

MEMORANDUM

TO: James Leonard, Records Commissioner
FROM: Bernard Brunwasser, Chair of the Water, Sewer and Storm Water Rate Board
DATE: June 7, 2016 *Bernard Brunwasser/DWCH*
RE: Determination of Water Department Rates and Charges for FY 2017-2018

On February 8, 2016, the Water Department filed an Application for increased rates and charges for Fiscal Years 2017 and 2018. In accordance with Section 5-801 of the Philadelphia Home Rule Charter, Section 13-101 of the Philadelphia Code, and the Regulations of the Philadelphia Water, Sewer and Storm Water Rate Board, the Rate Board held public hearings on this Application on February 23-24, March 1-3, and April 7, 2016. Technical hearings were held on February 22 and April 5-7 and 11-13, 2016.

Pursuant to Section 5-801 of the Charter, Section 13-101 of the Code, and the Rate Board's Regulations, and at the direction of the Rate Board in its public meeting of June 6, 2016, I am forwarding herewith for filing the "Report of the Board on PWD Proposed Rate Changes, FY17, FY18," which constitutes the Rate Report and Rate Determination of the Rate Board, along with a memorandum of approval from the Law Department.

We expect that the Water Department will shortly file Rates and Charges in conformance with the Rate Determination.

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DEPARTMENT OF RECORDS
2016 JUN -7 PM 6:40

MEMORANDUM

Privileged and Confidential
Attorney Work Product – Attorney/Client Privilege

TO: Bernard Brunwasser, Chair – Water, Sewer and Storm Water Rate Board
FROM: Daniel W. Cantú-Hertzler, Chair, Corporate and Tax Group *DWCH*
DATE: June 7, 2016
SUBJECT: Determination of Water Department Rates and Charges for FY 2017-2018

I have reviewed the attached Report of the Board on PWD Proposed Rate Changes, FY17, FY18, completed today by the Philadelphia Water, Sewer and Storm Water Rate Board. The Rate Board is an independent rate-making body, established by ordinance of City Council pursuant to Section 5-801 of the Philadelphia Home Rule Charter to fix and regulate rates and charges for water and sewer services. The attached document is the Rate Board's Rate Report under Section 13-101(8) of the Philadelphia Code, and the Rate Board's Rate Determination pursuant to Section II.9 of the Rate Board Regulations. I find the Rate Determination to be legal and in proper form.

In accordance with Section 13-101(8) of the Philadelphia Code and Section II.9(c) of the Rate Board's Regulations, you may forward the Rate Determination to the Department of Records for filing. As stated in the Rate Determination and consistent with Section 13-101(3)(e) of the Code and Section II(9)(d) of the Rate Board Regulations, the effective date of the changes in the rates and charges will be July 1, 2016 if the Water Department files its conforming Rates and Charges at least ten days prior to that date.

Attachment

cc: All Rate Board Members (via E-mail)
Nancy Brockway, Hearing Officer (via E-mail)

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INTRODUCTION AND PROCEDURAL HISTORY.

A. PROPOSED RATE INCREASE & SUMMARY OF BOARD DECISION

1. Proposed Increase

On January 8, 2016, The Philadelphia Water Department (PWD or Department)¹ filed Advance Notice with the Philadelphia Water, Sewer and Stormwater Rate Board (Rate Board or Board) of its proposal to increase rates to recover additional revenues of \$34.735 million in FY 2017 (reflecting a 5.42% increase in revenues from rates in effect in FY 2016) and a further \$36.392 million in FY 2018 (reflecting a 5.42% increase in revenues from rates in effect in FY 2017).² The Department then filed Formal Notice of its rate increase request on February 8, 2016.

The proposed rate increase was designed to meet a revenue shortfall estimated by the Department to be approximately \$105 million during the Fiscal Years 2017 and 2018. As the proposed revenue increase would not fully cover the estimated revenue shortfall, the Department anticipated projected withdrawals from the Rate Stabilization Fund³ for the same time-frame totaling approximately \$58 million.

In the City of Philadelphia, the average residential customer has a 5/8-inch meter, and uses approximately 600 cubic feet (6 CCF) of water monthly.⁴ According to PWD, in combination, the resulting rate increases to the typical residential customer were projected to be approximately 11.1% over the two-year period for which PWD requests additional revenues from rates.

Under the proposed schedules of water and wastewater rates, the total monthly bill for the typical customer using 600 cubic feet of water per month would increase from \$67.43 to \$71.59, an increase of \$4.16 or about 6.2 percent in Fiscal Year 2017, and to \$75.51, an increase of \$3.91 or about 5.5 percent in Fiscal Year 2018.

The Ordinance⁵ provides that the Board shall apply the following standards in setting rates and charges:

¹ PWD is a City department, with responsibility for provision of water, sewer and stormwater services in the City. From time to time the Department also makes wholesale water and wastewater services to neighboring communities. The rates for such off-system sales were not at issue in this review.

² The FY 2017 increase continues in effect in FY 2018 and accounts for approximately \$34.514 million of PWD's overall \$105.641 million proposed rate increase.

³ The Rate Stabilization Fund was established in conjunction with the Series 1993 Revenue Bonds to provide funds to cover annual expenditures when the revenues are less than projected, and to prevent the need for large swings in rates year to year. A list of acronyms and defined terms is included to this Report as Appendix XXXXXX.

⁴ A CCF is 100 cubic feet. This is roughly the same as 748 gallons.

⁵ File #: 130251-A, Version: 2.

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13-101(4) Standards for Rates and Charges.

(a) Financial Standards. The rates and charges shall yield to the City at least an amount equal to operating expenses and debt service on all obligations of the City in respect of the water, sewer, storm water systems and, in respect of water, sewer and storm water revenue obligations of the City, such additional amounts as shall be required to comply with any rate covenant and sinking fund reserve requirements approved by ordinance of Council in connection with the authorization or issuance of water, sewer and storm water revenue bonds, and proportionate charges for authorization or issuance of water, sewer and storm water revenue bonds, and proportionate charges for all services performed for the Water Department by all officers, departments, boards or commissions of the City.

(b) The rates and charges shall yield not more than the total appropriation from the Water Fund to the Water Department and to all other departments, boards or commissions, plus a reasonable sum to cover unforeseeable or unusual expenses, reasonably anticipated cost increases or diminutions in expected revenue, less the cost of supplying water to City facilities and fire systems and, in addition, such amounts as, together with additional amounts charged in respect of the City's sewer system, shall be required to comply with any rate covenant and sinking fund reserve requirements approved by ordinance of Council in connection with the authorization or issuance of water and sewer revenue bonds. Such rates and charges may provide for sufficient revenue to stabilize them over a reasonable number of years.

(i) In fixing rates and charges the Board shall recognize the importance of financial stability to customers and fully consider the Water Department's Financial Stability Plan. In addition, the Board shall determine the extent to which current revenues should fund capital expenditures and minimum levels of reserves to be maintained during the rate period. When determining such levels of current funding of capital expenditures and minimum levels of reserves, the Board shall consider all relevant information presented including, but not limited to, peer utility practices, best management practices and projected impacts on customer rates. The Board shall set forth any such determinations in the Board's written report pursuant to this chapter....

2. *Board Decision*

After the extensive and intensive process conducted by the Board to review PWD's proposed increase, the Board approved an increase roughly \$16 million lower than sought by the Department. The tables showing the calculation of the revenue requirements and associated rates approved by the Board are attached as Appendix A.

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<i>Additional Revenue Requested by PWD (000)</i>				
Year	Percent Increase	Months Effective	FY 2017	FY2018
FY 2017	5.42%	12	\$34,735	\$34,514
FY 2018	5.42%	12		\$36,392
Total Additional Service Revenue Requested by PWD (000)			34,735	\$70,906
BOARD DECISION ON REQUESTED RATE INCREASE				
FY 2017	4.52%	12	\$29,124	\$28,989
FY 2018	4.52%	12		30,310
Total Additional Service Revenue Requirement Allowed by Board			\$29,214	\$59,299

TYPICAL RESIDENTIAL BILL EFFECTS				
Impact of the approved rate increase on the typical residential customer with a 5/8 inch meter, and monthly usage of 600 CCF per month.				
Present Bill	FY 2017 Bill	% Increase	FY 2018	% Increase
\$67.43	\$70.87	5.1%	\$74,05	4.5%

The Board also considered proposals to implement the new Income-based Water Rate Assistance Program (IWRAP) mandated by the City Council to make water affordable for low-income households in Philadelphia. Section 19-305. The Board was asked to make certain cost allocation and rate design decisions, and to consider the relevance of customer service questions to the proper level of rates for the Department.

The Board rejected proposals to switch the percentage rate increases between the water and wastewater customers, to sunset the Enhanced Customer Assistance Program (CAP) early, and to

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provide a higher rate increase for City-Owned and City-Leased properties. The Board approved the Percentage of Income Payment Program (PIPP) proposed by the Public Advocate as the means to determine the rates to be paid by IWRAP subscribers. Finally, the Board ordered the Department to include in its next annual report to the Council and Board under Section 13-101(10) an explanation of why it is harder for a household to obtain water service than to obtain gas or electric service from PGW or PECO.

A NEW PROCESS TO DETERMINE WATER RATES

This is the inaugural rate proceeding for the Rate Board. Since the last PWD rate proceeding, commenced in 2012, a new rate process has been established in Philadelphia to determine prospective water, sanitary sewer and stormwater rates and charges. Because this is a new process, unfamiliar to many, this introduction describes the history of the Board's creation, the Ordinance and regulations governing its practices, and the initial phase of the Board's review of this proposed rate increase.

In November 2012, Philadelphia voters approved an amendment to the Charter⁶ to allow City Council to establish, by ordinance, an independent rate-making body responsible for fixing and regulating rates and charges for water and sewer services. Under the Rate Ordinance, the Board replaces the Water Department as the entity responsible for setting water, wastewater and stormwater rates. The Rate Ordinance⁷ became effective January 20, 2014, and the Board has been formed.

The Ordinance specifies that the Rate Board shall consist of five members appointed by the Mayor with the approval of the City Council, with staggered terms. The Ordinance provides that the Board members shall be residents of the City and shall each have a minimum of five (5) years professional experience in one or more of the following fields: public or business administration, finance, utilities, engineering and water resources management. At least one member shall have experience as a consumer advocate in utility rate cases and one member shall be a commercial and/or industrial ratepayer with knowledge and experience related to stormwater management and rates. Each Board member has one or more of these qualifications.

The Rate Board has been duly constituted with members appointed by the Mayor and approved by City Council, including Bernard Brunwasser, Michael D. Chapman, Lee Huang, Folasade

⁶ View the [amendment to the Charter](#).

⁷ View the [legislation](#).

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Olanipekun-Lewis,⁸ and Irwin (Sonny) Popowsky. Mr. Brunwasser served as Chairman during this proceeding.⁹

A. OPEN & TRANSPARENT PROCESS: PROCEDURES & PUBLIC INPUT

The review process begins with the filing by the Department of Advance Notice of its intention to file for a proposed rate increase. The Ordinance provides that if the Water Department proposes to change its rates, charges or service rates, it must give written notice¹⁰ to Council and the Board at least 30 days in advance of the filing. This Advance Notice must be accompanied by “financial, engineering and other data upon which the proposed water, sewer and storm water rates and charges are based.”

Thirty days after the Advance Notice, the Department may file its proposal to change its rates, charges or service rates (Formal Notice). The Board regulations provide for dissemination of the Advance Notice and the Formal Notice to alert the public that a request for a rate change has been made.

In its initial actions, in 2015, the Rate Board promulgated regulations governing the rate review process and specifying procedural requirements applicable to rate filings. The Board appointed a hearing officer and public advocate; hired a water ratemaking expert consultant; and set out procedures for:

- public input hearings and public comment,
- technical hearings and participation in technical hearings,
- record compilation,
- written arguments to the Board on technical issues in the case, and
- the Board’s decision making process.

The Ordinance provides that the Board shall “establish open and transparent processes and procedures for public input and comment on proposed water rates and charges.” To this end, Board regulations provide that Department must include in its Notices clear estimates of the effects the proposed increase will have on customer bills, and a summary fact sheet, designed for the layman, that explains the proposed rates and charges, the reasons for the proposed increase, and the information relied on by the Department to develop the proposed rates and charges.

In addition, the regulations provide that the Board shall hold at least 4 public hearings at locations around the City so that the public may voice its opinions on the proposed rate

⁸ Ms. Olanipekun-Lewis was appointed to the Rate Board, in 2016 upon the retirement of Nancy Winkler (former City Treasurer).

⁹ Short biographies of each Board member can be accessed at <http://www.phila.gov/water/rateboard/Pages/BoardMembers.aspx>

¹⁰ In the Board’s procedural regulations, this first notice is called the “Advance Notice.”

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increase.¹¹ The Board held a total of 6 public input hearings, one each in West Philadelphia (White Rock Baptist Church), Oxford Circle (Philadelphia Protestant Home), North Philadelphia (YMCA North Philadelphia), Roxborough (Roxborough Memorial Hospital) and Center City (Free Library and City Council) on February 23, 24, March 1, 2, 3 and April 7, 2016. The public input hearings were advertised consistent with Rate Board Regulations and the Hearing Officer's directives.

The testimony at the public hearings were transcribed, and the transcripts are available on the Board's web site. The Board also took written comments, and posted them to its web site. The Board also received over 100 emails commenting on the PWD rate proposal, the great majority of which opposed the rate increase. Appendix C to this report includes a summary and examples of the comments made by the public on the proposal.

B. OPEN & TRANSPARENT PROCESS: TECHNICAL REVIEW

The Board regulations provide for a technical review of the proposed rate increase. To justify its proposed increase, the Department must file with its Advanced and Formal Notices¹² certain technical information, including the following:

- All financial, engineering and other data upon which the proposed rates and changes are based;
- Evidence demonstrating that the proposed rates were developed in accordance with sound utility rate making practices and consistent with the current industry standards for water, wastewater and storm water rates.

In support of its filing, the Department presented numerous expert witnesses on various technical aspects of the proposed rate increase. These included:

- Debra McCarty, Water Commissioner
- Melissa LaBuda, Deputy Water Commissioner for Finance
- Steven Furtek, PWD General Manager of Engineering and Construction
- Erin Williams, PWD Manager of the Stormwater Billing Program
- Joanne Dahme, PWD General Manager of Public Affairs
- James Palladino, independent consultant
- Michelle Bethel, Deputy Revenue Commissioner
- Mark Harvey, senior Revenue Collection Officer

¹¹ Board Regulations, Section II(6)(c).

