

BEFORE THE
PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD

In the Matter of the Philadelphia Water Department's Proposed Change in Water, Wastewater and Stormwater Rates and Charges	Fiscal Years 2024-2025
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**OBJECTIONS TO
PUBLIC ADVOCATE INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS (SET I)**

The Philadelphia Water Department ("Department" or "PWD") objects to the following Set I Public Advocate Interrogatories and Requests for Production of Documents: PA-I-3 and PA-I-14. The aforesaid requests (sometimes individually referred to as, "interrogatory and request" or collectively as "discovery requests") were submitted via email on February 15, 2023. PWD requests that the Hearing Officer appointed by the Philadelphia Water, Sewer and Storm Water Rate Board ("Rate Board" or "Board") in this proceeding sustain these Objections and strike or limit the subject discovery requests.

General Objections

1. PWD objects to each interrogatory and request to the extent that it seeks information that is not relevant and not material to the PWD proposed changes in rates and charges as set forth in the 2023 general rate case filing, and as such, is not reasonably calculated to lead to the discovery of admissible evidence for purposes of rate setting.

2. By answering any part of the interrogatory and request or producing any part of the requested information, PWD does not concede the relevance, materiality or admissibility of any of the information sought therein for use as evidence in any hearing.

3. The Department objects to each interrogatory and request insofar as it seeks the production and disclosure of documents or information subject to any applicable privilege (including government decision making and deliberations; attorney client privilege; and attorney work product), rule, doctrine or immunity whether created by statute or common law.

4. The Department objects to each interrogatory and request to the extent that it seeks confidential, privileged, proprietary or other privileged information.

5. The applicable general objections, as stated above (“General Objections”), are incorporated into each of the specific objections and responses that follow. Stating a specific objection or response shall not be construed as a waiver of these General Objections.

Objections to Interrogatories and Requests for Production of Documents

PA-I-3: Please provide a copy of all written correspondence, including e-mails, letters, memos or other written document of any nature, between PWD and/or WRB and the municipal office that determines income-eligibility for the Philadelphia tax hardship program that proposes, considers, evaluates or otherwise discusses any collaboration between the TAP and tax hardship assistance program with respect to determining income eligibility for the two programs.

Response: Objection. The Department objects to this interrogatory and request to the extent that it seeks to retrieve all written correspondence including emails, letters, memos or other written document of any nature between PWD and/or WRB and an unnamed municipal office “that determines income eligibility for Philadelphia’s low-income taxpayer installment payment agreements.”

The Department objects to this interrogatory and request on the grounds that the discovery sought will cause an unreasonable annoyance, burden and expense to PWD and WRB. Compilation and production of the requested documents would require an expansive, costly and unduly burdensome investigation. Please note that the interrogatory and request seek information over and undefined period and include an unnamed municipal office.

The Department maintains that this interrogatory and request, as written, is overly broad and unreasonably burdensome. Responding to PA-I-3 would require PWD, WRB and their consultants to expend a significant number of hours and incur related costs to search electronic and written files just related to PWD and WRB. In addition, the Department must try to ascertain which municipal office and which tax hardship assistance program the Advocate is referring to in the interrogatory and request — making the task of responding an even more unreasonably burdensome exercise. Finally, answering the interrogatory and request is particularly burdensome given the shortened period allotted to compile discovery responses in this proceeding. The Department notes that the appropriate standard to be applied in this context (as provided in Rate Board Regulations) requires consideration of whether the discovery request is unreasonably burdensome given the extent of time/expense related to producing the information requested. In

view of the above, this interrogatory and request, as written, will cause unreasonable annoyance, burden and expense to PWD and as the expansive and vague request is impossible to answer in any reasonable manner during the time allotted in this proceeding.

Further, the proper scope of this proceeding is limited to the change in rates and charges proposed by PWD. The Rate Board has limited jurisdiction. The Board is empowered to approve, modify or reject proposed rates and charges. The Rate Board does not have general oversight over PWD, WRB or the unnamed municipal office. The Department believes that the discovery request is not seeking information related to PWD proposed changes in rates and charges for FY 2024 and FY 2025. The requested information will not assist the Rate Board in determining prospective rates and charges. For all of the above reasons, the Department's objection to this discovery request should be sustained.

PA-I-14: By year, for each Fiscal Year 2017 to present, please provide for each third party vendor and/or consultant paid more than \$100,000 in the fiscal year for purposes of working on TAP and/or Customer Assistance Programs more broadly:

- a. The scope of work agreed to with the consultant;
- b. The signed contract with the consultant;
- c. Each invoice to PWD relating to TAP or Customer Assistance Programs more broadly.

Response: Objection. The Department objects to this interrogatory and request to the extent it seeks to retrieve contracts and invoices for third party vendors and/or consultants working on TAP and/or Customer Assistance Programs ("CAP") for a period of seven fiscal years.

In the first instance, PWD objects to this interrogatory and request as vague in not defining CAP referenced in the request. There are numerous customer assistance programs administered by the City. Second, the request is unclear as to whether it is limited to PWD or whether other City agencies (WRB) are included. Third, based on our initial review of this discovery request, PWD believes that there may be a number of consulting entities that fall within the scope of this interrogatory and request (based on dollar amount and TAP involvement). Such vendors, however, may primarily perform services to the City other than work specifically related to TAP or other programs assisting poor households. The contracts and monthly invoices therefore may have much to do with other services and little to do with the focus of the interrogatory and request.

Even if this interrogatory and request is revised to be more clearly defined (e.g., defining CAP, identifying the municipal agencies within the purview of the request for contracts, and limiting the request to third party vendors/consultants providing services related exclusively to TAP and CAP), the interrogatory and request would still be overly broad and unreasonably burdensome to the extent the Advocate is requesting monthly invoices for numerous third party

vendors over a period of seven years. Ratemaking is prospective and PWD proposed changes in rates and charges are for FY 2024 and FY 2025 not the historic period for which information is requested. Moreover, portions of contractual agreements may be marked as confidential or may contain commercially sensitive information that is appropriately shielded from the public record and to the extent such information is requested as the Department undertakes a search of its records, PWD reserves its right to assert that such information is privileged.

Further, the proper scope of this proceeding is limited to the change in rates and charges proposed by PWD. The Rate Board has limited jurisdiction. The Board is empowered to approve, modify or reject proposed rates and charges. The Board does not have general oversight over PWD, WRB or the unnamed municipal office. The Department believes that the discovery request is not seeking information related to PWD proposed changes in rates and charges for FY 2024 and FY 2025. The requested information will not assist the Rate Board in determining prospective rates and charges. For all of the above reasons, the Department's objection to this discovery request should be sustained.

WHEREFORE, the Department formally objects to the Interrogatories and Requests identified above and requests that its Objections be sustained and that it be relieved of the requirement of any further response to same except as described above.

Respectfully submitted,

/s/ Andre C. Dasent

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