

PHILADELPHIA WATER DEPARTMENT  
REBUTTAL STATEMENT NO. 3

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 Related Charges	Fiscal Years 2024 - 2025
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**Rebuttal Testimony**  
**on behalf of**  
**the Philadelphia Water Department**  
**to**  
**Public Advocate Witness Roger Colton**

Dated: April 26, 2022

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**I. INTRODUCTION AND PURPOSE OF TESTIMONY**

**1. PLEASE STATE YOUR NAMES AND POSITIONS.**

1. My name is Susan Crosby. I serve as Deputy Revenue Commissioner in charge of the Water Revenue Bureau.

Testifying with me are Raftelis Financial Consultants, Inc. (Jon Davis, Henrietta Locklear, Jennifer Tavantzis), Black & Veatch Management Consulting LLC (Ann Bui, Dave Jagt, Brian Merritt), and PWD Communications and Engagement (Glen Abrams, Paul Fugazzotto, Laura Copeland).

**2. HAVE ANY WITNESSES ON THIS PANEL PREVIOUSLY SUBMITTED TESTIMONY IN THIS PROCEEDING?**

2. Yes. Susan Crosby provided testimony and schedules in PWD Statement 5. The Raftelis Financial Consultants panel provided testimony and schedules in PWD Statement 6. The Black & Veatch Management Consulting LLC panel provided testimony and schedules at PWD Statement 7. The PWD Communications and Engagement provided testimony and schedules at PWD Statement 8.

**3. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

3. In this rebuttal, we provide the Department's response to recommendations and criticisms of Mr. Roger Colton in his direct testimony (PA St. 3) submitted on behalf of the Public Advocate ("Advocate" or "Public Advocate").

1 **4. PLEASE IDENTIFY THE SCHEDULES THAT ACCOMPANY THIS**  
2 **REBUTTAL TESTIMONY.**

3 4. The following schedule accompanies our rebuttal testimony.

4  
5 Schedule SC-1 CLS letter to Judge Padilla-Wright

6  
7 **II. AFFORDABILITY**

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9 **5. IS THE DEPARTMENT CONCERNED ABOUT AFFORDABILITY?**

10 5. Yes. Affordability is an ongoing concern, given the poverty rate in the City of  
11 Philadelphia (“City”). Under the Rate Ordinance, the Rate Board may consider the  
12 projected impacts on customer rates. To this end, the third section of the Financial Plan  
13 includes an affordability comparison. That section indicates that the proposed rates and  
14 charges fall within the affordability threshold indicated by peer utility comparisons.

15  
16 **6. DO YOU HAVE AN OVERALL RESPONSE TO MR. COLTON’S**  
17 **CONCLUSIONS AND RECOMMENDATIONS REGARDING**  
18 **AFFORDABILITY?**

19 6. Yes. Mr. Colton concludes that the Department’s rates are becoming increasingly  
20 unaffordable and that rate unaffordability is being felt more broadly throughout the City.  
21 He notes, however, that “PWD’s adoption of TAP provides substantial protection to those  
22 low-income PWD customers who participate in TAP. (PA Statement 3 at t24, Lines 6-7).

23  
24 Mr. Colton’s primary focus seems to be on residential low-income customers who are  
25 income eligible for TAP, but are not participants in TAP. These customers would not be

1 protected from rate increases driven by necessary cost-of-service based rate increases,  
2 while qualified customers who participate in TAP would be protected from these  
3 necessary rate increases. In this connection we note that, in addition to TAP, PWD  
4 provides Senior Citizen Discount program which also provides significant protection  
5 (discounted bills), so both programs address rate unaffordability and should be  
6 considered together. As discussed later in this testimony, efforts to prequalify low-  
7 income households for TAP through data sharing with other agencies also promise to  
8 expand TAP participation during the Rate Period (FY 2024 and FY 2025).

9  
10 **7. ASSUMING FOR DISCUSSION, THAT MR. COLTON'S AFFORDABILITY**  
11 **ANALYSIS IS CORRECT, WOULD THE RATE INCREASES PROPOSED BY**  
12 **THE DEPARTMENT IMPACT CUSTOMERS PARTICIPATING IN TAP?**

13 7. No. This is the purpose for which PWD's TAP was designed (eligible customers pay  
14 based on a percentage of household income). We agree with Mr. Colton that substantial  
15 protection is provided to TAP participants, who pay water bills constructed on the basis  
16 of household income, rather than on the basis of cost-of-service billing (the remainder of  
17 the bill for TAP participants is subsidized by other customers). Bills for TAP participants  
18 will not increase due to the proposed rate increases.

19  
20 **8. DO YOU HAVE AN OVERALL RESPONSE TO MR. COLTON'S**  
21 **CONCLUSIONS AND RECOMMENDATIONS REGARDING**  
22 **AFFORDABILITY?**

23 8. Yes. PWD and WRB have been working to find ways to increase TAP participation. As  
24 noted later in this testimony, we are in discussion with other Commonwealth and City  
25 agencies to pre-qualify low-income households for TAP participation. In the near term,

1 this will facilitate an increase in TAP participation for households that have already  
2 demonstrated income eligibility under other low-income assistance programs.

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4 **III. TAP ENROLLMENT AND PARTICIPATION**

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6 **9. MR. COLTON CRITICIZES PWD EFFORTS TO ENROLL AND RETAIN TAP**  
7 **PARTICIPANTS. IS THE DEPARTMENT WORKING TO INCREASE**  
8 **ENROLLMENT IN TAP?**

9 9. Yes. In addition to our collaboration with other agencies to pre-qualify low-income  
10 households for TAP (discussed later in this testimony), the Department has taken several  
11 steps to make it easier to document eligibility for TAP.

12  
13 More specifically, the Department has changed its internal review policies to reduce  
14 burdens on TAP applicants. Prior to April 1, 2023, the customer assistance program  
15 required customers to submit two proofs of residency, and one proof of income per  
16 household member with income with their CAP application. In some cases, one proof  
17 would require two documents, and some documents were required to be dated in the last  
18 6 months. In consideration of concerns regarding the complicated and numerous  
19 requirements, the Department adjusted the review policy to allow fewer and older  
20 documents to be submitted. As of April 2023, customers only need to submit one proof of  
21 residency and one proof of income per household member with income. Only one copy  
22 of any document is required, and all documents may be dated within the last 12 months.  
23 Written materials – the customer service application, regulations, and guidance materials  
24 – are currently being updated to reflect the change in policy.

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**10. IS MR. COLTON MISTAKEN ABOUT THE ALL-TIME NUMBER OF TAP PARTICIPANTS?**

10. Yes. Within the Direct Testimony of Roger Colton, page 29, Mr. Colton discusses the all-time number of TAP participants. Unique TAP participation is reported in the “Applications Submitted and Reviewed” report, provided as PA-I-26E. As of February 20, 2023, the Number of Unique Customers Who Had Been TAP Participants was 28,578, not the 52,794 figure mentioned by Mr. Colton. This erroneous figure is not appropriately used as the basis for discussing retention concerns. Additionally, any discussion of customers served by PWD’s customer assistance programs must consider customers served by the Senior Citizen Discount program, which represents an additional population of approximately 21,000 customers.

Mr. Colton also discusses customers “lost” from TAP participation. However, the number of customers once enrolled in the program but no longer enrolled, is lower than he alleges. There is no wide-spread removal of TAP customers. Aside from failure to recertify and other specific reasons laid out in the Philadelphia Water Department regulations, Section 206.6, a customer’s participation in TAP is only ended when their account status in basis2 changes from “Active” to “Discontinued” indicating that the customer is no longer at that installation (service location). Please note that TAP recertification is now on a three-year cycle which will facilitate maintaining TAP participation. Information about TAP “defaults” is reported annually in the Report to the Mayor.

