

PHILADELPHIA WATER DEPARTMENT
REBUTTAL STATEMENT NO. 3R

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
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Rebuttal Testimony
on behalf of
the Philadelphia Water Department
to
Public Advocate Witness Roger Colton

Dated: May 16, 2025

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I. INTRODUCTION AND PURPOSE OF TESTIMONY

1. PLEASE STATE YOUR NAMES AND POSITIONS.

1. My name is Susan Crosby. I serve as Deputy Revenue Commissioner in charge of the Water Revenue Bureau.

Testifying with me are Raftelis Financial Consultants, Inc. (Jon Davis, Henrietta Locklear, and Jennifer Tavantzis), Black & Veatch Management Consulting, LLC (Ann Bui, Dave Jagt, and Brian Merritt), PWD Communications and Engagement (Glen Abrams, Paul Fugazzotto, and Laura Copeland) and the PWD Finance Panel (Lawrence Yangalay, Lawrence Rich, Patricia Rogalski, Peter Nissan, and Charles Matthews).

2. HAVE ANY WITNESSES ON THIS PANEL PREVIOUSLY SUBMITTED TESTIMONY IN THIS PROCEEDING?

2. Yes. I provided testimony and schedules in PWD Statement 5. The Raftelis Financial Consultants panel provided testimony and schedules in PWD Statement 6. The Black & Veatch Management Consulting panel provided testimony in PWD Statement 7. The PWD Communications and Engagement panel provided testimony in PWD Statement 8. The PWD Finance Panel provided testimony in PWD Statement 2A and 2B.

3. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

3. In this rebuttal, we provide the Department's response to recommendations and criticisms by Mr. Roger Colton in his direct testimony (PA Statement 3) submitted on behalf of the Public Advocate ("Advocate" or "Public Advocate").

II. AFFORDABILITY

4. IS THE DEPARTMENT CONCERNED ABOUT AFFORDABILITY?

4. Yes. Affordability is an ongoing concern of PWD and WRB, given the high poverty rate in the City.¹ To address affordability concerns, PWD, WRB, and other City agencies have worked successfully to increase participation in the Tiered Assistance Program (“TAP”) to ensure that our most vulnerable customers maintain affordable water service. The City has also implemented shut-off protections to ensure that many vulnerable households are exempted from water service termination, including those with household members who are children, elderly, or have a disability in its “Raise Your Hand” program.

Please note that under the Rate Ordinance,² the Rate Board is to consider the PWD Financial Plan and projected impacts on customer rates.³ The third section of the Financial Plan includes an affordability comparison.⁴ That section indicates that the proposed rates and charges fall below the affordability threshold recommended by industry standards.⁵ Please also note that the average water bill, as a percentage of median household income, is at 1.8% which compares favorably with other peer utilities. The foregoing does not suggest there is not more to do. It is to state, however, that we remain concerned about affordability and are continually engaged in addressing this issue.

¹ See, Schedule FP-3; PWD Statement 2B.
² Philadelphia Code at § 13-101(4)(b)(.1).
³ Rate Ordinance at § 13-101(4)(b)(.1).
⁴ PWD Statement 2A at 12
⁵ Schedule FP-1

5. DO YOU AGREE WITH MR. COLTON’S OPINION CONCERNING RATE AFFORDABILITY?

5. No. PWD is trying to keep its rates affordable for all our customers. We have taken steps to reduce costs as stated in PWD Statement 2A, (including reducing SMIP/GARP expenditures by \$10 million in FY 2025 and FY 2026), refinancing debt (realizing \$22 million in net present value savings), securing PennVest loans/grants (\$183 million in low-interest loans and grants), and opting not to issue new money revenue bonds in FY 2026 (saving millions in additional debt service).

In addition to the above savings (that inure to the benefit of all customers), PWD has also expanded TAP to include 64,283 households as of March 31, 2025 to protect low-income households. These households are exempt from rate increases, as their bills are based on a percentage of household income. In view of the above as well as other programs designed to assist PWD customers, we believe that Mr. Colton’s conclusion that the Department’s rates are driving unaffordability deeper in Philadelphia is misplaced.⁶ A more detailed discussion of customer assistance programs can be found in PWD Statement 5 at pages 5 to 11.

6. DO YOU HAVE ADDITIONAL COMMENTS REGARDING MR. COLTON’S EVALUATION OF PWD RATE AFFORDABILITY?

6. Yes. Mr. Colton presents a lot of information regarding the state of poverty in the City, and we do agree that poverty is an issue in Philadelphia, as it is in many communities across the nation. However, his analysis ignores the efforts undertaken by the City, specifically PWD and the WRB, to help our most economically challenged residents. As

⁶ PA St. 1 at 10-14.

1 alluded to above, Mr. Colton fails to acknowledge that the very portion of the population
2 that he is most concerned about, is in fact, shielded from rate increases by participation in
3 TAP. Additionally, seniors who qualify for the Senior Citizen Discount (“SCD”) receive
4 a 25% discount on their bills. Mr. Colton’s analysis is flawed in ignoring the importance
5 of the above programs and the great strides PWD and WRB have made in increasing
6 TAP enrollment. PWD and WRB certainly agree that affordability issues are important
7 and point out that TAP participation has more than tripled over the past two years. City
8 policies regarding service terminations also offer additional protections for vulnerable
9 households.

10
11 In short, we believe that PWD and WRB afford significant protections for vulnerable
12 households. In addition, the Department seeks to cut expenses, obtain federal assistance
13 (low-interest loans, grants) and refinance existing debt whenever possible. That said,
14 PWD submits that affordability concerns do not negate the need for rate relief. Rate relief
15 is needed to sustain PWD operations, support the capital program, and replenish financial
16 reserves. The proposed rates and charges are cost-justified and based on the Department’s
17 projected costs for providing service. The level of rate relief proposed reflects the Water
18 Department’s efforts to navigate customer affordability concerns in the near term while
19 working towards regaining financial stability over the longer term.⁷

20
21 **7. DOES MR. COLTON MAKE ANY ADJUSTMENT REGARDING RATE**
22 **AFFORDABILITY?**

23 7. No.
24
25

⁷ Schedule BV-2 at § 1.3.6.

