

Philadelphia Water, Sewer, and Storm Water Rate Board
Meeting Notes
4/18/2018, 3 p.m., Gas Commission Hearing Room

Members Present:

Irwin “Sonny” Popowsky, Chair
Tony Ewing
Rasheia Johnson
Folasade A. Olanipekun-Lewis (arrived later)

Also Present

Daniel Cantú-Hertzler	Sarah Stevenson
Nancy Brockway	Fara Cohen
Ed Markus	Josie Pickens
Andre Dasent	Jaclyn Rogers
Rob Ballenger	Melissa LaBuda
Susan Crosby	Scott Schwarz
Debra McCarty	Cody Williams
Dare Jagt	
Kathy Clupper	

Mr. Popowsky called the meeting to order at 3:06 p.m., noting that member Lee Huang had resigned.

Mr. Ewing moved to approve the minutes from the February 7, 2018 meeting without additions or corrections. The motion was seconded by Ms. Johnson. Motion approved with Mr. Popowsky, Mr. Ewing, and Ms Johnson in favor, Ms. Olanipekun-Lewis absent, and no members opposing or abstaining.

Ms. Johnson addressed the Public Advocate’s motion for her recusal. She announced will not recuse herself generally and will remain on the Board through the rate proceeding process,. In the interest of transparency, she released a memorandum of legal advice prepared by Mr. Cantú-Hertzler to be part of the public record. Copies of this memorandum were distributed and are to be posted to the 2018 Rate Proceeding website.

Mr. Popowsky indicated that two City Council members (Ms. Parker and Mr. Squilla) requested additional Public Hearings. Mr. Dasent informed the Board that the Water Department was proposing additional Public Hearings on April 30 at the Protestant Home in District 9 and on May 2 at EOM Athletic Association in District 1, locations suggested by these Councilmembers’ offices.

Mr. Popowsky noted that the two additional hearings were not on the Hearing Officer’s schedule and might require her to make an additional trip or trips to Philadelphia. He requested that the Board authorize him to preside at one or both of the hearings himself; under the Board’s Regulations, Mr. Popowsky stated, the Hearing Officer is called upon to preside for the Board at the Public Hearings, but he was available if she was not. Mr. Ewing asked whether Ms. Brockway is definitely unavailable on those days. Ms. Brockway said she wasn’t sure, and would also want to check her contract budget.

Mr. Dasent and Mr. Ballenger said they had no objection if Mr. Popowsky presided. Mr. Ewing moved to authorize Mr. Popowsky to preside over the additional public hearings as required. Mr. Johnson seconded Mr. Ewing’s motion. The motion was approved with Mr. Popowsky, Ms. Johnson, and Mr. Ewing in favor, and no one opposing or abstaining.

Ms. Johnson moved that the Board authorize two additional Public Hearings on April 30, 2018 and May 2, 2018. Mr. Ewing seconded this motion. It was approved with Mr. Popowsky, Mr. Ewing, and Ms. Johnson in favor, and with no members opposed nor any abstentions.

Mr. Popowsky emphasized that the decision whether he will preside at the additional hearings amounted to a practical matter, in consideration of whether it is worth bringing Ms. Brockway from Boston for two two-hour hearings. He thanked the Water Department for their efforts in arranging the hearings. Mr. Cantú-Hertzler noted that the Regulations require a total of four public input hearings, and there would now be a total of nine.

Ms. Brockway mentioned that there had been expressed at Public Hearings a perception that the hearings had been insufficiently publicized and asked the Water Department and the Public Advocate to coordinate in order to achieve more publicity for the additional hearings. Mr. Dasent stated that he had spoken with Laura Copeland regarding this; they were going to receive proofs of publication in the newspapers of mass circulation and utilize the *Metro*, a free publication, to reach commuters, in addition to the liberal use of social media. Mr. Dasent noted the possibility of promotion of the hearing to the congregation of Zion Baptist, which will serve as a hearing venue and has a membership of 2,000. Mr. Cantú-Hertzler suggested greater promotion of the website.

