

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

Re: Philadelphia Water Department	:	2023 TAP-R Adjustment Proceeding
Proposed Charges in Rates and Charges	:	

JOINT PETITION FOR SETTLEMENT OF TAP-R PROCEEDING

The Philadelphia Water Department (“PWD” or “Department”) and the Public Advocate (“Advocate”) (collectively, “Joint Petitioners”) submit this Joint Petition for Settlement (“Joint Petition” or “Settlement”) of the Tiered Assistance Program Rate Rider (TAP-R) Reconciliation proceeding and request that Hearing Officer Marlane Chestnut (“Hearing Officer”) (i) approve the settlement of this proceeding without modification consistent with this Joint Petition; and (ii) recommend that the Philadelphia Water, Sewer and Storm Water Rate Board (“Rate Board”) approve the Settlement and authorize the Department to file modified Rates and Charges related to TAP-R to become effective on September 1, 2023. In support of the proposed Settlement, the Joint Petitioners state the following:

I. BACKGROUND

A. TAP Program and TAP-Rate Rider

1. The Tiered Assistance Program (“TAP”) is an assistance program that allows low-income customers to pay reduced bills based on a percentage of their income.

2. The TAP Rate Rider is a ratemaking tool that allows PWD to recover lost revenue requirements (costs) or reduce future costs, if actual costs are less than projected.¹ TAP-R rates are charged to customers not enrolled in TAP and are intended to recover the revenue losses (i.e., costs) associated with the program.

3. The cost of TAP (recovered via the TAP Rate Rider) may change over time due to multiple factors, including: (i) the number of low-income households that enroll in the program (“TAP Participants”); (ii) water usage; (iii) changes in PWD’s non-discounted rates; (iv) the projected number of TAP Participants; and (v) the level of discounts needed to provide affordable bills to TAP Participants.

¹ In the 2018 Rate Proceeding, the Advocate and PWD reached agreement regarding, and the Rate Board subsequently approved, many of the significant aspects of a reconcilable TAP Rate Rider. Simply stated, this rider tracks revenue losses resulting from application of the TAP discounts and permits annual reconciliation of such costs to prevent either over- or under-recovery of TAP revenue losses through TAP-R Surcharge.

4. PWD reviews and proposes adjustments to the TAP Rate Rider 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.

5. The TAP-R Reconciliation filing submitted the Department's proposed annual adjustment to the TAP Rate Rider; and the modification of related water, sewer and fire connection quantity charges.

6. The following PWD rates and charges will be affected if the Rate Board approves the Joint Settlement:

<u>Rates and Charges</u>	<u>Section Reference</u>
Total Water Quantity Charges	Section 2.1(c)(1)
Total Sewer Quantity Charges	Section 3.1(b)(1)
Total Fire Service Quantity Charges	Section 9.1(d)(1)
TAP-R Surcharge Rates	Section 10.3

B. 2023 TAP-R Proceeding

7. The Department commenced the 2023 TAP-R proceeding by filing its Advance Notice and Formal Notice of the proceeding on January 24, 2023² and February 23, 2023,³ respectively. Copies of the Advance Notice and Formal Notice are posted on the Rate Board website and are incorporated by reference.

8. These filings were made consistent with Sections II.A.2 and II.C.1 of the Rate Board's regulations.

9. PWD proposed that changed TAP-R rates and charges would take effect on September 1, 2023.

10. The participants in the 2022 Special Rate Proceeding and the 2022 TAP-R Proceeding were notified by e-mail of the opportunity to participate in the 2023 TAP-R Proceeding.

11. The general public was notified through information made available on the Rate Board's website as well as publication in Philadelphia newspapers. Legal notices related to the Advance Notice and Formal Notice were timely published in three local newspapers.

² <https://www.phila.gov/media/20230124153640/TAP-R-Reconciliation-Proceeding-Advance-Notice-2023-01-24.pdf>

³ <https://www.phila.gov/media/20230224210019/TAP-R-Reconciliation-Proceeding-Formal-Notice-final.pdf>

12. The Public Advocate was designated a participant in this proceeding pursuant to the terms of the Board’s regulations.

