

Illinois Commerce Commission Report to the General Assembly



Public Fire Protection Charges

November 2008



ILLINOIS COMMERCE COMMISSION

November 13, 2008

The Honorable Members of the Illinois General Assembly
State House
Springfield, Illinois

Dear Honorable Members of the Illinois General Assembly:

Pursuant to Section 9-223(b) of the Public Utilities Act (220 ILCS 5/9-223), the Illinois Commerce Commission submits its Report on Public Fire Protection Charges.

Section 9-223(b) required the ICC to conduct at least three public forums by December 31, 2007.... to evaluate the purpose and use of each fire protection charge imposed by any municipality or public fire protection district, and submit its findings and recommendations to the General Assembly prior to the end of the veto session in 2008.

Sincerely,

A handwritten signature in black ink that reads "Charles E. Box".

Charles E. Box
Chairman

Report to the General Assembly
By the Illinois Commerce Commission

on

Public Fire Protection Charges

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Report to the General Assembly
By the Illinois Commerce Commission
on
Public Fire Protection Charges

I. Introduction

In 2006, the Illinois General Assembly and the Governor approved Section 9-223(b) of the Public Utilities Act (“Act”) (220 ILCS 5/9-223(b)) which requires that the Illinois Commerce Commission (“ICC” or “Commission”) conduct at least 3 public forums "...to evaluate the purpose and use of each fire protection charge imposed..." under Section 9-223 of the Act by December 31, 2007. The law required at least one public forum in each of three areas: northern Illinois, central Illinois, and southern Illinois. The statute also required that the ICC invite to the public forum a representative from each municipality and fire protection district affected by a fire protection charge under Section 9-223 of the Act. The law further required the ICC to report its findings and recommendations concerning the purpose and use of each fire protection charge to the General Assembly prior to the end of the veto session in 2008.

Section 9-223. Fire protection charge.

(a) The Commission may authorize any public utility engaged in the production, storage, transmission, sale, delivery or furnishing of water to impose a fire protection charge, in addition to any rate authorized by this Act, sufficient to cover a reasonable portion of the cost of providing the capacity, facilities and the water necessary to meet the fire protection needs of any municipality or public fire protection district. Such fire protection charge shall be in the form of a fixed amount per bill and shall

be shown separately on the utility bill of each customer of the municipality or fire protection district. Any filing by a public utility to impose such a fire protection charge or to modify a charge shall be made pursuant to Section 9-201 of the Act. Any fire protection charge imposed shall reflect the costs associated with providing fire protection service for each municipality or fire protection district. No such charge shall be imposed directly on any municipality or fire protection district for a reasonable level of fire protection services unless provided for in a separate agreement between the municipality or the fire protection district and the utility.

(b) By December 31, 2007, the Commission shall conduct at least 3 public forums to evaluate the purpose and use of each fire protection charge imposed under this Section. At least one forum must be held in northern Illinois, at least one forum must be held in central Illinois, and at least one forum must be held in southern Illinois. The Commission must invite a representative from each municipality and fire protection district affected by a fire protection charge under this Section to attend a public forum. The Commission shall report its findings concerning recommendations concerning the purpose and use of each fire protection charge to the General Assembly no later than the last day of the veto session in 2008.

II. Legislative History and Background

Prior to the enactment of Section 9-223(a) of the Act in 1984, public water utilities recovered fire protection-related water system costs directly from the municipalities and fire protection districts through a charge based on the number of hydrants in the municipality or fire district (hereafter referred to as “per hydrant charges”).¹ Section 9-223(a) allows municipalities and fire protection districts to opt out of paying per hydrant charges (unless they chose to do so by entering into a contract). Most municipalities and fire protection districts have chosen to opt out of paying per hydrant charges.

¹ Fire protection districts (FPD) proposed Section 9-223(a) of the Act.

Further, the statute allows recovery, through a fixed charge, of a "reasonable portion of the cost of providing the capacity, facilities and the water necessary to meet the fire protection needs of any municipality or public fire protection district." As a result, public water utilities recover most fire protection-related costs from customers through a fixed charge for public fire protection service. Charges for general water service recover the fire protection costs not recovered through the fixed fire protection charge. The ICC interprets the statute to permit differentiation of the fixed charge by water meter size.

In addition, the statute requires that the fire protection charge must be based on the level of fire protection costs for each municipality or fire protection district. The ICC interprets this language to allow a uniform charge in a given rate area.

III. Purpose and Use of Fire Protection Charges

The public water utility provides the water distribution system, the hydrants, and the water for fire protection service. It recovers these costs from water customers in a municipality or Fire Protection District ("FPD").

A public water utility must seek approval from the ICC to initiate and to change a fire protection charge.

Fire protection charges are developed in a public water utility's rate case. Generally, the data used in developing a fire protection charge include the number of hydrants, the number of customers, the types of customers, the amount of water used for fire protection, and the per unit cost of the water.

IV. Municipality and Fire Protection District Fire Protection Charges on Tax Bills

Generally, municipalities and FPDs charge taxpayers for non-water related fire protection costs such as the cost of fire trucks, fire stations, fire fighter labor, training and other capital and operating costs for fire protection, except those costs from the water utility. A regulated public water utility does not include these types of costs in its fire protection charges.

V. The Three Fire Protection Charge Public Forums

As directed in Section 9-223(b) of the Act, the ICC hosted three public forums, which were held in Champaign (September 27, 2007, in the Champaign City Council Chambers), Fairview Heights (October 1, 2007, in the Fairview Heights City Hall), and Orland Park (October 15, 2007, in the Orland Park Civic Center).

As directed by the law, the ICC provided notification to each municipality and each FPD “affected by a fire protection charge under this Section.”

The ICC’s Chief Hearing Officer, accompanied by ICC personnel, presided over each public forum.

The Chief Hearing Officer called each public meeting to order at approximately 7:00 p.m. and described the purpose of the meeting, the background for fire protection charges to water customers, how the ICC determines fire protection charges in a water utility rate case, and the rules for speaking during the public forums.

This report’s Appendix includes the transcripts of each public forum. Transcripts are also located on the ICC website, www.icc.illinois.gov.

Following is a summary of each public forum:

Public Forum #1- Champaign, September 27, 2007

The Chief Hearing Officer called the meeting to order at 7:00 p.m. and presented his opening statements. No member of the public or member of a FPD or municipality was in attendance at the opening of the forum. The Chief Hearing Officer continued the meeting until 7:45 p.m. to allow for late arrivals. However, at 7:45 p.m., no other persons were in

attendance and no one asked to speak at the public forum. The Chief Hearing Officer adjourned the Champaign public forum at approximately 7:45 p.m.

Public Forum #2- Fairview Heights, October 1, 2007

The Chief Hearing Officer called the meeting to order at 7:00 p.m. and presented his opening statements. Several people asked questions and 13 individuals presented statements.

Excerpts from the transcript shown below are selected statements provided by FPD representatives. The statements are categorized according to whether the comments were related to Section 9-223(a) or were related to issues regulated by the ICC. The participants' full statements are included in the Appendix at the end of this report.

i. Comments related to Section 9-223(a)

The following comments refer to the option available to have FPDs charged directly by public water utilities, on a per hydrant basis, for the cost of fire protection. Most FPDs are currently not charged directly for the cost of fire protection and, as the comments here and in the full transcripts indicate, the FPDs do not support the option of being directly charged by the public water utility.

“So from the standpoint of the Illinois Association of Fire Protection districts and the fire-district clients that I have, we definitely want to send a signal back that we do not want to see a change in Section 9-223(a).”

“...and at our board meeting, our board unanimously voted to oppose any changes to any of the rate structures and so forth.”

“And again, what Jim related about the budget crises, it would definitely impact my department considerably. And we would like to see it stay the same as it is now.”

“...and what goes in there, as Mr. Sinclair has indicated, this would be a significant impact on us. And I don't know that we wouldn't wind up pulling fire hydrants out of the ground for budgetary reasons if we went back to the old way.”

“...we would oppose this also. We currently pay no fees to several different water companies that I'm aware. In fact, I know we do not. And we certainly do not want to in the future.”

“And I think we'd like to keep things the way we are. We just don't have the resources to pick up the amount of money they're talking about.”

“We're very satisfied with the way the system's set up now. So we are very much opposed to any changes in these rules.”

“Mr. Sinclair said before, we are limited in our resources in how to get our money for the fire district and we’re just opposed to it.”

“So we’d be opposed to it.”

“...and yes, we are opposed to this.”

“I would have to agree with the other chiefs here and Mr. Sinclair and their comments.”

“But we are definitely opposed.”

ii. Comments related to issues regulated by the ICC

The following comments refer to a public water utility’s monthly fire protection charge, which is included on the bills of public water utility customers.

“So maybe in a sense where everybody paid the same amount, that might be better.”

