

**Testimony of Steven A. Lawitts  
Acting Commissioner  
New York City Department of Environmental Protection  
before the New York City Council Committees on Environmental Protection and  
Finance  
concerning the proposed Fiscal Year 2010 increase in water and sewer rates  
April 28, 2009**

[SLIDE 1]

Thank you Chairmen Gennaro and Weprin, and members of the Environmental Protection and Finance Committees. I am Steve Lawitts, Acting Commissioner of the New York City Department of Environmental Protection (DEP). Thank you for the opportunity to testify before you.

As you know, the Water Board is proposing a 14% water and sewer rate increase for FY2010. Particularly now, we understand that any increase may be difficult for many of our ratepayers so we do not make this proposal lightly. The increase we have proposed is what is needed not only to meet our legal obligations to State and Federal regulatory agencies, but also to maintain New York City's water supply system as one of the best in the world and an unparalleled resource for all New Yorkers, now and in the future.

Like every City agency, DEP has taken significant cuts to its capital and operating budgets. For the Fiscal Year '09 we reduced our spending by \$46 million and in FY '10 we have already cut \$24 million and we continue to pursue savings.

The proposed rate increase for FY2010 is primarily driven by increases in the debt service we pay on our largely mandated capital program, as well as a largely non-discretionary operating budget, which includes critical items such as energy, fuel and chemicals. This year, the proposed rate is also being driven by an unanticipated and significant decline in consumption, which has had an impact on revenues.

Later in my testimony, I will address each of these issues in more detail, share highlights from the past year, and address various questions that are sometimes raised in connection with the rate.

Though our City and our Department face economic challenges that are very much influencing the way we do business, the Bloomberg Administration is arguably presiding over the most important period of revitalization for New York City's water and wastewater infrastructure since the creation of the post-World War II Delaware Water Supply system and the post-1970s transformation of our Waste Water Treatment System.

Under Mayor Bloomberg, DEP's actual and planned capital commitments have totaled \$21 billion and provided for key water quality and water supply projects. As a result of this investment, and thanks to the support of Speaker Quinn and Chairman Gennaro for

our land acquisition program, in 2007 the City was granted an historic ten-year Filtration Avoidance Determination, or FAD, for 90% of our water supply. Harbor water quality has also improved dramatically, and is now at its best in over 100 years, based on 100 years of scientific sampling data. In fact, this year, we will mark the centennial anniversary of that program.

[SLIDE 2]

Funding outlined in the agency's 10-year capital plan will only continue these successes. The Third Water Tunnel, the Croton Water Filtration Plant, the Ultra Violet Treatment Plant, land acquisition and infrastructure support for the Filtration Avoidance Determination, sweeping changes to the Newtown Creek Waste Water Treatment Plant, and preparation to fix the Delaware Aqueduct are just a few of the agency's significant on-going projects.

These projects are ambitious and forward thinking. They are in the best traditions of the engineers who more than 150 years ago began building one of the greatest water supply systems in the world, and – as envisioned in PlaNYC – they will ensure that this system can support an additional population of one million people by 2030 and remain viable for generations to come. Investment in our system is essential, and our existing infrastructure – some of which is 120 years old or more – sets the standard for future work.

However, we are also acutely aware that we are making these investments at a time when our account holders are particularly concerned about their personal finances and are facing increases in many of their living expenses.

Given that reality, this might be a time to consider stretching out the planned capital program. For the most part, however, we do not have the option to slow or reduce this program of capital investment. Since most of our major projects are mandated, we must build them on a set schedule, which means that in some cases we end up paying significant debt service on several large projects at once. [SLIDE 3] In the past, mandated projects would have been largely paid for by federal or state aid, but that aid has declined, and was effectively eliminated in the end of the 1990s, even as mandates have increased.

And as the capital plan has grown, we have also begun committing a higher percentage of the plan. Whereas between FY '03 and FY '06, an average of \$1.8 billion, or 73% of the plan was committed each year, over the last two fiscal years, we have committed an average of 93%, or \$3.4 billion, each year. While this is good, and it means that DEP is doing an even better job of meeting its goals, it does mean that there are more projects to pay for.

[SLIDE 4] As a result of these rising capital needs, in FY 2010 debt service and operations and maintenance expenses will comprise equal shares of the anticipated \$2.96 billion system cost, with debt service showing the largest year-over-year increase.

[SLIDE 5] Fortunately, because of interest rate savings through our excellent bond rating, these payments – though higher than last year – are still below budget because actual interest rates were on our bond issuances were lower than anticipated. While our interest

rate assumptions for FY '09 – FY '10 were at 6.2% - 6.8%, actual issuances ranged from 4.79% - 5.93%.

Though capital costs remain high, it is undeniable that – in addition to the fundamental benefits that these projects will provide for the system – they also have a tremendous stimulative effect. [SLIDE 6] Looking only at our three largest ongoing projects—the Croton Water Filtration Plant, the Ultra Violet Treatment Plant, and the Newtown Creek Waste Water Treatment Plant—together they provide work for more than 1,700 contract employees. This is particularly important to note as communities around the country strive to take advantage of the economic stimulus programs created by the American Recovery and Reinvestment Act (ARRA).

In talking about stimulus, however, I must mention that water infrastructure is unlike many of the other major infrastructure categories where states and municipalities automatically will get a majority of the ARRA money in grants. Since the water grant programs largely ended in the 1990s as I said previously, I am particularly pleased to report that City officials, DEP staff members and staff from water utilities around the country have worked with Federal and State officials to advocate that a significant portion of the stimulus funding for water infrastructure is allocated as grants. This is a very important distinction, because over time, it will help mitigate rate increases. To date, New York State has been extremely responsive to our concerns, and we are hopeful that moving forward a large portion of available stimulus funding will be distributed as direct grants.

Because the Council monitored closely the transformation of our Bureau of Customer Services (BCS), I know you will be interested to hear that the changes we made have had a tangible benefit. As you know, over the past two years DEP has worked to improve its Bureau of Customer Services in order to compel delinquent customers to pay, collect long overdue revenue and provide customers with more reliable and accurate billing information. [SLIDE 7] It is critical that everyone pay his or her fair share, and though many of these initiatives are ongoing, serious delinquencies among single-family homes have already declined by nearly 10% since 2008, and by more than 15% among multi-family properties. As a result, this year's revenue decline is primarily tied to a drop in consumption, and not to customer payments; and we are able to propose a rate increase that is consistent with what was projected more than a year ago – prior to any indications of an economic recession.

Last year's water lien sale – and the Payment Incentive Program that we offered to delinquent customers prior to the lien sale – brought in approximately \$100 million in previously uncollectable revenue and started us on the way to dramatically reducing the number of long-term delinquencies.

[SLIDE 8] This year, 18,492 customers, owing \$180 million in delinquent charges, were eligible for the lien sale, with approximately 4,000 of those customers – the owners of mixed use properties and condos – eligible for a new Payment Incentive Program. As of the April 22 10-day listing, 9,360 customers have paid a total of \$54 million, and \$25

million is now covered by new payment agreements. 10,685 customers – and \$95 million in revenue – remain eligible for the May 4th sale.

[SLIDE 9] Of those customers eligible for the Payment Incentive Program 56% have taken advantage of the payment incentive program, which has yielded \$17 million in revenue. [SLIDE 10] Service termination notices have seen similar success, with a 95% payment rate from the 51 customers who were sent a 15-day notice on April 1.

In addition, we have launched a new automated outbound calling program to reach out to chronically delinquent customers before enforcement action is taken against their account. To date, this program has been extremely successful with \$9 million in delinquent revenue collected between January and March alone. Without these enforcement tools we would be looking at a much more significant revenue gap, which would undoubtedly have an impact on the rate.

In recognition of the current economic climate, we have implemented these programs with sensitivity to the concerns of our most vulnerable customers. [Slide 11] Approximately 37% of PIP eligible customers have opted to enter into payment agreements this year, and though payment agreements will only yield 10% of delinquent arrears this fiscal year, they offer these customers an opportunity to spread out payments, while ensuring that they will now be paying regularly into the system. In addition, working closely with the Council, last year we created the Safety Net Referral Program, which connects low-income, senior and disabled customers with existing financial counseling and social services at other city agencies. To date, this program has served more than 1,500 potential clients.

We are also in the process of implementing several new programs that will further enhance system equity and revenue stability.

At the April 3 Water Board meeting, we introduced denial of access and theft of service charges for property owners who do not provide access for our meter readers or where deliberate tampering with city-owned metering equipment has occurred. We are hoping to formalize these regulatory changes at the May 15<sup>th</sup> rate adoption meeting.

[SLIDE 12] In addition, DEP is currently installing Automated Meter Reading (AMR) technology citywide, which will provide accurate billing information and reduce the likelihood and frequency of customer disputes. In other cities that have implemented AMR in conjunction with robust enforcement tools, collection rates have surged as high as 99%. A similar increase in New York City would increase revenues substantially and could have a mitigating impact on future rate increases.

[SLIDE 13] As pleased as we are about the performance of our enforcement tools, there have also been some challenges in this year. One of the biggest challenges has turned out to be an unforeseeable and dramatic six percent drop in water consumption. [SLIDE 14] Because consumption rose citywide in FY '08, this decline was particularly difficult to predict. If this unprecedented trend continues, FY '09 will mark the lowest water usage since the severe droughts of the 1960s. DEP plans for reductions in usage based on

historical data, but such a large unplanned decrease does have an impact on the rate. [SLIDE 15] The FY '09 decline in consumption is expected to account for approximately 80% of the decline in revenues.

The drop in water consumption mirrors other indicators of the overall economic downturn. More than 8,000 financial and business services jobs have been lost since last year; ridership on many of the MTA's lines has declined in recent months. Manhattan commercial occupancy rates and condo sales have also decreased.

[SLIDE 16] Last year, our rate was influenced by the skyrocketing cost of energy and chemicals. In addition, we experienced the negative effects of one of the most extreme periods of construction inflation in recent memory. The construction market was so competitive that we were not only competing against other city and regional projects (both public and private) for bidders, but also against ourselves. As a result, all of our bids came in high. Last year, for instance, we awarded two of the largest construction contracts in city history. The high cost of construction over the past few years will continue to have an effect over the next few years as our debt service grows. We are pleased, however, that construction costs do appear to be coming down, which should have a beneficial effect on rates in the future.

[SLIDE 17] In recognition of rising system costs, this year we have worked to reduce our operating budget and have already cut it by five percent, as have other city agencies, putting us on track to save \$46 million in FY '09. We have also identified \$24 million in cuts in our FY '10 operating budget and continue to look for further reductions.

We identified these savings in areas that would not affect drinking water quality, wastewater treatment, or our extensive environmental health and safety program. Cost-saving initiatives currently underway include: reduction in equipment purchases; limitation of administrative expenses; reductions in contract services, such as cleaning and security; re-evaluation of the dosage of chemicals and testing of alternatives; reduction in the number of non-emergency light-duty vehicles; reduction in the number of part-time employees; and examination of the fee schedule for various permits issued by the agency.

Now I would like to address three issues sometimes raised concerning the financing of the water and sewer system – the rental payment, reimbursements to other agencies, and the rate study.

- Rental Payment

The rental payment covers the cost of general obligation bonds issued by the City before the creation of the water supply system; it also provides security for the bonds and covers the cost of services provided by the City. Unlike other utilities, such as Con Ed, DEP does not pay taxes for the services we receive.

One of the things that the Water Board's on-going rate study has determined is that most large water utilities make a similar payment to their municipalities. In fact, many large

utilities pay substantially more to their municipality than DEP does, and in most cases, they do not get as many services in return as we do.

We know that the rental payment has been a subject of concern and interest to many of our elected officials, including you, Chairman Gennaro and Chairman Weprin.

- Rate Study [SLIDE 18]

We are currently conducting a comprehensive rate study, an effort that began last year. The study will consider not only the rental payment, but will allow us to better understand the rate structures employed by other large cities. In doing so, we have collected data on over 25 water and wastewater utilities nationally, which we are currently analyzing and comparing with New York City. In our analysis, we are evaluating alternative structures – such as fixed charges, conservation rates and stormwater rates – with regard to equity, financial stability, affordable housing stock, water conservation, storm water management and ratepayer sensitivity.

In other cities that implemented major structural changes to their rate, this process of evaluation has taken many years. Though former Commissioner Lloyd had originally said in response to a question that work on the rate study would be sufficiently advanced to influence the FY '10 rate, last fall we made it clear that our rate study would require a longer period of time, and that its findings would not impact this year's rate setting. Nevertheless, we are looking forward to coming back to the Council, the Water Board and the interested public with proposals later this year. We have already met with stakeholder groups and plan to do so again shortly to update them on the work and get their feedback. We look forward to discussing the results of the study with you as the analysis continues over the coming year.

- Reimbursements

There has also been some misunderstanding regarding payments made by DEP to other agencies. These payments, known as city direct payments, or reimbursements, cover specific services which DEP would otherwise have to hire staff to perform. For instance, the Fire Department conducts hydrant inspections with existing staff and the Sanitation Department does street sweeping that the City is mandated to do as part of a consent order to control floatables. For those of you who are not familiar with this term, it's street litter that is washing into the sewers and overflows in heavy rain conditions.

[SLIDE 19] It is important to bear in mind that even with the proposed increase, New York City's water and sewer rates will still be lower than eight of 24 large cities in the nation. [SLIDE 20] To put this into another context, water is the only expense in New York City that is lower than the national average.

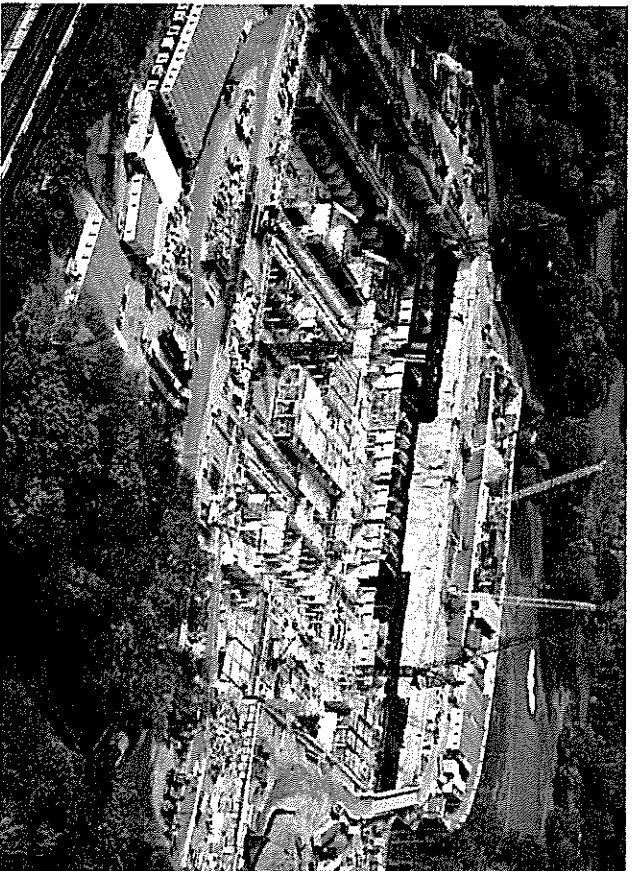
Thank you and I would be glad to answer any questions. I look forward to continuing to work with the Council to keep New York City's water system one of the best in the world.