1 **11. IN LIGHT OF MR. COLTON’S CRITICISMS ABOUT TAP ENROLLMENTS,**  
2 **HOW DOES TAP PARTICIPATION COMPARE WITH ANALOGOUS**  
3 **ASSISTANCE PROGRAMS FOR OTHER WATER UTILITIES?**

4 11. Water utilities across the country experience low (under subscribed) participation rates in  
5 their assistance programs, and TAP’s participation rate is at or above the average of  
6 PWD’s peers. Mr. Colton’s methodology for determining that 170,000 customers in the  
7 PWD service area are eligible has not been made available, and he contends that an  
8 approximately 15,000 active TAP participants therefore means that PWD serves 9% of its  
9 income-eligible customers. Detailed estimates from the 2016 rate case established that  
10 roughly 56,000 accounts are eligible for TAP enrollment, meaning the current  
11 subscription rate is over 25%. Mr. Colton’s estimate also fails to consider over 20,000  
12 additional customers enrolled in the Senior Citizen Discount program.

13  
14 Leading researchers have expressed disappointment in water assistance program  
15 subscription rates in general while also highlighting PWD’s performance as a leader in  
16 the field. A 2021 nation-wide study of 20 of the largest water utilities in the nation by  
17 Sridhar Vedachalam and Randall Dobkin from the Environmental Policy Innovation  
18 Center (EPIC) found that “although enrollment data are hard to obtain from utilities,  
19 typical enrollment rates (number enrolled as a fraction of those eligible) in water CAPs  
20 are around 10-15 percent. Philadelphia’s tiered assistance program boasts a participation  
21 rate of 25 percent, which might be among the higher end of participation rates.”<sup>1</sup> Manny  
22 Teodoro of the University of Wisconsin points out that participation is low for many

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24 <sup>1</sup> Sridhar Vedachalam and Randall Dobkin. 2021. “H2Affordability: How water bill assistance programs miss the  
25 mark.” Environmental Policy Innovation Center, Washington D.C. (link:  
<https://static1.squarespace.com/static/611cc20b78b5f677dad664ab/t/614ceba138df2542c1af1d70/1632431025551/Cap+Report-Final-May.20.2021.pdf>)



1 long-established federal assistance programs, ranging from 84% participation in SNAP,  
2 to 47% in TANF, 45% in Social Security Disability Insurance (“SSDI”), and 16% for  
3 LIHEAP. As Dr. Teodoro says, “the last of these is the most relevant to water/sewer  
4 utilities, as LIHEAP is the model for the new federal water bill assistance program.  
5 SNAP, TANF, and SSDI provide much greater benefits than LIHEAP—hundreds to  
6 more than a thousand dollars monthly. These are decades-old, professionally  
7 administered programs, and still they struggle with enrollment. Frankly, it’s a wonder  
8 that any water utility manages to achieve participation of 30% or more. Like a baseball  
9 player, a utility that manages to bat above .300 is probably an all-star.”<sup>2</sup>

10  
11 Mr. Colton’s estimate of 9% enrollment puts TAP participation on par with “typical”  
12 assistance programs at other large utilities, and the 25% enrollment estimate puts TAP at  
13 the higher range of “reasonable” participation. TAP has programmatic aspects that set it  
14 apart from PWD’s peer water utilities. Per Vedachalam and Dobkin, TAP offers “the  
15 most generous CAP income threshold” of large utility assistance programs, at 3.6 times  
16 the minimum wage, allowing more households to participate. Perhaps most importantly,  
17 TAP offers participants ongoing protection from shutoffs and arrearage forgiveness.

18  
19 **12. PLEASE RESPOND TO MR. COLTON’S CALL FOR AUTO-ENROLLMENT OF**  
20 **PARTICIPANTS OF THE FOLLOWING PROGRAMS INTO TAP:**

21 **A. OOPA**

22 **B. IDEA OFFICE DATA**

23 **C. PGW**  
24

25 <sup>2</sup>Manuel Teodoro. March 29, 2021. “Batting .400: On the limits of means-tested assistance programs for water & sewer.” Mannyteodoro.com (link: <https://mannyteodoro.com/?p=1856>)

1       **D. LIHWAP**

2   12.   Mr. Colton seems to be unaware of our progress collaborating across City departments  
3       and with the Commonwealth to pre-qualify eligible households for TAP. The discussion  
4       below documents our efforts to date, including areas where we have already begun the  
5       process of data-sharing for purposes of TAP enrollment.

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7       A.   The Owner-Occupied Real Estate Tax Payment Agreement (“OOPA”) has similar  
8       eligibility requirements as TAP, making it a possibility for cross-enrollment in the future.  
9       Unfortunately, the OOPA application process was not previously designed in a way to  
10      easily share that data across systems. The Revenue Department underwent a two-year  
11      upgrade and conversion of its taxpayer and customer data to a new accounting and billing  
12      system. OOPA agreements are administered through this system so the City worked with  
13      developers to establish a data connection to make enrollment from OOPA into TAP  
14      possible. However, the conversion process was not able to replicate the existing flow of  
15      information, so enrollment from OOPA into TAP will continue to require a degree of  
16      manual review and approval until the development is completed.

17  
18      B.   Similarly, the City is continuing development of data-sharing processes with the  
19      IDEA office to prequalify eligible customers into TAP based on other City administrative  
20      data that verify eligibility. The process involves coordination between various  
21      departments including the Mayor’s Office, Health Department, Water Department, and  
22      Revenue Department. Necessary data-sharing agreements have been approved by the  
23      Law Department and the various departments are working on the technological and  
24      operational aspects needed for a prequalification program of this size. The City estimates  
25      that this program should be underway by the end of this fiscal year.

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C. Contrary to Mr. Colton’s assertion, Philadelphia Gas Works (“PGW”) is not an entity housed within a City department, but instead is an independent company governed by the Pennsylvania Utility Commission. Therefore, any data-sharing and auto-enrollment initiatives would have to be at the agreement of PGW and comply with any restrictions on data-sharing currently in place by the Pennsylvania Utility Commission.

D. The Low-Income Household Water Assistance Program (“LIHWAP”) is administered by the Commonwealth of Pennsylvania, with which the City has engaged in discussion and development work over the past year to design and implement a prequalification program for TAP. The goal is to prequalify LIHWAP recipients for TAP so those customers do not have to complete a separate application. The process with the Commonwealth has taken longer than expected, but earlier this year, the parties finalized a data-sharing agreement and began to share data for use in the program. Preparation in various areas is underway to realize LIHWAP to TAP prequalification, including technology changes, staff training, and communications materials. The City estimates that all necessary processes will be completed in this calendar year to enroll the first group of prequalified LIHWAP customers into TAP.

**IV. TAP RECERTIFICATION**

**13. PLEASE DESCRIBE MR. COLTON’S RECOMMENDATIONS REGARDING RECERTIFICATION.**

13. Mr. Colton recommends that within 180 days of a Final Rate Determination in this proceeding, the Department should implement a text-based system of reminding TAP

1 participants of the need to recertify as well as a text-based system for allowing customers  
2 to submit necessary recertification documents.

