

BEFORE THE
PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD

Re Philadelphia Water Department :
Formal Notice of Proposed Charges : 2024 TAP-R Annual Adjustment
In Rates and Charges :

PUBLIC ADVOCATE OBJECTIONS AND RESPONSES TO
DATA REQUESTS BY LANCE HAVER, PRO SE

The Public Advocate hereby submits its objections and partial responses to data requests numbered 1 through 21, propounded on the evening of May 6, 2024 (deemed received May 7, 2024) by *pro se* participant Lance Haver.

General Objections

1. The Public Advocate objects to each data request on the grounds that it is late-filed discovery, issued following the deadline for participant testimony and three days before the technical hearings. The data requests were not issued in a good faith effort to obtain information that would inform any participant’s recommendations to the Philadelphia Water, Sewer and Storm Water Rate Board (Board) in this TAP-R proceeding. Moreover, the lateness of the objectionable data requests precludes consideration at the technical hearings of any responsive information provided and so is of questionable value to the Board. Requesting voluminous and irrelevant information late in this proceeding is demonstrably unreasonable and a violation of the obligations imposed upon participants by the April 10, 2024 Prehearing Conference Order.¹

¹ “Participants will use their best efforts to be reasonable and accommodating when propounding or responding to information requests.” <https://www.phila.gov/media/20240411142155/TAP-R-PHC-Order-2024-April-10-FINAL.pdf>.

2. The Public Advocate objects to each discovery request to the extent that it is not likely to lead to the discovery of relevant and admissible information regarding this TAP-R reconciliation proceeding. This TAP-R proceeding is exceedingly narrow in scope and entails only the estimation and reconciliation of surcharge rates designed to recover the discounts provided to customers who participate in TAP. To the extent the Public Advocate can reasonably supply a partial response to any discovery request, it has endeavored to do so, without waiving its objection as to the relevance of the information sought.
3. The Public Advocate objects to each discovery request to the extent it is overly broad and would impose an undue burden on the Public Advocate to respond. Although the Public Advocate provides partial responses, where available, the Public Advocate nonetheless maintains its objection as to the overly broad and unduly burdensome nature of the requests.
4. The Public Advocate objects to each discovery request to the extent it seeks to impose upon the Public Advocate an obligation to obtain information from others or to speculate.
5. Each of the foregoing general objections is incorporated into the specific objections that follow, regardless of whether it is restated.

Specific Objections and Partial Responses

LH-1-1² Please provide a list of all the in person meetings any of the people being paid by the Water Rate Board had before the Water Rate Board's Public Advocate decided on what was to be included in its direct testimony.

OBJECTION:

The data request is overly broad and unduly burdensome and would require the staff and witness serving on behalf of the Public Advocate to comb through records over an indefinite period of time and without any limitation on the subject matter, scope, nature, or context in which in person meetings have been held over multiple decades. Furthermore, a list of meetings by and between staff, witnesses and the unspecified universe of undesignated

² The proponent's first data request is numbered "LH-2-1" but all subsequent requests are numbered "LH-1-2," LH-1-3," and so on. The Public Advocate has numbered its responses consistent with the latter convention.

“people” requested by the proponent is not relevant to, nor reasonably likely to lead to the discovery of relevant information regarding, this TAP-R proceeding.

Without limiting the foregoing or the General Objections set forth herein, please be advised that the Public Advocate has engaged in significant outreach activities, consistent with its contractual obligations.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

LH-1-2 Please provide a list of all the in person meetings any of the people being paid by the Water Rate Board have scheduled and/or held with community groups before the public hearings.

OBJECTION:

The data request is overly broad and unduly burdensome and would require the staff and witness serving on behalf of the Public Advocate to comb through records over an indefinite period of time and without any limitation on the subject matter, scope, nature, or context in which in person meetings have been held over multiple decades. Furthermore, a list of meetings by and between staff, witnesses and the unspecified universe of undesignated “community groups” requested by the proponent is not relevant to, nor reasonably likely to lead to the discovery of relevant information regarding, this TAP-R proceeding.

Without limiting the foregoing or the General Objections set forth herein, please be advised that the Public Advocate has engaged in significant outreach activities, consistent with its contractual obligations.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

LH-1-3 Please provide information as to how the Water Rate Board’s Public Advocate knows what the Public’s position is on the sur charges?

OBJECTION:

The data request is ambiguous, susceptible to multiple interpretations, and unduly broad in scope, requiring the Public Advocate to speculate as to the “position” held by each and every Philadelphia citizen, worker, business, visitor, or other organization potentially comprising the “public” at any point in time. The data request otherwise seeks information that will be

readily available to the proponent, i.e., the statements made and included on the record via the Board's public input process.

Without limiting the foregoing or the General Objections set forth herein, please be advised that the paramount standard for all utility ratemaking is the constitutionally-based "just and reasonable" standard, requiring careful weighing of the interest of customers in affordable rates against the financial needs of the utility.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

LH-1-4 Please provide the cost of enrolling customers in the TAP program in the last fiscal year.

OBJECTION:

The data request seeks information irrelevant to this proceeding because the cost of enrolling customers in the TAP program is not included in the TAP-R rate. Furthermore, the data request is identical to request LH-1-4 issued to the Water Department. The data request is unduly burdensome and would require the Public Advocate to obtain responsive information from the Philadelphia Water Department. The Public Advocate must not be compelled to perform discovery for the proponent and then repackage and produce it, assuming the risk of inaccuracy or mistake by others.