# **New York City Council Committees on Environmental Protection and Finance**

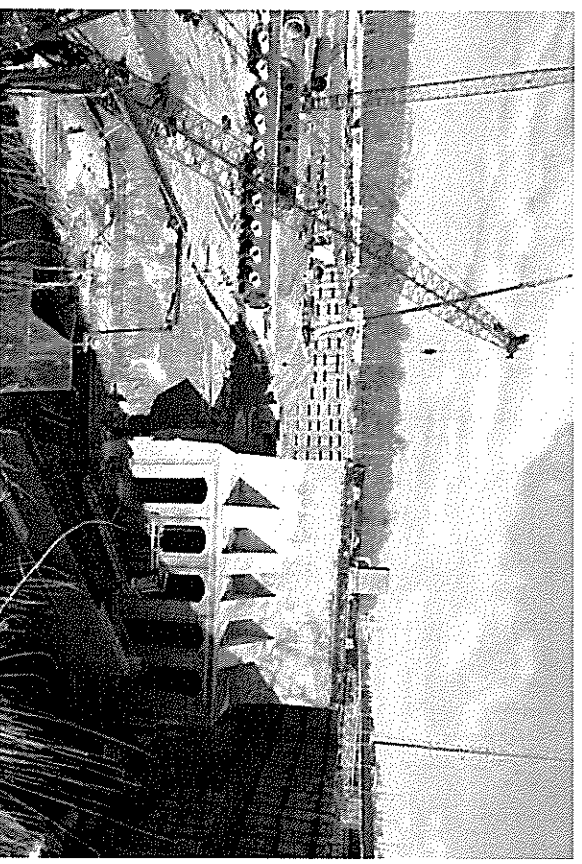
**Examining the proposed water and sewer rate increase for Fiscal  
Year 2010**

**April 28, 2009**

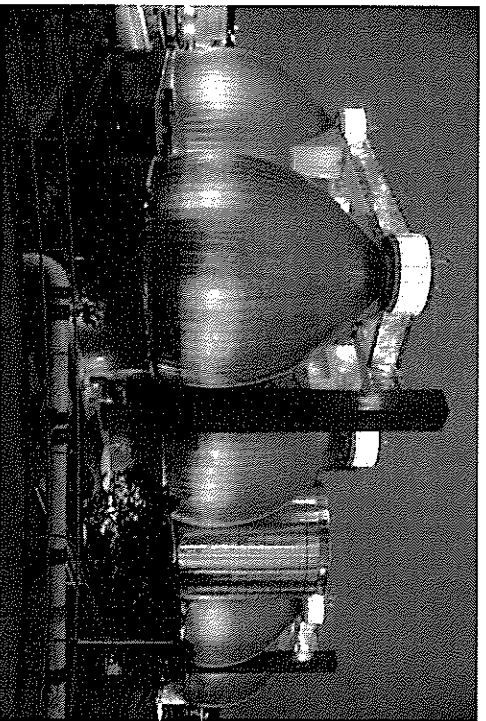
Croton Water Filtration Plant



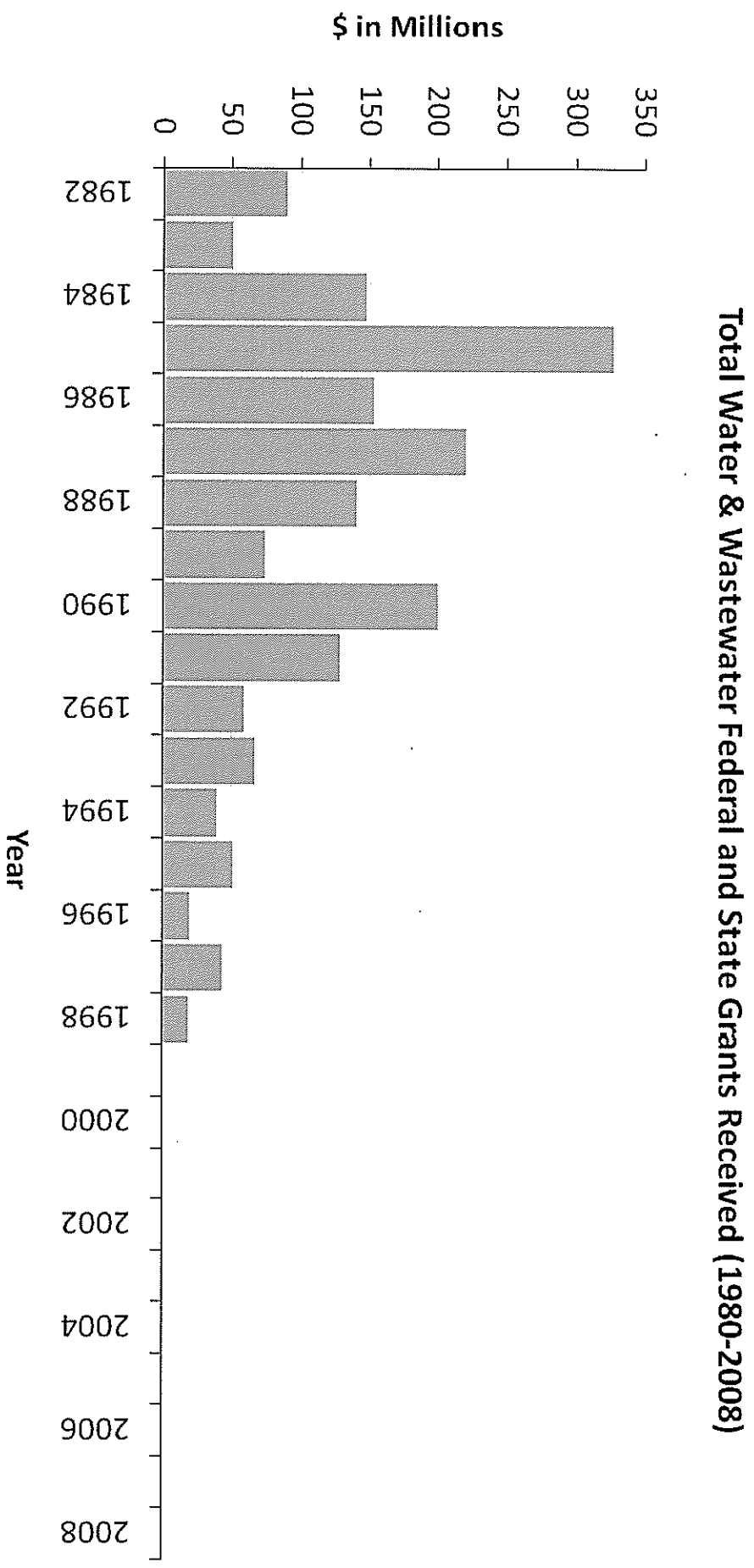
Catskill/Delaware Ultraviolet Disinfection Facility



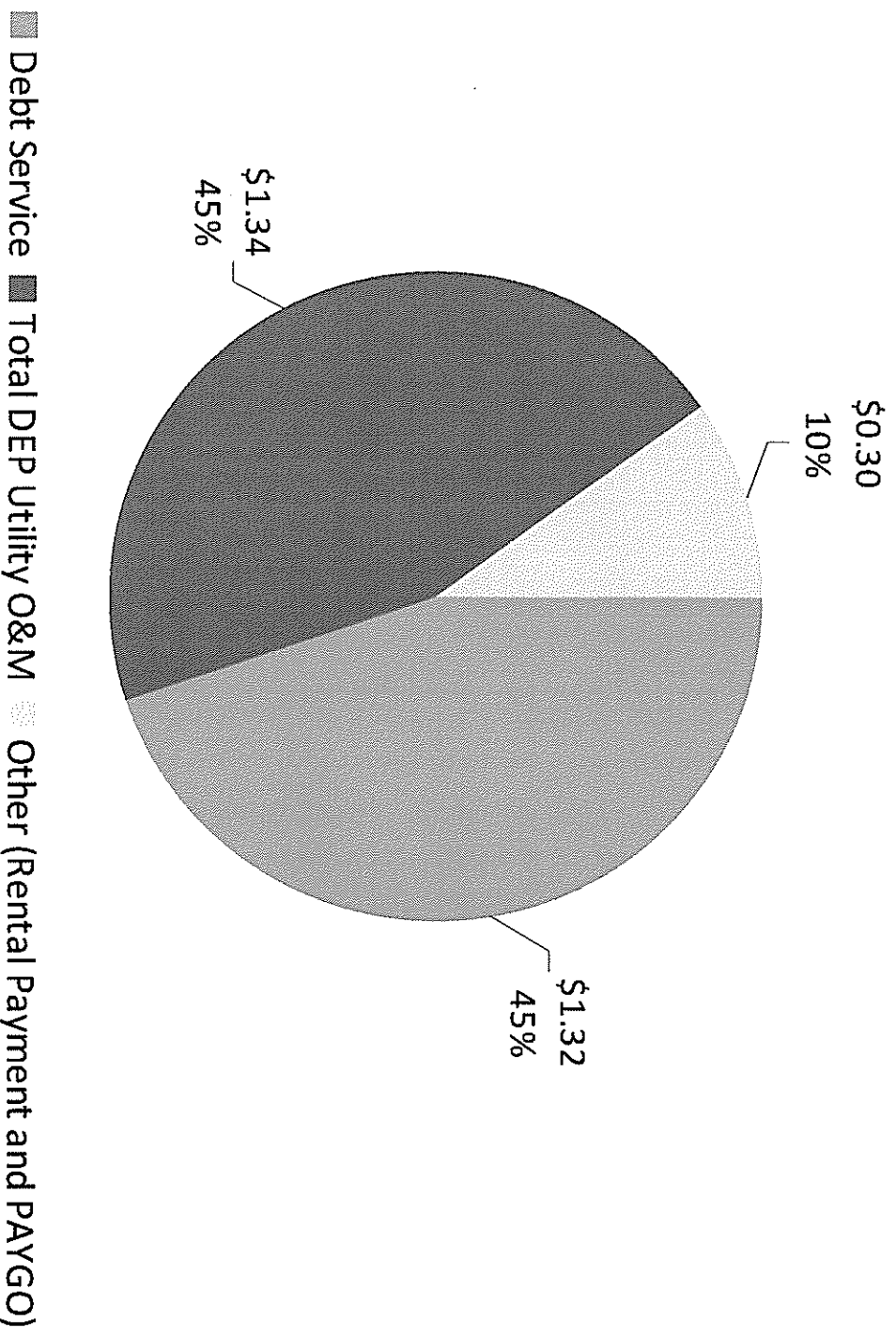
Upgrade of the Newtown Creek WPCP



In the past, mandated projects would have been largely paid for by Federal or State aid; aid has declined as mandates have increased



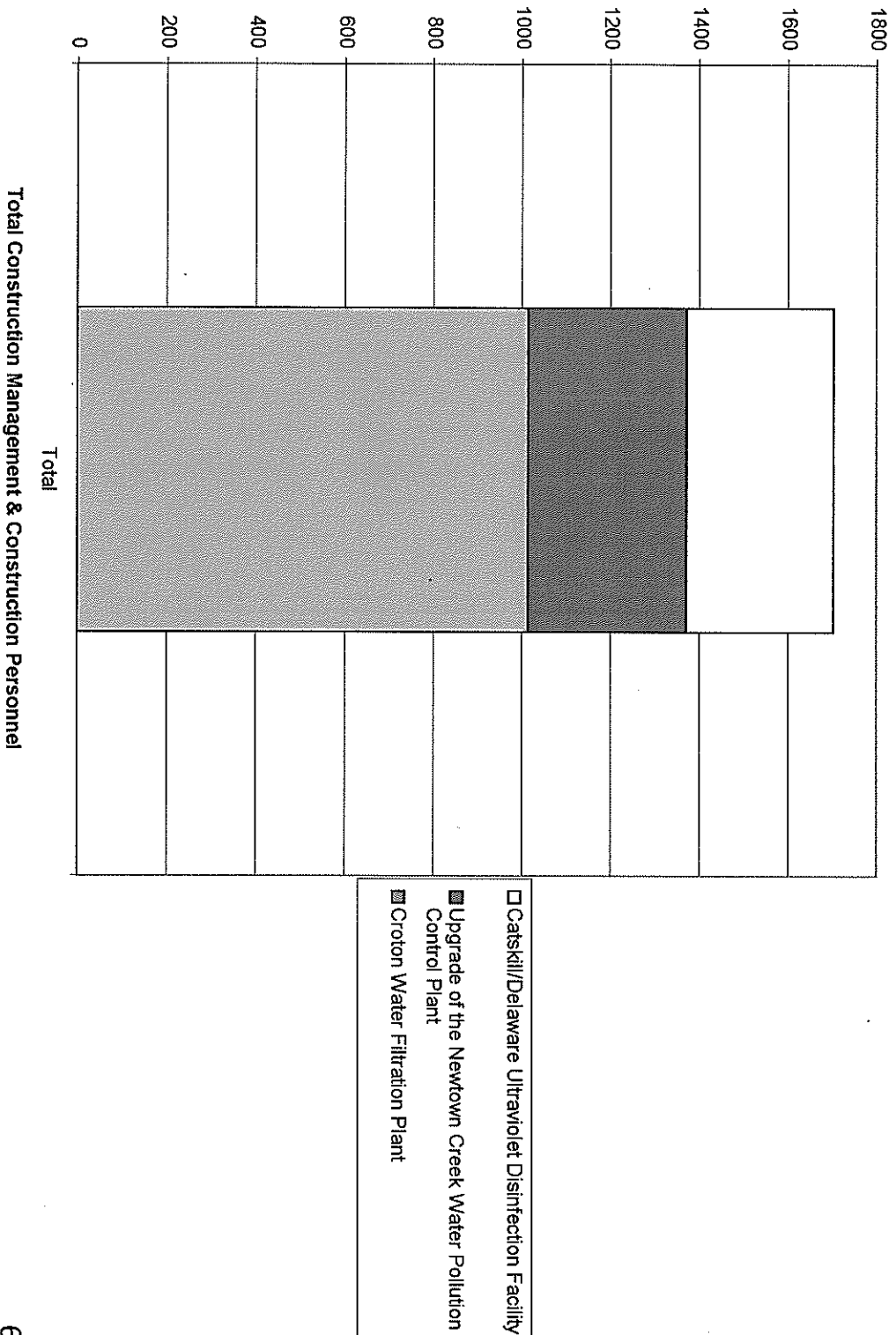
FY10 system costs are anticipated to be \$2.96 billion, with debt service and operations accounting for approximately equal shares