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4 Mr. Colton further recommends that PWD submit to the Rate Board monthly reports  
5 which document: (1) its progress on implementing these text-based systems; (2) the  
6 number of customer reminders provided through this system; and (3) the number of  
7 recertifications which are received through this system.

8  
9 **14. WHAT IS THE DEPARTMENT'S RESPONSE?**

10 14. There are numerous reasons that the Department has opted not to implement a text-based  
11 approach to reminding customers of the need to recertify. First, it did implement an  
12 email-based approach to reminding customers of the need to recertify, and found it to  
13 have a very low success rate. At present, a customer would receive a paper copy of the  
14 application and an email notification. Second, text messaging requires customers to opt-  
15 in and may be associated with fees and charges customers are not anticipating and do not  
16 desire. Third, a successful campaign relies on high-quality mobile phone number data.  
17 The quality of the phone number data, and whether the phone numbers are mobile  
18 phones, is unknown. Fourth, the recertification timeframe has been extended to three  
19 years, so focusing effort on changes related to recertification reminders is not among the  
20 highest priorities for the Department.

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22 Please note our concern that a text-based recertification system would have many of the  
23 same challenges as the e-mail based approach referred to above and is not practical for  
24 broad based application at this time. Significant effort and expense would need to be put  
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1 toward programming, testing, ongoing support, training for PWD representatives to  
2 provide support to customers, auditing, and communication with customers.

3  
4 Given the impracticality of a text-based recertification system described above, monthly  
5 reporting with regard to same would be an inefficient use of our resources.

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7 **V. COLLECTABILITY OF TAP REVENUE**

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9 **15. PLEASE DESCRIBE MR. COLTON’S RECOMMENDATION REGARDING**  
10 **THE COLLECTABILITY OF TAP REVENUE.**

11 15. Mr. Colton recommends that the Department’s request for rate relief in this proceeding  
12 should be adjusted for the improved collectability of TAP billings in the amount of  
13 \$3,988,498 for FY 2024 and FY 2025. See, PA Statement 3 at 5.

14  
15 **16. PLEASE RESPOND TO THIS RECOMMENDATION.**

16 16. Mr. Colton’s recommended adjustment for the collectability of TAP Revenue should be  
17 rejected as overstated for the following reasons:

18  
19 **TAP Revenue Reflected in Collectability Factors**

20 Although Mr. Colton recognizes that a portion of low-income bills is included in the  
21 Collectability Factors used to project future system revenues, his adjustment is based on  
22 the total projected FY 2024 TAP participation of 16,479, which assumes that the  
23 Collectability Factors used to project system revenues do not reflect any level of TAP  
24 participation billing. This is incorrect. The Collectability Factors are based on the average  
25 collections of system billings experienced during FY 2020 to FY 2021 (PWD Statement

7 at 14, Schedule BV-2 at 1-13 and 1-14), which reflect the average TAP enrollment of 15,036. If an adjustment is made for the collectability of TAP Revenue, it should only reflect the increase above the average participation reflected in the system Collectability Factors used to project system revenues to avoid double counting the associated revenue.

**Recognition of Multi-year Collectability Factors**

The basis of Mr. Colton’s adjustment is limited to the difference in the billing year collection factor for FY 2022. However, the Collectability Factors used to project system revenues are based on the average multi-year payment pattern (billing year, billing year +1, and billing year 2+) during FY 2020 to FY 2022.

Billing Year Collection Factor	TAP	TAP Outside of TAP	Difference
FY 2022	72.50%	34.30%	38.20%
FY 2021	72.47%	46.12%	26.35%
FY 2020	72.80%	45.92%	28.88%
Average	72.59%	42.11%	30.48%

If an adjustment is made for the collectability of TAP Revenue, the adjustment for the Collectability Factor should reflect the average during FY 2020 to FY 2022 to be consistent with the basis of the system Collectability Factors used to project system revenues.

1        **Basis of TAP Billings**

2        Mr. Colton projects the estimated TAP customer billings based on an estimated TAP  
3        customer bill prior to TAP credits under the proposed FY 2024 rates net of the average  
4        TAP credit included in the 2024 TAP-R reconciliation. The average TAP credit included  
5        in the 2024 TAP-R reconciliation is based on the average TAP billings during January  
6        2022 to December 2022 which reflect the FY 2022 and FY 2023 rate schedules. Using  
7        Mr. Colton’s approach assumes that the increase due to the 2024 proposed rates will  
8        increase the TAP customer bill. However, this is not the case, since the TAP customer  
9        bill is based on a percentage of the TAP Customer’s income. So, Mr. Colton’s adjustment  
10       is erroneous as presented and should be rejected. Assuming *arguendo* that the Rate Board  
11       decides an adjustment should be made for the collectability of TAP Revenue in any  
12       event, PWD proposes, in the alternative, that the TAP Customer Bill prior to Credits be  
13       based on the existing rates so as to provide a more reasonable estimate of the TAP  
14       Billings.

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16       The following table presents a comparison of Mr. Colton’s proposed adjustment in  
17       comparison with PWD’s recommended alternative for the collectability of TAP Revenue:

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	Colton Proposal	PWD Alternative	Difference
TAP Bill prior to Discount	\$102.80	\$90.85	(\$11.95)
Increased TAP Participants	16,462	1,443	15,019
Increased TAP Billings	\$20,328,494	\$1,573,159	\$(18,755,336)
Average TAP Credit	\$600	\$600	\$0
Increased TAP Credits	\$9,887,400	\$865,800	\$(9,021,600)
Increased CAP Billing	\$10,441,094	\$707,359	\$(9,733,736)
Improved Collection Factor	38.2%	30.5%	(7.7%)
Improved Collections	\$3,988,498	\$215,744	\$(3,772,754)

Taking the above into account, an adjustment for the collectability of TAP revenues would be *de minimis* (\$215,744 for FY 2024 and FY 2025).

**VI. COLLECTABILITY OF TAP-R REVENUE**

**17. PLEASE DESCRIBE MR. COLTON’S RECOMMENDATION REGARDING THE COLLECTABILITY OF TAP-R REVENUE.**

17. Mr. Colton recommends that the Department’s request for rate relief in this proceeding should be adjusted for the improved collectability of TAP-R billings in the amount of \$4,926,821 for FY 2024 and FY 2025.



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**18. PLEASE RESPOND TO THIS RECOMMENDATION.**

18. Mr. Colton’s suggested adjustment for the collectability of TAP-R Revenue should be rejected. Per Section 10 of the Department’s Rate and Charges, the TAP-R surcharge rates recover the lost revenue related to TAP, or the TAP Credits. Revenue associated with TAP-R billings should only be used to recovery TAP Credits. In addition, please note that the formula established for the annual reconciliation of the recovery of TAP Credits via TAP-R revenue is very straightforward (simple) and does not reflect adjustments such as reductions for lost revenue associated with discounted billings for TAP-R billings to Senior Citizens, Charities, Universities, and the Philadelphia Housing Authority. [It bears emphasis that this issue would have to be addressed in a TAP-R proceeding before taking effect in any event. This issue was not raised in the 2023 TAP-R proceeding (where TAP surcharge rates for FY 2024 were determined). At the earliest, this issue could be pursued in the 2024 TAP-R proceeding.] Therefore, it would not be appropriate to recognize any potential relatively minor increase in TAP-R Billings to reflect the increase in the collection of TAP-R billings above those already recognized in the Collectability Factors used to project system revenues.

