

BEFORE THE
PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD

In the Matter of the Philadelphia Water Department's Proposed Change in Water, Wastewater and Stormwater Rates and Charges	Fiscal Years 2024-2025
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OBJECTIONS AND RESPONSES TO

SKIENDZIELEWSKI INFORMATION REQUESTS (SET II)

The Philadelphia Water Department (“Department” or “PWD”) objects to the following Set II Information Requests of Michael Skiendzielewski: MS-II-1 through MS-II-12. The aforesaid requests (sometimes individually referred to as, “interrogatory and request” or collectively as “discovery requests”) were received via email on April 26, 2023. PWD requests that the Hearing Officer appointed by the Philadelphia Water, Sewer and Storm Water Rate Board (“Rate Board” or “Board”) in this proceeding sustain these Objections and strike or limit the subject discovery requests.

General Objections

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

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

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

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

Objections to Interrogatories and Requests for Production of Documents

- MS-II-1** Please state how much PWD spent in the last two years on the replacement of lateral drain pipes.
- MS-II-3** Please state how many laterals repairs PWD completed in the last 2 years.
- MS-II-4** Please state how many Homeowner’s Emergency Loan Program (HELP) were given in the last 2 years.
- MS-II-5** Please list, in a spread sheet form, over the last 5 years how many HELP loans were issued and how many of those loans were forgiven.
- MS-I-10** Please state the total cost of PWD’s HELP loan program, including the amount of the loans that were either forgiven or not collected.

Responses: Objection.

[1] The Department objects to these requests because they are unrelated to the proposed changes in PWD rates and charges as set forth in the rate filing, and as such, are not reasonably calculated to lead to the discovery of admissible evidence. These requests are not seeking information related to the prospective rates and charges proposed for the Rate Period. The requested information will not assist the Rate Board in determining the prospective rates and charges for the Rate Period. No nexus has been established between the requested information and documents and the prospective rates and charges proposed for the Rate Period.

[2] The Department objects to these requests as unduly burdensome given the context and timing of this proceeding. The requests, as written, relate to an historic two year period. Producing the historic data at this stage of the proceeding will cause an unreasonable annoyance, burden and expense to PWD. These requests were propounded after 3:00 PM on Wednesday, April 26, 2023 (the day rebuttal testimony was scheduled to be submitted) and do not appear to support any proposals by Mr. Skiendzielewski for FY 2024 and FY 2025, since Mr. Skiendzielewski did not make comments at the public input hearings (on either March 22 and 23, 2023) or in written direct testimony (before the deadline of April 12, 2023). These requests also does not refer to any of testimony filed by the Department or by any other Participant. Given that timing and context (together with the fact that ratemaking is prospective), data looking back on the historic 2-year period will not lead to the production of admissible evidence and is extremely burdensome.

[5] The Department interprets the phrases “last 2 years” and “last 5 years” as excluding the current fiscal year (FY 2023) and as referring to year(s) preceding the current fiscal year.

[6] MS-II-10 is vague and ambiguous. It is unclear if that request is seeking information for the current Fiscal Year (2023) or over the lifetime of the HELP loan program, which began on July 1, 1991. To the extent that MS-II-10 is seeking information over the lifetime of the program, that request is overly-broad in scope and unduly burdensome since it would require a response looking back more than 30 years.

Response Provided By: Philadelphia Water Department

MS-II-2 Please state the criteria PWD uses in deciding if it will pay for the lateral repairs.

Response: Objection.

The Department's response to MS-I-I is incorporated herein by reference.

Response Provided By: Philadelphia Water Department

MS-II-6 Please explain how PWD ensures that the work done via the HELP program is done correctly.

MS-II-12 Please list and all consultant reports investigating the HELP program and any and all reports recommending changes that would make the HELP program, more accessible, more just and more cost effective.

Responses: Objection.

The Department's response to MS-I-3 is incorporated herein by reference.

Response Provided By: Philadelphia Water Department

MS-II-7 Please explain the training PWD inspectors of lateral repairs receive, if they are certified by an independent body for competency.

Response: Objection.

[1] The proper scope of this proceeding is limited to the change in rates and charges proposed by PWD. The Department objects to this request because it is unrelated to the proposed changes in PWD rates and charges as set forth in the rate filing, and as such, is not reasonably calculated to lead to the discovery of admissible evidence. The requested information will not assist the Rate

Board in determining prospective rates and charges. No nexus has been established between the requested information and the prospective rates and charges proposed for the Rate Period.