## Debt service interest costs are higher than last year but below what we anticipated

- February 18, 2009 issuance: 4.96%
  - Sold \$363M
- January 22, 2009 issuance: 5.16%
- November 3, 2008 issuance: 5.93%
- October 22, 2008 issuance: 5.88%
- May 28, 2008 issuance: 4.79%
- **Interest rate assumptions FY 09-10: 6.2%-6.8%**

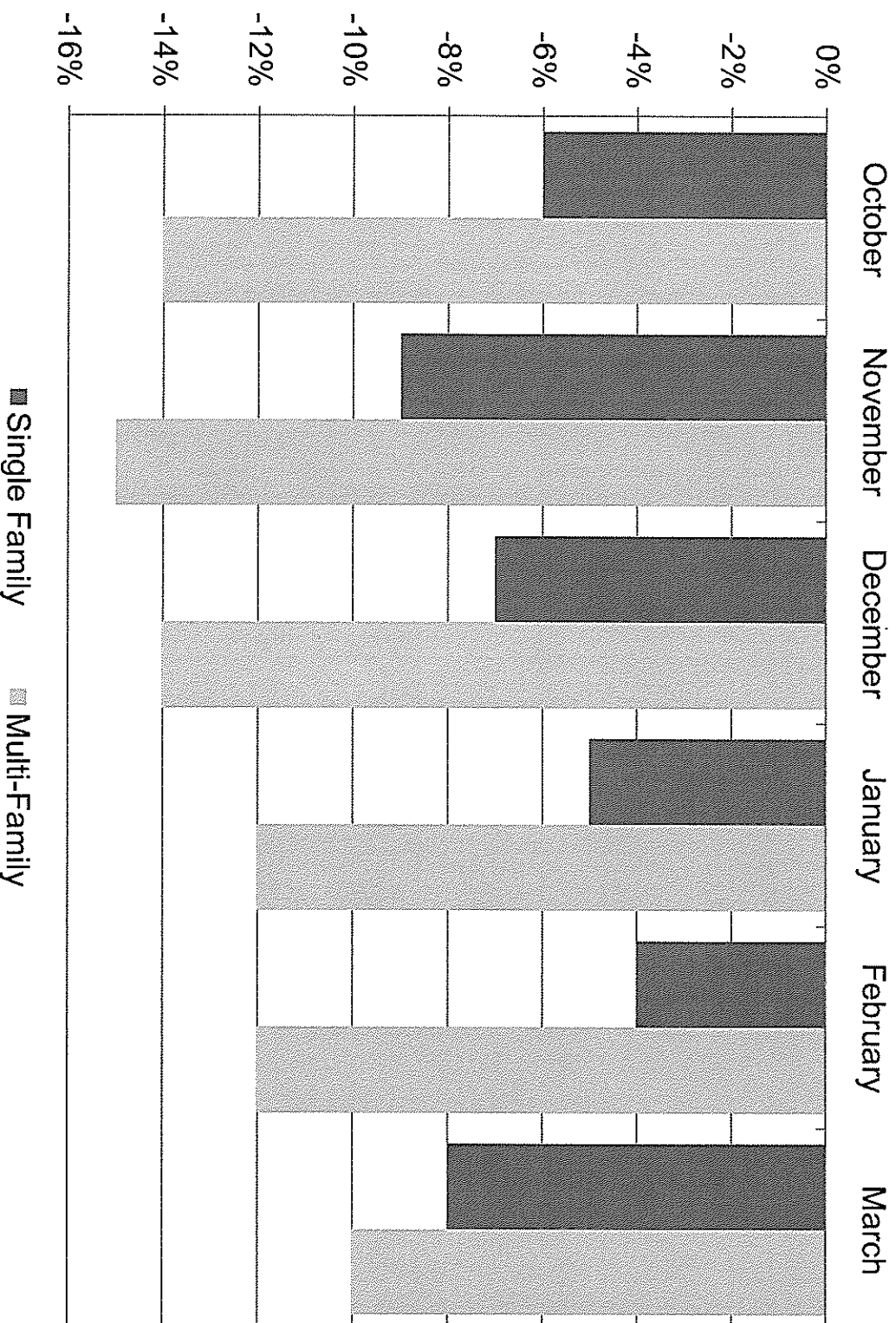
DEP has over 1,700 construction personnel on site working on the agency's three largest projects



# Serious delinquencies have declined significantly since last year

% Change in Seriously Delinquent (Greater than 365 Days)

Accounts: FY08 vs. FY09



The FY09 lien sale, which last year – combined with PIP – generated \$98.6 MM in revenue, will be May 4th

- Lien Sale Dates
  - February 3: 90-Day Mailing & Publication
  - March 3: 60-Day Mailing
  - April 1: 30-Day Mailing
  - April 22: 10-Day Publication
  - May 1: Last Day to Pay to Avoid Lien Sale
  - May 4: 2009 Lien Sale
- On February 3, 2009 at the time of the 90-day mailing and publication there were 18,492 accounts eligible for the lien sale and approximately \$180M in arrears.
- As of March 3, 2009 at the 60-day mailing there were 16,500 accounts eligible and \$153M in arrears.
- As of April 1, 2009 at the 30-day mailing there were 15,811 accounts eligible and \$132M in arrears.

## Results to date of Payment Incentive Program (PIP) for ~4,000 delinquent mixed-use properties and condos

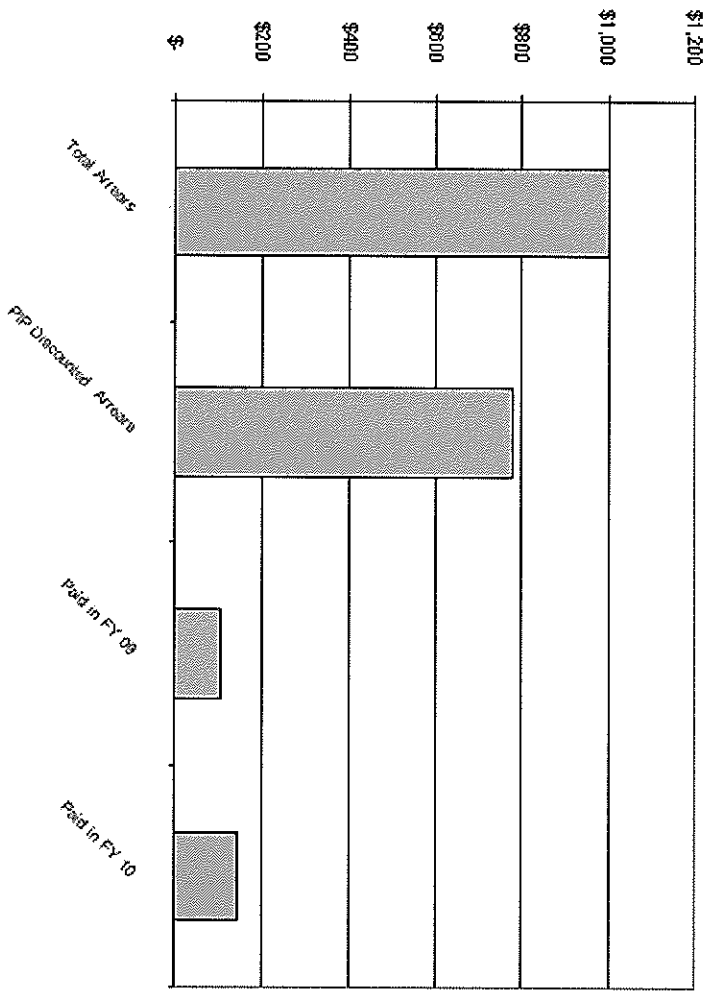
# of Customers	~4,000
\$ Amount Owed	\$85M
PIP Settlement Amount	~\$70M
% Savings to Customers	22%
PIP Offers First Mailed	January 20
Lien-Sale Notice Published	February 3
Last Day for PIP	April 7
Lien-Sale	May 4
<b>% of Customers Making:</b>	
-Full Payment	20%
-Partial Payment/Payment Agreement	37%

## Results of 15-day Notices for Service Termination on April 1, 2009

<b>Service Termination Notices</b>	<b>51</b>
<b>Total Amount Owed</b>	<b>\$75,976</b>
<b>\$ Collected</b>	<b>\$ 41,687</b>
<b># of Accounts Eligible for Service Termination (after Safety Net Referrals)</b>	<b>43</b>
<b>Services Terminated</b>	<b>2</b>
<b>Total Participation</b>	<b>95%</b>

## Payment Agreements May Yield Only 10% of the Arrears in FY 09

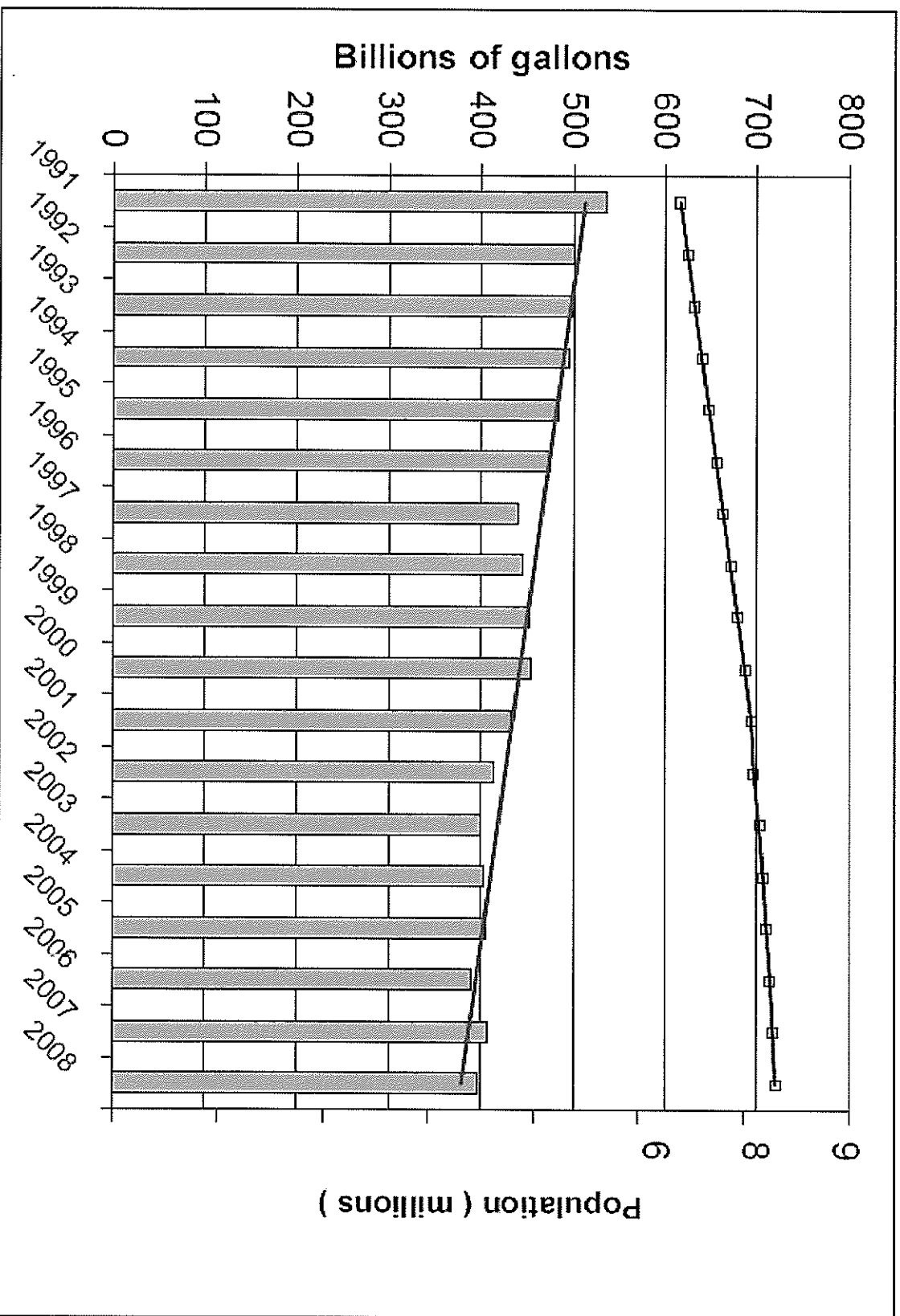
- Customer owes \$1,000
- PIP discounts the arrears by 22%, down to \$780
- Payment Agreement requires 10% down and 1.5% per month
- Customer pays only \$102, or 10%, of arrears this year
- Customer pays an additional \$144 in FY 10 installment payments



