

Philadelphia Water, Sewer, and Storm Water Rate Board - Technical  
Conference June 5, 2019

CITY OF PHILADELPHIA  
TECHNICAL CONFERENCE  
PHILADELPHIA GAS COMMISSION  
Wednesday, June 5, 2019  
MINUTES of FORMAL MEETING

- - -

LOCATION: 1515 Arch Street, 18th Floor  
Philadelphia, Pennsylvania

REPORTER: ANGELA M. KING, RPR  
Registered Professional Reporter

HELD BEFORE:

SONNY POPOWSKY  
DANIEL CANTU-HERTZLER, Esq.  
STEVEN LIANG  
ED MARKUS  
ROBERT BALLENGER, Esq.  
SCOTT SCHWARTZ, Esq.  
MELISSA LABUDA  
CITY OF PHILA LAW DEPT. MEMBERS

(Attending via phone)  
BLACK & VEATCH MEMBERS  
RAFTELIS MEMBERS  
LAFAYETTE K. MORGAN, JR.

TIME HELD: 10:00 A.M.

1 - - -

2 (Meeting commences at 10:03 a.m.)

3 - - -

4 MR. POPOWSKY: Good morning,  
5 everyone. My name is Sonny Popowsky. I'm  
6 the Chair of the Philadelphia Water--  
7 Waste Water and Stormwater -- Sewer and  
8 Stormwater Rate Board. And with me here  
9 today is Dan Cantu-Hertzler who is our  
10 Counsel from the Law Department, works with  
11 the Board. Also, Steven Liang with the  
12 Board as well from the Law Department and  
13 Edward Markus.

14 I would ask if our counsel and  
15 participants present identify yourselves  
16 for the record.

17 MR. SCHWARTZ: Scott Schwartz for  
18 the Water Department. And with me is --  
19 want to introduce yourself?

20 MS. LABUDA: Sure. Melissa LaBuda  
21 from the Water Department. Thank you.

22 MS. ROGERS: Jaclyn Rogers from the  
23 Water Department.

24 MR. POPOWSKY: Did you get that?

1 MS. BUI: Ann Bui, Black and  
2 Veatch, consultant to the Water Department.

3 MR. SCHWARTZ: That's it for us.  
4 We may have someone on the phone.

5 MR. POPOWSKY: Yes. There are  
6 several -- why don't we go with Rob first.

7 MR. BALLENGER: Good morning,  
8 Chairman and Acting Hearing Officer Robert  
9 Popowsky, Robert Ballenger for the Public  
10 Advocate.

11 MR. POPOWSKY: Okay. I will ask  
12 the folks on the phone to just identify  
13 yourself briefly. Let's start with  
14 Lafayette from Exeter.

15 MR. MORGAN: This is Lafayette  
16 Morgan. I'm with Exeter Associates. I'm  
17 working with the Public Advocate.

18 MR. POPOWSKY: Thank you. Now the  
19 folks from Black and Veatch.

20 MR. MERRITT: Brian Merritt, Black  
21 and Veatch working for the Water  
22 Department.

23 MR. JAGT: This is Dave Jagt from  
24 Black and Veatch working with the Water

1 Department.

2 MR. POPOWSKY: Okay. I think there  
3 are some folks from Raftelis also?

4 MR. DAVIS: Yes. Jon Davis, with  
5 Raftelis for the Water Department.

6 MS. LOCKLEAR: Henrietta Locklear  
7 with Raftelis for the Water Department.

8 MS. TAVANTZIS: And Jennifer  
9 Tavantzis with Raftelis for the Water  
10 Department.

11 MR. POPOWSKY: Okay. Is there  
12 anyone else on the phone?

13 (No response.)

14 MR. POPOWSKY: And I see no other  
15 participants in the room.

16 Off the record for a moment.

17 - - -

18 (At this time, a discussion was  
19 held off the record.)

20 - - -

21 MR. POPOWSKY: Back on the record.

22 Okay. The purpose of the today's  
23 hearing or I also call it a technical  
24 conference is to address the Water

1 Department's first annual adjustment of its  
2 TAP Rider. It's my understanding that only  
3 one set of written comments were filed with  
4 respect to the TAP Rider. They were filed  
5 by the Public Advocate in the form of a  
6 statement by Lafayette Morgan.

