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By james.leonard at 11:06 am, Jun 16, 2021

MEMORANDUM

TO: James Leonard, Records Commissioner
FROM: Sonny Popowsky, Chair, Philadelphia Water, Sewer and Storm Water Rate Board *SP*
DATE: June 16, 2021
RE: Determination of Water Department TAP-R Rates and Charges Beginning 9/1/2021

On April 14, 2021, the Water Department filed a Formal Notice of Proposed Changes in Rates and Charges; Annual Adjustment of Tiered Assistance Program Rate Rider Surcharge Rates (TAP-R); Final Proposed TAP-R Reconciliation Statement, seeking to implement the annual adjustment to the Tiered Assistant Program Rate Rider Surcharge Rates (TAP-R) and to revise related water, sewer and fire service connection charges effective September 1, 2021. The Water Department had filed Advance Notice of these proposed changes with City Council and the Philadelphia Water, Sewer and Storm Water Rate Board on March 15, 2021.

In accordance with Section 5-801 of the Philadelphia Home Rule Charter, Section 13-101 of the Philadelphia Code, and the Regulations of the Water, Sewer and Storm Water Rate Board, the Rate Board held one public hearing and one technical hearing on this matter on May 21, 2021. Pursuant to those Regulations, the Rate Board's Hearing Officer held a scheduling conference and supervised discovery among the entities and individual registered as participants in the TAP-R rate proceeding.

At the technical hearing, the Hearing Officer accepted documents into the record, including a Joint Petition for Settlement of TAP-R Proceeding filed by the Water Department and the Public Advocate agreeing to the proposed changes in the TAP-R, with slight adjustments. The Joint Petition explained the support of the Water Department and the Public Advocate for those rates. No other participant submitted comments. The Hearing Officer submitted a Report recommending adoption of the proposed rates, as modified in the settlement. The Rate Board deliberated the issues in the proceeding and adopted this Rate Determination in a public meeting held on June 9, 2021. All meetings and hearings, and the proceeding itself, were duly noticed.

Pursuant to Section 5-801 of the Charter, Section 13-101 of the Code, and the Rate Board's Regulations, and at the direction of the Rate Board in its public meeting of June 9, 2021, I am forwarding herewith for filing the Rate Determination of the Philadelphia Water, Sewer and Storm Water Rate Board on the 2021 TAP Rider Rate Adjustment, which constitutes the Rate Report and Rate Determination of the Rate Board, along with a memorandum of approval from the Law Department. The Rate Board has approved changes in rates and charges to take effect on September 1, 2021.

We expect that the Water Department will timely file Rates and Charges in conformance with the Rate Determination.

RECEIVED

By james.leonard at 11:07 am, Jun 16, 2021

The City of Philadelphia
Law Department
Diana P. Cortes, City Solicitor

MEMORANDUM

TO: Sonny Popowsky, Chair, Philadelphia Water, Sewer and Storm Water Rate Board
FROM: Daniel W. Cantú-Hertzler, Senior Attorney *DWCH*
DATE: June 16, 2021
RE: Determination of Water Department TAP-R Rates and Charges Beginning 9/1/2021

I have reviewed the attached Rate Determination of the Philadelphia Water, Sewer and Storm Water Rate Board, which the Rate Board adopted on June 9, 2021. The Rate Board is the independent rate-making body established by ordinance of City Council pursuant to Section 5-801 of the Philadelphia Home Rule Charter to fix and regulate rates and charges for water and sewer services. The attached document is the Rate Board's Rate Report under Section 13-101(8) of the Philadelphia Code, and is the Rate Board's Rate Determination pursuant to Sections I(o) and II.A.3 of the Rate Board Regulations. I find the attached Rate Determination to be legal and in proper form.

In accordance with Section 13-101(8) of the Philadelphia Code and Section II.A.3(c) of the Rate Board Regulations, you may forward the Rate Determination to the Department of Records for filing. As stated in the Rate Determination and consistent with Section 13-101(3)(e) of the Code and Section II.A.3(d) of the Rate Board Regulations, the effective date of the initial changes in the rates and charges will be September 1, 2021 if the Water Department files its conforming Rates and Charges at least ten days prior to that date.