**Once DEP completes citywide rollout of AMR, collections are expected to increase even further**

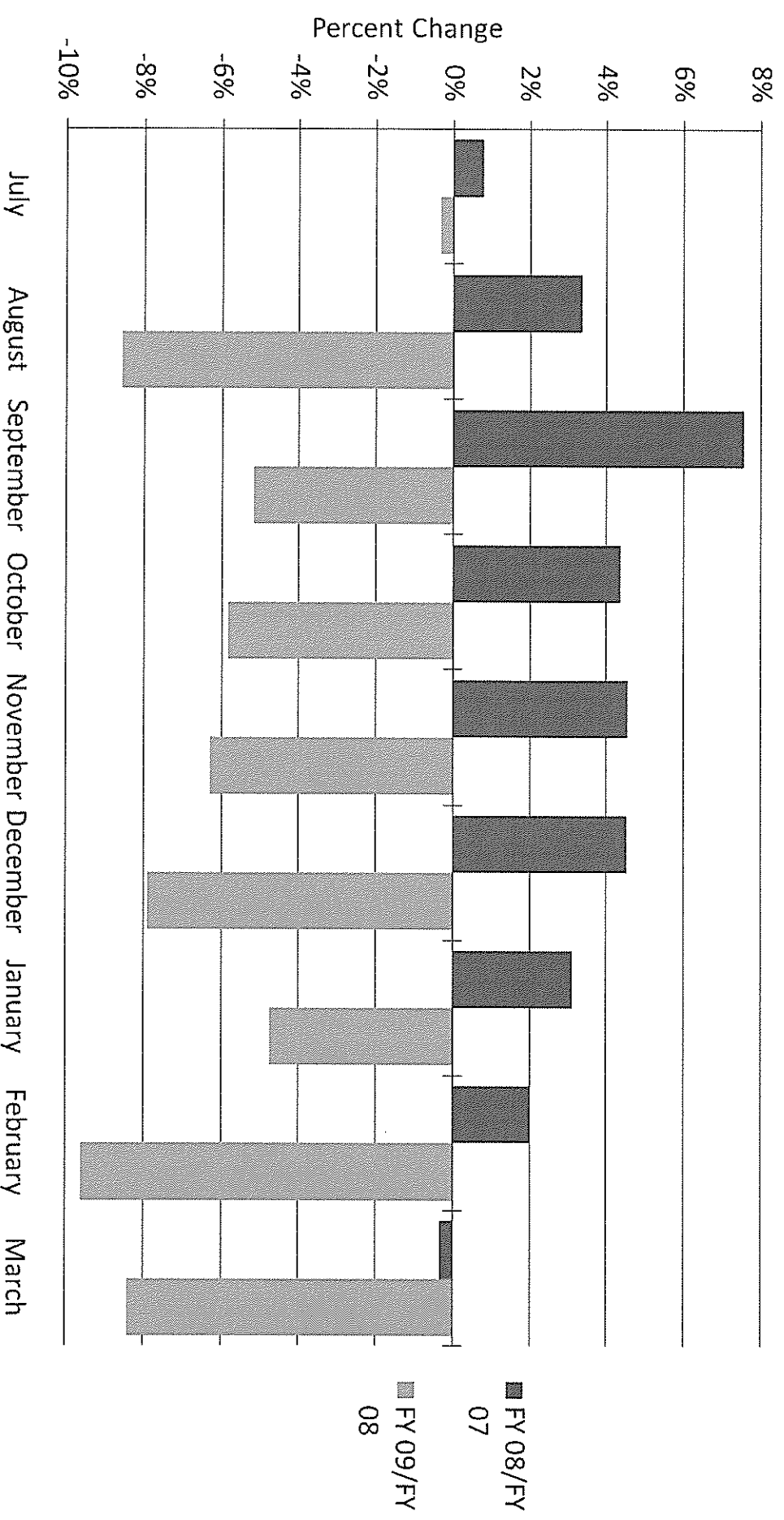
- Boston, Washington, D.C. and Chicago, through a combination of strong enforcement tools and AMR, saw collection rates increase to more than 98%
  - Strong enforcement tools encourage payment and AMR reduces likelihood of billing errors or disputed bills
- A similar increase in NYC would lead to substantially more revenue
  - DEP's current collection rate is between 88% and 90%

Consumption continues to decrease as population continues to increase

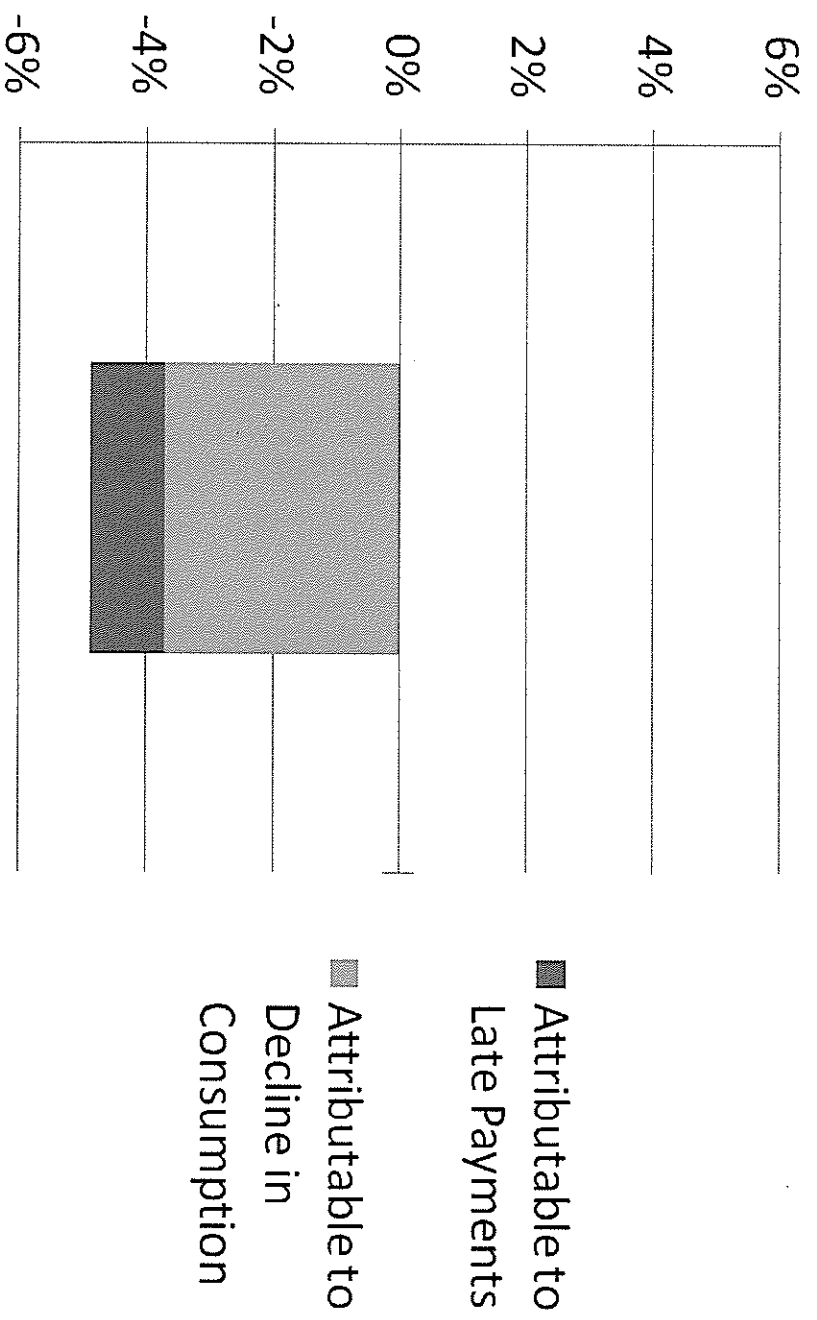


# The decline became most precipitous immediately following the beginning of economic turmoil in late summer/early fall 2008

FY 2007 – 2009 Percent Change in Consumption



# FY 09 decline in consumption accounts for a significant portion of the decline in revenues



FY09 Revenue vs. Plan

## Rate Setting Environment

- Rates pass through the costs of providing service
- Higher rates for water/wastewater services are a common trend across U.S cities
- NYC rates are still moderate compared with other jurisdictions
- Operations & maintenance costs dominated by non-discretionary increases in fuel, power, chemicals, collective bargaining and health-care/pension costs
- Driven by mandates (e.g., Cat/Del UV), aging system components (Water Tunnel #3), and critical repairs (Delaware Aqueduct), the DEP capital program has expanded since 2002

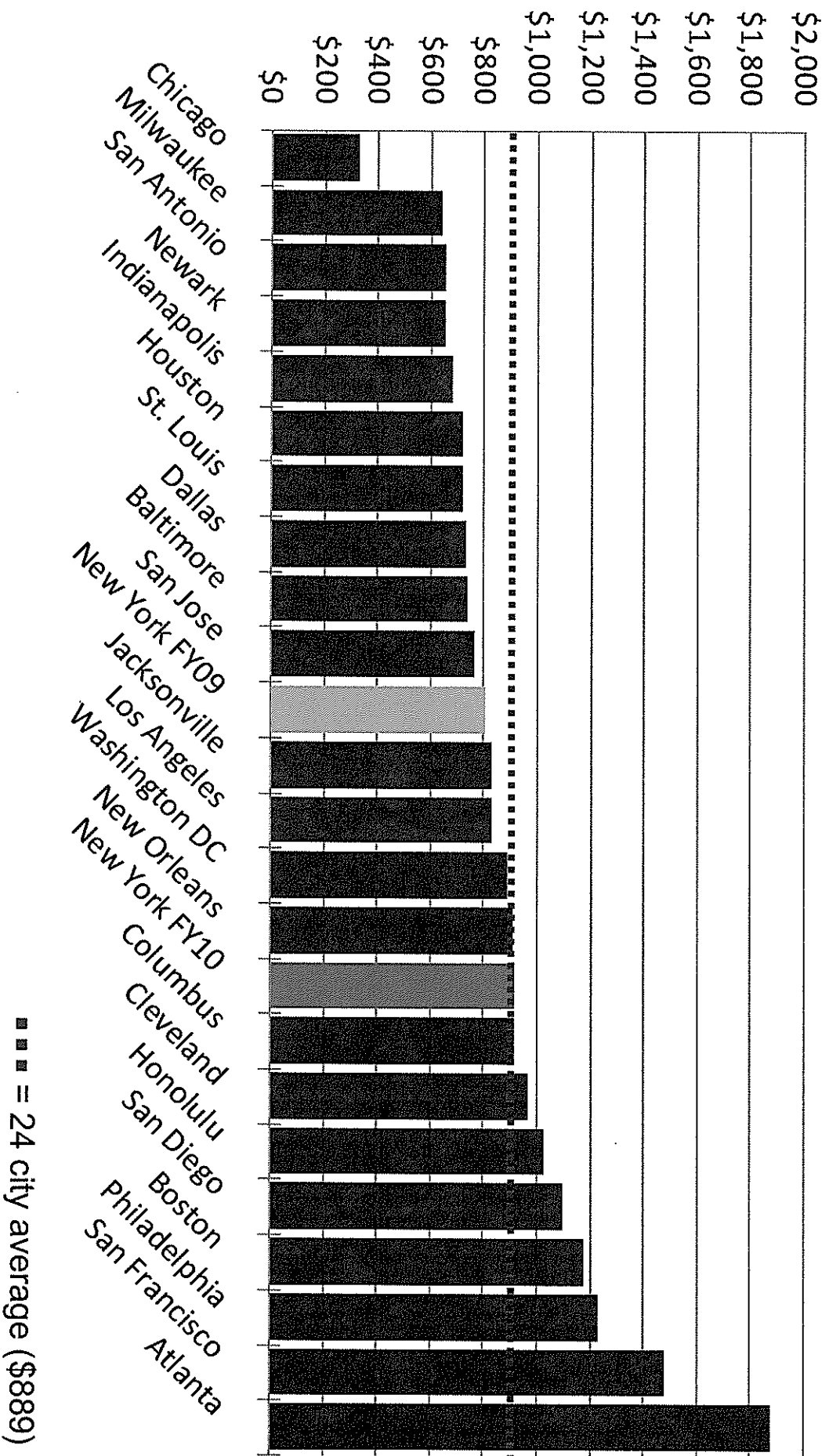
## DEP has worked to reduce discretionary operating expenses

- DEP has taken the same 5% cut as all city agencies
  - Through this cut, DEP expects to save \$46M in FY09
  - We have also already identified \$24M in savings for FY10
- We identified savings in areas which would not affect drinking water quality, waste water treatment, or our extensive environmental health and safety program
  - Some cost saving initiatives currently underway include:
    - Reductions to contracted services such as cleaning and security
    - Re-evaluation of the dosage of chemicals and testing of alternatives
    - Reduction in the number of light duty non-emergency vehicles
    - Reduction in the number of part time employees
    - Examination of the fee schedule for various permits issued by bureaus

## Rate study will benchmark DEP against other large water utilities and recommend several different rate options moving forward

- DEP and Booz Allen collected data on over 25 water and wastewater utilities nationally
  - Data was compiled through existing published sources and supplemented through interviews and a customized survey questionnaire
  - Information included rate structures, capital and operating expenses, and intergovernmental relationships
- Currently analyzing data from peer utilities and comparing with NYC
- Considering multiple rate structures/ mechanisms for further analysis
  - Particularly interest in evaluating alternative structures in regards to:
    - Financial Stability
    - Equity
    - Affordable Housing Stock
    - Water Conservation
    - Storm Water Management
    - Ratepayer sensitivity
- Expect to complete study later this year, so the Water Board can review study recommendations prior to next year's rate setting

FY10 proposed annual single family water/sewer charges would remain consistent with the national average



# A 14% increase would add \$28 to the average single-family quarterly bill

## Average Annual Increase:

- Single Family : **\$799/year to \$911**
- Multiple Family Unit : **\$680/year to \$775**

Single family per year	\$ 112
Single family per quarter	\$ 28
Single family per month	\$ 9
Typical multi-family/unit/year	\$92
Typical multi-family/unit/quarter	\$24
Typical multi-family/unit/month	\$8

■The increase is equivalent to \$0.30 per day – or less than the cost of a bottle of water

**PROPOSED NEW YORK CITY WATER BOARD RATE INCREASES FOR FISCAL 2010**

**CHANGE IN TYPICAL CITYWIDE SINGLE-FAMILY HOMEOWNERS' WATER BILL**

Calendar Year	Fiscal Year *	Water Board's Rate Increases	Annual Bill	\$ Change	% Change	Bill per Quarter	\$ Change per Quarter	\$ Change per Day
	2001	1.0%	\$456	\$14	3.0%	\$114	\$3	\$0.04
	2002	3.0%	\$469	\$14	3.0%	\$117	\$3	\$0.04
	2003	6.5%	\$500	\$31	6.5%	\$125	\$8	\$0.08
	2004	5.5%	\$527	\$27	5.5%	\$132	\$7	\$0.08
	2005	5.5%	\$556	\$29	5.5%	\$139	\$7	\$0.08
	2006	3.0%	\$573	\$17	3.0%	\$143	\$4	\$0.05
	2007	9.4%	\$627	\$54	9.4%	\$157	\$13	\$0.15
	2008	11.5%	\$699	\$72	11.5%	\$175	\$18	\$0.20
	7/1/2008	14.5%	\$799	\$100	14.3%	\$200	\$25	\$0.27
	7/1/2009	14.0%	\$911	\$112	14.0%	\$228	\$28	\$0.31
	2010 F	12.0%	\$1,020	\$109	12.0%	\$255	\$27	\$0.30
	2011 F	12.0%	\$1,020	\$109	12.0%	\$255	\$27	\$0.30
	2012 F	6.6%	\$1,087	\$67	6.6%	\$272	\$17	\$0.18

**Bill Change FY06-10F (5 year period)**      \$354      63.7%  
**Bill Change FY03-06 (4 year period before high rate increases)**      \$104      22.1%  
**Bill Change FY07-10F(4 year period with high rate increases)**      \$338      58.9%  
**Bill Change FY07-12F (6 year period with high rate increases)**      \$514      89.7%

\*Rate increases go into effect on July 1, first day of the fiscal year, unless otherwise indicated.  
 Sources: The New York City Water Board, "Public Information Regarding Water and Wastewater Rates," April 2008.  
 Sources: The New York City Municipal Water Finance Authority, "NYW Preliminary Official Statement," 9/25/07.  
 Comptroller William C. Thompson, Jr., Letter to the New York City Water Board on rental payments, 5/11/07.  
 David Seifman, "Good Gu\$hl Apple Eyes Big H2O Hike", New York Post, October 2, 2007.  
 David W. Chen, "New Rise in Rates For Water Is Expected," The New York Times, April 3, 2009.  
 New York City Department of Environmental Protection website for typical.

