

TECHNICAL REVIEW HEARING

2020 TAP-R RECONCILIATION ADJUSTMENT PROCEEDING

Remote Location using Cisco Webex
Wednesday, July 15, 2020
10:00 a.m.

HEARING OFFICER MARLANE R. CHESTNUT

PRESENT:

Andre Dasent, Philadelphia Water Department
Scott Schwartz, Philadelphia Water Department
Carl Shultz, Eckert Seamans
Melissa LaBuda, Philadelphia Water Department
Susan Crosby, Water Revenue Bureau
Danielle Lavery, Water Revenue Bureau
Ji Jun, City Law Department
Robert Ballenger, Community Legal Services
Adeolu Bakare, Philadelphia Large Users Group

Jo-Anne Thompson, Philadelphia Large Users

Brian Merritt, Black & Veatch Consulting

Dave Jagt, Black & Veatch Consulting

Dan Cantu-Hertzler, City Law Department

Stephen Liang, City Law Department

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1 HEARING OFFICER: We are on the
2 record. This is the Technical Review
3 Hearing scheduled in the 2020 TAP-R
4 Reconciliation Adjustment Proceeding.

5 For the record, let me state that I
6 am Hearing Officer Marlane R. Chestnut. I
7 would like you to identify yourselves for
8 the record, starting with you, Mr. Dasent.

9 MR. DASENT: Andre Dasent from the
10 Philadelphia Water Department.

11 HEARING OFFICER: Thank you.
12 Mr. Shultz.

13 MR. SHULTZ: Yes, your Honor. This
14 is Carl Shultz from Eckert Seamans, here on
15 behalf of the Philadelphia Water
16 Department.

17 HEARING OFFICER: Thank you. I'm
18 going through my list of participants here
19 so they may not be consistent with the way
20 that you are displayed.

21 Ms. Crosby, do you want to identify
22 yourself for the record?

23 MS. CROSBY: Good morning. Yes,
24 your Honor. Susan Crosby representing the

1 Water Revenue Bureau of the Department of
2 Revenue.

3 HEARING OFFICER: Thank you.

4 Ms. Jun, do you want to identify yourself?

5 MS. JUN: Ji Jun, City Law
6 Department, counsel for the Water
7 Department.

8 HEARING OFFICER: Thank you.

9 Ms. Lavery. I'm not sure she can hear or
10 participate, we note that you're somewhat
11 present.

12 MS. CROSBY: I'll do it for her.
13 Danielle Lavery, representing the Water
14 Revenue Bureau for the Department of
15 Revenue.

16 HEARING OFFICER: Thank you.
17 Mr. Ballenger.

18 MR. BALLENGER: Yes, thank you,
19 Your Honor. Robert Ballenger, Community
20 Legal Services on behalf of the public
21 advocate.

22 HEARING OFFICER: Thank you.

23 Mr. Bakare.

24 MR. BAKARE: Good morning, your

1 Honor. This is Ade Bakare on behalf of the
2 Philadelphia Large Users Group.

3 HEARING OFFICER: Thank you.
4 Ms. Thompson.

5 MS. THOMPSON: Good morning, your
6 Honor. This is Jo-Anne Thompson on behalf
7 of the Philadelphia Large Users Group.

8 HEARING OFFICER: I'll also note
9 that also present are two non-participants.
10 Mr. Merritt, do you want to identify
11 yourself for the record please?

12 MR. MERRITT: Good morning, your
13 Honor. This is Brian Merritt with Black &
14 Veatch Consulting. We are a consultant to
15 the water department.

16 HEARING OFFICER: And
17 Mr. Cantu-Hertzler, do you want to identify
18 yourself for the record?

19 MR. CANTU-HERTZLER: Yes, I'm Dan
20 Cantu-Hertzler. I'm with the City Law
21 Department for the Water, Sewer, Storm
22 Water.

