIVE TANGRETTI: We are not  
8 talking about people that go to Florida.

9 MR. AMAN: I'm talking about people  
10 that go to the hospital.

11 REPRESENTATIVE TANGRETTI: I'm talking  
12 about a woman who lives in a house who is on a  
13 fixed income and couldn't possibly use 6000  
14 gallons a billing period.

15 MR. AMAN: But you see what I'm saying  
16 is --

17 REPRESENTATIVE TANGRETTI: And may have  
18 to sell that house because she can't afford to  
19 be in it anymore. One of the factors is that  
20 she pays for 6000 gallons of water that she  
21 isn't using. Now, if I'm going to explain to  
22 her that she should willingly pay for 6000  
23 gallons because it enhances the value of her  
24 property that she's going to have to sell, I  
25 think that's a hard sell for me to make.

1 MR. AMAN: Well --

2 REPRESENTATIVE TANGRETTI: I think it's  
3 an outrage that we have municipal authorities in  
4 this state who feel that they can set rates  
5 without any possible oversight by anybody, when  
6 we have people who are hungry and we have widows  
7 who can't afford those rates. You're advising  
8 this Committee that we should tell them it's a  
9 wonderful service and you should be happy to pay  
10 it. That's outrageous. I think that's an  
11 outrage.

12 MR. AMAN: Well, sir, I respectfully  
13 disagree.

14 CHAIRMAN PECORA: I think I got back  
15 just in time. Any other questions?

16 MR. AMAN: If I can just add one more  
17 comment, the rates of authorities in most cases  
18 are -- The rate structures are designed by  
19 professional engineers. The rate structures are  
20 the result of rate studies in most cases by  
21 engineering firms that are experts in this  
22 field.

23 The problem of the poor ratepayer is  
24 not just the problem of authorities. It is not  
25 just a problem of water and sewer. It is a

1 problem of all utilities. It's a problem of  
2 taxes. The woman who cannot afford to live in  
3 her house, I mean, she does not get a rebate on  
4 her real estate taxes.

5 REPRESENTATIVE TANGRETTI: I can't pass  
6 that up. In every other instance they have the  
7 opportunity to redress that grievance, in every  
8 one of those that you mentioned, either through  
9 the PUC and the Consumer Advocate or through the  
10 direct election of the officials who raise their  
11 taxes; whether it be school board, local, county  
12 or the state legislature. In this one instance,  
13 sir, they do not have a grievance procedure  
14 except to go to court. If she can't pay a water  
15 bill, she sure as hell can't pay an attorney.

16 ( Applause )

17 CHAIRMAN PECORA: We have a question  
18 here from Representative Vance.

19 REPRESENTATIVE VANCE: I noticed in  
20 your testimony at the bottom of page 4 that you  
21 talk about authorities being subjected to the  
22 Open Records Act. I'm interested to know if  
23 that also extends to the fees paid to bond  
24 counsel and underwriters when they do a bond  
25 issue.

1 MR. AMAN: It certainly is. Any  
2 payment made by an authority is a public record.

3 REPRESENTATIVE VANCE: Strange I've  
4 never seen that published. I also would like --

5 MR. AMAN: Now wait a minute. Just  
6 because it's a public record doesn't mean it has  
7 to be published.

8 REPRESENTATIVE VANCE: Doesn't mean it  
9 has to be, but I have never seen it. If it's so  
10 available I wonder why it has not been made  
11 public.

12 MR. AMAN: I think that anybody who  
13 wants to go to a public office and ask when a  
14 bill was paid can find the information. The  
15 press covers these matters. I have seen  
16 articles about exorbitant fees paid to lawyers,  
17 plenty of them.

18 REPRESENTATIVE VANCE: While we're  
19 talking about lawyers, why does the municipal  
20 solicitor also get a fee when there's a bond  
21 issue when, in essence, he gets a fee for being  
22 there and not necessarily for doing any work?

23 MR. AMAN: I think you assumed a number  
24 of things in this statement. First of all, did  
25 you mean municipal solicitor or authority

1 solicitor?

2 REPRESENTATIVE VANCE: I meant the  
3 solicitor for the authority, yes, because they  
4 are hiring a bond counsel, but they are also --  
5 the municipal solicitor or the solicitor for the  
6 authority is also getting a fee.

7 MR. AMAN: There's a very simple answer  
8 to that. The bond counsel is hired to protect  
9 the bondholders. His interest is in -- His  
10 opinion is printed on the back of the bond, and  
11 if anything is wrong with it they sue the bond  
12 counsel. So the bond counsel's job is -- He's  
13 on other side of the transaction.

14 Every transaction in the business world  
15 has people on both sides of it and has lawyers  
16 on both sides of it. The job of the bond  
17 counsel is to make sure the transaction is legal  
18 and to make sure there is proper disclosure of  
19 everything for the purchases of the bond.

20 REPRESENTATIVE VANCE: I didn't ask you  
21 about the bond counsel. I asked you about --

22 MR. AMAN: But the point is that if the  
23 authority solicitor were not involved, the  
24 Authority would not be represented.

25 REPRESENTATIVE VANCE: What work does



1 he actually do for the fee he earns?

2 MR. AMAN: He reviews the documents  
3 that are prepared by bond counsel and he advises  
4 the municipality. I mean, there are points of  
5 conflict between the underwriter and the  
6 authority, and negotiations. There's two sides  
7 of the transaction and two entities; two sides  
8 and they both need counsel.

9 REPRESENTATIVE VANCE: Thank you.

10 MR. AMAN: I think it would be a  
11 conflict of interest for a person to be both  
12 bond counsel and authority solicitor in the same  
13 transaction.

14 REPRESENTATIVE VANCE: I'm not asking  
15 about that.

16 MR. AMAN: You have to have two  
17 lawyers. I mean I'm sorry. That's the way it  
18 is. That's the way the law operates; that both  
19 sides of the transaction have to be represented.

20 CHAIRMAN PECORA: Thank you,  
21 Representative Vance.

22 REPRESENTATIVE ADOLPH: Mr. Aman,  
23 regarding the minimum charge that Representative  
24 Tangretti talked about, the 6000, do you know if  
25 the majority of the Authorities have a minimum

1 or do they charge based upon usage?

2 MR. AMAN: The majority of sewer  
3 authorities, I believe, have a flat rate. They  
4 do not charge based upon gallons used because  
5 gallons used is not that significant. I'm  
6 saying that the significant expense is building  
7 and maintaining the system. It's called a sewer  
8 rent. You're renting the system. So that the  
9 charges often are a flat rate, so many dollars  
10 per quarter, per residence.

11 REPRESENTATIVE ADOLPH: So what you're  
12 saying is, usage has nothing to do with it?

13 MR. AMAN: Usage doesn't affect the  
14 cost of providing -- The lack of usage doesn't  
15 have that much affect upon the bills the  
16 Authority has to pay.

17 REPRESENTATIVE ADOLPH: One other  
18 thing. This gets back to the Guilford Township  
19 apartment owners. You had mentioned that the  
20 law protects multi-family dwellings. If my  
21 hearing was correct, this particular landlord  
22 rented single-family dwellings. Does the act  
23 protect single family dwellings as well as  
24 multi-family dwellings?

25 MR. AMAN: If a person owns a property,

1 a house, and rents the house to somebody else,  
2 he is still responsible for the taxes on that  
3 property. Coming back again to the water and  
4 sewer rent situation --

5 REPRESENTATIVE ADOLPH: What I'm  
6 talking about, Mr. Aman, is notifying the owner  
7 of the property. You mentioned in your  
8 testimony that if the bill doesn't get paid  
9 within 30 days, the Authority will notify the  
10 owner of the property if it's a multi-family  
11 dwelling, okay, within 30 days.

12 This Guilford landlord owned single-  
13 family dwellings. I'm just trying to get to the  
14 point, if you are the owner of single-family  
15 dwelling, do you also get notified by the  
16 Authority that the bill has not been paid?  
17 That's my question.

18 MR. AMAN: The answer is that the  
19 amendment that was negotiated awhile ago  
20 provides that where an Authority has agreed to  
21 provide water service through a separate meter  
22 and a separate service line to a residential  
23 dwelling unit in which the owner does not  
24 reside, I think that was intended to cover  
25 multi-family dwellings, but I don't know why it

1 wouldn't be applicable to a single property.

2 But the point is, if the person owns a  
3 single-family home, he's responsible for the  
4 taxes for it. He can be liened if they aren't  
5 paid. Water and sewer are like tax in that  
6 respect. They can be liened if they are not --  
7 There is no -- Have I answered your question?

8 REPRESENTATIVE ADOLPH: You have  
9 answered my question. See, what the problem is  
10 is that, it went on for a couple years and the  
11 owner of the property did not know that the  
12 bills were not getting paid. But you said under  
13 this amendment that he should have been notified  
14 if he owned multi-family dwellings within 30  
15 days of nonpayment.

16 Now, my question to you was, if these  
17 were not multi-family dwellings, rather being  
18 single-family dwellings, should that Authority  
19 have notified him? That would have taken care  
20 of this man's problem.

21 MR. AMAN: I don't think in the case of  
22 a single-family dwelling that anybody provides  
23 service directly to a tenant. I think that the  
24 bill would probably go to the landlord in all  
25 cases. The owner of the property is the person

1 on the billing records of the Authority. If  
2 somebody goes away for awhile and rents his  
3 house, as I say, he's still subjected to pay for  
4 the taxes and for the water and sewer rents.

5 REPRESENTATIVE ADOLPH: Thank you, Mr.  
6 Aman.

7 CHAIRMAN PECORA: Mr. Aman, some  
8 Authorities bill the owner of the property, some  
9 bill the tenants of the property. So, yours may  
10 bill the property owners. I want to thank you  
11 for giving us your time in discussing these  
12 issues with us. I appreciate it.

