

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

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In the Matter of Philadelphia Water	:	Fiscal Year 2023
Department's Special Rate Proceeding	:	
	:	
	:	

STIPULATION

The Philadelphia Water Department (“PWD” or “Department”) and the Public Advocate (“Advocate”) (the “Stipulating Parties”) hereby enter into this Stipulation to resolve their differences (areas of dispute) with regard to the 2022 Special Rate Proceeding (“SRP”). The differences between the Stipulating Parties are memorialized in the Public Advocate’s Motion to Strike (dated February 9, 2022) and the PWD Memorandum in Response to the Motion to Strike (dated February 18, 2022) filed in this proceeding. The Hearing Officer’s Order Granting in Part and Denying in Part the Advocate’s Motion to Strike, dated March 8, 2022 (“Interim Order”) decided several areas of dispute in connection with the scope of evidence permitted in support of PWD’s position regarding the FY 2021 Financial Performance Adjustment, but identified certain areas of the record (portions of PWD Statement 3 and Schedule BV-4)¹as to which a statement in *limine* or other agreement would be appropriate to define the limited use of the same in this proceeding.

This Stipulation addresses the areas in dispute identified in the Interim Order related to the calculation of the FY 2021 Financial Performance Adjustment and the limited use of the

¹ PWD Statement 3, Q/A 16, 18, 19-24 and Updated Financial Outlook (Schedule BV-4).

Updated Financial Outlook (Schedule BV-4 and related testimony). The Stipulating Parties agree to have this Stipulation admitted as evidence of their agreement and further stipulate and agree as follows:

Calculation of 2021 Financial Performance Adjustment

The Department and Advocate agree to the following approach to calculating the FY 2021 Financial Performance Adjustment.

1. PWD and the Advocate expressly acknowledge and agree that rates and charges determined in the SRP will be calculated based on the FY 2023 Base Rate Incremental Increase (“FY 2023 incremental revenues”) agreed to in the Joint Petition for Partial Settlement and approved by the Philadelphia Water, Sewer and Storm Water Rate Board (“Board”) in the June 16, 2021 Rate Determination (“2021 Rate Determination”), subject to adjustment solely on the basis of the two reconciliation frameworks set forth on pages 41-43 thereof.²

2. The “starting point” for determining the 2021 Financial Performance Adjustment will be the actual Rate Stabilization Fund (“RSF”) balance for the beginning of FY 2022 (which is the same as the ending balance for FY 2021). The starting point is hereafter referred to as the “actual RSF starting balance.”

3. The actual RSF starting balance will be compared with the “minimum threshold” for the RSF as determined by each Stipulating Party.

4. The “minimum threshold” is undefined in the Joint Petition for Partial Settlement and the 2021 Rate Determination approving same and must be litigated as a part of the SRP.

² The Black & Veatch Microsoft-based computer models that supported the 2021 Compliance Filing will be used for the determination of the 2022 Special Rate Proceeding.

5. Based upon the comparison of the actual RSF starting balance and the “minimum threshold” (proposed by each party), an initial determination will be made as to whether there is any amount to be shared. If not, no further calculation is needed.

6. Assuming there is an amount to be shared, the parties can submit their respective positions as to how such amount should be “shared” to reduce the FY 2023 incremental revenues (\$34.110 million) approved in the 2021 Rate Determination.

7. Any amount designated for sharing cannot exceed the Maximum Adjustment (\$34.110 million).

8. Any amount to be shared will be reflected as an adjustment to incremental revenues approved for FY 2023 in the 2021 Rate Determination.

9. If any adjustment will reduce FY 2023 approved incremental revenues (\$34.110 million) from the 2021 Rate Determination, the resulting (net) incremental revenues must be sufficient to fulfill PWD’s required covenants with bondholders, as prescribed in the the City’s Restated Water and Wastewater Revenue Bond Ordinance of 1989, as supplemented and amended from time to time³, and legislatively mandated financial obligations as prescribed in the Rate Ordinance, Philadelphia Code, Section 13-101. Such covenants and obligations are hereinafter referred to as the “required financial metrics.”

Use of Updated Financial Model

In accordance the Interim Order, regarding the FY 2021 Financial Performance adjustment, the Department and Advocate agree to the following limited use of the Updated

³ We note that the City’s Restated Water and Wastewater Revenue Bond Ordinance of 1989 (the “General Bond Ordinance”) was amended by Bill No. 171110-A (signed by the Mayor on April 24, 2018) to, among other things, include as an additional rate covenant the “90% test” contained in covenants previously made by the City only to its bond insurer.

Financial Outlook and related testimony (PWD Statement 3) based on the record presented in the Department's direct case.

10. Schedule BV-4 can be used for the limited purpose of (i) supporting or corroborating the parties positions regarding adjustments (or absence of adjustments) proposed for FY 2023 incremental revenues and, assuming an adjustment is made to FY 2023 incremental revenues, (ii) establishing whether such resulting revenues (net of the adjustment) will be sufficient to meet the required financial metrics and maintain the utility's financial stability (to avoid negative rating action).

11. PWD testimony describing the Updated Financial Outlook can likewise be used for the limited purpose of supporting or corroborating the parties' positions regarding adjustments (or absence of adjustments) proposed for FY 2023 incremental revenues.

12. The Stipulating Parties have not agreed to any limitations on the presentation of their respective cases via rebuttal and/or rejoinder testimony — which has not been presented as of this date.

AGREED TO BY:

/s/ Robert W. Ballenger
Robert Ballenger, Esquire
Kinteshia Scott, Esquire

For the Public Advocate

Dated: 4/5/2022

AGREED TO BY:

/s/ Andre C. Dasent
Andre C. Dasent, Esquire
Carl R. Shultz, Esquire

For the Philadelphia Water Department

Dated: 4/5/2022