

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

In the Matter of the Philadelphia Water	:	2023 TAP-R Reconciliation
Department's Proposed Changes in Rates and	:	Proceeding – FY 2024
Related Charges	:	

HEARING OFFICER REPORT

Marlane R. Chestnut
Hearing Officer

May 8, 2023

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I. SUMMARY OF RECOMMENDATION

This report addresses the filing made by the Philadelphia Water Department (PWD or Department)¹ to implement the annual reconciliation adjustment to the Tiered Assistance Program Rate Rider (TAP-R) by revising related water, sewer and fire service connection quantity charges (2023 TAP-R adjustment) in accordance with the TAP-R tariff previously approved by the Philadelphia Water, Sewer and Storm Water Rate Board (Rate Board). As discussed in more detail below, I recommend that the Rate Board accept without modification the proposed TAP-R rates contained in the [Joint Petition for Settlement of the TAP-R Proceeding](#)² (Joint Petition, Settlement Petition) for service rendered on and after September 1, 2023 (FY 2024). The effect is a decrease in TAP-R rates and charges for water and sewer service from the current surcharges of \$1.03/Mcf (water) and \$1.63/Mcf (wastewater) to \$0.15/Mcf (water) and \$0.24/Mcf (wastewater).

II. HISTORY OF THE PROCEEDING

On January 24, 2023, the Department filed an [Advance Notice](#)³ with Philadelphia City Council and the Rate Board of its request to implement the annual reconciliation adjustment to the Tiered Assistance Program Rate Rider (TAP-R) and to revise related water, sewer, and fire service connection quantity charges accordingly.⁴ [Formal Notice](#)⁵ of the proposed reconciliation adjustments was filed with the Department of Records on February 23, 2023. Both Notices contained supporting schedules and exhibits as required by the [regulations](#) (Sections II.A.2 and II.C.1) promulgated by the Rate Board. The [Formal Notice](#) consisted of schedules (Schs. BV 1-5, Schs. RFC 1-3) and exhibits (PWD Exhs. 1A and 1B) setting forth the calculations of the

¹ The Water Department is a City department, with responsibility for provision of water, sewer and stormwater services in the City of Philadelphia. It also makes wholesale water sales to neighboring communities.

² <https://www.phila.gov/media/20230418152239/PWD-TAP-R-Joint-Settlement-Agreement-APR18-Combined.pdf>

³ <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2023-annual-rate-adjustment/#advance-notice-of-filing>

⁴ TAP is a customer assistance program, mandated by City Council, that allows low-income customers to pay reduced bills based upon a percentage of their household income. See Philadelphia Code, § 19-1605 (calling the program “TWRAP”). The TAP-R rider, with parameters set by the Rate Board in its [2018 general rate determination](#), tracks revenue losses resulting from application of the TAP discount, in order to permit annual reconciliation if they are greater or less than projected. The TAP-R surcharge is charged to customers who do not receive the discount.

⁵ <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2023-annual-rate-adjustment/#formal-notice>

reconciliation and proposed rates and charges. The proposed TAP-R rates and charges were designed to take effect on September 1, 2023 (FY 2024).

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](#) and [Formal](#) Notices were timely published in three local newspapers. As well as the required legal notices published in various Philadelphia newspapers and the postings on the Rate Board's website, participants to PWD's 2022 special rate and TAP-R reconciliation proceedings were notified by e-mail of the instant proceeding and provided an opportunity to participate.

In addition to the Department, participants included the Public Advocate (Community Legal Services, selected by the Rate Board to represent the concerns of residential consumers and other small users); the City of Philadelphia Department of Revenue, Water Revenue Bureau (WRB);⁶ the Philadelphia Large Users Group (PLUG); and one individual customer, Lance Haver.

A prehearing conference to address preliminary procedural issues was held (remotely via Zoom, a video teleconferencing platform) in this proceeding on March 7, 2023, following the deadline to register as a participant as of right, per Section I(m) of the Board's [regulations](#).⁷ All participants were invited to attend; in addition, notice of the prehearing conference was posted on the Rate Board's website at the [2023 TAP-R](#) annual adjustment section.⁸ At that prehearing conference, a schedule was adopted, and directives were issued regarding discovery and the holding of hearings. These determinations were memorialized in a [Prehearing Order](#)⁹ dated March 7, 2023.

Both PWD and the Public Advocate propounded written information requests to each other; all were answered. These documents are posted on the Rate Board's website, listed as

⁶ The Water Revenue Bureau, which is part of the City's Department of Revenue, provides all billing and collection functions for the Water Department.

⁷ <https://www.phila.gov/media/20230120160159/WRB-regulations-restated-with-amendments-2022-11-09.pdf>

⁸ <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2023-annual-rate-adjustment/>

⁹ <https://www.phila.gov/media/20230307190111/TAP-Prehearing-Conference-Order-2023-03-07.pdf>

Discovery.¹⁰ In accordance with the schedule contained in the March 7, 2023 Prehearing Conference Order, the Public Advocate submitted PA. St. 1¹¹, the direct testimony of Lafayette K. Morgan, Jr. (Exeter Associates, Inc.). As the result of negotiations between the Department and the Public Advocate, PWD did not submit rebuttal testimony addressed to Mr. Morgan's recommendation.