13 MR. AMAN: Thank you for the  
14 opportunity to be with you. I will be happy to  
15 work with you. Our association will be happy to  
16 work with you. We are pleased with the results  
17 of the Local Government Commission study, but  
18 minor amendments we will certainly be happy to  
19 discuss, work out language we think will work,  
20 as well as solving problems that you see. Thank  
21 you.

22 CHAIRMAN PECORA: Next on the agenda is  
23 Teresa Rissmiller, Vice President of  
24 Pennsylvania Rural Water Association.

25 MS. RISSMILLER: Good afternoon,

1 members of the Committee and members of the  
2 public. My name is Teresa Rissmiller and I am  
3 currently the Manager of the Mount Joy Township  
4 Authority located in Lancaster County. We have  
5 approximately 800 sewer customers and 400 water  
6 customers. I'm also Vice President of the  
7 Pennsylvania Rural Water Association which was  
8 established in 1987 for the expressed purpose of  
9 providing technical assistance and training to  
10 small water and wastewater system across the  
11 state. We oftentimes are the only resources  
12 that small systems have because of their limited  
13 resources, whether it be financial or personnel-  
14 wise. I also chair the Act 5, TAC for the  
15 Technical Assistance Center for small water  
16 systems.

17 I appreciate the opportunity to speak  
18 here today regarding the proposed changes to the  
19 Municipality Authorities Act of 1945 and the  
20 increased financial burdens of small rural and  
21 wastewater systems in Pennsylvania.

22 I'm here as a voice for rural  
23 Pennsylvanians. Our state has the largest rural  
24 population outside the metropolitan area of any  
25 state of the United States. It is often the

1 rural community which with limited resources  
2 ends up with a whisper next to the roar of the  
3 large municipal systems. Although many of the  
4 proposed changes of the Municipality Authorities  
5 Act of 1945 may be necessary for larger  
6 metropolitan areas that might have abused the  
7 act, they will unfortunately add significant  
8 financial and administrative burdens to small  
9 authorities without significant benefit.

10 The needs of the two different areas  
11 vary greatly. It is most unlikely that a rural  
12 system in Cambria County serving less than one  
13 hundred people but have the same problems as a  
14 large system in Allegheny County serving over  
15 250,000 people. The needs are different and  
16 needs to be addressed accordingly.

17 As costs continue to increase, systems  
18 will look for alternatives. Options available  
19 to small systems to lighten the financial  
20 burdens should include consolidation, innovative  
21 ideas and technologies, education and  
22 incentives. Consolidation of systems will more  
23 than likely result in the creation of regional  
24 authorities, which will generate the need for  
25 representation of the small communities on the

1 Authority Board. Many large systems are however  
2 reluctant to provide the representation for  
3 small systems. In all fairness, small  
4 communities are entitled to representation.

5 I understand, as in the case with the  
6 Chester Authority with 37 communities, a board  
7 that size would be totally unworkable. But, we  
8 do feel that regional representation could be  
9 considered in these cases where smaller  
10 communities is brought in with larger systems.

11 Over the decades, independent community  
12 spirited rural Americans founded water systems  
13 with the expressed purpose of providing a safe,  
14 quality of abundant water supply. When the  
15 majority of small systems in this Commonwealth  
16 came into existence, issues like operations,  
17 maintenance and management were basic and the  
18 systems were safe and viable as many of them are  
19 still today, but now the rules have changed.

20 The onslaught of new regulations such  
21 as the Safe Drinking Water Act mean additional  
22 regulatory burdens on systems. The results of  
23 this increased regulation, higher operating cost  
24 and the need for continued capital investments  
25 to meet compliance requirements. Let me just



1 name a few of the new requirements that small  
2 water systems are looking at.

3 The Total Coliform Rule, Surface Water  
4 Treatment Rule, the Lead and Copper Rule, Phase  
5 II and Phase V Rule, the Radon Rule, and on top  
6 of that, every five years we are going to be  
7 required to test for 13 new contaminants. We  
8 don't find the scientific basis for many of  
9 these issues that are being regulated.

10 For rural water systems, the cost to  
11 test and monitor water will soon exceed the cost  
12 to produce water. In the near future systems  
13 will discover how much the additional testing  
14 monitoring, treating, capital expenditure,  
15 operation and maintenance costs their customers  
16 can absorb.

17 Like small systems, state and federal  
18 regulators are unable to implement the Safe  
19 Drinking Water Act. Legislators in this state  
20 are struggling to find funding to retain  
21 climacy. The projected annual cost for the  
22 state to implement the previous state of  
23 requirements will jump from a current  
24 \$6.5 million to over \$12 million. In this era  
25 of tight budgets and anemic economic growth, can

1 this Commonwealth really afford these regulatory  
2 burdens?

3 I'd like to take the opportunity at  
4 this time to address some of the questions that  
5 were raised in previous testimony. Just to give  
6 you an idea of what our authority is doing, we  
7 currently have less than one percent delinquent  
8 accounts. We have run into the problem with  
9 landlords and tenants. We have agreed to  
10 provide service to the owner of the property,  
11 but because it has created problems with  
12 tenants, we have agreed to bill both the  
13 landlord and the tenant. We meet with the  
14 landlord. We discuss the requirements of the  
15 Authority and he may choose whether he is going  
16 to pay the bill or whether the tenant is going  
17 to pay the bill. We are aware of that and that  
18 is kept on record.

19 The landlord always receives a copy of  
20 the bill, but if they request that we send a  
21 copy to the tenant, we do that. In many cases  
22 the tenant pays the bill. They are very timely  
23 and there are no problems. But there have been  
24 previous instances where we had problems with  
25 tenants leaving town and we had no notification

1 of that. We have no recourse on a tenant, but  
2 we do have recourse on an owner. So, we have  
3 tried to work out this problem with our owners  
4 on a one-to-one basis, and it has proven very  
5 successful for us and our tenant problems and  
6 landlord problems really diminished.

7 As far as consideration of rate  
8 regulations, I understand the need where some  
9 municipalities are charging greater rates than  
10 what they should be. It will be a financial  
11 burden for small systems to meet the  
12 requirements of the PUC regulations. They have  
13 limited resources, with finances and personnel.  
14 Many of them would have to go to extreme  
15 financial burden to do that.

16 What you will find with many small  
17 systems is that they are not overcharging. They  
18 are undercharging. Many times you hear people  
19 say, how can I charge my neighbor this amount of  
20 money because they are on a limited income? So  
21 and so isn't working. With small systems you  
22 don't have the level of management that you do  
23 in the larger systems, but it's the nature of  
24 the beast.

25 I should caution you that water rates

1 are going to be rising at least two or three  
2 times what they currently are over the next ten  
3 years because of all of the regulations I've  
4 named to you. Costs for testing and monitoring  
5 is increasing dramatically, and small systems  
6 will not realize the economies of scale that  
7 larger systems do and their rates will increase  
8 at a greater rate than larger systems because it  
9 cannot be absorbed by the fewer customers.  
10 Forty customers cannot afford to pay the same  
11 costs the larger system does. Now, granted they  
12 do more testing, but on the same basis the  
13 economies of scales just do not provide  
14 opportunities to the smaller systems.

15 To bring you up to date, maybe a little  
16 bit on the regionalization program, I just  
17 talked to DER. We are having our Board meeting  
18 this next Wednesday. The regionalization grant  
19 program and Act 5 was supposed to receive  
20 \$450,000 a year for two years. The money was  
21 frozen in budgetary reserve.

22 It's my understanding that through  
23 efforts from many organizations that the monies  
24 from last year have been released and extended,  
25 and \$450,000 was granted to DER to implement the

1 regionalization grant program that was addressed  
2 in Act 5. It's also my understanding that they  
3 are expecting an additional funding of  
4 approximately four hundred fifty to \$500,000  
5 this year for the same efforts.

6 There also was a special formulation of  
7 authorities grant program. I can't give you the  
8 specific amounts. There were two special grant  
9 programs, wellhead protection and water resource  
10 management and formation of water authorities.  
11 There was 250,000 grant monies in the one,  
12 350,000 in the other. Formation of authorities  
13 did not receive, I think, anymore than one or  
14 two applications. We felt the reason for that  
15 was because a lot of people would regionalize  
16 before they would form an authority.

17 The wellhead protection and grant  
18 program, that's where you are protecting your  
19 public water supply by controlling contaminants  
20 that would feed into your water source. I  
21 believe ten to twelve applications were received  
22 and I believe they funded five. This is for  
23 county wellhead protection plans.

24 Our association, Pennsylvania Rural  
25 Water Association, has applied to Farmers Home

1 Administration in 1993 for regionalization grant  
2 for 19 small water systems in Cambria County.  
3 We are looking at doing interviews with the  
4 systems, determining what the needs are, the  
5 needs assessment, doing evaluations of systems  
6 and making recommendations on how they can be  
7 combined into a regional effort. Some of them  
8 will be by physical connection of systems. Some  
9 of them may be by management umbrellas.

10 We are hoping to implement a program of  
11 consolidation of services, hopefully cooperative  
12 purchasing effort. We are planning in the end  
13 of 1993 for the 1994 fiscal year to submit a  
14 grant application to Farmers Home for a  
15 technical assistance grant where we will be  
16 writing and distributing through workshops  
17 administrative, financial and managerial papers,  
18 instructional materials for small systems. We  
19 have found that that seems to be the area where  
20 small systems need most of the help, so it does  
21 fall within their criteria. That is another one  
22 of the things that we are planning on doing.

23 I heartily recommend that the members  
24 of this legislature in their efforts to protect  
25 the public health, safety and welfare, establish

1 new regulations that are practical, reasonable  
2 and affordable. The need is not to mandate, but  
3 to educate. The Pennsylvania Rural Water  
4 Association is prepared to assist you in that  
5 effort. Thank you for this opportunity to make  
6 this speech.