¹² Based on input to the Advance Notice proposals, the Department may make some changes in its Formal Notice, such as clarifications sought by participants commenting on the Advance Notice, or Board instructions to complete the record.

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- Department consultants Black & Veatch (Ann Bui, Prabha Kumar and David Jagt),
- Department consultants Raftelis Financial Consultants (Jon Davis, Henrietta Locklear and Bart Kreps),
- Department consultant Public Financial Management (Katherine Clupper) and
- Department counsel, Ballard Spahr (Valarie Allen, Esq.)

In addition to the input of the Public Advocate, the Board invited interested parties to participate in the technical analysis of the proposed rate increase. Such participants could obtain data from the Department, offer their own technical experts and information, and make argument to the Board summarizing their view of the proposed increase, based on the record compiled by the Board. The following participated in the technical review process:

- Community Legal Services as Public Advocate (Advocate or PA)
- The Community Lawyering Clinic (CLC)
- Neighborhood Gardens Trust (Gardens Trust)
- PECO Energy Company and Exelon Generation Co. LLC: (PECO/Exelon)
- PennFuture
- Philadelphia Large Users Group (PLUG)
- Tenant Union Representative Network (TURN)

Expert witnesses testifying for the participants in the technical hearings included Lafayette Morgan, Roger Colton, and Jerome Mierzwa for the Public Advocate, Robert Rosenthal for PECO/Exelon, David Russell for Citizens for Pennsylvania's Future (PennFuture), and Randolph Haines for Philadelphia Large Users Group (PLUG).

The Ordinance provides that the decision by the Board to approve, modify or reject the proposed rates and charges shall be made in a timely manner, but "no later than 120 days from the filing" of the Formal Notice.¹³ This deadline, together with other timing requirements specified in the Board regulations, necessitates the careful development of the deadlines for action within the Board's overall time limit. To promote an efficient process, the Hearing Officer convened a meeting of entities who had told the Board they wanted to be involved in the development of the technical record, between the Advance Notice and the Formal Notice.

Discovery by participants in the technical review process commenced immediately upon PWD's submission of its Advance Notice, on January 8. Pursuant to the schedule promulgated by the Hearing Officer, discovery was to conclude by April 18, the date upon which the record closed.

¹³ There is a provision in the Ordinance for establishing emergency rates and charges on a temporary basis pending a final determination of the Board. The Board has not had to use this provision.

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On January 12, after the Department had filed its Advance Notice, active parties participated in a conference call concerning procedural aspects of the rate review process. Participants met in person on January 21, to discuss procedural aspects of the rate proceeding and timelines for and objections to discovery requests, as well as other procedural matters. Procedural guidelines were also verbally addressed by the Hearing Officer. The Hearing Officer among other rulings provided that participants could file their technical submissions in a variety of formats, including pre-filed direct testimony such as is used in PUC proceedings.

Also, on January 21, the Public Advocate submitted an electronic memorandum concerning due process aspects of the rate proceeding. On February 9, PWD submitted a responsive memorandum. The Public Advocate responded to PWD's responsive memorandum on February 10, 2016.

A prehearing conference was held on February 18, 2016 at which Hearing Officer Brockway provided additional verbal instruction concerning procedural matters in the rate proceeding. On February 22, 2016, as provided for in the regulations, PWD presented its explanation of the reasons for its rate request to the Board, and responded to questions from the Board and participants. The Hearing Officer issued preliminary procedural rules and a schedule for the remainder of the proceedings on March 3, which were finalized, following input from participants, on March 9, 2016. A further prehearing conference call was conducted on March 28, 2016 to address the scheduling of witnesses for technical hearings.

Technical hearings were held February 22, April 5, April 6, April 7, April 11, April 12, and April 13, 2016 at 1515 Arch Street, 18th Floor, Philadelphia, Pennsylvania. All hearings were open to the public and were advertised consistent with Rate Board Regulations and the Hearing Officer's directives.

Transcripts of the hearings are available on the Board's web site. Consistent with the Board Regulation Section II(6)(f)(1), the record was closed on April 18.¹⁴ Under the Board regulations, participants had 14 days after the close of the record to file summaries. Section II(8)(a)(2). The Hearing Officer specified that the summaries could be in any format that best communicated the participants' views on the issues in the case, and some were filed in the format of briefs, and/or proposed findings of fact and conclusions of law.

The Hearing Officer was to file her report within 7 days of the participants' summaries, after which the participants were to have seven days to comment, pointing out errors or omissions. The Hearing Officer's report came over the course of a number of days beginning Monday, May 9, and the participants' comments were thus staggered over the week following. The Hearing

¹⁴ To resolve a discovery dispute between PWD and Drexel Law School's Community Lawyering Clinic (CLC), however, discovery was continued until April 22, 2016, for the limited purpose of permitting PWD to respond to outstanding requests by CLC. See Hearing Officer Decision on Discovery, April 18, 2016.

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Officer made no recommendations, but summarized the record and participants' positions on the various issues before the Board.

The Board's Report incorporates relevant portions or summaries of the Hearing Officer report. The Board made determinations by majority rule. A tally of votes on contested issues in the review is attached as Appendix D.

The Ordinance and Regulations provide that the Board decision must be issued no longer than 120 days from the Department's filing of the Formal Notice,¹⁵ and the Board's decision must be issued at least 10 days before the effective date of the new rates.¹⁶ The Board is issuing its decision on June 7, 2016, which is 120 days from the Department's filing of its Formal Notice, and more than 10 days before the proposed rate-effective date, July 1, 2016.

C. APPEALS

Any part[y] to the proceedings of the Board affected by the Rate Report may appeal to the Court of Common Pleas in Philadelphia. Appeals shall be made within thirty (30) days of the filing of the Board's Rate Report with the Department of Records.

¹⁵ Board Regulations I(b).

¹⁶ Board Regulations Section II(9)(d).

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II. REVENUE REQUIREMENTS

A. OVERVIEW

This section of the Board's Report works through the adjustments proposed by various participants in the technical hearings that would increase the forecast revenue or reduce the forecast expense, and in turn lower the revenue requirement and the rates. The Department built its projection of revenue requirements on its 2016 budget.¹⁷ Its consultants, Black and Veatch (B&V), used the budget as inputs to their model of the finances of the Department. Black and Veatch have provided this modeling service and consulting to the Department for many years. To take account of inflation and growth, B&V escalated the 2016 budget numbers for FY2017 and FY2018.¹⁸ Some of the 2016 numbers were replaced by particular estimates of anticipated costs during the rate years. Some of the 2016 numbers were adjusted using escalation factors unique to their costs. Anticipated new expenses were added to the model.¹⁹

Black and Veatch provided the results of their modeling in testimony. They provided their workpapers, and responded to numerous requests for information from the participants in the technical process. In the development of the technical record, participants proposed adjustments to the inputs used in the model, supported by expert witness testimony. The result of such adjustments would be to reduce the forecast revenue needs of the Department. In turn, if the Board were to accept the participants' adjustments, the rates could be reduced below those sought by the Department.

It is important to understand that if the Board approves a proposed downward adjustment to the revenue requirements, that does not mean that the Board has set the revenue requirement below the cost to the Department (or lower than its target for financial stability). Rather, it means that the Board is persuaded by the participant offering the adjustment that the expenses in the two rate years will be lower. The Board has not "disallowed" any expenses, and has approved a revenue requirement and associated rates that covers "at least an amount equal to operating expenses and debt service on all obligations of the City in respect of the water, sewer, storm water systems and, in respect of water, sewer and storm water revenue obligations of the City,

¹⁷ Under the City budgeting process, the actual spend for a given fiscal year is determined after the close of the books. Reconciliation to targets is then accomplished by access to the Residual Fund and the Rate Stabilization Fund.

¹⁸ The Department runs the forecast out for five years, the period of its Financial Stabilization Plan, so that near term results and forecasts can be evaluated in the context of likely out-year needs and resources. The Department presented its five-year forecast to the Board for its consideration in determining the revenue requirements for FY 2017 and FY 2018. But the Board was not called upon, and did not determine, the requirements and associated forecast rate needs for the out years.

¹⁹ These adjustments to the expenses used by the model are called "pro forma" adjustments in regulatory jargon.

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such additional amounts as shall be required to comply with any rate covenant and sinking fund reserve requirements...”

B. REVENUE GROWTH

1. SUMMARY OF ARGUMENTS

PWD’s rate filing projects an annual decrease in customer usage, based on a 5-year average compound growth for all services. The forecast includes a projected reduction in revenues from residential and commercial customers served by 5/8 inch meters. The forecast reduction in usage in turn causes PWD to project a decrease in revenues.

According to PWD the decrease in usage is primarily driven by its projection of an annual reduction of 1.5 percent annually in the usage per account associated with 5/8” meter General Service Customers (which includes residential customers).

The PA argues that PWD should instead use a three-year usage growth rate as the basis for projecting future usage (and associated revenue). The three-year average preferred by the PA does not show the decrease forecast when using a five-year average as PWD prefers. The PA argues that the shorter period produces a more reliable forecast, because it gives more weight to two recent years of relatively stable and higher usage. The PA calculates that using a three-year growth rate for 5/8” customer usage, as it recommends, would reduce the revenue requirements by \$5,960,000 in FY 2017 and \$9,493,000 in FY 18.²⁰

CLC and TURN argue that inconsistent and poor intake, service access (especially in tangled title situations) and collection practices have reduced the number of paying accounts below that which could be achieved, thus reducing revenues by the Department’s own actions. CLC provides evidence suggesting that disconnections occur disproportionately in African-American neighborhoods. Other than a brief and general argument that the Board has no jurisdiction over customer service practices, PWD did not address the arguments concerning depression of the numbers of paying customers as a result of poor service.

As to estimation of the growth rate, PWD states that it chose the five-year average usage per account to ensure that it was avoiding annual fluctuations that occur as a result of “climate changes like year to year, whether it was a wet year or dry year, whether to reflect customer usage pattern changes over the period of time.” PWD also cites its experience with the system as

²⁰ The dollars associated with all the adjustments considered below were estimated without the PWD having rerun its financial model to capture any associated changes. The dollar values have been run through the Black and Veatch model to determine net impacts, in order to set rates based on an adjusted revenue requirement.

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a reason to rely on its judgment of likely future usage. PWD asks that the Board reject the adjustment to future growth and revenues proposed by the PA.

2. *BOARD DECISION*

Board members found merit in the arguments of both PWD and the PA regarding the value of 3-year and 5-year historical experience to forecast usage. The Board reviewed the table submitted in the record by PWD, showing the actual usage of 5/8" customer meters for the fiscal years 2011 through 2015, shown below. See, PWD Exhibit 6 (B&V Workpapers, Customer – 4).

	FY 2015	FY 2014	FY 2013	FY 2012	FY 2011
Billed Volume Per Account	7.31	7.26	7.54	7.32	7.85
Annual Change	0.69%	(3.71%)	3.01%	(6.75%)	(0.51%)
3 Year Average Change	(0.05%)	(2.57%)	(1.50%)		
5 Year Average Change	(1.52%)				

Upon review of the actual annual, three-year and five-year changes in usage, the Board adopted a mid-ground estimate of the decrease in usage by 5/8" meter customers, at 1% per year for each of the two years of the rate period.

C. **LIQUIDATED ENCUMBRANCES**

1. *DEFINITION AND AMOUNT IN PWD FILING*

An encumbrance is an expense that is anticipated to be charged to the Water Fund. Liquidated encumbrances represent cancelled commitments. The Department's budgetary...statements treat liquidated encumbrances as contra-expense.

Testimony of Melissa LaBuda, PWD St.-2 at 16.

In projecting future operating expenses, PWD applies a ratio of liquidated encumbrances to expenses, reflecting that it expects that certain expected expenses would not, in fact, be incurred. A higher ratio results in less expense, and a lower revenue requirement. In this rate proceeding, PWD used a 12% liquidated encumbrance ratio for Services (Class 200) and Materials and Supplies (Class 300) for FY 2017-2018. PWD witnesses from Black and Veatch explained the basis for this 12% ratio as follows: "per discussions with the Water Department, 12% was used

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to project liquidated encumbrances as this more closely aligns with recent experience and the targeted budgetary amounts.” PA-EXE-21.

2. *SUMMARY OF ARGUMENTS*

The PA submits that the Board should adjust PWD’s estimation of its liquidated encumbrance ratio for these two classes to reflect a reasonable projection for the period during which these rates are expected to be in effect. PA submits that PWD should have used an average of the most recent three years to develop its estimate. This would have shown a liquidated encumbrance ratio of 19.29%,²¹ rather than the 12% estimated by PWD on the basis of a five-year average. PA St.-1 at 31, line 23, through 32, line 2.

Alternatively, the Public Advocate recommends that, in the event the Board agrees with PWD that FY 2013 and 2014 should be considered outliers and disregarded, the projected liquidated encumbrance ratio should be calculated by excluding the results for FY 2013 and 2014, and averaging the remaining three years of actual data provided by PWD: FY 2011, 2012, and 2015. The average of the remaining three years of actual data provided by PWD, FY 2011, 2012, and 2015 would be 14.28%, as the estimate for FY17. The PA then recommends applying a 3% escalator for FY2018. The PA’s alternate estimate produces forecast reductions in liquidated encumbrances of \$9,333,449 and \$9,613,453, respectively.

The Department maintains that the use of a three-year average is inappropriate in this case because of a change in City policy related to the liquidation of encumbrances during the recent three-year period used by the Advocate in its primary recommendation (FY 2013-2015). PA-EXE-21; See, Tr. 172-173 (4/5/16). According to the Department, this policy shift caused a higher level of liquidated encumbrances in FY 2013 and FY2014. April 5, 2016 Tr. at 42, lines 7-16. The Department argues that using the recommended 3-year period, with its atypical years, would skew the calculation of the historical average. PWD states that the 12% rate “more closely aligns with recent experience and the targeted budgetary amounts.” PA-EXE-21. The PWD argues that the PA’s proposed adjustment to liquidated encumbrances should be rejected.

