

BEFORE THE
PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD

Re Philadelphia Water Department :
Formal Notice of Proposed Charges : 2020 TAP-R Reconciliation Proceeding
In Rates and Charges :

JOINT PETITION FOR SETTLEMENT OF TAP-R PROCEEDING

The Philadelphia Water Department (“PWD” or “Department”) and the Public Advocate (“Advocate”) (collectively, “Joint Petitioners”) submit this Joint Petition for Settlement (“Joint Petition” or “Settlement”) of the Tiered Assistance Program Rate Rider (“TAP-R”) Reconciliation proceeding and request that Hearing Officer Marlene Chestnut (“Hearing Officer”) (i) approve the settlement of this proceeding without modification consistent with this Joint Petition; and (ii) recommend that the Philadelphia Water, Sewer and Storm Water Rate Board (“Rate Board”) approve the Settlement and authorize the Department to file modified Rates and Charges related to TAP-R to become effective on October 1, 2020. In support of the proposed Settlement, the Joint Petitioners state the following:

I. BACKGROUND

A. TAP Program and TAP Rate Rider.

1. The Tiered Assistance Program (“TAP”) is an assistance program that allows low-income customers to pay reduced bills based on a percentage of their income.

2. The TAP Rate Rider is a ratemaking tool that allows PWD to recover lost revenue requirements (costs) or reduce future costs, if actual costs are less than projected.¹ TAP-R rates are charged to customers not eligible for TAP and are intended to recover the revenue losses (i.e., costs) associated with the program.

3. The cost of TAP (recovered via the TAP Rate Rider) may change over time due to multiple factors, including: (i) the number of low-income households that enroll in the program (“TAP Participants”); (ii) water usage and sewer service; (iii) changes in PWD’s non-discounted rates; and (iv) the level of discounts needed to provide affordable bills to TAP Participants.

¹ In the 2018 Rate Proceeding, the Advocate and PWD reached agreement regarding, and the Rate Board subsequently approved, many of the significant aspects of a reconcilable TAP Rate Rider. Simply stated, this rider tracks revenue losses resulting from application of the TAP discounts and permits annual reconciliation of such costs to prevent either over or under-recovery of TAP revenue losses through TAP-R Surcharge.

4. PWD reviews and proposes adjustments to the TAP Rate Rider annually to account for changes in actual and projected TAP costs and the extent to which those costs were over- or under-collected during a prior period.

5. The TAP-R Reconciliation filing submitted the Department's proposed annual adjustment to the TAP Rate Rider; and the modification of related water, sewer and fire connection quantity charges.

6. The following PWD rates and charges will be affected if the Rate Board approves the proposed Joint Settlement:

<u>Rates and Charges</u>	<u>Section Reference</u>
Total Water Quantity Charges	Section 2.1(c)(1)
Total Sewer Quantity Charges	Section 3.1(b)(1)
Total Fire Service Quantity Charges	Section 9.1(d)(1)
TAP-R Surcharge Rates	Section 10.3

B. 2020 TAP-R Proceeding

7. The Department commenced the 2020 TAP-R proceeding by filing its Advance Notice and Formal Notice of the proceeding on May 20, 2020 and June 22, 2020, respectively. Copies of the Advance Notice and Formal Notice are part of Hearing Exhibit 1.

8. These filings were made consistent with Sections II.A.2 and II.C.1 of the Rate Board's regulations.

9. PWD proposed that changed TAP-R rates and charges would take effect on October 1, 2020.

10. The participants in the 2018 and 2020 Rate Proceedings² were notified by e-mail of the opportunity to participate in the 2020 TAP-R Proceeding.

11. The general public was notified through information made available on the Rate Board's website as well as publication in Philadelphia newspapers. Legal notices related to the Advance Notice and Formal Notice were timely published in three local newspapers. These notices are set forth in Hearing Exhibit 3.

12. The Public Advocate was designated a participant in this proceeding pursuant to the terms of the Board's regulations.

² It is noteworthy that Department's request to withdraw the 2020 Rate Proceeding was granted after Rate Board deliberation on June 18, 2020.

13. The Public Advocate submitted written discovery requests by e-mail on June 2, 2020 as to which PWD responded on June 12, 2020. The Department also provided a supplemental response to the data request of the Advocate on June 29, 2020. Copies of the discovery responses are included as part of Hearing Exhibit 1.

14. The Philadelphia Large Users Group (“PLUG”) intervened in the proceeding on June 29, 2020.

15. A virtual prehearing conference was held on June 30, 2020 which was presided over by Hearing Officer Chestnut.

16. PWD, PLUG and the Advocate participated in the above pre-hearing conference.

17. Prior to the pre-hearing conference, PWD, PLUG and the Advocate agreed to a schedule for the proceeding which provided that written testimony, if any, would be submitted by July 10, 2020; and that technical and public input hearings would be held on July 15, 2020.

