

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

In the Matter of the Philadelphia Water	:	
Department’s Proposed Changes in Water and	:	2024 TAP-R Reconciliation
Sewer rates and Related Charges	:	Proceeding – FY 2025
	:	

ORDER SUSTAINING PA OBJECTIONS TO HAVER DISCOVERY

The subject of this Order is the second set of information requests served on May 7, 2024, by participant Lance Haver, on the Public Advocate (PA). As correctly explained by the Public Advocate in its May 13, 2024 Objections and Responses, these information requests generally are overly broad, seek irrelevant information, and/or are otherwise objectionable. As discussed below, the objections raised by the Public Advocate will be sustained, pursuant to my authority as set out in the Rate Board’s regulations at Section II.B.1(b)(4) to “Make all procedural rulings necessary to conduct a fair, impartial and expeditious hearing process, including the exclusion of irrelevant or redundant testimony or evidence” and Section II.B.1(b)(6) to “Make rulings with regard to all objections to information requests including those related to privilege, relevance, timing, scope, expense, extent and/or unreasonable burden associated with responding to such requests.” It should be noted that despite objecting to each of the information requests, the Public Advocate did in fact make a good faith effort to provide the sought-for information.

The scope of this limited, annual reconciliation proceeding¹ is set out in the regulations adopted by the Philadelphia Water, Sewer and Storm Water Rate Board (Rate Board) at Section II.C.1(c), which provides that “The Reconciliation Statement shall include: (1) the new TAP-R and all rates and charges that will increase or decrease because of the new TAP-R; (2) supporting calculations for the new TAP-R in accordance with the formula approved by the Board in the most recent General Rate Proceeding; (3) underlying data and assumptions utilized in

¹ The subject of this proceeding is the filing made by the Philadelphia Water Department (PWD or Department) to implement the annual reconciliation adjustment to the Tiered Assistance Program Rate Rider (TAP-R) by revising related water, sewer and fire service connection quantity charges (2024 TAP-R adjustment) in accordance with the TAP-R tariff previously approved by the Rate Board.

determining the proposed TAP-R; and (4) a bill comparison showing the effects of the revised rates on bills for typical Small User Customers.” Further, discovery is permitted for “. . . information that is not privileged and **that is relevant to the calculation of the proposed TAP-R.**” Id. at II.C.2(b), emphasis supplied.

None of the information requests at issue here are directed at any element of the advance or formal notices filed by PWD, nor are they addressed to the testimony submitted by PA witness Lafayette Morgan (PA St. 1). Indeed, other than LH-5 (the number of people enrolled in the TAP program in the last fiscal year) none are relevant at all to this proceeding, which by its nature does not include issues such as whether there should be a customer assistance program, the design and administration of such a program or the costs associated with the TAP program.

Thus, Information Requests LH 1-4 (PWD cost of enrollment), LH-1-7 (industry standard cost of enrollment), LH -8 (PWD’s “goal of what it should cost to enroll a consumer in its TAP program”), LH 1-9 (how PGW created its goal of enrollment), LH 1-13 (other funding sources), LH 1-14 (other funding sources), LH 1-15 (living wage jobs), LH 1-16 (PWD contracts with “entities located outside the City of Philadelphia”), LH 1-17 (number of employees of those entities), LH 1-18 (management audits), LH 1-19 and LH 1-20 (PWD employees responsible for reviewing “academic literature”) are clearly not relevant here, although they may be relevant in a general rate proceeding (where rates are set on the basis of a revenue requirement that is designed to recover prospective expenses and capital costs, as required by Philadelphia Code § 13-101(4)) – if directed at PWD and not the Public Advocate.²

Other information requests (LH 1-1, LH-2, LH-3) have nothing to do with the subject of this filing at all but are directed to how Community Legal Services (CLS) performs its role as Public Advocate. These questions clearly are not relevant to the rates and charges contained in PWD’s filing, which is the only subject before the Rate Board. If Mr. Haver disagrees with or

² Obviously, the PA cannot reasonably be expected to supply information developed and held by the Water Department. This is an additional valid ground for objection to these information requests. The same is true for LH 1-6, which seeks information as to the Philadelphia Gas Works’ customer assistance program.

wanted further information regarding the position taken by the PA as set out in the testimony of its witness Lafayette Morgan, he could have directed his information requests to PA St. 1 or submitted rebuttal testimony himself. He did neither.

In addition to not being designed to elicit relevant information, these particular information requests (LH 1-1, LH 1-2, LH 1-3) are worded so broadly as to be unanswerable without a tremendous expenditure of time and effort.

Finally, LH 1-21 asks for “any and all written critiques of Dr. Teodoro’s work.” The Public Advocate did not submit Dr. Teodoro’s work in this proceeding and should not be expected to do Mr. Haver’s research for him. The Public Advocate’s objection is sustained, the information request is overly broad, unduly burdensome and not relevant to this TAP-R proceeding.³

Marlane R. Chestnut
Hearing Officer

May 15, 2024

³ I will note that despite its valid objections to this information request, the Public Advocate did in fact present a lengthy critique of Dr. Teodoro’s paper that was prepared by Roger Colton, Fisher, Sheehan and Colton, Public Finance and General Economics.