In addition to the above, Mr. Colton’s suggested adjustment is erroneous and overstated for the following reasons:

**TAP-R Revenue Reflected in Collectability Factors**

Similar to the discussion regarding TAP revenue, the Collectability Factors used to project future system revenues include billings and collections of TAP-R revenue. To avoid the double counting of TAP-R collections for the average level of TAP credits and

1 corresponding TAP-R billings already reflected in the basis of the Collectability Factors  
2 used to project system revenues, the adjustments should be based on the projected  
3 increase in the TAP Credits and resulting TAP-R billings.

4  
5 **Recognition of Multi-year Collectability Factors**

6 The basis of Mr. Colton’s adjustment is limited to the difference in the billing year  
7 collection factor for FY 2022. However, the Collectability Factors used to project system  
8 revenues are based on the average multi-year payment pattern (billing year, billing year  
9 +1, and billing year 2+) during FY 2020 to FY 2022.

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Billing Year Collection Factor	Non-SWO	TAP Eligible Outside of TAP	Difference
FY 2022	84.13%	34.30%	49.83%
FY 2021	84.82%	46.12%	38.70%
FY 2020	85.02%	45.92%	39.10%
Average	84.65%	42.11%	42.54%

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20 Assuming *arguendo* that the Rate Board decides to make an adjustment for the  
21 collectability of TAP-R Revenue in any event, PWD recommends, in the alternative, that  
22 the adjustment for the Collectability Factor should reflect the average during FY 2020 -  
23 FY 2022 to be consistent with the basis of the system Collectability Factors used to  
24 project system revenues.

The following table presents a comparison of Mr. Colton’s proposed adjustment compared to the PWD recommended alternative for the collectability of TAP-R Revenue:

	Colton Proposal	PWD Alternative	Difference
Increased TAP Participants	16,462	1,443	15,019
Average TAP Credit	\$600	\$600	\$0
Increased TAP Credits	\$9,887,400	\$865,800	(\$9,021,600)
Improved Collection Factor	49.8%	42.54%	(7.3%)
Improved Collections	\$4,926,821	\$368,311	(\$4,558,509.68)

It should also be noted that the above analysis only considers the TAP Credit component of the TAP-R surcharges. In reality, the level of TAP-R revenue is also subject to the reconciliation components. The following table provides a comparison of the net revenue requirement for TAP-R reflected in FY 2020 to FY 2022 and the proposed FY 2024 TAP-R settlement:

Fiscal Year	TAP-R Net Recoverable Costs
2020	\$10,271,302
2021	\$7,472,988
2022	\$9,479,032
2024	\$2,125,462

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Taking the above into account, no adjustment for the collectability of TAP-R revenues is warranted.

**VII. COLLECTIONS REPORTING**

**19. PLEASE DESCRIBE MR. COLTON’S RECOMMENDATIONS REGARDING COLLECTIONS REPORTING.**

19. Mr. Colton recommends that the Department be required to track collections data on a monthly basis, by the end of calendar year 2023, by zip code to allow PWD (as well as the Rate Board and other stakeholders) to review the reasonableness of its customer service and collection performance. Mr. Colton also recommends numerous other new reporting requirements.

**20. WHAT IS THE DEPARTMENT’S RESPONSE?**

20. PWD and WRB already engage in various types of reporting and data tracking for purposes of evaluating its processes and accomplishments. Contrary to Mr. Colton’s statement on page 51 of his testimony that he “will focus not on measuring what PWD is or is not doing” but “instead focus on what PWD is or is not accomplishing,” Mr. Colton spends two to three pages pointing out data that PWD “routinely does not track.” He never ties the various information tracking to value and simply states that such data is important for cost control. Mr. Colton fails to appreciate how instituting various new reporting requirements in and of themselves increase costs to PWD. Mr. Colton recommends over twenty new data points be added to a monthly zip code report. Such reports do not materialize with the click of a button. Weeks of staff time and development resources would have to be diverted away from current processes to create the coding needed for these various reports. Although Mr. Colton believes that reporting should be the responsibility of PWD and not fall on the rate-payers, he simply does not understand how the City budget process works. These types of initiatives are categorized as a class

1 200 expense, which is part of PWD’s operating budget that is funded by rates and  
2 charges. Therefore, any additional reporting requirements by PWD and WRB would not  
3 be in the best interest of the rate-payers. In order for PWD to operate at its most cost-  
4 efficient and keep rates as low as possible, it should refrain from the expenditures that  
5 would be needed to design and implement technology changes required to institute new  
6 reporting. This is especially important at the current time when the water accounting and  
7 billing system known as Basis2 is going through infrastructure and software upgrades.  
8 All non-urgent enhancements were previously and continue to be on hold until the  
9 upgrades take place in the coming months.

10  
11 **VIII. TAP ARREARAGE FORGIVENESS**

12  
13 **21. PLEASE DESCRIBE MR. COLTON’S RECOMMENDATIONS CONCERNING**  
14 **THE ARREARAGE FORGIVENESS PROVISIONS OF TAP.**

15 21. Mr. Colton recommends that the Department (A) provide ratable retroactive arrearage  
16 forgiveness to all future new TAP enrollees who were prior TAP participants bringing  
17 preprogram arrears into the program, and who made payments during the period  
18 September 2020 through June 2022.

19  
20 Mr. Colton also recommends that the Department (B) refund, either as a bill credit or as a  
21 cash payment to the customer, at the customer’s discretion, all dollars of payments made  
22 by the customer toward pre-program arrearages that should, under the regulation, have  
23 been ratably, retroactively, forgiven.

1 Mr. Colton finally recommends that the Department, for the period July 2022 to present,  
2 should (C) provide an account-specific auditing of occupant TAP participants and that the  
3 cost of an audit “should be borne by PWD and not borne by ratepayers.”  
4

5 **22. PLEASE RESPOND TO MR. COLTON’S RECOMMENDATIONS.**

6 **22.** Mr. Colton misunderstands how arrearage forgiveness works. The narrative below (i)  
7 describes how forgiveness of pre-program arrears is currently taking place in accordance  
8 with the City’s Regulations; and (ii) PWD/WRB criticisms of Mr. Colton’s  
9 recommendations concerning arrearage forgiveness, as categorized in the prior response.  
10

11 **A. Pre-Program Arrears & Arrears Eligible for Forgiveness**

12 First and foremost, Mr. Colton has provided no specific example of arrearage forgiveness  
13 not operating as required by the Regulations, but instead only makes broad assumptions  
14 based on his own interpretation of data. Notably, the Department specifically requested  
15 Mr. Colton provide a single example of a customer not receiving ratable forgiveness as  
16 they should have, and he indicated that he could not. See response to PA-III-30.  
17

18 Mr. Colton compares the number of customers receiving arrearage forgiveness in a given  
19 month to several other metrics (PA Statement 3 at 58-63). On pages 58-59, Mr. Colton  
20 discusses the high percentage of pre-program arrears of new enrollees, and compares the  
21 number of customers receiving forgiveness in a given month with the number of  
22 participants. As described in response to PA-I-56, pre-program arrears are defined as  
23 account balance, at the time of approval greater than \$0, as recorded from Basis2 at the  
24 time of enrollment. Note that this excludes any balances that were in dispute or  
25 bankruptcy at the time of approval, as these are not protected through the same

1 mechanism as other TAP principal balances. Historically, TAP enrollees at the time of  
2 enrollment have had a wide range of debt. Though some customers have had significant  
3 debt, approximately 1/5 of all-time TAP approvals have been associated with an account  
4 balance at the time of approval of less than or equal to \$100, as demonstrated in the “TAP  
5 Approval by FPL and Arrears” report, provided as response attachments PA-I-25E5. A  
6 TAP customer’s pre-TAP arrears may simply be the most recent bill issued, but not yet  
7 paid.