3. *BOARD DECISION*

The Board reviewed the various proposals for taking into account the actual historic experience of the Department with liquidated encumbrance levels. The Board noted that the atypical years FY 13 and FY14 should not be reflected in the estimates. The Board determined that the liquidated encumbrance percentages should be 14.28% in FY17, and 12.5% in FY18. The first is the average of the experience in FY 2011, 2012, and 2015, and the second is the percentage for the most recent year for which actual encumbrance figures are available (FY 15). PA EXE-21.

²¹ The PWD estimates the 3-year average as 19.23%, rather than 19.29%. PWD Proposed Findings of Fact and Conclusions of Law, No. 134.

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D. PAYROLL SPEND FACTOR/PENSIONS

The payroll spend factor is an escalator applied to the FY 2016 budget to develop the payroll spend for FY 2017 and FY 2018. The Department applied the factor to 100% of the 2016 budget items to develop forecasts of payroll spend in FY2017 and FY2018

1. SUMMARY OF ARGUMENTS

The Public Advocate argues that the Board should take the amount set out as the expense for payroll, and reduce it to reflect the fact that the Department does not have on staff 100% of the persons the Department thinks are necessary to operate the PWD. PA St.-1 at 23, lines 6-12. In addition, the PA argues that the Department's amount is not supported by historical spend factors. The Advocate's recommendation to use a three-year average is based on two factors – demonstrated staffing challenges and historical spend factors. According to the PA, data from PWD shows that from FY 2013 through FY 2016, the Department has never been able to fill 100 percent of its budgeted positions in any one of those years, and the escalation factor should be applied to the actual budget level of payroll spending. Id., at 23, lines 13-16. The PA estimates the effect of its proposal at roughly \$5 million in each year of the proposed rates.

To reflect the effect of the PA's proposed lower estimated payroll spend on PWD's pension obligations, PA's witness proposed using a 3-year historic average for these costs as well. PA St.-1, at 24, lines 11-15.

PWD responds that its budget estimation of future costs already takes into account the fact that the Department is never fully staffed. Tr. 53 (4/5/16). For this reason, the Department argues that no reduction should be made to the payroll expenses used in the model.

2. BOARD DECISION

Based on the testimony of PWD witnesses, the Board finds that the payroll spend starting amount already reflects the fact that vacancies and delays in hiring lower the budget from the amount that would assume no vacancies or delays. The Board rejects the PA adjustment to the payroll spend. The Board also rejects the adjustment to pension costs that was proposed by the PA on the basis of its forecast payroll adjustment.

E. BILLING ADJUSTMENT FACTOR

In its filing, PWD applied a "billing adjustment factor" that decreases the revenue estimated to be received in billings (and thus increases the revenue requirement). PWD states that the purpose of adding the billing adjustment is to provide an allowance for risks associated with the assumptions used in the development of billing as projections.

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1. *SUMMARY OF ARGUMENTS*

The PA objects to a proposed “billing adjustment factor” applied to projected sales. Summary of Adjustments at 2; PA Statement 1 at 19. PWD states that the purpose of adding the billing adjustment is to provide an allowance for risks associated with the assumptions used in the development of billing as projections. Tr. 183:6-184:7 (4/5/16); PA-EXE-194. The PA states that the adjustment is not a “known and measurable” adjustment and under standard ratemaking principles should not be included. The Public Advocate does not concede the existence of any actual risk, and identifies the Billing Adjustment Factor as an unnecessary rate inflation device which would contribute excess funds to the Rate Stabilization Fund. The Public Advocate’s position is that, even if this risk were to materialize, the Rate Stabilization Fund exists for purposes of mitigating it.

The Department maintains that the use of a billing adjustment factor is a reasonable factor of safety to provide a small allowance for potential negative impacts to the various assumptions included in the projection of revenue from service billings, including projected billed volume per account, customer usage patterns (billed volume distribution), and collection factors. The Department also identified the potential risk from one of these factors (billed volume per account), and noted that in itself this risk exceeded the requested allowance.

2. *BOARD DECISION*

The Board adopts the PA’s recommendation to eliminate the billing factor adjustment, included by PWD to protect against potential negative effects in the projected bill volumes. The Board determined that other factors exist in the filing, such as a Rate Stabilization Fund presently at over \$200 million, to guard against the risk of inadequate net revenue, and the billing adjustment factor is unnecessary.

F. **WRAP**

1. *SUMMARY OF ARGUMENTS*

PWD requests \$4 million in higher rates as an “additional adjustment” to fund its longstanding, preexisting low-income program (the Water Revenue Assistance Program, or WRAP) in FY 2017. The PA argues that this program has been funded under current rates for many years, and that PWD does not propose to increase the size of the program. PWD Exhibit 5, at 7 (Figure 6). The PA argues that the revenue requirements set in the last rate case included WRAP costs.

According to the PWD, City Grants were not incorporated in prior budgets and are only applicable to FY 2017 (last year of the program). Tr. 62:9-66:6 (4/5/16). PWD also notes that PA’s witness also claims this same amount (\$4.0 million) for City Grants as an offset to IWRAP costs, citing PA Statement 3 at 30.

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2. *BOARD DECISION*

The Board determined that the PWD adjustment of \$4 million in additional WRAP costs will be needed in FY17, as the PWD winds down the WRAP program, to be replaced eventually by the IWRAP program required by the Council, which is to take effect at the beginning of FY18. (discussed below).

G. **SMIP AND GARP**

1. *SUMMARY OF ARGUMENTS*

The Department initiated the Stormwater Management Incentive Program (“SMIP”) Grant in 2012. This program provides grants to nonresidential property owners to pay for designing and building stormwater retrofit projects. When completed, these projects produce greened acres that PWD can count toward the compliance requirements specified in the 2011 Consent Order and Agreement (COA) with the Pennsylvania Department of Environmental Protection. In 2014, the Department added a second program called the Greened Acres Retrofit Program (“GARP”), which helped to grow the Department’s incentive programs by providing stormwater grants directly to project developers or aggregators. In its filing, PWD includes \$3.55 million as an annual additional adjustment to revenue requirements, to increase incentives and grants under its SMIP and GARP programs.

The PA argues that the Board should deny PWD’s request for additional pro forma expense recovery for SMIP/GARP. The PA argues that the Department has increased funding for these programs in the past and had sufficient funding for them without a rate increase, citing April 7, 2016 Tr. at 32, lines 17-20. The PA also argues that until FY2016 is concluded, it is unclear what the future costs will be, and whether PWD can feasibly utilize the additional funds for these programs over the projected rate period. For these reasons, PA states that the PWD should show there is sufficient demand before increasing rates.

PennFuture on the other hand recommends that the Department’s proposed budget for its SMIP and GARP stormwater incentive programs should be increased to at least \$16.5 million in FY 2017, and \$18 million in FY 2018. Beyond FY 2018, additional increases may be warranted according to PennFuture, depending on the results realized in FY 2017 and FY 2018.

PWD argues that the additional revenue requirement for SMIP/GARP (\$3.55 million additional revenues each in FY 2017 and 2018, for a total of \$15 million annually for SMIP/GARP) would provide the necessary resources to keep the City and PWD on course to meet the 10-year interim milestone requirements of the COA with the PaDEP. PWD further argues that the proposed increase reflects a well-considered estimate of future expenses for SMIP and GARP based on actual experience of the manager of the program and what she considers necessary to cover the anticipated applications, citing Tr. at 32:16-33:5 and 46:20-47:21 (4/7/16).

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2. *BOARD DECISION*

The Board rejected the PA's proposed elimination of the additional SMIP/GARP expense, and rejected PennFuture's proposal to increase the SMIP/GARP expense. The Board finds that increased funding for these programs to the levels recommended by program managers is important for the successful fulfillment of the PWD's obligations under the COA.

H. CSO REIMBURSEMENT OF CITY GENERAL FUND

1. *SUMMARY*

PWD reimburses the City of Philadelphia's General Fund for upfront payments [tax credits] given to a taxpayer who constructed a needed combined sewer overflow (CSO)²² management project. PWD Hearing Exhibit 4 at 1; Tr. 35-36 (4/6/16). PWD requests a rate increase of \$1.8 million in FY 2017 and \$3.5 million in FY 2018 for such payments. PWD Statement 9B Ref# BV-S1 at 7. The Public Advocate submits that the timing of payments for this obligation is uncertain, rendering them unsupported. The PA also states that there is no basis for the Board to conclude that PWD requires additional service revenues to continue to meet an obligation that was, or should have been, specifically identified in PWD's last rate proceeding, and which PWD has been able to satisfy under existing rates.

2. *BOARD DECISION*

The Board approves the Department's proposal to increase revenue requirements by \$1.8 million in FY 2017 and \$3.5 million in FY 2018, to reimburse the City for tax credits given as a result of the construction of a combined sewer overflow project. The reimbursement is contractually required under the Sugarhouse tax settlement agreement. Under Section 10 of the agreement, Sugarhouse is entitled to offset against its tax settlement payments the costs of its work on the former Laurel Street Combined Sewer Overflow. PWD Hearing Exhibit 4 at 1; Tr. 35-36 (4/6/16).

I. NEW STAFFING IN MULTIPLE DEPARTMENTS

1. *SUMMARY*

PWD states that additional staffing is required during the Rate Period for a variety of reasons such as (1) adding an accountant position in the Finance division; (2) adding a construction projects technician, executive assistant and head of security for the Human Resources and Administration division; (3) adding staff for the Planning and Environmental Services division to address increasing regulatory requirements; (4) additional staff in the Customer Field Service

²² A Combined Sewer Overflow is a pipe that carries stormwater and diluted wastewater. In older sections of the City, both wastewater and stormwater are conveyed in one pipe to the sewage treatment plant. This is known as a combined system. During certain rain events, the additional stormwater exceeds the capacity of the collection system and/or wastewater treatment plant and causes an overflow. The excess stormwater/wastewater mix known as combined sewer overflow ("CSO") discharges directly to local waterways.

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Unit and (5) an additional staff position at Public Affairs for a Creative Affairs Director. PA-ID-1; PA-ID-8; PA-ID-13; PA-RDC-50, 51; PA-EXE-110; PA-ID-8; and PWD Hearing Exhibit 4 at 3. PWD proposes an increase in payroll costs to cover the needed positions.

The PA opposes PWD's proposed adjustment to account for expected new hiring in a number of PWD functions. The PA points to the difficulty in knowing whether or when a position would be filled and argues that for this reason, the adjustment is not known or measurable.

2. BOARD DECISION

The Board approved the Department's upward adjustment to cover the costs of new positions, noting that the Department was in the best position to evaluate the need for such personnel.

J. ONE-TIME ADDITIONAL MAINTENANCE EXPENSE

1. SUMMARY OF ARGUMENTS

PWD asserts that an additional upward adjustment of \$1.3 million to revenue requirements in FY 2017 and \$1.2 million in FY 2018 should be approved, to reflect certain one-time maintenance expenses. PWD Exhibit 5, Figure 6; PWD Hearing Exhibit 4. This adjustment is part of a proposed total of \$4.7 over the two rate years to cover Operations Division abatement, process, and maintenance additional expenses. The Public Advocate argues that PWD fails to provide sufficient information to substantiate the expenses. The PA also argues that this category of costs has been reflected already in the cost of service, citing the fact that the requested amounts are based on historical experience. PWD repeats its statements that it needs to perform various enumerated maintenance projects, without further discussion, in a section of its Summary that also deals with other Operation Division expense items challenged by the PA.

2. BOARD DECISION

The Board rejected the inclusion in the revenue requirements of the additional maintenance costs, reasoning that the revenue requirements were already captured in the 3% escalation factor for this expense.

K. ADDITIONAL EQUIPMENT EXPENSE

1. SUMMARY

The PA argues that the PWD fails to provide information necessary to verify its proposed pro forma \$100,000 annual expense for additional equipment such as LED fixtures. The PA further argues that the placement of these fixtures reflects ongoing expense, rather than an additional expense which has not previously been encountered. PWD argues that the additional funds are necessary for additional services, including equipment costs. PWD Hearing Exhibit 4 at 2.

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2. *BOARD DECISION*

The Board determined that the Department had not sufficiently justified adding \$100,000 to its revenue requirements to cover the additional equipment, and upheld the PA's objection.

L. FACILITIES ADMINISTRATION

1. *SUMMARY*

PWD's filing includes an additional \$998,000 in facilities repair and maintenance expense. PWD submits that the amount was inadvertently omitted from the FY 2016 budget, which forms the basis for the Department's requested revenues. PWD Hearing Exhibit 4. The PA argues that the additional amount is based on the faulty premise that the Department's budget should dictate needed revenues. PA also argues that PWD's current rates were set in FY 2012, and have been sufficient to cover facilities maintenance expense during the last four fiscal years, and that the Department does not claim these were additional expenses beyond what was contemplated when rates were previously determined. The Department argues that it is seeking funds for additional facility and maintenance costs that are necessary to maintain Department facilities and provide continuous quality services. PWD Hearing Exhibit 4 at 2.

2. *BOARD DECISION*

The PA does not challenge the dollar amount, but rather argues that the ability of the Department to cover these expenses under rates in existence demonstrates that they are not incremental to the underlying FY2016 budget used by the Department as its starting point in estimating costs during the rate period. The Board approves the PWD adjustment for needed facilities maintenance.

M. CHEMICAL ESCALATION FACTOR

1. *SUMMARY*

PWD indicates that its chemical costs are projected to increase by 3.3% annually for FY 2017-2021. The escalation factor was based on the most recent three-year average of PWD chemical costs. PWD included additional chemical costs to cover phosphoric acid necessary for the Northeast Water Pollution Control Plant (WPCP) to support the microbiological health of the secondary treatment during colder weather. PWD Hearing Exhibit 4.

The PA argues that, as with the additional maintenance, equipment and facilities administration expenses, PWD has provided insufficient information to verify these pro forma expenses. Further, the PA argues that the occurrence of events requiring these expenditures in past years indicates that these expenses would have been included in its forecast for future chemical expenses based on actual payments. According to the PA, the inclusion of an additional adjustment for chemical expenses would realize the potential to overstate costs for this category. The PA states that the occurrence of events requiring these expenditures in past years indicates

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that these expenses would have been included in its forecast for future chemical expenses based on actual payments.

PWD counters that, since the chemical cost projections presented by the Department in the record are representative of actual experience according to PWD, they should be the preferred basis for rate setting. PWD states that generic industry escalation factors which the PA states covers these costs would be more appropriately used in the absence of historical data for the utility. PWD states that it has actual experience upon which to base its projections. Tr. 71-72 (4/13/16).

