

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

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

STATEMENT OF THE PUBLIC ADVOCATE
IN SUPPORT OF JOINT PETITION FOR PARTIAL SETTLEMENT

The Public Advocate, appointed pursuant to Section II.B.2 of the Regulations of the Philadelphia Water, Sewer and Storm Water Rate Board (Board) to represent the interests of the class of customers designated “small users,” as one of the signatories to the Joint Petition for Partial Settlement of the above-captioned proceeding (Joint Petition), filed electronically as of the date hereof, submits that the terms and conditions of settlement proposed in the Joint Petition are in the public interest and should be approved. The Public Advocate respectfully requests that the Hearing Officer recommend, and the Board approve in the final Rate Determination, the settlement embodied in the Joint Petition without modification for the reasons discussed herein.

I. INTRODUCTION AND BACKGROUND

As set forth in the Joint Petition, the Philadelphia Water Department (Department or PWD) filed with the Board its Advance Notice on February 18, 2025 and its Formal Notice on March 31, 2025, seeking the Board’s approval of two successive annual increases in rates and charges, to take effect on September 1, 2025 (FY 2026) and September 1, 2026 (FY 2027), respectively. In combination, the Department sought an additional \$222.426 Million in revenues

from customer rates over the two-year rate period.¹ The active participants in this proceeding included the Department, Water Revenue Bureau, Public Advocate, Philadelphia Large Users Group (PLUG), Lance Haver and Michael Skiendzielewski.²

Hearing Officer Marlane Chestnut was appointed to preside over the rate hearings and to prepare a report to the Board. Hearing Officer Chestnut issued a prehearing order establishing the schedule for this rate proceeding. Hearing Officer Chestnut presided over four virtual/telephonic public input hearings. Transcripts of testimony at public input hearings, and all written submissions by members of the public and elected officials, have been included on the record of this rate proceeding.

The Public Advocate and other participants engaged in extensive discovery. All told, the Public Advocate issued 16 sets of discovery (295 requests, not including subparts) to the Department and Water Revenue Bureau. The Public Advocate submitted prepared written testimony of Jerome D. Mierzwa (PA Statement No. 2) on April 29, 2025. Then the Public Advocate submitted prepared written testimony of Lafayette K. Morgan, Jr. (PA Statement No. 1), and Roger D. Colton (PA Statement No. 3) on May 1, 2025. Lance Haver submitted prepared direct testimony on April 28, 2025, and supplemental testimony on May 5, 2025. Michael Skiendzielewski submitted one document on April 28, 2025, and two additional documents on April 29, 2025. The Public Advocate, PWD and PLUG submitted rebuttal testimony on May 13, 2025. Due to the identification of an errata to Mr. Morgan's testimony, PWD was afforded an extension and submitted rebuttal testimony to Mr. Morgan and Mr. Colton's testimony on May 16, 2025.

¹ PWD St. 7, Sch. BV-1, Table C-1A. Note this does not include TAP-R surcharge rates, which are the subject of a separate proceeding.

² One other individual registered to participate in the rate proceeding, but did not actively participate: Susan Morris.

Following the submission of direct and rebuttal testimony, pursuant to the prehearing conference order, the PWD and the Public Advocate engaged in settlement negotiations. As indicated at the Prehearing Conference on May 20, 2025, PWD and the Public Advocate were working to identify areas of common ground even as the technical hearings were scheduled to begin.³ Ultimately, PWD and the Public Advocate were able to reach agreement, in principle, on the morning of May 21, 2025, the first day scheduled for technical hearings.⁴ A settlement term sheet was distributed to all participants on May 23, 2025.

On May 21 and May 22, Hearing Officer Chestnut presided over a technical hearings. The Department, Water Revenue Bureau, the Public Advocate, and PLUG agreed to mutual waivers of cross-examination of each others' witnesses, with the exception of PLUG's limited cross examination on certain PWD rebuttal testimony.⁵ Mr. Haver questioned witnesses for the Department and the Public Advocate.⁶ Pursuant to the procedural schedule, the parties' briefs or settlement petition are due on May 30. This Statement in Support is timely filed together with the Joint Petition for Partial Settlement by and between PWD and the Public Advocate.

