

**PHILADELPHIA WATER DEPARTMENT RESPONSES TO
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF
DOCUMENTS PROPOUNDED BY THE PUBLIC ADVOCATE**

The Philadelphia Water Department (“Department” or “PWD”) responds to the following Interrogatories and Requests for Production of Documents propounded by the Public Advocate PA-III-9; PA-IV-33 and PA-IV-34. PWD requests that the Hearing Officer sustain the Department’s objections and strike or limit the discovery requests identified herein.¹

General Objections

1. The Department objects to each interrogatory and request to the extent that it seeks information that is not relevant to the proposed changes in PWD rates and charges as set forth in the rate filing, and as such, is not reasonably calculated to lead to the discovery of admissible evidence for purposes of rate setting.

2. By answering any part of the interrogatories and requests and/or by providing any part of the requested information, PWD does not concede the relevance, materiality or admissibility of any of the information sought therein for use as evidence in any hearing. PWD expressly reserves the right to object to further discovery on the subject matter and claims in any of these interrogatories and requests.

3. The Department objects to each interrogatory and request insofar as it seeks production or disclosure of documents or information subject to any applicable privilege (including government decision-making and deliberations; attorney-client privilege; and attorney work product), rule, doctrine or immunity whether created by statute or common law.

4. The Department objects to each interrogatory and request to the extent that it seeks confidential, privileged, proprietary or other privileged information.

5. The Department objects to each interrogatory and request identified herein to the extent that they seek information that is not relevant and not material to the subject matter and claims of this proceeding, and as such, are not reasonably calculated to lead to the discovery of admissible evidence.

6. The Department objects to each interrogatory and request to the extent it is duplicative and cumulative.

7. The Department objects to each interrogatory and request to the extent that it seeks sensitive and private information, the disclosure of which would violate federal, state or local law and/or the privacy rights of persons not parties to this action.

8. The Department objects to each interrogatory and request to the extent it seeks information not in PWD’s possession, custody and control, and to the extent it seeks documents which are already in the possession of the Public Advocate or accessible to the Advocate or are a matter of public record.

¹ Consistent with Rate Board Regulation II(7)(b)(1), the Hearing Officer may limit discovery (i) as to subject matter that is privileged; (ii) to the extent that the information request is unreasonably burdensome (e.g., because of time, extent or expense related to producing the information requested) and/or (iii) to the extent the request is otherwise objectionable. The Hearing Officer shall also not be bound by the formal rules of procedure, but shall generally employ procedural standards analogous to those utilized in utility ratemaking proceedings at the Pennsylvania Public Utility Commission. See, Rate Board Regulation II(7)(b)(5).

9. The applicable general objections, as stated above (“General Objections”), are incorporated into each of the specific objections and responses that follow. Stating a specific objection or response shall not be construed as a waiver of these General Objections.

Responses to Interrogatories and Requests for Production of Documents

PA-III-9. Please provide a copy of any correspondence, memo, directive, email or other written document of any nature that suggests, asks, directs or otherwise comments on whether public fire protection service should be collected through water rates/charges rather than through property taxes in Philadelphia.

Response: Objection. The Department objects to this interrogatory and request for production of documents as overly broad and unreasonably burdensome in requesting any correspondence, memo, directive, email or other written document related to public fire protection cost recovery through rates. No time-line is specified in this request. A response to this discovery request would perforce entail hundreds of hours and significant expense to search electronic and written files for what is quite literally a fishing expedition. The interrogatory/request is particularly burdensome, if not impossible, given the shortened period allotted to compile discovery responses in this proceeding. It bears emphasis that the Department has provided a “white paper” with the rate filing that fully explains its position with regard to the recovery of fire protection costs. See, PWD Statement 9A (Schedule BV-E5, WP-2) – Recovery of Public Fire Protection Costs. It should be noted that PWD also objects to the above interrogatory and request for production of documents to the extent that same request privileged information (government decision-making and deliberations) which would be contained in the requested documents.²

PA-IV-33. Regarding PWD Statement 9A, Table C-1, Projected Revenues and Revenue Requirements, please provide a similar table for fiscal years FY 2003-2006.

Response: The Department objects to this interrogatory and request for production of documents (given the distant and historic nature of the request) as wholly irrelevant to the instant rate proceeding. The Department also objects to this interrogatory as unreasonably burdensome as it would require our rate consultants to research and document an issue that is not reasonably connected with the Department’s rate filing. PWD further objects to this interrogatory/request as it is not reasonably calculated to lead to the discovery of admissible evidence and is designed to harass. The interrogatory/request is particularly burdensome given the shortened period allotted to compile discovery responses in this proceeding. The Hearing Officer should also be informed that the Public Advocate has now propounded five sets of discovery requests since the Advance Notice (over 200 interrogatories/requests for production of documents). Preceding the foregoing, there were pre-filing discovery requests which were also recently submitted (approximately 100 additional requests). PWD is making every effort to respond to all reasonable requests. This is not one of them.

PA-IV-34. Regarding PWD Statement 9A, Table C-2, Combined Utility: Projected Rate Stabilization Fund and Covenants Metrics Performance, please provide a similar table for fiscal years FY 2003-2006.

² PWD notes that the appropriate standard to be applied in this context (as provided in Rate Board Regulations) requires consideration of whether the discovery request is unreasonably burdensome given the extent of time/expense related to producing the information requested. The exhaustive search requested above (unbounded by time and unilluminating in substance given the white paper already provided of record) is unduly burdensome, will not reasonably lead to the production of admissible evidence for rate setting and should therefore be rejected. See, Rate Board Regulation 7(b)(1).

Response: The response to PA-IV-33 is incorporated herein by reference.

WHEREFORE, the Department formally objects to the interrogatories and requests identified above and requests that its Objections be sustained and that it be relieved of the requirement of any further response to same except as described above.

Respectfully submitted,

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