8  
9 TAP arrearage forgiveness operates as required by the Regulations, and as described  
10 below. Within that framework, there are a variety of circumstances that might influence  
11 whether a customer receives forgiveness in a particular month. The following scenarios  
12 explain why customers may not receive forgiveness on the bill following a full TAP  
13 payment:

- 14 - Upon initial enrollment in TAP, customers did not have arrears eligible for  
15 forgiveness.
- 16 - Customers have received full forgiveness already, as they have paid more than 24 full  
17 TAP bills.
- 18 - Customers paid their pre-TAP arrears (in some cases, one bill) since enrolling in  
19 TAP.
- 20 - Customers had arrears paid by a LIHWAP grant or other forms of credit.
- 21 - Customers had bankruptcies discharged.
- 22 - Customers had a dispute resolved in their favor.
- 23 - Debt is in dispute. (Debt that is in a dispute status is not eligible for forgiveness until  
24 the dispute is resolved.)



1 The maximum amount of debt eligible for forgiveness is determined when a customer is  
2 enrolled in TAP for the first time. This amount is the sum of all unpaid transactions  
3 through the date of initial enrollment, including debt in bankruptcy and dispute, but  
4 excluding penalties and lien fees. Penalties are eligible for lump-sum forgiveness after 24  
5 full months of TAP payments.

6  
7 As of September 2020, TAP has included the “TAP Pause,” whereby customers may  
8 leave the program and re-enter without losing their progress toward arrearage  
9 forgiveness. Ratable forgiveness for principal debt became effective July 1, 2022, at  
10 which time, customers participating in TAP at that time received retroactive lump sum  
11 forgiveness (on June 26, 2022) for TAP bills previously paid. Customers that continued  
12 to participate in TAP beyond that date, earned additional forgiveness (1/24 of eligible  
13 pre-TAP principal debt) for each TAP bill payment.

14  
15 For customers who were not enrolled in TAP on June 24, 2022, but had been enrolled  
16 between September 2020 and June 2022, (and therefore have their forgiveness counter  
17 paused), their first TAP bill payment after re-enrollment in TAP will trigger retroactive  
18 principal arrearage forgiveness in the amount of (1/24) times total TAP bills paid prior to  
19 June 2022 plus the one additional TAP bill. Then, like other TAP customers, they will  
20 receive additional forgiveness (1/24 of eligible pre-TAP principal debt) for each TAP bill  
21 payment. Customers may receive forgiveness up to the maximum amount established for  
22 their account.

23 **B. Refund/Credit Customer Payments Toward Pre-Program Arrears**

24 Because there is no evidence to support Mr. Colton’s assertion that some TAP customers  
25 are not receiving ratable arrearage forgiveness as they should, no refunds or credits

1 should be approved as a part of his recommendation.

2 **C. Provide Account Specific Auditing**

3 Mr. Colton recommends that the Department provide the Rate Board an account-specific  
4 auditing of TAP participants by month starting on July 1, 2022 and ending June 30, 2023  
5 that reports for each account in order to audit arrearage forgiveness. However, the City  
6 already is providing monthly reports to the Rate Board regarding various real time data  
7 points relating to TAP, including forgiveness data. To the extent that Mr. Colton is  
8 recommending that the City provide account-specific data to include customer names,  
9 addresses, and financial information, such disclosure of personal customer level  
10 information is not only against general City policy that seeks to guard and respect  
11 information submitted on assistance applications, this type of disclosure is also prohibited  
12 by state and federal privacy laws governing protection of personal financial and residency  
13 information.

14  
15 **23. PLEASE RESPOND TO MR. COLTON’S ASSERTION THAT PWD IS**  
16 **DENYING TAP PARTICIPANTS WITH OCCUPANT ACCOUNTS THEIR**  
17 **EARNED FORGIVENESS.**

18 23. Mr. Colton points out that PWD Regulations Section 206.1 was updated in July 2022 to  
19 include the definition of “Pre-TAP Arrears” to be “for owners and occupants, the sum of  
20 all unpaid service, usage, and stormwater charges at the property, calculated at the time  
21 of first enrollment in TAP; or, for tenants, the sum of all unpaid service, usage, and  
22 stormwater charges at the property accruing during the period the tenant has been  
23 responsible to pay for water service pursuant to the terms of their lease, calculated at the  
24 time of first enrollment in TAP.” By raising this issue, he misses the important legal  
25 distinction between these groups of customers. Because occupant customers have a legal

1 right to own the property where they live, they take on the responsibility similar to  
2 property owners, which includes becoming liable for all past debt. Therefore, when an  
3 occupant customer enters TAP, all past water debt associated with the property becomes  
4 the customer's pre-TAP arrears for purposes of protection and forgiveness. On the  
5 contrary, tenant customers are temporary residents of a property and therefore are not  
6 liable for past debt incurred by the landlord and/or past tenants. Therefore, when a tenant  
7 customer enters TAP, their pre-TAP arrears amount is only calculated based on debt  
8 incurred during their lease. In rare instances, the Law Department has acquiesced to  
9 requests from Community Legal Services to bypass the regulations and transfer all past  
10 debt from an owner to a tenant's account. In these instances, the principal liabilities are  
11 part of the tenant's pre-TAP arrears which receive monthly forgiveness, and the penalty  
12 amounts remain separate, and only forgiven after twenty-four TAP payments per PWD  
13 Regulations Section 206.7.

14  
15 Therefore, again, Mr. Colton makes broad assumptions without evidence to show that  
16 arrearage forgiveness is not working as it should. The City would (again) welcome the  
17 opportunity to address any issues with forgiveness on a particular account, if Mr. Colton  
18 ever comes across such an example.

## 20 IX. WATER CONSERVATION

### 21 22 **24. PLEASE DESCRIBE MR. COLTON'S RECOMMENDATIONS REGARDING** 23 **WATER CONSERVATION.**

24 24. Mr. Colton recommends that the Department, within 90 days after issuance of a Final  
25 Rate Determination in this proceeding, should submit (presumably to Rate Board) a two

1 year inflation-adjusted LICAP budget, supported by documentation from PWD’s LICAP  
2 contractor, for FY24, FY25 and FY26. This inflation-adjusted budget should be funded  
3 through PWD’s late payment charge revenue. An additional LICAP budget should be  
4 directed to the number of TAP participants which exceeds the number of participants as  
5 of July 1, 2023.

6  
7 **25. WHAT IS THE DEPARTMENT’S RESPONSE?**

8 25. The Department disagrees with Mr. Colton’s specific recommendations concerning  
9 establishing a new LICAP budget for FY24 and FY25 funded with earmarked PWD late  
10 charge revenues (based upon the requirements of the General Ordinance), as explained  
11 PWD Rebuttal Statement 1 at 23-24 which are incorporated herein by reference.  
12 However, the Department agrees that conservation resources should continue to be  
13 directed to low-income customers under proposed revenue requirements. Please note that  
14 TAP participants accept water conservation measures as a condition of enrollment (CAP  
15 Application Part 2, Customer Responsibilities). PWD sends contact information for TAP-  
16 enrolled customers to its LICAP contractor (CMC Energy) for scheduling. Non-TAP  
17 customers can also be referred to LICAP through Neighborhood Energy Centers (NEC).  
18 These centers help customers save on utility bills and apply for assistance. Using FY 22  
19 to illustrate, TAP customers received 1,411 Audits, and 13 referrals came from NECs.  
20 NECs are part of the support network for low-income Philadelphians (as well as other  
21 constituencies).