“But currently I think we’re happy with the way that we’re having the hydrants funded for their maintenance.”

“But the water supply is critical. It’s a major component in how fire departments are rated. So there’s no question that adequate water supply is critical.”

“And it’s also critical that that be part of the rate base of the utilities and that they provide that without imposing an undue charge on the fire protection districts.”

Public Forum #3- Orland Park, October 15, 2007

The Chief Hearing Officer called the meeting to order at 7:00 p.m. and presented his opening statements. Three individuals provided comments at this public forum.

Excerpts from the transcript shown below are selected statements provided by FPD representatives. The statements are categorized according to whether the comments were related to Section 9-223(a) or were related to issues regulated by the ICC. The participants’ full statements are included in the Appendix at the end of this report.

i. Comments related to Section 9-223(a)

The following comments refer to the option available to have FPDs charged directly by public water utilities, on a per hydrant basis, for the cost of fire protection. Most FPDs are currently not charged directly for the cost of fire protection and, as the comments here

and in the full transcripts indicate, the FPDs do not support the option of being directly charged by the public water utility.

“We do not want to remove the section allowing the district or the department to opt out of waiving those fees.”

“Again, I want to be very clear that we do not want to lose the ability to opt out on that section.”

“... but one thing I do want to bring up is that fire protection districts receive nearly all of their financial support from real estate taxes and the levies allowed to the districts are subject to rate limits in most cases or are subject to PTEL or tax caps which really limits the amount the district can generate by property tax to pay our operating expenses and adding a charge for public fire protection to the operating expenses of the fire protection district would impose a serious financial hardship and result in diminished fire services.”

“Also, again, I want to say that the fire protection districts do not want Section 9-223(a) to be changed in any manner which will allow either the ICC or the water utilities to force a charge on them for what the utilities and the ICC staff decide and characterize as a public fire protection charge.”

ii. Comments related to issues regulated by the ICC

The following comments refer to a public water utility’s monthly fire protection charge, which is included on the bills of public water utility customers.

“And I want to reiterate ... that there's a lot of confusion on the bills on what that fire protection charge is for. A lot of people think that that -- when they pay their water bill, that that money is going back to the fire department or the fire protection district and that's not the case and it needs to be clarified on the bill.”

“...however, I want to go on record that we would like at least to see in the water bills an asterisk, if you will, next to the fire protection charge making it clear that by rights of the public utility or the private utility company, that they can charge this for fire protection systems, like, a warning label or an informational label, if you will. I think that's pretty important.”

“So the fee that is going to maintain the system for fire protection, I think there needs to be some more accountability and when a hydrant does go out, it's got to be repaired in a reasonable amount of time.”

VI. Findings/Summary of Issues and Concerns

Statements from the public were received only at the Fairview Heights and Orland Park public forums and were provided by representatives of several FPDs. Their statements

indicate that the current rate structure for payment of costs incurred by the public water utility for fire protection service is favored and that no changes to Section 9-223(a) regarding recovery of fire protection costs are needed or warranted.

Some FPD speakers opined that it would be helpful to customers and to the FPDs to have a clarification of the water utility's fire protection charge appear on the bills of public water utility customers.

VII. Conclusions/Recommendations

Fire protection district representatives indicated the FPDs are satisfied with the current laws for fire protection charges as provided in Section 9-223(a) of the Public Utilities Act. The FPD representatives indicated that the current rate structure to pay for fire protection service, wherein customers of FPDs are charged by the appropriate ICC-regulated public water utility, serves both the customers and the FPDs well.

Based on the statements presented at the fire protection charge public forums, the ICC concludes that no changes to Section 9-223(a) regarding the recovery of fire protection costs are necessary.

Some FPD representatives provided comments and suggestions related to ICC regulation. Following is a discussion of the suggestions made by the FPD representatives at the forums and the agency's response.

1. "Put a definition of the fire protection charge on customer bills."

ICC RESPONSE: The ICC Staff has requested that the public water utilities, which are regulated by the ICC and which have a public fire protection charge, submit a filing to include on the bills of the water utility customers a definition of the public fire protection charge.

In order to be as clear as possible, the ICC Staff has requested that the definition be stated as follows:

"Public Fire Protection Charge – includes the costs to the utility for (1) the fire department's use of the utility's water distribution system, (2) the fire hydrants, their installation and maintenance and (3) the cost of water used for fire protection service."

2. “Everybody should pay the same amount.”

ICC RESPONSE: While there may be some merit to charging all fire protection customers across the state the same amount, this idea is difficult to implement given current law. The Public Utilities Act states in Section 9-223(a) that “Any fire protection charge imposed shall reflect the costs associated with providing fire protection service for each municipality or fire protection district.” The ICC’s interpretation is that fire protection charges are to be based on the fire protection costs in each fire protection district. Thus, under current law, it appears that there cannot be a common fire protection charge for all fire protection customers across the state.

3. “There needs to be some more accountability and when a hydrant does go out, it's got to be repaired in a reasonable amount of time.”

ICC RESPONSE: An ICC administrative rule already addresses this concern to a certain extent.

83 IL Administrative Code Part 600.240 states,

Each utility shall establish a valve and hydrant inspection program. Valves and hydrants shall be kept in good operating condition and should be inspected at least annually. Valves and hydrants found to be inoperable shall be repaired or replaced. Valve covers shall be maintained at grade level and not paved over. Each inspection and all maintenance performed shall be properly noted on the valve or hydrant record card.

This rule mandates repair or replacement of inoperable hydrants.

Moreover, in Docket No. 06-0094 the ICC approved a “Fire Hydrant Reporting Protocol” (Protocol) for Illinois American Water Company. This Protocol includes an operational policy that “... inoperable hydrants would be repaired within 48 hours under normal conditions, and fire departments notified when the hydrant is back in service. The Protocol also provides that, beginning with the 2008 hydrant inspection year, IAWC will prepare an annual report summarizing the annual hydrant inspections in all service districts, including conditions found and repairs made.” This policy only applies to IAWC as a voluntary company policy.

Additionally, HB 5194, as introduced in the 95th General Assembly, requires that all regulated water utilities in Illinois restore service to a fire hydrant within 48 hours of the hydrant being reported inoperable. This legislation has not been passed into law.

Appendix A

Transcript for Champaign Public Forum

BEFORE THE
ILLINOIS COMMERCE COMMISSION
FIRE PROTECTION CHARGE
(Champaign, Illinois)
Champaign, Illinois
Thursday, September 27, 2007

Held, pursuant to notice, at 7:00 p.m.
at Champaign City Council Chambers,
102 North Neil, Champaign, Illinois

BEFORE:
MR. ROBERT BENSKO, Public Forum Officer
SULLIVAN REPORTING COMPANY
By: Jami Tepker, Reporter
CSR No. 084-003591

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PROCEEDINGS
HEARING OFFICER BENSKO: Public hearing
September 27, 2007, fire protection district charges.
Good evening. My name is Robert Bensko
and I'm the chief public hearing officer for the
Illinois Commerce Commission.
I want to thank everyone for being here
tonight.
Seated next to me is the court reporter,
who will make a legal record of your comments, which
will be made available to the Chairman and
Commissioners.
And it will be also made available to our
staff that's writing the final report in this case.
I want to ask everyone to turn their cell
phones and pagers off so that there won't be a
disruption in the proceedings.
The purpose of this forum tonight, in 2006

the General Assembly and the Governor approved Section 9-23(b), which requires that the ICC conduct three public forums to evaluate the purpose and use of each fire-protection charge imposed under this

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Section.

The statute also requires that the ICC invite to the forum representatives from each municipality and fire protection, which we did. We sent hundreds of letters out to all the fire-protection districts, all the municipalities inviting them to these public forums. The ICC is required to report its findings to the General Assembly prior to the end of the veto session in 2008.

The legislative history and background of this hearing, Section 9-233(a) of the Public Utilities Act was enacted in 1984.

Prior to that time, fire-related water-system costs were recovered from the municipalities and the fire-protection districts through a per-hydrant charge.

The statute was proposed by fire-protection districts, not the Illinois Commerce Commission.

The effect of the statute was to allow municipalities and fire-protection districts to opt

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out of paying such charges unless they choose to do so by entering into a contract.

Most municipalities and districts have chosen not to pay hydrant charges. As a result, fire-related costs are now recovered from customers primarily through a fixed charge for fire-protection service.

The statute provides for recovery in this manner of a reasonable portion of the costs of providing capacity and water for fire protection.

Any fire-protection costs that may not be recovered through a fire-protection charge are allowed to be recovered through charges for general water service.

As the statute has been interpreted, the requirements for a fixed amount on the bill per bill permits differentiation of a fixed charge by meter size.

Also the charge must be based on the level of fire-protection-district costs for each municipality or fire-protection district. The language has been interpreted and

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allows for a uniform charge in a given rate area, for example, the Champaign area.