7 CHAIRMAN PECORA: Thank you, Teresa.  
8 Thank you for the information. Any questions?  
9 Representative Sather.

10 REPRESENTATIVE SATHER: Thank you very  
11 much. For one who represents a large rural  
12 district, I want to see what your thoughts are  
13 on this matter. I have a clipping here from a  
14 local paper and it tells that Pennsylvania is  
15 land of independent thinkers which is why the  
16 state may never see large regional water and  
17 sewer authorities. State official visiting in  
18 Altoona say, that you'll never get it, quoting  
19 Hugh Archer, Regional Director of the State  
20 Department of Environmental Resources. There's  
21 strong, individualistic traits in Pennsylvania.  
22 There's a fear of their destiny being at someone  
23 else's hands.

24 Would you care to comment on that  
25 statement and from a perspective of rural

1 authorities, rural water authorities?

2 MS. RISSMILLER: That's true.

3 REPRESENTATIVE SATHER: Is there a  
4 problem with individualistic, you know, being a  
5 free thinker?

6 MS. RISSMILLER: It can be overcome.  
7 The problem is, we are not going to change the  
8 way government has been established in Penn-  
9 sylvania. It was established that government is  
10 taken down to the local level. Many other  
11 states take it down to a county level, so they  
12 don't have the number of governments operating  
13 in the state.

14 What's going to happen is, through the  
15 increased expenses with a lot of these  
16 regulatory requirements, small systems will not  
17 remain viable. They might now be able to afford  
18 the improvements necessary for this first round  
19 of rules. They will be required to make capital  
20 investments many of them to meet the compliance  
21 requirements. Many of the federal regulations  
22 allow for waivers, exemptions and variances.

23 DER has taken a position with some of  
24 the rules that they will not grant them. So,  
25 what's going to happen is, we will now see small



1 systems incurring debt to make capital  
2 improvements. Okay, they might still be all  
3 right and safe with the first round of  
4 requirements, but when we get to round three,  
5 four and five and they need to make capital  
6 contributions to their system for improvements,  
7 they now become not viable because their  
8 customer base can no longer afford all of the  
9 improvements to meet compliance. They will be  
10 forced, themselves, they will be forced into  
11 regionalization because they will not be able to  
12 stand alone.

13 REPRESENTATIVE SATHER: So regional to  
14 you would mean county level? Would that be your  
15 perception?

16 MS. RISSMILLER: Not necessarily. That  
17 county works. We are going to try to -- And  
18 understand, even in the 19 systems in Cambria  
19 County we are working with, we're probably not  
20 going to be able to get one authority, one  
21 regional authority, one consolidated system. We  
22 might be able to get three or four, but it's the  
23 first step and you kind of take what you can  
24 get.

25 The efforts with -- I worked in a

1 project in Lancaster County. I didn't even know  
2 that system was there, forty customers that  
3 connected to about a 400-customer system. The  
4 obstacles to get that to happen, not between the  
5 two municipalities, but with government, the  
6 County Planning Commissions, the Ag Reserve  
7 Boards and all of this stuff was horrendous.  
8 It's worse than a million dollar project I'm  
9 working on for my authority. It was a small  
10 connection. There are many things that will  
11 prohibit regionalization.

12 REPRESENTATIVE SATHER: Thank you.

13 CHAIRMAN PECORA: Thank you,  
14 Representative. Any other questions?

15 ( No audible response. )

16 CHAIRMAN PECORA: Seeing none, thank  
17 you, Teresa. We appreciate you participating.

18 ( Short recess occurred )

19 CHAIRMAN PECORA: I would like to  
20 invite Gerald Robinson, Chairman of the Newport  
21 Borough Water Authority.

22 MR. ROBINSON: Good afternoon, Ladies  
23 and Gentlemen. On behalf of Newport Borough  
24 Water Authority, I would like to thank you for  
25 this opportunity to express our views and

1 opinions regarding municipal authority  
2 operations.

3 My name is Jerry Robinson. I'm  
4 Chairman of the Authority. I have served on the  
5 Newport Borough Water Authority since December  
6 1978. That's a sentence of almost 15 years.  
7 During that time I have been involved in two  
8 major facility treatment and alternate source  
9 development projects, a major emergency  
10 treatment project resulting from a yet  
11 undetermined pollution from a petroleum product;  
12 a major distribution improvement, and a  
13 multitude of service problems that are incumbent  
14 to community water systems. Very recently our  
15 authority members were the subject of an intense  
16 investigation by the State Ethics Commission for  
17 allegations of improprieties in regard to  
18 compensation.

19 Newport Borough Water Authority  
20 provides water to about 1000 customers serving a  
21 population of about 3200 citizens in Newport  
22 Borough in its entirety and parts of Oliver and  
23 Howe Townships in Perry County. Newport Borough  
24 Water Authority is an operating authority,  
25 although I prefer to consider it a working

1 authority.

2 I serve with four other members whose  
3 terms in office various from less than a year's  
4 service to over seven years service. The  
5 forerunner of the present Authority was formed  
6 in October 1954 as a lease-back authority for  
7 Newport Borough when the former Newport Home  
8 Water Company, a privately-owned and operated  
9 water company ceased operations.

10 In April of 1980, pursuant to a  
11 termination agreement between the Borough and  
12 the Authority, the Authority acquired from the  
13 Borough all easements and other rights and  
14 properties of the borough necessary for the  
15 maintenance and operation of the system.

16 This historical capsule is offered to  
17 demonstrate complete transformation of a small  
18 rural, community water system since the  
19 inception of the Municipal Authorities Act of  
20 1945.

21 I previously mentioned that the members  
22 of our Authority were the subject of an  
23 investigation by the State Ethics Commission.  
24 The State Ethics Commission contacted me last  
25 fall on the basis of an anonymous complaint

1 alleging that the Authority had improperly  
2 established compensation with the members of the  
3 Board. Well, as a matter of fact, we did. I  
4 hasten to point out, however, that we accepted  
5 no money from the Authority, nor did we provide  
6 members with four-wheel drive pickups with a new  
7 gun rack or the like, but rather forgave the  
8 water portion of the combined water and sewerage  
9 services quarterly billing. The total amount of  
10 the water portion of all members combined for a  
11 six-quarter period, a year and a half, amounted  
12 to slightly over \$500.00. Now I stress, this  
13 was the combined total for a period of a year  
14 and a half's time.

15 I further hasten to add that this  
16 action was taken after reviewing Section 7,  
17 Subsection C which states in part, the Board  
18 shall fix and determine the number of officers,  
19 agents and employees of the Authority and their  
20 respective powers, duties and compensation, and  
21 may appoint to such office or offices any member  
22 of the Board with such powers, duties and  
23 compensation as the Board may deem proper.

24 The section, of course, that I'm  
25 referring to is from the Municipal Authorities

1 Act of 1945. The action to take a form of  
2 compensation was done to provide encouragement  
3 to the ever dwindling pool of citizens who were  
4 willing to take the responsibility, harassment  
5 and heartache of helping their community. Our  
6 governing body, Newport Borough Council, has for  
7 over ten years seen fit to take a salary \$50 per  
8 month per member. Certainly, it could not be  
9 said that the Authority was trying to keep up  
10 with Joneses on Borough Council.

11 After many interviews and an  
12 administrative hearing, State Ethics Commission  
13 completed their investigation and reported their  
14 decision. While the 14-page findings indicated  
15 the action was inappropriate, no penalties were  
16 assessed. The effects to the members nearly  
17 resulted in a mass resignation, during a period  
18 of time when we were trying to complete a  
19 project to satisfy a consent order with the  
20 Department of Environmental Resources.

21 For anybody listening who may have  
22 experienced all the vagaries and ramifications  
23 of completing a project that has a time  
24 schedule, rife with trigger dates for civil  
25 penalties, I'm sure you can appreciate how

1     distracting and difficult an on-going ethics  
2     investigation could be.

3             If you'll indulge me a brief moment I  
4     would like to read just a few entries in the  
5     Authority's minute book before an earlier time,  
6     a time that could easily be referred to as the  
7     good old days by nearly anybody who today serves  
8     as an authority member. I assure you these are  
9     very brief.

10            Minutes of the December 1958 meeting.  
11     A meeting of the Newport Borough Water Authority  
12     was held on Friday evening, December 2nd, 1958,  
13     at 8 o'clock p.m. in the Office of the Burgess.  
14     The authority members that were present are  
15     listed. The Secretary reported that the public  
16     notice of the meeting has been given pursuant to  
17     the requirements of the Municipal Authorities  
18     Act as amended. The minutes of the November  
19     4th, 1958 meeting were read and approved.  
20     Discussion of the springs and the reservoir area  
21     was held. There being no further business the  
22     meeting was adjourned.

23            I want to cite one other. July 6th of  
24     1971, 13 years later. There being no business  
25     before the Board, the July meeting of Newport

1 Borough Water Authority was canceled. I have  
2 other references here where a meeting was not  
3 held because a quorum wasn't present. That's  
4 not the way it is today, I can assure you. Our  
5 meetings are not that simple because of the  
6 change in the regulations.

7 Earlier on I made a point of my  
8 description of our Municipal Authority. I said  
9 we are a working authority. Because our  
10 community is small and, consequently, so is our  
11 water system, we cannot justify large expenses  
12 that would be entailed with a resident engineer  
13 or large maintenance staff. For these reasons  
14 we don't have a fleet of equipment or high  
15 salaried employees. Our two full-time operation  
16 personnel use their own vehicles. All of our  
17 service problems are contracted out to local  
18 businessmen and our office is only open four  
19 hours a day, five days a week.

20 We are by any standard a small  
21 community water system, but the water quality  
22 requirements that are required for Erie,  
23 Pittsburgh, Pottstown or Harrisburg are also met  
24 by Newport, Galeton, Birdsboro, and Sandy Lake.  
25 By the same token, the same service requests



1 that come to large authorities come to small  
2 authorities.

