

April 30, 2018

**Re: Procedures re Opening Statements at Public Hearings**

To participants in the Water Rate Board process:

As members of this list serve are aware, I am a registered participant, representing myself pro se, in the Water Rate Board process for 2018. As such, it is my expectation that I am afforded the same rights, access and opportunities as other registered participants with the Water Rate Board.

As some on this list serve are already aware, I made a **“presentation”** at the public hearing last week at the community center at 5<sup>th</sup> and Huntingdon Streets in Philadelphia. At the time, I raised the same issue that I have in my request for discovery documents from the Philadelphia Water Department, i.e., what is the department policy and **procedure that directs the management of failed long laterals at customers’ residences and what policy governs which residents have to pay for the entire cost, part of the cost or the department pays for the entire repair and installation.** Also, at this presentation, I raised **as an example of important safety and health and welfare of the public the working conditions PWD's relied upon during work at my residence and the complete lack of response from the PWD and the supervising department, OTIS, Office of Transportation and Infrastructure, both of which are led by professionals who are Professional Engineers.** It is the first tenet of the professional engineers code of ethics that they **“hold paramount the safety, health and welfare of the public” during the execution of their professional duties.**

As the accompanying emails (at the end of this correspondence) will indicate, **I requested that as an intervenor, I be given the same rights as other parties in the case are given, an opportunity to make an opening statement at tonight’s public hearing of the WRB at the Protestant Home on Martin’s Mill Road in Northeast Philadelphia.** The hearing officer has informed me that I will only be allowed to make a **“statement”** or **“presentation”** if there is any time remaining at the end of the testimony of other consumers who wish to make a statement before the WRB. I responded to the hearing officer, that as a registered participant, I have the

same right to make an opening statement as the Philadelphia Water Department and Community Legal Services. It is certainly the case that the primary issue I have raised in my filing with the WRB (policy, procedure and management of long lateral repair, reconstruction and payment) is one that is of widespread significance and importance for PWD consumers throughout the city. There are a number of cases that PWD has managed over the years and what I have found preliminarily, is that there is no consistent or written policy regarding just how these matters are managed, repaired and billed. It is simply not the case that mine is a singular issue restricted to just my residence and as such, a presentation by this registered participant is indeed of great value to the widest possible audiences of PWD consumers in this city.

Via this correspondence, I am asking the WRB and the hearing officer to cite the particular policy that excludes this registered participant **from making an opening statement at today's public hearing at the Protestant Home**. Absent any notification of such a rule or policy, I will consider challenging my exclusion and prohibition from opening statements at this public hearing as a reversible error in these proceedings.

I thank all for allowing me to share this issue with all of those on the list serve and anticipate a response from the WRB and hearing officer prior to the WRB public hearing tonight.

Sincerely,

Michael Skiendzielewski

-----Original Message-----

From: Nancy Brockway <[nancy.brockway@gmail.com](mailto:nancy.brockway@gmail.com)>  
To: Michael Skiendzielewski <[skiadvocat@aol.com](mailto:skiadvocat@aol.com)>  
Cc: Cody.Williams <[Cody.Williams@Phila.gov](mailto:Cody.Williams@Phila.gov)>  
Sent: Fri, Apr 27, 2018 1:26 pm  
Subject: Re: Message re upcoming WRB public hearing

Dear Mr. Skiendzielewski,  
I have your email regarding further testimony at a public comment hearing, and the motion to certify the question of recusal.

You have chosen to be a formal participant in the rate case. If you continue to participate in the formal technical hearings, I cannot give you a second opportunity to speak at a public comment hearing. These public comment hearings are intended to give the public an opportunity to put their views to the Board. Participants in the technical hearings have other opportunities to put their views before the Board.

As to the motion for certification of the recusal question, I will take your email and url reference to be your submission to the Board of your position.

Finally, I need to remind you that there are procedural rules that formal participants must follow in their communications with the Board. These are posted on the web site. Among other things, it is not up to the Board or the Hearing Officer to serve your correspondence on the service list. For future communications as a formal participant, please check the rules, and send a copy of your correspondence to the service list when you submit it to me or the Board. I will ask Mr. Williams to send this email and yours to the service list.