The basis for the calculation of the utility charges is the public utility provides a water-pipe service, the hydrants, the water for fire protection.

And the utility's allowed to recover those costs from its water customers in the municipality or fire-protection district.

At this time a public water utility must seek approval from us, the ICC, to initiate and to charge the fire-protection charge.

Fire-protection charges are developed in a rate case in generally the following manner based on costs to provide service.

We start with the number of hydrants, the number of customers, the amount of water that's needed for the fire protection, the cost of the water, and the monthly charge.

The basis for the determination of municipality and fire-protection charges on tax bills -- and we want to clear up the misconception

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that customers are double-billed for fire protection.

Munis and fire-protection districts generally will charge taxpayers for the cost of things like the fire trucks, the garages, the salary, the training, and other capital operating costs except those costs from the water utility. The water charges are based on an agreement between the said fire-protection districts and the water companies. I run these hearings in a very open manner, and I urge everyone and anyone to speak tonight. We at the Commission feel that your comments are very important. That is why we come here to you. The only way your opinion will be heard is if you testify. I'll open the record when someone shows up so that I can open the record and have someone speak. Does anyone from the companies, would you like to make any statements at this time? Seeing no one wants to make a statement, I'll adjourn this meeting until someone attends this meeting or comes in and wants to speak.

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I will stay here until quarter till eight.
FORUM ADJOURNED

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Appendix B

Transcript for Fairview Heights Public Forum

BEFORE THE
ILLINOIS COMMERCE COMMISSION
FIRE PROTECTION CHARGE
(Fairview Heights, Illinois)
Fairview Heights, Illinois
Monday, October 1, 2007
Held, pursuant to notice, at 7:00 p.m.
at Fairview Heights City Hall,
10025 Bunkum Road, Fairview Heights,
Illinois

BEFORE:

MR. ROBERT BENSKO, Public Forum Officer
SULLIVAN REPORTING COMPANY
By: Jami Tepker, Reporter
CSR No. 084-003591

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PROCEEDINGS

HEARING OFFICER BENSKO: Public hearing
October 1, 2007, 7:06 p.m. Good evening, everyone.
My name is Robert Bensko and I'm the chief public
hearing officer for the Illinois Commerce Commission.
I want to thank you all for coming
tonight, especially because last Thursday night we
had zero people show up. So this is -- you guys are
a bright spot in our day.
Seated next to me I have a court reporter.
And she's going to take an accurate legal record of
your comments, which will be made available to the
Chairman and Commissioners.
Ask that all cell phones, pagers, and
other devices be turned off or set to vibrate as to
not disrupt this evening's proceedings.
The number-one purpose of the forum, in
2006 the General Assembly and the Governor approved
Section 9-223(b), which requires that the ICC conduct
three public forums to evaluate the purpose and use
of each fire-protection charge imposed under this
section.

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The statute also requires that the ICC
invite to the forum a representative from each
municipality and fire-protection district. So we
sent out hundreds of letters to all the
municipalities, to the fire departments that were
affected by this law.
The ICC is required to report our findings
to the General Assembly prior to the end of the veto
session in 2008.
The legislative history and background of

why we're here, Section 9-223(a) of the Public Utility Act was enacted back in 1984. Prior to that time, fire-related water-system costs were recovered from municipalities and fire districts through per-hydrant charges. The statute was proposed by the fire-protection districts. They went to the legislature. The effect of the statute was to allow municipalities and fire-protection districts to opt out of paying that -- such charges, those per-time charges unless they choose to do so or by entering

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into a contract. Most municipalities and districts have chosen not to pay those hydrant charges. As a result, fire-related costs are now recovered from customers primarily through a fixed charge for fire-protection services. The statute provides for recovery in this manner of a reasonable portion of the costs of providing capacity and water for fire protection. Any fire-protection costs that may not be recovered through the fire-protection charge are allowed to be recovered through charges for general water services. As the statute has been interpreted, the requirement for a fixed amount per bill permits differentiation of the fixed charge by meter size. Also, the charge must be based on the level of fire-protection costs for each municipality or fire-protection district. This language has been interpreted to allow a uniform charge in a given rate area such as this rate area down here.

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The basis for calculating the calculation

of the utility fire-protection charge has a number of things.

The public utility provides the water-pipe system, the hydrants, the water for fire protection. And the utility is allowed to recover its costs from the water customers in the municipality or from the fire-protection district. At this time a public water utility, they have to seek approval with the ICC to initiate and to charge a fire-protection charge.

Fire-protection charges are developed in a rate case in generally the following manner based on the costs to provide the service.

And what we look at is the number of hydrants, the number of customers, the amount of water for the fire protection, the cost of the water, and a monthly charge.

The basis for determination of municipality and fire-protection charge on a tax bill. And this is hard for some people to figure out.

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Most of the time people say, You're double-taxing me, you're taxing me on my property tax, you're taxing me in the water company. And you know, that's dual taxation.

Well, to clear that up, municipalities and fire-protection districts generally will charge taxpayers for the cost of the fire trucks, the garages, the salaries, the training, other capital operating costs except those costs from the water utility.

That's not added in to how that customer is billed by the fire protection on, say, on your property tax bill.

The water charge is based on the agreements between the fire-protection district and the water companies.

Before some of you stepped in here, I run these hearings pretty openly. One of the things that I want you to do tonight is speak to us.

As I stated before, we're charged with

writing up a report to the General Assembly and giving it to them by the veto session of 2008. We

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don't want to solely base what our findings are on what we know. We want to base it upon your comments. So what I'm going to do is I'm going to take that sign-up sheet and I'm going to ask you to make your comments.

Later on after, we'll do a small question-and-answer period just so that you're understanding where the Commerce Commission is coming from, you're understanding what we're trying to talk about tonight, and then go forward from there.

What I will not allow is I will not allow, you know, if somebody has a question or a comment, you know, my water bill's too high, that has nothing to do with the record. And I will not allow that to be entered on the record.

But that would be wasting our time.

We're here for one thing and one thing only, to talk about the fire-protection charge, whether you -- you know, I see a lot of firefighters in this room tonight.

I know you have ideas. I know you have comments. I know you have feelings about how this is

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charged.

But as you probably know firsthand, you know, the residents in your jurisdictions, they have probably come to you and said to you, Why are you guys billing me twice?

You know. Why am I paying this fire-protection charge on my water bill? You know. Why isn't that included, you know, in my tax bill?

I know you've heard those questions before. And what we want to do tonight is clear that misconception up that, you know, you're double-taxing

us.

And the fire-protection districts basically started this. They're the ones that went to the legislature.

And they're the ones that opted to have the fire-protection charge for the hydrants, for the maintenance of that system, for the water that they use placed on the water bill.

So you know, if you guys have rethought that and want to comment on that tonight, that's why I'm here. That's why we're doing these at night.

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That's why, so everyone can come to these hearings, make their comments known.

I'm sorry that some of you came, you know, at ten o'clock this morning. But this public official -- I scheduled it. So I did schedule it at the convenience so that everybody could show up tonight. So we'll go from there.

When I call on you, I want you to state your name and spell it for me, state the jurisdiction that you're with and your rank or, you know, it could be just citizen or however, you know.

The lawyers in the room, they can just, you know, say who they represent and things like that so that we have an accurate record for the court reporter and for the Commission.

So let's try some question and answer.

If there is answers -- if there are any questions in the audience, I'll try and answer your questions.

Anybody?

Yes.

MR. DOYLE: My name is Bryan Doyle, B-r-y-a-n, D-o-y-l-e. I'm with Fairview, Caseyville

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Township Fire Protection District.

To my knowledge, we did not receive any

notice of this meeting. I was informed by Chief Render sitting next to me here. We deal with five water departments. Caseyville Water Department is doing this. They are billing the citizens direct. However, O'Fallon Water Department is not doing that, nor is Illinois American. We are still paying to Illinois American. And the City of Fairview Heights is paying to -- after we check the hydrants and inspect them and everything, the City of Fairview Heights is paying our bill to O'Fallon Water. If I am reading this correctly, we should not be paying. Illinois American should be billing the customers for these areas, correct, and O'Fallon Water direct?

HEARING OFFICER BENSKO: John, you want to step in there.

John, state your name for the court reporter.

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MR. HENDRICKSON: John Hendrickson, H-e-n-d-r-i-c-k-s-o-n, with the Illinois Commerce Commission. Your question is whether or not the fire-protection district should be charging or billing the customers?

MR. DOYLE: We're not billing the customers. However, we are being billed by the water department for hydrants. They're paying O'Fallon Water \$65 a hydrant, and I believe we're paying approximately \$85 a hydrant to Illinois American.