PECO/Exelon disagrees with PWD concerning the proper baseline to which any escalation factor would be applied. Once PWD finalized the FY 2015 chemical expense at \$19.3 million, PECO/Exelon argued that it should use this figure as the starting point for its escalation of the actual chemical expense, rather than the \$22.3 million proposed by PWD.

2. BOARD DECISION

The Board rejected the proposal of PECO/Exelon to use the FY2015 chemical expense figure as the starting point for escalation of such expenses. The Board also rejected the PA's proposed removal of the additional chemical costs from revenue requirements, determining that the additional amount was needed for the purposes proposed, and that actual experience was a better predictor of this future expense.

N. WATER & SEWER INFRASTRUCTURE MARK-OUT

1. SUMMARY OF ARGUMENTS

PWD included an additional \$0.6 million in FY 2017, and \$0.7 million in FY 2018 to cover the costs of marking out its underground plant before an excavation may proceed. PWD plans to use the additional funds to explore whether a "one-call" arrangement could enable the Department to close out projects sooner. PWD Hearing Exhibit 4. The PA says that this efficiency initiative is uncertain, and in such a situation including these additional costs is inappropriate.

2. BOARD DECISION

The Board approved PWD's proposed addition of \$0.6 million in FY 2017 and \$0.7 million in FY 2018 to cover infrastructure mark-out costs, including the exploration of possible efficiencies in the call-out arrangements as planned by the Department.

O. ABATEMENT

1. SUMMARY

Abatements are payments or other benefits given to customers to compensate for such things as damage from a main break. PWD proposes to add \$500,000 in FY17 and \$600,000 in FY 18 to

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its revenue requirement for additional abatement expenses.²³ PWD Hearing Exhibit 4. The PA argues that these are not new risks, justifying increased customer rates. The PA also argues that the occurrence of these events in future years at a level which exceeds the historical expenditures for abatements already reflected in PWD's rate model is purely hypothetical. PWD identifies these as additional expenses, and states that abatement expenses are necessary to provide critical customer services. *Id.*

2. *BOARD DECISION*

The Board approves the additional revenue requirement amounts for additional abatements. The Commissioner testified that the Philadelphia system in recent years has averaged 5 to 7 transmission breaks a year, and overall 900 main breaks. Tr. 87: 12-20 (4/5/15). And see PA-EXE-26(c).

P. **CONTRIBUTIONS/INDEMNITY SPEND FACTOR**

1. *SUMMARY*

PWD proposes to apply a 100% spend factor to its \$6,500,000 annual budget for contributions and indemnities (such as abatements and other customer service requirements). The Public Advocate argues that the 100% spend factor is not warranted by PWD's recent actual-to-budget experience. The Public Advocate argues that the most recent three-year average ratio of actual-to-budget spends (77%) should be used, which would reduce the revenue requirement for this item by 23%, or \$1.5 million.

PWD responds that the three-year average would not be representative of future costs, because an atypical event took place in 2015, when many claims were carried over to the next fiscal year. As a result, the 2015 actual cost was \$3.8 million in Indemnities expense, compared to the \$6.5 million budgeted. PWD says more recent experience is more representative, and the level of claims in FY16 suggests that PWD could exceed the budgeted \$6.5 million by fiscal year-end (unless settlements are administratively paused until FY 2017). PWD also points out that the Department is self-insured, i.e., 100% funding is required to address abatements and other customer service requirements.

2. *BOARD DECISION*

The Board reviewed the Department's historical actual-to-budget factors, as shown below, provides the following historical spending information:

²³ Additional abatement costs provide for the replacement of household water heaters and furnaces in the event of water main breaks and sewer blockage and abatement plumbing services for customer owned service lines and laterals.

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3-Year Average	2015 Actual to Budget	2014 Actual to Budget	2013 Actual to Budget
76.75%	59.09%	92.86%	78.31%

PWD's Exhibit 5, Appendix 1 (Actual to Budget Factors), page 17

The Board rejected the PA's proposal that PWD use a 3-year average spend factor of 77%. The Board did not adopt the PWD use of a 100% spend factor. Instead, the Board determined that the 2014 Actual-to-Budget spend factor of 92.86% should be used, representing the last fiscal year of representative experience.

Q. CLASS 800 TRANSFER ESCALATION FACTOR

1. SUMMARY

PWD proposes to apply a 3% escalation to Class 800 transfers, which compensate other City departments for services provided by them to PWD. Instead the PA argues that the escalation factor for this category of expense in the Finance Department should be 2%. The PA's 2% estimate is based on the Blue Chip Economic Indicators consensus forecast of the Gross Domestic Product Price Index (GDPPI) for 2017. PA Statement 1 at 30. The Department argues that the Class 800 transfers are largely labor-related, and should be escalated at the same rate for such costs, 3%. Tr. 94 (4/5/16). According to PWD, the Advocate also over-estimates the value of its adjustment.

2. BOARD DECISION

The Board approved the Department's use of a 3% escalation factor for Class 800 transfers, as being largely labor-related.

R. CHANGE IN DEBT INTEREST RATE FORECAST

1. SUMMARY

PWD proposes using a projected interest rate of 5.25% for future debt issuances and associated payment requirements. PWD states that new money bond issues are planned for FY 2017 and 2018 (in the amounts of \$270 million and \$275 million, respectively). During the technical hearings, PWD financial adviser Clupper explained that the 5.25 estimate was derived by taking the most recent "true interest cost" and adding 100 basis points to be conservative, in light of the fact that interest rates are today at the low end of a ten-year average. Tr. 108-110 (4/5/16). The Department also states that its interest rate assumption is in-line with projected interest rates used by the Office of the City Treasurer for the Rate Period. *Id.*, p. 108. The PA argues that this figure lacks support, and that the Board should instead approve Mr. Morgan's recommendation to use a 5% interest rate, reflecting the most recent interest rate on the City of Philadelphia's General Obligation Bonds. PA Summary of Adjustments at 3.

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2. BOARD DECISION

The Board approved the use of the PWD estimate of a 5.25% interest rate on its bond issuances during the rate period, given the likelihood that bond interest rates will rise from their current ten-year low.

S. IWRAP

Both PWD and the PA took up the question of the impact of IWRAP decisions on revenue requirements in their examination of the IWRAP program, discussed separately below.

T. INTER-DEPARTMENTAL EXPENSE EFFECTS AND CONCLUSION

PWD and the PA agreed that, whatever the decisions the Board makes with respect to particular income and expense factors, the Black & Veatch model should be rerun to determine the net effect of them on revenue requirements. As PWD confirmed during the technical hearings, the Public Advocate's recommended adjustments to PWD operating and maintenance expense have impacts upon interdepartmental charges. This is because assumptions applied to departmental operations and maintenance expenses are utilized in the rate forecast model for certain interdepartmental expenses.

Once the Board made its determinations of the adjustments to the revenue requirements, PWD consultants Black & Veatch reran the model, using the adjusted inputs. Because the model captures interactions between various costs and the overall revenue requirement, the impact on revenues and rates is slightly different from the amount of the adjustments. The Board has reviewed the adjusted model results, and determined that the net revenue requirement increase and associated rate schedules meet the legal requirements for Department rates and charges.

For the purposes of this Rate Order, the Board accepts the financial indicators estimated in Table C-1 attached, for FY 2017 and FY 2018.

COST OF SERVICE & RATE DESIGN

A. PECO /EXELON PROPOSAL TO SWAP INCREASES

PECO/Exelon sponsored a witness who proposed that the percent increase for the water customers be swapped with the percent increase for the sewer customers. PECO/Exelon argued that this would move the debt coverages of the services closer to equality, which in turn would arguably would strengthen PWD overall by reducing the risk exposure to changing conditions in either service and align the revenue to cost requirements of each service on a current basis.

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PECO/Exelon also claimed that the present allocation of revenue requirements shows that wastewater customers are subsidizing water customers. PECO/Exelon further argued that the Department's debt coverages would also be improved as a result of the switch.

PWD opposed the proposal. The Department argued that in advancing his position, PECO/Exelon's witness ignored the fact that the PWD cost of service study allocates revenue requirements (including operation and maintenance expense, debt service, and capital account deposit) based on cost of service principles. As explained in the context of bond covenant requirements, the Department is also required to provide net revenues to meet the senior debt service coverage policy objectives and the Rate Covenants. PWD concluded that an arbitrary rebalancing of the total debt coverage would cause a deviation from cost of service principles and violate bond covenant requirements.

The Board rejected the proposed rate-increase swap.

B. ADVANCING CAP SUNSET

The Enhanced Customer Assistance Program (CAP) was instituted to help commercial customers manage the transition to parcel-based stormwater charges. It has provided for a decreasing discount over time off the new (higher) rates, to ease the transition. The program was closed to new applicants on September 30, 2013 (although some denied applicants were permitted to re-apply through June 30, 2014).

PennFuture requests that the Board direct that the Enhanced CAP program be terminated in three years – by the end of FY 2019 – and that in anticipation of that termination, PWD promote other ways to mitigate customers' financial burdens while at the same time providing stormwater management benefits. PennFuture also notes that the SMIP and GARP program would not be sufficiently funded to take up the customers migrating from Enhanced CAP without further funds, as recommended in its revenue requirements proposal.

PWD argues that the Enhanced CAP is helping customers transition to the parcel-based system of charging for stormwater costs, and that some customers, including some non-profit organizations and others who would not be able to participate in the SMIP or GARP alternative. PWD points out that Enhanced CAP was promised in the last rate proceeding, and is closed to new participants. PWD opposes the proposed early termination of Enhanced CAP. PWD is agreeable to enhanced outreach to Enhanced CAP customer who may be eligible for help through SMIP and GARP.

The Department rejects the proposed reduction in the term of the Enhanced CAP program.

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C. CITY-OWNED/CITY-LEASED PROPERTIES

At present, aside from stormwater, PWD rates are assessed on the basis of meter size, between 5/8" and services at a greater diameter than 5/8". All customers in the same meter size group pay the same amount per CCF of water. The PA argues that the customer classifications "City Leased Properties" and "City Government" would not be paying their fair share of costs under this uniform rate structure. Accordingly, the Public Advocate argued that the Board should approve an adjustment to the rates of City Government and City Leased Property customer classifications.

Specifically, the Public Advocate proposes that if a revenue increase is authorized by the Board in this proceeding, the two City customer classes should be assigned a revenue increase of 8.5 percent, whatever the overall percentage increase is allowed. For all other customer classes, the Public Advocate recommends that the increase in their rates be proportionately scaled back to achieve the revenue increase authorized in this proceeding after accounting for the increases to the City customer classes.

The Public Advocate and the PWD disputed how the Public Advocate's witness made his estimations. The AWWA Manual has certain tests for the reasonableness of rates in such cases, and one is a reasonable range for the "diversity factor." PWD purported to show that the PA's proposal would lead to a diversity factor outside the reasonable range. The Public Advocate challenged the PWC calculation of the "diversity factor," pointing out that without explanation or rationale, the Department changed an input in making the calculation. The Public Advocate further states that any proxy data was taken from the AWWA Manual because the Department when asked did not provide any actual data.

PWD argued that classifications and associated rates should not be changed on an *ad hoc* basis, as proposed here by the PA. PWD points to other classifications who might be argued to have rates too low or too high based on the principles the PA suggests. PWD also argues that the PA's analysis was flawed, rendering the recommendation without substantial basis.

PWD concludes that the review of the issues surrounding the contribution of these two classes raises the question whether it is time for a holistic review of the Department's cost allocation and rate design generally. However, the Department noted that such a review could be costly.

The Board rejects the proposal to charge these two customer groups on a different basis from other customers in the absence of a cost of service study and rate design analysis.

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AFFORDABILITY PROGRAM DESIGN AND ADMINISTRATION

A. ORDINANCE ESTABLISHING PROGRAM

In 2015, Philadelphia's Council and Mayor approved an Ordinance authorizing the establishment of an Income-Based Water Rate Assistance Program (IWRAP), which will go into effect on July 1, 2017. The IWRAP Ordinance specifies the following terms and conditions for this program to enhance affordability of water in Philadelphia:

§19-1605(3)(a) Monthly IWRAP bills shall be affordable for low-income households, based on a percentage of the household's income and a schedule of different percentage rates for (i) households with income up to fifty percent (50%) of FPL²⁴, (ii) households with income from fifty percent (50%) to (100%) of FPL, and (iii) households with income from one hundred percent (100%) to one hundred fifty percent (150%) of FPL, and shall be charged in lieu of the Department's service, usage, and stormwater charges.

That goal shall be achieved through a discount on generally-applicable residential rates or other bill calculation mechanism based upon each Customer's actual income and, if practicable, historical usage, in a manner consistent with applicable federal law. The percentage of income limitations to be imposed at each level by the first sentence shall be determined by the Water, Sewer and Storm Water Rate Board, which also shall have discretion to establish more, but not fewer, Low-Income tiers.

B. METHOD OF CALCULATING PARTICIPANT'S BILL

The Department in its filing proposed an IWRAP program structured as a tiered discount. The Department chose to provide different benefits for customers in each of the three tiers of poverty.²⁵ Once a customer's household income was identified, the customer was placed in one of the tiers, a percentage discount was applied to the customer's ordinary bill. For each tier, the percentage was determined by estimating the discount needed to bring the bill of typical customer in that tier with the typical usage of that tier down to the level determined to be affordable.

²⁴ The Federal Poverty Level (FPL) is a schedule of income limits for households that is used as the basis of defining affordability for many assistance programs. Income at 150% of FPL is often used as the demarcation of poverty. Levels below 150% are often used to identify the depth of poverty. The levels vary by numbers of persons in the household. Under the 2016 guidelines, for example, the maximum annual income for a three-person household in the contiguous United States is \$30,240.

²⁵ The Department did not propose a greater number of tiers than the minimum specified in the Ordinance.

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The Public Advocate offered the testimony of Roger D. Colton, a recognized expert in low-income affordability programs, who recommended a percent-of-income-payment program (PIPP), rather than the tiered discount. PA St. 3.

Both the Department and the Public Advocate argued, however, that the Board lacks the jurisdiction to determine program design and administration elements of the IWRAP. They argued that the Board's authority is limited to defining the affordable percentages of income, and requiring additional²⁶ tiers within the 0-150% range of the FPL.