18. At the pre-hearing conference, the Hearing Officer indicated that all hearings in this proceeding would be virtual given the COVID-19 pandemic. At that pre-hearing conference, the Hearing Officer also confirmed key milestones in the schedule for the proceeding, including the date for members of the public to register as participants, the date for the written direct testimony of the non-Department participants, and the dates for both the technical and public hearings.

19. The Hearing Officer also directed that (i) the Advocate confirm whether or not it would be filing written testimony on or before July 3, 2020; and (ii) the Department provide a status report as to the proceeding on July 7, 2020.

20. Per the Hearing Officer’s directive, the Advocate timely confirmed that it would not be filing written testimony in this proceeding.

21. PLUG indicated, at the pre-hearing conference, that it did not intend to file direct testimony in the proceeding.

22. Adam Ehrlich and Jamila Kinsey became participants in the proceeding on July 1, 2020, after the aforesaid pre-hearing conference.

23. The Department, through its counsel, reached out to the aforesaid individual participants (via email) to inform them of the subject matter of the proceeding and provide a point of contact in the event they had any questions.

24. None of the non-Department participants filed written testimony by July 10, 2020 (the deadline agreed to at the pre-hearing conference) to respond to the Department’s Advance

Notice and Formal Notice and the proposed changes in PWD TAP-R rates and charges set forth therein.

25. Legal notices related to the technical and public input hearings were timely published in four local newspapers. These notices are set forth in Hearing Exhibit 3.

26. Joint Petitioners conducted negotiations to achieve a settlement of all issues in the proceeding. As a result of said negotiations, Joint Petitioners were able to reach the Settlement set forth herein. In advance of technical hearing, the other participants were advised of the proposed Settlement reached by the Joint Petitioners. PLUG indicated that it did not oppose the Settlement, although it may file separate comments. The individual participants have not responded to the proposed Settlement.

27. The Joint Petitioners proffer three Hearing Exhibits in support of the Settlement.

Exhibit 1 - the Advance Notice, Formal Notice³ and responses to written discovery;

Exhibit 2 - the modified Rates and Charges related to TAP-R; and

Exhibit 3 - the legal notices related to this proceeding.

The above exhibits are marked as Appendix A and are incorporated herein by reference.

28. In light of the Settlement and the fact that PWD, the Advocate and PLUG either endorse or acquiesce to its terms, the Hearing Exhibits should be accepted into the record. In addition, the Joint Petitioners jointly stipulate to the authenticity of and admission into the evidentiary record in this matter of the Hearing Exhibits listed in Paragraph 27 of this Joint Petition,

29. The Joint Petitioners are in full agreement that this Settlement is in the best interest of the Department and its customers and is therefore in the public interest as well as in compliance with the ordinances governing this proceeding and provide a reasonable basis for recovery of TAP-R costs in this proceeding.

30. It is agreed and understood that PLUG and any individual participants may file comments to the Joint Petition either in writing or in-person at the time of hearings in this matter (July 15, 2020).

³ The components of the Advance Notice and Formal Notice are stated in greater detail in Hearing Exhibit 1.

II. TERMS AND CONDITIONS

The Settlement consists of the following terms and conditions:

A. Agreement

31. The Joint Petitioners agree and submit that modified TAP-R rates and charges (set forth in Hearing Exhibit 2) should be approved by the Rate Board.

B. Rate Impact

32. If the Settlement is approved, TAP-R rates would adjust on October 1, 2020, as shown below:

<u>TAP-R Rate</u>	<u>Current</u>	<u>Proposed</u>	<u>Difference</u>
Water (\$/Mcf)	\$0.71	\$0.57	-\$0.14
Sewer (\$/Mcf)	\$1.16	\$0.78	-\$0.38

33. Under proposed new rates, a typical residential customer (using 5 hundred cubic feet (Ccf) per month) will see their monthly bill decrease from \$66.99, under existing TAP-R rates, to \$66.73—a reduction of \$0.26/monthly, \$3.12/yearly (or 0.4% savings).⁴

34. Under proposed new rates, a typical senior residential customer (using 3 Ccf per month and eligible for the senior discount) will see their monthly bill decrease from \$38.54, under existing TAP-R rates, to \$38.43—a reduction of \$0.11/monthly, \$1.32/yearly (or 0.3% savings).⁵

35. Under proposed new rates, a typical small business customer (using 6 Ccf per month) will see their monthly bill decrease from \$112.45, under existing TAP-R rates, to \$112.13—a reduction of \$0.32/monthly, \$3.84/yearly (or 0.3% savings).⁶

36. New TAP-R rates, as proposed in the Settlement, are anticipated to produce \$7,427,988 in service revenues during the Next Rate Period.⁷

⁴ A typical PWD residential customer has a 5/8-inch meter and uses approximately 5 Ccf/monthly.

