January 16, 2018

Tommy Wells
Chair of the Board of Directors, District of Columbia Water and Sewer Authority
Henderson Brown, IV
Interim General Manager, District of Columbia Water and Sewer Authority
500 Overlook Avenue, SW
Washington, DC 20032

Dear Mr. Brown and Director Wells,

I would like to follow up on the issues raised at the November 17, 2017 public hearing held by the Committee on Transportation and the Environment on increasing DC Water bills for District ratepayers and my subsequent meeting with Interim General Manager Brown on December 18, 2017. It is a top priority for me in the coming months to work with DC Water, the Mayor, and my fellow Councilmembers to address the very high water bills that some customers are paying, particularly some charitable organizations and residents on fixed incomes. This letter details possible strategies raised at the hearing and ones that I’ve considered in discussions with my staff to mitigate the burden of these bills. In particular, we need to focus on ways to mitigate the Clean Rivers Impervious Area Charge (CRIAC), which is the main driver of increasing water bills. I ask that you, too, prioritize this matter and work with me to identify and implement the best strategy as quickly as possible.

First, I will describe briefly the categories of ratepayers who I believe are most burdened by the current water bill scheme. The CRIAC represents 25% of the average customer’s water bill, but for some customers, it is much higher. For example, St. Paul’s Rock Creek Church and Cemetery testified at the November hearing that it pays $18,900 per month for its water bill, $15,000 of which is its CRIAC.1 Many cemeteries, churches, parks, and other non-profits with large properties but limited revenue have reported that their CRIACs are so high that they are forced to cut community programs and services.

Another category of customers acutely feeling the effects of the CRIAC are families on a fixed income. Although DC Water does offer the Customer Assistance Program (CAP) to low-income families, many families that fall above the eligibility threshold still struggle to pay their water bills.

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1 Testimony of Jim Jones, St. Paul’s Rock Creek Parish and Cemetery, Public Hearing of the Committee on Transportation & the Environment (Nov. 17, 2017).
given the high cost of living in the District. Tracey Williams, a public witness, testified at the November hearing that, although she works full-time, she cannot afford her $160 monthly water bill for her single family home. She explained that despite taking dramatic steps to decrease her family’s water usage, including bathing her children together and not watering her plants, she has been unable to decrease her water bill because her CRIAC, $95.68 per month (60% of her total bill) stays the same.

Several strategies for addressing these high water bills were presented at the hearing, and, after further research and discussions with my staff, I have developed a few others. Below, I present these strategies for your consideration.

1. The DC government could provide funding for a hardship exemption or a discount on the CRIAC for non-profit/charitable organizations and residents on fixed incomes who are not eligible for CAP.

Other jurisdictions, like Philadelphia and Baltimore, offer discounts or exemptions to charitable organizations burdened by storm remediation fees. To qualify for Baltimore’s hardship program, the charitable organization must show evidence that its revenue falls under a certain level, or is otherwise insufficient to cover its water bills. I propose that the District create a similar hardship program that provides a discount to both non-profit charitable organizations and individuals who can show that their CRIAC fee is disproportionate to their income or revenue.

Notably, this strategy would likely avoid any arguments that the CRIAC is a tax rather than a fee, an interpretation that could jeopardize federal funding. At the November hearing, then General Manager George Hawkins testified that this strategy steers clear of these concerns, since DC Water’s CRIAC calculation and charge would stay the same, with the District just subsidizing part of certain customers’ bills for public policy reasons.

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2 The Department of Energy and Environment and DC Water both use income thresholds established by the U.S. Department of Health and Human Services to determine eligibility for the Customer Assistance Program. The income thresholds are available on the DOEE website: https://doee.dc.gov/node/9402 (last visited Jan. 3, 2017).

3 Testimony of Tracey Williams, Public Witness, Public Hearing of the Committee on Transportation & the Environment (Nov. 17, 2017).

4 Stormwater Remediation Fee Regulations, Baltimore City Department of Public Works 7 (updated September 2017), https://publicworks.baltimorecity.gov/sites/default/files/Stormwater%20Remediation%20Fee%20Regulations.pdf (Baltimore exempts organizations from the stormwater remediation fee if they meet the following criteria: (1) Exemption from taxation under § 501(c)(3) or (d) of the Internal Revenue Code; (2) Annual Stormwater Remediation Fee payment must exceed 0.75% of the organization’s total annual revenue, including any stormwater fee discounts or credits received; (3) The organization’s total annual revenue must not exceed $1,000,000; and (4) Ownership of the property, or a copy of the current lease agreement indicating that the organization is responsible for water/sewer charges); “Assistance is Available to Those Who Need It”, Philadelphia Water, Sewer, and Stormwater Rate Board (updated Jan. 8, 2016), http://www.phila.gov/water/PDF/RateRequest6.pdf (Philadelphia provides a 25% discount to charities, churches, nonprofit hospitals, schools, and universities.)

