

**BEFORE THE  
PHILADELPHIA WATER, SEWER, AND STORM WATER RATE BOARD**

**In the Matter of the Philadelphia Water Department's Proposed Change in Water, Wastewater, and Stormwater Rates and Related Charges : Fiscal Years 2026 – 2027 Rates and Charges to Become Effective September 1, 2025 and September 1, 2026**

**ANSWER IN OPPOSITION TO HAVER MOTION  
SEEKING TO COMPEL STATEMENTS BY THE PUBLIC ADVOCATE**

On April 17, 2025, participant Haver submitted a motion captioned “Motion to Provide the Public with Accurate Information,”<sup>1</sup> contending, among other things, that the Public Advocate does not represent the public. The Motion argues that the Public Advocate’s past determinations to enter into proposed settlements with the Philadelphia Water Department have been inappropriate. Finally, the Motion falsely suggests that the Public Advocate has committed unlawful acts, and seeks to compel the Public Advocate to make certain statements.

As a threshold matter, the Board has repeatedly considered Haver’s criticisms of the Public Advocate’s services and found them to be without merit. As the Board concluded:

We have previously found that Mr. Haver’s criticisms of how CLS has fulfilled its contractual responsibilities as Public Advocate are incorrect and unsupported by the record....

As we have found repeatedly, there is no basis for these unwarranted allegations, based on mischaracterized facts and false insinuations, directed to the Public Advocate....  
Going forward, such baseless attacks will be dismissed.<sup>2</sup>

Likewise, on appeal of the Board’s 2022 Special Rate Proceeding determination, Haver reiterated his criticisms of the Public Advocate. The Court of Common Pleas, upon consideration of his

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<sup>1</sup> The motion consists of a series of introductory “whereas” clauses and a single paragraph describing the relief sought, namely, that the Public Advocate “be required to follow the law” and make certain statements at public meetings. The Public Advocate has chosen not to respond to many of the “whereas” clauses, which largely repeat Haver criticisms the Board has previously found to be unwarranted.

<sup>2</sup> Phila. Water, Sewer and Storm Water Rate Board, 2022 Special Rate Proceeding Determination at 23 (June 15, 2022).

motion to remove counsel for the Public Advocate and the Public Advocate's answer thereto, denied the motion for lack of merit.<sup>3</sup>

Both the Board and the Common Pleas Court have considered and rejected Haver's claims. The Board would be justified to conclude, without necessity of response by the Public Advocate or others, that Haver's claims are precluded at this time. Nonetheless, the Public Advocate addresses the substance of Haver's claims in the paragraphs that follow.

Pursuant to the Regulations of the Philadelphia, Water, Sewer and Storm Water Rate Board, the Public Advocate is appointed by City contract to "to represent the interests of Small User Customers."<sup>4</sup> The Public Advocate is obligated to represent the interests of small users as a group in maintaining vital water services at just and reasonable rates. The Public Advocate is entrusted to exercise its independent judgment, taking into consideration all information available on the record, including public input, to develop both its approach to the proceeding and the positions it ultimately takes. As part of those duties, the Public Advocate participates in settlement discussions with the goal of advancing the interests of small user customers as a group.

The Public Advocate has at all times accurately described its role, fulfilled its obligations to represent the interests of small user customers, and participated in settlement negotiations, when applicable. The Public Advocate has faithfully and lawfully represented the interests of small user customers pursuant to its contract.

The Motion fails to accurately describe the recent history of the Public Advocate's service. The Motion's description of past settlement proposals fails to recognize that the Public Advocate has only once entered into a proposed settlement in a General Rate Proceeding since the Board's establishment, in the 2021 General Rate Proceeding. The Public Advocate fully litigated the 2016, 2018, and 2023 General Rate Proceedings before the Board.<sup>5</sup> Furthermore, the Public Advocate appealed the Board's 2018 General Rate Proceeding determination, first to the Court of Common Pleas and then to the Commonwealth Court, securing a decision partially vacating and remanding the matter,<sup>6</sup> which finally concluded in October 2022. The Public Advocate also fully litigated the 2022 Special Rate Proceeding obtaining a \$3 million rate reduction and defended that reduction in the Court of Common Pleas when appealed by Haver.<sup>7</sup>

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<sup>3</sup> In re: Appeal of Haver, Court of Common Pleas Docket No. 220701091, August 18, 2022 Order (Coyle, J.).

<sup>4</sup> Board Reg. §I(n).

<sup>5</sup> The 2020 General Rate Proceeding was discontinued voluntarily by PWD due to COVID-19.

<sup>6</sup> Public Advocate v. Phila. Water, Sewer and Storm Water Rate Board, No. 1070 C.D. 2019 (Sept. 24, 2021) (unpublished memorandum decision)

<sup>7</sup> In re: Appeal of Lance Haver, Court of Common Pleas Docket No. 220701091, February 13, 2023 Order (Coyle, J.) (denying appeal for lack of merit and adopting findings and legal conclusions of the City and Public Advocate).

These facts refute the suggestion that the Public Advocate has consistently settled proposed water rate increases.<sup>8</sup>

Finally, the Motion contends that the Public Advocate has engaged in unlawful conduct, specifically by making false or misleading statements.<sup>9</sup> The Motion fails to identify with particularity any statements alleged to be false or misleading. The Public Advocate has consistently, clearly, and concisely explained its role and the services it performs and has not made any false or misleading statements as vaguely alleged in the Motion.

The Public Advocate will continue to fulfill its obligations by forcefully and independently representing the interests of small user customers. The Public Advocate respectfully requests that the Motion be denied.

Respectfully submitted,

Robert W. Ballenger

*For the Public Advocate*

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<sup>8</sup> Settlements have been consistently proposed in TAP-R reconciliation proceedings, which involve narrow issues.

<sup>9</sup> The Motion attempts to cite to 18 Pa. C.S. §4107(a)(5). The Public Advocate has not made false or misleading statements or advertisements and is not engaged in a course of business within the meaning of that section.