

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

Re: Philadelphia Water Department Proposed
Charges in Rates and Charges

2022 TAP-R Adjustment Proceeding

**MAIN BRIEF OF THE
PHILADELPHIA WATER DEPARTMENT**

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I. INTRODUCTION

A. THE PROPOSED TAP-R ADJUSTMENT

The Philadelphia Water Department (“PWD” or “Department”) submits this Brief in support of its proposals in the Formal Notice, as amended by the Joint Petition for Partial Settlement (“Joint Petition” or “Settlement”) (collectively, the “2022 TAP-R adjustment”) to implement the annual reconciliation adjustment to the Tiered Assistance Program (“TAP”) Rate Rider (“TAP-R”) by revising related rates and charges in accordance with the rider approved by the City of Philadelphia Water, Sewer and Storm Water Rate Board (“Rate Board” or “Board”) in a prior rate proceeding.

The Department’s position is that the proposed rates contained in the 2022 TAP-R adjustment (i) provide a fair, just and reasonable TAP-R reconciliation adjustment, (ii) are supported by the record, (iii) are in compliance with all applicable ordinances, and (iv) are in the best interest of the Department and its customers. Specifically, the Department proposes that the Rate Board accept without modification the proposed TAP-R rates contained in the Settlement for service rendered on and after September 1, 2022. The effect is an increase in TAP-R rates and charges for water and sewer service, as described in the Settlement and summarized below.

Table 1: Rates from the Settlement Proposal		
	Current 2021 TAP-R Rate Determination Effective September 1, 2021	Settlement 2022 TAP-R Adjustment Effective September 1, 2022
Water TAP-R Surcharge	\$0.69 /MCF	\$1.03 /MCF
Wastewater TAP R-Surcharge	\$1.09 /MCF	\$1.63 /MCF

The table below summarizes bill impacts associated with the Department’s proposed TAP-R rates for typical residential,¹ senior citizen² and small business customers.³

Table 2: Projected Bill Impacts from the Settlement				
	Current Base and TAP-R Rates	Current Base and Proposed TAP-R Rates	Change in Bill (\$)	Percent Change (%)
Residential	\$66.15	\$69.58	\$0.44	0.6%
Senior Citizen	\$39.80	\$40.00	\$0.20	0.5%
Small Business	\$111.59	\$112.11	\$0.52	0.5%
The impacts in this table reflect existing (current) base rates and the Department’s proposed TAP rates. They do not include bill impacts associated with any proposed adjustment pending before the Rate Board in the Special Rate Proceeding.				

B. ORDER OF PROCEEDINGS

On January 21, 2022, the Department filed Advance Notice⁴ of the Department’s proposed changes to its TAP-R rates, proposed to become effective September 1, 2022. Formal Notice⁵ of the proposed reconciliation adjustments was filed with the Department of Records on

¹ A typical PWD residential customer has a 5/8-inch meter and uses approximately 5 Ccf/monthly.

² A typical PWD senior citizen customer has a 5/8-inch meter and used approximately 3 Ccf/monthly. Figures reflect Senior Citizen discount of 25%.

³ A typical small business customer has a 5/8-inch meter and uses approximately 6 Ccf/monthly. 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.

⁴ <https://www.phila.gov/media/20220124130703/TAP-R-2022-ADVANCE-NOTICE-2022-01-21.pdf>.

⁵ <https://www.phila.gov/media/20220225145809/PWD-FY2023-TAP-R-Formal-Notice-Final.pdf>.

February 25, 2022. Both Notices contained supporting statements, schedules, and exhibits as required by the regulations (Sections II.A.2 and II.C.1) promulgated by the Rate Board.⁶

The general public was notified through information made available on the Rate Board's website,⁷ 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 Philadelphia newspapers and the postings on the Rate Board's website, participants to PWD's 2021 general rate proceeding and PWD's 2021 TAP-R 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); and the Philadelphia Large Users Group ("PLUG" or "Large Users Group").⁸ Two individual customers, Lance Haver and Michael Skiendzielewski, also provided notice of participation in this proceeding.

The Public Advocate submitted written discovery requests by e-mail on February 14, 2022, March 3, 2022, March 4, 2022 and March 10, 2022 as to which PWD responded on February 25, 2022, March 11, 2022, March 17, 2022 and March 18, 2022. PLUG submitted written discovery requests by e-mail on March 30, 2022, to which PWD responded on April 6,

⁶ The Department's proposal was also posted at: <https://www.phila.gov/media/20220303160948/Rate-Rider-Reconciliation-Workbook-Formal-Notice.xlsx>.