23 HEARING OFFICER: Have I missed
24 anybody?

1 MS. LABUDA: Good morning, this is
2 Melissa LaBuda.

3 HEARING OFFICER: Thank you,
4 Ms. LaBuda. Anybody else?

5 MR. SCHWARTZ: Scott Schwartz,
6 counsel for the Philadelphia Water
7 Department on the telephone.

8 HEARING OFFICER: Okay. Anybody
9 else?

10 MR. JAGT: This is Dave Jagt with
11 Black & Veatch.

12 HEARING OFFICER: Okay. Could you
13 spell that for the benefit of the court
14 reporter?

15 MR. JAGT: Sure. It's a little
16 different. It's Dave, and my last name is
17 J-A-G-T, pronounced yacht like the boat.

18 HEARING OFFICER: Okay. The
19 purpose of this hearing then is to discuss
20 the joint petition for settlement that I
21 received yesterday.

22 Mr. Dasent, did you want to say
23 anything about that before I go through my
24 questions concerning it?

1 MR. DASENT: Sure. I assume that
2 everyone now has the copy of the joint
3 petition that was circulated yesterday.

4 Yesterday, also, I reached out to
5 Philadelphia Large Users Group and he
6 identified he would not oppose the proposed
7 settlement and would file a statement in
8 support of it if given leave to do so,
9 which we do not opposed.

10 If your Honor will permit me, I
11 will give a brief history of the
12 proceeding, how we got here and describe
13 areas of agreement.

14 HEARING OFFICER: I don't think
15 that's necessary, Mr. Dasent. We all have
16 it. We all know what the process is up to
17 this point. Unless there is a point you
18 wish to make, you don't need to summarize
19 it.

20 MR. DASENT: I want to make sure at
21 the end of the day that our report hearing
22 exhibits are agreed to for inclusion in the
23 record. That the modified rates, as
24 contained in the original filing and as

1 also attached -- will be attached to the
2 joint settlement, will be approved by your
3 Honor in the first instance and by the Rate
4 Board finally in August.

5 HEARING OFFICER: Okay. Let's talk
6 about that for a minute. First off, I
7 would like everybody to note the correct
8 spelling of my name, it's M-A-R-L-A-N-E.

9 MR. DASENT: I apologize if I got
10 that wrong.

11 HEARING OFFICER: And I am really
12 making a point of it because once it's
13 incorrect in one place, it just
14 perpetuates. I know it's not the usual
15 spelling, but try to keep that in mind.

16 With respect to the process by
17 which this will be approved or not approved
18 or reviewed, let me just tell you what my
19 role is here. I think there is some
20 confusion about exactly what it is I'm
21 going to be approving or recommending.

22 I do not see myself approving this
23 proposed settlement. What I see myself
24 doing is making a recommendation to the

1 Rate Board that it approve or reject or
2 modify the rates contained within it.

3 Okay. Does everybody understand
4 that?

5 MR. DASENT: I missed part of the
6 sentence because of transmission, I'm sorry
7 Judge Chestnut.

8 HEARING OFFICER: I'm sorry if I'm
9 not speaking loud enough. What I'm saying
10 is I am not going to approve or disapprove
11 this petition. I am going to make a
12 recommendation to the Rate Board. And my
13 recommendation, the subject of that, will
14 not be the settlement petition itself, but
15 the rates contained within it.

16 In other words, I would recommend,
17 for example, that the Rate Board approve
18 the rates that are contained within the
19 proposed settlement petition.

20 Can everybody hear me okay? I know
21 I'm outside.

22 (Affirmative responses.)

23 So from that perspective, I think
24 there was a little confusion in the way the

1 joint petition is worded. I think you
2 didn't know how I was approaching this and
3 that's why you put in both steps of that.
4 But that is how I see myself proceeding
5 with this.

6 When you're talking about the
7 board, you know, let's not forget the board
8 is not a regulatory oversight agency, like
9 the PUC is. The Rate Board has a very
10 limited jurisdiction, that's the rates
11 themselves.