An extensive record has been created in this rate proceeding, providing for substantial evidence, adequate to develop issues for presentation to the Hearing Officer. As set forth in the Joint Petition,⁷ and more extensively below, the partial settlement is reasonable and should be approved. Approval of the Joint Petition will significantly reduce the proposed rate increases for

³ May 20, 2025, Tr. at 34-35. As discussed therein, Mr. Haver indicated to the service list that he did not want to be included in any discussions among the parties occurring off of the record. May 20, 2025, Tr. at 31; *see also*, March 28, 2025, Email from Haver to Service List ("[Haver] has made it clear to PWD's counsel that Haver will not have any nonpublic 'discussions' All offers will have to be made in public."). Notably, neither Mr. Haver nor Mr. Skiendzielewski attended the May 20, 2025, prehearing conference to discuss procedural matters, status of negotiations, technical hearing and order of witnesses, etc.

⁴ May 21, 2025, Tr. at 6-8.

⁵ May 21, 2025, Tr. at 9.

⁶ May 21, 2025, Tr. at 16-43, 61-92, 105-107, 114-128 (cross of PWD witnesses); May 22, 2025, Tr. at 14-26, 63-68, 72-119 (cross of PWD witnesses); May 22, 2025, Tr. at 30-32, 34-58 (cross of PA witnesses).

⁷ Joint Petition ¶13.

FYs 2026 and 2027, saving customers more than \$33 million over the rate period. Furthermore, the Joint Petition commits PWD to: make adjustments to address customer service and operational issues raised by participants (quarterly reporting regarding Raise Your Hand and Utility Emergency Services Fund support); make updates to Tiered Assistance Program application materials to align with the definition of monthly income set by the Philadelphia Code; provide certainty regarding the timing and commencement of a process to evaluate rate structure and rate design alternatives; participate in a workshop process to address potential capital funding via state revolving fund (i.e., PennVest) additional subsidization; and, conduct a cost-benefit analysis of low income conservation assistance provided by PWD.

For all of the reasons set forth herein, the Public Advocate requests the Hearing Officer recommend, and the Board approve, the Joint Petition for Partial Settlement without modification.

II. PUBLIC BENEFITS OF THE JOINT PETITION

The Public Advocate believes that the Joint Petition, taken as a whole, is in the public interest and includes provisions intended to advance the majority of issues raised by the Public Advocate in the rate proceeding.⁸ The proposed settlement substantially reduces the Department's rate request and provides customer service enhancements, reporting enhancements, and provides concrete commitments to next steps regarding cost of service and rate design, as well as an exploration of additional capital funding opportunities. The proposed settlement mitigates the overall bill impact of the proposed rate increase on the average small user customer

⁸ Any settlement is a product of compromise. A number of issues raised by the Public Advocate that are not discussed in this Statement in Support demonstrate that the Public Advocate has prioritized finding agreements where possible and compromised by not pursuing certain other issues.

by reducing revenue requirements in an amount in excess of 60% of the aggregate revenue requirements adjustments identified by the Public Advocate's witnesses. The proposed settlement avoids the risk and expense of litigation. Further, the proposed settlement preserves the participants' positions with respect to future proceedings.

While the Joint Petition does not directly address certain specific adjustments proposed by the Public Advocate in filed testimony (providing, instead, for overall adjustments to the revenue requirement, typical of a "black box" settlement, as described in paragraph 12.A of the Joint Petition), the Public Advocate recognizes and submits that the Joint Petition's proposed settlement comprises a meaningful compromise.

The sections below discuss those specific terms of settlement proposed in the Joint Petition in response to the Public Advocate's testimony. Those terms, when taken as a whole, represent a reasonable settlement of the majority of issues raised in the rate proceeding, particularly in light of the uncertainty, duration, expense and likely outcomes of litigation and potential appellate review of these issues. Accordingly, the Public Advocate submits that the Joint Petition is in the public interest and should be approved without modification.

III. SETTLEMENT

A. Revenue Requirement

The Department proposed to implement two successive increases in rates and charges effective September 1, 2025 and September 1, 2026, respectively. As proposed by the Department, if approved in its entirety, the proposed increases would generate more than \$222 Million in new revenues from customer rates, as set forth below:

PWD Proposal ⁹		
	FY 2026	FY 2027
September 1, 2025 Increase	\$73.630 Million	\$89.938 Million
September 1, 2026 Increase		\$58.858 Million
TOTAL		\$222.426 Million

The Public Advocate’s witness, Mr. Morgan, examined the assumptions utilized by the Department and its consultants to develop the proposed request. Mr. Morgan submitted that certain of the Department’s assumptions were unreasonable and proposed adjustments which, if approved, would reduce the amount of the rate increase. Additionally, Mr. Colton identified several revenue adjustments that were incorporated into Mr. Morgan’s calculations. In total, the Public Advocate’s adjustments, if approved, would have resulted in over \$167 million in new revenues from customer rates, as set forth in the table below. In total, the Public Advocate’s adjustments, if approved, would have reduced PWD’s revenue requirements by a combined \$54.793 million.