MR. HENDRICKSON: Okay. I'm not sure what the contract is between the utility and the municipalities as to how much -- I don't know how much a fire hydrant costs and who's picking up the tab for that. I know that the utility cannot put in a hydrant without the municipality's say-so. So whatever's in place as hydrants are there. So I'm not sure I have an answer for

that. I can get that as to how that -- how the

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contract works between the utility and the municipalities.

MR. DOYLE: Okay. My only question is should I be going to Illinois American and say, You should be billing your customers in this area rather than the fire district?

MR. HENDRICKSON: There are different situations, some where the utility bills the customers direct retail each individual residence or business.

MR. DOYLE: Okay.

MR. HENDRICKSON: There are other situations where on a per-hydrant basis the fire-protection district or the municipality may pay directly to Illinois American and the ratepayers are not paid for it.

MR. DOYLE: Okay.

MR. HENDRICKSON: Again, it depends on the agreement between the municipalities, fire-protection districts, and the utility.

MR. DOYLE: Okay.

HEARING OFFICER BENSKO: I think one of

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the things that I was remiss in stating in the beginning is the fact that just because that fire-protection-district charge on the water bills is allowable, that doesn't mean that all fire-protection districts charge that.

Now, the flip side of that is, the Illinois Commerce Commission only deals with public utilities. We don't deal -- we don't have any regulation over the municipalities.

And in some jurisdictions that I know of, some jurisdictions where the city has picked up or the fire-protection district has picked up a portion

of it and then the other portion, you know, sometimes it's split between the citizens and the fire-protection district.

Other times the fire-protection districts pick up the whole charge.

There are some -- and then we have what we're talking about tonight is the fire-protection districts that have gone into the agreement with the public utilities that Illinois American -- I can't think of all of them, John.

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Illinois American.

MR. HENDRICKSON: Aqua.

HEARING OFFICER BENSKO: Aqua. Those are the two, yeah. And those are the ones that we're talking about that we have jurisdiction over.

In the city of Springfield, the fire hydrants and the water and everything is a municipally owned -- is a municipally owned utility. And the municipality, you know, they pick up the fire protection, the police, the water, and everything. So there's no charge to the citizens on their bill per se.

But it's incorporated into their tax bill.

But I don't know why you didn't get a letter. We sent out hundreds of letters.

We tried to reach each and every person.

Maybe your jurisdiction didn't come up simply because it doesn't fit the criteria for tonight's hearing.

But I guess in one jurisdiction that you're helping with or you're protecting, the fire-protection charge does come on the water bill.

AUDIENCE: I'm looking here. And no,

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we're not on the list of cities. Fairview Heights is on the list, but not fire-protection district.

HEARING OFFICER BENSKO: There's another

question. Somebody. Yes, sir.

MR. OAKS: Dennis Oaks, D-e-n-n-i-s,
O-a-k-s, fire chief of Northwest Fire Protection
District in St. Clair County.

I guess my question is, I'm kind of
confused why this is really happening, what brought
it forth for changes to be made. I'm confused on
that.

HEARING OFFICER BENSKO: As I stated in my
opening remarks, the legislature stated that I have
to do three public hearings.

The next hearing is up in Orland Park.

And I guess they have had numerous complaints of
people saying, you know, we're paying a double-tax
and stuff like that.

So the legislators in that area introduced
this into legislation and had this legislation
passed. And the legislation said I had to do one
north, central, and south.

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If you think everything is copasetic as
one -- there's another word, John -- if you think
everything is fine with it, then, you know, when I
open the record, go ahead and state that on the
record.

But that's the reason that we're here is
because the legislature said that I had to be here.
And they said you had to do one north, south, and
central. So that's where it came from.

Any other questions?

MR. RENDER: Yes, sir. My name is Greg
Render, G-r-e-g, R-e-n-d-e-r. I'm the administrator
and fire chief for the city fire protection district
in Belleville.

I asked State Representative Tom Holbrook
to provide me with a copy of the legislation. He
also provided me with a bill analysis of House Bill
555 as it moved through the legislature.

And the opponents to this were Illinois
American Water, American Water Company, Aqua
Illinois. What is their opposition to this?

It seems to me like it's kind of a

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no-brainer. They're going to collect their money either from the fire-protection-district municipality or on the water bill.

Why would they oppose this piece of legislation?

HEARING OFFICER BENSKO: Do you know, John?

MR. HENDRICKSON: There was more to the legislation than just fire-protection charges. There were other issues within that legislation. And I'm not defending the utility. It doesn't matter to me, you know, which direction they go.

But the complaints were against the utility primarily in Orland Park, which is up around Joliet area. And the company believed that everything was okay or they would take care of it and make it okay. And that legislation wasn't needed to make them do what this legislation has said.

So that's my take on why they oppose the entire legislation that was proposed at that time.

MR. RENDER: Is the confusion up in Orland

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Park -- I mean, I'm an Illinois American Water Company customer. It says on my monthly bill, public fire protection.

I thought that was pretty clear. I don't know what --

HEARING OFFICER BENSKO: Well, they're taking that and they're saying, I'm already paying. I'm already paying that bill. I pay it in my property tax or I pay it -- you know, some places have upped their sales tax a half a percent or something like that to pay for police and fire and some other things.

And they're saying, I'm already paying,

you know. I'm paying for the fire department to come and put out my fire. In my mind, that includes the water that they use.

And basically it doesn't include the water that they use. You're paying for those green or red fire trucks. You're paying for that building. You're paying for the training. You're paying for the fact that those people are there twenty-four-seven ready to come to

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your house. But that doesn't include the water. And to get that water, you need hydrants that are working and operating well.

And you know, the companies say, it says, you know, we're making sure that our customers, you know, when you go in your house and you turn on the water faucet, you get water.

This is above and beyond just turning on the faucet in your house. This is providing those hydrants out there. And that's an expensive, you know, thing to maintain.

And so they in turn want to recoup those charges. I'm not saying that those charges are correct or incorrect. What I'm saying is, you know, they feel that they have a right and we as the Commission have said in the past that is correct. You know, you do have a right to recoup those, you know, those charges, those maintenance fees, you know, the things that you do.

MR. RENDER: So if you worded it to fire protection infrastructure charge -- and I see that on my telephone bill, that there's an infrastructure

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charge there, does that clear up the confusion?

HEARING OFFICER BENSKO: I couldn't tell you. I doubt it.

MR. RENDER: Well, we would like to go on record to leave it the way it is, not put it back to

the fire-protection districts.

HEARING OFFICER BENSKO: Okay. Let me have the sign-up sheet and then I'll go through the sign-up sheet. And each one of you state your name and -- all over again. And then we'll go through that.

Greg Groot.

MR. GROOT: Greg Groot, G-r-o-o-t, the fire chief of Godfrey Fire Protection District.

I would say that we currently have that agreement with the water utilities where they bill the customers.

I have heard people say that the water-utility charge on their water bill, they're being told that money is going to the fire department. There's some misconception there.

We're served by four water utilities. We

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have 445 hydrants. That would come to be \$55,625 out of our budget. That would be one person on the line that we would not able to fund.

I could see where, the way that it's done now, it's kind of in that category 'cause half of our area, which is about 40 square miles, has hydrants; the other 20 square miles doesn't.

Those people have to pay that same fee on their water bill, I could see where they're squawking about that. So maybe in a sense where everybody paid the same amount, that might be better.

But currently I think we're happy with the way that we're having the hydrants funded for their maintenance.

HEARING OFFICER BENSKO: Thank you, Chief.

Jim.

MR. SINCLAIR: Yes. My name is James Sinclair, J-a-m-e-s, S-i-n-c-l-a-i-r. I'm here in a couple of different capacities tonight.

I'm an attorney from Alton. I represent the Illinois Association of Fire Protection Districts, legal counsel for that group.

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And I also represent -- and I wrote them down so I wouldn't forget anybody -- Godfrey Fire Protection District; Mitchell Fire Protection District; Fosterburg Fire Protection District; the Smithton Fire Protection District; the Northwest St. Clair County Fire Protection District; the QEM Fire Protection District; the Waterloo Fire Protection District; and the Signal Hill Fire Protection District, most of which have representatives here tonight.

When this notice came through, the immediate concern of I think the fire-protection districts had to do with what you indicated in your opening statement about the genesis of Section 9-223, Section A, because that was a hard-fought legislative battle 20-plus years ago when this issue first arose.

And it arose, at least from my experience, in connection with a rate proceeding initiated by the, then the Alton Water Company, which is now part of the Illinois American system.

But at that time it involved basically

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these two jurisdictions here, the City of Alton, who I didn't represent, and Godfrey Fire Protection District, which I did.

And the issue at that time was that both the City of Alton and the fire-protection district, as I recall, were paying initially \$55 per hydrant per year by agreement with the Alton Water Company. And in that rate proceeding, basically, at the initiation of the ICC staff, there was a proposal to raise that I believe to \$125 and to increase it beyond that to cover what was computed to be the cost of installing the infrastructure to supply fire service, have the volume of water, the pressure, and the hydrants.