Attachment

cc (w/att): All Rate Board Members (via E-mail)

RECEIVED

By james.leonard at 11:07 am, Jun 16, 2021

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

In the Matter of the Philadelphia Water Department's :
Proposed Changes in Water and Sewer Rates and : 2021 TAP Rider Rate Adjustment
Related Charges :

RATE DETERMINATION

The subject of this Rate Determination is the request of the Philadelphia Water Department (PWD or Department) to implement its annual reconciliation adjustment to the Tiered Assistance Program Rate Rider (TAP-R) surcharge. TAP is a customer assistance program that allows low-income customers to pay reduced bills based upon a percentage of their household income. The TAP-R rider tracks revenue losses resulting from application of the TAP discount, to permit annual reconciliation if they are greater or less than projected. The TAP-R surcharge is charged to customers who do not receive the discount.

We hereby adopt and incorporate the Report of Hearing Officer Marlane R. Chestnut, dated May 29, 2021, (attached), which contains the history of the proceeding and recommends that we approve the proposed rates and charges for the TAP-R surcharge contained in the Joint Petition for Settlement of TAP-R Proceeding (Joint Petition) submitted by PWD and the Public Advocate (represented in this proceeding by Community Legal Services), dated May 20, 2021.

After a full review of the record, we agree with the Hearing Officer's recommendation that, for service rendered on and after September 1, 2021, the Department be permitted to increase the current TAP-R water surcharge rates from \$0.57/mcf to \$0.69/mcf¹ and

¹ Fire protection customers also are subject to a TAP-R surcharge, which is set at the TAP-R Water surcharge rate, and which is incorporated in the quantity charge. Therefore, the change in the water rate will also apply to the Fire Protection TAP-R surcharge.

to similarly increase the sewer surcharge rate from \$0.78/mcf to \$1.09/mcf. See, Joint Petition, Exhibit 2.

These rates and charges are in compliance with applicable ordinances² and regulations³ and our [2018 Rate Determination](#), which set forth the basis for calculating and adjusting the TAP-R surcharge. The record of this proceeding fully supports the conclusion that these rates provide a reasonable basis for recovery of TAP-R costs and therefore are just and reasonable.

We note that these rates, after a full opportunity for review and discovery, were either agreed to (PWD, the Public Advocate) or not opposed (the Philadelphia Large Users Group) by all active participants, who represent a broad range of interests. No participants objected to the May 29, 2021, Hearing Officer Report.

Therefore, we find the modified TAP-R rates contained in Exhibit 2 to the Joint Petition to be just and reasonable and authorize the Department to file revised rates and charges as proposed, effective for service rendered on and after September 1, 2021.

Date: June 9, 2021

Irwin “Sonny” Popowsky, Chair
Tony Ewing, Vice-Chair
Rasheia R. Johnson, Secretary
Abby L. Pozefsky, Member

² Philadelphia Code Sections 13-101 (Fixing and Regulating Rates and Charges) and 19-1605 (Limitation on Action to Enforce Collection; Income-Based Water Rate Assistance Program).

³ Rate Board Regulations; Water Department Regulation 206.0 (Income-Based Water Rate Assistance Program).

ATTACHMENT

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

In the Matter of the Philadelphia Water	:	
Department's Proposed Changes in Rates and	:	2021 TAP-R Reconciliation Proceeding
Related Charges	:	

HEARING OFFICER REPORT

Marlane R. Chestnut
Hearing Officer

May 29, 2021

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I. SUMMARY OF RECOMMENDATION

This report addresses the filing (2021 TAP-R adjustment) made by the Philadelphia Water Department (PWD or Department)¹ to implement the annual reconciliation adjustment to the Tiered Assistance Program Rate Rider (TAP-R) by revising related water, sewer and fire service connection quantity charges in accordance with the TAP-R tariff approved by the City of Philadelphia Water, Sewer and Storm Water Rate Board (Rate Board) in a prior rate proceeding. As discussed in more detail below, I recommend that the Rate Board accept without modification the proposed TAP-R rates contained in the unopposed Joint Petition for Settlement of the TAP-R Proceeding ([Joint Petition](#)) for service rendered on and after September 1, 2021. The effect is an increase in TAP-R rates and charges for water and sewer service.