III. TAP-R REVENUE ADJUSTMENT

8. MR. COLTON RECOMMENDS ADJUSTING TAP-R REVENUES UNDER THE ASSUMPTION THAT MOVING TAP DISCOUNTS (RATE SUBSIDY AFFORDED TO TAP CUSTOMERS) TO NON-TAP PARTICIPANTS IMPROVES THE DEPARTMENT’S COLLECTIONS. DO YOU AGREE?

8. No. This adjustment is not supported by the record.

Mr. Colton’s adjustment assumes that PWD has failed to take into account “the increased revenues it will generate by moving dollars of TAP discounts out of TAP bills and onto bills of non-TAP customers.” This is not true. The proposed overall collection factor captures all collections, including any increased collectability due to increased TAP enrollments. Please note that the active participants in the 2025 TAP-R proceeding have agreed that the collection factor in the determinations made in the current general rate proceeding be used in the TAP-R proceeding. As of this writing, no adjustment to the Department’s proposed collection factor has been proffered by the Advocate.⁸

Mr. Colton’s adjustment as to collectability is a speculative revenue adjustment, wrong and not supported by historical data. In this context, he assumes certain facts and then applies a calculation of his assumed facts without additional support. For example, Mr. Colton indicates, in describing his proposed adjustment, that “from the perspective of whether the Department is generating enough revenue, it’s the amount of collections (as opposed to billings) that is important.” His central contention appears to be that collections will improve because of TAP enrollments (and the related shift of TAP credit

⁸ [Schedule LKM-1 also reflects the PWD collection rate for FY 2026 and FY 2027.]

1 amounts to non-TAP participants), therefore he assumes, in a vacuum, that an adjustment
2 is needed. Mr. Colton is looking at one part of the equation and fails to acknowledge that
3 using the PWD collection factor rate does in fact, reconcile the difference between
4 billings and the amount collected. He never looks to the historical collection rates or the
5 PWD proposed collection rate used in this proceeding to confirm his claim.
6

7 If Mr. Colton's hypothesis is correct, the Department's collection rate should be trending
8 higher. However, the data indicates that the opposite is true: PWD's collection rate for
9 financial projection purposes, which is primarily based on the average collections
10 experience during FY 2022 to FY 2024, has fallen to 96.93% in FY 2025 and it is
11 projected at this lower level in FY 2026 and FY 2027 ("Rate Period"). Notably, the PWD
12 proposed collection rate is unassailed in this record.⁹ This means that the participants
13 have not contested the fact collections (revenues) are actually reduced during the Rate
14 Period. Taken together, the Rate Board should reasonably conclude that there are no
15 excess revenues to adjust in this case. Mr. Colton's hypothesis is not supported by actual
16 historical data.¹⁰
17
18

19 ⁹ PA witness Lafayette Morgan does not criticize the PWD proposed overall collection rate (96.33%) or projected revenues for
20 FY 2026 and FY 2027 calculated based on the proposed collection rate.

21 ¹⁰ Please take administrative notice of the Rate Board's determination in the FY 2024 TAP-R proceeding. That decision
22 reflected (projected) 55,974 TAP participants during the period September 2023 through August 2024 (Prior Rate Period). In
23 fact, TAP participant levels rose to 58,586 during the Prior Rate Period). Also, TAP participant levels are currently at 64,283
24 during September 2024 through March 2025 (Most Recent Period). It should therefore come as no surprise that the TAP-R
25 surcharge is currently under-recovering TAP credits or lost revenues.

Such under-recovery is obvious upon review of the E-Factor in the TAP-R formula (used to set TAP-R surcharge rates). The E-Factor represents experienced/estimated over or under collection of TAP credits. The E-Factor is currently negative. This under-recovery is shown in Schedule BV-1 (filed in February 2025) and Schedule LKM-1 (filed in April 2025). The amount of the estimated under-recovery is different for PWD and the Advocate, but both show that PWD is financially "under water."

Simply put, PWD is in catch-up mode. There are no excess revenues to adjust. If Mr. Colton were correct in assuming additional revenue collected by PWD resulted from moving TAP discounts from TAP non-participants to the TAP Rider, it should be evident (and proven) of record. Please note that none of the above issues are properly raised in a base rate proceeding. Issues like these are the reason for a separate TAP-R proceeding.

1 Note that the Department did object to this adjustment in the 2023 General Rate
2 Proceeding and addressed this issue in its rebuttal of Public Advocate testimony, the
3 Department's brief, and exceptions to the Hearing Officer's report. The Department
4 respectfully requests the Hearing Officer and Rate Board consider that the actual revenue
5 collections experienced in FY 2024 were below revenue projections reflected in the 2023
6 Rate Determination which included this type of adjustment in addition to the concerns
7 identified in this rebuttal testimony.
8

9 **9. DO YOU HAVE ANY ADDITIONAL COMMENTS WITH RESPECT TO MR.**
10 **COLTON'S PROPOSED ADJUSTMENT?**

11 9. Yes. Revenue recovery under the TAP Rider is the subject to a separate proceeding. The
12 Rate Board decided in its 2018 Rate Determination that TAP-R revenues were required to
13 be reconciled in a different proceeding, apart from a base rate case. TAP-R revenues and
14 related adjustments are properly calculated in that proceeding, not here. It is not
15 appropriate to suggest an adjustment to TAP-R revenues in a base rate proceeding. Such
16 approach would defeat the purpose of an annual reconciliation. As a practical matter, all
17 adjustments related to TAP-R need to be done in one place to ensure that TAP-R revenue
18 is not double counted. Furthermore, the TAP-R reconciliation is currently in litigation
19 and no such adjustment of TAP-R revenues has been proposed in that proceeding.
20

21 The final TAP-R reconciliation will be determined by the evidence presented in that case.
22 There is no basis for the Rate Board to accept Mr. Colton's proposed revenue adjustment
23 associated with TAP discounts of \$8,372,624.92 at this time for any purpose, especially
24 not in this general rate proceeding.
25

1 It should be noted that the TAP-R revenue recognized in the TAP-R reconciliation
2 proceeding is a simplified calculation of the estimated receipts. That is, the cumulative
3 total of the collection factors used in the base rate proceeding determinations are
4 simplified for reconciliation purposes under the TAP Rider. As a practical matter, this
5 simplified application for reconciliation purposes typically overstates the TAP-R
6 collections by applying the total cumulative collection factor to the current TAP-R
7 billings in order to estimate TAP-R revenues.