At that time we participated in that rate

proceeding. And the Commission came back, as I recall, and ordered \$110-per-hydrant charge in that rate proceeding.

That's when the legislative effort began at least from our perspective. And the reason it began is because we did the computations based on the number of hydrants that Alton and Godfrey -- just

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those jurisdictions -- had at that time.

The combined cost per year would ultimately have been around \$750,000 a year. And that was, remember, 20, 30 years ago. So the cost today would probably be double or more than that if the same rationale were to be applied. So this was and is a very serious issue with regard to these jurisdictions, particularly for fire-protection districts because, unlike municipalities, fire-protection districts derive essentially all of their revenue from property taxes. They don't get sales-tax money. They don't get income-tax money. Some of them get a little bit of corporate personal-property-tax money, but most don't.

So what happens is if you impose a significant increase like this one would have been back those years ago, it would have literally crippled many of the fire-protection districts financially that were served by the private utilities, the water companies.

And for that reason, this section in the

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statute is extremely important.

And while there may be some misunderstanding on the part of customers as to what they're paying for, as Greg indicated, what may need to be -- may need to happen is there may need to be some rewording of that or some educational work done

there.

I don't know what the water companies are indicating to their customers. But it's clear we don't -- you know, as fire-protection districts, we don't get that money.

There's no funding there. But by the same token, if that charge were to be passed through the fire-protection district, it would be a very significant burden.

In some parts of the state where the property-tax-extension limitation law applies, tax caps, commonly referred to, property tax caps, in those areas, those districts would be especially hard hit because they would not have the ability even to do anything to try to increase their revenues from their property taxes.

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Most of the districts that are here tonight that I represent are already at their rate limits for their property taxes. They really don't have any more financial capability. So to that extent, this is a very serious issue.

If there is to be any kind of an effort to go back to what was being proposed 20-plus years ago, that would have serious ramifications for most of the districts that are here tonight that are served by in this case Illinois American.

And I think you'd find the same thing or will find the same thing throughout the state. We were -- I will tell you -- a little unclear as to exactly what this hearing was to be about when the notice first came out.

And in looking -- your opening was very helpful at least to me to understand that the basis for this and the problems that they may be having up north with this question of, you know, people thinking they're being double-taxed. As you point out, they're not being double-taxed.

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The cost of providing an adequate infrastructure to deliver the water is a necessary part of the water system in the ratings for fire departments that are done by the Insurance Services Organization, a lot of these chiefs can tell you better than me what the impact of that is. But the water supply is critical. It's a major component in how fire departments are rated. So there's no question that adequate water supply is critical.

And it's also critical that that be part of the rate base of the utilities and that they provide that without imposing an undue charge on the fire-protection districts.

So from the standpoint of the Illinois Association of Fire Protection districts and the fire-district clients that I have, we definitely want to send a signal back that we do not want to see a change in Section 9-223(a).

Thank you.

HEARING OFFICER BENSKO: Thank you, James.

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Terry Ford.

MR. FORD: I have to go after Jim?

Terry Ford, T e r r y, F-o-r-d, vice-president of the Illinois Firefighters' Association.

We represent approximately 500 fire departments, 24,000 firefighters throughout the state of Illinois.

And at our board meeting, our board unanimously voted to oppose any changes to any of the rate structures and so forth.

Thank you.

HEARING OFFICER BENSKO: Thank you, Terry.

Dennis.

MR. OAKS: Yeah. Dennis Oaks,

D-e-n-n-i-s, O-a-k-s, Northwest Fire District.
And again, what Jim related about the
budget crises, it would definitely impact my
department considerably. And we would like to see it
stay the same as it is now.
HEARING OFFICER BENSKO: Thank you.

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Greg.

MR. RENDER: I can recall what Mr.
Sinclair talked about 20 years ago when we were able
to take the fire-hydrant rental fee off of our
budget.

And one time we only put a fire hydrant
30,000 feet apart 'cause it was a budgetary issue.
The ISO, Insurance Service Organization,
has a public protection grading schedule that the
closer the fire hydrants are, the better water flow,
etc., the lower the -- in general terms, the lower
the insurance premiums are that homeowners and
businesses would pay for fire-insurance premiums.
As a result of that shift being given back
to the water-company customers, we were able to
install fire hydrants every 500 feet apart to meet
the ISO recommendation or guidelines. That got us
down to an ISO Class III.

So people may be paying a little more on
their water bill, but they're saving it back on the
insurance saving side.

The ISO on their public rating schedule,

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50 percent of the grading schedule is for fire
hydrants in the water system; 10 percent is for
communications; and 40 percent of the schedule is for
the fire-department operations.

And what goes in there, as Mr. Sinclair,
has indicated, this would be a significant impact on
us. And I don't know that we wouldn't wind up

pulling fire hydrants out of the ground for budgetary reasons if we went back to the old way. Thank you.

HEARING OFFICER BENSKO: Thank you, Greg. Douglas.

MR. SCOTT: Douglas Scott, D-o-u-g-l-a-s, S-c-o-t-t, president of the Caseyville Fire Protection District.

We would oppose this also. We currently pay no fees to several different water companies that I'm aware of. In fact, I know we do not. And we certainly do not want to in the future.

HEARING OFFICER BENSKO: Thank you, Doug. Earl.

MR. DOERR: My name is Earl Doerr,

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D-o-e-r-r. I represent the Columbia Rural Fire Protection District.

A small country district has limited resources. About ten years ago Illinois American laid a new water line in Columbia.

And some of it went through the rural area, and they tried to assess us close to \$300 a fire plug. And we deferred that to the customers. And I think we'd like to keep things the way we are. We just don't have the resources to pick up the amount of money they're talking about. They may say \$75 here today, but they told us close to \$300 a fire plug.

HEARING OFFICER BENSKO: Thank you, Earl.

MR. SOWDERS: Yes. John Sowders, S-o-w-d-e-r-s. I'm the fire chief of the City of Alton.

I don't have a lot more to add to what's been said other than the city of Alton, we have somewhere in the neighborhood of 1200 fire hydrants, all served by Illinois American Water Company. We get excellent service from them.

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We're very satisfied with the way the system's set up now. If in fact these charges were put back onto the city to the fire department, I would reiterate what Chief Render said. We would be removing fire hydrants and removing fire protection in order to make our budget. So we are very much opposed to any changes in these rules.

HEARING OFFICER BENSKO: Thanks, John. Steven.

MR. RYNDERS: Steven, S-t-e-v-e-n, R-y-n-d-e-r-s, president, board of trustees Godfrey Fire Protection District.

We are also opposed to this. We just recently hired two new paid men. If something like this would go through, we'd be laying our new paid men off as a way of meeting our budget.

Mr. Sinclair said before, we are limited in our resources in how to get our money for the fire district. And we're just opposed to it.

HEARING OFFICER BENSKO: Thank you, Steve.

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Ed.

MR. FLETCHER: My name is Ed Fletcher, trustee for Mitchell Fire Protection District. Definitely just -- Mr. Sinclair, you know, stated earlier, with our current budget that we have now, it would be impossible to, you know, pay for these charges on this fire hydrant. So we'd be opposed to it.

HEARING OFFICER BENSKO: Thank you, Ed. Eddie.

MR. LEE: Yeah. My name's Eddie, E-d-d-i-e, Lee, L-e-e. I'm with Mitchell Fire Department Fire Chief.

And yes, we are opposed to this.

We have a little different situation. Where we're at, we have three TIF districts.

And I got 15 warehouses going in, with

fire hydrants every 300 feet. And if something like this goes in, it would bankrupt our fire protection, basically.

HEARING OFFICER BENSKO: Thank you, Eddie. Bryan.

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MR. DOYLE: Again, Bryan Doyle. I would have to agree with the other chiefs here and Mr. Sinclair and their comments. I'll just have to get with Illinois American to find out why I'm the only one in the room still paying Illinois American for fire hydrants and no one else is.

HEARING OFFICER BENSKO: Thank you. Thank you.

Is there anyone else in the room that would like to speak?

Yes, sir. I need you to state --

MR. PARKE: John Parke.

HEARING OFFICER BENSKO: John, I need you to state your name and spell it for me.

MR. PARKE: John Parke, P-a-r-k-e.

HEARING OFFICER BENSKO: Thank you.

MR. PARKE: And I'm president of the Smithton Fire Protection District. And Bryan, you're not alone. I'm also paying them a token fee which I've had a call in since I was advised of this hearing to try to see

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why I was still paying that. I haven't been able to get an answer yet. But we are definitely opposed. We have just a few hydrants in our district. We are giving them a token amount at the present time, but we also are on a limited budget. That's why I'm here. I had a hard time finding the place, but I'm here.