7           Subsequent to the filing of that  
8 statement, which proposed three adjustments  
9 to the filing, the Water Department and the  
10 Public Advocate have reached a proposed  
11 resolution of the matters that were in  
12 dispute. I would note, of course, that  
13 regardless of the parties agreement, it is  
14 ultimately up to the Board to decide  
15 whether these proposed rates, either as  
16 originally filed or as proposed in the  
17 Joint Hearing Exhibit, are consistent with  
18 the ordinance and are TAP Rider regulations  
19 and the tariff that we approved.

20           But in any case, unless there are  
21 any other introductory remarks by anyone up  
22 here, I would call on the Department and  
23 the Advocate to just briefly discuss the  
24 filing and the adjustments that were made.

1 And if the Board or any other folks here  
2 have any questions, we will direct them  
3 initially to the Counsel and then, if  
4 necessary, to the expert witnesses who are  
5 available by phone.

6 So, Scott, do you want to start?

7 MR. SCHWARTZ: Thank you.

8 As you mentioned, this is the first  
9 time we have done the annual  
10 reconciliation, so I appreciate the  
11 assistance we have gotten from not only our  
12 own consultants but the Board, as well.

13 What I want to do is just briefly  
14 give some background about how we got here,  
15 and then discuss the areas of agreement  
16 that we reached with the Public Advocate as  
17 to how the Board should proceed.

18 This really began with the Rate  
19 Board's rate determination on July 12, 2018  
20 in which the Board directed the Water  
21 Department to establish a rate rider  
22 surcharge rate for the Tiered Assistance  
23 Program, which we commonly refer to as TAP,  
24 T-A-P. The formula for that rate surcharge

1 was to be developed through agreements in  
2 the last rate case and directed as in the  
3 Rate Board rate determination.

4           The rate rider surcharge is  
5 currently in our rates and charges in  
6 Sections 10.0 to 10.3, which became  
7 effective September 1, 2018 in which we  
8 filed with the Department of Records in  
9 August 2018. After that, the Rate Board  
10 earlier this year established regulations  
11 for this proceeding and other TAP Rate  
12 Rider reconciliation proceedings.

13           On April 4, 2019, the Water  
14 Department provided the Rate Board and City  
15 Council with advanced notice of the annual  
16 TAP Rate Rider adjustment and a preliminary  
17 proposed reconciliation statement along  
18 with revisions to the rates and charges,  
19 bill impact statements and other supporting  
20 documents.

21           On May 6, 2019, the Department  
22 provided the Department of Records with its  
23 formal notice of the annual TAP Rider Rate  
24 adjustment and a final proposed

1 reconciliation statement. As you  
2 mentioned, the Public Advocate submitted  
3 written comments on May 24, 2019. The  
4 differences between our initial proposal  
5 and the Public Advocate's proposal  
6 primarily deal with projections for the  
7 number of future TAP participants and the  
8 different methodologies for computing  
9 interest rate. That said, the final result  
10 is only a penny difference in both the  
11 Water TAP Rider Rate and a penny difference  
12 and the Sewer TAP Rider Rate.

13           The Department and Public Advocate  
14 participated in several telephone  
15 conversations. And the result of that, we  
16 have reached certain agreements which are  
17 outlined in the joint statement by the  
18 Public Advocate and the Water Department.  
19 There is kind of five points to those  
20 statement, so I will run three each one and  
21 then I will let Mr. Ballenger add anything.

22           The first point is, the Water  
23 Department does not object to the  
24 adjustments to the TAP Rider Rates proposed



1 by Mr. Morgan, the Public Advocate's  
2 expert. For that reason and for purposes  
3 of resolving the issue in dispute in this  
4 particular TAP water reconciliation  
5 proceeding, the Water Department and the  
6 Public Advocate are jointly requesting that  
7 the Board modify the proposed rates and  
8 charges as of September 1, 2019 to include  
9 a TAP-R rate of \$0.71 per thousand cubic  
10 feet of water usage and \$1.16 per thousand  
11 cubic feet of sewer usage as proposed by  
12 Mr. Morgan.

13 Second, it is understood and agreed  
14 between the Water Department and the Public  
15 Advocate that this request is a result of  
16 compromise and is being presented only in  
17 the context of this particular proceeding  
18 in an effort to resolve this proceeding in  
19 a manner that is fair and reasonable.