Without limiting the foregoing or the General Objections set forth herein, please be advised that PWD's response to PA-I-10 in the 2023 General Rate Proceeding states that "Customer Assistance Program administrative costs are not specifically isolated within the Water Fund budget." Because enrollment is an administrative function, the Public Advocate assumes responsive data is unavailable. Notably, as described in the article "Critique of Philadelphia Water Affordability Program (TAP) Lacks Substance and Makes Fundamental Mistakes,"³ the Philadelphia Gas Works, which operates a percentage of income payment program (PIPP) similar in design to TAP, has the lowest administrative costs, as a percentage of overall program costs, compared to the customer assistance programs operated by every other PUC-regulated Natural Gas Distribution and Electric Distribution Company.

³ Available at https://www.fsconline.com/downloads/FSC%20Newsletter/news2023/n2023_0708.pdf. Copy provided as Attachment LH-1-4.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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

OBJECTION:

This data request seeks information otherwise available to the proponent; data of which the Public Advocate is neither a creator nor custodian. Requiring a response would place the Public Advocate in the untenable position of certifying the accuracy of the Water Revenue Bureau's information (TAP enrollment data) that it did not create and is not responsible for maintaining. Furthermore, the data request is identical to request LH-1-5 issued to the Water Department.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

LH-1-6 Please provide the amount it cost PGW to enroll a person in its CRP program.

OBJECTION:

See Objection/Response to LH-1-4. The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-6 issued to the Water Department.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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

OBJECTION:

See Objection/Response to LH-1-4. The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-7 issued to the Water Department.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

LH-1-8 Please provide PWD's goal of what it should cost to enroll a customer in its TAP program.

OBJECTION:

See Objection/Response to LH-1-4. The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-8 issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

LH-1-9 Please provide how PWD created its goal of the cost of enrollment.

OBJECTION:

See Objection/Response to LH-1-4. The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-9 issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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

OBJECTION:

This data request seeks information irrelevant to the subject matter of this proceeding, namely, the estimation and reconciliation of surcharge rates designed to recover the discounts provided to customers who participate in TAP. Moreover, the data request seeks to engage the Public Advocate in speculation regarding the ability of “other” (presumably non-TAP) customers to influence the amount of bill discounts provided through the TAP program. The data request is identical to request LH-1-10 issued to the Water Department.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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.

OBJECTION:

This data request seeks information irrelevant to the subject matter of this proceeding, namely, the estimation and reconciliation of surcharge rates designed to recover the discounts

provided to customers who participate in TAP. Moreover, the data request seeks to engage the Public Advocate in speculation regarding the extent to which unspecified “other rate payers” may or may not have contributed to the intergenerational, intersectional, racial and socioeconomic imbalance that has resulted in water insecurity in Philadelphia homes and neighborhoods. The data request is identical to request LH-1-11 issued to the Water Department.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

LH-1-12 Does PWD believe the TAP program is a social welfare program which attempts to alleviate the suffering caused by poverty?

OBJECTION:

The data request seeks information irrelevant to the subject matter of this proceeding, namely, the estimation and reconciliation of surcharge rates designed to recover the discounts provided to customers who participate in TAP. The data request is identical to request LH-1-12 issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

Without limiting the foregoing or the General Objections set forth herein, utility customer assistance programs like TAP are designed as alternatives to traditional collection methods for low-income customers.⁴

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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.

OBJECTION:

The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-13 issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

⁴ See 52 Pa. Code §69.261.

Without limiting the foregoing or the General Objections set forth herein, see PWD response to PA-X-22 in the 2023 General Rate Proceeding for an explanation of whether potential external funding constitutes Project Revenues for purposes of the 1989 General Bond Ordinance.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

LH-1-14 If the answer to 12, is that PWD failed to requested funding from any source for the cost of the 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?

OBJECTION:

See Objection/Response to LH-1-13. The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-14 issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

Without limiting the foregoing or the General Objections set forth herein, TAP is analogous to the customer assistance programs operated by electric and natural gas distribution companies across the state, each of which is funded via non-bypassable surcharge rates.⁵ The purpose of non-bypassable funding is to avoid lapses in funding (potentially due to shifting political ideologies). A prime example of the perils of relying upon external funding (such as Federal appropriations) for low income utility assistance occurred in March 2024 when Congress held back 10% of the Commonwealth's LIHEAP block grant funding, forcing the Shapiro administration to stop issuing cash grants prior to the close of the program.⁶

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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.

⁵ 66 Pa. C.S. §§2203(6), 2802(17).

⁶ https://www.media.pa.gov/Pages/DHS_details.aspx?newsid=997. Copy provided as Attachment LH-1-14.

OBJECTION:

The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-15 issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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

OBJECTION:

The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-16 issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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.

OBJECTION:

The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-17 issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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

OBJECTION:

The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-18

issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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

OBJECTION:

The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-19 issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

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.

OBJECTION:

The data request seeks information irrelevant to this proceeding; data of which the Public Advocate is neither a creator nor custodian. The data request is identical to request LH-1-20 issued to the Water Department, requests information from the Water Department, and is improperly posed to the Public Advocate.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

LH-1-21 Please provide any and all written critiques of Dr. Teodoro's work

OBJECTION:

The data request is overly broad and unduly burdensome, seeking "any and all" written critiques regarding an unspecified range of potential subjects and over an undesignated period of years. The information requested is not relevant to, nor reasonably likely to lead to the discovery of relevant information regarding, this TAP-R proceeding irrelevant to this proceeding. The data request is identical to request LH-1-21 issued to the Water Department.

