

**Before the  
Philadelphia Water, Sewer and Storm Water Rate Board**

**In Re: Philadelphia Water Department** :  
**Proposed FY2019-2021** : **Formal Notice Filed March 14, 2018**  
**Rate Increase** :

**Hearing Officer Ruling on PWD Objections  
and  
PA Motion to Compel Responses to Discovery Requests**

The Public Advocate (PA) submitted the following information request to the Philadelphia Water Department (PWD):

PA-IX-23

Regarding the reply to PA-ADV-10, Rate Case Expense, please provide a similar breakdown showing budgeted and actual rate case expense for the last three base rate cases.

PWD objected to this data request, arguing that information regarding rate case expense under the regime prior to the establishment of the Rate Board is not relevant to the subject matter and claims in this action. On that basis, PWD asserted that such information is not reasonably calculated to lead to the discovery of admissible evidence. PWD also complains that it has received numerous other “more substantive” data requests requiring its attention.<sup>1</sup>

PWD has stated that it will provide this expense information for the 2016 and 2018 rate proceedings. On April 2, the Public Advocate submitted his Answer and Motion, requesting that the Hearing Officer deny the Philadelphia Water Department’s (PWD) Objection and compel

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<sup>1</sup> As noted by the Public Advocate, “PWD appears to suggest that it should not have to respond to this issue, because, in its judgment, its attention is better spent on ‘more substantive issues.’” As the Public Advocate points out, rate case expense is a substantive issue, and deserving of the Board’s attention. In any event, PWD does not have the authority to limit discovery on its own terms; the mere fact that numerous requests have been propounded does not provide the basis for finding that the burden of answering this particular request is unreasonable, the form of objection suggested by this argument.

PWD to respond to the Public Advocate's Interrogatory and Request for Production of Documents, PA-IX-23.

I deny the motion to compel. Data concerning costs of proceedings conducted under a different set of procedural requirements, without a Board making the decisions, and without a strict time-limit prescribed by Ordinance, is not likely to produce information helpful to the Board in deciding the reasonableness of PWD's claimed rate case expenses under the current process. It is true that the paucity of history under the present ordinance procedure makes estimates of reasonable rate case expense more uncertain than would be ideal. However, that scant evidence cannot be augmented by data from an entirely different proceeding without a showing that the proceeding or steps in that proceeding are sufficiently analogous to the process directed by Council to lead to useful evidence. Based on the information submitted, I am not able to determine that the prior rate case proceedings are sufficiently analogous to provide useful information to evaluate rate case expenses under the present Ordinance.

BY ORDER OF THE HEARING OFFICER

NANCY BROCKWAY

APRIL 10, 2018