20 Third, the request is presented  
21 without prejudice to any position that the  
22 Water Department or the Public Advocate  
23 advanced or will advance in the 2018 rate  
24 proceeding and the appeal thereof; or may

1 have advanced in this proceeding or that  
2 may advance in the future rate proceedings.

3 Fourth, both the Water Department  
4 and the Public Advocate have waived  
5 cross-examination of our witnesses. But as  
6 you know, the witnesses are available  
7 either in person or on phone to answer the  
8 questions.

9 And finally, we developed a list of  
10 documents that we would like included in  
11 the record. Those are outlined in Hearing  
12 Exhibit 1. They include Hearing Exhibit 2,  
13 which would be the actual rates and charges  
14 as we would file them with the Department  
15 of Records at the Board. Hearing 3, which  
16 are all the newspaper notices that were  
17 published both after the advanced notice,  
18 after the formal notice and before this  
19 proceeding today.

20 So, that's all I have.

21 Thank you.

22 MR. POPOWSKY: Mr. Ballenger.

23 MR. BALLENGER: Thank you,

24 Mr. Popowsky, for the opportunity. Thanks

1 Mr. Schwartz for the summary. I don't have  
2 a lot to add. I wanted to focus just for a  
3 minute on this as the statement that we  
4 have prepared together. And I credit Scott  
5 with taking the labor oar on that.

6 What we are seeking is a favorable  
7 recommendation from the Hearing Officer to  
8 approve this by the Board at this time. I  
9 think that's sort of the position we are  
10 in, whether that takes the form of the  
11 Hearing Officer report or otherwise, I  
12 understand or agree with Mr. Popowsky, the  
13 Board casts the ultimate vote.

14 So, we are -- I am treating it sort  
15 of almost like a petition for settlement,  
16 which you would be familiar with from the  
17 PDC context. Although, it is brief, but  
18 there are not a lot of issues to focus on.

19 The compromise from the Public  
20 Advocate's view, as Mr. Schwartz indicated,  
21 we came up with some very small adjustments  
22 to the rates, which I think we agree are  
23 very close to what the Department proposed.  
24 The compromise is that those adjustments

1 were based on various methodological  
2 adjustments. We are not seeking the  
3 approval -- I don't think either party in  
4 this joint statement -- of the underlying  
5 methodology and the fact that we may have  
6 some differences in opinion about how to  
7 forecast future participation in things  
8 like that.

9           What we are seeking is approval of  
10 the actual rates that are set forth in the  
11 joint statement, which we both agree are  
12 reasonable. And indeed, as I have just  
13 described, I believe are clearly the result  
14 of compromise on behalf of both parties.

15           With that, I would just note also  
16 included in Hearing Exhibit 1, which is  
17 attached to the joint statement, that there  
18 was a -- there were a small number of  
19 questions that came up for the parties that  
20 were resolved and addressed through  
21 discovery -- through the discovery process.  
22 And those discovery responses are included  
23 there.

24           I think in an overview procedurally

1 of how we got here, it's important to note  
2 know there was an exchange of information.  
3 And I would like to also just extend my  
4 thanks and gratitude to the Department for  
5 freely sharing the underlying spreadsheets  
6 and allowing us to use them to determine  
7 the adjustments, which we then also shared  
8 our modified spreadsheets with the  
9 Department so that we could see each  
10 other's perspective and, ultimately, arrive  
11 at what I think is a fair, just and  
12 reasonable compromise that's in the public  
13 interest.

14 Thank you. And I'd be happy to  
15 answer any questions. And of course,  
16 Mr. Morgan is on the phone if anyone would  
17 like to ask him any questions. But I think  
18 we have a pretty -- I think we have a good  
19 record and good understanding of each  
20 other's positions and have come to a  
21 reasonable resolution.

22 MR. POPOWSKY: See a couple of  
23 other folks who have joined us. Are you  
24 participants in the case? Would you just

1 identify yourself, please.

2 MS. PARK: Julia Park from the Law  
3 Department.

4 MS. LAVERY: Danielle Lavery from  
5 the Law Department.

6 MR. POPOWSKY: Okay. Thank you  
7 very much. I apologize. Just wanted to  
8 make sure we don't have any other  
9 participants in the room.

