

Testimony of Lance Haver

Overview

The issues before the Hearing Examiner and the Water Rate Board are complicated by the Public Ownership of the Water Department. If the company were privately held, two things would be true, the rates would be significantly higher; and there would be a mechanism for “clawing back” wasted rate payers dollars. For example, if a privately held utility had been found to continually misrepresent its finances, a regulatory body could fine the utility and/or reduce its profits to compensate rate payers.

In the case of publicly owned utilities, like the Philadelphia Water Department, it is impossible to fine and/or order repayment to rate payers without further damaging rate payers. For example, if the Water Rate Board were to find that the Philadelphia Water Department has failed to avail itself of cost savings, there is no remedy, after the fact.

Because there is no “after the fact” remedy to the public; because water rates have far outpaced the rate of inflation in the past 20 years; because water is a basic necessity of life; and because the citizen owners of the Philadelphia Water Utility have every right to be protected from mismanagement, bad decisions and faulty projections, the Hearing Examiner should reject outright the request for a rate increase and order the Philadelphia Water Department to:

Draw down the projected amounts from the Rate Stabilization board.

Stop the process of illegally collecting taxes through the water rates; Pennsylvania State Law does not allow sales tax to be collected on water.

Improve its management efficiencies.

Increase collections.

Grow its business by using water rates as economic development tools.

Reduce “pay as you go” financing with “pay as it is used financing” .

End all preferential treatment of certain rate payers.

Neither the Hearing Examiner, nor the Water Rate Board should ever again be forced to pass along a rate increase because the Water Department failed in its basic functions. The best and only tool the Hearing Examiner and the Water Rate Board has is to tie rates to improvements in management’s execution of activities projected.

Argument

Over Collection

1. In the City's FY16-20 5 year fiscal plan, the Water Department lists the beginning balance in the "Rate Stabilization Fund" as \$ 181,133,000. It projects adding \$18,300,000 in FY 2015; and then instead of raising rates, drawing down \$32,600,000 in FY 2016, \$11,300,000 in FY 2017, \$28,100,000 in FY 2018 leaving the balance at \$127,433,000. These numbers are not contested by the Philadelphia Water Department.
2. In response to a question asked by Lance Haver the PWD responded that it currently has \$ 74,567,000 more than it projected.
3. The PWD has over collected \$ 74,567,000 million dollars from Philadelphia rate payers. The average home owner has been overcharged and has over paid since FY 2016.
4. Before there is any rate increase, this overcharge should be returned to Philadelphians by the denial of the current rate increase.

Illegal Collection of Sales Tax

1. PWD's overcollection of over 74 million dollars has created a surplus of over 200 million dollars
2. In answer to Lance Haver's question at the Public Hearing, PWD disclosed the 202 million dollars in the Rate Stabilization Fund is deposited in US Bank, a bank that has no branches in Philadelphia, employs no Philadelphians, has no CRA plan for Philadelphia and markets no mortgages to Philadelphians.
3. US Bank pays interest on PWD's Deposit, according to PWD, that interest is not used to offset water rates, but instead is treated as a tax and "is transferred to the Revenue Fund and counted as revenue." (PWD's response to Haver's question 11).
4. Admitting the interest is counted as revenue is an admission that the interest is paid as a tax to the City of Philadelphia.
5. PWD does not have the right to tax water. Nor does it have the right to assign rate payer's interest to the City of Philadelphia general revenue fund as it violates the Pennsylvania taxing laws.
6. PWD's attempt to force rate payers to pay for the cost of water used by the Philadelphia Fire Department is an attempt to transfer the burden for firefighting from the City's tax base to the PWD's rate payers.
7. Taxes are more progressive than utility bills, collected from entities that are not people, that do not need water to live and may not pay water bills.
8. Taxes are collected to cover municipal costs
9. PWD's water bills cannot be legally taxed.
10. No rate increase should be granted until the interest from the fund and the cost of water used to fight fires are deducted from the rate requested.

