

BEFORE THE  
PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD

Re: Philadelphia Water Department Proposed Changes in Rates and Charges	2024 TAP-R Adjustment Proceeding
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**OBJECTIONS TO  
DISCOVERY REQUESTS OF LANCE HAVER (SET I)**

The Philadelphia Water Department (“Department” or “PWD”) objects to each of the Data Requests, Interrogatories and Requests for Production of Documents (collectively, “discovery requests”) of Lance Haver, submitted via email on May 2, 2024 and requests that the Hearing Officer sustain PWD’s Objections so as to strike or limit the discovery requests.

**Clarifications**

The term “year” is not defined by Mr. Haver’s discovery requests. For purposes of responding, the Department interprets the term “year” to refer to a calendar year (January 1 to December 31). The calendar year is different from the Department’s fiscal year (July 1 to June 30).

**General Objections**

1. PWD objects to each discovery request to the extent that it is not relevant and not material to the PWD proposed changes in rates and charges as set forth in the 2024 TAP-R filing, and as such, is not reasonably calculated to lead to the discovery of admissible evidence for purposes of TAP-R rate setting. This proceeding is limited to the application of the formula. Changes to TAP and TAP-R rider are proposed, reviewed and made in general rate proceedings.
2. By answering any part of the discovery requests or by 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 discovery 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 the specific objections that follow. Stating a specific objection or response shall not be construed as a waiver of these General Objections.

**Specific Objections with Limited Responses**

The discovery requests are grouped together to minimize repetition of objections.

**Funding for TAP**

LH-1-1 Please provide the last 5 years of projected amounts in the rate stabilization fund and the last 5 years of actual amounts in the rate stabilization fund.

**OBJECTIONS AND RESPONSES:**

The Department objects to this discovery request on the grounds that the discovery sought will cause unreasonable annoyance, burden and expense to the Department. This discovery request is seeking information and documents over an extended period of time, 5 years. That period of time is unreasonable and neither relevant nor material to the 2024 TAP-R filing.

The period of time before January 2023 is not relevant or material to the 2024 TAP-R filing. The 2024 TAP-R filing provides data and information for the Reconciled Period (January 2023 to August 2023), the Most Recent Period (Actual, September 2023 to March 2024; and Projected, April 2024 to August 2024), and the Next Rate Period (September 2024 to August 2025). The 2024 TAP-R filing is for rates in the Next Rate Period. The over-collection or under-collection in the Reconciled Period and/or the Most Recent Period may impact the rates for the Next Rate Period.

This discovery request is particularly burdensome given the shortened period allotted to compile discovery responses in this proceeding and the timing of the request in the schedule. The discovery request was made (1) after the date (April 30, 2024) for submission of testimony responding to the Department’s Formal Notice; (2) eight days before the scheduled start of the Technical Hearing (May 10, 2024).

Notwithstanding the above objections and without waiver thereof, the Department responds to LH-I-1 as follows:

The actual amounts in the rate stabilization fund can be found in the Annual Financial Reports (AFRs) and Annual Comprehensive Financial Reports, which are available from the City Treasurer at:

<https://www.phila.gov/departments/office-of-the-director-of-finance/financial-reports/#!/>

The projected amounts in the rate stabilization fund can be found in the Department’s Five-Year

Financial Projection Plan, which is a part of each of the Department’s General Rate Proceedings. That “Financial Plan” together with other documents for each proceeding are available on the Rate Board’s website.

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

The Department’s response to LH-1-13 is incorporated by reference.

**RESPONSES PROVIDED BY:** Philadelphia Water Department  
Black & Veatch Management Consulting, LLC

**TAP Participation**

LH-1-2 Please provide the last 5 years of projected number of enrollments in the TAP program and the last 5 years of actual enrollment in the TAP [program].

LH-1-3 Over the last 5 years please list, year by year the percentage of consumers who were dropped, for whatever reason or reasons, from the TAP program.

LH-1-5 Please provide the number of people enrolled in the TAP program in the last fiscal year.

**OBJECTIONS AND RESPONSES:**

The Department objects to these discovery requests on the grounds that the discovery sought will cause unreasonable annoyance, burden and expense to the Department.

The period of time before January 2023 is not relevant or material to the 2024 TAP-R filing. The Department’s objection to LH-1-1 is incorporated by reference.

Notwithstanding the above objections and without waiver thereof, the Department responds to LH-I-2 as follows:

The number of actual enrollments can be found in the response to discovery request PA-TAP-2. The TAP participation projections for each TAP-R proceeding are available on the Rate Board’s website.

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

Notwithstanding the above objections and without waiver thereof, the Department responds to LH-I-3 as follows:

Data on the Department’s efforts to reduce TAP denials and program turnover are available in the monthly Reports provided by the Department to the Rate Board from September 2021 to January 2024 as well as the quarterly Report provided by the Department to the Rate Board in April 2024. The Reports are available on the Rate Board’s website.

<https://www.phila.gov/departments/water-sewer-storm-water-rate-board/about/>

Notwithstanding the above objections and without waiver thereof, the Department responds to LH-I-5 as follows:

The last fiscal year is July 1, 2022 to June 30, 2023.