10 Since there are no other  
11 participants, I will assume that there are  
12 no objections to the agreements set forth  
13 in Hearing Exhibit 1 and -- I'm sorry, in  
14 joint statement for technical hearing, the  
15 Water Department and the Public Advocate.

16 Did anyone here, either Dan or Ed  
17 have any questions?

18 (No further questions.)

19 MR. POPOWSKY: I don't really have  
20 any questions. I really appreciate the  
21 efforts of the Department and the Advocate  
22 to work within our regulations to get  
23 through this first TAP Rider filing. And  
24 thank the Department for responding to

1 Mr. Markus' data request as well as those  
2 of the Advocate in a timely manner.

3 As I reviewed the adjustments  
4 proposed by the Public Advocate, they seem  
5 to go to just a few issues regarding how  
6 the numbers were calculated, but really did  
7 not challenge the fundamental methodology  
8 used by the Department or even propose any  
9 changes that would, ultimately, result in  
10 unreconcilable greater or lesser recovery  
11 from the Department. In fact, the  
12 adjustments sort of went in opposite  
13 directions. One would have reduced the  
14 rider. One would have increased the rider.  
15 They sort of offset each other the way it  
16 looks to me.

17 But in any case, I don't have  
18 any -- I think I understood the  
19 adjustments. I understand the proposed  
20 resolution. So with that, I guess, I would  
21 ask you, are you going to make a formal  
22 motion for -- to put all this information  
23 in the record? Every -- all of the  
24 materials identified in Hearing Exhibit 1

1 as well as Hearing Exhibit 2 and 3?

2 MR. SCHWARTZ: That is correct. I  
3 move that Hearing Exhibits 1, 2 and 3 be  
4 admitted for the record.

5 MR. BALLENGER: Public Advocate  
6 joins in the Department's motion.

7 MR. CANTU-HERTZLER: Does that  
8 include the joint statement itself?

9 MR. SCHWARTZ: We will -- we both  
10 agree that the joint statement should be  
11 part of Hearing Exhibit 1.

12 MR. POPOWSKY: That includes the  
13 notices and proof of --

14 MR. SCHWARTZ: The notices are in  
15 Hearing Exhibit 3.

16 MR. POPOWSKY: Okay.

17 MR. SCHWARTZ: There may be some  
18 additional notices, but those are the ones  
19 that we could collect as of yesterday.

20 MR. BALLENGER: Just to be clear,  
21 Hearing Exhibit 2 is really the full set of  
22 rates and charges. But the changes are in  
23 the last page in Section 10.3.

24 MR. SCHWARTZ: Yeah. They are on



1 that page plus the TAP-R is in Sections 2  
2 and 3 under Usage and in Section 9 under  
3 Fire Usage.

4 MR. BALLENGER: Yeah.

5 MR. POPOWSKY: It's my  
6 understanding that the water rate is 1 cent  
7 less than the originally proposed, and the  
8 sewer rate is 1 cent less than originally  
9 proposed. In both cases, my recollection  
10 is that these were increases over what is  
11 currently in the rates but they are less  
12 than what we had anticipated the rates  
13 would be starting on September 1, 2018?

14 MR. SCHWARTZ: That's correct. And  
15 the 1 cent is per thousand cubic feet. So,  
16 if you use 500 cubic feet, as most people  
17 do, it's a total of 1 cent difference when  
18 you add the two 1 cents together and divide  
19 by two.

20 MR. POPOWSKY: Okay.

21 Were there any objections to the  
22 inclusion of the Hearing Exhibit 1, 2 and 3  
23 including the Joint Statement for technical  
24 hearing?

1 MR. SCHWARTZ: No. I think we both  
2 joined in.

3 MR. BALLENGER: We -- the Advocate  
4 joins in that motion.

5 MR. POPOWSKY: Okay. In that case,  
6 I will allow those exhibits into the  
7 record.

8 MR. CANTU-HERTZLER: And also, the  
9 exhibits referenced in Exhibit 1?

10 MR. POPOWSKY: Yeah, absolutely.  
11 Including all the materials referenced in  
12 Hearing Exhibit 1.

13 Now in terms of the schedule moving  
14 forward, we had allowed for briefs if  
15 necessary. I don't, frankly, think that  
16 they are necessary. You are free to file  
17 an additional comments if you wish, but I  
18 think the record is pretty complete. If  
19 parties or participants wanted to file a  
20 brief, I don't recall the date. Do you  
21 remember the date.