12 So just to clarify, when the
13 petition talks about terms and conditions,
14 the only terms that I see that the board is
15 going to address are the rates and the
16 effective date of them.

17 Now I don't think in this
18 particular instance there is any other
19 items. But I just thought it was important
20 to say that up front.

21 Do you agree -- anybody have any --

22 MR. DASENT: You're cutting out
23 again, sorry.

24 HEARING OFFICER: Did everybody

1 hear my last point?

2 MR. BALLENGER: No. If I could
3 make one small recommendation, if it helps
4 with our bandwidth, maybe we can take down
5 the screen sharing, because I think that's
6 really only necessary for the public part
7 of our hearing. I don't know if that will
8 help at all, Steven. I'll leave that to
9 you.

10 MR. LIANG: I'm not quite sure why
11 I'm having an issue today, but I'll do
12 that.

13 HEARING OFFICER: I was just
14 clarifying that I see the scope of the
15 board's review and approval process as
16 being directed to the rates themselves and
17 the effective date of the rates. To the
18 extent that there are any other terms or
19 conditions that are contemplated by this
20 agreement, I don't see that as part of
21 this.

22 MR. DASENT: We put it in the
23 format of PUC --

24 HEARING OFFICER: Right. It was a

1 very familiar format, and I appreciate
2 that. Let's not forget this isn't the PUC.
3 It is slightly different. I mean, it's
4 very well set out, don't get me wrong, and
5 the PUC process is a good one. But we do
6 have to recognize this isn't the PUC, and
7 their process is somewhat different and the
8 scope of jurisdiction is somewhat
9 different.

10 MR. DASENT: Understood.

11 HEARING OFFICER: Okay. Now I do
12 have a question, you raised this,
13 Mr. Dasent, about the exhibits which you
14 said were attached as an appendix, which
15 they are not. I assume you did that
16 because they either are or will be posted
17 already to the Rate Board's website.

18 MR. DASENT: That's correct. And
19 we do have to supplement the publication of
20 that, the proof of publication for legal
21 advertising, because this hearing, for
22 example, has various advertising that
23 supports it.

24 And the rest is at the website

1 already, but we are happy to provide it
2 separately.

3 HEARING OFFICER: Well, my concern
4 is that if someone who was not a
5 participant looks at the website, reads
6 this document and will look for the
7 appendix, and there is no appendix.

8 MR. DASENT: I will provide that,
9 your Honor.

10 HEARING OFFICER: Maybe we can --
11 I'm not sure how to address that. Maybe we
12 can just note it on the website, you know.
13 Have a notice on the website that the
14 documents referenced in the hearing are
15 found on the website.

16 MR. DASENT: Will do.

17 HEARING OFFICER: Okay. Because I
18 think looking at Exhibit-1, obviously that
19 is on the website already.

20 Exhibit-2, the modified rates and
21 charges I assume will be on the website or
22 are they specified on the website?

23 MR. DASENT: Yes, it's also
24 contained -- no, they are not specified on

1 the website, I wanted to break them out.
2 They are in the advanced notice and also on
3 the formal notice.

4 HEARING OFFICER: That's what I
5 wondered, why they were separate exhibits.

6 MR. DASENT: Because I wanted to
7 bring them out for the board's attention
8 because that's what they are approving.

9 HEARING OFFICER: Okay. I think
10 there would have been a cleaner way to do
11 that without having it listed twice,
12 basically once within Exhibit-1 and
13 separately as Exhibit-2. You could have
14 perhaps noted on Exhibit-1 that the rates
15 themselves are found at something.

16 Again, this is just suggestions for
17 making it easier. I don't have a problem
18 at all with the petition or the contents of
19 the petition. I'm just trying to think of
20 how we can make this easier for ourselves
21 and for people who access the website.

22 I'm very concerned that people have
23 an accurate idea about what's going on.

24 Again, Exhibit-3 was the legal

1 notice, they will be on the website
2 identified.

