

BEFORE THE

PHILADELPHIA WATER, SEWER AND STORMWATER RATE BOARD

In the Matter of the Philadelphia Water
Department's Proposed Change in
Water, Wastewater, and Stormwater
Rates and Related Charges

Fiscal Years 2024 – 2025

Rates and Charges to Become Effective

: September 1, 2023 and September 1, 2024

To the WRB Hearing Officer:

In this brief, I am challenging and requesting a review and appeal of PWD objection as well as the Hearing Officer's sustaining of the PWD objection for the records and documents request copied below which was part of the original request for records dated April 25, 2023. In summary, the records request is related to the PWD operational procedures and processes that monitor, control, investigate, review, follow-up and critique the street excavation procedures that make up a great deal of PWD human resources, equipment, time and consequently expense
IMPACTING THE SETTING OF WATER AND SEWER RATES FOR PWD CUSTOMERS

First, regarding the Hearing Officer's order sustaining the PWD objection to the reasonable, genuine, integral and essential request for such key and vital processes and procedures, I offer the following.

(1) In her filing, the Hearing Officer notes "that the proposed rates not only define the scope of this proceeding but determine the parameters of the Rate Board's jurisdiction". The parameters of the Rate Board's

jurisdiction is determined by the regulations established in the regulations of the Water Rate Board legislation. Hearing Officer statement above is unclear, confusing and is illogical that the "proposed rates" define the "scope of this proceeding".

(2) Once again, the Hearing Officer apparently finds importance and value for reiterating how many times this participant has been involved in the WRB proceedings and in this occasion, it even became necessary for the word "**many**" to be emboldened in her narrative.

(3) Regarding the assertion of the Hearing Officer that the "rate board" does NOT have authority over the Water Department, none of my efforts or request, either in this proceeding or in past ones, have indicated or expressed that I believe that to be the case. I would add, though, that I question whether or not the further statement "that the rate board has no jurisdiction over the service provided by PWD" is accurate and ask once again to the reference in the WRB regulations that defines or supports such an assertion.

(4) Further, the Hearing Officer adds "jurisdiction relates to the competency of a particular court or administrative body to determine controversies." My request for records, regardless of type or issue, is not a request to "determine controversies" and it is irrelevant whether "the court of tribunal have subject matter jurisdiction to decide the matter at issue." In any of my requests, I do not find I am seeking such action or review as suggested here by the Hearing Officer.

(5) For the Hearing Officer to claim that "it would be a fruitless exercise and a misuse of scarce resources of time and money to allow Mr. Skiendzielewski to continually raise issues which he has been explicitly and repeatedly told are not within the Rate Board's jurisdiction" is simply untrue and inaccurate. First, the Hearing Officer and/or the WRB has yet

to cite the specific WRB regulation that supports the allegation made in this issue, whether in this hearing or previous ones. The reference to "fruitless exercise" and "misuse of scarce resources of time and money" are reckless and unprofessional. Let's be clear, knowledge, awareness and understanding of key issues and facts is never a fruitless exercise and to act as if the issues of my records request, during this and previous proceedings, given they relate to HELP loans and excavation management and protocol both of which relate to standard operations and practices, is a "misuse of scarce resources" is without merit and spurious, since such records retrieval would take minimal time and resources.

(6) "No nexus has been established between the requested information and the prospective rates and charges proposed for the Rate Period."

Knowledge and transparency is a beneficial outcome and result for PWD consumers, regardless of whether or not the WRB has the authority, interest, duty or responsibility to act on such details exposed by records request. Continued denial and rejection of records requests which are legitimate, fact-based and relevant for PWD consumers is counter-productive but unsurprising given the nature, standing, relationships and perspective of the Water Rate Board.