22 MR. LIANG: I think it's 17th  
23 maybe. June 17, something like that.

24 MR. CANTU-HERTZLER: In theory,

1 there could be comments this afternoon that  
2 people might want to respond to.

3 MR. POPOWSKY: As Dan pointed out,  
4 there could be comments made at the Public  
5 Input Hearing, if anyone testifies at the  
6 public input that participants may want to  
7 respond to.

8 MR. BALLENGER: Scott and I were  
9 just sort of having a little -- quiet  
10 sidebar here. We -- I think our objective  
11 would be after the conclusion of the Public  
12 Hearings, to put together something akin to  
13 a statement in support, a Joint Statement  
14 in support --

15 MR. POPOWSKY: Okay.

16 MR. BALLENGER: -- of what we  
17 proposed here today, and addressing any  
18 other issues that come up through the  
19 Public Input Hearing process or any  
20 positions we may become aware of from other  
21 parties. Although, I certainly haven't  
22 heard anything.

23 MR. CANTU-HERTZLER: I believe the  
24 transcripts of both this conference and the

1 public hearing will be available probably  
2 on Friday. Other participants will be able  
3 to review those and comment if they wish.

4 MR. BALLENGER: That's helpful. I  
5 think that was what -- that is why I think  
6 we both agreed we thought we should have  
7 something a little more formal on the  
8 record in writing after the conclusion of  
9 the hearings. Although, I don't anticipate  
10 it being a lengthy or terribly --

11 MR. POPOWSKY: Actually, according  
12 to my notes here, I think those briefs, are  
13 comments would be due on June 18.

14 MR. CANTU-HERTZLER: I think --  
15 yeah. You are free to make it sooner than  
16 that if you want. I think we allowed that  
17 thinking that there might be a lot to do.

18 MR. POPOWSKY: I think we are okay  
19 because -- I don't want to change it  
20 because the other participants are not  
21 here. And if they want to file something,  
22 they can rely on the note -- I want them to  
23 be able to rely on the notice that we  
24 already previously sent out where we gave

1 them until June 18.

2 In the meantime, I will work with  
3 Ed on a draft order for consideration by  
4 the full Board, hopefully, at our next  
5 meeting which is June 27. If we are not  
6 able to resolve everything finally at  
7 June 27 meeting, we do have another meeting  
8 tentatively scheduled for July 2. But  
9 given the -- this status of the proceeding,  
10 my hope is that we can resolve all the  
11 matters at are publicly -- public meeting  
12 at 2 p.m. on June 27.

13 Okay. Now, we do have another  
14 hearing schedule for this afternoon. Under  
15 our ordinance, we are required to have  
16 public hearings on all rate matters. And  
17 we will have a public hearing here in this  
18 room at -- starting at 2 p.m. Obviously,  
19 the participants are welcome to attend, see  
20 if there is very much public input.

21 But in any case, is there any other  
22 matters to be brought before the Board this  
23 morning?

24 MR. SCHWARTZ: No.

1 MR. BALLENGER: No.

2 MR. POPOWSKY: In that case, again,  
3 I really want to thank the participants. I  
4 thank the Department and the Advocate for  
5 allowing us to move expeditiously on this  
6 matter. I think the regulations were  
7 designed to, on the one hand, allow for  
8 disputes to be addressed. On the other  
9 hand, written in the hope that -- to the  
10 extent that the disputes are limited, we  
11 can handle this type of case in a pretty  
12 expedited manner.

13 So with that, I will adjourn the  
14 hearing. And thank the folks on the  
15 telephone. And we will resume with our  
16 Public Hearing at 2 p.m.

17 MR. CANTU-HERTZLER: Off the  
18 record.

19 - - -  
20 (At this time, the Technical  
21 Conference adjourned at 10:27 a.m.)

22 - - -

23

24

C E R T I F I C A T I O N

I, hereby certify that the proceedings  
and evidence noted are contained fully and  
accurately in the stenographic notes taken by me  
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ANGELA M. KING, RPR,  
Court Reporter, Notary Public

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Philadelphia Gas Commission - Technical Conference  
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