

**BEFORE THE
PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD**

In the Matter of the Philadelphia Water :
Department’s Proposed Changes in Water, : For: Fiscal Years 2022-2023
Wastewater and Stormwater Rates and Related :
Charges :

ORDER GRANTING PWD MOTION IN LIMINE: SKIENDZIELEWSKI

On April 8, 2021, the Philadelphia Water Department (PWD or Department) filed a Motion in Limine (Motion) requesting that the scope of the current rate proceeding before the Philadelphia Water, Sewer and Storm Water Rate Board (Rate Board) be limited so as to exclude certain issues that have been or will be raised by pro se participant Michael Skiendzielewski.¹ The issues identified by PWD are “(i) allegations of “financial impropriety” in the operation, management and disposition of the HELP Loan program, (ii) allegations of misconduct by Counsel for Water Revenue Board (“WRB”), and (iii) allegations related to the 2017 investigation by [name omitted].”² I allowed the participants an opportunity to respond to the Motion.

On April 12, 2021, Mr. Skiendzielewski responded to the Motion as well as to objections PWD had raised to discovery he had propounded, asserting that his testimony (and related discovery) were appropriate because “. . . it is reasonable, prudent and justified for PWD consumers to be able to review and judge for themselves exactly how the HELP loan program is being administered and managed and the costs involved in administering such an important program.”

¹ The Philadelphia Water, Sewer, and Storm Water Rate Board is an independent body established by the Philadelphia City Council to set rates and charges for water and sewer service. [Water, Sewer & Storm Water Rate Board | Homepage | City of Philadelphia](#)

² In the 2016 rate proceeding, the Rate Board had requested guidance from the City’s Law Department as to the scope of the Rate Board’s authority. See, 2016 Determination of Water Department Rates and Charges for FY 2017-2018, at 39 and Appendix B.

Mr. Skiendzielewski did not file prepared testimony in accordance with the schedule; nor did he present testimony at any of the four public hearings held on March 16 and 18, 2021, although he appeared at one of them and asked a question (to which the Department responded later). He has, however, conducted discovery and sent numerous emails.

The Department is correct: The Rate Board does not have the authority to investigate, administer or enforce public integrity laws or ethical codes. Therefore, discovery or testimony intended to address allegations of misconduct in connection with administration of the HELP loan program will be excluded from the scope of this rate proceeding.

This ruling also encompasses the outstanding discovery propounded by Mr. Skiendzielewski on April 5, 2021, to which PWD filed Objections on April 8, 2021. Mr. Skiendzielewski responded to the Objections on April 12, 2021. Generally, these interrogatories and/or requests for documents seek 12 years of information relating to operation of the HELP loan program. While PWD indicated that it would reply to several of the interrogatories and/or request for documents, it objected on several grounds to most of the items as being . . . “overly-broad in scope, unduly burdensome, and create unreasonable annoyance or burden. This is particularly true given that the requests were not timed by the Requestor so as to permit the Requestor to submit direct testimony in support of his position(s) but were timed to be made prior to the start of the technical hearing. Also (given the 12-year look-back for many of Mr. Skiendzielewski’s discovery requests), the information sought is not relevant to the proposed changes in PWD rates and charges as set forth in the rate filing, and as such, is not reasonably calculated to lead to the discovery of admissible evidence for purposes of rate setting.”

I agree. The information sought is not relevant to this proceeding, which is to set prospective rates for the 2021 and 2022 fiscal years. It cannot be clearer from Mr. Skiendzielewski’s own words that what he seeks to establish is that one such loan was, in his opinion, improperly and unethically discounted in 2010, and that other such loans may have been unethically and improperly discounted: “In light of the fact that I requested a length of 12 years for PWD HELP loan records, etc., the attached loan documents signed in 2010 shows that at the time, PWD and the Office of the City Solicitor [name omitted] approved a discounted loan

document reducing the money due to the PWD by 55% for the adjacent property owner at our development.”³

I will note that these same issues were raised by Mr. Skiendzielewski in the 2018 rate proceeding. The Rate Board there (2018 Rate Determination at 9) agreed with the Hearing Officer that Mr. Skiendzielewski’s discovery requests “. . .were not relevant to the Board’s determination of the revenue requirement of the Department in this proceeding.” The same result should occur here.

This idea – that PWD unethically discounts these loans – has been raised repeatedly by Mr. Skiendzielewski. This is not a proper issue for the Rate Board to address in this proceeding and will not be permitted.

THEREFORE, this Motion in Limine will be GRANTED.

Marlane R. Chestnut
Hearing Officer

April 16, 2021

³ In its Objections, PWD provided background noting that Mr. Skiendzielewski’s allegations have been fully addressed by the Tax Review Board, “The Requestor has alleged improprieties in operation of the HELP Loan program before the Tax Review Board: [After receiving a HELP Loan, Mr. Skiendzielewski] disputed his obligation to fully pay the loan. In this context, he filed a petition with the Tax Review Board (“TRB”), seeking partial abatement in settlement of this obligation. The TRB rejected his petition as unsupported by substantial evidence on or about March 3, 2016. The TRB also granted a re-hearing whereupon it again rejected his petition on the same grounds (January 18, 2017). Mr. Skiendzielewski failed or refused to timely appeal the above TRB decisions to the Philadelphia County Court of Common Pleas. Therefore, this matter has been fully litigated.”