⁷ <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2022-annual-rate-adjustment/>.

⁸ The Philadelphia Large Users Group is an *ad hoc* group of large volume customers receiving water, sewer, and storm water service from the Department under the Industrial and Hospital/University Rate Schedules.

2022. No other participant conducted discovery. Copies of the discovery requests and the responses thereto were posted on the Rate Board's website.

The schedule⁹ for the proceeding provided that written testimony in response to the Department's proposed annual adjustment, if any, would be submitted by March 22, 2022. On March 22, 2022, the Public Advocate filed testimony (Public Advocate Statement 1)¹⁰ stating its disagreement with the Department's original projected TAP participants. In Public Advocate Statement 1, Mr. Lafayette Morgan, recommended a lower (original) projected number of TAP Participants for the Next Rate Period than the Department's original projected number of TAP Participants for the Next Rate Period. No other participant submitted written testimony. The Department submitted rebuttal testimony (PWD Statement 1)¹¹ on March 29, 2022. No other participant submitted written rebuttal testimony.

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 adjustment were held on March 31, 2022. 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.

At the public hearing, Glen Abrams made a presentation¹² regarding the Department's original proposal. In addition, both of the *pro se* participants, Lance Haver and Michael Skiendzielewski, separately presented their respective comments and concerns. Mr. Haver also

⁹ <https://www.phila.gov/media/20220309172334/TAP-R-PHC-Order-Mar-9-2022.pdf>.

¹⁰ <https://www.phila.gov/media/20220322210153/Combined-LKM-Testimony-TAP-R.pdf>.

¹¹ <https://www.phila.gov/media/20220330105327/2022-TAP-Rebuttal-Testimony-to-Lafayette-Morgan.pdf>.

¹² <https://www.phila.gov/media/20220329124629/TAP-R-Public-Presentation-2022.pdf>.

presented a document¹³ regarding the 2019 evaluation of Philadelphia Gas Works' ("PGW") universal service program. No other customers expressed interest in attending or participated in the public hearing.

The Department, the Water Revenue Bureau, the Public Advocate, PLUG and Mr. Haver participated in the technical hearing. During the technical hearing, the two witnesses panels presented by the Department, Black & Veatch Management Consulting LLC ("Black & Veatch" or "BV") and Raftelis Financial Consultants ("Raftelis" or "RFC"), were cross-examined by the Public Advocate and by Mr. Haver. In addition, the witness presented by the Public Advocate, Lafayette Morgan, was cross-examined by Mr. Haver. Responses to transcript requests were provided by the Department on April 5, 2022.

The Department and the Public Advocate informed the Hearing Officer and the other participants that PWD and the Advocate reached a settlement regarding the projected increase in TAP participation for the Next Rate Period on April 21, 2022. On April 22, 2022, PWD and the Advocate (Joint Petitioners) formally submitted the Joint Petition. The Hearing Officer established April 22, 2022 as the date to receive briefs and/or a proposed settlement. Participants have until April 28, 2022 to file comments or objections to the Joint Petition.

¹³ <https://www.phila.gov/media/20220331092315/PUC-Universal-service.pdf>.

II. LEGAL STANDARDS

The TAP-R rates must be fair and reasonable and are consistent with the Philadelphia Home Rule Charter¹⁴ and with relevant ordinances¹⁵ and regulations.¹⁶ The governing legal standards are discussed more fully in the Department's Brief in the 2021 General Rate Proceeding,¹⁷ which is incorporated herein by reference.

Consistent with the foregoing and the Rate Board's 2018 General Rate Determination¹⁸ (which set forth the basis for calculating and adjusting the TAP-R rates), PWD reviews and proposes adjustments to the TAP-R rates annually to account for changes in actual and projected TAP costs and the extent to which those costs were over- or under-collected during a prior period.¹⁹

The program and rider²⁰ have been described as follows:

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

¹⁴ Sections 5-800 and 5-801 of the Charter.

¹⁵ 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).

¹⁶ Rate Board Regulations; Water Department Regulation 206.0 (Income-Based Water Rate Assistance Program); Water Department Rates and Charges, 10.0 (Provisions for recovery of the Tiered Assistance Program (TAP) costs).