5 Testimony of George Hawkins, DC Water and Sewer Authority General Manager, Public Hearing of the Committee on Transportation & the Environment (Nov. 17, 2017) (If the federal government could make the case that the CRIAC was a tax, it would not have to pay the CRIAC for federal properties in the District, which is currently the largest revenue source for the Clean Rivers Project.)
If DC Water is interested in pursuing this strategy, the agency should present to the Mayor and the Council a proposal for how much a hardship program would cost, outline how the agency would define hardship in order to decide what organizations and residents would benefit from the program, and explain how the program would be implemented.

2. **DC Water could provide a discount on the CRIAC for customers that are preserving large amounts of green space.**

Property owners of large areas of land that generate little or no revenue are currently paying such high CRIACs that it is compromising the rest of their operations. This includes churches, cemeteries, parks, and other non-profits that provide important services to the community. Many of these property owners are also preserving large amounts of green space in the District, yet they get no credit or offset for this conservation.

DC Water could provide these customers a credit for every acre of green space they are maintaining, or calculate the ratio of green space to impervious area and provide a credit to customers with a ratio over a given amount (i.e. 3:1). At the November hearing, Mr. Hawkins suggested that this type of discount would be a good way to address this discrepancy. He also said the Board was considering this option.

Although this strategy would address some of problem with the CRIAC, it should not be enacted in isolation as it would not help low-income customers in need of assistance. In fact, some federal parkland, like the National Arboretum, which has the resources to pay this charge, would likely be eligible for a discount. Perhaps this strategy could apply only to property owners who can also show financial hardship. This strategy would also be costly, and would necessitate a new injection of funds from the District government or another source, or increased CRIACs for other customers.

3. **DC Water could strengthen its incentives for replacing impervious surfaces.**

Several public witnesses testified that they replaced impervious areas with permeable surfaces, such as green roofs, permeable pavement, and rain gardens, only to see very little, if any, decline in their CRIACs. The District government currently provides up to 55% off the DOEE Stormwater Fee when a property owner reduces stormwater runoff, but this fee is generally a small portion of people’s overall bill. In contrast, DC Water only provides up to a 4% discount on the CRIAC to customers who install this new green infrastructure. This is a questionable practice, given that the purpose of the CRIAC is to charge properties for their impervious surfaces, which many property owners installing green infrastructure are decreasing well beyond 4%.

Mr. Hawkins raised a few concerns with this strategy at the November hearing, including that it would be difficult for DC Water to inspect all properties to see if green infrastructure was installed, and that it would present budgeting challenges if customers could decrease their bills in the middle of a budget cycle. Both of these concerns seem solvable. The program could be designed so that ratepayers must apply to have DC Water come inspect their infrastructure, thereby decreasing the number of properties to be inspected. In addition, the discounts could be applied to
bills only at the beginning of a new budget cycle. Once again, this strategy would need either public or private funding in order to avoid imposing higher charges on other customers.

4. **DC Water could provide a two-tiered water rate system for multi-family residences.**

Multi-family residences, such as condominiums and townhome complexes, are often charged a single bill using one meter. Because DC Water cannot assess the water usage of each individual unit, the agency does not provide these property owners the same opportunity as single-family home owners to get a lower water rate by reducing water usage. At the Committee hearing, Beverly Jackson of Capital Park IV Condominium testified that DC Water considers the 243 individually-owned townhomes in her development as a multifamily development. She believes that considering the townhomes as single family would decrease water bill costs for the development by $20,000 annually.

Under DC Water’s current tiered-rate structure, homeowners living in condominium or townhome associations are considered to be part of multi-family buildings, and therefore are charged the multifamily water rate, $3.80/CCF in FY 2018. In contrast, there are two tiers of rates for homeowners living in single-family homes: $3.39/CCF if using 4CCFs or less per month, and $4.26/CCF if using more than 4CCFs per month. For a homeowner in a multifamily building, there is no way to decrease their water rates to the lower rate available for single-family homes.

I believe that homeowners should not be punished for purchasing homes that are part of larger developments. DC Water should develop a tiered system that works for residents of multi-family buildings so that they can also be rewarded for decreasing water usage. To avoid the cost of installing individual meters at these properties, DC Water could provide a lower-tier rate to condo and townhome associations that are able to lower their overall water usage to a certain level. At our December meeting, Interim General Manager Brown said that he would look into this issue and get back to our Committee in the upcoming months.

5. **DC Water could measure actual stormwater runoff to determine each customers’ charge.**

Some public witnesses at the hearing suggested that DC Water calculate the CRIAC by measuring actual stormwater runoff rather than impervious area. This would benefit properties with green infrastructure like rain barrels and bioretention that decrease stormwater runoff even if the property still has significant impervious area. The challenge with this option is that it would be extremely hard to quantify each property’s actual stormwater runoff. Also, some runoff is out of one’s control, such as rain that runs on to the property from another property before entering the sewer system. For these reasons, it would make more sense to provide a more significant credit to properties that are using green infrastructure, as described in Option 4 above.

