

Philadelphia Water, Sewer, and Storm Water Rate Board
Meeting Notes
12/03/15

Present:

Bernard Brunwasser, Chair
Nancy Winkler
Sonny Popowsky
Lee Huang
Michael Chapman via Conference Call
Frances Beckley, Esquire
Steve Hann, via Conference Call

Also Attending:

Debra McCarty
Andre Dasent
Marie McNeill
Melissa LaBuda
Rob Ballenger
Thu Tran
George Gould
Ed Markus
Nancy Brockway
Lance Haver
Steve Hershey
Kay Lasker
Ann Dixon
Dan Delaney
Barry Davis
Jaclyn Rogers, via Conference Call

The minutes from the November 5 meeting were approved.

Frances Beckley reported that all Board members are compliant with the required ethics training and financial disclosure filing.

The final version of the contract with Community Legal Services (CLS) was sent to the Board for review prior to the meeting. Since there were no objections, it will now be sent through contract processing and conformance.

A court reporter will be hired to take notes at the public hearings. Ms. Beckley has inquired about posting transcripts in *read only* format on the website.

A public hearing was held on the proposed regulations. Robert Ballenger spoke on behalf of CLS. Mr. Ballenger testified that residential and small users need representation, and there should be a provision in the new regulations for a public advocate. The regulations should also be revised for the Hearing Officer's report to include proposed findings of fact and conclusions of law.

Bernard Brunwasser responded that a Public Advocate is not required under Pennsylvania law or for publicly owned utilities. Mr. Brunwasser explained that it may not be financially prudent in the future so the Board did not want to make the Public Advocate a requirement. Also, if the low income ordinance establishes subsidized rates for qualifying small users, then a provision for a public advocate could be considered a conflict of interest if constituents know some customers are paying lower rates for the same level of service.

Ed Markus confirmed he is not aware of other cities such as New York and D.C. funding a Public Advocate for a rate proceeding.

Mr. Popowsky added that the Consumer Advocate is an independent party with their own budget in other utilities throughout Pennsylvania, and believes funding should be separate from the Water Department in Philadelphia. Mr. Popowsky does not think the new rate process allows enough time to include findings of fact and conclusions of law in the Hearing Officer's report.

Mr. Ballenger does not believe a provision for a Public Advocate will be perceived as a conflict of interest. Mr. Ballenger suggested that if the Board approved the request to include proposed findings of fact and conclusions of law, the Water Department could charge emergency rates during the additional time necessary in the proceeding.

Ann Dixon from Food and Water Watch testified for a guarantee of a Public Advocate to protect all Philadelphians at any income level. Ms. Dixon does not agree with the language on information gathering, and limiting the right to shared information will detract from transparency in the process. Public hearings should be advertised longer than three days in advance of the date. Ms. Dixon does not believe there should be restrictions on public comment at hearings, and requested that written submissions be accepted from the public anytime during the proceeding and made available to the Board.

Kay Lasker spoke on behalf of a seniors' organization from Northeast Philadelphia. Seniors appreciate the discount they receive on their water bills, many of them have limited incomes, and some seniors have restricted communications. Ms. Lasker asked the Board to be considerate of these facts when deciding on new rates, and encouraged PWD to continue refinancing its debt.

Lance Haver testified that a Public Advocate should be a requirement in the regulations. It promotes the checks and balances in the rate proceeding. Mr. Haver stated that the Board should have heard testimony from the public before drafting regulations.

Steve Hershey supported the argument for a public advocate requirement in the regulations. Mr. Hershey added that the public advocate's role should be expanded, by having an on-going dialogue with PWD to alleviate rate increases. The Public Advocate should have its own budget for consultants.

The Board voted on revisions to the regulations following testimony from the public. The Board voted unanimously to approve a change to Section 8 (a) (1) stating the hearing record will be closed no later than 70 days instead of 75 days after the Department's filing of Formal Notice, and in 8 (a) (2) the Hearing Officer's Report will be filed within 7 days of the deadline for filing Participant post-hearing summaries rather than having the Hearing Officer's Report filed at the same time as the Participant post-hearing summaries. Those changes were requested by Nancy Brockway the Hearing Officer for the upcoming Rate Proceeding.

The Board unanimously approved an amendment to the Public Hearing section of the regulation to allow the public to submit written comments at any time before the record is closed, in response to Ms. Dixon's testimony.

The next order of business was whether the Public Advocate should be mandatory or left to the Board's discretion to appoint. Mr. Popowsky voted to make it mandatory in the regulations. Mr. Brunwasser, Mr. Huang, and Mr. Chapman were opposed. Ms. Winkler abstained from voting on the matter.

The last item considered was a revision for the Hearing Officer's Report to include proposed findings of fact and conclusions of law. The Board rejected the change and voted to keep the regulations as they were written.

At the end of the discussion, the Board approved adoption of the revised regulations as proposed by CLS and Ms. Beckley; they will be filed with the Department of Records on 12/4/15.

The meeting on December 17 is cancelled. The next Board meeting will be on January 7, 2016.