22  
23 Because the approach is already in place and the General Ordinance restrictions, the  
24 Department requests the Rate Board reject this request.

1 **26. PLEASE RESPOND TO MR. COLTON’S RECOMMENDATION THAT THE**  
2 **DEPARTMENT SHOULD EARMARK A PORTION OF LATE PAYMENT**  
3 **CHARGE REVENUES TO FUND A WATER CONSERVATION COMPONENT**  
4 **TO THE LOW-INCOME USAGE REDUCTION PROGRAM (LIURP) JOBS**  
5 **COMPLETED BY ITS NATURAL GAS AND ELECTRIC SISTER UTILITIES.**

6 26. The Department disagrees with Mr. Colton’s specific recommendation concerning  
7 funding a water conservation component to LIURP jobs using a portion of earmarked late  
8 payment charges revenues (based upon the requirements of the General Ordinance), as  
9 explained in PWD Rebuttal Statement 1 at 23-24 which are incorporated herein by  
10 reference.

11  
12 The Department agrees, however, that resources should continue to be directed to LIURP  
13 customers under proposed revenue requirements. PWD has been working with CMC  
14 Energy (PWD contractor) to identify LIURP customers who might benefit from water  
15 conservation measures. Technicians in the field who identify opportunities for LICAP-  
16 covered measures refer these customers to the LICAP queue. A technician's observation  
17 of a leaking toilet or faucet would initiate a referral to PWD LICAP. In addition, LIURP  
18 customers may initiate a referral by expressing their interest in water conservation. In FY  
19 22, the first year of this cross-program effort, there were 728 audits resulting from LIURP  
20 referrals. PWD values this opportunity to serve low-income customers from sister  
21 utilities. See, Response-Attachment-PA-II-7B.pdf at page 4.

22 <https://www.phila.gov/media/20230331164105/Reponse-Attachment-PA-II-7B.pdf>

23  
24 Because the approach is already in place and the General Ordinance restrictions, the  
25 Department requests the Rate Board reject this request.

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**X. INTERIOR PLUMBING REPAIR PROGRAM**

**27. PLEASE RESPOND TO MR. COLTON’S RECOMMENDATION THAT THE DEPARTMENT SHOULD EARMARK A PORTION OF THE NON-COST-BASED LATE PAYMENT REVENUE IT GENERATES EACH YEAR TO FUND A PILOT LOW-INCOME INTERIOR PLUMBING REPAIR PROGRAM.**

27. The Department disagrees with Mr. Colton’s recommendation concerning funding a pilot low-income interior plumbing repair program using a portion of earmarked late payment charges revenues (based upon the requirements of the General Ordinance), as explained in PWD Rebuttal Statement 1 at 23-24 which are incorporated herein by reference.

PWD has not explored a pilot program for internal plumbing repairs, as a program of this type would duplicate the efforts (programs) of other City and non-profit agencies serving low-income customers. These programs include:

*Basic Systems Repair Program (BSRP)*

The Basic Systems Repair Program (BSRP) provides free repairs to correct electrical, plumbing, heating, limited structural and carpentry, and roofing emergencies in eligible owner-occupied homes in Philadelphia.

*Restore, Repair, Renew*

Restore, Repair, Renew is an initiative of the City of Philadelphia to help local homeowners access low-interest loans to invest in their properties. Loans can fund a

1 range of home repairs that focus on health, safety, weatherization, accessibility, and  
2 quality of life.

3  
4 *Senior Housing Assistance Repair Program*

5 The Philadelphia Corporation for Aging PCA’s Senior Housing Assistance Repair  
6 Program (SHARP) provides minor repairs and modifications to make homes safer and  
7 more secure for income-eligible Philadelphia homeowners.

8 Moreover, there are many options for homeowners to insure their internal plumbing a  
9 reasonable cost.

10 In light of the above existing resources provided by the City, PWD believes there is no  
11 need to approve additional funding for a new pilot program in response to Mr. Colton’s  
12 recommendation.

13  
14 **XI. EXPANDED SUPPORT FOR UESF**

15  
16 **28. PLEASE RESPOND TO MR. COLTON’S RECOMMENDATION THAT THE**  
17 **DEPARTMENT SHOULD EARMARK NO LESS THAN \$3.0 MILLION**  
18 **ANNUALLY FROM LATE PAYMENT CHARGE REVENUES TO USE AS**  
19 **ADDITIONAL FINANCIAL SUPPORT PROVIDED TO UESF.**

20 28. The Department disagrees with Mr. Colton’s recommendation to provide additional  
21 funding for UESF using a portion of earmarked late payment charges revenues (based  
22 upon the requirements of the General Ordinance), as explained in PWD Rebuttal  
23 Statement 1 at 23-24 which are incorporated herein by reference.

1 By way of background, since the inception of the Utility Emergency Services Fund  
2 (UESF) in 1983, the Water Department, has contributed one-third (1/3) of UESF  
3 operating costs, along with our sister utilities, PECO and PGW, to sustain the UESF  
4 utility grant program.

5  
6 In addition, each utility matches the UESF grants received and credits customer accounts.  
7 PWD matches UESF grants up to \$1,500/account. In FY 2023, PWD contributed  
8 \$500,000 to UESF, where almost \$274,000 went toward operating costs and the balance  
9 was utilized for housing stabilization services to low-income PWD customers. In FY  
10 2022, PWD matching customer credits totaled over \$409,000.

11  
12 In summary, within the last decade PWD has provided matching credit assistance to  
13 5,946 customers in the aggregate amount of \$1,913,469.70). It bears emphasis that  
14 contributions to UESF are interconnected with PECO and PGW, any additional  
15 contributions to UESF would greatly impact our sister utilities and would require further  
16 negotiation and discussion.

## 17 18 **XII. MUNICIPAL LIENS**

19  
20 **29. PLEASE RESPOND TO MR. COLTON’S RECOMMENDATION THAT THE**  
21 **DEPARTMENT SHOULD ADOPT A LOW-INCOME “LIEN BLOCKER” FOR**  
22 **TAP PARTICIPANTS.**

23 **29.** To remain in compliance with the Municipal Claims and Tax Lien Act, the City  
24 automatically files liens with the First Judicial District every quarter when the water debt  
25 reaches a threshold of \$1,000 and is more than 90 days old. The lien fees are set by the



1 court and added to the customer's account. Contrary to Mr. Colton's testimony, these lien  
2 fees are never included in the calculation of a TAP Bill required monthly payment  
3 amount. So, although the lien fees appear on the monthly bill along with other charges  
4 that are not required to be paid throughout the duration of TAP participation, Mr. Colton  
5 incorrectly suggests that lien fees increase a TAP customer's required monthly payment.  
6 In fact, Mr. Colton concedes this important distinction between an amount that increases  
7 a monthly TAP payment with a "charge set forth on the TAP bill" in Response 43 of PA  
8 responses to PWD Set 3. If the City failed to file these liens while the customer was on  
9 TAP and the customer then sold their home or had to file bankruptcy, the water debt  
10 would be left unsecured. The City takes no enforcement action on any liens filed against  
11 TAP customers while they remain on TAP, and again Mr. Colton concedes that he has no  
12 specific examples to provide of TAP customers ever facing enforcement efforts by the  
13 City related to their liens (See Response 45 to PA responses to PWD Set 3). Mr. Colton  
14 simply cannot explain his rationale that liens equate to enforcement action by the City. In  
15 fact, once the underlying debt the makes up the lien is paid or forgiven due to TAP, the  
16 liens are then automatically satisfied or vacated, respectively, and therefore have no  
17 future effect on the property or customer.