8
9 The total cumulative collection factor reflects that receipts of current year billings are
10 received over multiple years and estimated in a three-year pattern. In reality, portions of
11 the current year receipts are based on prior year billings which are derived from prior
12 year rates and are typically lower than current year billing levels. Therefore, applying the
13 total cumulative collection factor to the current year TAP-R billings overstates TAP-R
14 receipts.

15
16 The Department accepts this simplified approach for reconciliation purposes but
17 maintains its position that revenue adjustments to base rate revenues for revenue
18 associated with TAP-R billings is unmerited in light of the overstatement of collections
19 of TAP-R billings utilized in TAP-R reconciliations.

10. BASED ON THE INFORMATION IN THE RECORD OF THIS GENERAL RATE PROCEEDING, IS MR. COLTON’S PROPOSED TAP-R REVENUE ADJUSTMENT REASONABLE?

10. No. Based on the information presented in the record of this base rate proceeding, Mr. Colton’s proposed TAP-R revenue adjustment is not reasonable. The following table illustrates how Mr. Colton’s proposal is without merit.

Line	Description	Amount	Source
1	TAP Credit	\$32,091,318	RDC Testimony Page 29, Line 8
2	Proposed TAP-R Revenue Adjustment	\$8,372,624.92	RDC Testimony Page 29, Line 16
3	TAP-R Revenue Receipts	\$31,125,061	Collection Factor (96.99%) x Line 1
4	Total TAP-R Revenue	\$39,497,994	Line 3 + Line 2
5	% Recovery of TAP credits	123%	Line 4/Line 1

Mr. Colton’s proposed adjustment is based on the TAP-R billings to non-TAP customers for the recovery of the TAP credits. Mr. Colton proposes that based on the TAP credit of \$32,091,318, the Department would receive “increased revenues” of \$8,372,624.92 via “improved collections.” But in view of the overall system cumulative collection factor Mr. Colton acknowledges in his calculations, the Department already projects the receipt of 96.99% of the TAP credits (via TAP-R revenues) which is \$31,125,061. Mr. Colton’s adjustment for “increased revenues” of \$8,372,624 would theoretically yield TAP-R revenues (for the recovery of TAP credits) of \$39,497,994 which represents 123% of the \$32,091,318 of TAP credits (or TAP-R revenues). This is not reasonable, in fact it is

impossible, given that his proposed adjustment would represent over 100% collection of the TAP Credits (or TAP-R revenues).

Additionally, Mr. Colton compares the projected receipt of 96.99% of the TAP credits against a 70.90% collection factor for low income customers outside TAP to determine “improved collections.”¹¹ While the 96.99% collectability factor refers to collections over multiple years, the 70.90% collections factor refers to the single year collectability factor for TAP Customers Outside of TAP Enrollment in FY 2024.¹² These two figures are not directly comparable as they reflect different time horizons.

11. IF THE BOARD ADOPTS AN ADJUSTMENT TO THE BASE RATE REVENUE REQUIREMENT FOR A PROSPECTIVE ESTIMATE OF IMPROVED TAP-R COLLECTIONS, WHAT FACTORS SHOULD THEY CONSIDER REVISING IN MR. COLTON’S PROPOSED APPROACH?

11. We believe that the Rate Board should reject this adjustment. Mr. Colton’s suggested adjustment is erroneous and overstated for the following reasons:

TAP-R Revenue Reflected in Collectability Factors

The basis of the Collectability Factors used to project future system revenues include billings and collections of both TAP bills and TAP-R billings to non-TAP customers. To avoid the double counting of TAP-R collections for the average level of TAP credits and corresponding TAP-R billings already reflected in the basis of the Collectability Factors used to project system revenues, the adjustment should be based on the amount of

¹¹ Response to PWD-PA-III-6

¹² Response attachment PA-VIII-50

projected TAP Credits above the average TAP Credits reflected in the basis of the Collectability Factors.

	2024	2023	2022	Average
TAP Credit	18,773,450	9,081,628	8,536,828	12,130,635

Consistent Recognition of Multi-year Collectability Factors

Mr. Colton's adjustment is based on the difference in the cumulative sum of the Collectability Factors (billing year, billing year +1, and billing year 2+) used to project future system revenues and the billing year collection factor for the TAP Eligible Outside of TAP Enrollment. The comparison of the system wide multi-year Collectability Factors as an estimate of non-TAP collections to the single billing year collection factor for TAP Eligible outside of TAP enrollment as an estimate for TAP customers is an "apples to oranges" comparison which overstates the potential improved collections Mr. Colton is attempting to estimate.

Collection Factor	Non-SWO	TAP Eligible Outside of TAP	Difference
Billing Year	84.01%	68.57%	15.44%
Billing Year + 1	10.72%	13.61%	(2.89%)
Billing Year 2+	2.20%	8.57%	(6.37%)
Average	96.93%	90.75%	6.18%

Assuming *arguendo* that the Rate Board decides to make an adjustment for the collectability of TAP-R Revenue in any event, PWD recommends, in the alternative, that the adjustment for the Collectability Factor should be consistent with the multi-year basis of the system Collectability Factors used to project system revenues.

