

## PHILADELPHIA WATER RATE BOARD

### Hearing Officer Decision on Discovery

April 18, 2016

On April 7, 2016, Community Legal Clinics submitted to the Philadelphia Water Department its discovery request set II. On April 12, 2016, counsel for the PWD replied, objecting to the requests on a number of grounds. On April 14, 2016, CLC answered PWD's objections. On April 18, 2016, the undersigned Hearing Officer conducted a teleconference with counsel for CLC and PWD. The following decisions and agreements were announced at that conference by the Hearing Officer. Because the discovery dispute began well before the close of the record, but it was not possible to resolve it before April 18, 2016, any material supplied by PWD in response to the decisions and agreements below by Friday, April 22, 2196, will be admitted into the record. Based on the representations of counsel for PWD, the Hearing Officer assumes PWD will make good faith efforts to compile and provide the information sought and agreed to by that date.

#### CLC-II-1

CLC requested what training, if any, the Philadelphia Water Department (PWD) provides to and/or requires of those employees who interact with customers or potential customers. PWD will review the record to identify places where such information have previously been supplied, and make those citations available to CLC. PWD is not required to draft a new narrative to respond to this request.

#### CLC-II-2

The CLC requested that PWD supply 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. PWD is not obliged to provide attorney work-product. PWD will review the record to identify places where such documents have previously been supplied, and make those citations available to CLC. PWD will also make a good faith effort to identify any additional written materials that describe PWD's policy on what documentation is required to establish new residential accounts, and will state if no such material exists.

#### CLC-II-3

The CLC requested that PWD provide information regarding the training that employees receive on what documentation is required to open a residential customer account. This question is too broad to be subject to a meaningful answer, in light of the other questions regarding training that PWD is required to answer. PWD may answer this question if it chooses.

#### CLC-II-4

The CLC requested that PWD provide 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. PWD is not obliged to provide attorney work-product. PWD will

review the record to identify places where such documents have previously been supplied, and make those citations available to CLC. PWD will also make a good faith effort to identify any additional written materials that describe PWD's policy with respect to whether there are any restrictions that prevent a legal representative from attending meetings on behalf or with a client in order to aid their client in the process of becoming a PWD customer. If none exist, or policy exists that guarantees the right to such legal representation, PWD shall so state.

#### CLC-II-5

The CLC requested that PWD provide 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). PWD is not obliged to provide attorney work-product. PWD will review the record to identify places where such documents have previously been supplied, and make those citations available to CLC. PWD will also make a good faith effort to identify any additional written materials that describe PWD's understanding that delinquency from water bills attaches to the property versus to the account holder.

#### CLC-II-6

The CLC requested PWD 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 whether PWD distinguishes between delinquent residential customers versus commercial or industrial customers when shutting off water. PWD is not required to answer this request. With regard to the general issue of prioritization, it is not clear what relevance the information has to the issues before the Board. With regard to the prioritization between commercial and industrial delinquencies, at this stage in the proceedings the information sought is too remote from information that would be useful to the Board in making its decisions to warrant requiring that PWD answer it.

#### CLC-II-7

The CLC requested PWD 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. PWD is not obliged to provide attorney work-product. PWD will review the record to identify places where such documents have previously been supplied, and make those citations available to CLC. PWD will also make a good faith effort to identify any additional written materials that describe the PWD policy delineating what infrastructure a residential customer is responsible for, as opposed to PWD.

#### CLC-II-8

The CLC requested that PWD provide information on the top twenty commercial delinquent customers including the monetary amount they owe. PWD need not answer this request. At this stage in the proceedings the information sought is too remote from information that would be useful to the Board in making its decisions to warrant requiring that PWD answer it.

#### CLC-II-9

The CLC requested that PWD provide information on the top twenty industrial delinquent customers including the monetary amount they owe. PWD need not answer this request. At this stage in the proceedings the information sought is too remote from information that would be useful to the Board in making its decisions to warrant requiring that PWD answer it.

#### CLC-II-10

The CLC requested that PWD 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. PWD is not obliged to provide attorney work-product. PWD will review the record to identify places where such documents have previously been supplied, and make those citations available to CLC. PWD will also make a good faith effort to identify any additional written materials that describe the PWD policies with regard to residential fees for repair or installation of infrastructure, including but not limited to pipes, shutoff valves, and meters exist for residential customers.

#### CLC-II-11

The CLC requested that PWD 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. PWD will review the record to identify places where such documents have previously been supplied, and make those citations available to CLC. PWD will also make a good faith effort to identify any additional written materials that describe the PWD policies with regard to assistance programs it makes available to residential customers.

#### CLC-II-12

The CLC requested that PWD provide the number of water shutoffs of residential customer accounts for FY 2015, FY 2014, FY 2013, FY 2012, FY 2011, and FY 2010. PWD will supply this information to the extent readily available.

#### CLC-II-13

The CLC requested that PWD identify what geographic location is covered by each district they identified in their previous response in which they provided statistics. PWD will make a good faith effort to identify geographic locations using publicly available and used designations such as zip codes, neighborhoods, and the like, that correspond to the locations of water shutoffs identified in response to CLC-II-12.

April 18, 2016

Nancy Brockway  
Hearing Officer

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