Without limiting the foregoing or the General Objections set forth herein, a robust written critique of Professor Teodoro’s blog post regarding the Tiered Assistance Program can be found in the article “Critique of Philadelphia Water Affordability Program (TAP) Lacks Substance and Makes Fundamental Mistakes.”⁷ As stated therein, this robust critique concludes:

The critique presented by Manny Teodoro of the Philadelphia Water Department’s low-income TAP is replete with factual errors and misstatements. He mistakenly asserts that income-based percentage of income programs inherently have high administrative costs even though the experience with multiple PIPs throughout Pennsylvania indicates to the contrary. He mistakenly asserts that he has identified certain administrative costs for TAP in a time period that was a year-and-a-half before TAP was even approved by City Council. He mistakenly asserts that TAP “required Philadelphia Water to develop specialized software and management processes,” even though PWD reports that it “did not enter into any contractual services for information technology devoted exclusively to TAP.”

He mistakenly asserts that he has identified high levels of administrative costs that “are for TAP alone,” even though PWD has said that it does not “specifically isolate” the administrative costs of TAP, which are simply included as “a portion of the costs within the appropriate City Department/Division.” And he mistakenly asserts that he has identified \$17 million in consultant fees that were paid over a six year period that “are for TAP alone” even though both the City of Philadelphia’s financial statements and PWD’s testimony to the City’s Water, Wastewater and Stormwater Rate Board identify the broad range of services beyond TAP provided by that consultant, including work on PWD’s bonds, financial reporting, and other unspecified “financial consulting services.”

The multitude of factual mistakes, and misrepresentations, that appear in Teodoro’s discussion of Philadelphia’s TAP lead to the conclusion that his discussion cannot reasonably be relied upon as an accurate representation of how Philadelphia’s TAP operates.

RESPONSE PROVIDED BY: Counsel for the Public Advocate

⁷ Available at https://www.fsconline.com/downloads/FSC%20Newsletter/news2023/n2023_0708.pdf. Copy provided as Attachment LH-1-4.

FSC'S LAW & ECONOMICS INSIGHTS

Issue 23-04

Fisher, Sheehan & Colton, Public Finance and General Economics

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Critique of Philadelphia Water
Affordability Program (TAP) Lacks
Substance and Makes Fundamental
Mistakes.

NOTE TO READERS**ON-LINE DELIVERY**

This document presents the bi-monthly electronic newsletter of Fisher, Sheehan & Colton: *FSC's Law and Economics Insights*. Previous issues of the newsletter can be obtained at FSC's World Wide Web site:

<http://www.fsconline.com/new/news.htm>

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**University of Wisconsin Professor Makes
Fundamental Mistakes in Critiquing
Administration of Philadelphia TAP.**

In July 2023, Manny Teodoro published a critique of the Philadelphia Water Department's (PWD's) Tiered Assistance Program ("TAP"), an income-based water rate affordability program unanimously approved by the Philadelphia City Council and operating in Philadelphia since July 2017. The purpose of the discussion below is to take a careful look at the data cited by Teodoro in the formulation of his opinions. While Teodoro may be entitled to his own opinions, he is *not* entitled to his own facts. The opinions expressed by Teodoro in his critique of "income-based rates strateg[ies]" are at odds with facts that are found in easily available public information.

Do Percentage of Income Programs "Inherently" have High Administrative Costs?

The discussion below focuses on Teodoro's "analysis" of TAP's administrative costs. Teodoro's critique asserted that "unfortunately, heavy administrative burdens are *built into the very fabric of TAP.*" (emphasis added). He further asserted that "complexity is *inherent to an income-based rates strategy.*" (emphasis added).

If, and to the extent that Teodoro's observations are correct, it would necessarily follow that *every* Percentage of Income Program (PIP) operated by a public utility would have "heavy administrative burdens." After all, the word "inherent" means that the attribute so characterized is a fundamental part of something. It can be assumed that, as an academic, Teodoro chose his words carefully. According to the Merriam

Webster Dictionary, “inherent” means that the identified attribute is “involved in the constitution or essential character of something.”

In fact, if “heavy administrative burdens” are “built into the fabric” of an income-based program, and are “inherent to an income-based rates strategy,” that would mean that any and every income-based utility rates program would experience that attribute. If Tedoro’s assertion is correct, it would not be the case that some PIPs have high administrative costs while others do not.

Teodoro’s assertion is demonstrably wrong.

Pennsylvania’s Customer Assistance Programs

Consider, for example, the Customer Assistance Programs (“CAPs”) operated by the natural gas distribution companies (“NGDCs”) and electric distribution companies (“EDCs”) in Pennsylvania.¹ The Pennsylvania CAPs are operated pursuant to the Pennsylvania Public Utility Commission’s (“PUC”) “CAP Policy Statement.”² To be consistent with the CAP Policy Statement,

¹ Note that the “CAPs” operated by Pennsylvania’s NGDCs and EDCs refer to programs that are *different* from the “CAP” operated by PWD. The “CAPs” operated by Pennsylvania’s NGDCs and EDCs are the low-income rate discount programs. The “CAP” operated by PWD is a *suite* of programs, including not only PWD’s discount program, but a range of other responses to nonpayment, including but not limited to residential deferred payment plans. The term “CAP” as used by Pennsylvania’s NGDCs and EDCs, in other words, is not interchangeable with the term “CAP” as used by PWD.

² 52 Pa. Code § 69.261–69.267. The CAP Policy Statement was last subject to a comprehensive review in a proceeding resulting in a Final Order in 2019. 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261–69.267, Docket No. M-2019-3012599, Final Policy Statement and Order, September 19, 2019.

an NGDC or EDC may, but need not, adopt a Percentage of Income Program.

At the time the Revised CAP Policy Statement was adopted by the Pennsylvania PUC, some NGDCs and EDCs operated PIPs, while others did not. Since the time that the Revised CAP Policy Statement was adopted, a number of Pennsylvania’s NGDCs and EDCs have converted their low-income rate programs from discounts to PIPs.

