

BEFORE THE
PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD

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

MAIN BRIEF
OF THE PUBLIC ADVOCATE

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I. INTRODUCTION

The Philadelphia Water Department (PWD) has proposed to increase its TAP-R rates to recover discounts associated with a surge in TAP enrollment due to the prequalification of a significant number of PWD customers by the City’s Office of Integrated Data for Evidence and Action (“IDEA”). PWD and the Public Advocate have submitted a Joint Petition for Settlement which substantially reduces PWD’s proposed TAP-R rates for the next rate period.¹ As set forth in the Joint Petition, the proposed settlement resolves all of the pertinent issues in this proceeding and is overwhelmingly in the public interest as it reduces the TAP-R rates paid by all non-TAP retail customers and commits PWD to efforts to assist TAP participants with reducing high usage and, correspondingly, future TAP discounts.²

This brief addresses other matters raised on the record of this proceeding, which despite their irrelevance, warrant robust response. Namely, this brief rejects insinuations by Lance Haver regarding the administrative costs associated with TAP and their origin in the fundamentally flawed analysis in a blog post by University of Wisconsin-Madison Professor Manuel P. Teodoro. Furthermore, this brief responds to suggestions Haver has made regarding seeking external funding to cover the costs of discounts provided to TAP participants.

II. TAP ADMINISTRATIVE COSTS

During the technical hearing and via discovery requests, Haver sought information regarding the administrative costs of TAP, specifically focusing on PWD’s cost to enroll TAP customers.³ As explained in the Public Advocate’s Objections and Partial Responses to Haver’s

¹ As of the writing of this Main Brief, the Public Advocate anticipates the Philadelphia Large Users Group will not oppose the proposed settlement.

² Water conservation is an important issue and was the subject of significant attention in the Public Input Hearing. Pub. Hrg. Tr. at 73-70. PWD and the Public Advocate agreed that the proposed settlement should advance efforts to help TAP participants conserve water.

³ Tech. Hrg. Tr. at 154-156, 233-235; LH -1-4, 6-9. Note that all references herein to Haver data requests refer to the set issued to the Public Advocate on May 7, 2024.

data requests, enrollment costs are not recovered through the TAP-R and so are irrelevant to the TAP-R rates to be determined in this proceeding.⁴ Moreover, Haver's desire for this information is apparently rooted in Teodoro's inaccurate blog post, which purports to identify inherently high administrative costs associated with TAP and, more broadly, with percentage of income payment programs (PIPPs) in general. In contrast, as recognized by individuals who testified at public input hearings, the IDEA prequalification process, through which more than 34,000 new TAP participants have been enrolled, entails a reduced administrative burden for customers and city employees.⁵

As explained in the responsive analysis of Roger D. Colton, filed as Attachment LH-1-4, Teodoro was either ignorant of, or simply disregarded, the entire record of the most recent PWD base rate proceeding, instead endeavoring to utilize City financial statements, budgets, and PWD's annual reports to City Council to support his beliefs about TAP. Indeed, as part of his analysis, Teodoro assumed that the entirety of funds budgeted for Raftelis Financial Consultants (RFC) were for TAP and TAP alone, despite the fact that RFC has assisted PWD with a number of non-TAP functions.⁶ Moreover, Teodoro purports to identify TAP expenses prior to City Council's passage of the ordinance authorizing the program's creation, and more than two years before the program officially launched.⁷ If, instead of drawing erroneous inferences from budgets and financial statements, Teodoro consulted the record of the 2023 General Rate Proceeding, he would have learned that PWD does not isolate administrative costs for TAP in the

⁴ Objection/Response to LH-1-4.

⁵ See, e.g., Pub. Hrg. Tr. at 23 (Testimony of Aleo), 47-48 (Testimony of Whitfield), 75-76 (Testimony of Desjardins).

⁶ Attachment LH-1-4 at 8.

⁷ Attachment LH-1-4 at 6.

Water Fund budget and so there is no single expense category that is reflective solely of TAP administrative costs.⁸ As Colton states:

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.

