

**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-V: 6-9; 14; 70 and 75. 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-V-6. Reference: BV-E5; WP-2. Provide a copy of the City of Philadelphia’s new policy whereby water user rates and charges will directly pay for the cost of public fire protection.

Response: Objection. The subject matter of this response is fully addressed in the compromise negotiated with the Public Advocate to resolve the discovery dispute related to PA-III-9. The aforesaid response is being proffered to address all discovery requests related to the new City policy for fire protection costs, including PA-V-6 through PA-V-9 referenced herein. It should also be noted 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.

PA-V-7. Reference: BV-E5; WP-2. Provide a copy of all correspondence dated January 1, 2016 or later, including memos, letters, e-mail or other written documents of any nature, to any member of the Philadelphia City Council (including his or her staff), the Mayor (and/or Mayor’s staff); or any non-PWD municipal employee (including any consultant) regarding any proposal and/or decision to recover the costs of public fire protection through water rates and charges, which correspondence was from:

- a. PWD
- b. WRB
- c. Raftellis
- d. Black and Veatch

Response: Objection. The response to PA-V-6 is incorporated herein by reference.

PA-V-8. Reference: BV-E5; WP-2. Please provide:

- a. The date on which the City of Philadelphia adopted a new policy whereby water user rates and charges will directly pay for the cost of public fire protection;
- b. The identity of the body adopting the new policy;
- c. The agenda for the meeting at which the new policy was adopted;
- d. The minutes of the meeting at which the new policy was adopted;
- e. Any and all staff presentations to the body at or for the meeting at which the new policy was adopted.

Response: Objection. The response to PA-V-6 is incorporated herein by reference.

PA-V-9. Please provide all written documents, of any nature, including spreadsheets, e-mail, memos, letters or other written documents, for Fiscal Years 2014 to present inclusive, from PWD and/or WRB to the City of Philadelphia notifying the City of the dollar

amount that should be paid to PWD/WRB to recover, in whole or part, the costs of providing public fire protection.

Response: Objection. The response to PA-V-6 is incorporated herein by reference.

PA-V-14. Please provide a copy of all written presentations, memos or other written documents of any nature from PWD or WRB (including their consultants) provided to TAP Advisory Committee members at an Advisory Committee meeting from July 1, 2016 to present.

Response: Objection. The Department objects to this interrogatory and request for production of documents to the extent that same require PWD to produce information or documents that are already in the possession of the Public Advocate, are a matter of public record or are otherwise accessible to the Advocate. Please note that Community Legal Services is a participant in the TAP Advisory Committee and that the documents referenced in the above interrogatory/request have already been provided to them.

The Department further objects to this interrogatory as unreasonably burdensome in requesting that the Department and its consultants search for and produce information that is readily available, accessible or already in the possession of the Advocate. The Department 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. This should be particularly true when the request is literally a fool's errand. This objection is reasonably sustained on either or both of the above stated grounds.²

PA-V-70. Please provide a copy of all written correspondence, including e-mails, letters, memos or other written document of any nature, between PWD and/or WRB and the municipal office that determines income-eligibility for Philadelphia's low-income taxpayer installment payment agreements that proposes, considers, evaluates or otherwise discusses a potential collaboration between the TAP and Philadelphia's low-income taxpayer installment payment agreements program with respect to determining income eligibility for the two programs.

Response: Objection. The Department objects to this interrogatory and request for production of documents to the extent same seek to retrieve "all written correspondence including emails, letters, memos or other written document of any nature between PWD and/or WRB and the municipal office that determines income eligibility for Philadelphia's low-income taxpayer installment payment agreements." The Department maintains that this request, as written, is plainly overly broad and unreasonably burdensome. That is, the request would require PWD and its consultants to expend significant number of hours and incur related costs to search electronic and written files of PWD, WRB and another municipal office (which is unspecified) for a request which may have no relevance to the instant proceeding. The interrogatory/request is particularly burdensome given the shortened period allotted to compile discovery responses in this proceeding. The Department 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.

² As the Hearing Officer is aware, 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.

PA-V-75. In an active Excel spreadsheet, please provide a list of each customer participating in TAP as of January 19, 2018 (personal identifying information should be redacted). For each such customer, provide:

- a. The date on which the participant applied for TAP; and
- b. The date on which the participant was enrolled in TAP.
- c. The total bills (in dollars) appearing on bills between the date of application and the date of enrollment;
- d. The total bills (in dollars) that would have appeared on bills between the date of application and the date of enrollment had enrolled been effective as of the date of application; and
- e. The homeowner / tenant / occupant status of the applicant as identified by the application.

Response: Objection. The Department objects to this interrogatory and request for production of documents as unreasonably burdensome. PWD notes that over 5,000 applications for TAP had been approved as of January 19, 2018. The discovery request seeks very detailed information as to each participant (dates of application and enrollment, total charges on bills between dates of application and enrollment, homeowner/tenant/occupant status). This information is not readily available in a current report and would have to be aggregated by the Department's consultants. A response to this discovery request would entail a significant number of hours and expense. The interrogatory/request is particularly burdensome given the shortened period allotted to compile discovery responses in this proceeding. The Department 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.

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,

/s/ Andre C. Dasent

Andre C. Dasent, Esquire
Attorney for Philadelphia Water Department

1500 Market Street, 12th Floor
Philadelphia, Pennsylvania 19102
(215) 625-0555

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Of Counsel:
Scott Schwarz, Esquire
Ji Jun, Esquire
Susan Crosby, Esquire