The Board sought the advice of the Law Department to help understand the scope of its authority and responsibility regarding the IWRAP program design. There was not time in the proceeding for a formal written opinion of the City Solicitor, but the Law Department was able to provide a preview of the Solicitor's views on the matter in time for the Board to take this advice into account.

The Board asked the following question, and received the following answer, from the Law Department:

QUESTION: To what extent does the Rate Board have the authority to determine the specific design of the new low-income water rate program ("IWRAP") required by Section 19-1605 of the Philadelphia Code? Is the Rate Board's authority over the IWRAP design limited to the determination of the percentage of income limitations to be imposed and the number of low-income tiers to be established?

ANSWER: The Board has full authority over every aspect of IWRAP that involves current "rates and charges." The Board can and must fix the method under which IWRAP rates are calculated.

Based on this advice, the Board determined that it could and must determine how an IWRAP customer's rate is calculated, and that this in turn required the Board to look at the two program designs to evaluate the ways in which they derived the IWRAP customers' ultimate rate.

C. AFFORDABILITY TARGET

The IWRAP Ordinance provides that the Board shall determine the percentage of an IWRAP customer's income deemed affordable. The PWD and PA proposed percentages that rose with the level of a customer's income, but the particular percentages were different. Each proposal began with a 2% level of affordability for the lowest income tier, 0 – 50% of FPL. The Board approved the set of percentages proposed by the witness for the PA: 2% for participants with incomes between 0 and 50% of the FPL; 2.5% for participants with incomes between 50 and

²⁶ And therefore narrower.

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100% of the FPL; and 3% for customers with incomes with incomes between 100 and 150% of the FPL. PA-RDC-60.

D. TIERED DISCOUNT VS. PERCENT OF INCOME PAYMENT PLAN

As noted above, the PWD proposed a tiered discount program. The Public Advocate argued that this method of defining an IWRAP customer's bill violates the IWRAP Ordinance, because it undermines the ability of the proposal to fulfill the IWRAP Ordinance's affordability mandate. The PA notes that the tiered discount presented by the Department derives affordability levels based on hypothetical data (such as usage for customers within a given tier), rather than the customer's actual usage and income. With a tiered discount, the PA argues, PWD's tiered discount program will result in both over and under subsidization of IWRAP bills. Some IWRAP participants would receive a greater discount than is required to make their bills affordable, while others will not receive enough of a discount to render their bills affordable.

Under the IWRAP proposal put forward by the Public Advocate, applicants would be sorted by income into the same three tiers as those proposed by the Department. There the similarity would end. The Department²⁷ would then determine the amount of payment by the household that would equal the percentage of the household's income deemed affordable for that tier. That amount would be the bill for the household,²⁸ until circumstances changed.²⁹

The Department argued that its tiered discount program met the requirements of the IWRAP Ordinance, and that it would be more manageable to administer than a PIPP. The Department and the Water Revenue Bureau noted that they have offered a discount program for low-income water customers for some time, the WRAP program. The WRAP program is being phased down and replaced for most participants by the IWRAP benefit.³⁰ But the PWD and the Water Revenue Bureau point out that they have experience through the WRAP program with calculating and applying discounts. PWD states that a PIPP would be a novel approach, and harder to manage.

²⁷ Through the Water Revenue Bureau. 19-1605(6).

²⁸ PA witness Colton explained that "...that a percentage of income plan does not calculate discounts. A percentage of income plan calculates the bill. And the discount is simply used in a back-office type of way in determining the costs to be recovered from program nonparticipants". TR 106:16-21 (4/13/06). While the issue was not put before the Board, it may be noted that PIPPs run by utilities regulated by the PA PUC take the calculated bill amount and translate it into a discount. 69 Pa. Code 265(2)(i).

²⁹ In both the Department tiered discount and the PA PIPP, eligibility would be reviewed annually.

³⁰ The IWRAP Ordinance provides that "Prior to enrolling a customer in IWRAP and upon each recertification of eligibility, the Department shall determine whether, on the basis of such customer's monthly bills, the customer would receive more affordable bills under another available payment agreement or rate discount. In such event, the Department shall provide the customer with such more affordable payment agreement and rate discount, if applicable, in lieu of IWRAP." 19-1605(3)(c). Thus, WRAP may continue to provide a discount to those IWRAP-eligible customers who would receive a more affordable bill under WRAP. Senior discounts will also continue to be available, and may be applied instead of IWRAP if the bill is more affordable under the Senior Discount.

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The Board reviewed the evidence concerning the two means of calculating a customer's IWRAP rate. It was observed that the IWRAP method only requires one administrative step to establish the rate: determine the income of the household (and thus what tier of the FPL the customer's income is in); the affordability percentage for participants in the customer's tier of the FPL is applied, and the result is the bill.

After consideration, the Board determined that the PIPP would better meet the purposes of the IWRAP Ordinance, and based on the steps needed to determine a customer's rate should be simpler to manage.

E. MINIMUM BILL

The PA and the PWD agreed that a minimum bill of \$12 should be charged to IWRAP customers. The Board approved the charge.

F. ARREARAGE FORGIVENESS

The PA proposed that, for customers with incomes between 150% and 250% of poverty, the Department provide an earned arrearage forgiveness program. Under the proposal, if such a customer paid 4% of income each month, a portion of pre-IWRAP arrears would be written off. The Board discussed whether it would entertain these and related topics if permitted to do so by the Law Department. The Board consulted the Law Department, which advised that requiring such abatements was beyond the jurisdiction of the Board. The Board accepted the advice of the Law Department, and determined that it would not consider arrearage forgiveness for the 150 to 250% of FPL. Since the point was moot, no vote was taken.

G. LOST REVENUE ESTIMATE

The PWD and the PA differed on the extent to which the application of the discounts from the IWRAP program would create "lost revenues" – amounts that would have been billed to the IWRAP participants but were not billed because of the application of the IWRAP affordability percentages. These lost revenues would then be recovered from all customers. The PA estimated the IWRAP lost revenue amount at \$9.0002 million,³¹ and the PWD estimated it to be \$16.3 million. PWD St. 8, p. 5 and Tr. 120: 10-20; 142:6-12 (4/13/16). The Board adopted the PWD estimate.

H. IWRAP COST OF ADMINISTRATION

³¹ The total figure for lost revenues cited by Mr. Colton usually includes the \$4 million WRAP expense, for a total of \$13 million.

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The PA and the PWD disagreed as to the funds needed to administer the IWRAP program. The PWD estimate was based on the continuation of the current staff of nine employees responsible for implementing the current low-income programs, 2.5 new positions for information technology (IT) support to keep the billing system in optimal working condition (new IT positions), and 22 new employees who would be responsible for implementing the new program (new non-IT positions). The PWD estimated the ongoing cost of administration to be \$2.8 million. The Department also projected approximately \$1.1 million per year of start-up costs for the first two years. PWD argued that the amount was reasonable and supported by the testimony and other substantial evidence in the record. PWD Statement 8 (J. Davis) at 4-5; Tr. 6:16-22:24, 35:19-37:5, 44:10-45:13, 49:4-58:12, TR-9, Tr. 66:9-18, 142:21-143:16 (4/12/16).

The PA contended that the Department could use its WRAP money to fund its start-up costs, and that on an ongoing basis, no more than 10% of the cost of the program should be used for administration. The PA also argued that the Department could reduce costs by outsourcing the intake, eligibility qualification, and PIPP determination to agencies such as those performing these tasks for utilities subject to PUC jurisdiction. The Department replied that outsourcing would be a practical impossibility.

The Board accepted the PWD's detailed estimate of costs to start and run the program during the rate-effective period. With regard to outsourcing, the Board noted that the City Solicitor has advised the Board that it does not have the power to direct how the Water Department provides service. See Appendix B, p. 4, answer to question 4.

I. COST RECOVERY MECHANISM

The Department proposed that the IWRAP costs be recovered in the same manner as other costs. The PA proposed a reconciling rider to recover the costs, which would automatically increase or decrease as the costs increased or decreased (as with greater or lesser subscription). The PWD opposed the Rider concept as difficult to administer given City budgeting requirements. The Board rejected the proposed Rider. Tr. 133-137 (4/13/16).

J. REPORTING ON BILL COLLECTION

The Public Advocate's witness urged the Board to require the Department to gather information related to debt collection and customer service. Such information would include tracking and reporting data on whether the payments on bills rendered to IWRAP participants improve with respect to their complete, timely, regular payments as a result of participation in IWRAP. The PA also asked the Board to direct the Department to track the extent to which bill payments improve such that they reflect greater efficiency (i.e., greater collections per unit of collection effort; fewer units of collection effort per amount of collection). Based in part on the advice of

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the Law Department that the Board did not have authority to direct the Department's bill abatement practices, the Board did not take up these suggestions.

III. CUSTOMER SERVICE

A. CUSTOMER SERVICE CONCERNS AND PROPOSALS

Several participants have pointed to serious issues with the customer service experienced by themselves or their clients. The participants and commenters at the public hearings also complained that customers and prospective customers are subject to onerous preconditions for service, preconditions not demanded of PGW or PECO customers.³² They describe inconsistent administration of the requirements for service, poor intake and call-answering quality (shunted around, cut off, etc.), failure to make it possible to take an issue up with a higher authority, and other forms of poor customer service.

Commenters at the public hearings and in writing, as well as the participants, say these problems deprive Philadelphians of the right to water. The participants argue that the Board should not approve a rate increase until these problems are corrected. Participants also argue that the Board should direct the Department to take certain steps to remedy these problems.³³

The PA introduced the Schumaker and Company evaluation of customer services and field activities, prepared for the department.³⁴ The study made a number of observations, among them the following:

- Finding II-6: Multiple call centers confuse and anger customers, reduce staffing efficiency, and increase costs. Having multiple answering points staffed by agents with differing skills is a prescription for awful customer service, and is a main driver of inefficiency.³⁵

³² The CLC description of the differences between service applications for PWD and for PECO and PGW is attached as Appendix C. The Board provides this by way of example of customer concerns, and makes no finding or determination regarding its accuracy.

³³ The Public Advocate also stresses that many of these issues were to be the subject of mediation, agreed to as part of the settlement of the last rate case. The Public Advocate avers that the terms of that Agreement have not been met. The Law Department has advised the Board that it has no authority to condition decisions in this rate case on determinations of whether the Department met the terms of settlements or mediations in those earlier cases. Accordingly, the Board did not entertain proposals to condition a rate increase on specific changes in customer service.

³⁴ References to PWD here include references to the Water Revenue Bureau of the Department of Taxation, which handles many of the billing and collecting functions for PWD.

³⁵ The report provides an example of a woman caller who "was reduced to tears" after being transferred to "multiple call centers" and speaking with "agents with differing and limited skills." PA-RDC-70 at 35. Schumaker cautioned that "It would be a mistake to dismiss this call as exceptional," as the evaluator "listened to many examples of

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- Finding II-10: Training and development for call center agents at the PWD and WRB call centers are inconsistently and infrequently conducted and are insufficient to adequately train agents.
- Finding II-11: Agent monitoring and associated coaching and development are infrequent and inconsistent among call centers and supervisors.
- Finding II-19: The satellite intake staff has limited access to supervisors.
- Finding II-24: Intake staff indicate that call center staff do not provide appropriate documentation information to customers when customers must visit an intake office.

Both TURN and the PA argue that poor customer service practices have led to under-collection of revenues. TURN states that PWD's notice to tenants pursuant to the Utility Services Tenant Rights Act (USTRA), P.L. 1255, No. 299, is inadequate; that PWD makes it difficult for tenants without written leases to apply for service; and that PWD cannot maximize its income because it does not track USTRA revenues.

Mr. Colton discusses in his testimony for the PA the City's problem of decreasing rates of collections on billings, as shown in its collectability studies.³⁶ Mr. Colton recommends that the Department engage in fundamental proactive bill collection planning processes. As part of this planning, the PA recommends that PWD undertake a customer segmentation study for purposes of determining the causes of, and appropriate responses to, inability-to-pay. Mr. Colton testified that studies such as this have shown that automatic and harsh collection methods may produce the illusion of action (more disconnects) but with no corresponding improvement in collection of money or reduced arrears.³⁷

During public input hearings, and in emails and letters, customers urged the Department to provide a paperless billing option and to make online payment easier and at no cost. March 1, 2016, Tr. at 58, line 1, though 60, line 10; April 7, 2016 (Public Input) Tr. at 42, lines 14-22 (Councilwoman Blackwell). With the great demands on the call center and intake offices, as discussed earlier, the Department should explore the expansion of electronic options for customers to interact with the Department.

According to the PA, the Board should order the Department to do the following:

callers who spent a great deal of time on the phone trying to explain their issue only to be transferred somewhere else." *Id.* at 36.

³⁶ PA. St. 3 at 63-64, citing City Responses to PA-RDC-6, and PA-RDC-81(c)-(d). ⁸² PA. St. 3 at 64-69.

³⁷ *Id.* at 65-68.

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- Proceed in earnest with implementing the recommendations in the Schumaker Report, providing quarterly reports to the Board and Public Advocate on the progress of this effort, including enforceable deadlines and meaningful sanctions should those deadlines not be met.
- Begin, no later than six months after a final decision in this proceeding, reporting basic consumer credit and collection activities and outcomes.
- Hold regular quarterly public input hearings through which the Board can directly hear comments from the public, including the Public Advocate, on customer service issues.
- Begin, no later than six months subsequent to a final decision in this rate case, to pursue “point-of-contact” (sometimes referred to as “moment of truth”) customer satisfaction surveys for call center contacts and field contacts. These point-of-contact customer satisfaction surveys should be filed with the Board, provided to the Public Advocate, and made available for public review.
- Begin development of an implementation plan to provide a paperless billing option and no cost online payment options, reporting to the Board and Public Advocate on a quarterly basis on the progress of this effort.

CLC, citing some of the same problems, recommends that, before any increase is allowed, PWD do the following:

- ✓ simplify the documentation needed to establish a customer account to resolve the confusion of its staff and customers about what is required.
- ✓ alter the forms of proof needed to establish residency in alignment with PECO, PGW, and the Revenue Department and ensure its employees uniformly implement policies;
- ✓ properly implement the new affordability program and promulgate IWRAP regulations that increase the number of citizens who receive affordable bill and forgive arrears;
- ✓ create grant or pay-as-you-go programs to reduce the high infrastructure cost on the poor and explore partnerships with private plumbers to repair infrastructure problems.³⁸

³⁸ The Board notes that the Department stated that it does offer assistance to consumers who need system upgrades before having service restored, but cannot pay for them.