After proper notice, public and technical review hearings were held (remotely via Zoom, with the option to participate telephonically) on April 11, 2023. A combined stenographic transcript¹² of both hearings was produced and is posted at the Rate Board's website. No customers expressed interest in attending or participated in the public hearing.

At the technical review hearing, PWD, the Public Advocate and WRB had their witnesses available for cross-examination. The only participants at that hearing were PWD, the Public Advocate and WRB, none of whom conducted cross-examination.

On April 18, 2023, PWD and the Public Advocate (Joint Petitioners) filed a Joint Petition for Settlement of TAP-R Proceeding (Joint Petition, Settlement Petition).¹³ They agreed to compromise on the projected average number of TAP participants for the next rate period (September 2023 through August 2024), utilizing 16,479 rather than the 17,289 proposed by the Water Department or the 15,670 suggested by the Public Advocate. Attached to the Joint Petition was Exh. 1, the proposed TAP-R rates and supporting data and calculations. On April 21, 2023, PWD filed a separate Main Brief¹⁴ in support of the Joint Petition; and the Public Advocate submitted a letter in lieu of a brief¹⁵ in which it requested a "reasonable opportunity" to respond to any objections that "raise matters not previously raised in relevant witness testimony." On April 26, 2023, participant Haver filed a statement in opposition¹⁶ to the proposed settlement,

¹⁰ <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2023-annual-rate-adjustment/#discovery>

¹¹ <https://www.phila.gov/media/20230411090453/Morgan-TAP-R-Testimony-Final.pdf>

¹² <https://www.phila.gov/media/20230425203058/2023-Tap-R-Reconciliation-Proceeding.pdf>

¹³ A draft of the proposed agreement, minus Exhibit 1, was circulated to me and the participants on April 10, 2023.

¹⁴ <https://www.phila.gov/media/20230421153607/2023-TAP-PWD-MAIN-BRIEF-FINAL-.pdf>

¹⁵ <https://www.phila.gov/media/20230421153610/April-20-Ltr-Not-Filing-Brief.pdf>

¹⁶ <https://www.phila.gov/media/20230429143751/Opposition-to-proposed-settlement.pdf>

alleging that it should be rejected for lack of public input. He did not address any of the substantive issues contained in the [Joint Petition](#).

As provided in the Rate Board's [regulations](#) at § II.C.3.b, the record in this proceeding includes the [Advance Notice](#), the [Formal Notice](#), [responses to written discovery](#), [PA St. 1](#) (including attached schedules), the stenographic [transcript](#) of the April 11, 2023 public and technical hearings, the [Joint Settlement Petition](#) (including Exh. 1), PWD's [Main Brief](#), Public Advocate's [letter in lieu of a brief](#), Mr. Haver's [Statement in Opposition](#) and this Hearing Report. All of these documents are posted on the Rate Board's website, [2023 Annual Rate Adjustment | Water, Sewer & Storm Water Rate Board | City of Philadelphia](#).¹⁷

The Joint Petitioners' position is that the proposed rates provide a fair, just and reasonable TAP-R reconciliation adjustment, are supported by the record, are in compliance with all applicable ordinances, and are in the best interest of the Water Department and its customers. I agree. I therefore recommend that the Rate Board permit the Department to put the proposed rates and charges in effect for service rendered on and after September 1, 2023. I commend the parties to the settlement– and the counsel representing them – for their efforts in this proceeding to resolve the issues in an expeditious and reasonable manner, which benefits both PWD and its customers. Further, I find that Mr. Haver's Objections are without merit, and should be dismissed as discussed below.

III. PROPOSED RATES

The purpose of this proceeding is to permit an annual reconciliation of the revenue impacts associated with TAP by comparing PWD's actual experience to the projections used to set the rates for the review period. It is purely a calculation in which a formula already adopted by the Rate Board is applied. Depending on the actual revenue experience, the rates and charges for the next rate period may be adjusted up or down.

¹⁷ <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2023-annual-rate-adjustment/>

TAP is an assistance program that allows eligible low-income customers to pay reduced bills based upon a percentage of their household income. Monthly bills are not based on usage; they are capped as a percentage of income and are constant each month while the customer is enrolled in the program.¹⁸

TAP-R rates are charged to all customers who do not receive the discount and are intended to recover the revenue losses associated with the customer assistance program. The cost of the program (in other words, the lost revenue resulting from the discount) is affected by several factors, such as the number of enrolled customers, water and sewer service usage levels, changes in PWD's non-discounted rate and the level of discount needed to provide affordable bills to the customers enrolled in the program. The TAP-R Rider tracks revenue losses resulting from application of the TAP discount, in order to permit annual reconciliation if they are greater or less than projected.

