

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

In the Matter of the Philadelphia Water Department's Proposed Change in Water, Wastewater, and Stormwater Rates and Related Charges **Fiscal Years 2024 – 2025
Rates and Charges to Become Effective
: September 1, 2023 and September 1, 2024**

**OBJECTIONS AND RESPONSES TO
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS BY
LANCE HAVER, PRO SE**

LH-I-1 Please provide the process by which Community Legal Services decides what position(s) to take in any and all proceedings before the Philadelphia Water and Sewer Rate Board .

Community Legal Services, serving as Public Advocate, determines what positions to take through full and diligent participation in the process set forth in the Rate Board's regulations as required by our contract with the Board and as described in response to LH-I-3.

LH-I-2. Please provide the written document that outlines, describes, memorializes or in any other way informs the public of how Community Legal Services decides what position to take regarding any and all proceedings before the Rate Board.

See response to LH-I-1, LH-I-3, LH-I-12. The Rate Board's regulations are available at: <https://www.phila.gov/media/20230120160159/WRB-regulations-restated-with-amendments-2022-11-09.pdf>. A copy of the Public Advocate contract was offered to the proponent of this interrogatory to resolve the objection to LH-I-9. The Public Advocate maintains that its contract is not relevant; all Public Advocate decision-making is informed by and reflected on the public record of the rate proceedings pursuant to the Board's regulations.

LH-I-3 Please provide the name of any and all supervisors of the people Community Legal Services appoints to work on the contract Community Legal Services has with the Rate Board. Please identify how often the supervisor meets with the attorneys assigned to the contract with the rate board and any and all written documents describing what role and/or powers the supervisor has regarding decisions made by those assigned to the contract Community Legal Services has with the Rate Board

The individuals authorized to provide services as Public Advocate are not "appointed" by CLS. They serve pursuant to the written contract referred to in LH-I-1, LH-I-2, and LH-I-9.

Robert Ballenger (attorney, admitted to PA bar 2004, 12+ years utility law experience) reports to Deputy Director of Legal Practice, Katherine J. Gomez.

Joline Price (attorney, admitted to PA bar 2013, 7+ years utility law experience) reports to Robert Ballenger.

Daniela Rakhlina-Powsner (attorney, admitted 2023) reports to Robert Ballenger.

Jackson Ross-Pilkington (paralegal) reports to Joline Price.

Robin Kearney (paralegal) reports to Joline Price.

Each attorney or paralegal has scheduled, regular meetings (typically weekly or bi-weekly) with their supervisor and frequent, as needed, check-ins regarding their work.

Regarding decisions on what positions to take in rate proceedings, the CLS employees serving as Public Advocate generally make decisions in consultation and collaboration with our expert witnesses, informed by all public input, testimony, and other information known to us, including the hearing record and other publicly available information. Expert witnesses for the Public Advocate take positions through written testimony based upon information known to them, including public input, discovery responses, the hearing record and other publicly available information, and utilizing their decades of professional expertise. Decision-making involving any terms or conditions of potential settlement, if any, occurs through confidential negotiations.

There are no documents describing CLS internal decision-making or supervisory structure particular to the services performed by the Public Advocate.

LH-I-4 Please provide the number of, and the names of any and all elected officials Community Legal Services has met with in person or via zoom, to brief on the proposed water rate increase

The Public Advocate has reached out to multiple elected officials, but has not met in person or via zoom with them as of the date of this response. We are aware of several elected officials who have shared our materials regarding the rate proceeding on social media.

LH-I-5 Please provide the number of and names of any and all community, civic, religious or advocacy groups Community Legal Services has met with in person or via zoom to brief on the proposed water rate increase

The Public Advocate has reached out to many groups. CLS met via zoom with HopePHL (formerly People's Emergency Center), on Tuesday March 14.

LH-I-6(1) Please provide any and all contracts with consultants, of any type, with a description of the work which is to be performed that Community Legal Services has retained in this rate case

See attachment to LH-I-6(1).

LH-I-6(2) Please provide a list of all the advertisements Community Legal Services has paid for to announce the public hearings on the proposed water rate increase.