Given Teodoro’s assertion that “heavy administrative burdens” are “inherent” to an income-based rate strategy, and his further assertion that such “heavy administrative burdens” are “built into the very fabric” of an income-based rate strategy, it should thus be possible to examine the administrative costs of the low-income affordability programs of Pennsylvania’s NGDCs and EDCs and be able to reach two conclusions:

- It should be possible to determine which NGDC and EDC program is an income-based program and which is not based on the high level of administrative costs for PIPs; and
- It should be possible to determine the point at which an NGDC and/or EDC converted its program from being a discount program to being a PIP through an increase in administrative costs that are “inherent” to PIPs but not to discount programs.

Remember, Teodoro did *not* conclude that PWD could simplify its program because PWD may have introduced unduly complex program elements. His conclusion, instead, was generic, that “heavy administrative burdens” are “inherent” to PIPs and that such burdens are “built into the very fabric” of PIPs.

Data Reporting by Pennsylvania NGDCs and EDCs.

The Pennsylvania PUC’s Bureau of Consumer Services (“BCS”) publishes an annual report on the “Universal Service Program & Collections Performance” of the State’s major NGDCs and EDCs which operate under the direction of the PUC’s CAP Policy Statement. In its most recent annual report (2021, published in December 2022),³ the BCS describes the data reporting as follows:

The Pennsylvania Public Utility Commission’s (PUC’s) Annual Report on 2021 Universal Service Programs and Collections Performance includes data and performance metrics for the seven major Pennsylvania electric distribution companies (EDCs) and the six major natural gas distribution companies (NGDCs), during the 2021 calendar year.

* * *

To assist in fulfilling its universal service obligations, the Commission established standard reporting requirements for universal service and energy conservation for both the EDCs and the NGDCs. The Universal Service and Energy Conservation Reporting Requirements (USRR) became effective Aug. 8, 1998, for EDCs and Dec. 16, 2000, for NGDCs. This data assists the Commission in monitoring the progress of the EDCs and NGDCs in achieving universal service in their re-

³ BCS (Dec. 2022). 2021 Annual Report, Universal Service Program and Collections Performance (hereafter BCS 2021 Annual Report), available at <https://www.puc.pa.gov/filing-resources/reports/universal-service-programs-and-collections-performance-reports/>

spective service territories.⁴

The data presented below is from the BCS Annual Reports for the years 2017, 2019, and 2021.⁵

The fact that these utilities are regulated natural gas and electric utilities rather than a municipal water provider is not relevant to this analysis. Teodoro’s statement was *not* that municipal water providers were not sufficiently sophisticated to operate a Percentage of Income Program. Rather, Teodoro’s statement was that high administrative burdens were “inherent” in income-based rate assistance and were “built into the fabric” of income-based assistance. Teodoro did not offer an opinion that determining income-based utility payments was more difficult for a water utility than it was for an electric or natural gas utility. In fact, for purposes here, the observation that some utilities are water providers, while other utilities are natural gas or electricity distribution companies, is a distinction without a difference.

Finally, the fact that PWD is not regulated by the state PUC is not a meaningful distinction. Philadelphia Water, after all, *is* a regulated utility. Its rates are established only through a litigated rate proceeding.

The Administrative Costs of Pennsylvania’s CAPs.

One data element reported in the BCS Annual Reports is the “Percent of Total CAP Spending by CAP Component.”⁶ The data on the percent-

⁴ BCS 2021 Annual Report, *supra*, at 1 (internal citations omitted).

⁵ Each BCS Annual Report contains multi-year data. The three reports used thus provide continuous data for the years 2016 through 2021.

⁶ The three “CAP Components” include: (1) administrative costs, (2) CAP credits (i.e., the amount of discount), and (3) arrearage forgiveness. See, e.g., BCS 2021 Annual Report, *supra*, at 66 – 67).

age of total administrative costs attributed to each NGDC and EDC is set forth in the Table below. The Table is important not only from what can be seen, but perhaps even more importantly, from what can not be seen.

What can not be seen from the Table is:

- PECO Electric’s conversion from a percentage rate discount to a PIP did not increase its administrative costs. The switch, made in 2016, left PECO Electric’s administrative costs below 5%.
- PPL’s conversion from offering rate discounts to operating as a PIP did not increase its administrative costs.
- Duquesne’s administrative costs operating a bill discount program were virtually identical to nearly all of the PIP utilities. Duquesne has since decided to convert its low-income program to a PIP.

There is no question that there are some Pennsylvania utilities that operate with higher administrative costs than other utilities do. Those higher administrative costs, however, do not revolve around whether the program is a discount or a PIP. NFG, for example, has historically had high administrative costs while operating a discount program. Even though by 2021, NFG had reduced its administrative costs (as a percentage of total program costs) by 50%, that natural gas utility nonetheless still decided to convert its program to a PIP. Similarly, after PECO Gas converted its program from a discount program to a PIP, its administrative costs (as a percentage of total program costs) actually declined.

In contrast, PGW has always operated its program as a PIP, and has consistently had one of the lowest administrative costs (as a percentage of total program costs) of any Pennsylvania utili-

ty (gas or electric). PPL, on the other hand, converted its discount program to a PIP, with no impact on the level of its program’s administrative costs (as a percentage of total program costs).

Whether a program is a PIP or a discount program is intentionally omitted from the Table above. If Teodoro’s assertions are correct, that high administrative costs are inherent to a PIP, and that they are “built into the very fabric” of a PIP, but not into a discount, it should be possible to determine both: (1) which programs are PIPs and which are not; and (2) which utilities converted their programs from discounts to PIPs, by looking at their respective administrative costs. The fact that it is not evident is a demonstration, unto itself, of the fallacy of Teodoro’s assertion.

