



# CITY OF PHILADELPHIA

WATER DEPARTMENT  
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RANDY E. HAYMAN, Esq.  
Water Commissioner

April 30, 2021

Chairman Irwin Popowsky  
Philadelphia Water, Sewer and Storm Water Rate Board  
1515 Arch Street, 17th Floor  
Philadelphia, PA 19102-1595

Re: Philadelphia Water Department's Proposed Changes in Rates and Charges (FY 2022-2023)

Dear Chairman Popowsky and Members of the Water Rate Board,

I am writing in response to PennFuture's correspondence, dated April 16, 2021, wherein they stated their opposition to the prompt approval of the Department's proposed rate increase. The basis for their position is as summarized below:

1. Given the impacts of the ongoing pandemic and the federal government's recent stimulus plan, the current rate proceeding should be suspended or stayed; and
2. PWD should consider a holistic approach to funding its compliance that prioritizes *Green City, Clean Waters* (GCCW) and reduces the contributions from residential rates from GCCW compliance.

Each basis is addressed below with a recommendation that the Rate Board approve the Settlement agreement which will allow the Department to sustain its operations during FY 2022-23 while recognizing that any federal stimulus, funding directly received by PWD, can be used to reduce the rate increase for FY 2023, under agreed upon conditions.

## **Federal Government Stimulus & COVID-19 Pandemic**

First, the Department is very much aware of the financial hardships brought on by the COVID-19 pandemic and the hardships borne by our most vulnerable customers. PWD has established customer assistance programs to protect our poorest households and has made extended payment arrangements for customers that have fallen behind during recent months. Moreover, in response to the pandemic, PWD withdrew its 2020 rate case and postponed many critical maintenance activities and repairs to mitigate financial impacts on our customers. In the recent past, the Department has also been forced to significantly draw down its financial reserves in the absence of rate relief. Stated simply, our present financial situation is unsustainable. The Department cannot continue to borrow against the future and delay necessary maintenance activities. We need additional revenues to efficiently operate the utility.

In this context, please know that the City has made clear that the Department will not be allocated funds from the American Rescue Plan Act of 2021. Asking the Department to further delay critical

operations and deplete its financial reserves for the foreseeable future is wholly irresponsible and places the Water system at great risk. And without additional revenues, the Department will not be able to fully fund critical programs, such as SMIP/GARP, and may impair the Department's mission of providing high-quality, reliable service to its customers.

Rate relief is needed now. PWD believes that rate relief, as proposed in the Settlement with the Public Advocate, offers needed additional revenues while recognizing that any federal stimulus funding directly received by the Department during the July 1- December 31, 2021 (that can be used to reduce operating expenses) will offset approved additional revenues for FY 2023.

### **Green City, Clean Waters Benefits & Implementation Methods**

Second, notwithstanding PennFuture's criticisms, the Department remains committed to the *Green City, Clean Waters* program and meeting the compliance goals set forth in the Consent Order and Agreement (CO&A). The Department is also committed, however, to adapting and improving the program from lessons learned through ten years of implementation.

PennFuture stated that initially GCCW was chosen through a process designed to select the most cost-effective and technically feasible alternative to reduce sewage pollution in Philadelphia's rivers and streams. In the ten years of GCCW implementation, the Department has developed multiple mechanisms that can provide an affordable greened acre. Currently, there are three main deliverable mechanisms for greened acres: Capital Projects, Incentives Programs (SMIP/GARP) and Regulations.

To date, PWD Stormwater Regulations have provided the most cost-effective greened acres for PWD. Currently, the Department is proposing (as part of the base rate proceeding) to change the eligibility threshold for stormwater credits to require management of the first 1.5 inches of stormwater runoff to match the recent changes in stormwater regulations which increased the stormwater management requirements from the first 1 inch to the first 1.5 inches of stormwater runoff.

It is critical to understand that GCCW accounts for 25% of the PWD Capital Program<sup>1</sup>, which also provides significant benefits for Philadelphia and its surrounding communities. In his testimony for the 2021 Rate Case<sup>2</sup>, expert witness H. Gil Peach explained the economic impacts of PWD's Capital Program. Results from Mr. Peach's IMPLAN analysis showed that in 2018 and 2019, the PWD Capital Program supported 4,788 jobs in Philadelphia and resulted in an economic output of \$867 million.

The Department is actively looking for lower-cost financing options for stormwater management. For example, the Department has submitted, and will prospectively submit, applications to the Pennsylvania Infrastructure Investment Authority (PENNVEST) to obtain low-cost loans or grants for stormwater management (and other) projects. For example, in January 2021, the Department was awarded a \$5 million loan from PENNVEST for stormwater improvements in the Lawncrest neighborhood, which are being done as part of the CO&A.

### **Non-Compliance Penalties**

In addition to the above, the Rate Board should also be aware that PWD could incur significant penalties for failure to comply with the CO&A. In addition to *Green City, Clean Waters*, the Department is responsible for tracking compliance with a number of drinking water regulations – all carrying potential non-compliance penalties.

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<sup>1</sup> The PWD Capital Program consists of three main categories: 1) Improvements to Water and Wastewater Treatment Facilities, 2) Wastewater Collection System/CSO/Flood Relief, and 3) Water Conveyance System Improvements (New Construction and Reconstruction)

<sup>2</sup> PWD Statement No. 8 – Direct Testimony of H. Gil Peach, Mark Thompson and Yvonne Whitelaw, January 2021.

Both the water and wastewater systems are subject to environmental laws and regulations and the Department receives notices, from time to time, of violations of such environmental laws and regulations. As a result of such violations, the Department has occasionally incurred minor fines. As the Department considers the best financial interest for Philadelphians, it must keep in mind all of these potential penalties and appropriately prioritize how it will work toward GCCW compliance within its larger strategic plan.

### **Proposed Settlement Agreement**

Finally, PWD believes PennFuture is mistaken because it ignores the possibility of the settlement of the rate case. The Department has agreed with the Public Advocate to settlement terms, which if approved, will reduce the original proposed rate increase from \$141 million to \$57 million for FY 2022-2023. The Settlement, if approved, will also recognize that any future stimulus funding directly received by PWD (between July 1- December 31, 2021) and which can be used to reduce operating expenses, can be used to offset approved FY 2023 additional revenues, under the Settlement terms.

In light of all of the above, PWD believes that PennFuture is mistaken in opposing prompt rate relief and urges the Rate Board to approve the rate increase (as modified in the proposed Settlement), as it will allow the Department to sustain its operations, support GCCW and other programs to achieve CO&A compliance and to avoid costly penalties for failure to meet environmental requirements.

Thank you for your consideration and attention to this correspondence.

Respectfully,



Randy E. Hayman, Esq.  
Water Commissioner

cc: Jessica O'Neill, Staff Attorney, PennFuture