3           However, in place of a large staff of  
4 employees you will find in smaller communities  
5 people like those who serve on our authority.  
6 People whose phone rings during the 11 o'clock  
7 news; people who help flush hot fire hydrants;  
8 people who help to flag traffic so in-street  
9 repairs can be made.

10           In closing, I don't have a mission to  
11 paint the plight of municipal service providers.  
12 However, with the rigid standards we live with  
13 concerning quality of services provided, bond  
14 issue, financial requirements, employee-safe  
15 working conditions, ethic standards that may  
16 appear to conflict with other legislation,  
17 certainly any reasonable person can see that the  
18 day-to-day business of municipal authorities  
19 have changed dramatically in the recent past.

20           I would only hope that sound reasoning  
21 and the modicum of common sense would be the  
22 parents of future legislation that municipal  
23 authorities are required to nurture. Thank you.

24           CHAIRMAN PECORA: Thank you, Mr.  
25 Robinson. Any questions?

1 ( No audible response )

2 CHAIRMAN PECORA: Seeing none, I want  
3 to thank you for bringing that information to  
4 us.

5 Next on the agenda is an Anthony J.  
6 Yankevich, Clearfield County Commissioner. Do  
7 you have copies of your --

8 MR. YANKEVICH: I apologize, Mr.  
9 Pecora. This hearing came to me late.

10 CHAIRMAN PECORA: That's all right.  
11 You don't have to apologize. Is it all right to  
12 make a copy of it after you speak?

13 MR. YANKEVICH: Is it all right to make  
14 a copy of what?

15 CHAIRMAN PECORA: Of your presentation.

16 MR. YANKEVICH: Yes. I don't have a  
17 presentation. I'm going to bring before the  
18 Committee what I hope are some very strong  
19 issues, and hopefully, my goal of testimony here  
20 is to convince you members of the Committee that  
21 we need some major changes with the Municipal  
22 Authorities Act.

23 When I called your staff member Dave  
24 Lucas and asked that I could be on the agenda,  
25 he sent me a copy of it. The first thing that I

1 observed when I got the agenda is that, most of  
2 the people giving testimony here today are  
3 either people that would promote the status quo  
4 with regard to municipal authorities, their  
5 managers, their chairmen of the boards of  
6 municipalities, or solicitors of associations  
7 representing these municipalities.

8 Not only am I a commissioner, but I am  
9 a board member of Clearfield Municipal  
10 Authority. What I want to do, if you'll allow  
11 me, is to relate a horror story and, hopefully,  
12 with the result of this story, convince you  
13 people that we need some major changes with the  
14 Municipal Authorities Act.

15 I have been on the Clearfield Municipal  
16 Authority since 1990. Prior to that I helped  
17 organize a customers' group to stop a major  
18 project that was being considered by Clearfield  
19 Municipal Authority, and that project was the  
20 expansion of a water supply secondary reservoir.  
21 I'm not sure, maybe you people are aware of it,  
22 but it was called Moose Creek Expansion Project  
23 that was one of the first projects to be funded  
24 under PennVest.

25 That project was going to cost upwards

1 of \$15 million, and then in addition to that  
2 project, there were going to be two filtration  
3 plants built at a cost of \$5 million each, to be  
4 funded over a 20-year period with PennVest and  
5 bond issues.

6 Clearfield Municipal Authority has  
7 close to 5000 customers. We organized because  
8 there wasn't a means of stopping a project that  
9 in the customers' eyes was not only unnecessary,  
10 but wasteful spending of not only customers'  
11 money, but taxpayers' money because the project  
12 was being funded by PennVest.

13 The real problem was that we had an  
14 aging distribution system that was losing water.  
15 We had a system that was drawing two million  
16 gallons a day out of the reservoirs and only  
17 selling a million gallons a day to the  
18 customers, but because municipal authorities in  
19 my opinion have very little in the way of  
20 accountability, are sort of insulated from the  
21 municipalities that created them, and the  
22 members are appointed by those creating  
23 authorities, I gave up two years of my life  
24 fighting to stop that project and organizing the  
25 customers.

1 I'm here today to speak on behalf of  
2 the customers, as an advocate of customers not  
3 only for Clearfield Municipal Authority, but the  
4 other authorities within Clearfield County and  
5 the State of Pennsylvania. What was on the  
6 books, gentlemen, was \$25 million of debt for  
7 5000 customers. Without interest, that was a  
8 million two hundred and fifty thousand a year,  
9 for an additional \$250 a year per customer to  
10 support that project, or those projects.

11 I'll give you a little bit of history.  
12 Clearfield Municipal Authority went from an  
13 operating budget of around a half million  
14 dollars in 1989 to its present operating budget  
15 of \$2 million. I'm sorry; a total budget of \$2  
16 million, a million in operating expenses and  
17 over a million of debt service.

18 We were successful in stopping the  
19 Moose Creek Project at a cost of \$4 million to  
20 the customers. But in the customer's eyes it  
21 was better to minimize a loss than take a four  
22 million dollar loss than proceed with a project  
23 that wasn't necessary at a cost of \$15 million,  
24 and not have money available to replace lines.

25 The issues that I want to bring before

1 the Committee, and I apologize, I haven't had a  
2 chance to review House Resolution 354. I've  
3 waited for five years for something like this to  
4 bring before a committee that's considering  
5 changing or amending the Municipal Authorities  
6 Act. I could have brought a bus load of  
7 customers here. I'm hopefully speaking with a  
8 voice of customers throughout municipalities in  
9 Pennsylvania.

10 This issue of accountability, it has to  
11 be addressed. Authorities have to be made  
12 accountable. A recommendation that I would  
13 suggest for accountability, we allow the  
14 creating municipalities to make the  
15 appointments. If they are allowed to make the  
16 appointments, why not allow those creating  
17 municipalities to remove board members? Why do  
18 the customers have to go to court or have to  
19 organize to remove board members that are not  
20 doing the will of the people?

21 In some respects I'm not advocating  
22 completely overthrowing authorities or  
23 advocating overthrowing or throwing out the  
24 Municipal Authorities Act, but I think it's  
25 somewhat of a cop-out that we created

1 authorities initially to get around the debt  
2 issue problem, but in the process -- and we also  
3 were supposed to create authorities to eliminate  
4 politics. Neither one of those are being  
5 accomplished in my opinion. If you can't give  
6 the creating municipalities the power to remove  
7 authority members, then I think the authority  
8 members ought to be elected positions.

9           You make a decision with regard to  
10 rates, with regard to improvements, but those  
11 people that make those decisions in some cases  
12 can take authority or power and ignore what the  
13 people want like in the case of Clearfield  
14 Municipal Authority. I'm an elected official.  
15 If I make a bad decision -- and a lot of the  
16 decisions that I have to make are decisions that  
17 aren't easy; whether or not to provide certain  
18 services to the constituents and raise taxes.  
19 It should be no different for authorities. They  
20 are governmental units providing services. I  
21 think where we lose sight is that, raising rates  
22 is no different than raising taxes. You ought  
23 to be able to pay the consequences.

24           Again, I think one of the things to  
25 change accountability is to make it an elected

1 position. Maybe a three- or four-year term and  
2 have those terms staggered. If it's a joint  
3 authority, have those positions elected by the  
4 electorate that's served by those customers.

5 As far as rates, with Clearfield  
6 Municipal Authority we went from an average of  
7 maybe two dollars per thousand gallons to well  
8 over six dollars per thousand gallons because of  
9 what happened with Moose Creek Project. Had  
10 that project not been stopped, the rates would  
11 have been well over nine dollars per thousand  
12 gallons.

13 I don't think Clearfield Municipal  
14 Authority was an exception. I think Clearfield  
15 Municipal Authority is the typical type of  
16 operating authority where you have board members  
17 that show up once a month. They have got  
18 businesses and other interests. They are well-  
19 intentioned members, but gentlemen, frankly,  
20 when you show up once a month at a meeting and  
21 you have a professional engineer and maybe some  
22 professional staff that are really making the  
23 recommendations, you more or less go with those  
24 recommendations.

25 In the case of Clearfield Municipal



1 Authority, this engineer was looking after his  
2 ownself interest. He promoted a project that  
3 was unnecessary; got the project voted on with  
4 the Authority, and again, put on the books  
5 \$25 million of debt that the customers had no  
6 choice and had no say in.

7           If you are going to allow the  
8 authorities to set rates, somebody should have  
9 oversight. I'm not promoting that the PUC have  
10 oversight, but maybe the creating municipality  
11 should have oversight. Maybe they should be  
12 allowed to review the rate increase proposed by  
13 the Authorities. And I think it's up to the  
14 authority board members to convince not only the  
15 customers, but that creating municipality that  
16 the rate structure is justified.

17           It might be expensive and cumbersome  
18 for smaller authorities to have to go before the  
19 PUC, but I think, gentlemen, it's ludicrous to  
20 say that a privately-run business/utility must  
21 go before the PUC for rate increases, but we  
22 have all these municipalities throughout  
23 Pennsylvania that don't have to go to anybody  
24 for a rate increase.

25           The same thing with debt. I think a

1 way of solving the problem with these projects  
2 that are being promoted in some cases for the  
3 benefit of engineers and other parties that have  
4 an interest in the fees that are earned from  
5 major projects is to allow the customers -- I  
6 hear this bantered around, the customers own the  
7 system. That's hogwash, gentlemen. The  
8 customers don't own the system. They have no  
9 say in how that system runs.

10 You can attend authority meetings.  
11 They are open to the public. They are governed  
12 by the Sunshine Act, but those seven members  
13 when it comes right down to it, they are of the  
14 mind and persuasion they can do just about  
15 anything they want within the legal limits of  
16 the law. If you're going to allow an Authority  
17 to issue \$25 million in debt, why not put it on  
18 the referendum and let the customers vote on it?  
19 I'll point at an example.