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TURN also recommends that any rate increase be conditioned on improvements in customer service. In particular, TURN recommends that PWD take affirmative steps to collect revenues from tenant customers, by revising its notice to tenants pursuant to the Utility Services Tenant Rights Act (USTRA), P.L. 1255, No. 299; that PWD cease making it difficult for tenants without written leases to apply for service; and that PWD maximize its income by tracking USTRA revenues.

As a less prescriptive remedy, the Public Advocate, among other recommendations, stated that to the extent the Board approves any increase in rates as a result of this proceeding or a subsequent rate proceeding, prior to approving any such increase, “PWD should report to the Board on the implementation of necessary customer service improvement efforts which impact upon rates.”

B. BOARD JURISDICTION REGARDING CUSTOMER SERVICE

The PA, CLC and PLUG provide a number of arguments to support their position that the Board can condition a rate increase on PWD’s compliance with customer service improvements, or order certain customer service improvements. For example, PLUG argues that “the Board must affirm its jurisdiction to address customer service issues as necessary to meet its obligation to set ‘just, reasonable, and nondiscriminatory’ rates.” According to PLUG, the Board cannot assess the reasonableness of rates charged by PWD without some consideration of the Department’s underlying services:

Particularly with regards to the potential for discriminatory rates, the Board must be authorized to review relevant customer service matters to ensure the Department does not offer unduly preferential treatment to individual customers.

According to the PA, the Commonwealth Court has held that “a utility’s fulfillment of its service commitment is a *sine quo non* to constitutional protection under confiscation principles.” Nat’l Utilities, 709 A.2d at 979. The PA also cites D.C. Transit Sys., Inc. v. Washington Metro. Area Transit Comm’n, 466 F.2d 394, 411 (D.C. Cir. 1972), *cert denied*.

PWD argues that all customer service recommendations should be rejected as outside of the Rate Board’s jurisdiction.³⁹ The Department argues that the Board’s jurisdiction is limited to approving, modifying or rejected proposed rates and charges, citing Section 13-101(8) of the Philadelphia Code. The Department argues further that neither the Charter nor the Philadelphia Code vests the Board with the power or authority “to require the Water Department, Revenue

³⁹ Also, in response to the complaints that deferred payment agreements are inadequate, PWD states that it drafted revisions to the regulations on deferred payment agreements and provided the draft proposed revisions to the Public Advocate for review on January 29, 2016, and that at the request of the Public Advocate, those draft revisions have not yet been formally proposed or filed with the Department of Records. Tr. 144:21-145:20, 153:17-154:15; and 157:24-159:9 (4/12/16).

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Department or other City departments to perform” the various tasks recommended by the participants.

Further, the Department states that Section 13-101 does not expressly authorize the Board to set standards of customer service or to modify or reject a request to increase rates and charges because the customer services rendered by other City departments are found to be inadequate or fail to meet certain standards.

C. BOARD DECISION

The Board asked the Law Department for its advice regarding the scope of Board authority to direct the Department (and by extension the Water Revenue Bureau) to take specific actions intended to improve the customer service experience. The Law Department’s response is attached as Appendix B. A summary of the pertinent response is as follows:

QUESTION: Does the Rate Board have authority to direct how the Water Department provides service?

ANSWER: The Rate Board’s rate setting authority does not include the right to require the Water Department to undertake any particular program, other than implementation of rates and charges.

QUESTION: May the Rate Board order a rate increase that is conditional on the Water Department’s meeting certain standards of service – as the Public Advocate has requested?

ANSWER: The Rate Board has authority to fix and regulate rates and charges, which includes the power to deny any rate increase above the baseline required by the Home Rule Charter and Code on any reasonable basis, and the power to grant a rate increase for a shorter period than the Department has requested. It is also reasonable to infer that the Rate Board has the power to require the Water Department to submit any information relevant to “rates and charges” (which would include information relevant to the service provided) in the annual report required under Section 13-101(10) of the Philadelphia Code. However, applicable law does not give the Rate Board the authority to grant conditional rate increases.

The Board accepts the advice of the Law Department, and has not ordered the PWD to undertake any particular actions to improve customer service as a condition of increasing rates. Having said that, the Board is concerned about customer service problems brought to its attention in the public hearings, written public comment, and evidence presented by participants in the technical hearings.

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One recurring complaint was the inability of a resident to become a customer in the first place. The Board was advised that the process is quite smooth and rapid for those applying to be PECO or PGW customers, but that a variety of problems makes it difficult for many to become customers of PDW. This is the case even when they are able and willing to pay the bills for water. A comparison of the PWD process and required documentation with that of PECO and PGW provided by CLC is attached as Appendix C.

The Board directs PWD to include, in its annual report to the Council and the Board under 13-101(10) of the Philadelphia Code, an explanation of why, if it remains the case, potential customers of the Water Department face more difficulties in obtaining service than those of PECO and PGW.

CONCLUSION

For the reasons stated above and in the record, and pursuant to Section 101(9)(b), we hereby adopt the revenue requirement set out in Table C-1, attached as Appendix A, and we hereby direct the Department to prepare and submit a tariff consistent with this determination of rates and charges.

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APPENDIX A –

TABLES C-1 and C-4 - COMBINED UTILITY: PROJECTED REVENUE AND REVENUE REQUIREMENTS and COMBINED UTILITY: COMPARISON OF TYPICAL BILL FOR RESIDENTIAL CUSTOMERS UNDER EXISTING AND PROPOSED RATES.

TABLE C-1

**COMBINED UTILITY: PROJECTED REVENUE AND REVENUE REQUIREMENTS
(in thousands of dollars)**

Line					
No.	Description				
				2017	2018
	OPERATING REVENUE				
1	Water Service - Existing Rates			256,068	255,008
2	Wastewater Service - Existing Rates			387,819	385,915
3	Total Service Revenue - Existing Rates			643,887	640,923
	Additional Service Revenue Required				
		Percent	Months		
	<u>Year</u>	<u>Increase</u>	<u>Effective</u>		
4	FY 2017	4.52%	12	29,124	28,989
5	FY 2018	4.52%	12		30,310
6	Total Additional Service Revenue Required			29,124	59,299
7	Total Water & Wastewater Service Revenue			673,011	700,222
	Other Income (a)				
8	Other Operating Revenue			22,347	6,200
9	Debt Reserve Fund Interest Income			0	0
10	Operating Fund Interest Income			316	279
11	Rate Stabilization Interest Income			581	476
12	Total Revenues			696,256	707,178
	OPERATING EXPENSES				
13	Water & Wastewater Operations			(280,214)	(290,433)
14	Direct Interdepartmental Charges			(171,962)	(177,547)
15	Total Operating Expenses			(452,176)	(467,980)
16	Transfer From/(To) Rate Stabilization Fund			15,600	42,700
17	NET REVENUES AFTER OPERATIONS			259,680	281,898
	DEBT SERVICE				
	Senior Debt Service Revenue Bonds				
18	Outstanding Bonds			(181,580)	(182,769)
19	Pennvest Parity Bonds			(12,343)	(12,927)
20	Projected Future Bonds			(13,791)	(27,966)
21	Total Senior Debt Service			(207,715)	(223,661)
22	TOTAL SENIOR DEBT SERVICE COVERAGE (L17/L21)			1.25 x	1.26 x
23	Subordinate Debt Service			0	0
24	Total Debt Service on Bonds			(207,715)	(223,661)
25	CAPITAL ACCOUNT DEPOSIT			(21,745)	(22,289)

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26	TOTAL COVERAGE (L17/(L24+L25))	1.13 x	1.14 x
	RESIDUAL FUND		
27	Beginning of Year Balance	15,255	15,129
28	Interest Income	55	55
	Plus:		
29	End of Year Revenue Fund Balance	30,220	35,948
30	Deposit for Transfer to City General Fund (b)	794	799
	Less:		
31	Transfer to Construction Fund	(30,400)	(35,900)
32	Transfer to City General Fund	(794)	(799)
33	Transfer to Debt Service Reserve Fund	0	0
34	End of Year Balance	15,129	15,232
	RATE STABILIZATION FUND		
35	Beginning of Year Balance	169,306	153,706
36	Deposit From/(To) Revenue Fund	<u>(15,600)</u>	<u>(42,700)</u>
37	End of Year Balance	153,706	111,006

(a) Includes other operating and nonoperating income, including interest income on funds and accounts transferable to the Revenue Fund. Includes projected contra revenue credits for Affordability Program Discounts in FY 2018.

(b) Transfer of interest earnings from the Bond Reserve Account to the Residual Fund

as shown in Line 30 to satisfy the requirements for the transfer to the City General Fund shown on Line 32.

TABLE C-4
COMBINED UTILITY: COMPARISON OF TYPICAL
BILL FOR RESIDENTIAL CUSTOMERS
UNDER EXISTING AND PROPOSED RATES

		FY 2016	FY 2017		FY 2018	
Meter Size	Monthly Use	Existing Rates	Proposed Rates	% Proposed of Existing	Proposed Rates	% Proposed of FY 2017
Inches	Mcf	\$	\$	%	\$	%
5/8	0.0	27.16	27.87	2.6	28.73	3.1
5/8	0.3	47.30	49.37	4.4	51.39	4.1
5/8	0.5	60.72	63.70	4.9	66.50	4.4
5/8	0.6	67.43	70.87	5.1	74.05	4.5
5/8	0.7	74.14	78.03	5.2	81.61	4.6
5/8	0.8	80.86	85.20	5.4	89.16	4.7
5/8	1.7	141.26	149.69	6.0	157.15	5.0
5/8	2.7	203.13	217.71	7.2	228.90	5.1
5/8	3.3	238.89	257.59	7.8	270.98	5.2

Mcf - Thousand cubic feet

06/03/2016

1

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APPENDIX B -

**RESPONSE OF LAW DEPARTMENT REGARDING RATE BOARD'S
AUTHORITY OVER IWRAP DESIGN AND DELINQUENCY COLLECTION**



City of Philadelphia

LAW
DEPARTMENT
One Parkway

1515 Arch Street

17th Floor

Philadelphia, PA 19102

APPENDIX B – Rate Board Determination 6/7/16

M E M O R A N D U M

TO: Bernie Brunwasser, Chairman, Water, Sewer and Storm Water Rate
Board FROM: Sozi Pedro Tulante, City Solicitor/S/
DATE: June 6, 2016
SUBJECT: Rate Board's Authority over IWRAP Design and Delinquency Collection

Introduction

You have asked for advice on several issues concerning the authority of the Water, Sewer and Storm Water Rate Board, established pursuant to Philadelphia Home Rule Charter § 5-801 and Philadelphia Code § 13-101(3) (the "Rate Board"). The current Rate Proceeding is the first to be conducted since the ordinance establishing the Rate Board was enacted. This will confirm and elaborate on informal advice conveyed to you on May 26, 2016.

The Philadelphia Home Rule Charter ("Charter") provides in relevant part:

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In accordance with such standards as the Council may from time to time ordain, the Water Department shall fix and regulate rates and charges for supplying water, including charges to be made in connection with water meters, and for supplying sewage disposal services; provided however, that City Council may by ordinance, establish an independent rate-making body to be responsible for fixing and regulating rates and charges for water and sewer services[.]

Charter § 5-801. Consistent with that, The Philadelphia Code ("Code") states:

[the Board] shall fix and regulate rates and charges for supplying water, sewer and storm water service for accounts and properties located in the City of Philadelphia, in accordance with the standards established in this Section 13- 101 without further authorization of Council.

Code § 13-101(3).

- 1. Should the Rate Board make a determination as to whether the Department has fulfilled its obligation under the prior rate case and, if so, would the Water Department's failure prevent the Rate Board from considering the current Rate Proceeding?**

"It is axiomatic that [an administrative agency's] power is statutory; and the legislative grant of power to act in any particular case must be clear." *City of Philadelphia v. Philadelphia Elec. Co.*, 473 A.2d 997, 1000 (Pa. 1984). Both the Charter and the Code state that the Board shall "fix and regulate rates and charges" and the Code directs further:

Whenever the Water Department has proposed changes to the rates and charges, the Board, having acted in accordance with this Section 13-101, shall issue a written report incorporating the information used by the Board in reaching a decision to approve, modify or reject the proposed rates and charges.

Code § 13-101(4)(b)(iii). Nothing suggests that the Rate Board has the power to determine whether the Department has fulfilled its obligations under a previous Rate Proceeding or that the Rate Board could or should refuse to consider a new rate proposal on that basis. The plain language of the ordinance requires just the opposite, that the Rate Board hold hearings and issue a decision "whenever" the Water Department has made a request.

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2. Does the Rate Board have authority to set rates and charges, including below the level requested by the Water Department, if it were to find that the Department had failed to provide adequate service?

The Rate Board may set rates and charges at any level for any reason that is supported by the record in the Rate Proceeding, including below that requested by the Water Department; it is expressly charged with making a decision to "approve, modify or reject" the Department's proposed rates and charges. Code § 13-101(4)(b)(iii).

There are unquestionably issues that are only indirectly related to water rates and charges and that therefor are beyond the Rate Board's jurisdiction. *See, e.g., Borough of Moosic v. Pennsylvania Public Utilities Comm'n*, 429 A.2d 1237, 1240 (Pa. Commw. 1981) (environmental impact of the use purchaser would make of property to be purchased from utility was not within jurisdiction of the regulatory agency to consider). But the ordinance specifically requires the Rate Board to set rates and charges that are "just" and "reasonable." Code § 13-101(4)(d). It would be impossible for the Rate Board to determine that rates and charges are "reasonable" without weighing them to some extent against the service provided. If services generally provided by the Water Department are so inferior or such an abuse of its discretion that it cannot be said to be reasonable to charge what the Water Department is requesting, then the Rate Board may set lower rates on that basis.

3. What limitations, if any, are there on the rates the Rate Board may set?

The Rate Board's authority to fix and set rates and charges is limited by the standards set forth in the Charter and provided by the Code. The Charter states:

The standards pursuant to which rates and charges shall be fixed shall be such as to yield to the City at least an amount equal to operating expenses and interest and sinking fund charges on any debt incurred or about to be incurred for water supply, sewage and sewage disposal purposes.

