

**BEFORE THE
PHILADELPHIA WATER, SEWER, AND STORM WATER RATE BOARD**

In the Matter of the Philadelphia Water Department's Proposed Change in Water, Wastewater, and Stormwater Rates and Related Charges **Fiscal Years 2022 – 2023
Rates and Charges to Become Effective
: September 1, 2021 and September 1, 2022**

**Direct Appeal of PWD Hearing Examiner Chestnut's Decision To Not Rule
On Lance Haver's Motion For Continuance In PWD's
Requested Rate Board**

And now comes Lance Haver, intervenor requesting an order from the Philadelphia Water Rate Board continuing the 2021 PWD Water Rate Hearings until the Actual Numbers are set forth for meaningful and real public hearings.

Background:

1. Since the Philadelphia Water Department filed for its requested rate increase, the American Rescue Plan Act was signed into law.
2. In the Act, literally millions of dollars were allocated to help people pay utility bills, cover the cost of water utilities infrastructure and for the use of the City of Philadelphia to use as it sees fit.
3. There is no dispute that the American Rescue Plan Act has become law.
4. There is no dispute that millions of dollars have been set aside to be used by Water utilities and the City of Philadelphia.
5. There is no dispute that the amount of money to be allocated and used by the PWD is unknown as of this date.
6. There is no dispute that the PWD expects to be allocated funds set aside by the Act.
7. There is no dispute, that as of today, no person can know how much money will be allocated.
8. There is no dispute that the amount of money allocated to PWD from the American Recovery Plan Act will have a material impact on the how much, if any, additional revues are required by PWD.

9. There is no dispute that in a timely fashion, on March 15th of 2021 intervenor Haver filed a motion with the PWD Hearing Examiner asking for a postponement of the current PWD rate case.
10. There is no dispute that the Hearing Examiner found **“Mr. Haver is correct that this may be a significant factor in evaluating the need for any rate relief from PWD’s customers.”**
11. There is no dispute that the Hearing Examiner decided to hold the motion “in abeyance” (see PWD 2021 record)
12. There is no dispute that Mr. Rob Debow, the City of Philadelphia’s Director of Finance has confirmed that the amount of the request rate increase will dramatically change as the American Recovery Plan Act is implemented writing **“ As we are developing the FY22-FY26 Five Year Plan, we are considering how to allocate the funds available under the ARP. . .There are, however, a series of actions that we (the City of Philadelphia) will take to help the Water Fund, including the following:**
 - Through the Office of Recovery and Grants, we will support the Water Department in determining how to access the ARP funding administered by the Department of Health and Human Services to provide grants for the purpose of assisting public water systems and wastewater treatment works to reduce arrearages and rates for low-income households. We will support the Department as it applies for grants or other funding under ARP for any water and wastewater system improvements**
 - As you know, the Office of the Director of Finance has been doing an analysis to determine whether we should change the way pension costs are allocated among the City’s various funds going forward. As a result of the preliminary analysis for that reallocation, we are likely to reduce the amount the Water Fund contributes to the Pension Fund by more than \$25 million annually. The change will have no impact on the total amount contributed to the Pension Fund as the amount being paid by the General Fund will increase in an amount equal to the reduction in contributions from the other funds, starting in FY22. This change should have a greater impact on the Water Fund than the amounts you requested from the ARP. (from letter dated March**

26th 2021, which is included in the exhibits in the PWD 2021 rate case.)

13. There is no dispute that Pennsylvania Case Law declared that public hearings without accurate rates and/or amounts included for the public to consider cannot be considered legal hearings for the purpose of fulfilling the legal requirements of legislatively mandated hearings. **(550 A.2d 274 (Pa.Cmwlt. 1988) 121 Pa.Cmwlt. 139** which the Pennsylvania Supreme Court refused to hear, ***We conclude that because the rate of the tax was in fact the only aspect of the transfer tax to be amended, and because council never disclosed that indispensable element of the bill before or during the public hearings, council therefore did not provide a complete or meaningful bill to be considered at a public hearing . . .***”

Argument

14. Unless the current rate case is either withdrawn and/or postponed until the actual amount being requested are known and the Public has an opportunity to review and testify regarding the actual rate increase being consider, the on going process will violate the law. Any decision made using a faulty process will be overturned placing all, including bond holders, at greater risk than continuing the proceeding until actual numbers are known.
15. Unless the current rate case in either withdrawn and/or postponed, the PWD will not have as great an incentive to find the funds it needs in and through the American Recovery Plan Act.

I hereby certify that I have served to all parties a copy of this appeal via email.

Lance Haver

April 5th, 2021