20 This year the state legislature put on  
21 the referendum the vote whether or not to issue  
22 bonds to pay the men that served in Desert  
23 Storm. You people didn't make that decision.  
24 The people of this Commonwealth did. I suggest  
25 that the customers of these municipal

1 authorities should be allowed to vote on any  
2 proposed debt to be issued, and then leave it up  
3 to the Authority to convince those customers  
4 that that project that they are pushing for and  
5 recommending can be justified and the debt  
6 that's going to be incurred and the rate  
7 increases can be justified. Don't give seven  
8 members or nine members of an Authority  
9 unlimited power to issue bonds.

10 In Clearfield Municipal Authority  
11 service area we put a financial burden on our  
12 customers. We were successful in stopping  
13 wasteful spending of customers' and taxpayers'  
14 dollars, but I'm wondering how many other  
15 authorities out there where the customers  
16 weren't successful and didn't stop? There's a  
17 premise that every time rate increases are  
18 affected that they are justified. That's in my  
19 opinion not the case.

20 CHAIRMAN PECORA: Thank you. I thank  
21 you, Commissioner. Any questions?  
22 Representative Melio.

23 REPRESENTATIVE MELIO: Can I call you  
24 Tony?

25 MR. YANKEVICH: Yes.

1           REPRESENTATIVE MELIO: Tony, do you  
2 know of any other counties that have similar  
3 problems?

4           MR. YANKEVICH: I don't know of no  
5 other counties that has similar problems, but I  
6 do know within Clearfield County we have  
7 municipal authorities that provide water and  
8 sewer services. We also have a city that  
9 doesn't have an authority. They run their own  
10 water and sewer departments. I maintain that  
11 you don't need to create authorities to provide  
12 those services.

13           Just like a county has separate funds  
14 that are only to be used for providing a  
15 function or a service, boroughs and townships  
16 could do the same. In certain respects I think  
17 the creation of authorities, it's a cop-out. If  
18 you'll allow me, I'll give you something that's  
19 on the books right now that I think confirms  
20 that.

21           Clearfield Municipal Authority is a  
22 joint authority between Clearfield Borough and  
23 Lawrence Township. We provide water and we also  
24 provide the interceptor lines and the sewage  
25 treatment plants, but the borough and the

1 township maintain the sewer lines.

2           Guess what's happened over the last 30  
3 or 40 years? Not wanting to raise taxes, those  
4 elected officials neglected replacement and  
5 maintaining of the lines. Now there's a  
6 movement or a push to have the authority take  
7 over maintaining those sewer lines, so that  
8 seven members on an Authority can raise the  
9 rates and take the heat instead of the elected  
10 officials that should have maintained those  
11 sewer lines and should have raised whatever it  
12 is, taxes or service charges to the customers  
13 that benefited from that service.

14           In Clearfield County we have a mix of  
15 authorities and we have had problems with the  
16 authorities and with customers and the rate  
17 structures. Again, I would submit that  
18 Clearfield Municipal Authority is not an  
19 isolated case. I think it's the typical  
20 authority. I think you people wouldn't be  
21 having this hearing if those complaints haven't  
22 been coming to you.

23           Four years ago the town just about had  
24 a lynching because of this Moose Creek Project.  
25 There was no means of stopping it. We did go to

1 court, but it was costly. We didn't have the  
2 money. There has to be some changes in the  
3 Municipal Authorities Act.

4 REPRESENTATIVE MELIO: The reason I ask  
5 was, Bucks County, the County Commissioner Andy  
6 Warren, they had a similar problem with one of  
7 the water projects in Bucks County. I thought  
8 maybe you had talked it over with him.

9 CHAIRMAN PECORA: Representative  
10 Sather.

11 REPRESENTATIVE SATHER: Commissioner,  
12 Tony, I want to believe that the majority of the  
13 authorities throughout the Commonwealth are  
14 operating according to the statutes and  
15 according to the regulations with only a few  
16 incidents; not too many incidents of the type  
17 that you're speaking of. I need to know this.

18 Was there any consent orders where DER  
19 or any state agency, state government that said  
20 they had the authority -- municipal authority  
21 under orders that they had to proceed, that type  
22 of arrangement?

23 MR. YANKEVICH: Indirectly,  
24 Representative. Back in 1988 we had an outbreak  
25 of giardiasis and a consent order was entered

1 into. What happened afterwards is so absurd;  
2 that instead of choosing as a priority filtering  
3 the water, they chose as a priority expanding  
4 the water supply. It was a main reservoir that  
5 they didn't find any giardiases in and a  
6 secondary reservoir that they wanted to expand.  
7 And the feeling of customers in our area was  
8 that those distribution lines may have been some  
9 of the problem with regard to the giardiasis  
10 outbreak, but other than that consent order, no.

11 Just to give you a little bit of  
12 history, the engineer that pushed for this  
13 project also pushed for a project up near Erie,  
14 Washington Borough, or whatever it was, and it  
15 was another one of those projects that was  
16 unnecessary and a burden to the customers and  
17 was stopped. The same engineer that started the  
18 Moose Creek Project in Clearfield Municipal  
19 Authority was turned down for funding by the  
20 Farmers Home Administration back in the early  
21 '70's, and the Farmers Home told them you don't  
22 have a supply problem. You have a distribution  
23 system problem. Then again, later on, ten years  
24 this thing came up again.

25 PennVest is a good agency for funding

1 projects like water and sewer, but that low  
2 interest money has the effect of pushing through  
3 projects in some cases that might be  
4 unnecessary. Without allowing customers to have  
5 some kind of voice in these type of projects and  
6 bond issue and debt, these problems are going to  
7 occur. The burdens, again raising the rates for  
8 water and sewer service, are no different than  
9 raising taxes to provide other government  
10 services.

11 REPRESENTATIVE SATHER: Well, the  
12 document we have here that's been prepared, as  
13 you said you have not had an opportunity to look  
14 at House Resolution 345. But No. 9, ratemaking,  
15 it does to a degree address some of your  
16 concerns. I was curious as to whether or not  
17 there was something similar that DER, or some  
18 agency had involved, but that was a precursor of  
19 this?

20 MR. YANKEVICH: Unfortunately, DER  
21 would tell a municipal authority, we would like  
22 to see a cost-effective solution to your  
23 problem, but if you choose a more expensive  
24 solution to the problem, it's not our place to  
25 stop it. That's up to the Board, in other



1 words, to decide what solution to a problem. In  
2 our case there really wasn't a supply problem.  
3 There was a distribution system problem, but the  
4 customers had no means of redress other than  
5 through the courts.

6 REPRESENTATIVE SATHER: Thank you, Mr.  
7 Chairman.

8 CHAIRMAN PECORA: Thank you. There  
9 being no other questions, I thank you,  
10 Commissioner. Appreciate you coming here and  
11 giving us your time.

12 Next on the agenda is Jeffrey J.  
13 Valocchi, Solicitor for Downingtown Municipal  
14 Water Authority.

15 MR. VALOCCHI: Thank you, Senator.  
16 Gentlemen, thank you for the opportunity to be  
17 here. What I would like to do, I've given a  
18 statement as well as copies and I ask you  
19 sincerely to read it. I'm going to summarize as  
20 much of it as possible so as not to take up too  
21 much of your time.

22 First of all, just a little bit of  
23 background. The Downingtown Water Authority was  
24 formed in 1987. It was formed specifically to  
25 review the water situation, to take care of the

1 water situation problems in Downingtown and to  
2 stablilize the system.

3 The members appointed, Board members  
4 were appointed by the then Borough Council, five  
5 members were appointed. They were all from  
6 varying background. We have people from  
7 engineering, financial, employee relationship,  
8 local government background, as well as business  
9 administration. These five people were hand  
10 picked because they brought to the table a  
11 little bit of everything as is necessary to run  
12 a system such as a water system.

13 Now, these members, and I've heard a  
14 lot of testimony in Montgomery County as well as  
15 a little bit today, these members were pursuant  
16 to the act. There's nothing wrong with the act  
17 and if followed there's no problem appointed to  
18 staggered terms, which means that each year any  
19 Borough Council get rid of one member. If it's  
20 a two-year Borough Council term, each council  
21 member has something to say about two  
22 appointments. Commissioners, if it's a four-  
23 year term, in their term they have something to  
24 say about four members.

25 This authority in its six years lost

1 one member to death, a person appointed to his  
2 place, and has remained the same through various  
3 councils. There have been a fair amount of  
4 changes on council and our borough from the time  
5 of inception of this Authority to the present  
6 and these members each year will be appointed.  
7 They are reappointed after consideration by  
8 council; after looking what they have done, and  
9 making a decision politically as well as  
10 financially, as well as looking at the system,  
11 are these people doing their job. Continuity is  
12 there and it's important.

13 In the six years that this Authority  
14 has been in place, the first two years of which  
15 were, in all practicality, spent trying to get  
16 their feet on the ground, learning the system,  
17 learning the ropes, and doing some studies, so  
18 really, most of the work they have done was in  
19 the last four years.

20 Within the last four years they've  
21 solved probably 70 percent of the problems that  
22 have been plaguing that water system for in  
23 excess of a decade that weren't addressed by  
24 Borough Council and weren't addressed by Borough  
25 Council for various reasons. Number 1, a lot of

1 times they don't have the time to sit down and  
2 look and spend the time on this one service.  
3 That's all this authority does.

4           Number 2, and I'm from Downingtown. I  
5 was born and bred there. I kid older members of  
6 council, past council members and sometimes I  
7 kid them seriously. The big claim to fame was,  
8 they never raised water rates or hardly ever  
9 raised water rates. Well, when I became an  
10 adult and got involved in this project, my first  
11 question to each one of them was, in due respect  
12 where the hell is the reserve? What are you  
13 going to do about these lines? There's no money  
14 there. Point is, rates are not like taxes for  
15 different projects.

16           Water service as well as sewage service  
17 is not only important to us today, it's  
18 important to my children, my grandchildren, my  
19 great-grandchildren and there has to be some  
20 insularity to make those hard decisions and  
21 those hard choices. This Authority has done  
22 that.

