A scheduling conference was conducted by telephone in this proceeding on March 20, 2020, at 10:00 a.m. Participating through counsel were the Philadelphia Water Department (PWD or Department), the Philadelphia Department of Revenue Water Revenue Bureau (WRB), the Public Advocate (PA or Advocate), PECO Energy Company (PECO), Vicinity Energy Philadelphia (Vicinity) and the Philadelphia Large Users Group (Large Users). All participants were invited by e-mail to call in to the conference; in addition, the number and code were provided on the Rate Board's website.

All participants recognized the emergency situation involving public health and the mandatory shutdown of non-life-essential businesses in Pennsylvania that currently exists. They recognized that given these circumstances, it would be difficult to conduct and complete the proceeding within the 120-day time period contained in the ordinance and regulations that establish and guide the Philadelphia Water, Sewer and Storm Water Board (Rate Board) in its rate filing reviews.

As a result, the Department requested that the rate filing be temporarily suspended. Specifically, it suggested there be “. . . a temporary stay of all discovery, hearings and briefs until (i) City offices reopen and all employees return to work; or (ii) at such date as determined by the Hearing Officer.”

After discussion, all participants agreed with this suggestion. In light of the uncertainty over the anticipated duration of the emergency measures currently in place, I will direct PWD to provide a status report either in 30 days or when the restrictions are lifted, whichever
comes first. At that point, we can determine whether to continue the stay, or schedule a further conference so the Department can decide whether to continue with the proceeding and set temporary rates effective September 1, 2020 (to remain in place until the Rate Board makes its final decision) or to withdraw the application for rate relief and start over.

Counsel for the Advocate advised that he had some pending discovery to serve, noting that this may save time in the future should the proceeding be resumed; counsel for the Department agreed to accept them, with both parties expressly recognizing that there may be difficulties in providing responses. Counsel for WRB noted that given the current staffing situation (while essential City employees are directed to telework, non-essential employees are prohibited from working at all), it may be impossible to respond to any data requests. To be clear, I am not making any determination about further discovery, and will not issue any order concerning discovery objections or otherwise while the schedule is suspended.

I do want to commend the Department and the Advocate for working together to come up with reasonable solutions to the current emergency situation. I hope they continue this cooperation not just for the immediate scheduling issues but for the resolution of the larger issues presented by the Department’s filing.

THEREFORE,

IT IS ORDERED:

1. That the request of the Philadelphia Water Department for a temporary stay of all discovery, hearings and briefs until (i) City offices reopen and all employees return to work; or (ii) at such date as determined by the Hearing Officer is granted; and

2. That the Department provide a status report either in 30 days or when the restrictions are lifted, whichever comes first.

Marlane R. Chestnut
Hearing Officer

Dated: March 20, 2020