TESTIMONY OF QUEENS BOROUGH PRESIDENT HELEN  
MARSHALL BEFORE THE NEW YORK CITY COUNCIL -  
COMMITTEE ON FINANCE AND COMMITTEE ON  
ENVIRONMENTAL PROTECTION, TUESDAY, APRIL 28<sup>TH</sup>, 2009

GOOD MORNING MEMBERS OF THE NEW YORK  
CITY COUNCIL, COMMITTEE ON FINANCE CHAIR  
DAVID WEPRIN, COMMITTEE ON  
ENVIRONMENTAL PROTECTION CHAIR JAMES  
GENNARO, AND OTHER DISTINGUISHED GUESTS.  
BEFORE I BEGIN, I WOULD LIKE TO THANK THE  
CITY COUNCIL FOR HOLDING THIS OVERSIGHT  
HEARING AND AFFORDING US THE OPPORTUNITY  
TO VOICE OUR CONCERNS REGARDING THE  
WATER BOARD'S PROPOSED 14% RATE INCREASE.

LET ME FIRST BEGIN BY SAYING THAT I AM IN  
STRONG OPPOSITION TO THE PROPOSED WATER  
RATE INCREASE THAT IS ON THE TABLE. OVER  
THE PAST SEVERAL YEARS, I HAVE ADAMENTLY  
OPPOSED WHAT APPEARS TO BE ARBITRARY  
INCREASES IN THIS CITY'S WATER RATES. THE  
COST OF WATER HAS CLIMBED MORE THAN 40%

IN THE PAST FOUR YEARS ALONE! AND, THIS LATEST PROPOSAL IS ALMOST BEYOND COMPREHENSION – ANOTHER 14% INCREASE ON TOP OF THE SUBSTANTIAL INCREASES ALREADY LEVIED. THIS WOULD MARK THE THIRD CONSECUTIVE YEAR THAT A DOUBLE – DIGIT HIKE WILL BE IMPOSED. TWO YEARS AGO, AN 11.5% HIKE WAS IMPOSED, AND LAST YEAR THE BOARD APPROVED A 14.5% INCREASE. AND NOW ANOTHER ONE??? ADDITIONAL INCREASES WOULD PLACE ADDITIONAL BURDEN AND HARDSHIP ON HOMEOWNERS, SMALL BUSINESS OWNERS AS WELL AS SENIORS LIVING ON A FIXED INCOME. MIDDLE CLASS NEW YORKERS ARE BEING BOMBARDED WITH RATE INCREASES AT EVERY TURN - - FROM ELECTRICITY - TO THE WATER WE DRINK..... WHAT WE HAVE HERE IS A TOTAL OUTRAGE!

I TEND TO AGREE WITH COMPTROLLER BILL THOMPSON THAT A SUBSTANTIAL AMOUNT OF

MONEY IS BEING DIVERTED TO OTHER AGENCIES AND/OR CITY SERVICES AND NOT BEING SPECIFICALLY UTILIZED FOR THEIR INTENDED PURPOSE (i.e. PRESERVATION AND MAINTENANCE OF THE CITY'S WATER AND SEWER INFRASTRUCTURE). THIS LATEST PROPOSAL COMES AT THE WORST POSSIBLE TIME WHEN ONE CONSIDERS THE STATE OF OUR ECONOMY AND THE EVER-RISING COSTS, FEES AND TAXES OUR CITIZENS ARE BEING SUBJECTED TO. EVEN CON EDISON HAS AGAIN RAISED THEIR RATES UP TO 6.1% FOR NEW YORK CITY RATE PAYERS. I AM ONCE AGAIN REQUESTING THAT THE WATER BOARD DO THE "RIGHT THING" AND REFRAIN FROM PROPOSING ANOTHER OUTRAGEOUS WATER RATE HIKE. WE NEED TO PROTECT THE MIDDLE CLASS AND WORKING FAMILIES THAT SIMPLY CANNOT ABSORB ANOTHER RATE HIKE.

I THINK THE BOARD SHOULD SERIOUSLY CONSIDER OTHER ALTERNATIVES TO A RATE

INCREASE. UNDER THE FEDERAL GOVERNMENT'S ECONOMIC STIMULUS BILL, THE NEW YORK STATE REVOLVING FUND WILL RECEIVE APPROXIMATELY \$432 MILLION FOR CLEAN WATER PROJECTS IN ADDITION TO \$ 82 MILLION FOR DRINKING WATER PROJECTS. HOWEVER, UNDER THIS PLAN, ONLY HALF OF THOSE FUNDS ARE SCHEDULED TO BE DISTRIBUTED BY MEANS OF DIRECT GRANT OR SUBSIDY. THERE IS CLEARLY SOME WIGGLE ROOM HERE THAT WE CAN IMPLEMENT RATHER THAN A RAISING THE RATE. I AGREE WITH COMPTROLLER THOMPSON WHO PROPOSED REIMBURSING EXCESS RENT THAT THE WATER BOARD PAYS TO THE CITY. UNDER THE CURRENT AGREEMENT, THE BOARD LEASES THE WATER AND INFRASTRUCTURE TO THE CITY. UNTIL RECENTLY, IT EFFECTIVELY REIMBURSED THE CITY FOR WATER-RELATED DEBT SERVICE ON BONDS ISSUED BEFORE THE WATER AUTHORITY WAS CREATED. HOWEVER, SINCE 2005, THE

FORMULA HAS LED TO PAYMENTS THAT EXCEED THE CITY'S UNDERLYING COST FOR THE SYSTEM. I AGREE WITH THE COMPTROLLER - - RETURN THE EXCESS RENT TO THE WATER BOARD TO OFFSET THE COST OF RUNNING THE WATER SYSTEM.

AND FINALLY, WE CAN AVOID ANOTHER WHOPPING INCREASE IN THE WATER RATE IF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION - WHICH HAS SEEMINGLY BEEN HELD HARMLESS DURING THESE TRYING FISCAL TIMES - WOULD REDUCE ITS OPERATING BUDGET BY 5%. CITY AGENCIES HAVE ALL BEEN ASKED TO ENDURE THE HARDSHIPS OF COST CUTTING AND FISCAL RESTRAINTS, INCLUDING MY OFFICE, WHICH IS BEING FORCED TO ABSORB A 16% REDUCTION. IF IMPLEMENTED, THE PROPOSED WATER RATE INCREASE COULD BE WIPED OFF THE TABLE.

IN CLOSING, I WANT TO THANK YOU ONCE AGAIN  
FOR ALLOWING ME TO SPEAK ON THIS  
IMPORTANT ISSUE. THROUGH A JOINTLY  
COLLABORATIVE AND COOPERATIVE EFFORT,  
WE CAN HELP BETTER SERVE OUR  
CONSTITUENTS, BUT WE NEED TO WORK  
TOGETHER, RATHER THAN AGAINST EACHOTHER.  
RAISING THE WATER RATE AGAIN IS WRONG,  
AND CAN'T BE TOLERATED! THANK YOU.

TESTIMONY BY  
DEPUTY COMPTROLLER MARCIA VAN WAGNER

AT A MEETING OF THE COMMITTEES ON  
FINANCE AND ENVIRONMENTAL PROTECTION  
OF THE NEW YORK CITY COUNCIL

EXAMINING NEW YORK CITY WATER BOARD'S PROPOSED WATER AND  
SEWER RATE INCREASE FOR FISCAL YEAR 2010

TUESDAY, APRIL 28, 2009  
10:00 AM

Good morning, Chairman Weprin, Chairman Gennaro, and honorable members of the Council's Committees on Finance and Environmental Protection.

My name is Marcia Van Wagner, Deputy Comptroller for Budget, and I am appearing today on behalf of New York City Comptroller Bill Thompson.

We are pleased to have this opportunity to share our views as the New York City Water Board considers a possible double-digit water rate increase – the third in three years.

As Comptroller Thompson testified recently before the Water Board, rising water and sewer rates are gouging New York City families and small businesses precisely at a time when they can least afford it.

If the Board sticks to last year's projected 14% rate increase for FY 2010, an average single family homeowner's rates will have risen from \$571 to \$911 in just four years – that's a 60 percent increase, over five times the inflation rate.

To address escalating rates, Comptroller Thompson has recommended that the Water Board focus on 5 areas immediately:

- 1) The Board must complete and make public a promised million-dollar study of alternative rate structures. That study was intended to help the board set rates this year.
- 2) Excess rent now being paid by the Water Board to the City – to exceed \$200 million by 2012 – should be rebated back to the water system, to be used for pay-go capital spending and rate reductions.
- 3) Gov. Paterson must support direct granting of all the federal stimulus money that is dedicated to clean water and drinking water projects in New York State – nearly 500 million dollars.

- 4) The City Department of Environmental Protection should be required to cut its operating budget by 5% as other city agencies have been required to do.
- 5) We must ensure that the New York City water supply west of the Hudson River is protected from proposed gas drilling that could necessitate the construction of a \$10 billion filtration plant.

Let's begin with the rate study. As many of you may know, last year, the Water Board committed a million dollars of ratepayer money:

- to review how other utilities across the country structure their rates; and
- to examine ways to inject a greater degree of fairness into our system.

Then-DEP Commissioner Lloyd promised that the Fiscal Year 2010 water and sewer rates would take into account the results of this study

During the Water Board's meeting last June, member after member of the board – from current Chairman Moss, to then-Chairman Tripp and others – spoke to the study's importance in addressing problems with the current rate structure.

And yet here we are a year later. As New Yorkers struggle to pay their bills in the midst of an historic economic crisis, a million dollars of their money has been committed to study that has yet to be released.

Comptroller Thompson has called that “an outrageous breach of responsibility.”

Even if the Board releases the study this week or next month, it is too late to affect the rate structure and rate levels this year.

If delivered as promised, the report will deal with complex matters that must be absorbed and analyzed by government officials, policy advocates and the public. To do so effectively, we should have had it weeks or months ago.

While it's too late for this year, the Board must produce this study so that we may take actions to avoid new rate increases next year.

One important issue that was to be analyzed by the study is Comptroller Thompson's longstanding proposal to rebate excess rent paid by the Water Board to the City.

The Board's current rental payments to the City are based on a formula that, until recently, simply reimbursed the City for water-related debt service on bonds issued before the Water Authority was created.

However, because of the way the formula works, since 2005 those rental payments have exceeded the amount needed to pay down this old debt.

This "excess rent" will be nearly 123 million dollars this Fiscal Year and grow to more than 200 million dollars by Fiscal Year 2012.

For the past two years, Comptroller Thompson has proposed rebating the excess rent to the Water Board to offset the cost of running the water system.

That excess rent would be split equally for two purposes:

- One-half for pay-as-you-go capital spending, which reduces costs over the long term; and
- One-half to cut other water system expenses so we can give ratepayers relief from ever-escalating charges.

Using the excess rent in this way would save ratepayers over \$350 million between fiscal years 2010 to 2013 while protecting our bondholders.

Another way to help our water system is through the federal stimulus package.

Under the terms of the stimulus bill passed by Congress, our State will get more than 400 million dollars for clean water projects and over 80 million dollars for drinking water projects.

Comptroller Thompson has written to Gov. Paterson to support direct grant allocation of all of this stimulus money for capital projects.

This is critical given the overwhelming needs of our State water system and, particularly, New York City's Water Authority.

A direct grant program to the Authority would have an immediate and lasting impact on New York City's water and sewer rates....For every \$100 million that is granted rather than loaned, we save debt service costs of more than \$5 million per year.

We hope you will join us in calling on the governor to take this common-sense approach.

At the same time, the portion of the DEP's budget supported by water rates has not been subjected to the same fiscal discipline as other city agencies, which have faced five percent cuts in the wake of the current economic downturn.

New Yorkers are facing tough times. They are losing their jobs and their homes and they are paying more for less across the board....At a time New Yorkers

must tighten their own belts, they have a right to expect that their government will do the same.

Finally, we must protect the New York City drinking water supply west of the Hudson from proposed gas drilling.

Drilling near the watershed threatens to contaminate New York City drinking water and necessitate the construction of a \$10 billion water filtration plant, further increasing water rates.

The State's Environmental Impact review process must ensure that any drilling permits be tied to rules protecting our water from contamination associated with the drilling.

Our office submitted recommendations to the State in December and will continue to closely monitor and participate in the review process to protect our watershed and rate payers.

The Water Board has commissioned a study of these issues, but we urge all of you to ask them to take a more activist approach to this threat. As custodian of our drinking water, the Board should adopt an explicit policy to protect the watershed from natural gas drilling.

In conclusion, our water system cannot continue with business-as-usual in the face of tremendous economic and environmental threats.

At the same time, we owe it to New York City ratepayers to do everything we can to keep rate increases down as they struggle to keep up with the rising cost of living in our city and proposed hikes in transit fares, as well as sales and payroll taxes.

Toward that end, it is our sincere hope that the Water Board will give Comptroller Thompson's excess rent rebate proposal careful consideration as the rate setting process moves forward in the next few months.

Thank you very much.



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RENT STABILIZATION ASSOCIATION • 123 William Street • New York, NY 10038

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**Testimony of Jack Freund,**  
*Executive Vice President, Rent Stabilization Association,*  
**Delivered before the New York City Council**  
*Tuesday, April 28, 2009*

Chairman Weprin, Chairman Gennaro and Members of the NYC Council, thank you for this opportunity to testify on behalf of the Rent Stabilized Association's twenty-five thousand members, who collectively own or manage over one million units of housing in New York City.

Double-digit water and sewer rate increases pose a significant threat to the City's stock of affordable rental housing. For rent regulated housing, these rate increases must be passed through in the form of increased rents, threatening affordability for tenants and, if these rate increases are not passed through to tenants, property owners are threatened by inadequate income to maintain and operate their buildings.

If approved, this will be the third year of double-digit rate increases with no end in sight, despite best efforts to minimize costs and increase revenues. When the City Council authorized the sale of stand-alone water and sewer liens last year, that was supposed to reduce the need for higher rate increases. When owners were asked to install water meters, that was supposed to be a way to control these costs. Now we know that reduced consumption just means higher rates.

What has been ignored thus far is the one sure way to mitigate the inevitable rate increases. The rental payments that the Water Board pays to the City, which exceed the amount required to pay off bonds issued by the City prior to 1985 is a key factor in the need for double digit increases. This "back-door" tax on rate payers must be eliminated. This year alone, the rate increase could be reduced by approximately 4 percentage points by the elimination of this year's excess rental payment.

Since the City administration refuses to make any concession whatsoever on the rental payment, we have urged the Water Board to approve no more than a 10% rate increase, which would force the City to give up its demand for excess rent payments. After all, rate payer dollars have already funded parks and public facilities projects throughout the City which constitutes hundreds of millions of dollars of rate payer subsidies for the City's overall capital budget.