Furthermore, the notion that a PIPP is inherently administratively burdensome and/or costly is readily disproven based on information published annually by the Pennsylvania Public Utility Commission (PUC). Indeed, the PUC’s annual Universal Service Program & Collections Performance reports demonstrate that, year after year, comparing the administrative costs of electric distribution and natural gas distribution companies associated with the operation of Customer Assistance Programs (CAP), PGW’s allocable costs are the lowest. PGW has consistently operated its CAP as a PIPP that is substantially analogous to PWD’s TAP program. As Colton discusses, other utilities that have switched their program designs in order to administer PIPPs have not experienced increased administrative costs.⁹

Finally, it should not be overlooked that the City Council ordinance directing the establishment of the TAP program specifically requires that applicants be provided the most affordable rate option.¹⁰ As a consequence, the entire administrative process associated with reviewing and enrolling an applicant in the most affordable rate option cannot be solely attributed to TAP. Indeed, for some customers, an application results in enrollment in the Senior Discount Program, TAP, a long-term repayment arrangement, or some combination of programs.

As Colton concludes, Teodoro’s critique is “replete with factual errors and misstatements” and, as a consequence, “his discussion cannot reasonably be relied upon as an accurate representation of how Philadelphia’s TAP operates.” Although administrative costs are

⁸ Attachment LH-1-4 at 7; Objection/Response to LH-1-4.

⁹ Attachment LH-1-4 at 4-5.

¹⁰ See Tech. Hrg. Tr. at 91 (discussing Philadelphia Code §19-1605(3)(c)).

not part of the discount costs recovered through the TAP-R rates, and so are not relevant to the Board's determination of those rates, it is important that the Board, and the public, have a clear understanding that Teodoro's criticism is unfounded.

III. EXTERNAL FUNDING OF TAP

During the technical hearing and via discovery requests, Haver sought to explore whether non-ratepayer funding could support TAP and thereby reduce the bill impacts of the program on non-TAP retail customers.¹¹ As with TAP administrative costs, these considerations are not relevant to this TAP-R proceeding, which adjusts the previously approved TAP-R rates based on historical and estimated cost and usage data. However, the Public Advocate can anticipate the likely ramifications of relying upon external funding sources, as Haver suggests. Moreover, the Board, and the public, should be informed that ratepayer funding of low-income customer assistance programs, like TAP, is widely accepted and advantageous to customers and the utility.¹²

CLS has more than four decades of consumer advocacy experience regarding the adoption, improvement, and support of low income utility assistance programs in collaboration with allies in Pennsylvania and across the nation, all of which are united in support of consistent and predictable cost recovery for low income programs. Indeed, a widespread coalition of consumer, environmental and community justice advocates joined in proposing a set of policies designed to advance access to utility service as a human right, and specifically endorsed ratepayer cost recovery as a matter of equity:

The cost of ensuring all residential customers can remain connected to utility service should be socialized among all rate classes, including commercial and industrial rate classes. Universal contribution to utility service cost recovery recognizes the societal

¹¹ Tech. Hrg. Tr. at 152, 183, 232-233, 254; LH-1-13, 14.

¹² Pub. Hrg. Tr. at 38-39.

benefit that follows universal access to utility service, including protection of public health and safety and reductions in homelessness.¹³

In contrast, as explained in response to Haver’s discovery, the ability to rely upon external funding sources injects political risk into program funding.¹⁴ As Federal, State and Local budgets and appropriations are not unlimited, there is an inherent need to identify spending priorities and a political push-and-pull that preferences some programs and disadvantages others. Indeed, advocates annually urge congress to increase LIHEAP funding which, like the Weatherization Assistance Program (WAP), has historically been inadequate to meet the need.¹⁵ In some years, advocates accept level funding as a win because proposed appropriations include significant cuts. The political risk associated with reliance upon non-ratepayer funding was manifest in Pennsylvania’s LIHEAP program *this year*, when Congressional inaction threatened funding and caused Governor Shapiro’s office to suspend awarding cash grants to low income households.¹⁶

Ultimately, ratepayer funding of low income customer assistance programs is not intended to serve as an anti-poverty program, contrary to Haver’s suggestions. Such funding certainly can help the low income customer, as the Public Advocate’s witness, Lafayette K. Morgan, Jr., observes.¹⁷ But low income customer assistance programs overseen by the PUC, like TAP, are alternatives to traditional collection methods for low income customers.¹⁸ In other

¹³ See, e.g., *Implementing a Roadmap to Utility Service as a Human Right*, available at: https://www.nclc.org/wp-content/uploads/2022/09/IB_Utility_Bill_of_Rights.pdf.

¹⁴ Objection/Response to LH-1-14.

