BEFORE THE
PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD

In the Matter of the Philadelphia Water Department's 2022 Special Rate Proceeding	Fiscal Year 2023

EXCEPTIONS OF THE PHILADELPHIA WATER DEPARTMENT TO THE HEARING OFFICER'S REPORT

The Philadelphia Water Department ("PWD" or "Department") files these exceptions to the Hearing Officer's Report, dated May 24, 2022 (the "Report"), rendered by Marlane R. Chestnut (the "Hearing Officer") in the above-captioned proceeding before the Philadelphia Water, Sewer and Storm Water Rate Board ("Rate Board" or "Board").[1] These limited exceptions are focused on the Hearing Officer's recommendations concerning the FY 2021 Financial Performance Adjustment and the appropriate "minimum threshold" to be used in that context. The Department's detailed statement of position is set forth its Main Brief which is incorporated herein by reference.[2]

The Department's exceptions are two in number and specifically concern: (1) the appropriate use of the Rate Stabilization Fund ("RSF") goal/target as a minimum threshold; and (2) the inappropriate use of the 2021 Table C-1 projections for any purpose except to show the agreed upon level of additional revenues for FY 2022 and FY 2023.

1 This submission is consistent with the Rate Board's regulations at Section II.B.6(a)(2). As stated there: Any Participant may file exceptions to the Hearing Officer Report according to the schedule promulgated by the Hearing Officer. The Participant shall identify any discussion or recommendation to which exception is taken and the supporting reasons for the exceptions, and/or indicate that its position has been misstated, that a false impression was created, or that an error or omission has been made.

2 *See*, PWD Main Brief at 8-21.

I. EXCEPTIONS

A. Appropriate Use of RSF Goal/Target as Minimum Threshold.

The Department's first exception relates to the appropriate use of the $135 million RSF goal/target as the minimum threshold in this proceeding. This metric is an established and objective goal/target accepted by the Rate Board and utilized by PWD for financial planning. In the instant context, the Department is concerned about the impression created by the discussion on pages 10 and 11 of the Report. Please recall that the Department's goal is to manage (over time) the balance in the Rate Stabilization Fund ("RSF") to $135 million,[3] consistent with the target established in the Rate Board's 2018 Determination.[4]

The Report acknowledges this RSF goal/target balance.[5] However, the Report indicates that it is not appropriate to use that goal/target in this proceeding.[6] PWD submits that the above finding could create the wrong (false) impression for the rating agencies (or others) that the Rate Board is changing (lowering) the goal/target for the RSF balance. The Department does not believe this to be the case.

PWD submits that the above referenced finding should be clarified and that any possible false impression that the RSF target/goal has been changed or lowered should be rectified by the Rate Board — since the goal/target for the RSF balance remains at $135 million. Our goal should be to move toward the RSF goal/target previously accepted by the Board.

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3 *See*, PWD Statement 1, Schedule ML-2 (Financial Plan) at 18 (cash balances).

4 *See*, 2018 Determination at 37-38. https://www.phila.gov/media/20180713144736/2018-RATE-DETERMINATION-TIMESTAMPED.pdf

5 Report at 10.

6 Report at 10-11.

B. Inappropriate Use of 2021 Table C-1 RSF Projections as Minimum Threshold.

The Department's second exception relates to the Report's use of the 2021 Table C-1 projections for purposes other than to show, in the context of the 2021 Settlement, the agreed upon additional revenues to be generated for FY 2022 and FY 2023.[7] The Report refers to the 2021 Table C-1 RSF projections as appropriately used as a minimum threshold.[8] PWD submits that this finding is in error.

As noted in the PWD Main Brief, the 2021 Settlement is a "black box" settlement, and its terms clearly state that the "parties do not specifically identify adjustments to projected revenues and expenses."[9] The parties only agreed to the level of additional revenues to be generated for the fiscal years stated above. In light of the black box settlement, PWD submits that use of the 2021 Table C-1 projections in the Report for other purposes is erroneous.[10] The Report goes too far by using the 2021 Table C-1 projected RSF balances for purposes of the "minimum threshold" in this proceeding, since such projections were <u>not</u> accepted by either party to the 2021 Settlement.[11]

In addition to the above, given the Department's lackluster FY 2021 financial performance, to use the aforesaid RSF projected balances to derive a reduction to the FY 2023

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[7] *See,* Report at 10-11.

[8] *See*, Report at 11.

[9] PWD Brief at 12-13. PWD Rebuttal Statement 2 at 10-11; PWD Hearing Exhibit 2 (Q/A 15).

[10] PWD Brief at 12, footnote 37.

[11] *See*, PWD Hearing Exhibit 2 (Q/A 16); Tr. 82-83, 85-86, 107. The Report also misstates the Department's position in assuming that 2021 Table C-1 projections, other than those for additional revenues to be generated in FY 2022 and FY 2023, were accepted by the Department. See, Report at 11 (lines 1-2).

Base Rate Incremental Increase[12] is counter-intuitive and clearly erroneous for a number of other reasons including, that such a reduction in approved FY 2023 rates will be moving the Department farther from the above-stated targeted balance of $135 million.[13] Perforce this will require that future rate requests address this issue (to replenish RSF balance). Moreover, as recognized in the Report, a rate reduction here may expose PWD to a negative rating action with potential longer term detrimental impacts on customers (higher cost of borrowing to support capital improvement program).[14]

Please recall that, in deciding this adjustment, the key test is to determine whether there are excess reserves for sharing. That is the determinant of whether a reduction in FY 2023 approved rates is warranted. In the absence of such excess reserves (as is the case here), there can be no sharing.[15] Consistent with the foregoing, recommendations to reduce FY 2023 approved rates (by $3.0 million, $5.3 million, $6.6 million or other amount) should be rejected as no sharing is warranted given PWD's sub-par FY 2021 performance and its current financial circumstances. In point of fact, such a reduction would (a) place the Department in greater financial difficulty; (b) require ratepayers to address the Department's financial difficulties in FY 2024 and beyond (including the impact of proposals considered here which, if adopted, will exacerbate our current troubles); and (c) potentially trigger a negative rating action or downgrade by the rating agencies.[16]

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12 Report at 12, 13, 15.

13 *See,* PWD Brief at 10-11.

14 *See*, Report at 12-13.

15 *See*, PWD Brief at 16.

16 *See,* PWD Brief at 10-11.

To be sure, the above negative outcomes can be avoided by adopting the Department's proposal for a "zero adjustment" to FY 2023 approved rates for the reasons explained in its Main Brief.[17] PWD urges the Rate Board, in its discretion, to reject any reduction to the FY 2023 Base Rate Incremental Increase.

II. CONCLUSION

In view of the foregoing and the Department's detailed statement of position in its Main Brief, PWD requests that the Report be modified consistent with these exceptions.

Respectfully submitted,

/s/ Andre C. Dasent

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17 PWD Brief at 3, 13-15, 33.