II. HISTORY OF THE PROCEEDING

On March 15, 2021, the Department filed an [Advance Notice](#)² with the Philadelphia City Council and the Rate Board to implement the annual reconciliation adjustment to the Tiered Assistance Program Rate Rider (TAP-R) and to revise related water, sewer, and fire service connection quantity charges accordingly.³ [Formal Notice](#)⁴ of the proposed reconciliation adjustments was filed with the Department of Records on April 14, 2021. Both Notices contained supporting statements, schedules, and exhibits as required by the [regulations](#)⁵ (Sections II.A.2 and II.C.1) promulgated by the Rate Board.

The general public was notified through information made available on the Rate Board's website, and legal notices related to the Advance and Formal Notices were timely published in three local newspapers. In addition to these legal notices published in various

¹ The Water Department is a City department, with responsibility for provision of water, sewer and stormwater services in the City of Philadelphia. It also makes wholesale water sales to neighboring communities.

² <https://www.phila.gov/media/20210317165222/TAP-R-Advanced-Filing-Final-20210315.pdf>

³ TAP is a customer assistance program that allows low-income customers to pay reduced bills based upon a percentage of their household income. The TAP-R rider tracks revenue losses resulting from application of the TAP discount, in order to permit annual reconciliation if they are greater or less than projected. The TAP-R surcharge is charged to customers who do not receive the discount.

⁴ <https://www.phila.gov/media/20210414164644/PWD-TAP-R-Formal-Filing-4.14.211.pdf>

⁵ <https://www.phila.gov/media/20190220105611/RegulationsAmended01092019withDocumentation.pdf>

Philadelphia newspapers and the postings on the Rate Board’s website, participants to PWD’s 2021 general rate proceeding were notified by e-mail of the instant proceeding and provided an opportunity to participate.

The participants included the Department, the Public Advocate (represented by Community Legal Services, selected by the Rate Board to represent the concerns of residential consumers and other small users); the City of Philadelphia Department of Revenue, Water Revenue Bureau;⁶ and the Philadelphia Large Users Group. One individual customer, Michael Skindzielewski, provided notice of participation but did not actively participate.

The Public Advocate submitted written [discovery requests](#)⁷ by e-mail on April 21, 2021, to which PWD [responded](#)⁸ on April 29, 2021. The Department and Public Advocate scheduled a conference call to discuss the proposed TAP-R surcharge rates and settlement prospects on May 12, 2021. At that time, the Public Advocate suggested the use of the proposed revenue requirement allocation in the 2021 general rate proceeding (i.e., the split between water and wastewater revenue requirements) in calculating the C-Factor in the TAP-R formula.⁹ The Department and Public Advocate agreed that use of the new revenue requirement allocation was appropriate for the C-Factor in the proposed TAP-R surcharge rates beginning September 1, 2021. The application of the new revenue requirement allocation shifts rates between water and wastewater slightly, as shown in the table below:

Table 1 – As Filed and Revised TAP-R Rates

TAP-R Rates	As Filed	Revised
Water	\$0.70/MCF	\$0.69/MCF
Wastewater	\$1.07/MCF	\$1.09/MCF

⁶ The Water Revenue Bureau, which is part of the City’s Department of Revenue, provides all billing and collection functions for the Department.

⁷ <https://www.phila.gov/media/20210422165044/PA-TAP-Set-1.pdf>

⁸ <https://www.phila.gov/media/20210505154837/Response-to-Public-Advocates-Interrogatories-and-Requests-for-Production-of-Documents-TAP-Set-I.pdf>

⁹ PWD and the Public Advocate recognize in the Joint Petition at 3, fn 6, that this general base rate proceeding is still pending before the Rate Board, which has not yet issued its rate determination.

On May 14, 2021, the Public Advocate filed a [letter](#)¹⁰ stating that as PWD had accepted the one adjustment the Public Advocate had developed after its review of the filing and discovery responses, it was filing that letter in lieu of filing testimony. No other participant conducted discovery or filed testimony.

On May 20, 2021, PWD and the Public Advocate (Joint Petitioners) filed a [Joint Petition](#)¹¹ for Settlement of TAP-R Proceeding (Joint Petition). Referenced in the Joint Petition were Exhibit 1 (the Advance Notice, Formal Notice and responses to written discovery), Exhibit 2 (the modified rates and charges related to TAP-R, included with the Joint Petition as Attachment A) and Exhibit 3 (proofs of the legal notices of the Advance and Formal filings, and the scheduled hearings). Attachment B of the Joint Petition contained the [presentation](#)¹² prepared by the Department for the May 21, 2021, public hearing.