The following table presents a comparison of Mr. Colton's proposed adjustment compared to the PWD recommended alternative for the collectability of TAP-R Revenue:

Line	Description	Colton Proposal	PWD Alternative	Difference
1	TAP Credit	\$32,091,318	\$32,091,318	\$0
2	Assumed Cumulative Collection Factor	96.99%	96.93%	0.06%
3	TAP-R Collected Receipts Line 1 x Line 2	\$31,125,369	\$31,106,115	\$19,254
4	Average TAP Credit in Collection Factor Basis	NA	\$12,130,635	(\$12,130,635)
5	"Improved Collection Factor"	26.09%	6.18%	19.91%
6	"Improved Collections" (Line 1 – Line 4) x Line 5	\$8,372,624	\$1,233,570	\$7,139,054
7	Estimated TAP-R Collection Line 3 + Line 6	39,497,994	32,339,685	\$7,158,309
8	Total Adjusted TAP-R Collection Rate Line 7 / Line 1	123.08%	100.77%	22.31%

Mr. Colton's estimate is overstated as it does not exclude the TAP credits included in the basis of the Collectability Factors and overstates the improved collections. This is evident in the fact that the total adjusted TAP-R collection rate exceeds 100.0%. Note that even the PWD Alternative estimate of improved collections results in a Total Adjusted TAP-R

1 Collection Rate of over 100%. This illustrates the fact that this proposed adjustment is
2 prone to double counting TAP-R revenues by taking a perceived improvement in
3 collections between two customer groups that are already contained within the customer
4 base of the overall system collection factor¹³.

5
6 **12. CONSIDERING THE DEPARTMENT'S FINANCIAL POSITION AS**
7 **PRESENTED IN STATEMENT 2 SCHEDULE FP-1, DOES THE DEPARTMENT**
8 **BELIEVE IT IS APPROPRIATE TO MAKE A TAP-R REVENUE**
9 **ADJUSTMENT IN THE BASE RATE PROCEEDING?**

10 12. No. Based on the Department's current financial position with reserves below target
11 levels established by the Rate Board in the 2018 General Rate Proceeding, it is not
12 appropriate to make TAP-R revenue adjustment in this base rate proceeding. This
13 proposed TAP-R revenue adjustment is prospective in nature, relying on prior collection
14 patterns of specific customer types, and are not a certainty. The reliance on these
15 estimates of prospective improved collections is a risk the Department is not in the
16 position to take. Any overstatement of the revenue adjustment results in the potential
17 under-recovery of the revenue requirements or additional reliance on the reserves which
18 are already below target balances. The FY 2024 financial results presented in Schedule
19 FP-2 demonstrate an example of how the inclusion of a prospective TAP-R revenue
20 adjustment can result in lower revenues than anticipated, lower financial metrics,
21 increased reliance on reserves which result in reserve balances further below target
22 balances.

23
24 ¹³ Assuming *arguendo* that the Rate Board is inclined to approve this type of adjustment, it should be no more than
25 3.07% (100.00% - 96.93%) of the TAP Credits, or \$985,203 based on the \$32,091,318 of TAP Credits reflected in
Mr. Colton's estimate, as 96.93% of TAP-Revenue will be recognized in the reconciliation of the FY 2026 TAP-R.
Note that this upper limit for the proposed TAP-R revenue adjustment is based on a 100.0% collection rate of TAP-
R revenues which is unlikely to happen.

IV. LIEN FEES

13. PLEASE DESCRIBE THE CURRENT USE OF LIEN FEES IN PWD’S COST OF SERVICE CALCULATION AND HOW WATER LIEN FEES ARE HANDLED BY THE CITY.

13. The collection of lien fees is not included in PWD’s cost of service calculation because these are pass through charges from a customer to the First Judicial District, as mandated by Pennsylvania statute 71 P.S. § 2108 (b.1). The court charges this filing fee for any lien, whether for water, real estate taxes, etc. When a customer pays their lien fees to WRB, those fees are then paid over to the courts when the Law Department receives a bulk invoice at various times throughout the year. Therefore, lien fees are not a true expense or revenue to PWD, or any other City Department for that matter.

14. DOES MR. COLTON MAKE A RECOMMENDATION REGARDING LIEN FEES?

14. Yes. First, Mr. Colton recommends that the Rate Board direct PWD to apply any payment from TAP participants to their account in a manner that would earn forgiveness, and therefore not be applied to the lien fee amount. Secondly, Mr. Colton recommends that “no dollars of lien fees shall be included in the cost-of-service (or revenue requirement) to be paid by PWD ratepayers” and he therefore requests that the Board prohibit PWD from including lien fees on a customer’s water bill.

15. WHAT IS THE DEPARTMENT'S RESPONSE TO THIS RECOMMENDATION?

15. In response to Mr. Colton's first point, the current WRB policy as to the application of TAP payments is already aligned with Mr. Colton's recommendation. TAP payments are always applied to the monthly bill amount first, then any excess goes to the customer's pre-TAP arrears, and then to the penalty amounts. Only if a customer would attempt to pay the full balance on their account (including their monthly TAP Bill, pre-TAP arrears, penalty amount, and lien fees), would all amounts be satisfied. If a customer sent in a payment amount that covered its TAP agreement amount (TAP monthly bill amount multiplied by 24 payments), then payment of this debt would activate the City vacating the lien and therefore abating (deleting) the lien fee amount. In short, current WRB policy already addresses Mr. Colton's concerns and his recommendation is unnecessary.

In response to Mr. Colton's second recommendation that the Rate Board disallow the use of PWD bills as "collection mechanisms" for non-PWD debt, the Department believes this recommendation is outside the authority of the Rate Board and without merit. We understand that the Rate Board fixes rates and charges for the Department. It has no authority over WRB administrative operations and non-rate related billing procedures.