⁵ A typical PWD senior residential customer has a 5/8-inch meter and used approximately 3 Ccf/monthly.

⁶ A typical small business customer has a 5/8-inch meter and uses approximately 6 Ccf/monthly. A parcel with gross area of 5,500 square feet and impervious area of 4,000 square feet was assumed for development of the typical bill comparison.

⁷ Hearing Exhibit 1 (Schedule BV-1).

37. The above level of proposed service revenues represents an approximate 27% reduction from the \$10,271,302 in TAP-R service revenues estimated for the period September 1, 2019 through August 31, 2020 (based on the 2019 TAP-R settlement).⁸

38. The proposed Settlement will yield savings to PWD customers during the Next Rate Period, as described above.

39. PWD and the Public Advocate submit that the TAP-R rates set forth in the Joint Statement should be approved as they are just and reasonable, comply with the ordinances governing this proceeding and provide a reasonable basis for recovery of TAP-R costs in this proceeding.

III. PUBLIC INTEREST CONSIDERATIONS

40. Joint Petitioners submit that this Settlement is in the public interest for the following reasons:

(a) The Settlement provides for a reduction of the TAP-R service revenues of \$2,798,314 during the Next Rate Period.⁹

(b) Acceptance of the Settlement will avoid the necessity of further administrative proceedings and/or court proceedings at substantial cost to Joint Petitioners, other parties and PWD ratepayers.

(c) The Settlement will allocate agreed upon water and sewer revenue requirements in a manner that is reasonable in light of the rate structure/cost of service policy decisions made in the 2018 Rate Determination.

(d) The Joint Petitioners arrived at terms of Settlement after submission of the TAP-R filing, conducting discovery and engaging in settlement negotiations. The terms and conditions of Settlement constitute a carefully negotiated package representing reasonable compromises as to the issues presented all of which are supported by the record of this proceeding.

IV. ADDITIONAL TERMS AND CONDITIONS

41. This Settlement is proposed by Joint Petitioners to resolve the issues presented in this proceeding and is made without admission against or prejudice to any position which any Joint Petitioner might adopt during subsequent litigation or in further litigation of this case.

⁸ See, 2019 TAP-R Adjustment — Comments in Support of Joint Statement at 2.

⁹ \$10,271,302 minus \$7,472,988 yields \$2,798,314.

42. This Settlement is conditioned upon the Rate Board's approval of the terms and conditions contained herein without modification. If the Rate Board disapproves the Settlement or modifies the terms and conditions herein, the Settlement may be withdrawn, by a Joint Petitioner, upon written notice to the Rate Board and all active participants in this proceeding communicated within three business days of the entry of a final order of the Rate Board in this proceeding. In the event the Rate Board disapproves the Settlement, or any Joint Petitioner elects to withdraw as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case. The Joint Petition does not establish precedent and neither the Joint Petition nor Rate Board approval thereof shall be cited in other proceedings as precedent. Joint Petitioners agree that while the Settlement, upon Rate Board approval, will be fully enforceable according to its terms, the Joint Petition does not expressly or implicitly represent approval of any specific claims made in this proceeding and the Joint Petitioners agree not to contend otherwise in future proceedings.

43. Joint Petitioners will make reasonable, good faith efforts to obtain approval of the Settlement by the Hearing Officer and the Rate Board without modification. If the Hearing Officer recommends that the Rate Board adopt the Settlement, as proposed herein, the Joint Petitioners agree to waive filing exceptions. Joint Petitioners, however, do not waive their rights to file exceptions with respect to any modification of the terms and conditions of Settlement or any additional matter proposed by the Hearing Officer in her report.

V. CONCLUSION

WHEREFORE, Joint Petitioners, by their respective counsel, request the following:

1. That the Hearing Officer admit the Hearing Exhibits described in Paragraph 27 of this Joint Petition into the record of this proceeding.
2. That the Hearing Officer recommend the approval of the Settlement by the Rate Board, as described in this Joint Petition.

3. That the Rate Board approve the Settlement and find the modified TAP-R rates to be just and reasonable and authorize the Department to file revised rates and charges as proposed by the Department the TAP-R filing.

4. That the Rate Board enter its final Rate Determination in this matter consistent with the terms and conditions of Settlement and mark this docket closed.

Respectfully submitted,

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