Chapter § 5-801.¹ The annotation to the section states that "This requirement does not go as far as rate standards do in the case of private utilities; for example, it is not required that the standards make allowance for depreciation." However, the fundamental principle that current expenses be covered is clear:

The Charter establishes that the Water Department is indeed required to be self-sustaining, inasmuch as it is required to meet its current operating expenses from the rates and charges it imposes. *See also* § 13-101(2) and § 13-201(2) of the Philadelphia Code. . . . While the Water Department need not

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recoup the "cost of service" to the same extent as a private utility, there is no question that the Charter requires recoupment of current operating expenses.

Association of Community Organizations for Reform Now v. Guarino, 512 A.2d 1312, 1316 (Pa. Commw. 1986).

The Code makes it clear that the rates and charges must support the current costs of the water system, including operating expenses, debt service, and rate covenant and sinking fund reserve requirements. Code § 13-101(4)(a). However, rates and charges are not to yield a profit or to fund any other City purpose, so they are not to yield more than current expenses, "plus a reasonable sum to cover unforeseeable or unusual expenses," in addition to the amounts needed to meet rate covenants and sinking fund reserve requirements. Code § 13-101(4)(b). The Rate Board must "recognize the importance of financial stability to customers and fully consider the Water Department's Financial Stability Plan." Code § 13-101(4)(b)(i). Within those parameters, the Rate Board must also consider "peer utility practices, best management practices and projected impacts on customer rates," *id.*; must develop rates and charges "in accordance with sound utility rate making practices and consistent with the current industry standards," Code § 13-101(4)(b)(ii); and must equitably apportion rates and charges among classes of customers in a just, reasonable and nondiscriminatory manner, Code § 13-101(4)(c)-(d).

I construe the recently established charges for storm water management to fall within the definition of water and sewer services under this Section and the Code.

4. Does the Rate Board have authority to direct how the Water Department provides service?

"[An administrative agency], created by statutory law, derives its authority from legislative action. Its powers are confined to those expressly granted, or which may be necessary and proper to carry out those specifically declared." *City of Pittsburgh v. Pennsylvania Public Utility Commission*, 43 A.2d 348, 349 (Pa. Super. 1945) (citation omitted). In that case, the court upheld the determination of the Pennsylvania Public Utility Commission's ("PUC") that it did not have authority to require local trains and buses to provide free service to members of the armed services. In this case, the Public Advocate has requested that the Rate Board order the Water Department to take specific actions, such as improving call center service and intake operations. The Rate Board has no authority beyond its mandate to "fix and set rates and charges" Code § 13-101(3) and to "approve, modify or reject the [Water Department's] proposed rates and charges." Code § 13-101(8).

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Accordingly, the Rate Board does not have the power to direct how the Water Department provides service.

5. May the Rate Board order a rate increase that is conditional on the Water Department's meeting certain standards of service –as the Public Advocate has requested?

You have indicated that the Public Advocate has asked the Rate Board to provide for rate increases conditioned on the Water Department's compliance with specific customer service improvements. I conclude that the Rate Board does not have that authority. First and foremost, there is nothing in the Rate Board's charge to "fix and regulate rates and charges" that gives it oversight (beyond the setting of rates) of the Department's operations. This is in stark contrast to the Pennsylvania Public Utility Commission that has express authority to issue "regulations and orders" over the utilities within its jurisdiction. *See* 66 Pa. C.S. § 1501. "[A statutory board] has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication." *Feingold v. Bell of Pa.*, 383 A.2d 791, 794 (Pa. 1977).

Second, that the Rate Board has not been granted authority over the Department's operations also can be concluded from its lack of any mechanism to enforce a mandate to improve service. For example, if the Rate Board were to require that all applications to the new IWRAP program be processed within two weeks, what recourse would the Rate Board have to sanction the Department's failure to meet that target? The only leverage available to the Rate Board would be to withhold further rate increases. However, the procedure to determine whether that target had been met and to grant or deny a rate increase on that basis would itself be a Rate Proceeding and should be conducted under the rules established for such proceedings.²

Support for the idea of a conditional rate increase might be sought in *Emporium Water Co. v. Pennsylvania Public Utility Commission*, 955 A.2d 456 (Pa. Commw. 2008), *appeal denied*, 599 Pa. 702 (2008), which upheld the PUC's award of a conditional rate increase for part-time employees to a private utility. *Id.* at 460 n. 6 ("The PUC allowed the expense claim

² We also note that as a practical matter, a conditional rate increase might complicate the Department's access to capital.

'on the condition that the [Utility] annually employs part-time employees with a total amount of compensation not to exceed the \$11,546 claimed on the record.' The PUC also required the Utility to 'annually report. . . to verify that it has complied with this

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condition.""). However, that case is distinguishable from the Public Advocate's request in at least two respects. First, as noted above, the PUC is expressly given authority to provide general oversight to its utilities, whereas the Rate Board is not. Second, the condition upheld in *Emporium* was an expense that the utility itself had requested; the PUC order simply required the utility to do what it stated it intended to do with the revenue from the rate increase.

In short, the Rate Board has authority to "fix and regulate rates and charges," which includes the power to deny any rate increase above the baseline required by the Home Rule Charter and Code on any reasonable basis and the power to grant a rate increase for a shorter period than the Department has requested. We also believe it reasonable to infer that the Rate Board has the power to require the Department to submit any information relevant to "rates and charges" (which would include information relevant to the service provided) in the annual report required under Code § 13-101(10). However, applicable law does not give the Rate Board the authority to grant conditional rate increases.

6. To what extent does the Rate Board have the authority to determine the specific design of the new low-income water rate program ("IWRAP") required by Section 19-1605 of the Philadelphia Code? Is the Rate Board's authority over the IWRAP design limited to the determination of the percentage of income limitations to be imposed and the number of low-income tiers to be established?

As the quotations in the Introduction demonstrate, not only the ordinance establishing the Rate Board, but also the relevant Charter provision, places responsibility for *all* rates and charges with the Rate Board (or with the Water Department, if no Rate Board had been established).

While City Council may establish governing standards, the Rate Board is charged with actual rate making. There is a clear distinction between setting "standards" for rates and setting the actual rates and charges. As the drafters of the Charter noted in their Annotation to Charter § 5- 801:

Rate-making for utility services has long been regarded as being primarily an administrative function subject to legislative standards and this section follows this practice. Council is to ordain the standards pursuant to which rates are to be fixed, a proper function of the legislative branch, and the Department is to fix rates within such standards, an appropriate function of the administrative branch.

Cases interpreting the Charter and Code confirm that distinction. *See, e.g., Monaghan v. City of Philadelphia*, 5 Pa. D.&C. 2d 329, 344-45 (Phila. 1955) ("there was reserved to council the right to set standards, from time to time, which would not directly fix the water rates, but

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which would determine questions of policy in connection therewith"); *see also Association of Community Organizations for Reform Now v. Guarino, supra*, 512 A.2d at 1317-18.

Council has the authority to set the "standards" under which the Rate Board is to set rates; thus Council legitimately required that IWRAP include at least three income tiers and that the discounts result in "affordable" monthly bills. Code § 19-1605(3)(a). However, those Code provisions setting "standards" merely circumscribe ratemaking authority that already belongs to the Rate Board under the Charter. Under the Charter, consistent with the "standards" set by Council, the Rate Board has complete authority over "fixing and regulating rates and charges" — including IWRAP rates and charges. The ordinance establishing IWRAP merely gives some standards — or boundaries — to the ratemaking authority already belonging to the Rate Board. In short, the Rate Board can and must fix the method under which IWRAP rates are calculated.³

7. What authority does the Rate Board have to determine how delinquent water bills are collected or abated?

The Philadelphia Home Rule Charter provides that executive and administrative powers are "exclusively vested in and exercised by the Mayor and such other officers, departments, boards and commissions as are designated and authorized in this charter." Charter § 1-102(1). *See also* Charter § 4-100 (Mayor "shall be responsible for the conduct of the executive and administrative work of the City"). More specifically, the Revenue Department is charged with collection of all taxes, water and sewer rents, and fees, Charter § 6-201; and the Law Department is charged with managing City litigation, including collection actions, Charter § 4-400(b). While Council may control some broad outlines of how collections are conducted, for example, setting the interest rate on delinquent accounts, it does not have the authority to micromanage how the Revenue and Law Departments perform their jobs. *See, e.g.,* Formal Opinion No. 83-15, 1983 *Opinions of the City Solicitor* at 78 (Council does not have the power to establish detailed procedures for the Mayor to follow in establishing economic development objectives); Opinion No. 06-26 (July 31, 2006) (Council does not have authority to direct content of water bills).

Under the Charter, only the Law Department has authority to settle delinquent debts, and the Rate Board's authority for "fixing and regulating rates and charges" does not extend to directing the Revenue and Law Departments in the collection (or abatement) of those amounts. Rather, the Rate Board should set overall rates and charges, taking into account the impact on revenues of the Administration's abatement policies.

³ Of course, the Rate Board must consider the cost of the IWRAP program when setting base rates as well.

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APPENDIX C

SAMPLE PUBLIC COMMENTS ON PROPOSED RATE INCREASE

The Board received over 100 emails⁴⁰, all but 4 of which opposed a 12% rate increase. The four customers who emailed in favor of the rate increase noted the need to maintain the infrastructure and keep waterways clean.

A number of commenters stressed the hardship of paying for increased water. Some pointed to the difficulties for those on fixed incomes, and on working people whose wages have been stagnant. A few proposed suggestions about how the PWD could save money, as by sending bills together with PGW, or going to greater electronic billing and communication. While most were civil, some were clearly angry. The five emails reproduced below (as written) provide a flavor of the comments received via email.

- 1) Please do not go forward with the rate increase. My taxes and water bill have both increased dramatically over the last three years, the latter due to the storm water surcharge. This is occurring at a time when salaries are stagnated. Are you trying to drive us out of the City?
- 2) I wish to object to the proposed rate increase -- not the idea of a rate increase but the amount - 12% is unconscionable! I am a senior citizen, age 75, still working because I cannot afford to retire. At this rate, I'll never be able to retire. As senior citizens, we got no COLA increase this year -- how can the water department justify taking a 12% increase? The most we get is 3%. I have no objections to 2-3% but NOT 10% -- that is excessive. Below are suggestions for the water department saving money.
 - go paperless as much as you can -- you can save thousands by not having to print and mail bills to everyone both on paper, personnel and postage costs. Most bills nowadays are paperless.
 - it is a good idea to combine meter reading, billing and collections with the gas company. It would take half the amount of personnel. It would also assist customers if we had one combined billing to pay. It would save on gasoline with only one trip instead of two vehicles running around reading meters. Both are on "automatic" meter reading so why not have one trip for both.

Thank you for your consideration. I cannot be at the meetings to speak personally because as stated above, I have to work. Due to still working at my advanced age, I am tired and have no energy left over to go to meetings and go to bed at 8 pm.

⁴⁰ <http://www.phila.gov/water/rateboard/rateproceeding/Pages/PublicWrittenComment.aspx>

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- 3) Please save money by ceasing to send me my bills using regular mail. I am happy to receive all communications electronically.
- 4) Where in heavens name do you purpose this extra money come from to pay this bill. Hardworking every day people, work to pay ridiculous over the line bills. Gas, electric, water, and bareley have money left to live off of. Everyone isn't making huge salaries. ..13 dollars an hour, twice a month can only go so far.
- 5) I choose to live in the City. I am certain that the Philadelphia Water Department needs the money to make the improvements and that the improvements are needed. Do they (the Commissioner and Mayor) care that workers are bruised and bleeding? They have alternatives. Restore my faith in the electoral process. I voted for the Water Rate Board. Stop the robber barons. In case you missed it - No 12% water hike!
On behalf of myself and other targets of economic violence.
- 6) I can barely afford my bill now.they want to raise taxes again also why does the water dept have brand new suvs with tinted windows why tinted windows thats ridiculous waste of taxpayers moneyno increase
- 7) Because few, if any, citizens receive a cost of living increase in their salaries, their social security payments, their pension payments, etc, it's blatantly unfair to sentence them with increases in the costs of water and sewage services. Any increases necessitate a re-apportioning of income and a re-initiating of budgets in the hope that there's enough left without "robbing Peter to pay Paul". When considering the costs of managing services there should also be consideration given to the impact proposed increases have on our neighbors
- 8) I do not qualify for any programs for utilities and my water bill is already \$75.00 a month. With a 12% increase my bill would be \$92.00 a month. What needs to happen is any applicant for water utility service who abuses the assistance should be cut, and should pay the appropriate amount for their water usage?
- 9) What's the purpose of the hike? Is it necessary? Will the water be already 12% better? Please do not raise our bills anymore, please?

In addition to the emails, the Board received letters from members of the City Council, groups of concerned citizens, and individuals. They were opposed to the rate hike. Some wrote in favor of the IWRAP proposal of the Public Advocate. Many noted difficulties customers had with obtaining water (documentation, tangled titles, etc.)

At the Public Hearings, members of the public expressed their opposition to the rate increase, and some raised issues particular to their situation, which the Department attempted to resolve.

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APPENDIX D

DOCUMENTATION REQUIRED TO ESTABLISH A CUSTOMER ACCOUNT⁴¹

To establish service with PECO, Philadelphia's electric company, and PGW, Philadelphia's gas company, you only need to provide your social security number, your contact information, the date you would like service, and the address where you would like it.⁴² Additionally, both of these utility providers have online applications to make the process for establishing an account much easier.

The bar to create an account with PWD is much higher. PWD has delineated different documentation requirements to establish a residential customer account depending on an individual's "customer type." Specifically, PWD has created four different customer types: 1) Owner, 2) Tenant, 3) Occupant with Ownership Interest, and 4) Occupant without Ownership Interest. To establish an account with PWD an individual must fall into one of these four "customer types" and provide PWD with the documentation required for that category.