The lien fee corresponds with the filing of the lien relating to the water debt on the bill. Accounting of the lien fee is handled by WRB's customer and billing system that automatically bills customers for debt on their accounts. Mr. Colton's recommendation that lien fees be billed or noticed in some other way by the Law Department, would require WRB staff to engage in manual processing of lien fee amounts, coordinating with the Law Department for noticing, and establishing new procedures to direct communication with the Law Department once a lien fee is received to stop the noticing.

1 This new process requirement would take unnecessary extra time and resources for WRB
2 that is focused on streamlining activities to serve its customers in the most efficient
3 manner possible. As noted above, WRB and PWD believe this recommendation is
4 meritless and is outside of the authority of the Rate Board.
5

6 **V. TAP RIDER ADJUSTMENT TO REFLECT CONSERVATION SERVICES**
7

8 **16. DOES MR. COLTON RECOMMEND A “CONSERVATION ADJUSTMENT” IN**
9 **HIS TESTIMONY?**

10 16. Yes. Mr. Colton recommends a “conservation adjustment” based his perception that
11 PWD did not comply with portions of the 2024 TAP-R Settlement between the parties.¹⁴
12 He also recommends a modification of the TAP Rider to reflect Low-Income
13 Conservation Assistance Program (“LICAP”) conservation investments.
14

15 **17. PLEASE RESPOND TO MR. COLTON’S RECOMMENDATION.**

16 17. Mr. Colton is mistaken in his perception that PWD did not comply with the TAP-R
17 Settlement provisions related to conservation efforts. In the short period of time since the
18 2024 TAP-R proceeding (July 2024 to date) and with the limited budgeted resources,
19 PWD has managed to select new TAP enrollees for LICAP and make inroads with regard
20 to conservation efforts.
21

22 More specifically, PWD has complied with the 2024 TAP-R Settlement provision where
23

24 ¹⁴ “The Department and the Public Advocate also agree that new TAP participants will be the focus of customer conservation
25 efforts through programs such as the Low-Income Conservation Assistance Program (LICAP) and that all TAP participants will
be encouraged to participate in LICAP through greater outreach efforts and incentives to participate. The Department will
develop strategies to reach high usage TAP participants to deploy available water conservation and leak repair assistance.” *See*
2024 TAP-R Reconciliation Proceeding, at page 36.

1 it agreed that “new TAP participants” (referring to those participants enrolled through
2 data-sharing with the Office of Integrated Data for Evidence and Action (“IDEA”))
3 would be the focus of conservation efforts. The aforesaid TAP-R Settlement was entered
4 into less than a year ago, at which time the FY 2025 PWD budget (with limited money
5 for LICAP) was already fixed. Despite having little time and resources to engage in this
6 endeavor, PWD focused its conservation efforts on IDEA-enrolled TAP customers in
7 coordination with the LICAP. Preliminary results (less than one year’s worth of data)
8 support the assertion that the Department successfully captured “new TAP participants”
9 for conservation assistance. Such data indicates that of the TAP participants served by
10 LICAP, new TAP enrollees represent an increasing monthly percentage of households
11 receiving conservation services from March 2024 (33%) through January 2025 (72%).
12 PWD plans to build on this starting point with increased resources requested in the FY
13 2026 budget.

14
15 The Department continuously evaluates the efficacy of its conservation program and
16 strives to deliver the most effective conservation services for its customers. The existing
17 conservation outreach process successfully enabled PWD to contact new TAP
18 participants and provide conservation assistance for high usage customers. Accordingly,
19 the Department has directed LICAP resources consistent with the 2024 TAP-R
20 Settlement, with a particular focus on those new enrollees with higher consumption that
21 were identified through the Department’s ongoing partnership with IDEA.

22
23 In making this recommendation, Mr. Colton neglects to consider the fact that increasing
24 the TAP program so significantly (approximately 40,000 new TAP enrollees) requires
25 affiliated programs, like LICAP to have time to secure funding and mobilize to meet the

1 increased needs. Accordingly, PWD has made an increased budget request for FY 2026
2 to expand its conservation efforts focused on the IDEA-enrolled customer base.¹⁵

3
4 Also please note that evidence shows that the refusal rate of conservation services offered
5 through LICAP is very low. PWD and WRB believe the greatest incentive to the
6 customer is remaining on TAP, with all of the benefits that come with participation in this
7 program, such as shutoff protection, arrearage forgiveness, and fixed monthly bills. Our
8 current approach is to incentivize participation in the LICAP program as an affirmative
9 TAP customer responsibility. We recognize that we need to effectively communicate that
10 continued participation in the TAP program will be conditioned on participation in
11 LICAP. This is a work in progress as PWD and WRB continually review the many
12 processes that need to be updated to accommodate the TAP program that increased so
13 greatly and rapidly last year.

14
15 **18. DO YOU HAVE ANY OTHER COMMENTS REGARDING MR. COLTON'S**
16 **RECOMMENDATIONS?**

17 18. Yes. Mr. Colton proposes an adjustment to the TAP-R formula as the upshot of his
18 recommendation that the Rate Board take remedial action to enforce the Settlement
19 Agreement. As noted above, the proposed action is recommended based on a false
20 perception that PWD was not acting in good faith in the short period since the TAP-R

21
22 ¹⁵ Mr. Colton's recommendation is framed as a step to enforce the 2024 TAP-R Settlement. As stated above, we believe that
23 such claims are out of place in this proceeding. There is no authority for the Rate Board to determine whether the Department has
24 fulfilled its obligations in a previous Rate Proceeding. Appendix B to the 2016 Rate Determination ("Appendix B") is a Legal
25 Memorandum from the Law Department. As stated in Appendix B, the Law Department advised that: "Nothing suggests that the
Rate Board has the power to determine whether the Department has fulfilled its obligations under a previous Rate Proceeding or
that the Rate Board could or should refuse to consider a new rate proposal on that basis."

We understand that the Rate Board sets revenue requirements for the Department for ratemaking purposes and approves the
Department's rates and charges. The Rate Board lacks the authority to enforce its rate determinations. See the 2018 Rate
Determination at 79 (describing the Public Advocate's agreement "that enforcement of the Board's rate determination may be
sought in another available forum.").

