

RESPONSES TO INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF THE PUBLIC ADVOCATE

The Philadelphia Water Department (“Department” or “PWD”) objects to the Public Advocate’s First Set of Interrogatories and Requests for Production of Documents, PA-EXE: 4-8 (the “Interrogatories and Requests”) for the following reasons.

General Objections

1. The Department objects to each Interrogatory and Request identified below insofar as it seeks production or disclosure of documents or information subject to any applicable privilege (including government decision-making and deliberations), rule, doctrine or immunity whether created by statute or common law. PWD believes that PA-EXE 6 through 8 violate the deliberative process privilege in requesting business case or presentations made to management regarding the AMI project. The deliberative process privilege permits the government to withhold documents containing confidential or law or policymaking reflecting opinions, recommendations and advice. The privilege protects the decision making process of administrators. The purpose of the privilege is to protect the free exchange of ideas and information within government agencies.¹

2. By answering any part of the Interrogatories and Requests and/or by providing any part of the requested information, the Department does not concede the relevance, materiality or admissibility of any of the information sought therein for use as evidence in any hearing. PWD expressly reserves the right to object to further discovery on the subject matter and claims in any of these Interrogatories and Requests.

3. The Department objects to each Interrogatory and Request insofar as it seeks production or disclosure of documents or information subject to any applicable privilege (including government decision-making and deliberations; attorney-client privilege; and attorney work product), rule, doctrine or immunity whether created by statute or common law.

4. The Department objects to each Interrogatory and Request to the extent that it seeks confidential, privileged, proprietary or other privileged information.

5. The Department objects to each Interrogatory and Request identified below to the extent that they seek information that is not relevant and not material to the subject matter and claims in this proceeding, and as such, are not reasonably calculated to lead to the discovery of admissible evidence. PWD believes that PA-EXE-4 and 5 address matters outside the Rate Period and will not lead to the admission of discoverable evidence.

6. The Department objects to each Interrogatory and Request to the extent it is duplicative and cumulative.

7. The Department objects to each Interrogatory and Request to the extent that it seeks information that is not in its possession, custody or control, and to the extent it seeks documents which are already in the possession of the Public Advocate.

8. The applicable general objections, as stated above (“General Objections”), are incorporated into each of the specific objections and responses that follow. Stating a specific objection or response shall not be construed as a waiver of these General Objections.

¹ See, *Ario v. Deloitte*, 934 A.2d 1290 (2007); *Commonwealth v. Vartan*, 557 Pa. 390, 733 A.2d 1258 (1999).

Responses to Interrogatories and Requests for Production of Documents

Relevance

PA-EXE-4. Please provide the quantification of the annual increase in the 5/8” meter General Service volume usage during FY 2019, 2020 and 2021 resulting from the decrease in theft due to implementation of the Advanced Metering Infrastructure (AMI). In your response include an explanation the cause of the significant growth from year to year.

Response: Objection. The Department objects to the above interrogatory and request for production of documents to the extent that same seek to discover information that is not relevant and not material to the subject matter and claims in this proceeding, and as such, are not reasonably calculated to lead to the discovery of admissible evidence. Simply put, the information requested is beyond the Rate Period (FY 2017-2018). The General Objections are incorporated herein by reference. Without waiving the objection, the parties should note that PWD does not have ready access to the information needed to answer this question.

PA-EXE-5. Please provide an electronic worksheet showing the derivation of the annual addition revenue relating to the implementation of the AMI for FY 2019, 2020 and 2021 of \$0.4 million, \$1.25 million and \$2.1 million, respectively.

Response: Objection. The Department objects to the above interrogatory and request for production of documents to the extent that same seek to discover information that is not relevant and not material to the subject matter and claims in this proceeding, and as such, are not reasonably calculated to lead to the discovery of admissible evidence. As stated with regard to the previous interrogatory, the information requested is beyond the Rate Period (FY 2017-2018). The General Objections are incorporated herein by reference. Without waiving this objection, the parties are directed to the PWD Official Statement (PWD Exhibit 4 – SI-31).

Deliberative Process Privilege

PA-EXE-6. Please provide any business case or presentations made to management regarding the AMI project.

Response: Objection. PWD objects to the above interrogatory and request for production of documents because same requests privileged information (related to government decision-making and deliberations). The General Objections set forth above are incorporated in this response. PWD maintains that the information requested (business case and presentations to management) is pre-decisional and deliberative in nature and is appropriately excluded from the public record, as it reflects matters leading to the final decision of a government agency including a description of the process used by the agency in reaching its decision, together with opinions as to policy matters. Final authorization of this project will require Philadelphia City Council approval and is only noted in the rate filing because of its significant impact in the forecast period. AMI has *de minimis* impact during the FY 2017-2018 rate period.

PA-EXE-7. Please explain the planned implementation of the AMI project and include in the explanation the estimated number of meters that will be affected and annual capital expenditures by year and in total for the project through its completion.

Response: Objection. PWD objects to the above interrogatory and request for production of documents because same are over-broad, request privileged information (government decision-making and deliberations) and are otherwise burdensome. The Department maintains that this is a cumulative request that is directly related to PA-EXE-6. The objections stated with regard to PA-EXE-6 and the General Objections are incorporated herein by reference. Without waiving this objection, the parties are directed to the PWD Official Statement (PWD Exhibit 4 – SI-31) for a description of the AMI project. All meters will be affected by this project; annual capital expenditures through the completion of the project are not finalized.

PA-EXE-8. Please provide a narrative that explains the specific functionalities and capabilities of AMI employed by PWD. Also in your response, explain how the system will reduce theft.

Response: Objection. PWD objects to the above interrogatory and request for production of documents because same are over-broad, request privileged information (related to government decision-making and deliberations) and is otherwise burdensome. The Department maintains that this is a cumulative request that is directly related to PA-EXE-6. The objections stated with regard to PA-EXE-6 and the General Objections are incorporated herein by reference. Without waiving this objection, the parties are directed to the PWD Official Statement (PWD Exhibit 4 – SI-31). See also, Testimony of Debra McCarty (PWD Statement 1 at pages 8-9).

All responses provided by Debra McCarty.