¹⁷ <https://www.phila.gov/media/20210513093206/Brief-May-11-2021.pdf>.

¹⁸ <https://www.phila.gov/media/20180713144736/2018-RATE-DETERMINATION-TIMESTAMPED.pdf>.

¹⁹ TAP 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. The Rate Board adjusted the TAP-R rates and charges in the 2019 and 2020 TAP-R annual reconciliation proceedings.

²⁰ The terms "rider" or "tariff" refer to Water Department Rates and Charges, 10.0 (Provisions for recovery of the TAP costs).

than projected. The TAP-R surcharge is charged to customers who do not receive the discount.²¹

The formula within the rider has been generally described as follows:

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 [(i.e., the projected number of TAP Participants)], 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 application of the TAP discount, in order to permit annual reconciliation if they are greater or less than projected.²²

Annual adjustment proceedings, such as this, are limited to the application of the formula.

Changes to TAP and TAP-R rider are proposed, reviewed and made in general rate proceedings.²³

III. ARGUMENT

The purpose of this proceeding is to permit an annual reconciliation of the revenue impacts associated with TAP-R by comparing PWD's actual experience to the projections used to set the TAP-R rates for the Next Rate Period. Some costs, such as the TAP costs, are recovered outside the general rate case by means of a separately-administered rider that provides for a reconciliation of revenues and expenses. This is not a general rate case, which establishes base rates using the fully projected test year (and lacks a reconciliation mechanism).

Regarding the 2022 TAP-R adjustment, the original disagreement between the Department and the Public Advocate was limited to the projected increase in TAP Participants.

²¹ 2021 TAP-R Determination, at 1.

²² 2021 TAP-R Adjustment Proceeding, Hearing Officer Report, at 4-5.

²³ *Id.* See also the 2021 Rate Determination (dated June 16, 2021) in the general rate case which addressed two unsettled issues relating to TAP arrearage forgiveness.

That disagreement was resolved by the Settlement, which is discussed in subpart A. Other issues raised by the *pro se* participants are discussed in subparts B.1 and B.2.

A. PROJECTED INCREASE IN TAP PARTICIPANTS DURING NEXT RATE PERIOD

As alluded to above, the one area of disagreement (related to the number of new TAP participants that can be expected from efforts to increase TAP participation) is resolved by the Settlement. Please note that the Settlement uses the average monthly number of TAP participants in the Next Rate Period (for Sept. 2022 to Aug. 2023) of 24,199.²⁴

Pool of Eligible TAP Participants

By way of background, TAP is available to PWD customers whose income falls at or below 150% of the Federal Poverty Level (FPL) and those with special hardships.²⁵ Obtaining income information from customers is a key challenge facing the Department and the Water Revenue Bureau as they attempt to make eligibility determinations for, and enroll customer into, TAP.

There is a large pool of customers who are income-eligible for TAP within Philadelphia. None of the participants opposed this point.²⁶ Nevertheless, to illustrate this point, the Department emphasizes the following publicly available information: As of January 2022, about 231,000 customers, or about 45% of the Water Department's 496,000 accounts, have fallen

²⁴ See discussion, *infra*.

²⁵ The term "special hardship" has the meaning set forth in Section 206.1 of the PWD's regulations.

²⁶ Mr. Haver would use a different methodology to determine the pool of customers eligible for TAP. His methodology attempts to determine the number of low-income households in Philadelphia using census and other data. Alternatively, pointing to a 2019 document (*see*, footnote 18), which is available on the Public Utility Commission's (PUC) website at <http://www.puc.state.pa.us/pcdocs/1614503.pdf>, Mr. Haver indicates that there are more than 120,000 PGW heating customers eligible for low-income universal service programs.

behind on payments.²⁷ There are, as of January 3, 2022, over 69,000 accounts eligible for shutoff.²⁸

Increased Enrollment in TAP

TAP enrollment is anticipated to increase in July 2022 and continuing through the Next Rate Period (September 1, 2022 to August 31, 2023).²⁹ According to a February 2022 report from PEW,³⁰ the “City has underperformed the national economy, recovering more slowly from the COVID-19 pandemic, than many other cities have. Philadelphia is experiencing lingering job losses, particularly in the low-wage sectors, with Black workers and female workers hit the hardest.” Due to the ongoing economic impacts of COVID-19, the Department believes that customers are more likely to enroll in TAP.³¹ The ramp up is shown as projected increases from July 2022 through November 2022.³²