23           In looking at and reviewing the  
24 material that your group has put together, and I  
25 have to say it's admirable how much work has

1       been done, there are a number of comments I'd  
2       like to make on behalf of the Authority, and  
3       just so I don't get these wrong.

4               First of all, I want to reiterate the  
5       point on appointment of board members. There's  
6       nothing wrong with the act. It's not broke. If  
7       the people who are in the elected positions  
8       listen to the people, the consumers in a water  
9       system are the voters of Borough Council. If  
10      they listen they can change it.

11              There needs to be groups like municipal  
12      authority that are made up of people from  
13      different political background. There needs to  
14      be continuity. There needs to be a certain  
15      amount of insularity for continuity in special  
16      and important services such as water and sewage.  
17      Our position is, there is nothing wrong with the  
18      act. It's not broken, it doesn't need fixed.

19              Second of all, in terms of professional  
20      service providers. Downingtown Authority, and  
21      I'll give you a quick example, when they chose  
22      the consulting engineer for their plant project,  
23      invited in excess of one dozen resumes and  
24      packets from various engineering firms that have  
25      water background. After getting those packets

1 they all reviewed them. I mean reviewed them  
2 thoroughly. They made a checklist, and going  
3 through each packet they reduced it down to  
4 about seven. Of the seven they invited specific  
5 resumes as well as quotes on the project to be  
6 done. After going through those, as well as the  
7 checklist, they invited for interviews five.  
8 Immediately after the interview process they  
9 kicked one off because they didn't meet the most  
10 of the criteria and they spent approximately six  
11 months looking at the four before retaining any  
12 engineering consultant.

13 In terms of other professional  
14 services, providers, accountants, auditors they  
15 generally request at least three, if not five  
16 resumes as well as bids. They have no problem  
17 and they join in the recommendation that there  
18 probably should be some procedure where they  
19 invite more than one, two or three, a number of  
20 resumes.

21 Where we disagree and urge is that, you  
22 cannot on these services always go lowest  
23 bidder. There aren't objective criteria. It's  
24 not like putting a pipe in or piece of sidewalk.  
25 There's a lot of other criteria: experience,

1 background, reputation, very important. When  
2 you look at some of these projects, two mistakes  
3 can cost millions of dollars down the road. In  
4 point of fact, the engineering firm chosen by  
5 this Authority was not the lowest bidder, nor  
6 were they the highest bidder. They hired this  
7 engineering consultant because they wanted to be  
8 sure to reduce the risk of mistakes.

17  
9 I don't think there's a system or a  
10 process where you can get it down to objective  
11 criteria and give it to the lowest bidder. When  
12 you get into other professional service  
13 providers, e.g. solicitors such as myself, we  
14 can outbid each other on low hourly rate. At  
15 the end of the year that doesn't mean anything.  
16 It depends on, certain projects can be bid out  
17 in certain set prices, but on hourly services  
18 there's no way to control how much time the  
19 service provider professional may put in there.

20 There's got to be some flexibility.  
21 There's got to be other subjective criteria that  
22 is considered. There should be provisions that  
23 say, you don't take the first person walking in  
24 the door, and as this Authority does publicly  
25 explain why you are choosing a provider over the

1 other people you have brought in.

2 In terms of ratemaking, the way this  
3 Authority works is that, it specially advertises  
4 each meeting that has rate changes and they are  
5 only done once a year. They are specially  
6 advertised. Generally, unless other important  
7 things come up for that meeting, it's the only  
8 thing on the agenda. The rate increase is  
9 advertised in the paper as well as the budget.  
10 They go through that process and they advertise  
11 it well ahead of time seven to ten days so that  
12 we get as many people in there as possible.

13 This Authority has no problem with  
14 everyone doing business like that. We think  
15 it's a good idea. In point of fact, I think it  
16 comes down to public relations a lot, and also  
17 this Authority truly looks for input. They want  
18 ideas from people. They don't want to be on the  
19 hook themselves in making these hard decisions.

20 On terms of compensation of board  
21 members, I understand that's a two-part thing;  
22 number 1, compensation of board members for  
23 serving as board members. Under the act that's  
24 set by the enabling municipal agency. Our Board  
25 members get \$83.33 a month. It's \$250 per



1 quarter. Generally they have two meetings. The  
2 average length of time maybe two to four hours.  
3 Each of them do two to four hours of reading a  
4 month. They each have their own little area  
5 they are supposed to be kept up on. They put in  
6 a lot of time, a lot of time. The pay they get  
7 is very meager.

8 But, to the issue of the act, they  
9 can't raise that rate themselves. They've got  
10 to go to the enabling council, Borough Council  
11 in our case.

12 The second part of that thing is, if  
13 authority or board members appointing each other  
14 as officers in setting that compensation, that  
15 is permitted under the act. We think there  
16 should always be public debate on that.  
17 Everything should be done above board. The  
18 Authority does disagree that that should be  
19 prohibited totally.

20 We've run into situations where we've  
21 had vacancies or employees leave or we got short  
22 projects come up where the Authority had said it  
23 doesn't make financial sense to go out and hire  
24 a separate expert or a separate person coming in  
25 here when one of us can do this. And in point

1 of fact they have done that; they haven't gotten  
2 any pay. I as their solicitor look at it think  
3 and think it's wrong. I think if they are going  
4 to put 20 hours or 30 hours in a month on a  
5 specific project they should be paid.

6 The bottom line is, it should be done  
7 publicly. There should be public debate on it.  
8 Reasons why they are doing that should be set  
9 forth, and quotes on doing the job should be  
10 considered. This Authority likes to do every-  
11 thing publicly, Number 1 because it's the right  
12 thing to do. Number 2, it's a selfish  
13 viewpoint. It's a small borough and they're not  
14 going to walk around town and hear from  
15 everybody where they didn't give everybody an  
16 opportunity to come in.

17 Lastly, I want to make some comments if  
18 I could about some of the testimony that was  
19 given in Montgomery County last week. It's in  
20 my report there. First of all, I'm going to  
21 reiterate it.

22 If the provisions of this law are  
23 followed, at least one board member per year can  
24 be taken off the Board and a new one appointed.  
25 I don't know what the witnesses from Montgomery

1 County were talking about about not being able  
2 to get people off boards. I suggest to you that  
3 what is going on is, that enabling body, the  
4 person, the Commissioner, or whatever, can't get  
5 the other votes from the other members of that  
6 council or that board. That's the way it's  
7 supposed to work. If you can't get the support  
8 to remove a person, the law is working.

9 Remember, authorities cannot only sue,  
10 they can be sued. Also, municipalities are not  
11 obligated by any law to create authorities. If  
12 they can retire the debt they can retire the  
13 whole authority. Point is, authorities are run  
14 more like businesses than elected bodies are.  
15 That's just the nature of political realities of  
16 it. I go back to our prior Borough Council's  
17 great thing, never raised water rates. Well,  
18 we've to straighten that out now.

19 Doing away with municipal authorities  
20 are severly curtailing the ability of the  
21 authorities to conduct business no more protects  
22 the public from bad policy decisions than doing  
23 away with the entire government.

24 Also, I do not think and this Authority  
25 does not think you can do anything to do away

1 with an Authority's right the power of eminent  
2 domain, especially when you get into these  
3 utility projects. The power is set out and  
4 defined by other areas of law. It is not an  
5 unlimited power. It is governed by the law.  
6 It's governed by case law. There are always  
7 cases of abuse, but the eminent domain law in  
8 existence today is a pretty good law.

9 It would be tragic and unwarranted  
10 burden upon the municipal ratepayers to  
11 legislate PUC control over municipal  
12 authorities. It would result in further and  
13 unwarranted government intrusion.

14 In reference to complaints by  
15 ratepayers, we have a specific system. Anytime  
16 a customer calls into the authority offices with  
17 any complaint, it is an absolute mandate by the  
18 Authority that that complaining customer is put  
19 on the next agenda and given at least 20 minutes  
20 if not a half an hour to explain what the  
21 problem is. This Authority in its existence has  
22 resolved every complaint that's come into it and  
23 has aired every one of them that's wanted to be  
24 aired.

25 The customers of a private water

1 companies have absolutely no say in the  
2 governing body of that utility. Unless you're  
3 an owner or shareholder you are simply a  
4 customer and no more.

5 Private water companies especially the  
6 larger companies would prefer to impose PUC  
7 control on all authorities so as to increase the  
8 cost of business to the point of necessitating a  
9 sellout to such companies.

10 Lastly, no member of any Board of  
11 Directors of a private utility company  
12 represents the customers. They either represent  
13 themselves, management or the shareholders, and  
14 that's nature of the beast of a Board of  
15 Directors of private companies.

16 I heard testimony last week that  
17 there's nowhere for these customers to go.  
18 That's totally untrue. Most authorities in this  
19 state operate honestly, operate publicly, and  
20 operate in a businesslike fashion. Most of the  
21 members of municipal authorities put a lot of  
22 time in for meager money. They do it as a  
23 public service and a lot of them don't serve  
24 more than three to five years.

25 There are changes that I think would be

1 good as suggested and discussed here. We think  
2 it would make people more comfortable and open  
3 to those changes.

4 Again, on behalf of Downingtown, we  
5 thank you for the time.

6 CHAIRMAN PECORA: Any questions?

7 ( No audience response )

8 CHAIRMAN PECORA: Seeing no questions,  
9 I have to accept your comments as were given.  
10 Of course, you were answering questions to a  
11 previous meeting.

12 MR. VALOCCHI: Yes, I was.

13 CHAIRMAN PECORA: Okay, not this  
14 meeting. That's what confused some of the Board  
15 members I assume. Thank you. We appreciate  
16 your time. Next on the agenda is Wayne G. Reed,  
17 Executive Director of City of Coatesville  
18 Authority.