Upon proper notice being provided, a technical review hearing and a separate public hearing to allow the company's customers the opportunity to express their concerns or opinions concerning the proposed TAP-R adjustment were held on May 21, 2021. Due to the on-going COVID-19 pandemic and subsequent emergency measures imposed by both the city and state, these hearings were conducted remotely via Zoom online or telephonically. No customers expressed interest in attending or participated in the public hearing. PWD, the Public Advocate and the Water Revenue Board participated in the technical hearing, at which I accepted into the record the Joint Petition, Attachments A and B, and Exhibits 1, 2 and 3, and noted that this hearing report and the transcripts of the hearings would be admitted into the record without further order. I established May 28, 2021, as the date to receive comments on the proposed settlement. As of close of business on that day, no comments had been filed on the proposed settlement.

As provided in the Rate Board's regulations at [§II.C.3\(b\)](#), the record in this proceeding includes Exh. 1 (the Advance Notice, the Formal Notice, responses to written discovery); Exh. 2 (the modified rates and charges related to TAP-R); Exh. 3 (the legal notices

¹⁰ <https://www.phila.gov/media/20210514165710/PA-Ltr-not-filing-testimony.pdf>

¹¹ <https://www.phila.gov/media/20210524164249/Combine-May-21-2021-1.pdf>

¹² <https://www.phila.gov/media/20210520094654/TAPR-Presentation-MAY2021-V31-1.pdf>

relating to this proceeding), the transcripts of the May 21, 2021, public and technical hearings, the Joint Petition including all attachments and this Report. All of these documents are posted or will be posted on the Rate Board's website at the section entitled "[2021 Annual Rate Adjustment](https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2021-annual-rate-adjustment/)."¹³

The Joint Petitioners' position is that the proposed rates contained in the settlement document provide a fair, just and reasonable TAP-R reconciliation adjustment, are supported by the record, are in compliance with all applicable ordinances, and are in the best interest of the Department and its customers. I agree. I therefore recommend that the Rate Board permit the Department to put the proposed settlement rates and charges in effect for service rendered on and after September 1, 2021. I commend the parties to the settlement – and the counsel representing them – for their efforts in this proceeding to resolve the issues in an expeditious and reasonable manner, which benefits both PWD and its customers.

III. PROPOSED RATES

The purpose of this proceeding is to permit an annual reconciliation of the revenue impacts associated with TAP by comparing PWD's actual experience to the projections used to set the rates for the review period. TAP is a customer assistance program that allows eligible low-income customers to pay reduced bills based upon a percentage of their household income. Monthly bills are not based on usage; they are capped as a percentage of income and are constant each month while the customer is enrolled in the program.¹⁴

TAP-R rates are charged to all customers who do not receive the discount and are intended to recover the revenue losses associated with the customer assistance program. The cost of the program (in other words, the lost revenue resulting from the discount) is affected by several factors, such as the number of enrolled customers, water and sewer service usage levels, changes in PWD's non-discounted rate and the level of discount needed to provide affordable bills to the customers enrolled in the program. The TAP-R Rider tracks revenue losses resulting from

¹³ <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2021-annual-rate-adjustment/>

¹⁴ The TAP program was approved by the Rate Board as part of PWD's 2016 rate filing. The TAP-R rate rider and the means of its calculation were approved as part of PWD's 2018 rate filing. We adjusted the TAP-R rates and charges in the 2019 and 2020 TAP-R annual reconciliation proceedings.

application of the TAP discount, in order to permit annual reconciliation if they are greater or less than projected.