The Council has no direct authority over water and sewer rates. But we believe that there are a number of things the Council can do to contain future rate increases.

Since the City has refused to negotiate on the issue of excess rental payments, the Council should adopt a resolution calling on the New York State Legislature to preclude, by law, any rental payment by the Water Board to the City which exceeds the amount required to pay off bonds issued by the City prior to 1985.

Hundreds of millions of dollars of rate payer dollars could be saved, at a time when every dollar counts, if such projects were funded through the City's overall capital budget. Therefore, you should also ask that the State Legislature strike that provision of the law which essentially allows water and sewer bond proceeds to fund virtually any improvement that the City deems to be in the public interest.

While the City Council does not approve water and sewer rates, the Council does approve DEP's operating and capital budget. During this year's budget negotiations, the Council should demand that DEP's non-tax levy funded operating costs be subject to the same cost-cutting measures that have been required of all other City agencies.

At the same, the City Council may want to review DEP's capital items and demand that certain capital costs be funded through the City budget rather than by rate-payers. For example, combined water and sewer overflow (CSO) projects provide a benefit to the public-at-large, not just rate-payers, and they are necessitated by the nature of the City infra-structure not by the actions of rate-payers. The cost of such public benefit improvements should rightly be borne by all tax-payers, not such water and sewer rate payers.

Property owners may face costs in addition to the 14 percent rate hike this year as a result of the rules that the Water Board has been asked to consider that would charge owners steep fines if DEP determines that there has been a denial of access to a building. The new rules cover "Theft of Services" and "Denial of Access" and may expose property owners to disproportionately harsh consequences, especially when viewed together with DEP's new efforts to replace existing water meters with "automatic read meters."

The new rules would charge owners administrative fees of \$250 if DEP fails to gain access to a property following a first written request for access. If there is no response to a second notice, DEP may determine that there is a "theft of services" and will be able to bill owners for an "attributed consumption rate" equal to \$1823 per year for the first unit and \$1550 for each additional unit. And they will be able to bill at these astronomical rates retroactively for four years.

The attributed consumption charges are not based on historic charges for the property or on estimated consumption. Instead they represent roughly double the average per unit charges and are intended to be punitively high. The problem here is that DEP can impose attributed charges, the same penalty as for theft of services, even when an owner has diligently paid appropriate charges, simply on the basis that they have failed to gain access to the property.

There is no requirement for the DEP to prove that any theft is taking place. The rules do not state what notice period is required. The rules not require that the notices go to a responsible party, rather than an escrow agent. If an owner is out of town when the request is made, owners may be punished unfairly.

We have asked the Water Board not to enact the new rules until essential safeguards are incorporated and we urge the City Council to keep a close watch on these developments.

First, there needs to be notification of a request for access by certified mail to the owner or managing agent (not the mortgage escrow company) before there is any determination of a denial of access. Second, the request for access must provide for a reasonable period of time for the owner to arrange access.

Third, there should be a finding of intent on the part of the owner before a finding of theft of services can be made. Finally, when there is a denial of access, penalties should be limited to administrative fees and, if consumption appears low, attributed charges should not be punitive and should be no higher than the average for the structure class.

As representatives of a large constituency of water and sewer rate-payers, we are as frustrated as the City Council must be by the lack of transparency and oversight that characterizes the current structure of the Water Board, the Water Authority and DEP. We would hope that the steps outlined above will help correct this situation.

# WATER WATCH NYC

[www.waterwatchnyc.wordpress.com](http://www.waterwatchnyc.wordpress.com)

718-499-4944

My name is Hershel Weiss, I am a water conservation consultant and the editor of a blog on DEP water issues. Thank you for allowing me to present testimony today regarding the proposed fines for Denial of Access and Theft of Services. As a result of soaring costs due to excessive borrowing, poor real estate tax negotiations with upstate towns, and a outrageous lease agreement entered into with the City of New York, the Water Board is faced with yet another 14% rate increase. In order to deflect criticism from these rising costs the DEP is focusing your attention on its inability to gain access to water meters and the miniscule number of customers who are intentionally stealing water from the system. To solve this management problem and raise revenue the DEP is proposing new penalties termed "Denial of Access" and "Theft of Services". These penalties, called rates, will subject innocent consumers to multimillion dollar fines. The following are a few examples:

- The owner of a three family home who has paid every water bill on time, but has an obstructed meter, or a cut meter seal quite possibly cut a long time ago, will be liable for \$19,751.52, even though there has been no theft of water and no attempt to steal water.
- The owner of a warehouse with two 8" mains and an annual water bill of \$500.00 who has paid all charges on time and whose tenant inadvertently backed his truck into a water meter and destroyed the meter would be liable for a \$3.6 million dollar charge. The property owner would have no way to defend herself. The fine would be the same amount if the tenant just obstructed the meter.
- A 1,500 unit Mitchell-Lama subsidized housing complex whose superintendent opened a fire hydrant for neighborhood children or tenants who used the building's sprinkler system to wash their cars would be liable for a back bill in the amount of 9.3 million dollars. The housing complex could reduce the charge if it could prove that this was the first time a fire hydrant or a sprinkler system was used for domestic purposes. For some perverse reason it would be the guilty party's responsibility to prove it did not steal water at any earlier time. Of course when defending itself it could not offer any evidence beyond the DEP inspector's report. Simply put the Mitchell-Lama may not provide any evidence that is not created by the party prosecuting it.

In private conversations with DEP staff, they contend that it is not their intent to punish innocent people, but they need onerous regulations to convict the guilty few. That is not the way the law is supposed to operate in this county. Laws and regulations are supposed to protect the innocent and it is DEP's responsibility to prove guilt before defaming a customer's character with charges of "Theft of Services", and the accused should have the opportunity to defend himself. I respectfully request that the DEP rewrite these regulations to require the DEP to present conclusive evidence that one is guilty of theft before issuing a verdict of "Theft of Services". Furthermore the taxpayer must have the ability to refute any charges.

## FOR THE RECORD



### Council of the City of New York

Committee on Environmental Protection and Committee on Finance on the New York City Water Board's proposed water and sewer rate increase for FY 2010

April 28, 2009

Good Morning Chairmen Gennaro and Weprin, my name is Jessica Handy, and I am speaking here today as Vice-Chair of the Codes and Regulations/Government Affairs Committee of the Building Owners and Managers Association of Greater New York. The 850-members Association, known as BOMA/NY, are stakeholders in the future of New York—who, 365 days a year, maximize the value and performance of a multi-trillion dollar skyline.

In their hands rest the management of:

- More than \$4 Billion in annual operations budgets
- The corporate environments for the largest concentration of business in the world—more than 400 million square feet
- Security of New York's working public, acting as the first line of defense for more than 3 million office tenants

Because of that level of responsibility, you can understand that we appreciate—and support—the need to maintain and upgrade the various components of the aging infrastructure of the New York City water supply. I face similar challenges every day as the Property Manager of a 600,000 sq. foot Office Building in Manhattan, where I must keep costs in check while providing superior service to my tenants.

It is an extraordinarily difficult challenge, particularly in these difficult economic times, where any increased operating expenses to owners of commercial properties result in higher "pass through" escalation costs for tenants.

And so on behalf of BOMA/NY's members and the 400 million square feet of office space we represent, I must express my Association's opposition to the proposed water and sewer rate increase of 14% for FY 2010.

BOMA/NY's reasons are four-fold:

1. Last year's 14.5% rate increase—which we opposed—led to higher costs of operation to the owner and, therefore to the tenants, which are the lifeblood of New York.

**BUILDING OWNERS AND MANAGERS  
ASSOCIATION OF GREATER NEW YORK, INC.**

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E-mail info@bomany.com  
<http://www.bomany.org>

2. The new 14% increase will *further* increase costs and make it even more difficult for owners and managers to retain tenants, which generate billions in tax revenues for New York City, in this slow economy.

3. The proposal rate hike, when added to the recent, unparalleled increases to other utility categories and increased labor costs, will raise the cost of doing business in the City to its *highest point in recent years*.

4. The proposed rate increase also involves the issue of unfair penalization of New York building owners who because of security issues cannot always allow access to their building water meters by DEP personnel. If the proposed rate hike is passed and integrated into next year's rate schedule, building owners who are affected by this security issue regarding meter reading, will be charged, depending on the size of the water main, anywhere from \$3,198 to \$1,598,930 per year.

We strongly recommend a simple process to remedy this situation: provide advance notice to buildings where this policy is in effect, so that access may be granted, and do not levy fines in the event of lack of access when it is justified by security concerns.

On behalf of BOMA/NY we would also like to offer a solution—and offer our support in working with Mayor Bloomberg and Speaker Christine Quinn and New York City Council. We propose working with you to determine how the \$514 million from the New York State Revolving Fund...the money being received through the American Recovery Act of 2009...can be funneled into effectively rebuilding our aging water delivery system infrastructure.

We know the City, and its corporate and public citizens, need new infrastructure, yet we fear one more onerous rate increase will begin to drain the City's corporate tax-paying base to the level that firms once again, begin leaving the City as they did in the 1970's.

We have all learned from that history—so let us put those lessons to work through jointly finding a creative, yet cost-effective approach to the infrastructure problem.

And I have every confidence we can do that—we're New Yorkers!

## WATER BOARD TESTEMONY

APRIL 28, 2009  
EDWARD KORMAN  
EXECUTIVE VICE PRESIDENT  
SMALL RPOERTY OWNERS OF NEW YORK

GOOD MORNING MESSRS CHAIRMEN AND MEMBERS OF THE CITY  
COUNCIL

THIS MORNING YOU HAVE HEARD AND WILL CONTINUE TO HEAR ABOUT  
THIS RATE INCREASE NOT BEING NEEDED. AS THE EXECUTIVE VICE.  
PRESIDENT OF SPONY, BEING ON A COMMUNIITY BOARD, ALSO  
INVOLVED WITH COMMUNITY AFFAIRS IN MY PRECENT AND BEING A  
PROPERTY OWNER I CAN GIVE A BETTER OBSERVATION BEING A PERSON  
IN THE FIELD LIVING THE DAY TO DAY EXPERIENCES OF MY OWN AS  
WELL AS ANSWERING CALLS FROM MEMBERS OF THE COMMUNITY AND  
THE ABOVE ORGANIZATIONS THAT I REPRESENT.

FOR YEARS PEOPLE HAVE BEEN IN ARREARS AND THE DEP SAID THEY  
CANNOT COLLECT THE MONIES OWED BY THEIR CUSTOMERS. NOW WE  
ARE ASKED TO CONSERVE WATER AS A RESULT DEP REVENUES DELCINE  
AND DEP CLAIMING THEIR EXPENSES ARE GOING UP, AS ARE PROPERTY  
OWNERS EXPENSES GOING UP AND REVENUES DECLINING.

AT THIS TIME, I WOULD LIKE TO BRING FORTH MY OBSERVATIONS  
REGUADING THE MISHANDLING OF WHY DEP CANNOT COLLECT THEIR  
REVENUES. BECAUSE OF THEIR INCOMPETENCE, SUCH AS ERROS IN

METER READING, IN MOST CASES RESULTING IN VERY HIGH BILLING. WHEN AN OWNER CALLS, IT COULD TAKE FOREVER FOR SOMEONE TO ANSWER THE PHONE, WHEN THEY DO YOU, THEY ARE LIMITED IN HOW MANY QUESTIONS OR SITUATIONS THAT YOU HAVE. YOU CANNOT SETTLE YOU'RE ACCOUNT UNLESS YOU PAY THE BILL UP FRONT AND UNTIL YOU DO INTEREST AND PENALTIES CONTINUE TO MOUNT.

SOME OF THESE ERROS IN BILLING ARE IN THE THOUSANDS OF DOLLARS MAKING IT DIFFICULT FOR ONE TO NEGOTIATE, IF YOU DONOT HAVE THE FUNDS TO PAY UPFRONT.

DEP HIRED CON EDISON TO READ WATER METERS WHEN THEY READ THEIR OWN METERS. THESE PEOPLE COULD CARE LESS ABOUT THE ACCURACY OF THIE READINGS. I HAVE SPOKEN DIRECTLY TO METER READERS ON MY BUILDINGS ROUTES AND HAVE ASKED " WHAT THE HECK IS UP WITH YOU GUYS THE READINGS SUCK" I HAVE ANSWERS "THEY DON'T CARE ABOUT ACCURACY JUST BRING IN READINGS, IN MANY CASES WE DON'T HAVE CORRECT METER NUMBERS" I HAVE EXPERIENCED AN \$80,000.. BILL FOR A METER THAT WAS PUT OUT OF SERIVCE.

IN THE PAST FEW WEEKS, VISITING ONE OF MY PROPERTIES, I NOTICED A FIRE HYDRANT WITH PARTS MISSING AND WATER RUNNING DOWN THE STREET COMING UP FROM A DWS SHUT OFF BOX. I CALLED 311 AND REPORTED THIS NEEDED REPAIR, DEP REF # 2108368

I VISITED THE SITE ABOUT 5 DAYS LATER APRIL 20 AND FOUND NOTHING WAS DONE. I FORWADED THIS INFORMATION TO COUNCILMEN GENNERO AND WEPRIN BY EMAIL. SUNDAY APRIL 25, WHILE PUTTING THE FINAL COMMENTS TO THIS TESTEMONY, I CALLED ONE OF THE TENANTS TO LOOK OUT IF WATER WAS RUNNING AND THE HYDRAND FIXED. "NO IT HASEN'T."

THE FOLLOWING ARE FEW ADDITIONAL COMMENTS WHY WATER BILLS ARE NOT PAID.

- 1 - BILLING GOES OUT TO BUILDINGS THAT NO LONGER EXIST
- 2 - ABANDONED BUILDINGS OWNED BY BANKS
- 3- NOTICES SENT TO INCORRECT OWNERS, AND INCORRECT ADDRESSES.
- 4- BUILDINGS WITH NO WATER MAIN HOOK UPS AND BUILDINGS WITH TWO WATER MAINS

MAY I QUOTE CONGRESSMAN ACKERMAN "DEP NEEDS THE RATE INCREASE TO PAY OFF BONDS THAT WERE ALREADY PAID OFF".

IN THE PRESENT ECONOMY I THINK THE DEP ALONG WITH THE OTHER AGENCIES THAT WANT RATE INCREASES FROM PROPERTY OWNERS, SHOULD RECALL THE SEVENTIES AND EIGHTIES WHEN FORCLOSURE AND ABANDONMENT WERE RAMPENT, AND THE NEED FOR AFFORDABLE HOUSING. SAMLL OWNERS CANNOT PAY ANY MORE.