Ms. Brockway provided an update on the procedural status and schedule of the 2018 Rate Case. Copies of her *PWD 2018 Rate Case Schedule for Balance of Docket*, dated April 6, were distributed. She touched on the upcoming public hearings, and the Pre-Hearing Conference scheduled for Friday, April 20, 2018 for participants, which will take place subsequent to the Public Hearing scheduled that morning in City Council Chambers. There will be a bridge line for conference calling. Ms. Brockway also commented on the ongoing Discovery phase of the proceeding; under a dozen of the discovery requests had raised issues, and nearly all had been resolved. Discovery will continue until May 3, 2018, prior to the Technical Hearings. The next step is the filing of participant testimony, which will come in on April 20, 2018. Participants may file written rebuttals to participant testimony submissions; rebuttals will be due on Friday, May 4, 2018. Technical Hearings will begin on May 10 and will continue until no later than May 18, 2018. Mr. Dasent and Mr. Ballenger have been coordinating to develop the schedule of witnesses. Mr. Popowsky remarked that he is intending to attend the Technical Hearing proceedings, but is unavailable after 2:30 pm on May 10. Mr. Dasent stated that the Water Department and the Public Advocate are planning together in a collegial manner and that they desired to begin by addressing the Tiered Assistance Plan (TAP) rider proposal.

Ms. Brockway's distributed schedule reflects her decision that the last written testimony to be submitted shall be the parties' rebuttals. No testimony will be subsequently accepted that is not limited to new facts or corrections. The final written statements during the Technical Hearings will be from the Water Department. Participant Briefs will be submitted by June 4, 2018, which will be followed by the Hearing Officer Report on June 18, 2018. Participants will have the opportunity to criticize and comment upon the Hearing Officer Report by filing Exceptions, due June 25, 2018. The Board will then begin deliberations, and will render a decision by July 10, in advance of the Code deadline. The Water Department is scheduled to submit a Compliance Filing on July 20, 2018 before the new rates become effective on September 1, 2018. Mr. Popowsky asked Board members to please make space in their schedules for deliberation proceedings in order that adequate time is provisioned for the consideration of all pertinent issues. He stated that the Board will deliver their final decisions orally, and the Hearing Officer will be responsible for converting them into a written Order.

Ms. Brockway explained that her Hearing Officer Report will be written as a draft Order, such that structure of the document will provide the framework of the final Order, although its contents will reflect her own recommendations rather than the Board's final decisions.

Mr. Cantú-Hertzler raised the issue of transcript turn-around time; the Rate Board is bound to use a city-selected transcription provider, with rates that vary significantly depending on the time it will take to receive the transcripts. He recommended that the standard 10- to 14-day turn-around be utilized for the Public Hearings at the base rate, and the next-day turn-around for transcripts from the Technical Hearings. Mr. Dasent and Mr. Ballenger concurred.

Mr. Dasent indicated that the counsels for the Philadelphia Large Users Group ("PLUG") and PECO are being consulted in the scheduling of the Technical Hearings. Ms. Brockway asked that he reach out to Michael Skiendzielewski in order to coordinate with him as well. Ms. Brockway will issue a written order to all participants to clarify the procedure for the upcoming hearings.

The Water Department submitted responses to the questions posed by the Board with the assistance of Ed Markus of Amawalk Consulting, which were distributed. Mr. Markus commented on the status of the findings. Stating that that the Board has requested "actual" and "budget" figures, he believed that the more fruitful course in the future would be to request Board-approved figures rather than "budgeted" figures. In fiscal years 2017 and 2018, the "actual" figures roughly conformed to the expenses approved by the Board in the previous rate proceeding, exceeding the approved figures by less than one percent in 2017 and fell short of the Board-approved figure by less than one percent in 2018. Debt service was slightly less than the Board's determination; revenue exceeded the Board's estimate in 2017 by approximately \$12 or \$13 million, about 1.8 percent; the revenues for fiscal year 2018 are projected to be higher than the Board's estimate by approximately \$26 million.

The status of the Rate Stabilization Fund is very different, Mr. Markus said. During the Board's first rate-setting process in fiscal year 2016, it utilized an estimated fund balance of \$169 million at the end of that fiscal year, which would then be drawn down over the course of fiscal years 2017 and 2018. The actual year-end balance of this fund at the end of fiscal year 2016 was \$205.8 million. He believed that the Board could request an update toward the end of this fiscal year as to the status of the Rate Stabilization Fund vis-à-vis the projected figures which were submitted earlier in the 2018 rate case, which were provided early in the 2018 fiscal year. Mr. Ewing asked why the actual figures for the Rate Stabilization exceeded the projection so significantly; Mr. Markus thought that is a fair follow-up question for Board members to ask. Expenses in 2016 only barely increased from 2015 but then increased significantly into 2017.