3 MR. DASENT: Yes.

4 HEARING OFFICER: Okay. That was
5 really all the questions that I had about
6 it. Again, it's clear that everybody did a
7 good job here. The filing was obviously
8 supported. The public advocate did
9 thorough discovery. Proper notices were
10 provided. I don't see that there is any
11 problem at all.

12 Now Mr. Bakare, you said you were
13 contemplating filing a statement in
14 support?

15 MR. BAKARE: Yes, your Honor. We
16 would like to provide just a very brief
17 statement clarifying our reasons for not
18 opposing the rate change. And most of that
19 ties to the sort of overlapping
20 jurisdiction between the TAP-R and the rate
21 case and just clarifying that we are not
22 waiving any opportunity to address some of
23 the policy issues that are raised that
24 support the TAP-R rider that would likely

1 be addressed in the next rate case.

2 HEARING OFFICER: Okay. When did
3 you contemplate doing that?

4 MR. BAKARE: I talked to Mr. Dasent
5 yesterday and I was suggesting that we
6 submit that statement by next Friday the
7 24th, if that's consistent with your
8 schedule.

9 HEARING OFFICER: I mean, I'm going
10 to be writing this right now. My intention
11 is for the board to have this item
12 addressed at its August 5th, I think, board
13 meeting. Is that the rate date?

14 MR. DASENT: Yes.

15 HEARING OFFICER: So if I were you,
16 I would get that in sooner if you can.

17 MR. BAKARE: Okay. How about
18 Monday?

19 HEARING OFFICER: Monday. Sure. I
20 mean, I'll tell you I already started it.
21 But I will obviously read and plug it in.
22 But I'm not going to hold off on this until
23 then.

24 MR. BAKARE: Understood. So if we

1 get it in, you'll include it. But if
2 you're done, you're going to send it?

3 HEARING OFFICER: Yes. And I don't
4 think it will be done by Monday. I would
5 like to, but I think that's -- I do have a
6 life outside of this.

7 But I expect it will be a very
8 short report. Like I said, I think the
9 petition does have everything in it that's
10 necessary. And I do -- I anticipate
11 recommending approval of the rates
12 contained -- the proposed rates contained
13 in it.

14 MR. BAKARE: Understood. And
15 again, we are not opposing the proposed
16 rates.

17 HEARING OFFICER: I understand your
18 point.

19 Does anybody have anything else
20 they want to raise?

21 MR. BALLENGER: Thank you, your
22 Honor. Very briefly, and I appreciate your
23 attention to the proposed settlement terms.
24 Without discussing the specifics of them, I

1 think Mr. Dasent and I both had in mind
2 that providing an overview would aid the
3 board in ultimately providing a written
4 report under the ordinance that
5 incorporates the information that it uses
6 to reach a decision.

7 While I understand the board
8 ultimately approves the rates, that report
9 does have some prerequisites to it. We
10 just wanted to sort of succinctly set that
11 out in one place, rather than requiring you
12 or the board to read through voluminous
13 information.

14 We agreed that those things
15 contained in the settlement are accurate
16 and correct. I think, you know, we would
17 hope that you could agree with us on that
18 as well.

19 HEARING OFFICER: Much appreciated.
20 I do thank you all for making this process
21 as smooth and easy as possible.

22 Okay. Does anybody else have
23 anything before we adjourn?

24 (No response.)

1 Now I'm not sure how this works in
2 terms of the public hearing component of
3 this. Steven, can people -- I think you
4 indicated people could get off and get back
5 on?

6 I'm sorry, Michelle. We can go off
7 the record.

8 At this point let me say that I
9 heard from everybody and we talked about
10 the settlement petition, this hearing is
11 adjourned.

12 - - -

13 (Hearing adjourned at 10:22 a.m.)

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C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence noted are contained fully and accurately in the stenographic notes taken by me in the foregoing matter, and that this is a correct transcript of the same.

Michelle A. Landman - Notary Public

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

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