The proposed rates and charges contained in the [Joint Petition](#), (¶¶ 20, 26, Exh. 1) provide that, for service rendered on and after September 1, 2023, the following charges will become effective, resulting in a decrease in the TAP-R surcharge:

Table 1 - Current and proposed Settlement TAP-R Rates

TAP-R Rate	Current	Proposed Settlement	Difference
Water (\$/Mcf)	\$1.03	\$0.15	-\$0.88
Sewer (\$/Mcf)	\$1.63	\$0.24	-\$1.39

Other terms and conditions were contained in the [Joint Petition](#), including the standard disclaimers that the settlement agreement is made without prejudice to each participant in this or other proceedings, and that the Joint Petitioners reserve their rights to withdraw from the

¹⁸ The TAP program was approved by the Rate Board as part of PWD's 2016 rate filing. See, [Rate Board 2016 Rate Determination](#). The TAP-R rate rider was approved as part of PWD's 2018 rate filing ([Rate Board 2018 Rate Determination](#)) and was adjusted in the [2019](#), [2020](#), [2021](#) and [2022](#) annual TAP-R reconciliation proceedings.

proposed settlement in the event the Rate Board disapproves it or to file exceptions should the hearing officer modify or misstate any of the agreement's terms and conditions.

IV. DISCUSSION

The first item to address is Mr. Haver's contention that the Joint Petition should be rejected because no member of the public testified at the public hearing, which he contends makes the Proposed Settlement "unworthy of support" by indicating a "lack of outreach and public engagement" on the part of PWD and the Public Advocate. His statement was silent with respect to the substantive issues presented in this proceeding.¹⁹ This argument provides no reason to reject the Joint Settlement. It ignores the fact that the public hearing associated with this limited, annual reconciliation proposing a reduction in the TAP-R surcharge rates was properly noticed, with prominent posting on the Rate Board's website and the requisite publication in three local newspapers. [Joint Petition](#), ¶ 23.

As explained above, the proposed settlement rates result in a substantial decrease in the TAP-R rates for the affected customer classes for the next rate period. These proposed settlement rates appear to be fair and reasonable and are consistent with the relevant ordinance and regulations established by the Rate Board. They are amply supported by the record, which establishes that they will provide a reasonable basis for recovery of the TAP costs in this proceeding.

The rates are based on a projected average monthly number of TAP participants for the next rate period (September 2023 to August 2024) of 16,479²⁰ that represents a reasonable compromise from the Department's projected average monthly enrollment of the 17,289 or the 15,485 suggested by the Public Advocate. The Settlement Petition makes it clear that it does not endorse any of the methodologies or calculation methods to project the number of TAP participants ([Settlement Petition](#), ¶ 26).

¹⁹ As noted above, Mr. Haver did not submit testimony or attend either the public hearing or technical hearing.

²⁰ See [Joint Petition](#) at ¶ 25.

After discovery and thorough review, the settling parties (PWD, the Public Advocate) have found that use of this projected average monthly number of TAP participations for the next rate period (September 2023 to August 2024) is reasonable. I agree, and further agree that the proposed rates represent a just and fair resolution of this annual reconciliation proceeding. Because TAP-R reconciliation proceedings reconcile actual costs of the program against costs projected in the prior year's proceeding, any difference in the agreed monthly number now will result in an adjustment in next year's proceeding. For that reason, and because of the modest differences in the expert testimony, it would not be cost-effective for the Rate Board to attempt to determine the average number of TAP participations with greater precision than the settlement number.

Therefore, the proposed rates and charges contained in the [Joint Petition](#), Exh. 1, should be approved without modification by the Rate Board for service rendered on and after September 1, 2023.

V. CONCLUSION

1. As provided in the Rate Board's [regulations](#) at § II.C.3.b, the record in this proceeding includes the [Advance Notice](#), the [Formal Notice](#), [responses to written discovery](#), [PA St. 1](#) (including attached schedules), the stenographic [transcript](#) of the April 11, 2023 public and technical hearings, the [Joint Settlement Petition](#) (including Exh. 1), PWD's [Main Brief](#), Public Advocate's [letter in lieu of a brief](#), Mr. Haver's [Statement in Opposition](#) and this Hearing Report. All of these documents are posted on the Rate Board's website, [2023 Annual Rate Adjustment | Water, Sewer & Storm Water Rate Board | City of Philadelphia](#).

2. I recommend that the Rate Board approve the [Joint Petition for Settlement of the TAP-R Proceeding](#) without modification and find that the modified TAP-R rates and charges are supported by the record and are just and reasonable.

3. I recommend that the Rate Board authorize the Water Department to file revised TAP-R rates and charges as contained in [Joint Petition for Settlement of the TAP-R Proceeding](#) Exh. 1, as set forth in Table 1 above, for service rendered on and after September 1, 2023.

Marlane R. Chestnut
Hearing Officer

May 8, 2023