



May 13, 2016

Via e-mail submission to the Service List and WaterRateBoard@phila.gov

Philadelphia Water, Sewer, and Stormwater Rate Board
c/o Marie McNeill
Philadelphia Water Department
Finance Division
1101 Market Street, 5th Floor
Philadelphia, PA 19107

Re: Public Advocate's Response to the Hearing Officer's Report, "Section of Hearing Officer Report: Projected revenues and expenses"

Dear Hearing Officer Brockway and Member of the Board:

Pursuant to Section II.8(a)(3) of the Regulations of the Philadelphia Water, Sewer and Storm Water Rate Board, the Public Advocate is submitting this letter in response to the Hearing Officer's Report.

Regarding the "Section of Hearing Officer Report: Projected revenues and expenses" submitted by email on May 10, 2016, the Public Advocate has identified the following misstatements, errors and omissions.

Section II.A – Revenue Growth, Summary of Arguments.

The Hearing Officer states that "PWD's rate filing projects an annual decrease in customer usage, based on a 5-year compound growth." This statement is incorrect. As discussed in the Public Advocate's Brief, PWD has utilized a 5-year compound growth *for 5/8" meter General Service Customers*. PA Brief at 50. For other customers, PWD has utilized a three-year average, as stated in PWD's response to TR-2. See PA Brief at 52 (quoting PWD's response to TR-2: "The FY 2016 to FY 2021 projected average volume per account for commercial, industrial, and public utilities accounts with meters larger than 5/8" are estimated based on the three year historical average (FY 2013 to FY 2015) for each customer type.") (emphasis added).

Accordingly, the Hearing Officer's statement that the three-year average "gives more weight to two recent years of relatively stable and higher usage" is only part of the basis for the Public Advocate's recommendation. It is also intended to reflect consistency in estimates of usage across customer classifications.



Section II.B.1 – Revenue Growth, Detailed PA Argument.

Two errors appear to have been created in duplicating the language of the Public Advocate’s brief. These appear to be associated with including text from footnotes in the body of the Hearing Officer’s report.

The following portion of the text at Footnote 39 was inserted incorrectly on page 7 (and should be restored at the end of the text at Footnote 39): “compound growth rate was based on the information supplied in PWD Exhibit 6, Workpaper Assumptions-4, and can be confirmed as follows: $(7.32) (1-0.0005)^3 = 7.309025$.”

The following language was inserted incorrectly at the end of Footnote 40, and should be moved to page 7 (in place of the language in incorrectly inserted on page 7, described immediately above): “decline means PWD would continue to collect more revenue under existing rates than it projects, and would obviate the need for approximately \$15 million of the proposed two-year rate increase.”

Section III.A – Liquidated Encumbrances, Summary of Argument.

The Hearing Officer omits the Public Advocate’s alternative recommendation that, in the event the Board agrees with PWD that FY 2013 and 2014 should be considered outliers, and disregarded, the projected liquidated encumbrance ratio should be calculated as the average of the three remaining years in the five year historical period, resulting in a projected liquidated encumbrance ratio of 14.28%. PA Main Brief at 49-50.

Section IV.A – Payroll Spend Factor, Summary of Arguments.

The Hearing Officer’s summary suggests that the Public Advocate’s recommendation is based solely upon PWD’s inability to obtain 100% staffing levels. This mischaracterizes the Advocate’s position. The Advocate’s recommendation to use a three year average is based on two factors – demonstrated staffing challenges *and historical spend factors*. PA Main Brief at 55.

Section IV.B.1 – Payroll Spend Factor, Detailed PA Argument.

An error appears to have been created in duplicating the language of the Public Advocate’s brief. This appears to be associated with including text from footnotes in the body of the Hearing Officer’s report.



The following portion of the text on page 14 is appended to Footnote 41: “of budget for salaries and wages. April 5, 2016 Tr. at 51, line 1-2 (‘historically the actual results are below 100 percent but significantly increasing over the three-year period.’).” This language should be restored to the end of the sentence preceding the Footnote 41 text, beginning “However, as demonstrated in PWD Exhibit 5....”

Section VI.A – Billing Adjustment Factor, Summary of Arguments.

The Hearing Officer states that “[t]he PA argues that the proper response to perceived risk in the projected billings is to improve the estimate.” This misstates the Public Advocate’s position. The Public Advocate does not concede the existence of any actual risk, and identifies the Billing Adjustment Factor as an unnecessary rate inflation device which would contribute excess funds to the Rate Stabilization Fund. PA Main Brief at 57. PWD has provided no documentation in support of this risk. The Public Advocate’s position is that, even if this risk were to materialize, the Rate Stabilization Fund exists for purposes of mitigating it. PA Main Brief at 56-57.