A tenant must fulfill three requirements in order to become a PWD customer. Specifically, an individual must provide PWD with 1) his or her name and current address (and a current telephone number when available), 2) a United States or State government issued photo identification, and 3) satisfactory evidence of owner's authorization to reside at the location.⁴³ PWD states that this evidence could include a "Rental Agreement or Agreement of Sale for the location which the applicant desires service, a lease, rent book, money order receipts, cancelled checks, other utility bills in the applicant's name at that address, rent receipts, or other written evidence of tenancy or written evidence of the owner's consent to occupancy."⁴⁴

The only way that an owner of a property can establish a residential customer account with PWD is by providing the deed.⁴⁵ On the other hand, in addition to the same contact information and identification required for a tenant, an "Occupant with an Ownership Interest" must provide PWD with the following if the record owner is alive: 1) authorization to occupy the premises, 2) an unrecorded deed including one by gift or donation, and 3) correspondence from an attorney

⁴¹ From the summary by participant CTC.

⁴² PGW, "Turn Service On" <http://www.pgworks.com/index.php/turn-service-on>; PECO, "Start, Stop or Transfer your service; New Residential Customer" <https://www.peco.com/CustomerService/ServiceRequest/Pages/StartStopTransfer.aspx?show=SelectNew>, on both website you social security number is required however your driver's license is requested not required

⁴³ PWD's Response to CLC's Interrogatories and Document Request Set I-7, available at <http://www.phila.gov/water/rateboard/PDF/CommLawClinicSet%201-MASTER.pdf>.

⁴⁴ *Id.*

⁴⁵ *Id.*

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stating the applicant has a credible claim to the property and the attorney is representing the applicant in the process of obtaining title.

Alternatively, if the record owner is deceased, the applicant must provide a) a death certificate, obituary, or letter from funeral director, b) the name and physical address of the Executor or Administrator of the Estate and all known heirs, c) proof of relationship to recorded owner or if not an heir, verification that the applicant previously occupied the property with the deceased owner, 5) utility bills (e.g. PECO or PGW bills) in the applicant's name at the location for which the applicant is made, and 6) a completed application in which the applicant agrees to pay for service supplied in his or her name. The documentation requires for an "Occupant without an Ownership Interest" are the same as an Occupant with Ownership Interest, but he or she must also provide the onerous documentation required to prove tenancy, described above.⁴⁶

These written policies are not being consistently articulated to customers either through its customer service representatives or its website. Advocates report that even when they accompany their clients to PWD, with proper documentation, PWD will still not recognize their clients as customers....

Instead of raising rates, the PWD should institute reforms that will increase its customer base and waters usage, including streamlining the documentation needed to establish a customer account, effectively implementing the new affordability program, and creating additional grant programs or an installment plan to help low income Philadelphians make needed repairs to their home's water infrastructure.

As discussed above, PWD maintains inconsistent and arbitrary residency requirements to qualify customers. The policies, as written, create numerous document hurdles that are difficult for low-income customers to overcome. To resolve this confusion, we propose that PWD align its policies with the City of Philadelphia's Revenue Department, PECO, and PGW, which only require basic identification and contact information so that residents who are willing, ready, and able to pay their bills can access water.

...

PWD needs to create formalized internal standards for customer acceptance and promulgate those standards through regular employee trainings so all of its employees both are aware of the law and consistently apply it. ...PWD needs to create a memo detailing how its employees should accept customers and regularly train them on this process.

PWD must implement [IWRAP] regulations that ensure water is both truly affordable and accessible.... IWRAP regulations should minimize areas of discretion for PWD. For example, the Water Rate Board should create a clear path to debt forgiveness with clear regulations

⁴⁶ PWD Response to the CLC's Set I-7 Request for Production of Documents, available at <http://www.phila.gov/water/rateboard/PDF/CommLawClinicSet%201-MASTER.pdf>.

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rather than deferring to PWD to later informally and internally set a policy. Specifically, the Water Rate Board should regulate who, how, and when a customer is eligible to apply for IWRAP rather than deferring to the utility. ...

PWD should also increase customers' awareness of its benefits. One way PWD could increase affordable rates is instructing its employees to encourage IWRAP applications....⁴⁷ ...So when a customer calls PWD to discuss a delinquent account, the employee should discuss a repayment plan and ask the customer about his or her eligibility for IWRAP.

The CLC advocates the PWD promulgate regulations that encourage its customer service officers to accept applicants. We implore the City to implement an effective low-income program, targeting monthly bill payment amounts that are truly affordable, ...
[To address access barriers because of upfront infrastructure repair costs] we suggest the city create grant programs or installment plans....

⁴⁷ See *Affordability Programs*, San Antonio Water System, available at <http://www.saws.org/service/affordability>.

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APPENDIX E

TALLY OF BOARD VOTES

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**APPENDIX E: VOTING
TALLY 5/19/16**

TOPICS	VOTED ON:	BRUNWAS SER	POPOWSKY	CHAPMAN	HUANG	OLANIPEKUN- LEWIS
REVENUE GROWTH	PA: 3 Yr Historical Avg of 0.05%		Y		Y	
	PWD: 5 Yr Avg of 1.5%	Y				
	Midpoint 1% Decreased Sales\Volume	Y		Y		Y
LIQUIDATED ENCUMBRANCES	PA: 14.28% Liquidated Encumbrances Adjustment		Y			Y
	PWD: 12% Liquidated Encumbrances Adjustment	Y			Y	
	Compromise of 14.28% FY17 & 12.5% FY18	Y		Y	Y	Y
PAYROLL SPEND FACTOR	In favor of PWD's Use of 100% Spend Factor	Y	N	N	Y	Y
BILLING ADJUSTMENT FACTOR	In favor of PWD's Use of Billing Adjustment Factor	N	N	N	N	N
ESCALATION FACTOR	In favor of PWD's \$4MM increase for WRAP in FY17	Y	Y	Y	Y	Y
SMIP & GARP	In favor of PWD's \$3.55 MM annual additional adjustment	Y	Y	Y	abstained	Y
CSO REIMBURSEMENT OF CITY GENERAL FUND	In favor of increase of \$1.8MM in FY17, \$3.5MM FY18	Y	Y	Y	Y	Y
NEW STAFFING IN MULTIPLE DEPARTMENTS	In favor of increase in staffing, funding in multiple depts	Y	Y	Y	Y	Y
ASSOCIATED PENSION COSTS	In favor of an increase in Associated Pension Costs	Y	Y	Y	Y	Y
ONE TIME MAINTENANCE EXPENSE	In favor of a one time increase of \$1.3MM FY17 and \$1.2MM FY18	Y	N	Y	N	N
ADDITIONAL EQUIPMENT EXPENSE	In favor of additional \$100k increase for Equipment Costs	Y	N	Y	N	N
FACILITIES ADMINISTRATION	In favor of additional \$998k Facilities Maintenance Expense	Y	Y	N	Y	Y

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CHEMICAL ESCALATION FACTOR	Exelon: Use Adjusted Baseline in Cost Projections	N	N	N	N	N
	PA: No Escalation Factor in Projecting Costs		Y			
	PWD: Use of Escalation Factor for Cost Projections	Y		Y	Y	Y
WATER & SEWER INFRASTRUCTURE MARK- OUT	In favor of additional \$600k FY17 and \$700k FY18 to identify water & sewer underground infrastructure prior to excavation	Y	Y	Y	Y	Y
ABATEMENT	In favor of \$500k FY17 and \$600k FY18 for additional abatement expenses	Y	Y	Y	Y	Y
CONTRIBUTIONS/INDEMNITY SPEND FACTOR	PA: Use 76.75% Spend Factor, or 3 Year Avg		Y	Y		
	PWD: Use 100% Spend Factor		N	N		N
	92.86% Spend Factor – 2014 Actual	Y	Y	Y	Y	Y
CLASS 800 TRANSFER ESCALATION FACTOR	In favor of 3% Escalation Factor in Class 800 Transfers	Y	Y	Y	Y	Y
CHANGE IN DEBT INTEREST RATE	In favor of using 5.25% projected interest rate for future debt issuance.	Y	N	Y	Y	Y

APPENDIX E: VOTING TALLY
5/26/16

SWAP PERCENT INCREASES	PECO/Exelon proposal to apply water side percent increase to wastewater, and vice versa	N	N	absent	N	N
SUNSET CAP PROGRAM	Adopt PennFuture proposal to shorten remaining time for customers to receive CAP benefits re stormwater	N	N	absent	N	N
CITY-OWNED/CITY-LEASED PROPERTY	Adopt PA request to apply 8.5% increase to these properties if any increase granted in revenues	N	N	absent	N	N
IWRAP - CALCULATION OF DISCOUNT	Adopt PA proposal to use Percent of Income Payment as the means to determine participant bills	Y	Y	absent	Y	Y
IWRAP - MINIMUM CHARGE	Adopt agreed-upon \$12/month minimum charge for IWRAP participants	Y	Y	absent	Y	Y

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IWRAP - AFFORDABILITY PERCENTAGES	Adopt PA proposal for 2%, 2.5% and 3% affordability percentages for 0-50% FPL, 50-100% FPL, and 100-150% FPL	N	Y	Y	N	Y
IWRAP - 150% - 250% EARNED ARREARAGE FORGIVENESS	Adopt Lee Huang proposal to accept legal advice of Law Department that the proposed earned arrearage forgiveness is not within Board jurisdiction, and therefore Board will not consider earned income forgiveness for customers between 150-250% of FPL.	Y	Y	absent	Y	Y
IWRAP - COST OF PROGRAM	Adopt PA position that revenue requirement for IWRAP will be \$13 million.	N	Y	N	N	Y
IWRAP - COST OF PROGRAM	Adopt PWD position on cost of IWRAP program	Y	N	Y	Y	N
IWRAP - PERSONNEL REQUIREMENTS	Adopt PWD position that additional hires will be required to administer IWRAP	Y	N	Y	Y	Y
IWRAP - COST RECOVERY	Adopt PA proposal to recover IWRAP costs via a Rider	N	N	N	N	N
IWRAP - REPORTING	PWD to include in next annual report an explanation of why, if still applicable, PWD cannot provide service on the same basis as PGW and PECO	Y	Y	absent	N	Y

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APPENDIX F

LIST OF ACRONYMS AND DEFINED TERMS

- Abatement –
 - Abatements are payments or other benefits given to customers to compensate for such things as damage from a main break. Additional abatement costs provide for the replacement of household water heaters and furnaces in the event of water main breaks and sewer blockage and abatement plumbing services for customer owned service lines and laterals.
- Advance Notice - PWD's filing of its proposed rate increase 30 days in advance of its formal filing (Formal Notice).
- Annual Report to the Council and Board under 13-101(10)
- Arrearage Forgiveness – a reduction in the amount of past-due bills
- Billing Adjustment –
 - an adjustment made by PWD reducing forecast billings to account for risks associated with the assumptions used in the development of billing as projections.
- Black & Veatch (B&V) model - model of the finances of the Department
- Bond Rating - rating given by a bond rating agency of an agency or a bond issuance, that is used by investors in gauging the risk of an investment in the bonds.
- CAP – see Enhanced Customer Assistance Program
- CCF = 100 cubic feet. This is roughly the same as 748 gallons. The typical residential customer uses roughly 600 CCF per month, or 4,488 gallons.
- City grants – grants to persons and businesses by the City of Philadelphia.
- City-Owned and City-Leased properties. Customers that take service as a city-owned or leased-to-the-City customer.
- CSO –
 - Combined Sewer Overflow – a pipe that carries stormwater and diluted wastewater. In older sections of the City, both wastewater and stormwater are conveyed in one pipe to the sewage treatment plant. This is known as a combined system. During certain rain events, the additional stormwater exceeds the capacity of the collection system and/or wastewater treatment plant and causes an overflow. The excess stormwater/wastewater mix known as combined sewer overflow (“CSO”) discharges directly to local waterways.
- COA –
 - Consent Order and Agreement entered into with PA Department of Environmental Protection in 2011 to reduce stormwater run-off and combined sewage overflow.
- Cost of Service Study – a study of the functions of a utility, and their related costs, to support the determination of class cost responsibility.
- Coverage Ratios –ratios of revenues to debt service responsibilities.

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- Earned Arrearage Forgiveness – a program of abating past-due bills pro rata for a customer’s adherence to a payment agreement.
- Enhanced Customer Assistance Program (Enhanced CAP or just CAP) - a rate program that provided a declining annual reduction of the stormwater bill of a non-residential customer as a transition to new parcel-based rates.
- Expense classifications – the City classification of different types of expense, such as Services, Financial, etc.
- Federal Poverty Level (FPL) – annual publication of the US Department of Health and Human Services providing guidance in determining a household’s level of poverty.
- Federal Poverty Guidelines – see Federal Poverty Level
- Financial Stabilization Plan – forecast of capital and operating costs and expenses and associated revenues prepared by the Department under Section 13-1012).
- Fiscal Year – year ending on June 30; Fiscal Year 2017 = July 1, 2016 to June 30, 2017
- 5/8 Inch Meter – size of the pipe and meter diameter serving a building.
- Formal Notice – the notice filed by the PWD of its proposed changes in rates and charges.
- GARP - Greened Acres Retrofit Program - provides stormwater grants directly to project developers or aggregators.
- Infrastructure Mark-Out – marking the surface to show underground PWD infrastructure before someone digs in that area.
- Law Department – The City Solicitor’s Department
- LED fixtures – high-efficiency light bulbs
- Liquidated Encumbrance
 - An encumbrance is an expense that is anticipated to be charged to the Water Fund. Liquidated encumbrances represent cancelled commitments.
- Payroll Spend Factor - an escalator applied by PWD to the FY 2016 budget to develop its estimate of the payroll spend for FY 2017 and FY 2018 budget
- Percentage of Income Payment Program (PIPP)
- Pro forma adjustments – adjustments to a budget or forecast to incorporate changes that are expected but otherwise would not be captured.
- Rate Design – the design of the actual rates paid by customers – the charge and the billing unit to which it is applied.
- Rate Period – the period during which rates are approved to stay in effect.
- Rate Stabilization Fund – A fund into which revenues in excess of costs are deposited annually, and from which the Department can draw to cover costs
- Revenue Requirement – the amount of revenues the Department needs in order to perform its services, plus a reasonable amount of revenue to cover unforeseeable costs and expenses.
- Senior Discount – a 25% discount applied to bills of participating senior citizen residents with household incomes up to \$31,500 per year.
- SMIP – Stormwater Management Incentive Program

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- -provides grants to nonresidential property owners to pay for designing and building stormwater retrofit projects.
- Water Revenue Assistance Program, or WRAP – a rate assistance program reducing bills of qualifying low-income participants, being superseded by IWRAP
- Water Revenue Bureau of Revenue Department – responsible for billing and collecting PWD bills.