

**RESPONSE OF MICHAEL SKIENDZIELEWSKI TO THE PWD
OBJECTIONS TO REQUEST FOR DISCOVERY DOCUMENTS:**

My focus is on how the Water Department lateral replacement and HELP loan programs affect water and sewer rates. It is my belief that my discovery request will lead to a greater understanding of how much money is involved and how the expenses are accounted for. For example, are the costs for lateral replacements taken from operating or capital budgets? Does it make sense to charge the costs to the rate base, which must have a coverage ratio or would it make more sense in terms of keeping rates lower for everyone to use the rate stabilization fund to pay for these repairs and loans?

I will be examining how often, if ever, the Water Department attempts to collect from contractors who damage laterals and/or inlet pipes when they do road repairs or other work. I also will be examining when, during the course of lateral repair, the PWD identifies errors/mistakes in the contractor's installation and what action, if any, does the PWD take against the contractor for recovery of expenses and damages. If my discovery shows, as I believe it will, that the Water Department has failed to make attempts to collect from those that damaged laterals and/or inlet pipes, I will then argue that the Water Rate Board should reject any rate increases caused by the failure of the water Department to seek payment from those that damage the Water Department's and/or home owner's property and direct the Water Department to seek restitution.

There can be no question that my requests are legitimate. How costs are accounted for, and if/when costs are recouped are legitimate concerns for rate making. The number of years requested will allow a technical expert to establish trends and that a few years could not allow such analysis. Since the Water Department has never reported the amount spent or how it was accounted a few years, such a study/analysis would not provide an accurate picture. . The intervener does not at this time request the name and/or addresses of the accounts.

By way of background, Mr. Skiendzielewski is a retired police officer who has been trying for years to get the Water Department to pay for a defective water or sewer lateral at his home (which apparently was improperly installed when his house was built over twenty years ago). It bears emphasis that the homeowner (rather than the City) is always responsible for service lateral repairs. The Department, however, does assist customers with HELP loans to help finance such repairs – up to \$12,000. Mr. Skiendzielewski secured such a HELP loan a few years ago. After receiving loan proceeds to effect a lateral repair (roughly \$12,000), he disputed his obligation to fully repay the loan. In this context, he filed

a petition with the Tax Review Board ("TRB") seeking a partial abatement in settlement of his obligation. The TRB rejected his petition as unsupported by substantial evidence on or about March 3, 2016. The TRB also granted a re-hearing whereupon it again rejected his petition on the same grounds (decision dated January 18, 2017). Mr. Skiendzielewski failed or refused to timely appeal the above TRB decisions to the Philadelphia County Court of Common Pleas within 30 days of the final administrative decision. This matter has therefore been fully litigated. The Department maintains, in addition to the above Objections, that Mr. Skiendzielewski is collaterally estopped from re-litigating this issue before the Water Rate Board. See attached TRB decision letters.

The above italicized paragraph was appended as a footnote to the first page of the PWD Objections to my request for discovery documents. The following is offered in reply to the statements, facts, judgments, etc. in this footnote.

Mr. Desant attempts to raise and tries to defeat a "Straw Man" argument. He claims that because I have complained about what happened to me in the past that I have somehow lost my right to be an intervener and the right to discovery. And he tries to do so in an underhanded and disingenuous manner.

Underhanded, as he does not notify me of his objections. Is there any other party whose discovery request Mr. Desant would object to that he would not notify? Is Mr. Desant free to violate the procedures without accountability because I am a "Pro Se" litigant?

Disingenuous because Mr. Desant was well aware of my complaints regarding my home when I applied to become an intervener. He did not object at that time and now is attempting to say that any intervener who has had a personal complaint about their water bill is barred from discovery. Mr. Desant attempts to block my constitutional rights to be an intervenor because I have exercised my constitution rights in the past.

Would Mr. Desant object to my right to discovery because I engaged in free speech? Because I was a union member? Because I spoke out about injustices to the disabled community? Why would he object to my right to discovery because I have exercised my constitutional rights? Why add the foot note if it is not an attempt to sway the hearing examiner by telling her I've used my constitutional rights in the past?

And as one can see from his objection, Mr. Desant, while claiming he is concerned about people's privacy, has no difficulty invading mine. What possible difference could it make as to what my past profession was? What possible difference could it make as to if I have used my constitutional rights in the past? What is the purpose of the foot note, other than to attempt to chill my right to be an intervenor, to request discovery, to challenge a rate increase?

Mr. Desant's disclosure of my personal information should be unacceptable to any hearing examiner or fair minded citizen. Will Mr. Desant next talk about my health or the health of my family? Will he suggest that I have no right to discovery because a member of my family is ill, or because of my medical condition?

While I will not do it, I wonder if Mr. Desant would object I if included a foot note that invaded his privacy, which talked about his past? Clearly one does not have to be a lawyer to know the difference between being decent and indecent.

I ask Madam Hearing Examiner to order the Water Department to provide me with the information requested; to order Mr. Desant to serve me with all notices; and to bar Mr. Desant from releasing any other private information he may have about me. The very idea that Mr. Desant believes he can threaten and/or intimidate any intervenor with revealing personal information should be found unacceptable

RESPONSE TO HEARING OFFICER'S MEMORANDUM – FEBRUARY 28, 2018

- (a) What is the relief Mr. Skiendzielewski seeks from the Board in this general rate proceeding?

Lower water/sewer rates for the customers of the Philadelphia Water Department.

- (b) How is it within the Board's power to grant such relief?

REGULATIONS OF THE PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD

Section II. PROCESS FOR SETTING WATER, SEWER AND STORM WATER RATES AND CHARGES

I. Purpose

- (a) Pursuant to Section 5-801 of the Home Rule Charter, the Board shall evaluate and determine proposed changes to the rates and charges fixed for supplying water, sewer and storm water service for accounts and properties located in the City of Philadelphia. In conducting the Rate Change Proceeding and reaching its Rate Determination, the Board shall adhere to the standards set forth in Section 13-101 of the Code.
- (b) The Regulations establish an open and transparent process for public input and comment on proposed rates and charges. Consistent with Section 13-101, Rate Change Proceedings shall be conducted within 120 days of the filing of the Formal Notice and shall address rates and charges and any service related issues relevant thereto.

(c) Does Mr. Skiendzielewski dispute any of the factual assertions made by the PWD in its objection to his questions, as quoted above?

Since it is unclear what “factual assertions” are being referenced (the PWD objections themselves or the PWD’s summary paragraph of their understanding of the case), I am unable to provide definitive responses to this query. However, what I can offer is the following appraisal:

With regard to all of the evidence, facts, correspondence, records, etc. at the disposal and possession of the PWD management and its counsel, the integrity of the Water Rate Board proceedings would be better served by a more complete and thorough presentation of events and circumstances relative to my request for discovery of documents related to lateral repairs and PWD HELP loans.

The private information spread by Mr. DeSant, without my permission, is not germane to these proceedings. I believe any attempt to have me respond, is outside the scope of the water rate hearing. If at some point, there is to be some proceeding where such information is germane, I will correct the record at that point.

I do reserve the right to file an ethics complaint regarding the invasion of my privacy. If I find that Mr. DeSant's actions have limited my abilities to fully advocate for lower water and sewer rates, I will seek sanctions.

Michael Skiendzielewski

REDACTED