13. The Public Advocate submitted written discovery requests by e-mail on February 21, 2023 to which PWD responded on February 27, 2023. Copies of the discovery responses are posted on the Rate Board’s website and are incorporated by reference.

14. Lance Haver intervened (*pro se*) in this proceeding on February 1, 2023. The Philadelphia Large Users Group (“PLUG”), via counsel, confirmed PLUG’s interest in this proceeding on February 23, 2023. All are participants in this proceeding.

15. None of the participants identified in Paragraph 14 conducted discovery as part of the 2023 TAP-R Proceeding.

16. The schedule for the proceeding provided that written testimony in response to the Department’s proposed annual adjustment, if any, would be submitted by March 21, 2023.

17. The Public Advocate filed written testimony on March 21, 2023. None of the other non-Department participants (described in Paragraph 14) filed written testimony by the above stated deadline.

18. In its written testimony, Public Advocate recommended a projected number of TAP Participants for August 2024 (at the end of the next rate period) be reduced to 15,670 from the Department’s original projected number of TAP Participants for August 2024 (17,289).

19. The Department’s original proposal would result in average monthly number of TAP participants (for Sept. 2023 to Aug. 2024) being 17,289. The Public Advocate’s recommendation would result in the average monthly number of TAP participants (for Sept. 2023 to Aug. 2024) being 15,483.

20. The application of the different monthly projected number of TAP Participants (described in Paragraphs 18 and 19) would result in different TAP-R rates, as shown in the table below:

	Department’s Original Proposal Schedule BV-1	Public Advocate’s Original Proposal Schedule LKM-1
Water TAP-R Surcharge	\$0.21 /MCF	\$0.09 /MCF
Wastewater TAP R-Surcharge	\$0.34 /MCF	\$0.14 /MCF

21. Based upon the negotiated settlement, the Department agreed to withhold written rebuttal testimony which would have been filed on April 7, 2023.

22. The Hearing Officer scheduled public input and technical hearings for April 11, 2023. All hearings in this proceeding are virtual and telephonic. Transcripts from these hearings are posted on the Rate Board's website and incorporated by reference.

23. Legal notices related to the technical and public input hearings were timely published in three local newspapers.

24. The Department and the Public Advocate conducted negotiations between themselves to achieve a settlement of issues being contested between them in the proceeding. As a result of said negotiations, Joint Petitioners were able to reach the Settlement set forth herein.

25. The Department and Public Advocate agreed that the projected average monthly number of TAP Participants for the Next Rate Period (September 2023 to August 2024) should be 16,479. This agreement does not endorse any of the methodologies or calculation methods employed by any party to project the number of TAP Participants.

26. The Department and Public Advocate agree to the TAP-R surcharges shown below.

	Settlement Proposal
Water TAP-R Surcharge	\$ 0.15/MCF
Wastewater TAP-R Surcharge	\$ 0.24/MCF

This agreement does not endorse any of the methodologies or calculation methods employed by any party to calculate TAP-R surcharges.

27. On April 7, 2023, the Department and the Public Advocate informed the Hearing Officer and the other participants that they had reached an agreement as to the proposed adjustment to TAP-R rates, as memorialized in this Joint Petition.

28. The other participants were provided with the terms of the tentative Settlement reached by the Joint Petitioners on April 10, 2023.

29. Participant briefs and/or the settlement are due by April 20, 2023.

30. The Joint Petitioners proffer the following Settlement Exhibit in support of the Settlement: Exhibit 1 - Proposed Settlement – TAP-R Reconciliation Calculations.

31. In light of the Settlement and the fact that PWD and the Public Advocate endorse its terms, the Settlement Exhibit should be accepted into the record. In addition, the Joint Petitioners stipulate to the authenticity of and admission into the evidentiary record in this matter of the Settlement Exhibit listed in Paragraph 30 of this Joint Petition.

32. The Joint Petitioners are in full agreement that this Settlement is in the best interest of the Department and its customers and is therefore in the public interest as well as in compliance with the ordinances governing this proceeding and provide a reasonable basis for recovery of TAP costs in this proceeding.

33. It is agreed and understood by the Joint Petitioners that the other participants may file written comments to the Joint Petition by the brief deadline, April 20, 2023, or as otherwise directed by the Hearing Officer.