Improve Management Efficiencies

1. The City of Philadelphia owns both Philadelphia Water Department and Philadelphia Gas Works
2. Almost everyone who has a PGW account has a PWD account
3. In most homes, the distance between the water and gas meter is less than 24 feet
4. Unless the Hearing Examiner and the Water Board expressly sets rates that will force PWD and PGW to combine meter reading, billing and collections, there is no economic incentive for PWD to reach an agreement with PGW
5. In response to Haver question 3, while correcting Haver that PWD is not replacing the meter but only part of the meter, PWD acknowledges and admits it can, if it wants to, combine meter reading and billing with PGW. "The systems that the Water Department has considered are capable of supporting gas as well as water meter reading" (PWD response to Haver question 3)
6. Philadelphians should not be forced to pay for the lack of initiative, vision or abilities of PWD's management to reach an agreement with PGW to combine meter reading, billing and collections.
7. Even under the most liberal reading of regulatory law, utilities can only collect to cover for what is used and useful.
8. Having duplicative services are not used and useful. There is no need for 2 meter reading departments or 2 sub contractors; no need for 2 billing departments; no need for 2 collection departments.
9. The Hearing Examiner and the Water Rate Board should remove 50% of the cost of partial meter replacement, meter reading, billing and collections from the rate case and force the PWD to reach an agreement with PGW so that ratepayers can get the benefit of both utilities being owned by the same entity, the City of Philadelphia.

Increased Collections

1. The projected collection rate is unacceptable.
2. PWD is capable of doing better than its projections
3. In response to Haver's question 8, PWD acknowledges and admits it is capable and does exceed its projected collection rates: "Actual revenue results exceed projections by 1.4% per year".
4. With the consolidation of the PWD and the Water Revenue Collections, PWD should be expected to increase its collections by 2.3% per year.
5. PWD can and must do better to enroll low income consumers in TAP to increase collections.
6. Allowing a rate increase relieves the pressure on PWD to improve its collection rates.

7. The Hearing Examiner and the Philadelphia Water Board cannot allow PWD to continue under performing by granting a rate increase that gives PWD a financial cushion that makes improvements unnecessary and/or continues to increase the amount in the Rate Stabilization Fund.

Growth of Business

1. It is axiomatic to say developing new rate payers keeps fixed costs down for everyone.
2. Fixed costs are the prime driver of the rate increase
3. PWD had no plan, makes no attempt and is allowed to have no interest in developing new residential or businesses customers.
4. In the overview presented to the public, there is no mention of any attempts to bring businesses that use water for production into the City
5. No marketing plan to bring production businesses from water stressed areas to Philadelphia
6. The Hearing Examiner and the Philadelphia Water Rate Board, cannot allow PWD to use the cushion of the rate increase to continue to ignore opportunities to grow its business, to bring jobs to Philadelphia and to join in attempts to bring manufacturing that uses water in it process into the city.
7. The Hearing Examiner and the Water Rate Board should project a 2% growth in businesses into the rates and deduct the added revenues from the rate increase being requested.

Pay As You Use Not Pay As You Go

1. PWD will be increasing the number of pipes replaced in the coming years
2. The average life expectancy is 50 years
3. The average use of the pipes is over 50 years
4. The average number of years one pays a Philadelphia Water Bill is less than 50 years.
5. Using a “pay as you go system” places the burden of costs on ratepayers who will not have the use of the pipes that they are being forced to pay for.
6. Unless there is a refund given to an individual who was paying a water bill and leaves the PWD system in less than 50 years, that person is being forced to pay for services that were not used or useful to them.
7. The majority of the cost of the system should be spread out to allow people to pay for the system as they use it.
8. To cut the interest paid for such a “pay as you use system” PWD should recommend to the Mayor and City Council, PWD’s need of a public bank.
9. The Hearing Examiner and the Water Rate Board should not allow PWD to force people to pay for things they will not be used or useful to them.

End Preferential Treatment of Some Rate Payers

1. In response to Haver question 2, PWD acknowledges and admits that it pays for lateral repairs for some ratepayers and not others
2. PWD in response to Haver question 2 PWD either cannot or refuses to produce any written guideline(s) rules or regulations upon which the decision to pay for some repairs and not others is based.
3. Without supplying such written rules and based on the testimony of Skiendzielewski, PWD 's decision on which lateral replacements to pay for and which it will not is either arbitrary or based on political connections.
4. In either case, arbitrary or part of a "pay to play" culture, the Hearing Examiner and/or the Philadelphia Water Rate Board should not provide cover for the activities by granting PWD enough money to pay for some lateral replacements and not others. Pay to play or arbitrary decisions should not be accepted.

Closing

The math is simple. If the Hearing Examiner and the Water Rate Board deducts from the over collection; increases projected collections; removes the sales taxes; includes cost savings for efficiencies and stops PWD from forcing consumers to pay for services they don't need and will not get; adds to projected revenues the increase in sales that would accompany a marketing plan to bring new businesses into the City; -- no rate increase is needed warranted or justified.