The actual number of customers/accounts enrolled in TAP in each month between July 2022 to June 2023 can be found in the response to discovery request PA-TAP-2. That document is part of the of formal notice and is available on the Rate Board’s website for the 2023 TAP-R Reconciliation Proceeding.

Response-Attachment-to-Public-Advocates-Interrogatories-and-Requests-for-Production-of-Documents-Set-I-Question-2.xlsx

**RESPONSES PROVIDED BY:** Raftelis Financial Consultants

**Enrollment Standards**

LH-1-7 Please provide the industry standard for enrolling a consumer in a low income program.

**OBJECTIONS AND RESPONSES:**

The Department objects to this discovery request on the grounds that the discovery sought will cause unreasonable annoyance, burden and expense to the Department. This discovery request is seeking information and documents that are neither relevant nor material to the 2024 TAP-R filing.

The industry standard for enrolling a consumer in a low income program is not relevant and not material to the PWD proposed changes in rates and charges as set forth in the 2024 TAP-R filing. This proceeding is limited to the application of the formula. Changes to TAP and TAP-R rider are proposed, reviewed and made in general rate proceedings. 2021 TAP-R Adjustment Proceeding, Hearing Officer Report, at pp. 4-5. *See also* the 2021 general rate determination.

The hearing officer reports and rate determinations are available on the Rate Board’s website. <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/>

Notwithstanding the above objections and without waiver thereof, the Department responds to LH-I-7 as follows:

Chapter V.4 of The American Waterworks Association (AWWA) Principles of Rates, Fees and Charges Manual, Seventh Edition, indicates that “Defining which customers are eligible for assistance in an affordability program is a local policy decision.”

**RESPONSES PROVIDED BY:** Raftelis Financial Consultants

### **Cost Of Enrolling Customers Into TAP**

- LH-1-4 Please provide the cost of enrolling consumers in the TAP program in the last fiscal year.
- LH-1-6 Please provide the amount it cost PGW to enroll a person in its CRP program.
- LH-1-8 Please provide PWD’s goal of what it should cost to enroll a consumer in its TAP program.
- LH-1-9 Please provide how PWD created its goal of the cost of enrollment.

### **OBJECTIONS:**

The Department objects to these discovery requests on the grounds that the discovery sought will cause unreasonable annoyance, burden and expense to the Department. These discovery requests are seeking information and documents that are neither relevant nor material to the 2024 TAP-R filing.

The cost to enroll a customer is not relevant and not material to the PWD proposed changes in rates and charges as set forth in the 2024 TAP-R filing. The Department cost recovery for TAP-R is limited to the formula approved by the Rate Board. The formula does not include the cost of enrollment.

The Department objects to LH-1-6 on the grounds that it is seeking information related to the customer assistance program of a different entity, Philadelphia Gas Works. The discovery sought will cause unreasonable annoyance, burden and expense to the Department – because the compilation of information and documents being requested would require a special investigation by the Department of the cost of Philadelphia Gas Works to enroll gas customers in Philadelphia Gas Works’ Customer Responsibility Program (CRP) program.

### **Cost Recovery Under TAP Rider**

- LH-1-10 Please provide what other rate payers can do to limit the cost of the TAP program.

### **OBJECTIONS AND RESPONSES:**

The Department objects to this discovery request on the grounds that the discovery sought will cause unreasonable annoyance, burden and expense to the Department. This discovery request is seeking information and documents that are neither relevant nor material to the 2024 TAP-R filing.

Notwithstanding the above objections and without waiver thereof, the Department responds to LH-I-10 as follows:

The Department cost recovery for TAP-R is limited to the formula approved by the Rate Board.

The Rate Board authorizes PWD rates and charges including TAP-R surcharge rates. The TAP-R surcharge is reviewed and adjusted annually based upon the approval of the Rate Board. This process provides the opportunity to review the calculated components as defined in the TAP Rate Rider formula under Section 10 of the Philadelphia Water Department's Rates and Charges. In addition, the TAP Rate Rider is reconcilable and is adjusted annually to account for any over or under recovery including interest.

Changes to TAP and TAP-R rider are proposed, reviewed and made in general rate proceedings. The Department's response to LH-I-7 is incorporated by reference.

**RESPONSES PROVIDED BY:** Philadelphia Water Department  
Black & Veatch Management Consulting, LLC

### **Rate Equity And Affordability**

- LH-1-11 Please provide any and all evidence that other rate payers have created the poverty and/or unjust distribution of wealth that has created the need for the TAP program.
- LH-1-12 Does PWD believe the TAP program is a social welfare program which attempts to alleviate the suffering caused by poverty?
- LH-1-13 Please list all of the requests from sources, other than Philadelphia Water Consumers, PWD has initiated to cover the cost of the TAP program.
- LH-1-14 If the answer to [LH-1-13], is that PWD failed to requested funding from any source for the cost of TAP program, please explain why PWD has not attempted to have the cost of a poverty fighting program borne by government, as other poverty fighting programs like LIHEAP, SNAP and Aid for families are?
- LH-1-15 Please list how many living wage jobs PWD has helped create in the City of Philadelphia by either buying locally, using local contractors or using its excess water capacity, as defined by the amount of water PWD could utilize less the amount it does utilize to create jobs.
- LH-1-19 Please provide the name or names of PWD employee or consultants responsible for reviewing academic literature and/or studies reviewing low income utility plans.
- LH-1-20 Please provide the name or names of PWD employee or consultant responsible for reviewing the work of Dr. Manuel P. Teodoro, PHD of the La Follette School of Public Affairs, University of Wisconsin-Madison.