19 MR. REED: Honorable Chairman, and  
20 members of the House and Senate Local Government  
21 Committees: Thank you very much for the  
22 opportunity to appear before such an august  
23 group. I realize I'm the last speaker in your  
24 fact-finding efforts regarding the Municipality  
25 Authorities Act. I'm not your last speaker

1 today? Do you have someone else?

2 CHAIRMAN PECORA: It's an add-on to the  
3 agenda. I'm sorry.

4 MR. REED: This is a perfect chance for  
5 me to present a summary of thoughts regarding  
6 much of the testimony you have heard over the  
7 last several weeks.

8 I have 27 years of experience in  
9 municipal administration, of which 22 of those  
10 years have been as a city manager/chief  
11 administrative officer. I served in five  
12 municipalities in Virginia in my first 21 years  
13 before coming to Pennsylvania in 1987 as City  
14 Manager of Coatesville, and in the past three  
15 years I have been the Executive Director of the  
16 City of Coatesville Authority which is a water  
17 and sewer authority. In the first year of the  
18 three years with the Authority, I also served in  
19 a dual role of City Manager of the city and  
20 Executive Director of the Authority.

21 The City of Coatesville Authority, also  
22 called CCA, provides potable water to approxi-  
23 mately 30,000 people in 16 municipalities in  
24 Chester and Lancaster Counties. We produce  
25 about four million gallons of water per day from

1 two surface water supplies. CCA also provides  
2 sewage treatment for five municipalities.

3 We pride ourselves in being responsive  
4 to our citizens and communities as evidenced by  
5 our recent switch from a declining rate  
6 structure to a single rate per customer category  
7 system which has saved our average senior  
8 citizen household about \$65 per year. We send  
9 out 7500 newsletters per quarter, offer tours of  
10 our water and sewage treatment facilities, and  
11 give presentations in our schools about  
12 environmental issues.

13 Having served in the municipal role, I  
14 am aware of many of the previously expressed  
15 concerns of the governing bodies regarding the  
16 operation of an Authority. I will not say that  
17 all of the concerns are unfounded, but rather, I  
18 believe many of those concerns are due to a lack  
19 of understanding on the part of the governing  
20 bodies about the Municipality Authorities Act  
21 and how authorities are incorporated and  
22 operated independently from the elected body.

23 In most cases, newly-elected members of  
24 a governing body were not involved in the  
25 incorporation of an Authority and are not aware



1 of the historic factors or laws surrounding the  
2 establishment of the independent board of  
3 directors. When there is an unknown, it is only  
4 human nature that suspicions will arise. There  
5 needs to be a mechanism to promote better  
6 communication between the two bodies which will  
7 lead to better understanding and cooperation  
8 rather than suspicion and envy.

19  
9           During the meeting in Norristown last  
10 week, one County Commission recommended that any  
11 newly-elected governing body should be able to  
12 replace incumbent authority members for the  
13 remainder of their terms if done within six  
14 months of taking office. This course of action,  
15 of course, creates more of an opportunity for  
16 the good ole boy system to take place at the  
17 beginning of each new governing body's term in  
18 office.

19           The Municipality Authorities Act  
20 provides that at least one authority board  
21 member's term expires every year which allows  
22 for a new governing body to replace at least  
23 four members within the four-year term of the  
24 elected body, including placing one of its own  
25 on the Board if it chose to do so.

1           The decision to replace a member,  
2 however, should be based on the need to change  
3 direction of the Authority or to provide more  
4 expertise on the authority board rather than  
5 upon partisan politics. The governing body must  
6 also look at continuity of service of the  
7 Authority when considering changing the  
8 membership of the Board of Directors.

9           The governing body also needs to under-  
10 stand that it does, in fact, have the power to  
11 do away with the Authority entirely if it is  
12 necessary. This, of course, is a very drastic  
13 and serious step since the municipality will  
14 have to assume the debt and operation of the  
15 system. This could create more problems than  
16 the governing body bargains for. Generally  
17 speaking, Authorities are usually formed out of  
18 a need which the local government cannot or  
19 chooses not to meet.

20           As an example, the City of Coatesville  
21 Authority was formed in 1981 initially as a  
22 water authority. At that time the city had  
23 about \$650,000 in accounts receivable, some of  
24 which dated back as much as eight years. Some  
25 people had actually not paid a water bill for

1 that length of time. It took about five years  
2 of collection efforts and filing liens, but CCA  
3 was able to bring the receivables up to date and  
4 today there are no receivables beyond 120 days.  
5 Political favoritism was completely removed from  
6 the collection process which was so prevalent  
7 under the city operation.

8 It is my opinion that most often any  
9 problem between a governing body and their  
10 created authority is not because of inequities  
11 in the Authorities Act, but rather it is a local  
12 political problem which is generally self-  
13 generated or perceived. The old adage, if it  
14 ain't broke, don't fix it, holds true in this  
15 case.

16 The creators of the Authorities Act did  
17 a very good job in establishing a mechanism  
18 which can aid a municipality through the  
19 creation of an additional resource to provide  
20 services to its citizens which, for one reason  
21 or another, the municipality cannot provide.  
22 There are some kinks in the act, however, which  
23 this Commission and the legislature will  
24 hopefully be able to iron out.

25 As you have heard from many speakers,

1 one of those kinks is accountability. The act  
2 provides for annual fiscal reports to the  
3 governing body, but there needs to be additional  
4 requirements, whereby, more information about  
5 the operation and long-range planning can be  
6 provided to the creating body which will invoke  
7 input and better direction for the Authority's  
8 Board of Directors.

9 If the local government does have  
10 concern with the operation, including the rate  
11 structure, and direction of the Authority, there  
12 must be a mechanism that would allow the  
13 government to meet and discuss their concerns  
14 and have certain assurances that their concerns  
15 will be addressed. This has to be a two-way  
16 street, however, since the Authority must be  
17 able to express its limitations in addressing  
18 those concerns and the governing body must be  
19 willing to listen and understand those  
20 limitations.

21 I recommend that the House and Senate  
22 Local Government Committees, the Pennsylvania  
23 Municipal Authorities Association, the Penn-  
24 sylvania League of Cities and the Pennsylvania  
25 Association of Boroughs and Townships, each

1       appoint two to four members geographically  
2       located across the state, to a special study  
3       commission to address concerns such as  
4       accountability of authorities to their governing  
5       bodies and to the citizens served by the  
6       Authorities. The term accountability could be  
7       broadly defined to include the rate structure,  
8       operation, capital improvements, long-range  
9       planning, customer complaints, communication  
10      between bodies, et cetera.

11               Over the next year this special study  
12      commission would explore all the concerns  
13      brought before the House and Senate Local  
14      Government Committees and propose amendments to  
15      the Authorities Act which would address and  
16      resolve the concerns. In this manner it will  
17      not be the state political process dictating  
18      changes, but rather it will be local and state  
19      representation working together to address  
20      opportunities to make a positive evolution in  
21      the act. The Local Government Commission could  
22      provide the administrative support for the  
23      special study commission.

24               Please let me quickly add that the  
25      Coatesville City Council and the CCA Board of

1 Directors have an excellent working relationship  
2 which, in many respects, could be a model for  
3 other local governments. I will not go into  
4 detail about this relationship at this time  
5 unless you have any questions.

6           There is one final matter I would like  
7 to address which concerns House Bill 1130, and  
8 let me back up and say two final matters, one  
9 from a statement just made a few moments ago.  
10 As I understand the proposed bill, it would  
11 require all municipalities and authorities to  
12 join the state retirement system.

13           As a vested member of the Virginia  
14 Supplemental Retirement System for 14 years  
15 before coming to Pennsylvania, I am receiving  
16 only four percent annual interest on my pension  
17 funds. I doubt that the Pennsylvania Retirement  
18 System offers any higher interest. CCA has its  
19 own retirement system which paid more than eight  
20 percent last year and currently is paying more  
21 than an annualized 11 percent so far this year.

22           I would ask what advantage would there  
23 be to our employees to leave our current plan to  
24 join the state plan? I am fearful that this  
25 bill is simply an attempt to find a way to

1 bolster the state retirement system without  
2 looking at the best interest of those public  
3 employees who have better plans.

4 Thank you again for providing me with  
5 this opportunity to express my views on these  
6 important topics. I and my fellow colleagues in  
7 the Pennsylvania Municipal Authorities  
8 Association stand ready to assist you in any  
9 further deliberations or considerations  
10 regarding the Municipal Authorities Act.

11 If I may just add one final point. A  
12 gentleman two speakers ago was talking about  
13 accountability and suggested that councils have  
14 the authority to remove incumbent or sitting  
15 board members when a new member comes on board;  
16 or if they do not do that, then that the  
17 authority members be elected. I would disagree  
18 with the gentleman respectfully because the  
19 founding fathers, or the writers of the  
20 Authorities Act, found it very important, and I  
21 think it has proven very important over the  
22 years, that municipal authorities be somewhat  
23 devoid of the political meanderings of a city  
24 government.

25 Once appointed to the Authority, I

1 think most authorities in Pennsylvania are  
2 pretty much nonpolitical. They don't play the  
3 partisan political roles. If the Authority  
4 members become elected, then I think what you do  
5 is look at political roles.

6 Running on a platform of let's keep the  
7 rates down or we're going to keep the rates  
8 down, until they can get in on the inside and  
9 see how much need there is for, perhaps, a rate  
10 increase, they really do not know the situation.  
11 Once they get inside, then in order to keep  
12 political favors and political promises, even  
13 though the system might need to be improved,  
14 they will decide to do nothing.

15 The City of Coatesville began operating  
16 its water system in 1921. Over the years they  
17 built two different water treatment plants, with  
18 the last plant being built in 1972. When the  
19 Authority was formed in 1981, that plant was in  
20 deplorable condition. I mean this literally.  
21 Many of the valves were left open or turned on  
22 with bailing wire.