6. **DC Water could exempt all private roads open to the public, such as in housing developments and cemeteries, from the CRIAC.**

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6 Testimony of Beverly Jackson, Capital Park IV Condominium, Public Hearing of the Committee on Transportation & the Environment (Nov. 17, 2017).
Cemetery owners testified at the November hearing about their frustration that public roads are exempt from the CRIAC, but privately-owned roads that are open to the public are not. Cemeteries often have roads on their property open to the public; likewise, some residential developments have private roads that are open to the public. These property owners argue that since the public often cannot tell whether they are driving on public or private roads, the private roads should be exempt from the CRIAC just as public roads are exempt. However, owners of private roads know that these roads are their responsibility when there are potholes, cracks, or other upkeep. They also have the discretion to close these roads to the public, such as when cemeteries close for the evening. Treating these roads like public roads just for the purpose of the CRIAC would be inconsistent with how they are treated in other circumstances.

7. The District of Columbia could pay the CRIAC fee for public streets and sidewalks.

In order to pay for some of the strategies proposed above, the District government could pay the CRIAC for District-owned public roads, alleys, and sidewalks that are currently exempt. Many public witnesses who testified at the November hearing expressed frustration with this exemption, seeing it as a free ride for the government while ratepayers are struggling to pay the same charge. DC Water has informed my office that the annual CRIAC for District-owned public roads, sidewalks, and alleyways that are currently exempt would be between $30,971,400 and $37,165,680 at current rates, and would increase along with the CRIAC rate.\(^7\)

I request that you confirm that this amount is accurate and provide estimates of how much this would cost the District in Fiscal Years 2019-2022. I also request that you provide feedback on how this funding could best be used to address high water bills, either on one or some of the strategies above or another strategy not considered in this letter.

8. DC Water should consider renegotiating its Intermunicipal Agreement with the suburban jurisdictions in Maryland and Virginia served by DC Water.

Many public witnesses remarked at the November hearing that it seemed unfair that Maryland and Virginia customers of DC Water do not have to pay a CRIAC. In his testimony, Mr. Hawkins explained that under the current Intermunicipal Agreement, suburban jurisdictions are only required to pay for system upgrades if they are using the infrastructure being improved. If this is the case, they have to pay for the proportion of costs that mirrors the proportion of flow coming from their jurisdiction. For example, if a suburban area uses 60% of certain pipes traveling to Blue Plains, it must pay 60% of the costs of upgrading those pipes. Because of this agreement, suburban customers have not had to pay for a significant amount of the Clean Rivers Project because all of the combined sewer systems being upgraded under the project are in the District. Mr. Hawkins did note that Maryland and Virginia customers are paying about 7% of the cost for the Clean Rivers Project because their flow is going through some of the pipes affected by the Project.

\(^7\) These cost estimates are from a December 20, 2017 e-mail from Vincent Morris, DC Water Manager of Government Relations and Communications. He provided estimates that 25% to 30% of the 410,000 ERUs of District-owned public roads and streets are exempted. Calculating the CRIAC for 25% (102,500 ERUs * $25.18 * 12 months), the total would be $30,971,400 annually. Calculating the CRIAC for 30% (123,000 ERUs * $25.18 * 12 months), the total would be $37,165,680 annually.
These suburban jurisdictions will certainly benefit from cleaner Anacostia and Potomac Rivers, since they sit on the opposite banks or downriver. Further, the additional storage capacity created by the Clean Rivers Project will benefit all DC Water customers, as it will divert sewage from Blue Plains for a certain amount of time so that the treatment facility can continue to treat sewage from across the region. Although I believe that these jurisdictions should pay more, I recognize that negotiations to amend the Intermunicipal Agreement generally take years. I therefore encourage DC Water to make this argument in future negotiations, while we also consider other strategies in the short term.

9. Increase pressure on the federal government to increase funding.

At the November hearing, Mr. Hawkins explained that DC Water already advocates to Members of Congress for increased federal funding for the Clean Rivers Project. Indeed, it would make sense for the federal government to take on a bigger share of the costs, given that the combined sewer system that the Clean Rivers Project seeks to fix was built by the federal government before being transferred to the District. I encourage DC Water to further ramp up their advocacy, and engage with charitable organizations and citizens in the District to join their efforts. Several organizations burdened with significant CRIACs have expressed interest in helping DC Water advocate for increased federal funding, including organizations that represent interest groups that could be persuasive to some members of Congress, such as a retirement home for veterans and historic churches and cemeteries.

Similar to the last strategy, while I strongly believe the federal government should be contributing more, I recognize that advocacy efforts likely will not yield immediate results, so we must look to other funding streams to mitigate costs in the short term.

Please respond at your earliest convenience to the questions and suggestions I have posed above, as well as identifying DC Water’s plan moving forward and whether it aligns with one or more of these strategies. I look forward to hearing from you and working with you closely on this issue.

Sincerely,

Mary M. Cheh

CC: Mayor Muriel Bowser
   Members of the Council of the District of Columbia