



April 4, 2024

**Via Email**

Mr. Sonny Popowsky, Chairman  
Philadelphia Water, Sewer and Storm Water Rate Board  
1515 Arch St, Suite 17<sup>th</sup> Floor  
Philadelphia, PA 19102

Dear Chairman Popowsky and Members of the Philadelphia Water, Sewer and Storm Water Rate Board (Board):

On behalf of the Public Advocate, I submit this letter in response to the “Direct Appeal” of Lance Haver from the Hearing Officer’s denial of his motion for public hearings and input sessions regarding the appointment of Community Legal Services (CLS) to serve as Public Advocate in the ongoing TAP-R reconciliation proceeding.<sup>1</sup>

Generally, Mr. Haver complains that the process of hiring CLS to serve as Public Advocate was inappropriate and “non-public.” Mr. Haver has made similar submissions in the past, including a “Direct Appeal” to the Board in March 2022 regarding the Hearing Officer’s denial of his motion to remove CLS from serving as Public Advocate. On April 13, 2022, the Board extensively considered, and denied that request, concluding, among other things, that the Board had hired CLS through the standard, open procedure provided for in Chapter 17-1400 of the Philadelphia Code.<sup>2</sup>

It should be recognized that the process of retaining the services of an individual or entity to serve as Public Advocate in PWD rate proceedings has been substantially the same for decades. Indeed, retaining the services of the Public Advocate was required by Philadelphia Water Department Regulations prior to the creation of the Board. The process is currently governed by the Board’s Regulations. In each case, the Public Advocate has been retained by contract following a publicly posted Request for Proposals (RFP).

Mr. Haver also complains that the Public Advocate does not directly represent water customers, because CLS was hired by the Board. This concern is misplaced. CLS has been appointed pursuant to a formal City contract to diligently represent the interests of residential and small commercial customers of the Philadelphia Water Department. CLS will faithfully, zealously, and successfully perform the functions of the Public Advocate, as it has done in the past.

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<sup>1</sup> The Public Advocate reiterates concerns it previously expressed regarding similar submissions by Mr. Haver that are procedurally improper, untimely, and fail to present a compelling need, based on extraordinary circumstances, for Board action. See April 8, 2022 correspondence in lieu of motion to quash a purported “Direct Appeal,” available at: <https://www.phila.gov/media/20220408175552/April-8-PA-Response-haver-submission.pdf>.

<sup>2</sup> See April 13, 2022 Board Meeting notes, available at: <https://www.phila.gov/media/20220512191446/April-13-2022-Meeting-Minutes.pdf>.



Finally, the Public Advocate notes that Mr. Haver’s “Direct Appeal” erroneously states that PWD is “seeking a 14% rate hike” in this TAP-R proceeding. As PWD’s filing clearly explains: “Of the estimated 14.0% (\$10.46) increase in the typical residential customer’s bill, 8.1% (\$6.03) is associated with the previously approved base rates for FY 2025 and 5.9% (\$4.43) is associated with the proposed TAP-R rates in this proceeding.”<sup>3</sup> The narrow issue before the Board in this proceeding is whether PWD’s TAP-R rates should increase or decrease to recover TAP discounts provided in a future period and to compensate for any over/under collection in the current period. PWD has projected an increase of \$4.43 for a typical residential customer, primarily due to increased TAP enrollment. The Public Advocate is currently examining this proposal and will provide its input, on the record, pursuant to the procedural schedule that will be adopted by the Hearing Officer.

The Public Advocate submits that the Hearing Officer correctly denied Mr. Haver’s motion for public hearings and input sessions regarding the appointment of the Public Advocate. If the Board considers Mr. Haver’s “Direct Appeal,” it should reach the same conclusion.

Sincerely,

Robert W. Ballenger  
For the Public Advocate

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<sup>3</sup> TAP Rate Rider Reconciliation Filing, Sch. BV-2, text accompanying Table C-4.