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RENT STABILIZATION ASSOCIATION • 123 William Street • New York, NY 10038

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**Testimony of Jack Freund,**  
*Executive Vice President, Rent Stabilization Association,*  
**Delivered before the New York City Council**  
*Tuesday, April 28, 2009*

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The new rules would charge owners administrative fees of \$250 if DEP fails to gain access to a property following a first written request for access. If there is no response to a second notice, DEP may determine that there is a "theft of services" and will be able to bill owners for an "attributed consumption rate" equal to \$1823 per year for the first unit and \$1550 for each additional unit. And they will be able to bill at these astronomical rates retroactively for four years.

The attributed consumption charges are not based on historic charges for the property or on estimated consumption. Instead they represent roughly double the average per unit charges and are intended to be punitively high. The problem here is that DEP can impose attributed charges, the same penalty as for theft of services, even when an owner has diligently paid appropriate charges, simply on the basis that they have failed to gain access to the property.

There is no requirement for the DEP to prove that any theft is taking place. The rules do not state what notice period is required. The rules not require that the notices go to a responsible party, rather than an escrow agent. If an owner is out of town when the request is made, owners may be punished unfairly.

We have asked the Water Board not to enact the new rules until essential safeguards are incorporated and we urge the City Council to keep a close watch on these developments.

First, there needs to be notification of a request for access by certified mail to the owner or managing agent (not the mortgage escrow company) before there is any determination of a denial of access. Second, the request for access must provide for a reasonable period of time for the owner to arrange access.

Third, there should be a finding of intent on the part of the owner before a finding of theft of services can be made. Finally, when there is a denial of access, penalties should be limited to administrative fees and, if consumption appears low, attributed charges should not be punitive and should be no higher than the average for the structure class.

As representatives of a large constituency of water and sewer rate-payers, we are as frustrated as the City Council must be by the lack of transparency and oversight that characterizes the current structure of the Water Board, the Water Authority and DEP. We would hope that the steps outlined above will help correct this situation.



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## Water Rate Hikes: Bad for Queens Businesses

For Immediate Release:  
Tuesday, April 28, 2009

Contact: Jack Friedman (718) 898-8500/ cell: (646) 642-4790

### **Testimony to City Council Committees on Environmental Protection and Finance**

Thank you for this holding this oversight hearing and this opportunity to present the opposition of the Queens Chamber of Commerce to another outrageous water and sewer rate hike. Queens Chamber represents thousands of businesses and firms of all sizes that do business from and/ or in our vibrant borough. We look at the Water Board proposal from a business perspective and expose the rate hike's true colors. The proposed 14.5% hike stands out as 14.5% too much! We testified just that yesterday.

As we stated in our testimony to the NYC Water Board, "Water and Sewer hikes really function as tax hikes in all but name. The use of so many millions of dollars to cover costs outside the water system and the outrageous practice of the city charging itself rent to operate its water and sewer system make clear how the water board functions as a cash cow for City Hall." We seek the Council's help to end these practices.

City ratepayers previously paid real estate taxes to fund part of this system. The initial shift to metering and the increases since resulted in no reduction in taxes. To review water rates without consideration of overall taxes imposed in New York City and the ongoing subsidy to the general fund provided by the systems paints an inaccurate accounting of overall burdens paid by taxpayers and ratepayers - one and the same.

Further hikes would also hurt the overall economy of the city at a most inopportune time. In New York's current economic state, further water rate gouges threaten most irreparable harm on a most fragile economy.

When the Water Board's capital program substantially results from federal and some state mandates, Queens Chamber questions the apparent lack of any plans to press for appropriate levels of aid from Albany and Washington to address what those governments require of New York City. We do welcome the *Bluebook* noting this need.

It remains important to consider the views of the business community and recognize the impacts of hiking water and sewer taxes – That's right taxes – before continuing down the same of path of spend and spend when there just might exist better means to achieve a safe delivery of clean water to New Yorkers. Perhaps the Council will exercise it budget power to send a message to City Hall to kill the gouge. Thank you.

# ARE YOU BEHIND ON YOUR PROPERTY TAX OR WATER/SEWER BILLS? YOUR HOME MAY BE AT RISK!

## INFORMATION FOR HOMEOWNERS ABOUT THE NYC LIEN SALE: YOU MUST ACT BEFORE MAY 1, 2009!

If you owe New York City property tax or water/sewer bills over a certain amount, the City might sell your debt to a private company through a "Lien Sale." The next NYC Lien Sale is scheduled for **May 4, 2009**.

Once your debt is sold, the company that buys the debt can add high fees and interest on top of what you already owe. If you are unable to repay the full amount in one year, the company that bought your debt may move to foreclose on your home.

Your home might be included in the NYC Lien Sale if you owe:

- ★ property taxes for 3 years OR
- ★ water/sewer charges for 1 year of \$1,000 or more\*

*\*Note: If you own a 1-family home and owe only water/sewer charges, your debt will not be sold, but you must make payment arrangements with the City to avoid water/sewer service shut-off.*

## HOW CAN YOU GET YOUR HOME OUT OF THE NYC LIEN SALE?

→ You must call the NYC Dept. of Finance to make payment arrangements before May 1, 2009 or your property might be included in the May 4, 2009 Lien Sale.

→ Contact the NYC Dept. of Finance to apply for a property tax exemption. You may qualify for a property tax exemption on your primary residence *IF* any of the following apply:

- You or your spouse will be 65 years old by 12/31/09, and your income is less than \$36,400
- You receive disability benefits
- You or your spouse are active duty military personnel

## HOW TO FIND OUT IF YOUR HOME IS IN THE UPCOMING LIEN SALE

- (1) **Check your mail.** NYC Dept. of Finance is required to mail a *Lien Sale Notice* to you, before it sells a debt (lien) on your home.
- (2) **Visit [www.nyc.gov/html/dof](http://www.nyc.gov/html/dof)** for a list of properties in the Lien Sale.
- (3) **Call NYC Dept. of Finance** at (212) 232-1776.



For more  
info, call:

**NYC Dept. of Finance  
Outreach Center  
(212) 232-1776**

*This flyer provides general information only, and is not intended to provide legal or other professional advice.*



# Water-Only Liens 2009 NYC Tax Lien Sale

- /// Population > 50% Black or Hispanic
- 1 Dot = 1 Home in Tax Lien Sale\*



Neighborhood Economic Development  
Advocacy Project (NEDAP)  
(212) 680-5100 | [www.nedap.org](http://www.nedap.org)  
©2009-NEDAP

*\*based on 30 Day Notice List, NYC Tax Lien Securitization,  
water-only liens on 1-4 family homes, April 2, 2009*

*Data Sources: NYC Department of Finance; U.S. Census (2000)*

# Queens Civic Congress

P.O. Box 238, Flushing, NY 11363 (718) 343-6779 fax: (718) 225-2818  
www.queensciviccongress.org queensciviccongr@aol.com

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FOR IMMEDIATE RELEASE:  
TUESDAY, April 28, 2009

Contact:  
Corey Bearak  
(718) 343-6779

## QUEENS CIVIC CONGRESS OPPOSES WATER & SEWER TAX GOUGE

Testimony to the NYC Council Committees on Environmental Protection and Finance

Tuesday, April 28, 2009

by Corey Bearak, President, Queens Civic Congress

Thank you chairmen Gennaro and Weprin for holding this hearing and for this opportunity for Queens Civic Congress to testify about another unnecessary Water and Sewer tax gouge, 14% on top of the 14.5% we already endure this year. My name is Corey Bearak. I serve as President of this unique coalition that represents over 110 civic, cooperative, condo, tenant and other community associations throughout the borough of Queens. Our membership represents almost every community in the borough.

Last year I testified to the NYC Water Board that New Yorkers already pay 500% more than they paid when the City introduced water metering; last year's 14.5% gouge and proposed 14% hike just exacerbate this unconscionable abdication of sound policymaking that led us to today's hearing. City Hall – the mayor – must demand that the water board kill the proposed hike. As I stated yesterday to the Water Board, “City Hall must take the necessary initiatives to ensure the Water Board operates consistent with its mandate to provide safe water and clean disposal, and achieve this – as can be done – without gouging New Yorkers.”

The past and current failure of City Halls past and present led the Queens Civic Congress to take the policy initiative. With Croton Watershed Clean Water Coalition, Queens Civic Congress secured the support of the Queens Borough Board last week (Monday, April 20, 2009) we continue outreach across the city to hold the line on skyrocketing water and sewers rates.

In these times, it becomes imperative to avoid these economy killing taxes. City Hall must change its current mindset that continues us on a path to pay more; we need that to change. I've attached the 16-point Resolution to *Protect NYC Watersheds and Hold Down NYC Water Rates*. (The link to the presentation follows this testimony). Attached *Appendix A* is a rate chart.

The resolution includes eliminating the rental payment, setting rates after city budget approval, federal aid for federal mandates, using city capital budget for projects, no use of water funds for unrelated expenses, more watershed land investment, no inappropriate gas drilling in the watershed and the use of modern “Membrane Filtration” instead of the antiquated system employed at the Van Cortland project. Thank you for your consideration and City Hall hear us.

[Editors's note: The presentation may be viewed at  
[http://queensciviccongress.org/Media/files/2009/2009-01-13\\_CWCWC\\_QCC\\_2009\\_Water\\_Rates\\_campaign.pdf](http://queensciviccongress.org/Media/files/2009/2009-01-13_CWCWC_QCC_2009_Water_Rates_campaign.pdf).

Appendix A

Water and Sewer Rate Increases

Date/ FY	Meter change %	Sewer Charge %	Total Rate** Increase	Date/ FY	Meter change %	Sewer Charge %	Total Rate** Increase
1980		25%		1995	0%	159%	0%
1981		33%		1996	5%	159%	5%
1982		33%		1997	6.5%	159%	7%
1983		50%		1998	6.5%	159%	7%
1984		50%		1999	4%	159%	4%
1985		60%		2000	4%	159%	4%
1986		60%		2001	1%	159%	1%
1987*	9.9%	60%	9.9	2002	4%	159%	4%
1988	12%	70%	19%	2003	6.5%	159%	6.5%
1989	0%	75%	14%	2004	5.5%	159%	5.5%
1990, 1-6	7.8%	88%	24.3	2005	5.5%	159%	5.5%
1990, 7-12	9.00%	112%		2006	3%	159%	3.00%
1991	0%	112%	22.9	2007	9.4%	159%	9.4%
1992	6.4%	136%	18%	2008	11.5%	159%	11.5%
1993	0%	159%	10%	2009	14.50%	159.00%	14.50%
1994	0%	159%	0%	2010**	14.00%	159.00%	14.50%

\*metering began that fiscal year, July 1, 1987 \*\*Proposed Hike

Find Queens Civic Congress Members on the web at: <http://queensciviccongress.org/organization/members.php>.

**Queens Civic Congress Members**

Association of Old Forest Hills ♦ Auburndale Improvement Association ♦ Bayside Civic Database ♦ Bayside Clear-Spring Council ♦ Bayside Hills Civic Association ♦ Bayswater Civic Association ♦ Bay Terrace Community Alliance, Inc. ♦ Bay Terrace Cooperative Section 1 ♦ Bellaire-Bellvill Civic Association ♦ Belle Harbor Property Owners Association ♦ Bellerose Commonwealth Civic Association ♦ Bellerose Hillside Civic Association ♦ Bell Park Manor Terrace Community Council ♦ Bowne Park Civic Association ♦ Briarwood Community Association ♦ Cambria Heights Civic Association ♦ Civic Association of Utopia Estates ♦ C.O.M.E.T. (Communities of Maspeth-Elmhurst Together) ♦ Concerned Citizens of Laurelton ♦ Cornucopia Society ♦ Creedmoor Civic Association ♦ Deerfield Area Association ♦ Doug-Bay Manor Civic Association ♦ Douglas Manor Association ♦ Douglaston Civic Association ♦ Dutch Kills Civic Association of Long Island City ♦ East Elmhurst Corona Civic Association ♦ East Flushing Civic Association ♦ Federated Block Associations of Laurelton ♦ Federation of Civic Associations of Southeast Queens ♦ Floral Park Community Council ♦ Flushing Heights Civic Association ♦ Flushing on the Hill Taxpayers Association ♦ Forest Hills Chamber of Commerce ♦ Forest Hills Crescents Association ♦ Forest Hills-Van Court Association ♦ Fresh Meadows Homeowners Association ♦ Georgetown Mews ♦ Glendale Civic Association of Queens ♦ Glen Oaks Village Owners, Inc. ♦ Greater Astoria Historical Society ♦ Greater Whitestone Taxpayers Civic Association ♦ Harding Heights Civic Association ♦ Hillcrest Estates Civic Association ♦ Hilltop Village Co-Op #1 ♦ Hilltop Village Co-Op #2 ♦ Hilltop Village Co-Op #3 ♦ Hilltop Village Co-Op #4 ♦ Hollis 11423 Block Association ♦ Hollis Hills Civic Association ♦ Holliswood Civic Association ♦ Hollis Park Gardens Association ♦ Holly Civic Association ♦ Hyde Park Gardens Cooperative ♦ Jackson Heights Beautification Group ♦ Jamaica Estates Association ♦ Jamaica Hill Community Association ♦ Juniper Park Civic Association ♦ Kew Gardens Civic Association ♦ Kew Gardens Hills Homeowners Association ♦ Kew Gardens Improvement Association ♦ Kissena Park Civic Association ♦ Little Neck Bay Civic Association ♦ Little Neck Pines ♦ Long Island City Alliance ♦ Malba Civic Association ♦ Meadowlark Gardens Owners ♦ Middle Village Property Owners Association ♦ Mitchell Linden Civic Association ♦ Neponsit Property Owners Association ♦ Newtown Civic Association ♦ Newtown Historical Society ♦ North Bellerose Civic Association ♦ North Flushing Civic Association ♦ North Hills Estates Civic Association ♦ Northwest Clearview Homeowners Association ♦ Norwood Neighborhood Association ♦ Oakland Terrace/ Gardens Community Council ♦ Off Broadway Homeowners Association ♦ Our Neighborhood Improvement Association ♦ Our Neighbors Civic Association of Ozone Park, Inc. ♦ Parkway Village Historical Society ♦ Queensboro Hill Neighborhood Association ♦ Queens Colony Civic Association ♦ Queens Community Civic Corp. ♦ Queens Village Civic Association ♦ Ramblersville-Hawtree Civic Association ♦ Richmond Hill Historical Society ♦ Ridgewood Property Owners and Civic Association ♦ Rockaway Park Homeowners/Residents ♦ Rocky Hill Civic Association ♦ Rosedale Civic Association ♦ Royal Ranch Association ♦ Southeast Queens Concerned Neighbors ♦ South Ozone Park West Association Civic ♦ Springfield/Rosedale Community Action Association ♦ Station Road Civic Assoc. of Auburndale ♦ Sunnyside Gardens/Harrison Place Homeowners ♦ Surrey Estates Civic Association ♦ Union Turnpike Merchants Association ♦ United Forties Civic Association ♦ United Mutual Veterans Housing, Inc. ♦ Waldheim Neighborhood Association ♦ Wayanda Civic Association ♦ West Cunningham Park Civic Association ♦ Westmoreland Association ♦ Woodside Community Council



