

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

In Re: Philadelphia Water Department's :
Annual Adjustment of Tiered Assistance : 2022 Tiered Assistance Program
Program Rate Rider Surcharge Rates : Rate Rider Surcharge Rates
:

**MAIN BRIEF OF THE
PHILADELPHIA LARGE USERS GROUP**

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Dated: April 22, 2022

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I. INTRODUCTION

On February 25, 2022, the Philadelphia Water Department (“PWD” or “Department”) submitted its formal notice of changes in rates and charges to implement the annual adjustment to its Tiered Assistance Program Rate Rider Surcharge Rates (“TAP-R”) to the Philadelphia Water, Sewer and Storm Water Rate Board (“Board”). Through the February 25, 2022 filing, PWD proposes a Water TAP-R rate of \$1.23 per thousand cubic feet (“MCF”) and a Sewer TAP-R rate of \$1.95 per MCF effective September 1, 2022. By way of comparison, the current TAP-R Water rate is \$0.69 per MCF and the current TAP-R Sewer rate is \$1.09 per MCF.

Pursuant to its Regulations, the Board appointed Marlane R. Chestnut as the Hearing Officer to preside over formal proceedings concerning the TAP-R adjustment. In accordance with the Regulations, the Hearing Officer established a schedule for litigated proceedings, including intervention, testimony, technical hearings, and briefs. Consistent with the approved schedule, the Philadelphia Large Users Group (“PLUG”)¹ intervened in the proceeding on February 25, 2022. Additional intervenors include Community Legal Services (“Public Advocate”) and *pro se* intervenors Lance Haver and Michael Skiendzielewski.

Between February 14, 2022 and March 30, 2022, PLUG and the Public Advocate propounded discovery upon PWD. The Public Advocate submitted Direct Testimony on March 22, 2022. PLUG did not submit Direct Testimony.

PWD submitted Rebuttal Testimony on March 29, 2022.

The Hearing Officer presided over technical hearings on March 31, 2022, at which parties offered witnesses for cross-examination.

¹ PLUG is an *ad hoc* group of Large Commercial & Industrial (“C&I”) customers comprised, for the purposes of this proceeding, of Thomas Jefferson University and St. Joseph’s University.

Following the technical hearings PWD and the Public Advocate engaged in settlement discussions. The Public Advocate subsequently discussed settlement proposals with PLUG. On April 21, 2022, PWD circulated a Joint Petition for Settlement between PWD and the Public Advocate among the parties of record.

Pursuant to the approved procedural schedule, PLUG hereby submits its Main Brief supporting the Joint Petition for Settlement and presenting additional comments for the Board's consideration.

II. SUMMARY OF ARGUMENT

PLUG's requests that the Board act as follows:

1. The Board should accept the Joint Petition for Settlement and modify PWD's proposed Water and Sewer TAP-R rates as set forth therein.
2. The Board should consider the potential future cost impacts of the TAP-R and take steps to improve the existing customer protections for non-TAP customers.

Each of these matters is further addressed below.

III. ARGUMENT

A. The Board should accept the Joint Petition for Settlement and modify PWD's proposed Water and Sewer TAP-R rates as set forth therein.

As stated above, PWD filed its formal notice proposing a Water TAP-R rate of \$1.23 per thousand cubic feet ("MCF") and a Sewer TAP-R rate of \$1.95 per MCF effective September 1, 2022. PWD's filing claimed that the increase from the current TAP-R Water rate of \$0.69 per MCF and the current TAP-R Sewer rate is \$1.09 per MCF was attributable to PWD projecting to add an additional 12,500 TAP customers through Fiscal Year 2022/2023.

Both the Public Advocate and PWD propounded discovery regarding PWD's projected TAP-R enrollment calculations. The Public Advocate additionally submitted the Direct Testimony of Lafayette K. Morgan on March 22, 2022 ("Public Advocate Statement No. 1").

Mr. Morgan's testimony questioned various assumptions underlying PWD's enrollment projections and recommended that the Board reject PWD's proposed enrollment projections and alternatively apply a 6.43% growth rate beginning July 2022 and continuing thereafter. Public Advocate Statement No. 1 at 10. The Public Advocate's proposal would reduce PWD's proposed TAP-R Water rate to \$0.98 per MCF and its proposed TAP-R Sewer rate to \$1.55 per MCF.

Following the aforementioned technical hearings, PWD circulated a Joint Petition for Settlement between the Public Advocate and PWD. The Joint Petition appropriately modifies PWD's proposed TAP enrollment projections from an additional 12,500 customers to approximately an additional 8,000 customers. Joint Petition ¶¶ 19, 25. The reduced TAP enrollment projection results in a TAP-R Water rate of \$1.03 per MCF and a TAP-R Sewer rate of \$1.63 per MCF.

While not a party to the Joint Petition, PLUG previously discussed the settlement proposal with the Public Advocate and supports the adjustment to PWD's as-filed TAP-R rates for the reasons detailed in Public Advocate Statement No. 1. Accordingly, PLUG respectfully requests that the Board approve the Joint Petition entered into between PWD and the Public Advocate.

B. The Board should consider the potential future cost impacts of the TAP-R and take steps to improve the existing customer protections for non-TAP customers.

Notwithstanding the resolution of PWD's 2022 TAP-R adjustment, PLUG remains concerned that the TAP creates substantial cost exposure for PWD's non-TAP customers. PLUG recognizes the important policy basis for TAP, but asks the Board to include cost control as part of its oversight responsibility.

As part of this proceeding, PLUG propounded discovery requesting an accounting of the cost control measures currently in place for TAP. See PLUG Interrogatory No. 3. PWD responded by pointing towards the Board's oversight of the TAP-R rate and the annual reconciliation process. See PWD Response to PLUG Interrogatory No. 3. While these protections are valid, they do not avoid the possibility of volatile rate escalation that could occur if TAP customer enrollment should accelerate beyond historically observed levels.

Particularly if PWD's TAP-R costs continue to escalate as anticipated, the Board should, in the appropriate future proceedings, consider additional tools that could be employed to ensure TAP-R costs remain reasonable. Reference could be made to other existing utility surcharge protections including, but not limited to, the revenue caps applied to Distribution System Improvement Charges for Pennsylvania electric utilities such as PECO Energy Company.

IV. CONCLUSION

WHEREFORE, the Philadelphia Large Users Group respectfully requests that the Philadelphia Water, Sewer and Storm Water Rate Board:

- (1) Approve the Settlement entered into by the Philadelphia Water Department and the Public Advocate; and
- (2) Consider customer protections to address cost impacts of the TAP-R in future proceedings.

Respectfully submitted,

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By 

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