PA Testimony ¹⁰		
	FY 2026	FY 2027
September 1, 2025 Increase	\$53.216 Million	\$65.033 Million
September 1, 2026 Increase		\$49.384 Million
TOTAL		\$167.633 Million

In its rebuttal testimony, the Department disagreed with Mr. Morgan’s adjustments as well as those incorporated into his projected revenue requirements based on the testimony of Mr. Colton. To find common ground, the Public Advocate and PWD approached a potential settlement via a “black box” adjustment to revenue requirements, thereby avoiding the necessity to negotiate an agreement on each specific adjustment to revenue requirements. The Public

⁹ See PWD St. 7A, Sch. BV-1 (Table C-1A)

¹⁰ See PA St. 1, Errata Sch. LKM-1 (May 14, 2025).

Advocate and PWD were successful in identifying an agreed-upon level of new revenues from customer rates to propose to the Board, as set forth below:

Joint Petitioners' Proposal		
	FY 2026	FY 2027
September 1, 2025 Increase	\$60.920 Million	\$74.446 Million
September 1, 2026 Increase		\$54.000 Million
TOTAL		\$189.366 Million

The proposed settlement terms reasonably resolve the conflicting opinions of the Department and Public Advocate witnesses and significantly reduce the rate increase. In all, the Joint Petition recommends rate increases designed to produce approximately 85% of the Department's requested revenue increases. At the same time, the Joint Petition's recommendation reflects a reduction amounting to \$33.060 million over the two-year rate period, constituting more than 60% of the sum of revenue adjustments identified by the Public Advocate. In other words, the revenue requirements set forth in the Joint Petition reflect a serious and significant compromise between the positions advanced by PWD and the Public Advocate concerning the level of rate increase to be authorized.

The Public Advocate submits that the significant reduction to the revenue request proposed in the Joint Petition recognizes the affordability concerns raised by customers and the financial pressures experienced by the Department. At the same, time the revenue request proposed in the Joint Petition enables the Department to satisfy the obligations imposed by the 1989 General Bond Ordinance (as amended) and to advance toward achievement of the financial metrics established by the Board in the 2018 General Rate Determination.¹¹ Combined with the

¹¹ July 12, 2018, General Rate Determination at 1 ("In reaching its decision in this proceeding, the Board also set forth targets for a number of financial metrics to be considered by the Department in its future operations and by the Board in its future rate decisions. These targets include a 1.30 senior debt service coverage ratio; a \$150 million combined reserve balance in the Department's rate stabilization fund and residual fund; and 20% cash financing for capital expenditures."). The 2018 Rate Determination was the subject of extensive appellate review, but did not

additional elements of the agreement set forth below, the partial settlement is overwhelmingly in the public interest.

B. Cost of Service

The Public Advocate has expressed concern with the Department's water class cost of service study (CCOS) and its misalignment of maximum day and maximum hour extra capacity factors with the demands of certain customer classes. In the 2023 proceeding, the Public Advocate challenged these factors because the data utilized dated back to FY 2012, at the latest.¹² On the basis of this criticism, the Board ordered PWD to perform a study of customer extra capacity factors prior to this rate proceeding.¹³ PWD has proposed to phase-in the results of the AMI Demand Study performed pursuant to the Board's 2023 directive over a period of four years. Specifically, PWD has proposed to phase-in the AMI Demand Study factors in 25% increments over the next two years (FY 2026 and FY 2027). Mr. Mierzwa recommended instead that PWD utilize the AMI Demand Study factors, but instead of distorting the results of the study by utilizing fractional amounts of the actual extra capacity factors, mitigate the impact of the changes through the class revenue allocation and rate design process.¹⁴

The Public Advocate has also maintained its criticism from the 2021 General Rate Proceeding and 2023 General Rate Proceeding that stormwater service charges for residential customers are uniform, and based on gross area and impervious area averages that are greater than the average area sizes of Philadelphia rowhomes, the predominant residential housing

ultimately challenge these financial targets, which were affirmed by the Board in the 2021 and 2023 Rate Determinations. See June 16, 2021, General Rate Determination at 13-14; June 21, 2023, General Rate Determination at 13.

¹² 2023 General Rate Proceeding, PA St. 2 at 14.

¹³ June 21, 2023, Rate Determination at 38.