Best,  
Nancy Brockway

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Original Message-----

From: Michael Skiendzielewski <[skiadvocat@aol.com](mailto:skiadvocat@aol.com)>  
To: skiadvocat <[skiadvocat@aol.com](mailto:skiadvocat@aol.com)>; nancy.brockway <[nancy.brockway@gmail.com](mailto:nancy.brockway@gmail.com)>  
Sent: Fri, Apr 27, 2018 3:34 pm  
Subject: Re: Message re upcoming WRB public hearing

Ms Brockway:

It has been brought to my attention that as a pro se intervenor, I am entitled to make an opening statement at the WRB hearing just as other registered participants (Public Advocate, CLS, etc.) in the WRB process are allowed to do. Is that accurate / true? Please advise.

Michael Skiendzielewski

On Mon, Apr 30, 2018 at 10:50 AM, Michael Skiendzielewski <[skiadvocat@aol.com](mailto:skiadvocat@aol.com)> wrote:  
Ms Brockway:

It has been brought to my attention that as a pro se intervenor, I am entitled to make an opening statement at the WRB hearing just as other registered participants (Public Advocate, CLS, etc.) in the WRB process are allowed to do. Is that accurate / true? Please advise prior to the public hearing tonight so I can make plans as how to proceed with my advocacy. Absent a response, I will assume that the statement in your email of April 27, 2018 is your decision regarding my request to make a "presentation" at the WRB hearing.

Michael Skiendzielewski

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Re: WRB hearing - April 30, 2018 - Philadelphia Protestant Home

Mon, Apr 30, 2018 12:05 pm

Nancy Brockway [nancy.brockway@gmail.com](mailto:nancy.brockway@gmail.com)Hide

To Michael Skiendzielewski [skiadvocat@aol.com](mailto:skiadvocat@aol.com)

Dear Mr. Skiendzielewski:

I have your two emails. You may present as a member of the public for a second time, so long as all members of the public have the opportunity to make their views known, and there remains time (the hearing goes no later than 8:30).

You have been misinformed about the Board's process at public input hearings. The Department and the Public Advocate give statements because they have broader responsibilities than any individual intervenor. We ask the Department to give a pre-hearing explanation of its proposal, and give it an opportunity to explain the reasons it thinks rates should be increased. Most people have not read the Department's filing; and the oral statement gives the Department an opportunity to set out the basics of its request and reasoning. This proceeding is to do with the proposal of the Department, as it affects all Philadelphians. The Public Advocate similarly has a larger role

than that of any individual intervenor. CLS' job is to represent all small users, residential and small business. Giving the Public Advocate an opportunity to express what concerns it will be raising with the filing helps the public understand the overall issues. and how CLS proposes to advocate their interests. Neither should or does address the specific issues you have raised. No other individual intervenor may present at the public hearing.

The public input hearings are not the technical hearings. They are an opportunity for the general public to express their views. They are not an opportunity to debate the positions taken in technical hearings. They are not the place where the formal intervenors make their cases to the Board. As you have elected to intervene in the technical hearings. your opportunity to make your case to the Board is under the procedures followed at the technical hearings. [The technical hearings are open to the public, and the public is free to attend and watch and listen. But the technical hearings also follow a format that limits participation and process, to enable them to fulfill their essential purpose.]

Although you have elected to intervene formally in the technical parts of the rate case, we have allowed you to testify as well at a public hearing. If you wish to testify again at another public hearing, we will first make sure the non-intervening members of the public are able to make their views known. If there is time remaining, we will allow you to make a public statement at the public hearing.

In future, please separate your communications of procedural matters (whether and when to cross-examine, whether to make a second statement at a public hearing, etc.) from substantive comments (whether the motion to certify the question of the

recusal of the City Treasurer should be approved). I also ask that you follow the process of the docket, and send your requests to me with a copy to all the other intervenors on the list. The record of the rate case needs to be kept carefully. Different items are filed in different places, and your limiting any given communication to a single subject would greatly aid in keeping the record well organized.

Best,  
Nancy Brockway  
Hearing Officer