

OBJECTIONS TO INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF THE COMMUNITY LAWYERING CLINIC

The Philadelphia Water Department (“Department” or “PWD”) responds to the Community Lawyering Clinic’s (“CLC”) Interrogatories and Requests for Production of Documents (Set II), CLC-II-1 through II-13 (the “Interrogatories and Requests”) as follows.

General Objections

1. The Department objects to each Interrogatory and Request insofar as it seeks production or disclosure of documents that require PWD to undertake an extensive search for information during the hearing process. The time for discovery has ended. The active participants are in the hearing room at this point in time. The record will close shortly. PWD requests that the competing interests of the parties be balanced in the resolution of this discovery dispute which, as described below as to each discovery request, concerns untimely requests requiring an extensive search which is overly broad and unreasonably burdensome to the Department. PWD notes that appropriate standard to be applied in addressing each contested Interrogatory and Request is set forth in Regulation 7(b) of the Philadelphia Water, Sewer and Stormwater Rate Board (“Rate Board”) Regulations which specify that, in determining the appropriateness of information gathering, the competing interests of the requesting and responding participants should be weighed taking into account (a) time constraints in the proceeding, (b) the relevance of the requested information to rates and charges and (c) the burden on the responding party.

2. The Department objects to each Interrogatory and Request as each is untimely and specifically in contravention of the Hearing Officer’s January 11, 2016 scheduling order, which indicates that information gathering should be in advance of the technical hearings.

3. The Department objects to each Interrogatory and Request to the extent it is duplicative, cumulative or otherwise unduly burdensome given the fact that PWD has already responded to 400 data requests which overlap in subject matter with the CLC requests in dispute here.

4. The Department objects to each Interrogatory and Request to the extent it is violates the balancing criteria set forth in Rate Board Regulation 7(b) given the timeline and time constraints of the rate proceeding.

5. The Department objects to each Interrogatory and Request to the extent it requests legal advice, case law and legal research.

6. The Department objects to each Interrogatory and Request to the extent it requests information related to regulations and statutes which are publicly available.

7. The Department objects to each Interrogatory and Request to the extent it requests information protected by attorney client privilege and attorney work product doctrine.

8. The Department objects to each Interrogatory and Request to the extent it requests information related to customer service issues which are beyond the jurisdiction of the Rate Board (which jurisdiction is limited to rate setting issues).

9. 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.

Responses to Interrogatories and Requests for Production of Documents

CLC-II-1. Please advise us what training, if any, the Philadelphia Water Department (PWD) provides to and/or requires of those employees who interact with customers or potential customers.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. As the hearing officer is aware, PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery, as we are presenting evidence at this point in the proceeding. To the extent that this request is duplicative of previous requests for information, same is unduly burdensome to PWD as CLC already has access to this information. Moreover, to the extent CLC requests information related to customer service issues which are beyond the Rate Board’s rate setting authority, such request is further objectionable as it will fail to lead to the discovery of information that is relevant and admissible in this proceeding.

The Department requests that the competing interests of the parties be balanced in the resolution of the discovery dispute. PWD notes that the appropriate standard to be applied is set forth in Rate Board Regulation 7(b) which specifies that the interest of the requesting and responding participants be weighed taking into account (a) the time constraints in the proceeding, (b) the relevance of the requested information to rates and charges and (c) the burden on the responding party. In the instant context, the request should be denied for all the reasons stated above and in the General Objections.

Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-2. Please provide us with any documents or records , including but not limited to legal memoranda, employee manuals, handouts, or other materials, that describe PWD’s policy on what documentation is required to establish new residential customer accounts.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery, as we are presenting evidence at this point in the proceeding. To the extent that this request is duplicative of previous requests for information, same is unduly burdensome to PWD as CLC already has access to this information. Moreover, to the extent CLC requests information related to customer service issues which are beyond the Rate Board’s rate setting authority, such request is further objectionable as it will fail to lead to the discovery of information that is relevant and admissible in this proceeding. Finally, to the extent the request seeks information protected by attorney client privilege and attorney work product doctrine (e.g.,

legal memoranda), PWD asserts that such privilege/doctrine appropriately bars the response to this information request.