23 Many of the instruments that gauged  
24 went to wash the filters or how much chemicals  
25 to add were simply not operating at all because



1 the Council during an economic situation in the  
2 '70's did not want to raise rates and,  
3 consequently, there were very little funds to  
4 maintain the system. CCA now is faced with the  
5 situation where we are getting ready to put  
6 about a million dollars in rehabilitation; just  
7 rehabilitation; not upgrading, not adding,  
8 expanding, anything for our water plants. We  
9 are just rehabilitating that plant at a cost of  
10 about a million dollars.

11 We have been planning for a number of  
12 years through a capital improvements program for  
13 this work. We have another water system which  
14 we purchased in 1985 to supplement our existing  
15 water system, and we are just getting ready to  
16 go after contract in a few more weeks, our  
17 proposals up for bid, that will cost us we're  
18 estimating in excess of \$900,000 that will give  
19 us an additional million gallons a day.

20 DER told us we do not have enough  
21 reserved capacity to supply water during a  
22 drought of record, 1930 to '32. So, CCA is  
23 participating with Chester County and with the  
24 U.S. Soil Conservation Service and we are  
25 putting in \$1.6 million into building a

1 reservoir known as Hibernia Dam (phonetic).  
2 That will give us four million gallons of water  
3 per day in a drought emergency.

4 So, the Authority has come on board and  
5 in the 12 years since then that time, we are  
6 making changes. We are addressing the issues.  
7 We listen to the people. This is done pretty  
8 much by the same Board that was appointed in  
9 1981 and continued to be appointed. We just had  
10 some changes a few years ago because the council  
11 saw fit to make changes and they did it. It is  
12 their prerogative and their right. They have  
13 that ability to make changes, and in that  
14 respect they are responsive to the local  
15 government.

16 Why change it if it ain't broke?  
17 Elected board members I think would be the death  
18 nail for authorities throughout the  
19 Commonwealth.

20 Another thing they suggested, rates  
21 approved by governing bodies. I think that this  
22 would really be a tremendous problem, because  
23 then the rate issue becomes a political issue,  
24 and you have the same situation where people on  
25 council are running, let's not raise the rates.

1 We just raised the rates in 1991. We had to.  
2 There was no choice. We've got DER coming down  
3 on us for this reservoir. We have got  
4 improvements we've got to make because the city  
5 neglected improvements over the years. We have  
6 no choice.

7 We had a thorough rate study done, a  
8 beautiful rate study. One of the municipalities  
9 has challenged this, which is their prerogative,  
10 and we are now going through a second review, or  
11 a review of the rate study. We have an  
12 intermunicipal agreement with them and they have  
13 that right. That is accountability. We are  
14 accountable to our people, to all of our  
15 citizens.

16 We are not profit oriented. We don't  
17 have stockholders who want to look at a 10  
18 percent annual return. We are service oriented.  
19 I have been a city manager and in city  
20 government for 27 years. I am service oriented.  
21 We have professionals in the field and, perhaps,  
22 more professional administrators in the  
23 municipal authorities proportionately to  
24 professional administrators in Pennsylvania  
25 municipalities. I think that is a strong point

1 because there is a professional running the  
2 organization rather than a politician counting  
3 on votes and making decisions based upon whether  
4 or not he's going to get elected the next time.

5 Thank you very much for your patience  
6 and your kindness for listening. I will be glad  
7 to answer any questions.

8 CHAIRMAN PECORA: Any questions? I  
9 think we have a question here. Representative  
10 Sather.

11 REPRESENTATIVE SATHER: First off, I  
12 have to agree with your comments about House  
13 Bill 1130. Others share that same concern  
14 coming from ranks of county government, some  
15 that are fully funded. In fact, actuarially,  
16 soundness is that no additional funds are  
17 necessary. I can appreciate your comments  
18 there.

19 You mentioned there needs to be a  
20 mechanism to promote better communications  
21 between the two bodies which will lead to better  
22 understanding and cooperation rather than  
23 suspicion and envy. In one minute or less,  
24 would you express how we do that?

25 MR. REED: I don't know how the act can

1 legislate requiring that municipalities and  
2 authorities meet, but that's exactly what's  
3 needed. The municipal government, all of them  
4 and the municipal authority board, all of them,  
5 need to meet at least semi-annually and a  
6 report, beyond an audit, needs to be given to  
7 the governing body I think at least annually  
8 summarizing everything that was done. Keep the  
9 number of complaints, how they were resolved,  
10 new mains put in, new connections made, capital  
11 improvements program, explaining in detail the  
12 program rather than just giving them a budget  
13 which has a bunch of numbers on it.

14 I think things of that nature would  
15 better explain to the governing body what's  
16 going on because the suspicions and the envy are  
17 based upon not knowing what's going on. I think  
18 the act can address that some way to make it a  
19 requirement for a bigger reporting system; a  
20 more complete and detailed reporting system I  
21 think would help.

22 REPRESENTATIVE SATHER: Thank you, Mr.  
23 Chairman.

24 CHAIRMAN PECORA: No more questions. I  
25 thank you, Mr. Reed. I appreciate you coming.

1           An add-on to your agenda is Annebella  
2 Mosser. Annebella, I'm sorry I mispronounced  
3 your name.

4           MS. MOSSER: That's fine. Annebella D.  
5 M-o-s-s-e-r. Thank you, Senator. I would like  
6 everyone to know that everyone loves the Senator  
7 in the area in which he came to represent us.

8           I have one minute, so what I will  
9 explain in those folders are copies of exhibits  
10 to explain. I would like to say part of my -- I  
11 don't want to take up my time on this, but I  
12 just wanted to make two comments. Some of what  
13 I would say is with Mr. Valocchi. He said quite  
14 a few things that I agree with, but on the last  
15 one I don't know if it's proper for me to give  
16 an opinion, but I'm not in favor of too many  
17 study commissions.

18           The first, Exhibit 1 is the agenda in  
19 which I appeared in presentation of Citizen's  
20 Economic Development 1993 Plan program for unity  
21 or purpose of improvement of life, Part 1, at  
22 the Reading Redevelopment Board meeting.

23           Exhibit 2 is where I'm in the minutes  
24 for that evening. I brought out the point that  
25 my interest in downtown Reading have been served

1 over many years. I, on behalf of the  
2 Redevelopment Authority staff, believe that the  
3 Redevelopment Authority is still needed and  
4 requested that it continue for three more years.

5 I feel in this Municipal Authorities  
6 Act of 1945, 53 Purdons, I'd like to say this:  
7 I feel that many of the authorities are fine. I  
8 feel a redevelopment authorities are fine and  
9 should not be taken over by cities. They call  
10 it merging but I call it termination.

11 Now, Exhibit 3 and Exhibit 4 is  
12 newspaper clippings and Exhibit 5 is the -- The  
13 board member on two pages he said, we need to  
14 build on a strength which are still evident in  
15 center city and in the neighborhoods. We need  
16 to have private sector to invest in private  
17 dollars, which yours truly has done many years,  
18 rather than moving problems from one area to  
19 another.

20 Some cities, Senator and Honorable  
21 members of the Committee, I would like and the  
22 Commission, I would like to say this: That with  
23 some of the cities trying, they call it merging  
24 but I call it under the Third-Class City Code it  
25 has two laws, two statutes. One is a general

1 definition and the other one is to terminate.  
2 Now, they cannot do anything, and the law states  
3 if the bonds and the loans aren't paid including  
4 the interest.

5           What I want to say, and I want to thank  
6 you for hearing me. I shall see that copies are  
7 given to the other members of the Committee and  
8 the Commission and the Executive Director and  
9 his staff. I would like very much if this  
10 Committee and Commission, if this Commission  
11 would think about having more public hearings  
12 and having like the sewer authorities. They are  
13 very important, but for us to have the sewer  
14 authorities in one area and people speak on that  
15 and then on the other area have the  
16 Redevelopment Authorities and have it like a  
17 different parts of that Municipal Authorities  
18 Act of 1945, if there's anything more done on  
19 it.

3  
20           I guess I have taken up all of my time.  
21 Again, I want to thank -- I'm in favor of the  
22 Redevelopment Authorities. They are not  
23 finished with their work. I would appreciate it  
24 if you would consider that particular area and  
25 maybe at another time I will be able to come



1 into more detail with correspondence. I want to  
2 thank you all.

3 CHAIRMAN PECORA: I want to thank you  
4 for coming. I know you came out of your way  
5 from Reading. I appreciate you coming here and  
6 giving us your opinion.

7 MS. MOSSER: I'd would like to add this  
8 to the record that I'm sorry, and I want  
9 everyone here to hear this. The reason why I'm  
10 late, I would have been here before the place  
11 opened, but there are so many things that are so  
12 confusing, and in the areas that the people  
13 don't even have time to get things done. That's  
14 why I'm so pleased with the Senator and I think  
15 all good things are going to happen for all of  
16 us. Bless all of you.

17 CHAIRMAN PECORA: Thank you. Thank you  
18 for coming. Are there any questions?

19 ( No audible response )

20 CHAIRMAN PECORA: No questions, but the  
21 Board thanks you for coming to our meeting.

22 MS. MOSSER: Thank you very much,  
23 Senator.

24 CHAIRMAN PECORA: You're welcome.  
25 Motion to adjourn. Move to second.

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REPRESENTATIVE MELIO: Second.

CHAIRMAN PECORA: Last meeting of the  
Local Government Commission.

( At or about 5:15 p.m. the hearing  
concluded )

\*\*\* \*\*

C E R T I F I C A T E

I, Karen J. Meister, Reporter, Notary  
Public, duly commissioned and qualified in and  
for the County of York, Commonwealth of  
Pennsylvania, hereby certify that thforegoing is  
a true and accurate transcript of my stenotype  
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Dated this 1st day of September, 1993.

BY: Karen J. Meister  
Karen J. Meister - Reporter  
Notary Public