Teodoro’s “Factual” Observations About Philadelphia’s TAP Administrative Costs

The discussion above raises the question of where the disconnect might lie between reality and Teodoro’s blanket assertion that high administrative burdens are “inherent” in a PIP and are “built into the fabric” of a PIP such as PWD’s low-income assistance program. It is necessary to look at some of the numbers that Teodoro so blithely throws around.

First, Teodoro asserts that “*Beginning in 2015, Philadelphia Water has engaged specialized engineering and financial consulting firms to support the development and ongoing implementation of the rates, charges, and benefits required to run TAP.*” (emphasis added).

Percent of Total CAP Spending by CAP Component (Administrative Costs) (2016 – 2021)						
Electric Distribution Companies						
	2016	2017 ⁷	2018	2019 ⁸	2020	2021 ⁹
Duquesne	8% ¹⁰	7.0%	6.4%	5.8%	6.8%	5.0%
Met-Ed (FirstEnergy)	9%	9.4%	8.4%	9.5%	8.6%	7.2%
PECO-Electric	3%	4.4%	4.5%	5.3%	4.3%	4.0%
Penelec (FirstEnergy)	10%	9.8%	8.7%	10.1%	8.1%	7.3%
Penn Power	11%	11.4%	9.5%	10.8%	9.1%	7.8%
PPL	3%	4.2%	4.9%	4.5%	3.8%	3.4%
West Penn Power (FirstEnergy)	7%	8.2%	7.0%	9.6%	8.5%	8.4%
Weighted average (electric)	4.96%	5.9%	5.8%	6.2%	5.6%	5.0%
Natural Gas Distribution Companies						
	2016	2017	2018	2019	2020	2021
Columbia	8%	6.1%	2.9%	3.5%	4.4%	3.1%
NFG	20%	18.9%	16.4%	17.1%	13.6%	10.2%
PECO-Gas	18%	21.7%	19.1%	18.2%	14.4%	16.6%
Peoples	16%	13.5%	7.6%	7.8%	10.5%	7.4%
Peoples-Equitable	22%	15.7%	4.7%	6.2%	N/A	N/A
PGW	3%	2.9%	4.4%	5.2%	2.3%	1.5%
UGI Gas	---	---	---	N/A	5.6%	6.2%
UGI South	10%	7.6%	6.3%	6.4%	N/A	N/A
UGI North	10%	8.3%	8.4%	7.2%	N/A	N/A
Weighted average (natural gas)	6.79%	6.3%	5.1%	5.9%	4.7%	3.5%

⁷ 2016 and 2017 data was obtained through the BCS 2017 Annual Report on Universal Service Program and Collections Performance, at 59.

⁸ 2017, 2018 and 2019 data was obtained through the BCS 2019 Annual Report on Universal Service Program and Collections Performance, at 60 -61. If data for two years was provided in two different reports, and the data differed between reports, the data from the most recent report is used.

⁹ 2019, 2020 and 2021 data was obtained through the BCS 2021 Annual Report, supra, at 70-71.

¹⁰ The 2016 data reported by BCS was rounded to the nearest whole percentage point.

Teodoro asserts that his observations are based on financial statements from the City of Philadelphia, PWD's annual TAP report to the Mayor, and "Philadelphia Water's filings with the city's Rates Board."¹¹ Based on that, we know that he is working with Fiscal Year (not Calendar Year) data. Philadelphia does not publish financial statements on a calendar year basis. Accordingly, Teodoro's statement is that beginning in Fiscal Year 2015 (July 2014 – June 2015), PWD engaged specialized firms to help design TAP.

That statement by Teodoro is particularly interesting given that Philadelphia's TAP was only approved by the Philadelphia City Council on November 19, 2015, nearly six months after Fiscal Year 2015 *ended*. The legislation, unanimously adopted by the Philadelphia City Council (Bill No. 140607, amending Philadelphia Code sec. 19-1605), was not signed into law until December 1, 2015, nearly six months *after* the close of the Fiscal Year where Teodoro claimed to find his first expenditures "required to run TAP." For the expenditures "required to run TAP" that Teodoro claims he found in the FY2015 City financial statements to be in the City's budget, of course, they would have been

¹¹ In fact, the annual TAP reports filed with the Mayor do not include discussions of TAP costs. The 2022 Annual TAP Report can be found here: <https://www.phila.gov/media/20230526113411/Tiered-Assistance-Program-TAP-2022-annual-report.pdf> Moreover, the "financial statements" referenced by Teodoro were those included at this URL: <https://www.phila.gov/departments/department-of-revenue/reports/> Teodoro's own citation, in other words, demonstrates that he reviewed neither the City's Operating Budget nor its audited financial statements. PWD's filings with the Water, Wastewater and Stormwater Rate Board are discussed in more detail below.

approved by City Council in the Spring of 2014 (given that FY2015 runs from July 1, 2014 through June 30, 2015), *nearly a year and a half before TAP was even created* by City Council.

Second, Teodoro explicitly asserts income-based rates are "exceptionally complex and expensive to administer. . . Implementing TAP required Philadelphia Water to develop specialized software and management processes." He continues to state with respect to the costs he identifies "These expenses are for TAP alone."