Sections VII-XV –Omission of Overarching Public Advocate Argument.

The Public Advocate notes that, the Hearing Officer Report omits any discussion of the Public Advocate’s overarching concerns about PWD’s “Additional Adjustments” (specific bases for objection are discussed in Sections VII-XV of the Report). The Public Advocate submits that PWD has failed to support these adjustments with any information whatsoever beyond a generalized statement that the amounts are “based on discussion with PWD staff.” As the Public Advocate Submitted, “PWD possessed no documentary evidence supporting the amount of each additional adjustment, nor any evidence that could reasonably be relied upon to determine when, if at all, the additional expense would be incurred.” PA Main Brief at 59. In addition, the Public Advocate reiterates that these Additional Adjustments are proposed in addition to cost escalation or inflation factors, effectively “doubling-up” on a projected increase in certain categories of operating and maintenance expense. The Public Advocate respectfully submits that these issues should be reflected in the Hearing Officer Report.

Section VII.A – WRAP, Summary.

The summary includes the following sentence, which appears to have been duplicated from Section VI.A – Billing Adjustment Factor: “The Department maintains that the use of a billing adjustment factor is a reasonable factor of safety to provide a small allowance for potential negative impacts to the various assumptions included in the projection of revenue



from service billings including projected billed volume per account, customer usage patterns (billed volume distribution), and collection factors.”

Section VIII.A – SMIP and GARP, Summary of Arguments.

The Hearing Officer omits aspects of the Public Advocate’s argument in the summary, namely:

- Actual FY 2016 expense for these programs is not yet known because FY 2016 has not concluded; and
- Because it is unclear whether PWD can feasibly utilize the additional funds for these programs over the projected rate period, PWD should show there is sufficient demand before increasing rates.

PA Main Brief at 63-64.

Section IX.B.2 – CSO Reimbursement of General Fund, Detailed PWD Argument.

The inclusion of paragraph 204 appears to be an error. Paragraph 204 of PWD’s proposed findings of fact pertains to an escalation factor which does not affect the CSO reimbursement.

Section XIV.A – Chemical Escalation Factor, Summary.

The Hearing Officer Report attempts to address two separate adjustments concerning chemical costs in one discussion. The Public Advocate’s argument pertains to PWD’s “Additional Adjustment” for chemical costs. PECO/Exelon’s adjustment pertains to the baseline year upon which PWD may project future cost escalation. These are two separate issues impacting upon PWD’s forecast O&M expense for chemicals. The Public Advocate opposes the “Additional Adjustment” but has not taken a position on other cost escalation considerations for this category of expense.

Section XVII.B.1 – Contributions/Indemnity Spend Factor, PA Detailed Argument.

The Public Advocate notes that the third paragraph of this section (beginning “Instead, the increase in expenditure...”) is part of a block quote from Mr. Morgan’s testimony, which begins in the preceding paragraph.

Section XVIII.A – Class 800 Transfer Escalation Factor.

The summary omits the Public Advocate’s responses to PWD’s claim that Class 800 transfers are largely labor-related. Specifically, the Public Advocate submits that PWD is



contradicting itself. PWD's filing (PWD Exhibit 5) stated the 3% escalation factor was based on the Producer Price Index for construction materials and equipment, and was not based on labor-related expense. Moreover, these expenses are for a wide variety of services, not all of which are labor-related, and PWD has not shown that assumptions about the cost of its workforce should apply to other City departments. PA Main Brief at 72-73.

Section XIX.A – Change in Debt Interest Rate.

The Hearing Officer Report is based upon the incorrect version of the Public Advocate's Main Brief. The Public Advocate first submitted its Brief by electronic mail at 8:09 pm on May 2. Upon realization that the Advocate submitted the wrong version of the Brief, the correct version was submitted at 10:01 pm on May 2, with a request that the version previously submitted be disregarded. The correct version was submitted prior to the deadline and the Public Advocate submits that it should be utilized for purposes of the Hearing Officer Report. The correct version appears on the Board's website and was supplied in hard copy to the Board members and the Hearing Officer at the May 5 Board meeting, per the Hearing Officer's request.

The Summary should be revised to reflect that the Public Advocate does not contend that PWD debt will not be issued in FY 2017 (although a typographical error on page 76 of the Public Advocate's Main Brief states that the 5% interest rate assumption should apply to the FY 2018 bond "issue," the Public Advocate meant that the 5% assumption should apply to FY 2018 bond "interest").

The Detailed Argument of the Public Advocate should be replaced with the language from the correct version of the Main Brief.

Respectfully submitted,

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Community Legal Services, Inc.
For the Public Advocate

Cc: Service List via e-mail