HEARING OFFICER BENSKO: Thank you.

MR. PARKE: Sorry I'm late.

HEARING OFFICER BENSKO: That's everyone that's signed up.

Are there any other questions that -- you know, is there anything else that you guys would like to talk about on the record?

This is a -- it's a little strange to me doing a public hearing. Generally when I do hearings, it's in a setting where, you know, you come up and you testify before me and it's sort of like in a court of law, you know.

These public hearings, these are totally different. There's no case number. We're just doing

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these sort of, you know, aside from anything that we generally would do.

I understand that there are some people that have some misconceptions. Why those misconceptions weren't addressed outside of the legislative process, we had no idea.

We have no comment on that. I don't know where it came from. But when I was over in Champaign the other night, not a person showed up.

So you know, it kind of left me thinking, you know, I guess these people like the status quo. But you know, on the 15th when I go up north, I know exactly what I'm going to have.

I'm going to have a roomful of people that want to talk about how high their water bills are. They're not going to be allowed to talk about that. The only thing that we're going to talk about is what the law states.

And James, you know as well as I do, you know, where this came from. You've enlightened me tonight a bit because, you know, I wasn't there when this happened.

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And it's good to know a little bit of the strategy that was used when this whole thing was thought out.

I know exactly -- coming from Springfield, I used to be the ESDA director for the city and the county. I was the head of the rescue squad. I taught fire rescue.

I know what fire departments go through.

I know how expensive training is. I know how expensive the gear is and the fire trucks and stuff like that. I know exactly what you have and what you can afford and what you can't afford.

And to some fire-protection districts, what you can't afford is that little bit of extra training or maybe a rope or two or maybe a hose that needed replaced. And we're not always talking about buying new great big red fire trucks or anything like that.

So I understand exactly what you're saying when you're saying we can't afford to pay for that water, we can't afford to pay for that maintenance. And in reality, you know, there in

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Springfield, I'm tickled to death that I have never had to call the fire department for a fire at my house.

But I'm also tickled to death to see that fire hydrant right in front of my house and to know that on a yearly basis that fire hydrant is tested to know that if the -- if the fire department were to come to my house and check it -- I live in a new subdivision, so they've been doing it yearly just to make sure that -- I know it's done on a yearly basis. But you know, I know it's there. And I know that, you know, somebody's going to be there and somebody's going to help me. I know in unincorporated areas the rescue squad had to go put out fires.

And the rescue squad, you know, they had to be at the mercy that there would be a water tanker someplace, or you know, they brought their own

or something like that.

So I know exactly what you guys are saying here. I don't have any idea what, you know, what's going to happen when I go up north.

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I don't -- I can't really think that they've been where the whole situation has been explained to them in a logical setting that everybody can understand.

If the general public thinks that they're being cheated, you know, let's sit down and talk about this.

Well, the talk went from me sitting in a room face to face with somebody saying this is how it is, you know, you're not being double-taxed, to going to the legislature and the legislature telling us what to do.

John has been charged with writing up the final report. That's why he comes with me. Plus the fact that he's a good partner for dinner at night. And you know, John -- is it just you that is going to do this file?

MR. HENDRICKSON: I'm sure I can delegate it to somebody. I'll certainly have the responsibility, yeah.

HEARING OFFICER BENSKO: And when we take this back, you know, with what you've said on the

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record tonight, you know, we have a piece of paper with words on it that say that you guys are opposed to anything.

So that's a good thing. And you know, I really do appreciate you guys being here. I apologize for the mixup on the days.

I had changed it. I thought everybody -- I have a memo here that says, Please Note, in big letters, Please note change in date for Fairview

Heights.

But aside from that, I really appreciate you guys being here tonight.

Is there anything else that you want to put on the record?

MR. SOWDERS: Chief Sowders again from Alton.

I would like to add I've got a total of about seven years of being the chief, not all continuous. But in those seven years, I bet I've only fielded maybe two or three taxpayers questions regarding that charge.

And I don't recall ever not satisfying

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the, you know. But it's really a rare thing. I don't know what the experience is of the other chiefs. But it's very rare that anyone even questions that.

And then once I explain it to them, there's never been a problem with it.

HEARING OFFICER BENSKO: Has anybody ever had anybody ask them about this?

MR. SINCLAIR: Just very quickly, Jim Sinclair again.

When the legislation was first introduced, there was some publicity about this charge. And there were some statements made that people were going to be paying a quarterly charge I think of \$7 apiece.

And the reason I know that is I went back and looked at my file today. And we actually did a press statement, a statement of position on behalf of the Godfrey district when that occurred.

So there was some initial commentary that was picked up in the local press.

But like John, after that, I don't think

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that at Godfrey we've heard and the other districts I don't recall anybody ever complained about it. Several of the districts did because they had been paying a charge, some \$25 a hydrant, some 55 a hydrant.

They continued that for a period of time after the legislation went through basically as sign of good faith that they weren't simply trying to take advantage.

Ultimately most of them -- I think probably all -- John Parke at Smithton might be an exception -- eventually did stop making the payment basically because of budgetary constraints. They needed all the money that they could get.

One of the things that happened I didn't mention in the first remarks that I should have, one of the big things that happened after this and very close to it was that the Illinois Department of Labor promulgated regulations for firefighter safety which over time have been a very good thing for the safety of firefighters but imposed a very significant additional financial burden on a lot of fire

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departments in the form of equipment, additional training.

And on the heels of the water-charge issue, that's basically why a lot of the districts said, we can't pay it anymore because now we have this new obligation that we have to take care of. So that's a point I should have made early on, one of the reasons why many of them have just phased that out.

HEARING OFFICER BENSKO: Yeah. One of the -- and I know this to be true, you know. Some of the areas that, you know, the -- across the board, average salaries are, you know, up there, those people basically pick up the charge and because their tax receipts are such that they have that liberty to do that.

You know, when you're dealing with a rural area, when you're dealing with towns, you know, say 40-, 50,000, people, you don't have that luxury.

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You don't have that tax base to take that money from. And the way I'm looking at this is it's a nice balance.

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One of the things that, you know, I'm sure somebody's going to say, well, you know, the water companies make enough money that they shouldn't charge us for, you know, the meters and stuff like that.

I've had people say that to me before.

And the fact of the matter is, it's our job at the Illinois Commerce Commission to balance everything out.

When a company comes in and has a rate case before us, we have a number of different staff that we put on that case, staff that represent the general public, staff that go in there with a fine-toothed comb and say, you know, Company A, no matter whether it be electric rate or a telephone charging higher, you know, higher rates for telephone service, we go through those things with a fine-toothed comb and try and figure out what is reasonable.

And to some people, that's a relative word. What's reasonable for you, you know, might not be reasonable for me.

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But what we do is we try to go in there and we do it with a level hand. The Illinois Commerce Commission is made up of a Chairman and four Commissioners.

We only have three right now. We're waiting for another one to be appointed. But when we make a decision and we have something, it's just -- it's exactly like a court of law.

You have a judge that's assigned to the case. You have lawyers, the defending lawyer and the

prosecuting lawyer. Well, we have the same thing. The companies come in and testify under oath before us. They have expert witnesses. We have expert witnesses. We have staff economists, staff accountants, you know. And when the case is finely done, the judge has a proposed order that he offers to the Chairman and Commissioners. The Chairman and Commissioners can say, I want you to go back and consider something that was -- something that Bob Bensko picked up in one of his public hearings, I want you to go back and give me an

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answer on something like that. But when it's all over and done with and they vote on it, if you don't like what they voted on it, the public has or anybody has a chance to say, I don't like what you had to say. But to do that, you have to go to the appellate court, so. This is a legal standing body. And I usually equate the Commission to the Supreme Court of -- Supreme Court of Public Utility Law and stuff like that. And if you don't like what we, the Illinois Supreme Court, you go to the appellate court and take us to court and argue your case before us. So we don't take things lightly. That's the reason that, you know, we're here tonight. We didn't take it lightly that they said to do these three public hearings. We decided to do it at seven o'clock at night to give people time to get home, get a bite to eat, and then come and speak before us. We didn't -- we chose not to have it at

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the Springfield or Chicago office. We chose to have

it in your backyard.

And we do that because we want you to know that we do care about everything that you have to say and your statements and your feelings do count.

And I just want you to know I really appreciate you guys being here tonight. I appreciate your comments on the record.

I appreciate the questions that we've had.

And we had a good back-and-forth question-and-answer period and stuff like that.

So if there's anything that you want to say to say to me after I've left tonight, you can send it to me -- you can mail me a letter or send me an e-mail and I'll put that in the record.

Is there anyone else that has any comments or would like to speak about anything?