It is interesting that Teodoro was able to identify expenses regarding the need to "develop specialized software" and that these costs were "for TAP alone." In its 2023 rate case before the Philadelphia Water, Wastewater, and Stormwater Rate Board, PWD was asked by the City of Philadelphia's Public Advocate (which represents the interests of residential and small commercial ratepayers) to provide "a copy of all third party contracts with an entity outside PWD entered into since January 2017: (a) regarding information technology devoted exclusively to customer assistance programs and/or TAP; (b) . . .; and (c) regarding eligibility verification devoted exclusively to customer assistance programs and/or TAP."

PWD's response was that "PWD/WRB¹² did not enter into any contractual services for information technology devoted exclusively to TAP."

In addition to reporting on these non-existent expenses to develop software that "are for TAP alone," Teodoro states that "City budget documents show that Philadelphia Water has also spent more than \$1.4 million in advertising *and*

¹² The Water Revenue Board (WRB) is the department of the City of Philadelphia responsible for collecting PWD bills.

contracts with community organizations to assist with outreach for TAP.” (emphasis added). Again, it is interesting that Teodoro not only purports to know of the *existence* of such “contracts with community organizations to assist with outreach,” but purports to know *the dollar amount* of those contracts. When specifically asked in its 2023 rate case for “all third party contracts” entered into since January 2017 regarding outreach and intake, PWD explicitly replied “the City utilized the following vendors for TAP outreach: (i) Philadelphia Metro, (ii) Philadelphia Tribune; (iii) Al Dia, (iv) Radio-One, (v) Iheartmedia, (vi) KYW, and (vii) SEPTA.” Not one single “contract with community organizations to assist with outreach” existed in the time period of January 2017 through Spring of 2023.

It is perplexing how, even though PWD states that there were no contracts “with community organizations to assist with outreach,” Teodoro unequivocally states that he somehow knows not only that these contracts *do* exist, but also that he knows the *dollar value* of such contracts.

Third, Teodoro asserts that he has quantified the specific administrative costs associated with TAP. Remember, he states with respect to the costs he identifies, “These expenses are for TAP alone.” He asserts that Philadelphia Water has spent an average of \$313 in administrative expenses to deliver an average of \$623 in benefits to each TAP participant each year—an administrative overhead rate of more than 50%.”

It is interesting that Teodoro was able to identify the specific dollar amount of administrative costs associated with TAP. Not even PWD does that. In its 2023 rate case, the City’s Public Advocate, which represents the interests of residential and small commercial ratepayers, asked PWD to “identify the specific dollar amount of administrative costs for Customer Assistance Programs *budgeted*, disaggregated by: (a) wag-

es; (b) benefits; (c) overhead (indicating how overhead was calculated); (d) information technology; (e) contingency (indicating how the contingency was calculated); (f) other (identifying with specificity what the ‘other’ is); and (g) the total of all administrative costs.”

PWD replied, stating that, “The Customer Assistance Program administrative costs are not specifically isolated within the Water Fund Budget, as they are a portion of the costs within the appropriate City Department/Division and class of cost.” Moreover, when asked for information on the same cost categories for *actual* costs (not merely budgeted costs), PWD again provided the same response, that those “administrative costs are not specifically isolated within the Water Fund Budget.”

Indeed, when asked for the “specific dollar amount of Customer Assistance Program administrative costs currently being collected in PWD base rates” broken down by these same categories,¹³ PWD again responded that “The Customer Assistance Program administrative costs are not specifically isolated in the cost of service analysis, they are a portion of the costs within the appropriate City Department/Division and class of cost.”

And yet, at the same time that PWD is stating that “the Customer Assistance Program administrative costs are not specifically isolated,” Teodoro is stating that he has not only identified the administrative costs for PWD’s Customer Assistance Program, but he has somehow identified

¹³ The categories of costs requested included: (a) wages; (b) benefits; (c) overhead (indicating how overhead was calculated); (d) information technology; (e) contingency (indicating how the contingency was calculated); (f) other (identifying with specificity what the ‘other’ is); and (g) the total of all administrative costs.

the *portion* of CAP administrative costs that “are for TAP alone.” Remember TAP is not a stand-alone program operated by PWD, but is instead but one sub-component of PWD’s suite of programs known in total as “CAP.”

Fourth, Teodoro makes the unequivocal statement that “City budgets show that, *since the program’s inception, Philadelphia Water has spent more than \$17 million in contracted services in support of TAP.* . . . These expenses are for TAP alone.” (emphasis in original).

It is interesting that Teodoro has been able to identify the dollar amounts of “contracted services” that were “in support of TAP” and were “for TAP alone” from “city budgets.” One of PWD’s primary contractors is a firm called Raftelis Financial Consulting (“Raftelis” or “RFC”). RFC’s Project Manager Jon Davis’ *vitae* states that Raftelis has a “long-term contract to provide financial and management consulting services for the Philadelphia Water Department (PWD). . . . As *part* of the same engagement, RFC is identifying and evaluating affordability programs including customer assistance and rate structure alternatives.” (emphasis added).

The Raftelis work, as characterized by RFC’s own Project Manager, was not “for TAP alone,” but involved looking at “rate structure alternatives.” Even *that* work was only “part” of Raftelis’ work for PWD. Moreover, Mr. Davis continues to state that he served as Project Manager “for a management audit of customer service functions for PWD and the Water Revenue Bureau (WRB).”

Similarly, in the January 2023 testimony Raftelis provided in support of PWD’s 2023 rate case, RFC witness Henrietta Locklear noted that she “manages *several efforts* for Raftelis’ engagements with Philadelphia Water Department. These *include* the development of the City’s af-

fordability program *and* a management study of the utility’s meter-to-cash operation *and* annual reporting efforts to support the department’s financial planning and cost-of-service studies.” Locklear said that “she oversaw the review of customer service and billing processes as well as a detailed analysis of the utility’s billing system.” Locklear noted finally that she “is also assistant project manager for Raftelis’ multi-year engagement with the Department to provide financial consulting services.”