II. TERMS AND CONDITIONS

The Settlement consists of the following terms and conditions:

34. The Joint Petitioners agree and submit that modified TAP-R rates and charges (set forth in Settlement Exhibit 1) should be approved by the Rate Board.

35. The proposed Settlement will result in a decrease in TAP-R rates for PWD customers during the Next Rate Period, as described above, subject to reconciliation in a future proceeding.

36. PWD and the Public Advocate submit that the TAP-R rates set forth in the Joint Statement should be approved as they are just and reasonable, comply with the ordinances governing this proceeding and provide a reasonable basis for recovery of TAP costs in this proceeding.

III. PUBLIC INTEREST CONSIDERATIONS

37. Joint Petitioners submit that this Settlement is reasonable and in the public interest for the following reasons:

(a) The Settlement provides for a decrease of the TAP-R service revenues during the Next Rate Period in accordance with the reconciliation calculations, as modified by the Settlement.

(b) Acceptance of the Settlement will avoid the necessity of further administrative proceedings and/or court proceedings at substantial cost to Joint Petitioners, other parties and PWD ratepayers.

(c) The Settlement will use a projected number of TAP Participants that is reasonable in light of the City of Philadelphia's average projected TAP enrollment (for Sept. 2023 to Aug. 2024).

(d) The Joint Petitioners arrived at terms of Settlement after submission of the TAP-R filing, conducting discovery and engaging in settlement negotiations. The terms and conditions of Settlement constitute a carefully negotiated package representing reasonable compromises as to the issues presented all of which are supported by the record of this proceeding.

IV. ADDITIONAL TERMS AND CONDITIONS

38. This Settlement is proposed by the Joint Petitioners to resolve the issues presented in this proceeding and is made without admission against or prejudice to any position which any Joint Petitioner might adopt during subsequent litigation or in further litigation of this case.

39. Each term and condition set forth in this Joint Petition, whether or not set out in a numbered paragraph, shown in a table or other graphic presentation, bolded, italicized or otherwise emphasized, or set forth in the body, a footnote, or parenthetical, or appendix, is material consideration to the entry into this Settlement by the participants signing below.

40. This Settlement is conditioned upon the Rate Board's approval of the terms and conditions contained herein without modification. If the Rate Board disapproves the Settlement or modifies the terms and conditions herein, the Settlement may be withdrawn, by a Joint Petitioner, upon written notice to the Rate Board and all active participants in this proceeding communicated within three business days of the entry of a final order of the Rate Board in this proceeding. In the event the Rate Board disapproves the Settlement, or any Joint Petitioner elects to withdraw as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case. Joint Petitioners agree that while the Settlement, upon Rate Board approval, will be fully enforceable according to its terms, the Joint Petition does not expressly or implicitly represent approval of any specific claims made in this proceeding and the Joint Petitioners agree not to contend otherwise in future proceedings.

41. Joint Petitioners will make reasonable, good faith efforts to obtain approval of the Settlement by the Hearing Officer and the Rate Board without modification. If the Hearing Officer recommends that the Rate Board adopt the Settlement, as proposed herein, the Joint Petitioners agree to waive filing exceptions. Joint Petitioners, however, do not waive their rights to file exceptions (a) with respect to any modification of the terms and conditions of the Settlement or any additional matter proposed by the Hearing Officer in her report (b) to correct an error or misstatement in the Hearing Officer's report, or (c) to any issue not resolved by this Settlement.

V. CONCLUSION

WHEREFORE, Joint Petitioners, by their respective counsel, request the following:

1. That the Hearing Officer admit Settlement Exhibit 1, as described in Paragraph 30 of this Joint Petition, into the record of this proceeding.
2. That the Hearing Officer recommend the approval of the Settlement by the Rate Board, as described in this Joint Petition.
3. That the Rate Board approve the Settlement and find the modified TAP-R rates to be just and reasonable and authorize the Department to file revised rates and charges as proposed by the Department the TAP-R filing.
4. That the Rate Board enter its final Rate Determination in this matter consistent with the terms and conditions of Settlement.

Respectfully submitted,

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List of Settlement Exhibits

Exhibit 1 - Proposed Settlement – TAP-R Reconciliation Calculations.