During the Next Rate Period, enrollment in TAP is anticipated from multiple sources:

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- ²⁷ Table 5 of the January 2022 Water Receivable Report, which is available at: <https://www.phila.gov/media/20220307141806/Water-receivables-report-2022-January.pdf>.
- ²⁸ 2022 Special Rate Proceeding, PWD Statement 1, Schedule ML-2 at 9 and 31. <https://www.phila.gov/media/20220124131428/PWD-Statement-No.-1-Direct-Testimony-and-Schedules-of-Melissa-La-Buda.pdf>. *See also*, 2022 Special Rate Proceeding, PWD Statement 1, Schedule ML-3, Fitch Ratings at 2 (The number of accounts eligible for shut-off is just over 68,700 in August 2021 ...). <https://www.phila.gov/media/20220124131428/PWD-Statement-No.-1-Direct-Testimony-and-Schedules-of-Melissa-La-Buda.pdf>.
- ²⁹ *See, e.g.*, TAP Filing Index at Statement of Changes; PWD Rebuttal Statement 1; Public Advocate Statement 1.
- ³⁰ <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2022/02/how-the-pandemic-has-affected-philadelphias-economy-and-jobs>.
- ³¹ *See*, PWD Rebuttal Statement 1 at 6-7 (Q/A 11).
- ³² The Department’s projections were also posted at: <https://www.phila.gov/media/20220303160950/Schedule-RFC-3.xlsx>.

First, direct applications to the Water Revenue Bureau (“WRB”) and PWD, since the City has on-going outreach efforts to encourage anyone having trouble paying their water bill to apply for help.³³

Second, from planned additional efforts to expedite the eligibility determination for TAP.³⁴ Expedited determinations are anticipated due to additional efforts to obtain information from the Commonwealth of Pennsylvania (“Commonwealth”). Specifically, starting in July 2022, PWD anticipates enrolling its customers into TAP who have been deemed eligible for the Commonwealth administered Low-Income Household Water Assistance Program’s (LIHWAP) through a data share, rather than direct application by the customer.³⁵

Third, beyond those efforts, it may also be possible for PWD to expedite the eligibility determinations for PWD customers who have been deemed eligible for assistance under the Commonwealth administered Low-Income Home Energy Assistance Program (LIHEAP).³⁶

³³ PWD Rebuttal Statement 1 at 6-7 (Q/A11).

³⁴ *See*, Schedule RFC-4 at 1.

Please note that to the extent that Mr. Haver criticizes the current (status quo) enrollment levels in TAP, the Department responds by emphasizing that using the LIHWAP information is an effort to significantly increase enrollment in TAP.

³⁵ PWD Rebuttal Statement 1 at 4 (Q/A9); Schedule RFC-4 at 1.

³⁶ *See*, PWD Rebuttal Statement 1 at 4 (Q/A9).

Mr. Haver suggests, by way of cross-examination, that PGW should enroll gas customers in TAP, if they are also water customers. He also suggests that the Department should consolidate meter reading and other efforts with PGW. Those suggestions were not actually made on the record by Mr. Haver, since Mr. Haver only asked questions of others to make “his case” on those suggestions. By way of further response, the Department submits that said suggestions (a) are not relevant, since they are beyond the scope of this proceeding; (b) are speculative; and (c) would require the consent and approval of PGW and the Pennsylvania Public Utility Commission before they could be implemented. *See, e.g.*, 52 Pa. Code § 62.78.

The Original Projected Increases in TAP Participation

The Department originally anticipated significant growth in TAP participation in the Next Rate Period. In contrast, the Public Advocate originally anticipated very limited growth in TAP participation in the Next Rate Period. The table below shows the projected number of TAP participants under the Department and Public Advocate original proposals.³⁷

Table 3: Original Projections of TAP Participation				
	Department's Original Proposal Schedule RFC-3		Public Advocate's Original Proposal Schedule LKM-3	
June 2022	17,148		17,148	
July 2022	18,148	5.83%*	18,251	6.43%*
August 2022	20,148	11.02%*	19,426	6.43%*
September 2022	22,398	11.17%*	20,676	6.43%*
October 2022	25,898	15.63%*	22,006	6.43%*
November 2022	29,648	14.48%*	23,422	6.43%*
December 2022 to August 2023	29,648		23,422	
Average monthly number of TAP participants (for Sept. 2022 to Aug. 2023)	28,731		23,075	

³⁷ PWD Rebuttal Statement 1 at 3-4 (Q/A 7).