Aside from Raftelis’ own descriptions of how its work on “affordability programs” is but one part of its work for PWD, one can also obtain insight into Raftelis’ work, as well as the money it has been paid, from the City of Philadelphia’s annual Operating Budgets adopted by City Council. Teodoro asserts that he obtained his dollar figures from the City of Philadelphia’s own financial reports, though he declined to identify which reports he purportedly relied upon (and the URL he provided included neither the City’s annual operating budget nor its audited financial statements).¹⁴ In fact, the City’s annual Operating Budgets show that Teodoro’s dollar figures are not simply misrepresented, they show that his figures are simply wrong.

The Fiscal Year Operating Budgets for Philadelphia provide as shown in the Table below. There is no question but that PWD paid Raftelis substantial sums of money from FY2016 through FY2022, more than \$15.5 million. However, Teodoro’s assertion that these fees were “in support of TAP,” let alone that these fees were “for TAP alone,” is wrong.

¹⁴ Indeed, the *only* documents provided at the URL cited by Teodoro that contains TAP-related information are the annual TAP reports provided to the Mayor. These reports, however, do not include any TAP financial information, administrative or otherwise.

Actual Obligations by Fiscal Year (and purpose or scope of service provided) (FY2017 – FY22)			
Fiscal Year	Contractor	Actual Obligation	Purpose or scope of service provided
2016	Raftelis	\$541,131	IWRAP implementation. Costs Bond Eng. / Affordable Rates, Reporting
2017	Raftelis	\$2,804,363	IWRAP implementation costs. Bond Engineering/Affordable Rates, Reporting.
2018	Raftelis	\$3,600,000	IWRAP, Basis 2 Financial Report, and Other Financial Consulting Services.
2019	Raftelis	\$3,080,000	TAP / CAMP support and Basis 2 Reporting
2020	Raftelis	\$2,400,000	TAP / CAMP support and Basis 2 Reporting
2021 ¹⁵	Raftelis	\$2,000,000	TAP / CAMP Support and Basis 2 Reporting.
2022 ¹⁶	Raftelis	\$1,100,000	TAP / CAMP support and Basis 2 reporting (COS)
Total		\$15,525,494	

¹⁵ Estimated as reported in Fiscal Year 2022 Operating Budget.

¹⁶ Estimated as reported in Fiscal Year 2023 Operating Budget.

- In FY2016, Raftelis’ work included work not only on “IWRAP implementation,”¹⁷ but also on supporting PWD’s bonds, and “reporting.” Remember that Ms. Locklear (quoted above) stated that her work for PWD included “a management study of the utility’s meter-to-cash operation and annual reporting efforts to support the department’s financial planning and cost-of-service studies.”
- In FY2017, in addition to IWRAP implementation, Raftelis’ work included “bond engineering” and reporting.
- In FY2018, in addition to its IWRAP work, Raftelis’ work included its continuing work on Basis 2 Financial Report(ing), and “other financial consulting services.”

Even in Fiscal Year 2019 through Fiscal Year 2022, Raftelis’ work was not limited to TAP, but also included work on PWD’s broader new customer service initiatives. The reference to “CAMP,” for example, is a reference to the City’s workflow and reporting software for the customer assistance program unit as a whole, not merely TAP. As PWD expanded its customer assistance initiatives (of which TAP was only one), there was a need to allow CAMP to draw detailed usage, billing, and payment data from the City’s water billing system, Basis2. Moreover, the Basis2 reporting, as noted in the City’s Operating Budget, was not in furtherance of TAP, but rather was in support of PWD’s cost-

¹⁷ PWD’s affordable rate program was called the Income-based Water Rate Affordability Program (IWRAP) in the legislation adopted by City Council. It subsequently became operationally known as TAP (the Tiered Assistance Program).

of-service studies (pursued for ratemaking purposes).

In short, it is not merely misleading, but it is factually inaccurate, for Teodoro to assert that the expenditures of PWD on CAMP, which were made in support of PWD’s broad effort to improve and expand its customer service efforts, involved expenditures “for TAP alone.” Moreover, it is puzzling why Teodoro would unequivocally assert that payments to Raftelis were “for TAP alone” when the City’s Annual Operating Budgets explicitly state to the contrary.¹⁸

Summary and Conclusions

The critique presented by Manny Teodoro of the Philadelphia Water Department’s low-income TAP is replete with factual errors and misstatements. He mistakenly asserts that income-based percentage of income programs inherently have high administrative costs even though the experience with multiple PIPs throughout Pennsylvania indicates to the contrary. He mistakenly asserts that he has identified certain administrative costs for TAP in a time period that was a year-and-a-half before TAP was even approved by City Council.

He mistakenly asserts that TAP “required Philadelphia Water to develop specialized software and management processes,” even though PWD reports that it “did not enter into any contractual services for information technology devoted exclusively to TAP.” He mistakenly asserts that he has identified high levels of administrative costs that “are for TAP alone,” even though PWD has

¹⁸ One cannot tell from Teodoro’s discussion, of course, whether he cited the financial documents knowing that they did not support his assertion, or whether he merely cited those documents not knowing one way or the other whether they supported his assertions.

said that it does not “specifically isolate” the administrative costs of TAP, which are simply included as “a portion of the costs within the appropriate City Department/Division.” And he mistakenly asserts that he has identified \$17 *million* in consultant fees that were paid over a six year period that “are for TAP alone” even though both the City of Philadelphia’s financial statements and PWD’s testimony to the City’s Water, Wastewater and Stormwater Rate Board identify the broad range of services beyond TAP provided by that consultant, including work on PWD’s bonds, financial reporting, and other unspecified “financial consulting services.”