1 Settlement. It also may needlessly complicate the TAP-R proceeding which has worked
2 as intended thus far. Most importantly, however, is the fact that there were no specified
3 metrics established in the 2024 TAP-R Settlement Agreement by which to truly measure
4 PWD's performance, especially in the vain of issuing consequences as proposed by Mr.
5 Colton.

6
7 That said, Mr. Colton proposes to modify the TAP-R formula by including a term "CA"
8 (Conservation Adjustment)¹⁶, which should be subtracted from the (C) term.

9
10 The factors used in Mr. Colton's proposed calculation have no basis on the record.
11 Firstly, there were no specified metrics established in the 2024 TAP-R Settlement
12 Agreement. Secondly, when asked about the basis of his adjustments in discovery, Mr.
13 Colton merely says the factors "*were developed based on industry standards (e.g.,*
14 *defining "high use") and professional experience.*¹⁷" In his response, Mr. Colton does
15 not cite which industry standards to which he is referring, nor did he speak to
16 professional experience. He does not cite specific examples from his own experience, nor
17 does he cite other rate cases, similar proceedings before a rate making body or rate riders.

18
19 Mr. Colton goes on to state that since the Rate Board is presently determining the
20 TAP-R for FY 2026 in an ongoing proceeding his recommendation is that Board's

21
22 ¹⁶ Mr. Colton would define "CA" as follows: "A dollar amount calculated by multiplying the projected number of
23 TAP participants proposed in the TAP-R reconciliation proceeding x 0.12 x (average monthly TAP use x 1.25 x 12)
24 x 0.15 x the combined water consumption charge for the second usage block (over 2 mcf) and sewer consumption
25 charge." Within this calculation:

- The 0.12 is equal to the percentage of TAP participants to be treated by PWD with conservation.
- 1.25 is the adjustment to average monthly TAP credits to reflect PWD's agreement in the 2024 TAP-R Settlement to focus conservation on high use TAP participants.
- 0.15 is the percentage usage reduction expected to be achieved through the conservation which PWD agreed in the 2024 TAP-R Settlement to deliver.

¹⁷ See response to PWD-PA-V-1.

determination modify the TAP Rider as described above, effective in FY 2027.

The Department's response to Mr. Colton's proposal is that the terms of the current TAP-R formula were painstakingly negotiated with the Advocate. In 2018, we agreed upon a TAP-R formula that currently works; and it makes the annual reconciliation straightforward and transparent. We do not think that Mr. Colton's recommended changes to the TAP-R formula have been carefully considered. The rationale for and details related to the new inputs to the TAP-R formula have not been discussed or vetted. PWD hopes that the Rate Board would exercise caution with respect to any change to the TAP-R formula. Moreover, PWD requests that any changes to TAP-R be premised upon substantial evidence and implemented to make rate reconciliation more effective – rather than as a punishment to the Department as the upshot of the Settlement in the 2024 TAP-R proceeding. Certainly, no changes to the TAP-R formula need to be precipitously made in this proceeding.

19. DO YOU HAVE ANY CONCERNS REGARDING MR. COLTON'S PROPOSED REVISION TO THE TAP-R FORMULA?

19. Yes. Mr. Colton's proposed revision to the TAP-R formula is at its heart, a policy recommendation to reduce to the revenue requirement of TAP-R, which in turn reduces the recovery of TAP credits without any proposed reconciliation to ensure the recovery of the actual TAP credits. In other words, the proposed revision signals that the TAP program does not need to stand on its own and programs costs will be subsidized by other ratepayers, rather than shared proportionately by all ratepayers. Without a mechanism that allows for full recovery of TAP credits, the Department will be perpetually in a negative position. The Department does not have other sources of revenue that can offset

1 under recovery of TAP credits and allowing this adjustment would force the Department
2 to cut other needed activities to make up the shortfall, if it does not want to unfairly pass
3 on a greater share of TAP costs to other customer types. The proposed revisions appear to
4 be a penalty to the Department and would be a drain on its financial position.

5
6 Based upon the above, Mr. Colton's proposed revision to the TAP-R formula should be
7 denied by the Rate Board.

8 9 VI. OTHER REVENUE ADJUSTMENTS

10 Raise Your Hand Program

11 20. PLEASE DESCRIBE THE WATER REVENUE BUREAU'S "RAISE YOUR 12 HAND" PROGRAM.

13 20. The WRB "Raise Your Hand" program ("RYH") began in April 2023 to protect
14 vulnerable households who received shutoff notices due to unpaid bills. Customers
15 eligible for RYH are not in TAP or receive the Senior Citizen Discount, because those
16 customers are already protected from service termination. Therefore, RYH protects
17 customers of any income level, as long as the customer attests that their household
18 includes a minor under 18 years old, a senior citizen, and/or a person with a disability.
19 Tenants who are not responsible for paying the water bill and were not previously
20 protected by the Utility Service Tenants Rights Act ("USTRA") are also eligible for RYH
21 while their USTRA status is confirmed. If any of those qualifications are volunteered,
22 then that household would be placed in the Raise Your Hand program and would no
23 longer be in danger of service termination until the next winter moratorium. When the
24 moratorium begins on December 1st of every year, all members of the RYH program are
25 removed, and these households would need to come forward again if they seek exemption

1 after receiving a new shutoff notice the following year and still have a qualifying
2 household member residing with them.

3
4 **21. DOES MR. COLTON MAKE A POLICY RECOMMENDATION REGARDING**
5 **THE “RAISE YOUR HAND” PROGRAM?**

6 21. Yes. Mr. Colton recommends that the Department be required to track at least ten data
7 points on a monthly basis for the RYH program, to be reported on the TAP Quarterly
8 Reports because he believes that this program provides costs savings to the Department
9 that should be reflected in rates.