The proposed rates and charges contained in the Joint Petition (which are slightly different from those contained in the Advance and Final Notices, due to the allocation adjustment to the C-factor proposed by the Public Advocate and accepted by PWD, and a typographical error corrected by PWD) provide that, for service rendered on and after September 1, 2021, the following charges will become effective:

Table 2 – Current and Proposed TAP-R Rates

TAP-R Rate	Current	Proposed	Difference
Water (\$/Mcf)	\$0.57	\$0.69	+\$0.12
Sewer (\$/Mcf)	\$0.78	\$1.09	+\$0.31

The table below summarizes bill impacts¹⁵ associated with proposed TAP-R rates for typical residential, senior citizen and small business customers:

Table 3 – Bill Impact Analysis by Customer Class

Customer Class	Monthly Bill		Monthly Difference	Percent Change
	Current TAP-R Rates	Proposed TAP-R Rates		
Residential ¹⁶	\$66.73	\$66.94	\$0.21	0.3%
Senior Residential ¹⁷	\$38.43	\$38.53	\$0.10	0.3%
Small Business ¹⁸	\$112.13	\$112.38	\$0.25	0.2%

¹⁵ The bill impacts in the table reflect existing (current) base rates and proposed TAP-R rates. They do not include bill impacts associated with the proposed 2021 general rate increase pending before the Rate Board.

¹⁶ A typical PWD residential customer has a 5/8-inch meter and uses approximately 5 ccf (500 cubic feet) monthly.

¹⁷ A typical PWD senior residential customer has a 5/8-inch meter and uses approximately 3 ccf/month.

¹⁸ A typical small business customer has a 5/8-inch meter and uses approximately 6 ccf/month. 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

The current TAP-R rates were established in the 2020 TAP-R annual reconciliation adjustment [proceeding](#).¹⁹ As explained in the Joint Petition at 6, they were projected to produce \$7,472,988 in TAP-R service revenues for the next rate period. The proposed settlement rates here are anticipated to produce \$9,479,032 in service revenues during the next rate period.²⁰ According to the Joint Petitioners, this represents an approximately 27.6% increase.

Other terms and conditions were contained in the Joint Petition, including the Joint Petitioners' stipulation as to the authenticity and admissibility of the proposed exhibits, and the standard disclaimer that the settlement agreement is made without prejudice to each participant in this or other proceedings.

IV. DISCUSSION

As explained above, the proposed settlement rates result in an increase in the TAP-R rates for the affected customer classes for the next rate period. These proposed settlement rates appear to be fair and reasonable and are consistent with the relevant ordinances²¹ and regulations.²² They are amply supported by the record, which establishes that they will provide an appropriate level of funding for the TAP program.

The active participants have found the proposed rates appropriate or acceptable after discovery and thorough review and discussion. As set forth in the Joint Petition, the proposed settlement "will allocate agreed upon water and sewer revenue requirements in a manner that is reasonable and consistent with the rate structure/cost of service policy proposed in the 2021 general rate proceeding," and further that "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." Joint Petition at ¶39(c) and (d).

¹⁹ Rate Board August 5, 2020 Rate Determination, <https://www.phila.gov/media/20200807152432/2020FinalRateFiledDetermination.pdf>

²⁰ Hearing Exhibit 1 (Schedule BV-1).

²¹ Philadelphia Code Sections 13-101 (Fixing and Regulating Rates and Charges) and 19-1605 (Limitation on Action to Enforce Collection; Income-Based Water Rate Assistance Program).

²² Water Department Regulation 206.0 (Income-Based Water Rate Assistance Program), Rate Board regulation II(C).

Acceptance of the proposed rates by the Rate Board without additional testimony, hearings and/or arguments will result in cost savings for participants (including PWD), customers and the Rate Board itself.

The proposed rates represent a just and fair resolution as accepted by participants who represent a variety of interests, from small customers (the Public Advocate) to large users (the Large Users Group, which did not oppose the proposed settlement). The open and transparent rate-making process adopted by the Rate Board is designed to ensure that it establishes rates only after giving an opportunity for comment by all members of the public who will be affected by rate decisions, and to ensure that all proceedings are open and transparent. The fact that no participant or member of the public opposes the proposal is significant.

Therefore, the proposed rates contained in Exh. 2 to the Joint Petition for Settlement should be approved without modification by the Rate Board for service rendered on and after September 1, 2021.

V. CONCLUSION

Based on the record of this proceeding, I recommend:

(1) That the Rate Board find that the proposed rates and charges contained in Exh. 2 of the Joint Settlement Petition are supported by the record, are in compliance with the Rate Ordinance and other applicable requirements and therefore should be permitted to be placed in effect for service rendered on and after September 1, 2021; and

(2) That the Rate Board authorize the Department to file revised TAP-R rates and charges as contained in Exh. 2 for service rendered on and after September 1, 2021.

Marlane R. Chestnut
Hearing Officer

May 29, 2021