¹⁵ See, e.g., Access to Utility Service: Disconnections, Metering, Payment, Telecommunications, and Assistance Programs, National Consumer Law Center (6th ed.) §7.3.2.2 (“In 2009, Congress appropriated the authorized funding of \$5.1 billion for federal energy assistance, but the program has declined since then—more than 30% in recent years.... Between fiscal years 2010 and 2013, the number of households receiving federal energy assistance has decreased by 17%, during a time when energy costs have been at a historically high level.”); see also <https://neada.org/served-eligible2022/>.

¹⁶ Attachment LH-1-14.

¹⁷ Tech. Hrg. Tr. at 230.

¹⁸ Objection/Response to LH-1-12; see, e.g., 52 Pa. Code §69.261.

words, they are designed and implemented with a goal of improving collections outcomes by delivering affordable bills and reducing the amount of indebtedness low income customers have and will incur under traditional rate designs. Indeed, the prime sponsor of the City Council legislation authorizing TAP explained that she was motivated by water debt to introduce the bill: “When I got elected, 20 percent of the water debt was in my district, and I only represent 10 percent of [Philadelphia].”¹⁹

Studies have repeatedly shown that programs like TAP improve payment patterns and reduce bad debt.²⁰ Indeed, a recent study of Philadelphia’s TAP indicates it is fulfilling these purposes:

The primary purpose of Philadelphia’s TAP initiative was to make bills affordable for low-income customers. The program is succeeding in accomplishing that goal. It begins with a population of low-income customers, nearly 100% of whom are behind on their bills. These are not small arrears, but rather arrears that reach thousands of dollars per customer on average. Upon entering TAP, the level of arrears dramatically drops. Consistently, only 25% of TAP participants have arrears that are 120 days old (or more). Indeed, while Philadelphia Water receives between 70 and 80 payments for every 100 bills it issues, it is receiving payments of 85% of the revenue it bills. In fact, Philadelphia Water receives more payments in 12 months from TAP participants than it received from low-income non-participants over a period of six to eight years.²¹

Although other resources for low income customers could aid in paying their water bills, ratepayer funded discounts provide certainty and consistency by which the important legislative and financial objectives of the program can continue to be satisfied.

¹⁹ April 9, 2015 Philadelphia City Council Finance Committee Hearing tr. at 17 (Statement of Councilmember Sanchez).

²⁰ See, e.g., Access to Utility Service: Disconnections, Metering, Payment, Telecommunications, and Assistance Programs, National Consumer Law Center (6th ed.) §7.2.1 (“[T]hese programs have proven to be effective in reducing arrearages, disconnection, and reconnection, the reduction of which is beneficial for the customer as well as the utility.... Evaluations of these programs measure savings obtained through implementing the program: savings on avoided arrearages, disconnect fees and debt, and reconnect fees and debt.”).

²¹ Roger F. Colton, “Data Developed in 2023 Philadelphia Water Department Rate Case Shows Success of PWD’s Tiered Assistance Program (TAP)” available at: https://www.fsconline.com/downloads/FSC%20Newsletter/news2023/n2023_0506.pdf.

Finally, as was discussed in the 2023 General Rate Proceeding, revenues from non-ratepayer sources can constitute “project revenues” under PWD’s 1989 General Bond Ordinance. The City’s Budget Office has cautioned that transfers from the General Fund to the Water Fund may be seen as negative to PWD’s bond holders and the credit rating agencies due to the legal commitment regarding the sufficiency of project revenues.²² In contrast, however, grants solely in aid of construction are not considered project revenues and so bypass the flow of funds utilized to determine revenue sufficiency.²³ It was for precisely this reason that the Public Advocate sought and received commitments from PWD to seek capital funding for stormwater remediation projects in the 2023 General Rate Proceeding.

IV. CONCLUSION

The Public Advocate respectfully submits that, although irrelevant to the TAP-R rates, the Board, and the public generally, should not, based on all of the information discussed herein, find that TAP administrative costs are concerning. Likewise, the Board, and the public generally, should continue to support funding TAP discounts via the TAP-R rates.

²² See April 14, 2023 Responses Re: March 29, 2023 Finance Budget Hrg, available at: https://phlcouncil.com/wp-content/uploads/2023/04/City-Council-FY24-Budget-Questions_Finance-KGR-responses.pdf.

²³ Objection/Response to LH-1-13; see also Response to PA-X-22 (2023 General Rate Proceeding).