The Department requests that the competing interests of the parties be balanced in the resolution of the discovery dispute. PWD notes that appropriate standard to be applied is set forth in Rate Board Regulation 7(b) which specifies that the interest of the requesting and responding participants be weighed taking into account (a) the time constraints in the proceeding, (b) the relevance of the requested information to rates and charges and (c) the burden on the responding party. In the instant context, the request should be denied for all the reasons stated above and in the General Objections.

Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-3. Please provide information regarding the training that employees receive on what documentation is required to open a residential customer account.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery, as we are presenting evidence at this point in the proceeding. To the extent that this request is duplicative of previous requests for information, same is unduly burdensome as CLC already has access to this information. Moreover, to the extent CLC requests information related to customer service issues which are beyond the Rate Board's rate setting authority, such request is further objectionable as it will fail to lead to the discovery of information that is relevant and admissible in this proceeding.

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Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-4. Please provide us with any documents or records, including but not limited to legal memoranda, employee manuals, handouts and other training materials that describe PWD's policy addressing how its staff should interact with a customer's legal representative, including but not limited to whether there are any restrictions that prevent a legal representative from attending meetings (on behalf of or with their client) in order to aid their client in the process of becoming a PWD customer.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery, as we are presenting evidence at this point in the proceeding. To the

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Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-5. Please provide us with any documentation, including but not limited to legal memoranda, policy papers, case law statute, regulation or other written justification for why PWD believes that debt from delinquency on water bills attaches to the property (in rem) versus the individual account holder (in personam).

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery, as we are presenting evidence at this point in the proceeding. To the extent that this request is duplicative of previous requests for information, same is unduly burdensome as CLC already has access to this information. Moreover, to the extent CLC requests information related to customer service issues which are beyond the Rate Board's rate setting authority, such request is further objectionable as it will fail to lead to the discovery of information that is relevant and admissible in this proceeding. Finally, to the extent the request seeks information protected by attorney client privilege and attorney work product doctrine (e.g., legal memoranda), PWD asserts that such privilege/doctrine appropriately bars the response to this information request.

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Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-6. Please provide any documents or records, including but not limited to memoranda, policy papers, administrative outlines, and regulations that described the PWD's prioritization in debt collection, including but not limited to whether PWD distinguishes between delinquent residential customers versus commercial or industrial customers when shutting off water.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery, as we are presenting evidence at this point in the proceeding. To the extent that this request is duplicative of previous requests for information, same is unduly burdensome as CLC already has access to this information. Moreover, to the extent CLC requests information related to customer service issues which are beyond the Rate Board's rate setting authority, such request is further objectionable as it will fail to lead to the discovery of information that is relevant and admissible in this proceeding.

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Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-7. Please provide any documentation, including but not limited to legal memoranda, policy papers, case law, statute, regulation or other written justification, that describes the PWD's policy delineating what infrastructure a residential customer is responsible for as opposed to PWD.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery, as we are presenting evidence at this point in the proceeding. To the extent that this request is duplicative of previous requests for information, same is unduly burdensome as CLC already has access to this information. Moreover, to the extent CLC requests information related to customer service issues which are beyond the Rate Board's rate setting authority, such request is further objectionable as it will fail to lead to the discovery of information that is relevant and admissible in this proceeding. Finally, to the extent the request seeks information protected by attorney client privilege and attorney work product doctrine (e.g., legal memoranda), PWD asserts that such privilege/doctrine appropriately bars the response to this information request.

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party. In the instant context, the request should be denied for all the reasons stated above and in the General Objections.

Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-8. Please provide information on top twenty commercial delinquent customers including the monetary amount they owe.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery, as we are presenting evidence at this point in the proceeding. To the extent that this request is duplicative of previous requests for information, same is unduly burdensome as CLC already has access to this information. Moreover, to the extent CLC requests information related to customer service issues which are beyond the Rate Board's rate setting authority, such request is further objectionable as it will fail to lead to the discovery of information that is relevant and admissible in this proceeding.