Turning to the current filing, Mr. Markus noted that expenses were projected to increase year-on-year from fiscal years 2018 to 2021 by an average of 3.5 percent a year, which excludes debt service and other capital contributions. Mr. Ewing asked if Mr. Markus made calculations utilizing figures approved in the previous rate case; Mr. Markus confirmed that he had, and agreed to provide these calculations.

Mr. Markus urged the Board to take note that residential consumption has been decreasing, while commercial consumption has varied and is even slightly increasing. Mr. Ewing questioned the defining line between residential and commercial use. It was explained that the size of the meter is the categorical demarcation; a standard meter is five-eighths of an inch. Mr. Dasent said that Black & Veach, a Water Department consultant, would explain the different service classes. Ms. Brockway

stated that there was some perception expressed at Public Hearings that inhabitants of large multi-family properties are receiving a “break” that single-family units do not; Mr. Dasent explained that the standard practice in large multi-family properties is that there is a single meter, and the owner or manager chooses how to divvy up water charges among the various units.

Mr. Markus stated that there is a focus on consumption figures due to the assumption that if consumption decreases, rates must increase if expenditures are to remain the same, but the actual consumption figures in this instance are a “mixed bag.” The present filing contains allowances for TAP; a proposal for a TAP rider; an increased allowance for storm water credits; and a request to increase cash-financed construction to about an average of approximately 18.2%, with remaining funds mostly coming from bond sales. The Water Department is proposing a draw from the Rate Stabilization Fund of about \$43.7 million over the next three fiscal years, bringing the current balance down to about \$145 million at the end of fiscal year 2021. Additional potential questions for the Board might include a request for an explanation as to why the current target of about \$150 million was selected for the Rate Stabilization Fund. Other points that Mr. Markus hoped will emerge from the process include an explanation of efforts to boost the collection rate of storm-water-only charges, which is significantly lower than the collection rate on water and sewer charges.

Mr. Markus indicated that another element included in the Water Department’s proposal is debt service on both existing and projected obligations. Principal and interest payments on outstanding debt in future years drops significantly; in 2019, it would comprise \$187 million, decreasing by about \$43 million three years out and \$68 million less five years out, coming to about \$109 million in 2031. This is a significant development, and a positive one for the Water Department; this provides room for a possible decrease in cost of service or the absorption of debt service on additional debt. Mr. Markus suggested that the Board ask whether more can be done to push principal out and not have an increase in debt service in fiscal years 2020 and 2021.

Mr. Markus reiterated that the Board could ask for an interim report on the status of the Rate Stabilization Fund, in light of the experience of that Fund’s variance from projected numbers during the course of the rate case in fiscal year 2016. The Board can ask about the management of the Fund with an eye toward stabilizing the variances in deposits and withdrawals from year to year.

Mr. Markus commented on low-interest PENNVEST loans from the Commonwealth of Pennsylvania, and noted that, all other considerations excluded, it would seem that Philadelphia receives less of these monies on a per capita basis than other parts of the Commonwealth. It would be helpful for the Board to get an appreciation of why this is the case, although he assumed that the Water Department has been aggressively pursuing these loans, since every dollar that comes from PENNVEST is a dollar that does not have to be obtained through a higher-cost bond issue.

In reviewing the documentation, Mr. Markus noticed reference to the long-term control program, which the combined sewer overflow program that must be implemented by the City and the Water Department under the terms of a consent decree. The Board should have a copy of the financial capability analysis being prepared. Ms. Brockway wondered if this had already been requested by the Public Advocate.

Ms. Brockway also asked if the questions Mr. Markus recommended posing should be addressed utilizing a Hearing Officer data request. Mr. Ewing asked whether there would be another opportunity

to pose questions to Mr. Markus. Mr. Popowsky replied that this could be done at the next meeting. Mr. Dasent stated that he would be happy to informally discuss some of the questions raised by Mr. Markus and to provide direction where some of them can be found in the Water Department's filing.

The Board received a thank-you card from Marie McNeill.

The next monthly meeting of the Philadelphia Water, Sewer, and Storm Water Rate Board will be on May 2, 2018 at 3 p.m.

Ms. Johnson moved to adjourn the meeting at 4:08 p.m. and was seconded by Mr. Ewing. Motion approved with Messrs. Popowsky, Ewing, and Ms. Johnson in favor, without any opposing votes or abstentions.

Prepared by Cody Williams, Legal Assistant