[2] [2] The Department objects to these requests as unduly burdensome given the context and timing of this proceeding. The requests, as written, relate to historic two year period. Producing the historic data at this stage of the proceeding will cause an unreasonable annoyance, burden and expense to PWD. These requests were propounded after 3:00 PM on Wednesday, April 26, 2023 (the day rebuttal testimony was scheduled to be submitted) and does not appear to support any proposals by Mr. Skiendzielewski for FY 2024 and FY 2025, since Mr. Skiendzielewski did not make comments at the public input hearings (on either March 22 and 23, 2023) or in written direct testimony (before the deadline of April 12, 2023). These requests also does not refer to any of testimony filed by the Department or by any other Participant. Given that timing and context (together with the fact that ratemaking is prospective), data looking back on the historic 2-year period will not lead to the production of admissible evidence and is extremely burdensome.

[3] The Rate Board has limited jurisdiction. The Board is empowered to approve, modify or reject proposed rates and charges. The Board does not have general oversight over PWD. The Department objects to this request because it is seeking information related to management decisions and operational issues which are beyond the jurisdiction of the Rate Board (which jurisdiction is limited to rate setting issues).

Response Provided By: Philadelphia Water Department

MS-II-8 Please state how much the City's Risk Management has paid out on behalf of the PWD.

MS-II-9 Please state the reasons why Risk Management has decided to make payments on behalf of PWD.

Responses: Objection and Limited Response.

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Subject to and without waiving the above objections, the Department responds to this request as follows:

The Office of Risk Management analyzes the City's insurance and other risk exposure issues, including managing claims, workers' compensation, and service-connected disabilities. They also provide safety and loss prevention programs. See, <https://www.phila.gov/departments/office-of-the-director-of-finance/office-of-risk-management/>

A Philadelphian can seek compensation from the City's Risk Management Department for damages. The Claims Unit of the City's Risk Management Department handles all claims for personal injury and property damage asserted against the City. Claim adjusters investigate the claims, determine if the City is liable under the law, and negotiate and settle claims. The Claims Unit also works with the Safety and Loss Prevention Unit to mitigate the City's risks and increase public safety. To file a claim against the City, you must complete and return a claim form. <https://www.phila.gov/departments/office-of-the-director-of-finance/office-of-risk-management/>

The Office of Risk Management is in a better position than PWD to explain the actions of the Office of Risk Management.

Response Provided By: Philadelphia Water Department

MS-II-11 Please explain the process a PWD consumer can use to challenge a past charge, if the mistake made was recently discovered.

Response: Objection and Limited Response.

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Subject to and without waiving the above objections, the Department responds to this request as follows:

The Tax Review Board (TRB) is part of the Office of Administrative Review (OAR). The TRB decides taxpayer appeals from most City assessments or bills. TRB does not handle real estate tax assessments and real estate tax principal. Those cases are decided by the Board of Revision of Taxes (BRT). *See*, <https://www.phila.gov/departments/tax-review-board/>

The appeal process via the TRB is governed by Philadelphia Code Sections 19-1701 (Tax Review Board) and 19-1702 (Petitions for Review), 19-1704 (Petition for Compromise), 19-1705 (Petition for Waiver of Interest and Penalties) and 19-1706 (Appeal from Decisions of the TRB). Actions of the TRB are reviewed by the Courts. They are not reviewed by the Rate Board, since the power of the Rate Board is limited to setting rates and charges for service by the PWD.

Refunds are governed by Section 19-1703 of the Philadelphia Code. Refunds Petitions must be filed within 3 years from the date of payment under 19-1703(1)(d). <https://www.phila.gov/services/payments-assistance-taxes/refunds/general-refund-information/>

The form for filing an appeal for bills or fines from the Water Revenue Bureau can be found at:
<https://www.phila.gov/media/20180425125337/Tax-Review-Board-water-petition.pdf>

Mr. Skiendzielewski has been before the TRB, as noted in the PWD's response to MS-I-Final Paragraph. The Department's response to MS-I-Final Paragraph is incorporated herein by reference.

There is a different process for claims for personal injury and property damage, as explained in PWD's response to MS-II-8 and MS-II-9. The Department's responses to MS-II-8 and MS-II-9 are incorporated herein by reference.

Response Provided By: Philadelphia Water Department

WHEREFORE, the Department formally (i) objects and responds to the (Set II) Information Requests propounded by Michael Skiendzielewski; (ii) requests that its Objections be sustained; and (iii) requests that it be relieved of the requirement of any further response to same except as described above.

Respectfully submitted,

/s/ Andre Dasent

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