(7) Finally, the Hearing Officer, for reasons only she would be able to offer and explain, is related to the following excerpt in the Hearing Officer's order, sustaining PWD objections:

In the 2021 General Rate Proceeding, on April 16, 2021, the Hearing Officer issued an order stating that:

"The Department is correct: The Rate Board does not have the authority to investigate, administer or enforce public integrity laws or ethical codes. Therefore, discovery or testimony intended to address allegations of misconduct in connection with administration of the HELP loan program will be excluded from the scope of this rate proceeding."

Who in the PWD made that decision, legal opinion, and/or determination re the authority of the Rate Board? Was it legal counsel to the WRB who also has responsibilities with the PWD in his position in the Legal Department?

If so, the Hearing Officer did not divulge who gave that legal opinion and if it was the WRB counsel, this attorney is the city counsel I submitted should be recused from the WRB proceedings due to the facts, evidence, statements, etc. of unprofessional and unethical conduct with this pro se participant. Such documentation and evidence was shared with the WRB during those proceedings.

In any event, in my recusal request, I was not asking ***to investigate, administer or enforce public integrity laws or ethical codes, but rather requesting recusal in order to insure an objective, independent, fair and impartial WRB hearing process.***

Is the Hearing Officer suggesting that the WRB is not authorized or permitted to review and address fact-based unethical and unprofessional conduct by one of the key participants in the WRB process, regardless of the extent of impropriety and misconduct? What in fact is permissible, allowable and/or mandated in such an instance where there is substantial factual evidence, public written records and professional conduct to suggest that the objective and impartiality of the WRB process may be in jeopardy?

Also, the request for recusal was NOT based on the equitable administration of PWD HELP loans but rather a number of other unprofessional decisions and conduct of a key WRB official and participant whose continued involvement and presence in the WRB process had the potential to adversely impact objectivity and impartiality.

As a registered participant in the current Water Rate Board proceedings, this Philadelphia citizen and PWD consumer requests certain information, details, and records pertaining to one of the more time-consuming, human resource intensive and equipment involved efforts that the PWD is involved on a continuous basis and since all of the factors listed are involved in a collaborative task, a review, understanding and record/process review of this activity most certainly is related to the WRB's primary task of reviewing and addressing matters, issues and concerns that directly affect the water and sewer rates that impact all PWD customers.

Consequently, I am requesting from the PWD the current protocol and standards used in the identification, investigation, planning and initiation of work at consumer's residences related to necessary long lateral sewer repairs and other related or contingent repair work, which may or may not be the responsibility of the PWD or the property owner. I also request any PWD correspondence or files that describe the monitoring and oversight process and procedure by management in the initiation of any PWD excavation projects related to such work in place while such excavation and repair work is being conducted either by the PWD or private contractor as a result of a notice to the property owner that a sewer defect must be corrected. Finally, I request any and all information related to a review, evaluation, critique and study after the assignment is completed of a particular excavation project under the auspices of the PWD which provides an analysis of the standards followed, any difficulties identified, and any excavation work, conduct and decision-making, whether on-site or in PWD management, that was in accordance with the PWD protocol in such projects or

alternatively, any steps, actions or decisions that did not adhere to the policy and protocol

established by PWD management for such excavation and repair work regarding residential

sewer matters.

Such a study, review and analysis of the elements of the PWD diagnosis, investigation, initiation, excavation, monitoring of the project, as well as follow-up review, study, critique and professional analysis of the steps and decisions in the entire process related to excavation for sewer problems at consumers' residences is of critical importance since it is a time, employee and resource rich and expensive endeavor and every professional organization should be interested in and dedicated to ongoing study and evaluation of its practices and procedures.

Certainly, in this consumer's experience, I was a PWD customer involved in such an excavation for a faulty sewer lateral and a process that lasted a considerable length of time from the Spring 2014 to the Fall 2017, with several PWD interventions and procedures utilized to address the deteriorating conditions outside of my residence near the street where PWD worked to address several distinct issues and problems. The unfortunate fact is that the conditions have never been satisfactorily addressed and resolved and the area in the grassy footway near the street, where PWD performed a number of excavations and operations to address various issues, continues to deteriorate, sink and need intermittent intervention to refill and level the area.

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