MR. GROOT: I lived in the Orland Park fire-protection area on the outskirts for over 45 years. And I can tell you that the area is heavily monied. There is a lot of big houses. And the previous chief was Chief Buzz.

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When he retired, he was replaced by Chief Bettenhauser. He currently left the job under pressure from his trustees.

There's a lot of strife in that fire-protection district. The Village of Orland Park actively works against that fire-protection district. And there's a lot of turmoil there. So that may be the reason for this taxation stress they're feeling.

HEARING OFFICER BENSKO: Thank you.

Greg Render.

MR. RENDER: What happens next?

HEARING OFFICER BENSKO: The next thing I do is I go hold the hearing on the 15th up in Northern Illinois in Orland Park.

And then we'll take that information from that one and the one from today.

And John, you want to give your two cents here about what you're going to do?

MR. HENDRICKSON: At that point we'll have

all the information that the law requires us to get.
And we're charged with writing a report for the

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legislature.

That report will have to be approved by
the Commission before it gets sent down to Capitol
Building. We have until the end of the veto session
of 2008, so roughly a year from now.

While I hesitate to say we're not going to
take that long to write this report, I'm not going to
promise that we won't or that it won't get out until
this time next year.

But that's the timetable. And what the
report will say, I don't know, other than, you know,
your comments and the comments we get next couple of
weeks.

What the legislature will do with that
report, how they'll interpret it, that's up to them.

AUDIENCE: Will there be a recommendation
from the ICC to the legislature?

MR. HENDRICKSON: Again, I don't know if
there would be a recommendation or not. There might
be.

I mean, if you took everything that was
said tonight, it would be easy to say here's the

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recommendation.

Depending on the comments we get in a
couple of weeks, I don't know if it will be quite as
easy.

We're not required to make a
recommendation. But the Commissioners may say, Yes,
let's put some recommendation into it. They may say,
No, we're not recommending anything, here's what was
said.

So other than that, I don't know how
that will finally turn out.

AUDIENCE: If we leave you our business card, are we entitled to a copy of that report when it's complete?

HEARING OFFICER BENSKO: We'll have it on our Web site.

AUDIENCE: When do we start looking? A year from now? Six months? Nine months from now?

HEARING OFFICER BENSKO: Jim, why don't you just -- why don't we deal with one person.

MR. SINCLAIR: We can do that. I mean, I can get it to everybody here, and they can get it on

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the association Web site.

HEARING OFFICER BENSKO: Why don't -- Jim, why don't you deal with John and myself. And the hardest thing is -- the hardest thing is, if you read what the legislation says and what we have to do, we have to make a report on what was said.

Whether the Chairman and Commissioners want to take that extra step and say we're going to make this recommendation, if you asked me after the 15th, I couldn't say.

If you asked me December 1st, I probably couldn't tell you, you know, what exactly they're going to do. We were told to do this and we're doing it. We'll do it with exactly what you guys said. That's why we take a record of it, exactly word for word what you said. We will make that available to them so that there's no question, you know, well, that's just your feeling of what they said.

No. That's exactly what they said that particular night. So I think your feelings, you

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know, your feelings will be heard. John will write up the report. You

know. If somebody asks me to write up a report, I'd write it on what I had learned. And I know that's what John's going to do, so.

FORUM ADJOURNED

Appendix C

Transcript for Orland Park Public Forum

BEFORE THE
ILLINOIS COMMERCE COMMISSION
IN THE MATTER OF:
General assembly and the)
Governor approved Section 9-223(b))
To evaluate the purpose and use of)
each fire protection charge imposed)
under this section.)

Public Forum
14750 S. Ravinia Avenue
Orland Park, Illinois
October 15, 2007
Met pursuant to notice at 7:00 p.m.

BEFORE:
CHIEF PUBLIC HEARING OFFICER ROBERT R. BENSKO.

ALSO PRESENT:
MR. MICHAEL FOUNTAIN
Director of the Consumer Services Division
MR. JOHN HENDERSON
Manager of the Rates Department
MR. MICHAEL LUTH
Analyst with the Rates Department
527 East Capitol Avenue
Springfield, Illinois
SULLIVAN REPORTING COMPANY, by
Tracy L. Overocker, CSR

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Robert Buhs 8
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CHIEF HEARING OFFICER BENSKO: Public hearing
October 15th, 2007, 7:15 p.m.
Good evening, my name is Robert Bensko and I'm the

Chief Public Hearing Officer for the Illinois Commerce Commission. Tonight with me, I have three gentlemen from the ICC. Do you want to introduce yourselves, starting with Mike.

MR. MICHAEL FOUNTAIN: Good evening, everyone, my name is Michael Fountain, I'm director of the Consumer Services Division of the Illinois Commerce Commission.

MR. JOHN HENDERSON: John Henderson, I'm the manager of the Rates Department at the Commerce Commission.

MR. MICHAEL LUTH: Mike Luth, I'm with -- an analyst with the Rates Department with John.

CHIEF HEARING OFFICER BENSKO: Thank you, gentlemen.

I want to thank you all for coming tonight. Seated next to me, I have a court reporter that will make a legal record of your comments, which will be made available to the chairman and

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commissioners and then a report -- a final report will be made to the legislature prior to the -- prior to or after?

MR. JOHN HENDERSON: Prior to.

CHIEF HEARING OFFICER BENSKO: Prior to the 2008 veto session. I'd like to ask if you have cell phones or anything on, please turn them off so it won't disrupt the proceedings.

The purpose of this forum: In 2006, the general assembly and the Governor approved Section 9-223(b) which requires the ICC to conduct three public forums to evaluate the purpose and use of each fire protection charges imposed under this section. The statute also requires that the ICC invite to the forum a representative from each municipality and fire protection district. The ICC is required to report its findings to the general assembly.

The legislative history and background from this: Section 9-223(a) of the Public Utility Act was enacted around 1984. Prior to that time, fire-related water system costs were recovered from

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municipalities and fire districts through per hydrant charges. The statute was proposed by fire protection districts, that's the fire protection charge, that was originally proposed by the fire protection districts. The effect of the statute was to allow municipalities and fire protection districts to opt out of paying such charges unless they choose to do so by entering into a contract with a company. Most municipalities and districts have chosen not to pay hydrant charges and those hydrant charges are per hydrant. Most hydrants are 500 feet apart, so you can imagine, say, in this area, a fire hydrant every 500 feet and if you were charged per hydrant charge, that would -- those costs would add up. As a result, fire-related costs are now recovered from customers, primarily through a fixed charge for public fire protection service. The statute provides for the recovery in the manner of a reasonable portion of the cost of providing capacity and water for fire protection. Any fire protection costs that may not be recovered through the fire protection charge are allowed to be recovered through

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charges for the general water services. As the statute has been interpreted, the requirement for a fixed amount per bill permits differentiation of the fixed charge by meter size. Also, the charge must be based on the level of fire protection costs for each municipality or fire protection district. The language has been interpreted to allow for a uniform charge in a given rate area, such as the Chicago Metro Division. The basis for the calculation of the charges, the fire protection -- the public utility provides the water pipe system, the hydrants, the water for fire protection and the utility is allowed to recover its cost from its water customers and municipality or fire protection district. Now, that's the public utility. At this time, a public water utility must seek approval from us, the ICC, to initiate and to charge a fire protection charge. Fire protection charges are developed in a rate case in, generally,

the following manner based on costs to provide the service: The number of hydrants; the number of

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customers; the amount of water for fire protection; the cost of the water and a monthly charge. The basis for the determination of municipality and fire protection charges on a tax -- and I want to clear this thing up because there's some misconceptions about people being dual taxed.

You have a fire protection charge on your water bill, that pays for the water, the hydrant maintenance and stuff like that. The fire protection charge that you have on your tax bill pays for those little red trucks that drive around and the building and the people and the services and the training and stuff like that. They are two distinct different entities; but a lot of times we have the public, they think that they're being dual taxed for the same thing and they're not.

I run these hearings very openly and I encourage anyone and everyone to speak tonight because the only way we're going to have anything to write to the legislature is if you tell us something and we don't want to go home empty handed, so...

I run these hearings openly and I urge

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anyone and everyone to speak. If you have some -- and I know there are some chiefs and some people representing larger numbers than are seated in this room, I will allow you up until January 1st to send me letters to the Illinois Commerce Commission, I'll give you the address, 527 East Capitol Avenue, that's C-a-p-i-t-o-l, Avenue, Springfield is 62701 and address them to Robert Bensko, B-e-n-s-k-o.

When you come up to speak tonight, I ask that you use the podium. State your name and spell it so that the court reporter has an accurate record. If you would like to do like one of you has already done, drop off your written comments, along with what you say up there, that's okay or if you have written comments from other entities, I will take those tonight; but be sure and send out to

everybody a note that states that they can write to me by January 1st and I will accept all those comments and letters.

All right. I will mispronounce every name on this page. Robert Buhs.