CLS purchased five days of advertisement on Facebook, scheduled to run March 15 through March 20. We are currently engaged in a robust outreach campaign and

provided language for the Board to include in its published notices regarding the availability of free assistance from CLS with public input.

LH-I-6(3) Please provide the number of people who have “visited” Community Legal Services Web page regarding the proposed water rate increase.

CLS created a webpage for purposes of this rate proceeding on March 9 and began promoting that page on CLS’s main webpage and social media on March 13. As of March 15, the CLS webpage has been visited just over 200 times, with those visiting the page spending an average of 5 minutes (very high).

LH-I-7 Please provide the number of community groups who have contacted Community Legal Services

As of the date of this writing, the Public Advocate has received responses from media contacts, and representatives of three community organizations regarding the rate proceeding.

LH-I-8 Please provide a list of any and all Board Members of Community Legal Services who have any business relationship, defined broadly as representing the company in any capacity, owning any shares in any capacity doing business in any capacity, with any business that does business with the Philadelphia Water Department

Objection. This request is unduly burdensome and overly broad. The information it seeks is neither relevant to the rate proceeding nor likely to lead to the discovery of relevant information.

CLS has 26 board members. Based on the website, www.philawx.phila.gov/econtract/ as of March 13, 2023 there are 497 contracts reportedly renewed for services with the Water Department. Determining whether any of the 26 individuals who volunteer as CLS’s board members have ever had any broad business relationship with any of these entities, or the many other entities conducting business with the Philadelphia Water Department for which a renewal contract does not appear in the list located, would (at a minimum) require each CLS board member to research and identify each and every entity that conducts business with the Water Department, and determine whether the Board member may have purchased goods or services, performed services, or otherwise interacted with that entity or any potential affiliate or predecessor entity. Whether or not a volunteer CLS board member has ever conducted business with such an organization is irrelevant to the subject matter of the rate proceeding.

Based on correspondence with the proponent of this request, the Public Advocate understands that the concern is whether members of CLS’s Board of Directors influence the positions the Public Advocate may take in this proceeding. The definitive answer to this question is no. CLS staff members serving as Public Advocate do not report to, consult with, or obtain any non-public input from any CLS board members in determining what positions to take in rate proceedings, including any terms and conditions of any proposed settlement agreement.

Nonetheless, the CLS employees serving as Public Advocate offer the following assurance: *The Public Advocate has not, and will not, engage in any off-the-record*

discussions or information exchange with any members of CLS's Board of Directors concerning the positions the Public Advocate may take regarding PWD's proposal in this rate proceeding.

LH-I-9 Please provide a list of any and all contracts and the amounts Community Legal Services has with the City of Philadelphia

Objection. This request is unduly burdensome and overly broad. The information it seeks is neither relevant to the rate proceeding nor likely to lead to the discovery of relevant information.

The only CLS contract potentially relevant to this proceeding is the Public Advocate contract. (Note that CLS does not concede the relevance of the Public Advocate contract.) CLS offered to provide a copy of this contract to resolve this objection, but the proponent of the request declined.

By way of further explanation, the amount CLS anticipates it will receive for its services pursuant to the Public Advocate contract in this rate proceeding constitutes less than 1% of CLS's annual operating budget.

LH-I-10 Please provide any and all written correspondences between Community Legal Services and/or its employees and any and all members of the Rate Board

Objection. This request is unduly burdensome and overly broad. The information it seeks is neither relevant to the rate proceeding nor likely to lead to the discovery of relevant information.

Correspondence between any and all employees at CLS and current or former Board members would, at a minimum, require reviewing decades of PUC, PWD and PGW proceedings to identify the full scope of potentially responsive documents. The vast majority of these documents would pertain to current and former Board members' positions *prior to* their appointment to the Board, and so would be irrelevant to this proceeding.

Based on correspondence with the proponent of this request, the Public Advocate understands that the concern is whether CLS staff serving as Public Advocate have engaged in *ex parte* conversations with Rate Board members in an effort to influence the outcome of this or any other rate proceeding. The definitive answer to this question is no, there have been no such communications.