¹⁴ PA St. 2 at 17.

stock.¹⁵ Finally, the Public Advocate has continued to pursue reallocation of credits associated with ratepayer funded stormwater remediation programs, the Stormwater Management Incentive Program and Greened Acres Retrofit Program, to provide for more equitable allocation of the financial benefits of those programs.¹⁶

The Joint Petition provides for a framework to approach resolution of these and other rate design and cost of service issues. As set forth in the Joint Petition, PWD must develop and file a plan to evaluate rate structure alternatives by January 2026. This plan is required to include target dates for commencement and completion of milestones associated with the consideration of stormwater rate structure issues (including residential rate structure and credits, as discussed in Mr. Mierzwa's testimony) as well as rate structure alternatives generally, that may be necessitated by PWD's AMI Demand Study and data that may continue to become available due to PWD's successful deployment of AMI technology. Finally, the Joint Petition commits to re-evaluation of the phase-in of AMI based extra capacity ("peaking") factors once more data becomes available.¹⁷ Although the Public Advocate recognizes that this delay does not resolve the issues identified by Mr. Mierzwa, it is nonetheless reasonable to plan for and develop appropriate rate design modifications outside of the confines of a General Rate Proceeding, for which the Philadelphia Code imposes overly-ambitious scheduling requirements. Additionally, in light of PWD's planned billing system replacement project,¹⁸ the Public Advocate is satisfied that the Joint Petition provides certainty regarding the timing of the next step in rate structure

¹⁵ PA St. 2 at 28-29.

¹⁶ PA St. 2 at 26-27.

¹⁷ Joint Petition ¶12.B.1.

¹⁸ See, generally, PWD St. 2R at 14-17. Note that the Public Advocate does not concede that the timeline for PWD's billing system replacement project justifies charging rates that unsupported by its demand study.

reevaluation. The Public Advocate supports the Joint Petition's compromise, which positions the participants to undertake rate structure reevaluation in due course.

C. Customer Service

The Public Advocate's expert, Roger D. Colton, through filed testimony, raised several concerns about certain customer service and operational issues, as well as revenue impacts that could reasonably be anticipated based on improved collectability not included in PWD's cost of service study.¹⁹ The following provisions of the Joint Petition are responsive to Mr. Colton's recommendations, and provide benefits beyond those reflected in the "black box" settlement of revenue requirements:

1. Raise Your Hand Reporting.

In this proceeding, the Public Advocate sought to evaluate the impact of PWD's water service shut off protections set forth in its "Raise Your Hand" program. As explained by PWD's witness, "Raise Your Hand" is a program that provides 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.²⁰ The Public Advocate requested information to determine how Raise Your Hand was impacting customers and collections, but was advised that WRB did not have responsive information. Based on its own independent assessment, the Public Advocate's witness concluded that Raise Your Hand did not negatively impact collections and instead preserved revenue streams for PWD. As a result, the Public Advocate recommended revenue adjustments associated with Raise Your Hand.²¹

¹⁹ PLUG supported Mr. Colton's revenue adjustments. PLUG St. 1R at 10-12.

²⁰ PWD St. 3R at 2.

²¹ PA St. 52-53.

As discussed above, the Black Box settlement proposed does not reflect agreement as to any proposed adjustments to revenues or expenses. However, in addition to achieving the proposed reduction in revenue requirements, the Joint Petition enables the Board and the Public Advocate to understand better, on an ongoing basis, the effects of Raise Your Hand. By including data regarding Raise Your Hand participation and shut off activity, if available, the Joint Petition addresses the substance of the Public Advocate's inquiry, and enables all stakeholders to better evaluate this important consumer protection program.²²

2. Utility Emergency Services Fund (UESF) Reporting.

The Public Advocate expressed concern about the significant loss of hardship grant funding reported by PWD and challenged its basis for assuming the continuation of UESF receipts over the rate period.²³ This led the Public Advocate to recommend that PWD be directed to seek a substitute level of hardship funding and to satisfy reporting requirements to support ongoing review of the hardship grant assistance.²⁴ PWD explained via its rebuttal testimony that it has taken efforts to improve customer receipts of UESF grants and made certain policy changes to facilitate this improvement. PWD stated it should not be required to pursue replacement funding when it is making efforts to ensure UESF's success in helping PWD customers in need.²⁵

The Public Advocate recognizes and values the long history of UESF and its contributions to meeting the needs of low income Philadelphians struggling to afford basic utility service. Receipt of these funds benefits all ratepayers. Moreover, the Public Advocate is encouraged that PWD is making efforts to restore UESF's past success in serving PWD

²² Joint Petition ¶12.B.2.