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Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-9. Please provide information on the top twenty industrial delinquent customers including the monetary amount they owe.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information by other parties. PWD requests that the competing interests of the parties should be balanced in the resolution of this discovery dispute. PWD notes that appropriate standard to be applied in addressing each contested Interrogatory and Request is set forth in Rate Board Regulation 7(b) which specifies that the interest of the requesting and responding participants be weighed taking into account (a) the time constraints in the proceeding, (b) the relevance of the requested information to rates and charges and (c) the burden on the responding party. PWD is fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery as we are presenting evidence at this point in the proceeding.

Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-10. Please provide information on what fees for repair or installation of infrastructure, including but not limited to pipes, shutoff valves, and meters exist for residential customers.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery, as we are presenting evidence at this point in the proceeding. To the extent that this request is duplicative of previous requests for information, same is unduly burdensome as CLC already has access to this information. Moreover, to the extent CLC requests information related to customer service issues which are beyond the Rate Board's rate setting authority, such request is further objectionable as it will fail to lead to the discovery of information that is relevant and admissible in this proceeding.

The Department requests that the competing interests of the parties be balanced in the resolution of the discovery dispute. PWD notes that appropriate standard to be applied is set forth in Rate Board Regulation 7(b) which specifies that the interest of the requesting and responding participants be weighed taking into account (a) the time constraints in the proceeding, (b) the relevance of the requested information to rates and charges and (c) the burden on the responding party. In the instant context, the request should be denied for all the reasons stated above and in the General Objections.

Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-11. Please provide information on assistance programs including but not limited to available grants, partial payment programs, installment agreements or plans or other measures available to customers who are unable to pay costs or fees associated with infrastructure problems.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery, as we are presenting evidence at this point in the proceeding. To the extent that this request is duplicative of previous requests for information, same is unduly burdensome as CLC already has access to this information. Finally, to the extent CLC requests information related to customer service issues which are beyond the Rate Board's rate setting authority, such request is further objectionable as it will fail to lead to the discovery of information that is relevant and admissible in this proceeding.

The Department requests that the competing interests of the parties be balanced in the resolution of the discovery dispute. PWD notes that appropriate standard to be applied is set forth in Rate Board Regulation 7(b) which specifies that the interest of the requesting and responding participants be weighed taking into account (a) the time constraints in the proceeding, (b) the relevance of the requested information to rates and charges and (c) the burden on the responding party. In the instant context, the request should be denied for all the reasons stated above and in the General Objections.

Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-12. Please provide the number of water shutoffs of residential customer accounts for FY 2015, FY 2014, FY 2013, FY 2012, FY 2011, and FY 2010.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information by other parties. PWD requests that the competing interests of the parties be balanced in the resolution of this discovery dispute. PWD notes that appropriate standard to be applied is set forth in Rate Board Regulation 7(b) which specifies that the interest of the requesting and responding participants be weighed taking into account (a) the time constraints in the proceeding, (b) the relevance of the requested information to rates and charges and (c) the burden on the responding party. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery as we are presenting evidence at this point in the proceeding.

Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

CLC-II-13. In response to our last request for statistics on the number of shutoffs in different areas of the City of Philadelphia, PWD provided us with shutoffs by six districts. Please provide an explanation of what geographic area is covered by each district.

Response: Objection. The Department objects to this interrogatory and request for production of documents as untimely and duplicative of previous requests for information. PWD requests that the competing interests of the parties be balanced in the resolution of this discovery dispute. The Department notes that appropriate standard to be applied is set forth in Rate Board Regulation 7(b) which specifies that the interest of the requesting and responding participants be weighed taking into account (a) the time constraints in the proceeding, (b) the relevance of the requested information to rates and charges and (c) the burden on the responding party. PWD is now fully engaged in technical hearings at which this particular participant has yet to appear. There is no time for further discovery as we are presenting evidence at this point in the proceeding.

Assuming in the alternative, that this interrogatory and request for production of documents is permitted by the hearing officer, PWD asserts that additional time would be needed to respond given its scope and the attendant research that would be required.

WHEREFORE, the Department formally objects to the Interrogatories and Requests identified above and requests that its Objections be sustained and that it be relieved of the requirement of any further response to same except as described above.

Respectfully submitted,

/s/ Andre C. Dasent

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Date: April 12, 2016

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