*Croton Watershed Clean Water Coalition, Inc.*  
PO Box 484, Bedford, NY 10506 914-234-6470  
www.newyorkwater.org crotonwshed@aol.com



**Queens Civic Congress**  
PO Box 238, Flushing, NY 11363 718-343-6779  
www.queensciviccongress.org bearak@aol.com

## Resolution to Protect NYC Watersheds and Hold Down NYC Water Rates

Be it resolved that to cease the escalation of NYC water and sewer rates and to protect NYC water supplies, our Community/Borough Board calls upon New York City, NYC Council and NYC Water Board to:

1. Secure federal and state aid to fund the mandated capital improvements of upgrading wastewater treatment plants in the Croton Watershed to tertiary level, and safe disposal of the sludge;
2. Fund capital costs for water supply and treatment facilities from NYC capital budget rather than water and sewer rates;
3. Cease the use of regressive water and sewer charges for capital projects unrelated to delivering clean water and wastewater disposal. The Croton filtration scheme currently funds parks projects that should be funded by our City taxes;
4. Stop making the water system pay for street cleaning, fire hydrant maintenance and other needs that the City (Expense) Budget should rightly fund. The Independent Budget Office's May 2008 brief identifies costs that can be reduced or are wrongly charged against the water rates including higher fringe benefits accounting (\$19 million), debt service savings from delays to non-essential projects (\$17 million), and holding code 499 (\$94 million);
5. Eliminate annual rental payments by the City to its Water Board (currently \$178 million and expected to increase further) and return the current payment of \$147 million;
6. Cease the practice of setting rates before the City adopts its budget. Support legislation, A03250 (<http://assembly.state.ny.us/leg/?bn=A03250>), sponsored by Assembly Member Mark Weprin and passed annually since 2001 in the Assembly;
7. Support efforts to ease impacts of high water rates on senior homeowners and tenants by passing legislation A07059 (<http://assembly.state.ny.us/leg/?bn=A07059>) which would provide a tax levy subsidy to households 65 or older with incomes below current Senior Citizens Homeowner Exemption eligibility limit;
8. Improve water and sewer billing policies;

9. Conduct a NYC Council Investigation into the more than quadrupling cost of the Croton filtration plant from \$660 million to \$3.1 billion and rising, the millions of dollars unaccounted for, and the lack of competitive bids;

10. Conduct a NYC Council Investigation of NYC Department of Environmental Protection's (NYCDEP) misguided technology choice of obsolete Dissolved Air Flotation (DAF) for the Croton Watershed filtration plant versus modern Membrane Filtration - today's technology of choice -- which costs less to build and maintain, has a much smaller footprint, uses less energy, and is more effective;

11. Address the ongoing waste of over 1.2 million gallons a day of groundwater at the Croton filtration plant site;

12. Improve NYCDEP's obligation to keep in a state of good repair existing storm and combined sanitary-storm systems to prevent recurrences of summer 2007 backups into Queens' homes and apartments;

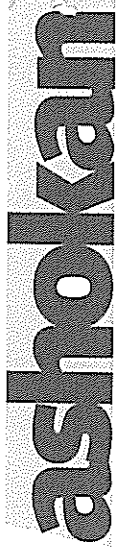
13. Disclose all capital costs for infrastructure maintenance and new infrastructure both current and over the next 10 years (including Delaware Aqueduct leak; dam upgrades, tunnel #3, etc.);

14. Ban inappropriate gas and oil drilling in NYC Watersheds;

15. Enforce NYC Watershed regulations to prevent unsuitable development;

16. Invest in more land purchases and conservation easements in the Croton Watershed as the most cost-effective source water protection of Bronx and Manhattan water supplies.

###



April 28<sup>th</sup>, 2009

Dear City Council Members,

My name is Heather Hughes, and I am a water rate consultant at Ashokan Water Services, a water consulting and advocacy group. I object to the NYC DEP's proposed regulations, "Denial of Access" and "Theft of Services." These proposed regulations are unfair and the fines associated with them are excessive.

DEP states under "Regulation Number Three, Denial of Access" that building owners who do not let the DEP in to read their water meters are presumed to be stealing water, even without any knowledge that the notice to inspect has actually reached the owner.

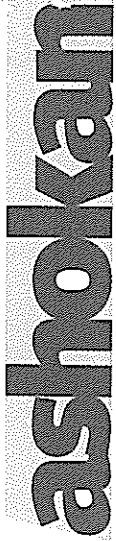
Under "Regulation Number Four, Theft of Services," DEP states that a theft of services has occurred when any meter has been "tampered" with, with or without the owner's knowledge.

Consumers are denied substantial justice and due process by these new regulations. The major problems are outlined as follows.

1. DEP has no requirements to prove theft of services; rather suspicion equals guilt.
2. Customers are not entitled to defend themselves from the changes through a review of DEP evidence or through providing any of their own.
3. The penalties that will be imposed do not fit the supposed crime. They are arbitrary and have been designed to bring maximum revenue to DEP. Someone with a 10" water main would receive a fine for almost \$1.9 million. In addition, these penalties are presented ambiguously to consumers.
4. For "Denial of Access" DEP's two-notice protocol is not enough. DEP simply sends out letters to the owner via regular mail. If the penalties for this charge are to be extreme, then the process should be more regulated.

Based upon these issues, I would like to propose that DEP revise these amendments based on the suggestions below.

1. DEP should not be able to prove someone guilty based upon suspicion. Regulations need to be specified and a protocol for a consumer to defend his or her self needs to be detailed.
2. DEP needs to create and outline the protocol for a customer to defend themselves.
3. DEP needs to revise the penalty amounts in order to reflect actual levels of consumption.



ashokan services

*Saving Through Conservation*

4. Since DEP's records are outdated and/or incorrect, DEP needs to take action to confirm that these notices reach the actual owner and not someone who previously owned the building. The letters should be sent via certified mail along with a return receipt. In addition, the customer should be given windows of dates and times for DEP's inspection to be arranged.

In conclusion, while I understand that fines and penalties are necessary to prevent actual theft, these penalties that DEP is suggesting are anti-consumer and too extreme. Revisions are necessary in order to be fair and reasonable and to protect consumers.

Thank you for your time today. I sincerely hope that you closely examine these new regulations and consider the effects it will have on New York City building owners and residents.

Sincerely,

Heather Hughes



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Testimony of Harold M. Shultz  
Senior Fellow, Citizens Housing and Planning Council  
At a Joint Oversight Hearing of the Committees on Finance and Environmental  
Protection Committees  
In Regard to Proposed Rate Increases for the Water and Sewer System  
April 28, 2009

Good morning. I would like to thank Chairpersons Gennaro and Weprin and the members of the Finance and Environmental Protection Committees for this opportunity to testify in regard to the proposed increase in water and sewer rates.

Founded in 1937, the Citizens Housing and Planning Council (CHPC) is a non-profit policy research organization dedicated to improving housing and neighborhood conditions through cooperative efforts of the public and private sectors.

CHPC's large and diverse Board of Directors comprises for-profit and not-for-profit real estate developers, bankers, attorneys, architects, planners, and academics.

In 1988 the City changed its methodology for collecting water and sewer charges from a system based on the amount of building frontage, to metered charges based on actual water usage. New Yorkers could have presumed that this change would distribute the cost of *using* water fairly and encourage conservation of a scarce natural resource. In reality the cost of water *usage* has less to do with the amount of water that is consumed and more to do with the enormous cost of the infrastructure required to deliver it. For this year the Water Board says that approximately 51 percent of the average water and sewer bill will reflect actual water usage costs, while 41 percent will be the cost of infrastructure maintenance and construction. Another 8 percent is represented by the rental payment to New York City. Soon infrastructure costs will exceed operating costs and will continue to grow through the rest of the decade. As a result if water usage declines, the cost to the users (or rate payers) of water and sewer actually must rise to keep pace with the capital infrastructure costs. In fact this year's rate increase is partially explained by a decline in water usage.

Further, since rate payers are restricted to property owners, 79% of the billings of water and sewer charges are born solely by residential property owners. Within this category 27% of housing units are in one and two family homes and 73% are in multiple

dwelling. While the owners of multiple dwellings are directly responsible for payment, when water rates rise they have varying ability to pass the increased costs on to tenants. Most residential tenants are unaware of the costs of water and sewer or how much they consume, and few understand how increasing water charges are affecting the rent that they pay. Perhaps more troubling, there seems to be little understanding of the regressive nature of this tax and its potential impact on the financial viability of the City's existing, rent regulated multiple dwelling stock, already under considerable pressure. While the average cost per unit of water and sewer in 2007 for pre-war Rent Stabilized buildings is \$444, a closer look at building location and median household income reveals a more troubling picture. While southern Manhattan (below E.96<sup>th</sup> St. and below W.110<sup>th</sup> St.) pays 8% less than the Citywide average for similar buildings, northern Manhattan buildings pay 11% more than the Citywide average. The Bronx buildings, with median household incomes of \$25,000, pay 8% more than the Citywide average.

Since only property owners pay for water and sewer, payers of income tax, sales tax, hotel taxes, etc are not paying for the system at all. As a result the "tax" base for paying for water/sewer is dramatically reduced and includes a disproportionate number of properties which are owned or rented to lower income households (51.8% of New York City households are below 80% of median income as of 2004).

Further, the costs of the infrastructure of the water and sewer system are increasing dramatically and there is little incentive for insuring that the costs are kept as low as possible.

The net result is that New York City homeowners and residential building owners have had an 14.5% increase in water and sewer charges last year, face another 14% increase in water and sewer charges this year, and can expect double digit annual rate increases for the rest of this decade and possibly longer.

To avoid a deleterious impact on the City's residential property owners and multiple dwelling owners in particular, it is time to reconsider who pays for the water system and how its infrastructure planning and costs are managed. A longer discussion of these issues is now available in our Urban Prospect entitled "Liquid Assets".

For today I would like to focus on the simplest of the cost issues, the Rental Payment paid by the rate payers (through the Water Board) to the City of New York

### **The Rental Payment**

The "Rental Payment" represents a charge paid by the Water Board to the City for leasing the water infrastructure that was built by the City prior to 1984. Prior to 2005 the Water Board paid the City annually whatever the City was paying on debt service for constructing the pre-1984 infrastructure. In 2004, that payment was \$115 million.

However after 2005 the City invoked a provision of the lease agreement requiring the Water Board to pay an amount equal to 15 percent of the amount of the interest and principal paid by the Water Board *on the total outstanding bonds issued by the MWFA.*

The lease payment to the City now bears no relation to the cost of the leased infrastructure, and is increasing as the amount of outstanding MWFA bonds increases. In 2006 the payment had increased to \$124 million. By 2011, it's projected to reach \$235 million, even though by that time the original water/sewer infrastructure will have been virtually paid off. The ever increasing capital needs and the corresponding increase in the amount of outstanding bonds issued by the MWFA insures that this payment will only continue to go up.

Were the Rental Payment to be reduced, it would help to contain future rate increases. While it would only make a small difference in the adopted rates, it is at least one part of the equation which is easily controllable.

Comptroller Thompson has proposed that the excess rental payment (the difference between the cost of amortizing the pre-1985 bonds and the payment based on the outstanding MWFA bonds) be returned to the water/sewer system to be used for capital and operating expenses. It's a recommendation that would help to reduce the burden on the ratepayers and should be adopted by the City.

One of the "Important Objectives of the Water Board" (see 2006 Blue Book) is that the rate structure should provide a reasonably stable and predictable flow of revenue. Similarly, building owners want to be able to predict with reasonable certainty how rates are going to escalate in the future and some assurance that increases will be both moderate and smoothly spread out. This enables them to adjust to changes without sharp and unexpected rent increases.

### **What to Do?**

To the extent that these numbers show us that water/sewer costs are disproportionately borne by affordable housing, we must ask ourselves if this is a good public policy. There is broad agreement that NYC has a shortage of affordable housing. In fact the City goes to great extent to fund affordable housing and to provide a wide variety of tax benefits to keep housing affordable.

A policy of overtaxing housing for water/sewer use is contrary to the overall policy to support affordable housing.

There are clearly steps that can be taken to restructure the systems revenues to more evenly spread out the costs. One is to reduce the rental payment to the City. The ever increasing rental payment represents an "off the books" revenue source to the City.

It should be ended.

Thank you.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4-28-09

Name: Helen Marshall (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: Queens Borough President

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Corey Bearak (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: Queens Civic Congress

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: \_\_\_\_\_ (PLEASE PRINT)

Address: Corey Bearak

I represent: Queens Chamber of Commerce

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jacky Monterosso ; Rent Stabilization Association

Address: 120 William St.

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Alan Moss

Address: \_\_\_\_\_

I represent: NYC Water Board

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4/26/82

(PLEASE PRINT)

Name: ED KORMAN

Address: 567 BAODIN. ST Meln (174)

I represent: SPDN

Address: 1681 3 Ave -

▶ Please complete this card and return to the Sergeant-at-Arms ◀

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4/28/09

(PLEASE PRINT)

Name: Deputy Comptroller Marcia Van Wagner

Address: One Canal St

I represent: NYC Comptroller

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Mary Ann Rothman

Address: 110 Riverside Dr, NYC 10024

I represent: Council of New York Cooperatives &

Address: 250 W 57<sup>th</sup> St, # 730 Condominiums  
NYC 10107

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4-28-09

(PLEASE PRINT)

Name: Heather Hughes

Address: 515 3rd Ave Brooklyn 11215

I represent: Ashokan Water Service

Address: 515 3rd Ave Brooklyn 11215

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4-28-09

(PLEASE PRINT)

Name: Jessica Handy

Address: 11 Penn Plaza Suite 2201 NY 10001

I represent: BOMANY

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4.28.09

(PLEASE PRINT)

Name: Hershel Weiss

Address: 515 3rd Ave Brooklyn 11215

I represent: Water Watch Blog

Address: 515 3rd Ave Brooklyn 11215

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Steven Lawitts

Address: \_\_\_\_\_

I represent: Acting Commissioner

Address: NYC DEP

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Water rate Res. No. CRES 5

in favor  in opposition

Date: 4/28/09

(PLEASE PRINT)

Name: April Tyler  
Address: Neighborhood Econ Dev Adv Project  
I represent: (NEDAP)  
Address: 73 Spring St NYC

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Water Rate Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4/28/2009

(PLEASE PRINT)

Name: Harold M Shultz  
Address: 42 Broadway NY NY  
I represent: Citizens Housing + Planning  
Address: 42 Broadway NY NY

Please complete this card and return to the Sergeant-at-Arms