* This shows the percentage change in the projected number of TAP participants from the prior month.

A change in the number of TAP participants impacts factors in the formula used to calculate TAP Rider rates for the Next Rate Period.³⁸ So, changes in the number of TAP participants result in different TAP Rider rates for the Next Rate Period, as shown in the following table:

Table 4: Comparison of Original Proposals for TAP-R Surcharge Rates			
	Current 2021 TAP Rate Determination	Public Advocate’s Original Proposal Schedule LKM-1	Department’s Original Proposal Schedule BV-1
Water TAP-R Surcharge	\$0.69 /MCF	\$0.98 /MCF	\$1.23 /MCF
Wastewater TAP-R Surcharge	\$1.09 /MCF	\$1.55 /MCF	\$1.95 /MCF

The Settlement Should Be Adopted by the Rate Board

The Rate Board should approve the Settlement proposal, as described in the Joint Petition and in Tables 1 and 2 (above). These proposed rates are fair and reasonable and are consistent with the relevant ordinances and regulations. They are amply supported by the record, which establishes that they will provide an appropriate level of funding for the TAP program — given the agreed-upon increased number of TAP Participants in the Next Rate Period.

Here, the record supports an increased number of TAP Participants for the Next Rate Period. The range of increased participation originally projected by the Public Advocate and the

³⁸ PWD Rebuttal Statement 1 at 2 (Q/A 6).

Department is, as referenced above, between about 6,250 and 12,500 additional TAP participants. It is estimated that the mid-point of that range would be 9,375³⁹ additional participants and with the average monthly number of TAP participants (for Sept. 2022 to Aug. 2023) being 25,903.⁴⁰ The Settlement is below that hypothetical midpoint, since the Settlement uses 7,020 additional TAP participants in the Next Rate Period with the average monthly number of TAP participants (for Sept. 2022 to Aug. 2023) being 24,199.

The Settlement provides a moderate and reasonable level of growth in TAP participation in the Next Rate Period. The Department and the Public Advocate have found the agreed-upon increased number of TAP Participants in the Next Rate Period and the resulting rates are appropriate or acceptable after (a) testimony, discovery and hearings and (b) a thorough review and discussion by the Department and the Public Advocate. While not endorsing any of the methodologies or calculation methods employed by any party to project the number of TAP Participants, the Settlement provides for moderate and reasonable growth in TAP participation in the Next Rate Period, due to economic conditions and the needs of the above-described large potential pool of TAP Participants.

B. OTHER ISSUES

1. LANCE HAVER: PROGRAM APPROACH AND ELEMENTS

Mr. Haver criticizes not only the existence of the TAP surcharge, but also the components of the formula used to calculate the TAP surcharge.

³⁹ 9,375 is the average between the two original proposals (6,250 and 12,500) shown in Table 3.

⁴⁰ 25,903 is the average between the two original proposals (23,075, 28,731) shown in Table 3.

Mr. Haver argues that PWD customers should not be expected to pay a surcharge designed to mitigate the financial impacts for customers who are less able to pay for “water,” which is an essential service. By doing so, Mr. Haver is advocating for a policy change that goes beyond the scope of this proceeding. His change also goes against the statewide treatment of customer assistance programs. “Various forms of automatic adjustment clauses have been included in fixed utility tariffs in Pennsylvania for over 50 years.”⁴¹ This includes surcharges for universal service (customer assistance) programs.⁴²

Regarding the formula, Mr. Haver suggests that there is no financial impact to the Department - if hypothetical low-income customers pay “something” more than the cost of the commodity. He suggests that a water assistance program be configured to use cost-based comparisons and a different recovery mechanism (than the TAP-R mechanism).

The Department submits that none of the above-described criticisms should be considered or adopted by the Rate Board, since they are beyond the scope of this proceeding.

2. LANCE HAVER AND MICHAEL SKIENDZIELEWSKI: ETHICS AND INTEGRITY

The Rate Board has limited jurisdiction.⁴³ That jurisdiction is limited to “fixing and regulating rates and charges.”⁴⁴ The Rate Board’s jurisdiction does not include authority to investigate, administer or enforce public integrity laws or ethical codes. The refusal to recognize this fact by Messrs. Haver and Skiendzielewski constitutes a determined effort to ignore reality.