10
11 **22. DO YOU AGREE WITH MR. COLTON’S RECOMMENDATION?**

12 22. No. As noted above, the RYH program started less than two years ago, and its
13 participants represent an extremely small portion of the customer base. Due to the
14 program’s relatively small size (2,943 households in 2023 and 2,515 in 2024), Mr. Colton
15 concedes that “it is not possible for PWD or the Rate Board to assess the cost and
16 revenue impacts of providing shutoff protections to these customers in the absence of the
17 extensive data requests.”¹⁸ Nonetheless, Mr. Colton goes to great lengths to draw as many
18 conclusions as possible to support his policy recommendation and revenue adjustments.

19
20 To be clear, WRB and PWD see the merits of this small program but maintain that it has
21 not been so impactful as to require the extensive reporting Mr. Colton suggests or merit
22 the proposed prospective revenue adjustments.

23
24 Notably, Mr. Colton acknowledges that he has too little information (data) to draw real

25

¹⁸ PWD Statement 3 at 50.

1 conclusions about RYH, and PWD and WRB admit that little data is available for this
2 new and small program. Nonetheless, he proffers unsupported calculations relating to the
3 program and requests two revenue adjustments. His calculations assume all RYH
4 customers would have been shut-off, that none would have paid their bill, entered a
5 payment plan, or entered into TAP or SCD prior to service termination. His calculations
6 also infer that after being shut-off, some customers would have then come into
7 compliance and therefore required a reconnection at the same rate (70.5%) as the
8 customer base of Pennsylvania's Class A water utilities, for the nonconsecutive years of
9 2019, 2022 and 2023. He then adds another unsupported assumption that each customer
10 would have remained shutoff for one month. His calculations assume RYH enrollment of
11 7,413 which is almost 3 times the level of actual program enrollment experience which
12 resets on a yearly basis. All of these estimated data points together create a calculation
13 that has no credible basis for ratemaking. Biasing his analysis even further is the fact that
14 he includes no costs associated with the RYH program in his calculations.

15
16 Taken together, because this program is new, relatively small, and not directly related to
17 the TAP program (e.g., customers can participate in RYH and not TAP), detailed
18 reporting on this program in future Quarterly Reports is unwarranted. WRB will continue
19 to track the number of participants by month for its internal purposes and perhaps this
20 issue can be revisited, if the program expands. For all of the above reasons, Mr. Colton's
21 recommended adjustments and reporting requirements related to RYH are unnecessary.

23. DOES MR. COLTON PROPOSE REVENUE ADJUSTMENTS RELATED TO THE RAISE YOUR HAND PROGRAM? PLEASE RESPOND.

23. Yes. Mr. Colton proposes two adjustments to “reflect preserved revenues generated by the RYH program and to prevent non-payment shutoffs.” As alluded to above, the RYH program is very new, very small, and non-impactful for rate-making purposes. No adjustment is warranted particularly when tied to Mr. Colton’s assumed data and specious conclusions. These adjustments should be rejected based on the record presented. The response to Question 23 above is incorporated herein by reference.

Utility Emergency Services Fund

24. DOES MR. COLTON MAKE RECOMMENDATIONS REGARDING THE UTILITY EMERGENCY SERVICES FUND (UESF) HARDSHIP GRANTS?

24. Yes. Mr. Colton asks that the Rate Board direct (i) PWD to find a substitute level of hardship funding to replace funding included in rates, but no longer received from UESF; and (ii) regularly report to the Rate Board as specific steps being taken to find replacement UESF funding; and (iii) the results of those steps. In addition, Mr. Colton requests that the Rate Board direct PWD to file, within 60 days of the rate determination in this proceeding and monthly thereafter, a report documenting the receipt of grants which are subject to matching grants by PWD.

25. DOES PWD AGREE WITH MR. COLTON’S RECOMMENDATIONS?

25. No. The UESF was founded in 1983 to address utility arrears in the City of Philadelphia. Historically, customers must have received a shutoff notice to apply for a UESF grant that would eliminate their utility bill balance.

1 By way of background, the global pandemic in 2020 identified the need for greater water
2 shutoff protections for Philadelphia residents. In 2023, City leadership, including PWD
3 and WRB, implemented shutoff protections that significantly reduced water shutoffs and,
4 as an unintended consequence, reduced demand for UESF grants.

5
6 However, as we understand, in 2024 the UESF Board installed a new Executive Director
7 and Financial Director and restructured its programs to continue its decades-long legacy
8 of providing utility assistance to Philadelphia residents.

9
10 In a similar effort to improve customer receipt of these grants, PWD and WRB updated
11 the framework for UESF water grants in early 2025 to include additional parameters to
12 allow eligible customers to apply without having received a shutoff notice and to include
13 TAP customers who incurred debt not subject to forgiveness. PWD should not be
14 required to report on its efforts to secure “replacement funding” when it is working with
15 UESF to make all efforts to restore the past success that this organization had with
16 PWD’s customers in need.

17
18 UESF currently provides the following services to the City of Philadelphia:

- 19 • Utility Grant Program
- 20 • Water Conservation Housing Stabilization Program
- 21 • Veteran’s services program
- 22 • BenePhilly Center
- 23 • Philadelphia Works Partnership
- 24 • Self-Sufficiency Workshop

1 These programs are supported by funding from the following organizations and are self-
2 sustaining (funded):

- 3 • Philadelphia Water Department
- 4 • PECO Energy
- 5 • Division of Housing and Community Development (DHCD)
- 6 • Social Services for Veteran's Families (SSVF)

7
8 **Additional Subsidization**

9 **26. DOES MR. COLTON MAKE A RECOMMENDATION REGARDING**
10 **“ADDITIONAL SUBSIDIZATION?”**

11 26. Yes. Mr. Colton recommends the adoption of a deferred rate mechanism through which
12 PWD will allocate the dollars of decreased revenue requirement associated with the
13 receipt of any PennVest loans with “additional subsidization” as that term is defined by
14 federal statute. The dollars allocated to this deferred rate mechanism will be used for the
15 exclusive benefit of the PWD customers in the disadvantaged community or communities
16 for which the capital investment funded by the PennVest loan is structured to serve. The
17 use of these dollars will be at the discretion of PWD, in consultation with the Public
18 Advocate. Any use of funds set aside in such a manner necessarily need to supplement
19 and not supplant funds that would be set aside for these purposes in the absence of the
20 loan.