18  
19 **30. PLEASE RESPOND TO MR. COLTON'S RECOMMENDATION THAT**  
20 **EXPENSES ASSOCIATED WITH TAP LIEN FEES SHOULD BE DISALLOWED**  
21 **IN THIS PROCEEDING.**

22 30. As addressed in the response to the prior question, lien fees are necessary expense set by  
23 the First Judicial District to maintain compliance with the Municipal Claims and Tax  
24 Lien Act. As such, the lien fees are a legitimate expense of the Department which should  
25

1 be reflected in its annual revenue requirement. We request that the Board deny Mr.  
2 Colton's recommendation to disallow TAP lien fees in this proceeding.

3  
4 **31. PLEASE RESPOND TO MR. COLTON'S RECOMMENDATION THAT THE**  
5 **DEPARTMENT SHOULD DECLARE THAT PRE-PROGRAM ARREARAGES**  
6 **THAT HAVE BEEN FROZEN PURSUANT TO TAP, AND MADE ELIGIBLE**  
7 **FOR FORGIVENESS, ARE NOT CLAIMS THAT ARE "DUE" TO THE CITY**  
8 **AND ARE NOT CONSIDERED "UNPAID" SO LONG AS THE CUSTOMER**  
9 **REMAINS A PARTICIPANT IN TAP.**

10  
11 31. As stated above, the City takes no enforcement action on any liens filed against TAP  
12 customers while they remain on TAP. Once the underlying debt the makes up the lien is  
13 paid or forgiven due to TAP, the liens are then satisfied or vacated, respectively, and  
14 therefore have no future effect on the property or customer. However, until the TAP  
15 customer completes their twenty-four full TAP Bill payments, the pre-TAP arrears and  
16 associated penalty amounts on their account remain due to the City, albeit protected debt,  
17 but debt nonetheless that is considered unpaid until the Customer completes all required  
18 TAP payments.

19  
20  
21  
22 **XIII. SEQUESTRATION**

23  
24 **32. PLEASE ADDRESS MR. COLTON'S MISUNDERSTANDING REGARDING**  
25 **THE REQUIREMENTS FOR WATER ACCOUNTS TO BE ELIGIBLE FOR THE**

1           **SEQUESTRATION PROGRAM AND CLARIFY MR. COLTON’S**  
2           **INACCURACIES RELATING TO THE TREATMENT OF OCCUPANT**  
3           **ACCOUNTS AND TAP CUSTOMERS WHO COME IN CONTACT WITH THIS**  
4           **PROGRAM.**

5   32.    The Sequestration program is an action filed with the Court of Common Pleas, where the  
6           City requests a court-appointed sequestrator to collect outstanding water debt due from  
7           landlord property owners. More specifically, water customers who do not receive rents  
8           relating to the property are not eligible for Sequestration proceedings. These accounts are  
9           removed from the shutoff enforcement path, so there is less of a direct impact on the  
10          tenants. The first stage of the program involves notifying the landlord of the City’s intent  
11          to file a petition. The City is able to reach settlements on about half of the petitions filed  
12          at this early stage in the litigation. To date, the City has collected over \$20 million in  
13          water debt from this program’s inception in March 2019.

14  
15          For Mr. Colton to assert that the City’s sequestration policies “unreasonably and  
16          unlawfully harm low-income customers,” shows his shallow understanding of the very  
17          positive impact that this program has had to protect the water service for many of the  
18          City’s low-income citizens who live as tenants with no control over the nonpayment of  
19          water bills of their landlords. In fact, Community Legal Services (“CLS”) showed its  
20          support of this program by sending a letter to Judge Padilla-Wright in June 2022. See,  
21          Schedule SC-1. As noted in CLS’s letter, City data relating to properties is imperfect, and  
22          therefore if a property had tenants in the past, it is possible that the account could be sent  
23          a letter relating to the City’s intent to pursue Sequestration proceedings even if the  
24          property is currently not receiving rents. However, it is established policy, as noted in  
25          CLS’s letter, that if the customer comes forward to demonstrate that there are no tenants  
            at the property, the City immediately discontinues the Sequestration action. Although  
            these customers may not be suitable for this program, they often are prompted to take the

1 steps necessary to apply for an occupant account, which then allows them to become  
2 TAP-eligible customers and enjoy all of the benefits that come with that program.

3 Furthermore, Mr. Colton bases his entire position relating to the Sequestration program  
4 on anecdotal examples described at one of the public input hearings by Roxane Crowley,  
5 attorney in the Consumer Housing Unit at Philadelphia Legal Assistance. Through  
6 confidential discovery responses, the City reviewed the cases presented at this hearing  
7 and in Mr. Colton's testimony. In an abundance of caution to protect the customers'  
8 personal information, the City will not identify them by name or address. However, the  
9 City can report that as of this filing, all cases identified in this proceeding, that were not  
10 suitable for the Sequestration program because there were no tenants at the subject  
11 property and/or the customer entered into TAP have been discontinued.

11 **33. PLEASE RESPOND TO MR. COLTON'S RECOMMENDATION THAT THE**  
12 **DEPARTMENT SHOULD RETAIN AN OUTSIDE AUDITOR TO REVIEW ALL**  
13 **LOW-INCOME HOUSEHOLDS THAT HAVE BEEN TAP PARTICIPANTS AT**  
14 **SOME POINT ON AND AFTER JULY 1, 2022, AND THAT AUDITOR SHOULD**  
15 **REVIEW EACH TAP PARTICIPANT WHO WAS A HOMEOWNER OR**  
16 **OCCUPANT AT THE TIME THE PARTICIPANT ENROLLED IN TAP.**

17 33. PWD maintains that this recommendation should be rejected as an unnecessary expense.  
18 Also, as alluded to in a prior response, to the extent that Mr. Colton is recommending that  
19 the City provide account-specific data to include customer names, addresses, and  
20 financial information, such disclosure of personal customer level information is not only  
21 against general City policy that seeks to protect and respect information submitted on  
22 assistance applications, this type of disclosure is also prohibited by state and federal  
23 privacy laws governing protection of personal financial and residency information.  
24  
25

**XIV. 2021 SETTLEMENT**

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2  
3 **34. PLEASE RESPOND TO MR. COLTON’S RECOMMENDATION THAT THE**  
4 **DEPARTMENT SHOULD FILE, WITHIN 60 DAYS AFTER A FINAL RATE**  
5 **DETERMINATION IN THIS PROCEEDING, A CUSTOMER EDUCATION AND**  
6 **OUTREACH PLAN WITH THE RATE BOARD.**

7 34. The Department has already reported its various activities in connection TAP customer  
8 education and outreach in its Monthly Reports to the Rate Board (posted at the Board’s  
9 website) and discovery responses provided in this proceeding. See, responses to PA-XII-  
10 1 through 5. There is no need for yet another outreach plan at this time. The Department  
11 should be given time to see results of the (above-described) collaboration across City  
12 departments and with the Commonwealth to pre-qualify eligible households before it  
13 embarks on another outreach plan.

14  
15 Please also recall the Petition for Partial Settlement of the 2021 general rate proceeding  
16 (“Partial Settlement”) provided significant benefits to TAP Participants and residential  
17 customers generally including updates with regard to TAP. Some of the key benefits of  
18 the Partial Settlement, in addition to the lower rate request, are summarized below.