⁴¹ James H. Cawley & Norman J. Kennard, *A Guide to Utility Ratemaking* at 88 (2018 ed.). https://www.puc.pa.gov/General/publications_reports/pdf/Ratemaking_Guide2018.pdf.

⁴² *Id.* at 98.

⁴³ The Rate Board’s jurisdiction is discussed more fully in the Department’s Brief in the 2021 General Rate Proceeding, which was already incorporated herein, *see* footnote 15 and the accompanying text.

⁴⁴ *See*, Philadelphia Code §13-101(3).

Mr. Haver argues that the Public Advocate and the Hearing Officer should be precluded from participating in this proceeding. He alleges that they each have disabling conflicts of interest which call into question the fairness of the proceeding. The same or substantially similar allegations were made by Mr. Haver before the Rate Board,⁴⁵ and denied by the Rate Board,⁴⁶ in the 2022 Special Rate Proceeding and in the 2021 General Rate Proceeding.

In an effort to support the above-described (unfounded) allegations, Mr. Haver has made repeated “demands” to see financial disclosures from the Public Advocate and the Hearing Officer. It is true that many City officers and employees⁴⁷ must file a financial disclosure with the City (and the Commonwealth). Mr. Haver has not established before the Rate Board that either the Hearing Officer or the Public Advocate are required to file financial disclosures, since they are selected by way of the City’s procurement rules.⁴⁸ Even if the need to make financial disclosures was established before the Rate Board, this Board (as noted above) is not the body to investigate, administer or enforce that requirement.

Mr. Skiendzielewski has sent messages⁴⁹ to the Rate Board, the Hearing Officer and the other participants questioning whether the Rate Board’s Legal Counsel should be precluded from

⁴⁵ 2022: <https://www.phila.gov/media/20220325160241/edited-quid-pro-quo-water.pdf>
2021: <https://www.phila.gov/media/20210526131220/exceptions-to-hearing-examiner-report.pdf>.

⁴⁶ 2022: Minutes of Rate Board Meeting for April 13, 2022.
2021: <https://www.phila.gov/media/20210618105014/2021-General-Rate-Determination-as-filed-with-Records-Dept-20210616.pdf>

⁴⁷ <https://ethelknowsethics.blogspot.com/2021/04/test-search.html>.

⁴⁸ The selection process is subject to Section 17-1401, *et seq.* of the Philadelphia Code.

⁴⁹ Mr. Skiendzielewski only asked questions. From the Department’s perspective, Mr. Skiendzielewski did not request relief by way of a motion or petition. Mr. Skiendzielewski did not submit written testimony or pursue his “issues” at the technical hearing. The Hearing Officer is not obliged to research issues and make arguments on behalf of a participant who declines to do so in his own behalf.

participating in this proceeding. Mr. Skiendzielewski alleges that said Counsel has a disabling conflict of interest which questions the fairness of the proceeding. The same or substantially similar allegations were made by Mr. Skiendzielewski before the Rate Board,⁵⁰ and denied by the Rate Board,⁵¹ in the 2021 General Rate Proceeding.

The Department submits that none of the above-described issues regarding the investigation, administration, or enforcement of public integrity laws or ethical codes should be considered or adopted by the Rate Board, since they are (a) beyond the limited jurisdiction of the Rate Board; and, (b) beyond the limited scope of this adjustment proceeding.

IV. CONCLUSION

For all of the reasons stated in this Brief (together with the facts and information contained in the record), the Department respectfully requests that the Hearing Officer recommend that (1) the Rate Board find that the rates and charges proposed by the Settlement, 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, 2022; and (2) the Rate Board reject any remaining issues, proposals,

⁵⁰ 2021: <https://www.phila.gov/media/20210513093207/Michael-Motion.pdf> and <https://www.phila.gov/media/20210526131221/Skiendzielewski-Exceptions.pdf>

⁵¹ 2021: <https://www.phila.gov/media/20210513093208/Order-Skiendzielewski-recusal-may-11-2021-final.pdf> and <https://www.phila.gov/media/20210618105014/2021-General-Rate-Determination-as-filed-with-Records-Dept-20210616.pdf>

modifications and/or adjustments by the other participants hereto that are not contained in the Settlement; and, (3) the Rate Board authorize the Department to file revised TAP-R rates and charges as contained in the Settlement for service rendered on and after September 1, 2022.

Respectfully submitted,

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