21
22 **27. WHAT IS THE DEPARTMENT’S RESPONSE?**

23 27. The Department does not believe that a deferred rate mechanism is needed to ensure that
24 funding benefits associated with PennVest loans and grants are directed to disadvantaged
25 communities. Please note that PWD already administers PennVest loans and grants

1 (approximately \$200 million) consistent with all applicable federal requirements. Some
2 loans/grants are targeted for disadvantaged communities (lead service line replacements).
3 Other loans/grants are for the benefit of the City as a whole.
4

5 That said, PWD agrees that if grant or other subsidies are received for disadvantaged
6 communities, they should benefit from such grant or subsidies. This is why the grant
7 funding received from PennVest for lead service line replacement in the Kensington and
8 West Philadelphia neighborhoods will directly benefit the residents of these
9 neighborhoods. That is, the lead service lines in these neighborhoods will be replaced
10 free-of-charge to these residents who otherwise would have had to pay for these
11 replacements. In addition, any loans will be repaid by all ratepayers — providing an
12 additional benefit to the disadvantaged community. A deferred rate mechanism is not
13 necessary to accomplish the above.
14

15 Please note that with respect to the Kensington and West Philadelphia projects, these
16 undertakings were supported by PennVest grants and loans. In connection with these
17 projects, PWD received an award of \$20 million comprised of an \$11 million grant and a
18 \$9 million low-interest loan. The grant proceeds awarded supported the replacement of
19 2,000 customer owned lead service lines in the above neighborhoods. The grant proceeds
20 were directed to the individual homeowners in the above disadvantaged neighborhoods.
21 As stated above, the low-interest loans will be paid by all ratepayers providing additional
22 subsidy to residents of these neighborhoods. Please note that other low-interest loans
23 received from PennVest are secured for the benefit of the City as a whole and are not
24 calculated to benefit targeted communities.
25

VII. WRB'S POLICY ON TAP BILL CALCULATION

28. PLEASE DESCRIBE WRB'S CURRENT POLICY ON THE INCLUSION OF INCOME PRESENTED ON AN APPLICATION FOR THE BENEFIT OF A MINOR LIVING IN THE HOUSEHOLD.

28. WRB's policy does not allow for the inclusion of income earned by a minor, such as from a part-time job, in its calculation of household income for purposes of arriving at the TAP Bill monthly amount. On the contrary, income included on a TAP application that is received by an adult in the household for the benefit of a minor is included in the household income calculation. Examples of this type of income include child support, Temporary Assistance for Needy Families ("TANF") payments, and Social Security Disability Income ("SSDI"). These types of income fall within the Regulations' definition of "monthly household income" as "monthly income received by the customer and all adults residing in the customer's household."

29. DOES MR. COLTON MAKE A RECOMMENDATION CONCERNING THE INCLUSION OF INCOME OF MINORS ON AN APPLICATION FOR TAP BENEFITS BASED ON A MISUNDERSTANDING OF WRB POLICY?

29. Yes. Mr. Colton makes a recommendation for the Rate Board to take the extreme action of requiring the hiring of an independent third-party auditor "to audit all TAP denials for being over-income in the past three years to determine which, if any, of those denials was based on an unlawful consideration of income other than the income of adults¹⁹" based on a misunderstanding of WRB policy.

¹⁹ PA Statement 3 at 75.

1
2 Further, as an extension of the above recommendation, Mr. Colton asks that PWD review
3 all application denials and immediately enroll those customers into TAP whose inclusion
4 of "nonadult income" put the household out of the TAP income range, review and
5 recalculate all TAP Bills relating to this issue, adjust forgiveness of pre-TAP arrears of
6 these accounts, refund charges for nonpayment, and locate former customers that were
7 denied into TAP and issue refunds of payments made to their water bills based on the
8 assumption that these customer could have benefitted from a fixed monthly bills and
9 instead overpaid as regular ratepayers.

10
11 Mr. Colton's zealous admonition of WRB in this section seems to imply that he believes
12 that WRB is including income earned directly by minors in the household income
13 calculation, and therefore he justifies the time and expense involved with the
14 implementation of these recommendations should be outweighed by this perceived
15 grievance.

16
17 It bears reiteration that including income earned by minors in the calculation of
18 household income for purposes of arriving at a TAP monthly bill is not the practice of
19 WRB. Only income received by the adults in the household (which could be through a
20 program or agreement that benefits a minor) is included in the calculation for the
21 customer's TAP bill.

30. PLEASE RESPOND TO MR. COLTON’S RECOMMENDATION.

30. Admittedly, WRB/PWD provided a brief and broad response to the Public Advocate’s discovery request on this issue which seems to have led to confusion.²⁰ We regret that the response was not more specific as to what types of income could be classified as “income of minor children” and still be legally within the definition of income received by all adults, such as child support, TANF payments and SSDI, as mentioned previously. Because WRB was (and is) confident in its position that it is not in violation of the Code or Regulations, it declined to elaborate on this discovery response with the aim to save the Participants, the Board and the public, the time, and resources to go into a topic that is off course from the rate-making process.

Disagreement and discussion of WRB policy is best engaged in during the Residential Customer Assistance Services (RCAS) meetings with the Department. These meetings were created for this very purpose.

Finally, if the Public Advocate or a customer disagrees with a particular calculation and the facts involved with a specific TAP application, their legal remedy is to file an appeal with the Tax Review Board, where both sides can present their evidence and arguments for specialized review in that venue.

VIII. CONCLUSION

31. DOES THIS CONCLUDE THIS REBUTTAL TESTIMONY?

31. Yes, it does.

²⁰ PA-VIII-20.