19  
20 Benefits to TAP Participants

21 Certain terms in the Partial Settlement directly benefited TAP participants. Those  
22 settlement terms reasonably corresponded to specific, on-the-record litigation positions  
23 taken by the Public Advocate (via the direct testimony of Mr. Colton). As the upshot of  
24 the Partial Settlement, the Department extended the waiver of TAP recertification until  
25 September 2021. To improve outreach for TAP, PWD also redoubled its efforts to inform

1 PWD customers of TAP and other assistance programs that PWD offers. Communication  
2 of these and other customer benefits was transmitted via Monthly Reports to the Rate  
3 Board. These benefits likely could not have been achieved outside the context of  
4 settlement, since the Rate Board lacks jurisdiction to direct how the Department provides  
5 service.

6  
7 Customer Service and COVID

8 Certain terms in the Partial Settlement also benefited residential customers generally.  
9 That is, the Department voluntarily extended a freeze on shutoffs for residential  
10 customers, protecting those account holders from losing water services until July 2022.  
11 Notably, the freeze on residential shutoffs was in place from December 2019 until the  
12 above date. Since the Partial Settlement, PWD and WRB also lessened the burdens  
13 associated with payment arrangements to help PWD customers bring their accounts  
14 current. In addition, the Department evaluated business practices, website disclosures,  
15 and governing regulations to address certain tenant issues raised in the 2021 rate  
16 proceeding and made certain changes in its language access plan, in coordination with the  
17 City's Office of Immigrant Affairs -- all as reported in the Monthly Reports.

18  
19 Despite the foregoing, the Public Advocate criticizes the Department's efforts to conduct  
20 TAP outreach in the Black community and to provide more detailed updates regarding  
21 TAP recertification and arrearage forgiveness. As to these issues, the Department has  
22 been continuously available to receive input from the Advocate at Rate Board meetings,  
23 R-CAS meetings, conference calls involving the parties and through counsel at PWD and  
24 WRB. Please note that the Advocate has provided input and posed questions during the  
25 above mentioned meetings and calls — just not about the specific issues raised in Mr.

1 Colton’s testimony. PWD discovery responses also document in detail that we have been  
2 continuously engaged in customer outreach concerning TAP and CAP in numerous  
3 communities, but with particular emphasis in areas (zip codes) where there are large  
4 concentrations of poverty. Activities with elected representatives and stakeholders have  
5 also taken place across the City (including particularly in poor neighborhoods in North,  
6 West, South and Southwest Philadelphia). See, response to PA-XII-1. Also, be apprised  
7 that the Monthly Reports do speak to both TAP recertification and arrearage forgiveness.  
8 If the Advocate wanted more data (more detailed reports) he needed only to ask for it.  
9 There are also other reports generally available to the Advocate concerning TAP,  
10 including the annual Tiered Assistance Report to the Mayor.

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13 **XV. CONCLUSION**  
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15 **35. DOES THIS CONCLUDE THIS REBUTTAL TESTIMONY?**

16 35. Yes, it does.  
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June 10, 2022

VIA FIRST CLASS MAIL

Honorable Nina Wright Padilla  
 Commerce Program Supervising Judge  
 Philadelphia Court of Common Pleas  
 1400 John F. Kennedy Boulevard, City Hall, Room 360  
 Philadelphia, PA 19107

Re: Philadelphia Sequestration Program (Water and Sewer)

Dear Judge Wright Padilla,

I am writing to summarize Community Legal Services (CLS) recent involvement in assisting low-income Philadelphia Water Department/Water Revenue Bureau (PWD/WRB) customers in the context of the Sequestration Program described by Anne E. Whitcombe, via letter dated May 27, 2022. I understand a virtual hearing is scheduled on June 22, 2022 in such a proceeding and, although I do not represent either the estate or the intervenor in that case, I am available, at your convenience, to provide any further context that may be helpful based on CLS's experience.

In cooperation with Ms. Whitcombe's office, our clients have been able to avoid appointment of a sequestrator (and, in at least one case, discontinuance after appointment of a sequestrator) as a result of the ongoing implementation, expansion and improvement of PWD/WRB's Tiered Assistance Program (TAP), along with several associated regulatory and policy changes.

Since 2019, *fewer than ten* clients have sought CLS assistance with either an advance notice or a filed Rule to Show Cause Order proposing appointment of a sequestrator to collect unpaid water and wastewater charges. In the majority of the cases we have seen, the property owner named in the notice or filing is deceased and the person living in the property is either an heir of the owner or an otherwise authorized occupant. Historically, it has been very challenging for an "occupant" (as distinguished from a "tenant"<sup>1</sup>), to resolve a water balance incurred by a former occupant or deceased owner. Since the launch of TAP, however, PWD/WRB has made several important changes, discussed below.

First, PWD/WRB has implemented a policy of accepting a written statement from a legal services lawyer (not limited to CLS) explaining the occupant's right to live in the property, for example the acquisition of an interest via intestacy, as satisfactory evidence that the owner has no objection to placing the bill in the occupant's name. This has eliminated more onerous

<sup>1</sup> As used herein, an "occupant" is distinguished from a "tenant" as set forth in Phila. Water Dept. Reg. §100.1, available at <https://water.phila.gov/pool/files/pwd-regulations-chapter-1.pdf>. We do not have significant client experience with tenants who are required to pay rent to a sequestrator due to unpaid water bills.





requirements in place a mere handful of years ago.<sup>2</sup> Together with proof of actual residence at the service address, our clients – who have neither a lease nor a deed – can nonetheless become customers and take responsibility for the water bills.

More importantly, once our clients become customers, they can enroll in TAP. TAP is a first-in-the-nation water assistance program that sets monthly bills as a fixed percentage of household income, between 2%-4%. Additionally, upon enrollment in TAP, the unpaid bills that previously accumulated (even in the name of prior owners or occupants) are eligible for forgiveness over a payment cycle of 24-monthly bills. Once our clients enroll in TAP, they are out of the collection pathway.

It is in this context that I have worked with Ms. Whitcombe's office directly to benefit CLS clients. When one of my clients receives a notice, filing of Rule to Show Cause Order, or even after an Order has been entered, I reach out to Ms. Whitcombe's office to resolve the underlying issue. The solution, in each of my client's cases has been enrollment in TAP.

I recognize, as does Ms. Whitcombe, that the PWD/WRB customer data relied upon is imperfect in some circumstances and may identify properties inappropriate for the Sequestration Program. However, the small number of cases I've seen (and successfully resolved in cooperation with Ms. Whitcombe's office and PWD/WRB), serves to bolster my confidence in our shared commitment to ensuring that collection of unpaid water and wastewater bills does not jeopardize housing stability for low-income families.

Please do not hesitate to get in touch with me if I can be of any further assistance in understanding how CLS and the City's practices and programs are assisting low-income water customers, and eliminating uncollectible water debt.

Sincerely,

A handwritten signature in black ink, appearing to read 'RWB', with a long horizontal flourish extending to the right.

Robert W. Ballenger, Esq.  
Energy Unit Director  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102  
Direct: 215-981-3788

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<sup>2</sup> Prior to TAP, our clients were required to provide extensive documentation, such as Letters of Administration or Letters Testamentary, to demonstrate their right to occupy the property. Such documentation could not always feasibly or quickly be obtained. I note that CLS continues to advocate for policies that ensure that low-income households can become customers of PWD/WRB without the need for assistance from legal services providers.