LH-1-21 Please provide any and all written critiques of Dr. Teodoro’s work [by the Department].

**OBJECTIONS AND RESPONSES:**

The Department objects to these discovery requests on the grounds that the discovery sought will cause unreasonable annoyance, burden and expense to the Department. This discovery request is seeking information and documents that are neither relevant nor material to the 2024 TAP-R filing.

Poverty, “distribution of wealth” and other equity and affordability issues are not relevant and not material to the PWD proposed changes in rates and charges as set forth in the 2024 TAP-R filing. The Department cost recovery for TAP-R is limited to the formula approved by the Rate Board.

The Department also objects to LH-1-21 insofar as it is vague and ambiguous. Since the discovery requests are directed to the Department (as the party to this rate proceeding), the Department reads this discovery request as seeking “written critiques” by the Department. The Department further objects to LH-1-21 on the grounds that the discovery sought will cause unreasonable annoyance, burden and expense to the Department – if compilation of information and documents being requested would require a costly and burdensome special investigation by the Department to locate any and all “written critiques of Dr. Teodoro’s work.”

Notwithstanding the above objections and without waiver thereof, the Department responds to these discovery requests as follows:

The parameters of the TAP were established by City Council and the Rate Board. In 2015, City Council passed an ordinance requiring the establishment of an assistance program that would allow low-income customers to pay reduced rates based upon a percentage of their household income. In 2016, the Rate Board established the TAP. The formula for cost recovery associated with TAP-R was approved by Rate Board in 2018.

The TAP-R rider was not designed to be funded from sources other than the Department’s ratepayers. Section 5-801 of the Charter establishes that the Department’s systems shall be self-sustaining. The TAP-R rider tracks revenue losses resulting from application of the TAP discount, 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. 2021 TAP-R Determination, at p.1. In addition,

The Department’s response to LH-1-1 is incorporated by reference.

Work by Mr. Teodoro is referenced in PWD’s Rebuttal Statement No. 3 in the 2023 Rate Proceeding. That testimony is available at:  
<https://www.phila.gov/media/20230429143003/PWD-REBUTTAL-STATEMENT-3-COLTON.pdf>

**RESPONSES PROVIDED BY:** Philadelphia Water Department

## **PWD Contracts for Services**

- LH-1-16 Please list the number of contracts PWD has with entities located outside the City of Philadelphia, including, companies that provide meter reading, bill collecting, and any and all other services.
- LH-1-17 Please provide a list of those companies and how many people are employed to provide the work for which PWD has contracted.

## **OBJECTIONS AND RESPONSES:**

The Department objects to these discovery requests on the grounds that the discovery sought will cause unreasonable annoyance, burden and expense to the Department. This discovery request is seeking information and documents that are neither relevant nor material to the 2024 TAP-R filing.

Contracts between the Department and others who provide services to the Department are not relevant and not material to the PWD proposed changes in rates and charges as set forth in the 2024 TAP-R filing. The Department cost recovery for TAP-R is limited to the formula approved by the Rate Board.

Notwithstanding the above objections and without waiver thereof, the Department responds to these discovery requests as follows:

The Department does not maintain a separate list of the requested data.

Information regarding procurement by the Department is available at:  
<https://www.phila.gov/departments/procurement-department/>

Please refer to the following website for available retrospective reports regarding awarded contracts: <https://philawx.phila.gov/ECONTRACT/default.aspx>

Please also refer to the following reports from the City's use of minority-, women-, and disabled-owned businesses participating on contracts (including the Water Department's contracts):  
<https://www.phila.gov/documents/office-of-economic-opportunity-annual-reports/>

**RESPONSES PROVIDED BY:** Philadelphia Water Department

## **Management Audits**

- LH-1-18 Please provide the last management audit of the operation of the TAP enrollment, billing and collection and operation. Both internal and external audits.

**OBJECTIONS AND RESPONSES:**

The Department objects to this discovery requests on the grounds that the discovery sought will cause unreasonable annoyance, burden and expense to the Department. This discovery request is seeking information and documents that are neither relevant nor material to the 2024 TAP-R filing. The Department cost recovery for TAP-R is limited to the formula approved by the Rate Board.

Notwithstanding the above objections and without waiver thereof, the Department responds to LH-I-18 as follows:

The Department’s response to LH-1-1 is incorporated by reference.

Annual Auditor’s Reports on Philadelphia City Departments, including PWD are available at: <https://controller.phila.gov/audits/>

**RESPONSES PROVIDED BY:** Philadelphia Water Department

WHEREFORE, the Department formally (i) objects to the discovery requests identified above; (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 C. Dasent

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Dated: May 7, 2024