MR. ROBERT BUHS: Thank you, Mr. Bensko. I

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appreciate the opportunity to speak here on behalf of the fire districts, the Illinois fire chiefs. Again, my name is Robert Buhs, spelled B-u-h-s, I'm the executive director for the Illinois Fire Chiefs Association. I am also the retired chief administrator for the Orland Fire District where this stuff kind of generated back when I was the chief here in Orland.

I speak on behalf of 463 members of the fire districts that are part of our membership, many of whom are protected or have water by private companies. Looking over House Bill 5555 back in '94, Section 9223 -- 223, we are in support of leaving that section alone, we have really no issue with that. We do not want to remove the section allowing the district or the department to opt out of waiving those fees.

You are correct, many of the fire districts will be here across the state complaining on the water bill from the private utility company, they are hearing of a fire protection charge. They have every right to do it according to the statutes;

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however, I want to go on record that we would like at least to see in the water bills an asterisk, if you will, next to the fire protection charge making it clear that by rights of the public utility or the private utility company, that they can charge this for fire protection systems, like, a warning label or an informational label, if you will. I think that's pretty important.

We understand that there is a number of citizens in the state that don't pay much attention to these bills, but it has to be made clear that this is a private company's ability to install

and maintain systems.

We have another concern that many of our districts -- we have to do a better job, meaning the Illinois Fire Chiefs Association, informing our members who are dealing with a private utility that they need to go on record to opt out because many of our districts are receiving bills -- yearly bills for fire hydrant usage or rental, if you will.

We have some districts in this state that have an operating budget of only \$30,000 a year,

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I mean, their main revenue stream is pancake breakfasts and the like and they really don't know what to do and some of them have been trying to make payments to pay for this charge. So we have to do a better job of informing our members to go on record to opt out as the statute now allows, so we definitely want to keep that in place.

There is a concern and I think you'll hear later -- testimony later on that there are several different fees in the area. One is for the \$4.00 a month charge, which averages out to about \$55.00 a year for fire protection; but there's also another fee for large, they have an alliance that has to be brought in for a sprinkler building. So we are starting to see a menu, if you will, in some of the bills for fire protection fees, which I guess by statute is allowable, but that throws a lot of questions by some of the districts, how much and where does the list stop, the size of water mains and the like. If it's clear that it's for hydrants to maintain the water supply system, the storage and the like, that's fine; but we got to be careful of that,

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you know, the ICC look closely at the private companies not starting a laundry list of fees, if you will, it's got to be very clear lumped into one.

Currently -- we know there's been a lot of issues up in Springfield regarding what's going to happen December 31st, 2007, with this and I know you have to make your report by the April session of 2008. Again, I want to be very clear that

we do not want to lose the ability to opt out on that section.

And, number 2, we think it will be wise for the ICC to look at the private companies to, at least, on the bill itself, to identify what the charges are for and some have even questioned exactly what -- how that money is going. I mean, there's no accounting principal for the budget process that's being maintained.

As you know, Channel 5, they made a big deal of fire hydrants, both municipal public and private, regarding the maintenance of hydrants and we know this is an issue on both sides; but if those fees are being used for fire protection systems, then

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we need some accountability also in the maintenance of those systems; and, again, it's the same issue on the public side, too. So we also have a concern for making sure the systems are maintained.

With a water company that I dealt with here when I was the fire chief, we had a hydrant that was out of service. We called -- and believe me, that is documented probably in our journals way back, I've been gone now three years, but there are cases where those hydrants were out of service and what sticks in my mind for one hydrant was over three weeks. I could say when I was here, it was a municipal -- a village owned park hydrant, it was fixed within 48 hours; but then -- so, I mean, that's at an issue, too, for us.

So the fee that is going to maintain the system for fire protection, I think there needs to be some more accountability and when a hydrant does go out, it's got to be repaired in a reasonable amount of time.

I keep hearing "reasonable fees and the like," "reasonable costs." I think my -- what

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I'm hearing from some of our membership is, is this going to be a fixed rate? Is it going to keep incrementally going up every year? And I think Bob said it's based upon service -- service in the way of

people and I guess every metropolitan area --
CHIEF HEARING OFFICER BENSKO: It's based on
the number of hydrants, the number of customers, the
amount of water for the fire protection and the cost
of the water and on top of that, a monthly charge and
they have to come to us in a rate case before they
can change that.

MR. ROBERT BUHS: Okay. We have -- and I need
to get those letters to you, some parts of the state
are paying astronomical rental fees. I guess -- so
you are saying the ICC does approve those rates?

CHIEF HEARING OFFICER BENSKO: Correct.

MR. ROBERT BUHS: We also heard that some staff
members of the ICC even looked at systems to rise
close to \$650.00 based upon costs and I'm not too
sure of those numbers, but we're concerned about
that. So we're very -- it is a big issue for us and
how high that rate is going to go.

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Now, again if we opt out and it's made
clear on the bill that this is not a tax or going
directly to the fire district or the public entity,
that it's strictly for private water supply use, then
maybe it will take some of the heat off us, but those
are our concerns. I thank you for listening.

CHIEF HEARING OFFICER BENSKO: Thank you very
much.

Michael Dillon.

MR. MICHAEL DILLON: I'm Michael Dillon,
D-i-l-l-o-n, I'm the president of the Illinois
Association of Fire Protection Districts. Our board
represents about 650 fire districts across the state
of Illinois. And our concern, again, is almost
identical to the chief's, but one thing I do want to
bring up is that fire protection districts receive
nearly all of their financial support from real
estate taxes and the levies allowed to the districts
are subject to rate limits in most cases or are
subject to PTEL or tax caps which really limits the
amount the district can generate by property tax to
pay our operating expenses and adding a charge for

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public fire protection to the operating expenses of the fire protection district would impose a serious financial hardship and result in diminished fire services.

One of the fire chiefs from Fairfield Heights in the previous hearing put it; the way that he would be pulling plugs out of service in order to reduce the cost and this, of course, would reduce the amount of the department's fire suppression capabilities.

Also, again, I want to say that the fire protection districts do not want Section 9223(a) to be changed in any manner which will allow either the ICC or the water utilities to force a charge on them for what the utilities and the ICC staff decide and characterize as a public fire protection charge. And I want to reiterate what Mr. Buhs said is that there's a lot of confusion on the bills on what that fire protection charge is for. A lot of people think that that -- when they pay their water bill, that that money is going back to the fire department or the fire protection district and that's

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not the case and it needs to be clarified on the bill. That's all I have. Thank you. Thank you for the opportunity.

CHIEF HEARING OFFICER BENSKO: Thank you very much.

Larry?

MR. LARRY RAUCH: No thanks. He said it all.

CHIEF HEARING OFFICER BENSKO: Bill?

MR. WILLIAM BONNAR: My name is William Bonnar, B-o-n-n-a-r, from Homer Township Fire Protection District. And what I want to bring to the table here at this hearing is I brought an actual bill from our fire station. We are primarily covered by Illinois American Water which is a private utility. The history of it was, it was a small group of water companies bought out by Citizens Utility, conglomerated and bought out by Illinois American Water. And just so that everyone has an example of what we're talking about here is 12,000 gallons of water was used last month for a total charge \$308.00. The bill breaks down to basic service use, \$3.51 per

thousand; supply charge, American lake water, \$2.37

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per thousand; sewage treatment of \$8.65 per thousand; and then under other current charges, we have an 8-inch fire protection \$66.00 a month. What that is, is an 8-inch water main that goes into our fire station to supply our sprinkler system, there's no explanation on that. If they say they need that for maintenance, we've performed the RBZ inspections, we perform the flushing of the system, they do no maintenance whatsoever.

And then also is a \$4.28 per month fire protection charge and that was when we opted out of paying for the hydrants ourselves, the utility company charges everyone across the board. That's all I have. Thank you.

CHIEF HEARING OFFICER BENSKO: Thank you.

Is there anyone else that would like to speak on the record tonight?

MR. ROBERT BUHS: I'm sorry, I think that was a good example, the 8-inch main that comes into the station. Is this being charged to every commercial building, too, that has a sprinkler system?

MR. WILLIAM BONNAR: The building has a

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sprinkler system.

MR. ROBERT BUHS: There's no maintenance on that line once it comes in, it's up to the fire department then to check the sprinkler system and there's a good example. Is it -- will it become a laundry list, if you will, and when does it end? And I think it has to be made very clear. Thank you.

CHIEF HEARING OFFICER BENSKO: Any one else?

(No response.)

Hearing no other speakers, I will adjourn this meeting. I thank you all for coming tonight. I urge you to have people write me letters; I want that. I want you to write me letters so that we can put it in the public record of the file and it gives us some meat and potatoes to write our report and the report will reflect exactly what the people in the room stated.

Thank you every one.

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