Nonetheless, the CLS employees serving as Public Advocate offer the following assurance: *The Public Advocate has not, and will not, engage in any off-the-record discussions or information exchange with any Rate Board members concerning the positions the Public Advocate may take regarding PWD's proposal in this rate proceeding.*

LH-I-11 Please provide and all written correspondences with the Rate Board's attorney or attorneys.

Objection. This request is unduly burdensome and overly broad. The information it seeks is neither relevant to the rate proceeding nor likely to lead to the discovery of relevant information.

It is unclear to whom it is directed and, as written, would include correspondence that was not sent by CLS staff serving as Public Advocate or from the Rate Board's attorney, i.e., it would include correspondence between anyone and the Rate Board's current and/or former attorneys since the inception of the Rate Board.

Assuming it is meant to apply to correspondence between any and all employees at CLS and the Rate Board's attorney in the Law Department, it remains unduly burdensome, overly broad and seeks information irrelevant to the rate proceeding and unlikely to lead to the discovery of relevant information. A complete response to the question (with the described limitation) would still require reviewing decades of correspondence to identify the full scope of potentially responsive documents. Although that scope is unknown, CLS employees serving as Public Advocate have located correspondence with the Rate Board's current attorney extending back to at least 2012. CLS correspondence with all attorneys who have been appointed to advise the Rate Board since it was formed likely extends back multiple decades.

Based on correspondence with the proponent of this request, the Public Advocate understands that the concern is whether CLS received information from the Rate Board's attorney regarding PWD's proposed rate increase prior to January 24, 2023, the date of PWD's advance notice filing. CLS did not receive any such communications from the Rate Board's attorney. CLS did not receive any preview of PWD's rate increase proposal before it was filed on January 24, 2023. It should be noted that PWD's counsel discussed the timing for commencement of the rate proceeding at the Rate Board's January 11, 2023 meeting. The audio recording of that meeting and the meeting minutes are publicly available and posted on the Rate Board's website.

Nonetheless, the CLS employees serving as Public Advocate offer the following assurance: *The Public Advocate has not, and will not, engage in any off-the-record discussions or information exchange with any attorney serving the Rate Board concerning the positions the Public Advocate may take regarding PWD's proposal in this rate proceeding.*

LH-I -12 Please provide the names of any and all people Community Legal Services will consult with prior to accepting any and all settlement offers from the Philadelphia Water Department

To date, the Public Advocate has not engaged in any settlement discussions with PWD. The Public Advocate will approach settlement discussions in the manner described in response to LH-I-3. By way of further information, in a rate proceeding such as this, the parties are empowered to propose agreed upon terms for Board approval, but cannot enter into a final settlement. The Board makes the final decision which may approve, modify or deny any proposed settlement terms.

LH-1-13 Please provide any and all written correspondence between Community Legal Services and the attorneys representing the Philadelphia Water Department that did not pertain to a settlement discussion over the last 3 fiscal years.

Objection. This request is unduly burdensome and overbroad. The information it seeks is neither relevant to the rate proceeding nor likely to lead to the discovery of relevant information.

The primary attorney for the Water Department in this proceeding, Andre Dasent, is also an attorney for Philadelphia Gas Works (PGW). CLS serves as Public Advocate in annual PGW operating and capital budget proceedings and exchanges correspondence with Mr. Dasent frequently. A preliminary search of emails between January 1, 2022 and January 1, 2023, limited to emails from Mr. Dasent to Robert Ballenger revealed 216 emails. Production of emails over a period of three fiscal years (July 1, 2019 – June 30, 2022) by and between all CLS attorneys and Mr. Dasent, would entail review and screening for confidential settlement material over six water rate proceedings and six PGW budget proceedings, all of which involved fact witnesses for the Public Advocate, and so also implicate attorney-client privilege. If this request is meant to extend to other lawyers for PWD and/or the Philadelphia Water Revenue Bureau, there are hundreds, if not thousands of emails, many of which pertain to CLS's direct representation of low-income customers, which are absolutely protected by attorney-client privilege.

Based on correspondence with the proponent of this request, the Public Advocate understands that the goal is to determine the extent of any collusion between CLS and PWD's attorneys in this and prior rate proceedings. The definitive answer to this question is that there has been no collusion whatsoever.