The multitude of factual mistakes, and misrepresentations, that appear in Teodoro’s discussion of Philadelphia’s TAP lead to the conclusion that his discussion cannot reasonably be relied upon as an accurate representation of how Philadelphia’s TAP operates.

Persons interested in more information about the operation and impacts of the Philadelphia Water Tiered Assistance Program (TAP) can write for more information at:

roger [at] fsconline.com

Fisher, Sheehan and Colton, Public Finance and General Economics (FSC) provides economic, financial and regulatory consulting. The areas in which *FSC* has worked include energy law and economics, fair housing, local planning and zoning, energy efficiency planning, community economic development, poverty, regulatory economics, and public welfare policy.

(<https://www.media.pa.gov>)

(<http://www.media.pa.gov/Pages/DHSges/DHS.aspx>)

> Details

Shapiro Administration Announces Plan For \$21 Million Gap In Federal Funding For Low-Income Home Energy Assistance Program (LIHEAP), Temporarily Pauses Cash Payments, Crisis Grants Remains Available

03/15/2024

Harrisburg, PA – Department of Human Services (DHS) Secretary Dr. Val Arkoosh today outlined the Shapiro Administration's plans to continue distributing LIHEAP assistance grants to Pennsylvanians while the Commonwealth waits for the remaining 10 percent of federal funding for the program currently being held back by Congress.

Starting today, March 15, 2024, DHS will only issue LIHEAP **Crisis payments** and will pause issuing LIHEAP **Cash payments** until the additional funding is received. DHS is prioritizing LIHEAP Crisis benefits to ensure the individuals most at risk do not lose essential home energy services. DHS will continue to accept and process **all** applications for LIHEAP and is not planning to shorten the LIHEAP season, which remains open through April 5, 2024.

LIHEAP is a federally funded program administered by DHS that helps with home heating bills through Cash and Crisis grants so Pennsylvanians with low incomes can stay warm and safe during the winter months. This change to LIHEAP disbursements is necessary because the United States Department of Health & Human Services (HHS) is not authorized to distribute the remaining 10 percent of FFY 2024 LIHEAP funding to states until Congress passes HHS's appropriation legislation. The 10 percent gap in funding totals approximately \$21 million of LIHEAP funds for Pennsylvania.

"LIHEAP is a resource that helps many of our fellow Pennsylvanians make ends meet by providing Cash or Crisis grants directly to households or their utility provider," said **Secretary Arkoosh**. "I want to assure people that this temporary funding gap will be resolved, and the LIHEAP season is not closed. Once we receive the remaining funds, we will continue to assist individuals in need until the end of the season. If you or someone you know needs help or could benefit from this program, I still encourage you to apply for LIHEAP today."

LIHEAP is funded through a federal block grant with 90 percent of the entire block being paid to states at the start of each season. Traditionally, congressional approval for the remainder of LIHEAP funds is granted at the end of January and DHS receives the funds in February or early March. During this contingency period, DHS will closely monitor the current balance available to ensure funds will sustain all approved LIHEAP Crisis payments until the remaining 10 percent of federal funding is received. DHS will also continue to process LIHEAP Cash applications, but payment issuances and approval eligibility notices will be held.

LIHEAP Cash and Crisis payments for most households are distributed directly to a household's utility company or home heating fuel provider in the form of a grant. Households do not have to repay assistance. The LIHEAP Crisis grant is for people who meet the income limits and are in jeopardy of having their heating utility service terminated, have broken heating equipment, have already had their heating utility service terminated, or who are out of or have less than two weeks' worth of deliverable fuel, such as fuel oil, propane, coal, or wood. The minimum LIHEAP Crisis grant is \$25, and the maximum Crisis grant is \$1,000. Once federal legislation is passed, DHS will issue approved LIHEAP Cash grants; the minimum LIHEAP Cash grant is \$300, and the maximum Cash grant is \$1,000.

The 2023-2024 Low Income Home Energy Assistance Program (LIHEAP) opened on November 1, 2023, and is scheduled to close April 5, 2024. As of March 2, 2024, a total of 449,605 LIHEAP Cash applications and 98,657 LIHEAP Crisis requests were received, 269,541 LIHEAP Cash applications and 63,567 LIHEAP Crisis requests were approved, and 18,323 Cash applications and 350 Crisis requests are pending.

During the 2022-2023 LIHEAP season, 312,169 households statewide received \$125,572,518 in LIHEAP Cash benefits, and these households received an average season benefit of \$402. More than 135,000 households statewide received \$98,923,752 in LIHEAP Crisis benefits, and these households received an average payment of \$688.

Pennsylvanians can apply for LIHEAP and other public assistance programs online at dhs.pa.gov/COMPASS

(<http://www.compass.state.pa.us/>)

or by

(<https://www.dhs.pa.gov/Services/Assistance/Pages/Apply-for-Benefits.a>

[submitting a paper application](https://www.dhs.pa.gov/Services/Assistance/Pages/Apply-for-Benefits.a)^{spx})

(<https://www.dhs.pa.gov/Services/Assistance/Pages/CAO-Cont>

to your local [county assistance office](https://www.dhs.pa.gov/Services/Assistance/Pages/CAO-Cont)^{act.aspx})

by fax, mail or in person. Pennsylvanians do not need to know their own eligibility to apply for these programs. Those who have applied and were denied previously but have experienced a change in circumstances can reapply. The 2023-2024 LIHEAP season is scheduled to close April 5, 2024.

More information about LIHEAP is available at

www.dhs.pa.gov/liheap

(<https://www.dhs.pa.gov/liheap>)

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