²³ PA St. 3 at 54-57.

²⁴ PA St. 3 at 59.

²⁵ PWD St. 3R at 25.

customers in need. The Public Advocate strongly supports the Joint Petition’s provisions to incorporate quarterly reporting regarding PWD’s efforts to support UESF and its designation of a PWD point-of-contact for hardship grants, so that organizations assisting customers can obtain and share information directly, as needed, to help customers access assistance.

3. Use of Minor Income for TAP Participation and Eligibility.

Based on PWD responses to information requests, the Public Advocate determined that PWD was including income of minors in eligibility and affordability determinations for purposes of the Tiered Assistance Program (TAP).²⁶ The Public Advocate averred that this practice violated that language of the Philadelphia Code (defining “monthly household income” as the income of “the customer and all adults in the customer’s household”) as well as PWD regulations which adopt the same definition.²⁷ On this basis the Public Advocate submitted that PWD had charged TAP rates, calculated based on household income *including* income of minors, that were unlawfully higher than permitted, and wrongfully excluded some households from participation in TAP.²⁸ As a consequence, the Public Advocate’s witness submitted that PWD should be required to perform an audit to identify affected households and rectify the resulting higher rates and erroneous eligibility determinations.²⁹

PWD’s rebuttal testimony submitted that it believed its response to Public Advocate information request caused confusion, and sought to distinguish its treatment of minor income based on whether or not the income was earned or unearned, and whether or not it was paid in the name of an adult household member.³⁰ PWD maintained that consideration of WRB policy

²⁶ PA St. 3 at 74.

²⁷ See Phila. Code §19-1605(2)(e) and PWD Reg. §200.1(h).

²⁸ PA St. 3 at 74-75.

²⁹ PA St. 3 at 75-76.

³⁰ PWD St. 3R at 28-30.

was inappropriate in the context of setting rates, without acknowledging that the policy directly affects the calculation of TAP rates charged pursuant to the Board's approved rates and charges.³¹ However, PWD acknowledges that, to the extent there is a dispute as to the calculation of TAP bills, that matter is subject to resolution by the Tax Review Board.³²

PWD and the Public Advocate have agreed upon an adjustment to the Customer Assistance Application, utilized to apply for TAP, the Senior Citizen Discount, and other forms of payment assistance, which is responsive to the issue of minor income. That is, the application materials will be updated to track the language in the Philadelphia Code and PWD Regulations that defines monthly household income as the income of the customer and the adult members of the customer's household.³³

4. *“Additional Subsidization” Workshop Meeting(s).*

The Public Advocate advanced the proposition that a deferred rate mechanism could serve as an important means through which PWD could allocate the benefit of “additional subsidization” (principal forgiveness, for example) associated with PennVest state revolving funds for which PWD qualifies.³⁴ The goal of this effort is to increase access to Federal funding without repayment obligation, pursuant to Clean Water Act §1383(i)(1)(A)(ii). This provision has not historically been utilized by PennVest, which has instead heavily relied upon Median Household Income pursuant to Clean Water Act §1383(i)(1)(A)(i). As a consequence, Philadelphia, despite being the nation's poorest large city with 20.3% of the population living

³¹ PWD St. 3R at 30.

³² PWD St. 3R at 30.

³³ Joint Petition ¶12.B.2.

³⁴ PA St. 3 at 6, 60-72.

below the Federal poverty line, has not previously qualified for significant additional subsidization.

PWD responded that it did not believe it required a deferred rate mechanism for purposes of directing funding benefits to disadvantaged communities. Instead, it acknowledged that some loans/grants (lead service line replacement) would be so directed, while others could benefit the city as a whole.³⁵ However, PWD acknowledged that low-interest loans received from PennVest are secured for the benefit of the City as a whole and are not calculated to benefit targeted communities,³⁶ thus largely affirming the Public Advocate’s thesis.

The Joint Petition commits PWD to engaging in meeting(s) with the Public Advocate, and others, in a workshop setting to engage in further discussion regarding strategies to attain “additional subsidization” from PennVest.³⁷ This is a meaningful step toward pursuing this Federal funding source in a manner that could reduce reliance upon capital indebtedness and provide overall financial benefit to PWD and its ratepayers, while also directly benefitting PWD’s low income customers.

*5. Cost/Benefit Analysis of Low-Income Conservation Assistance Program.*³⁸

The Public Advocate expressed concern that PWD had not fully complied with the letter and intent of the settlement reached in the 2024 TAP-R Reconciliation Proceeding, since it failed to identify any way in which it had developed “greater” outreach efforts for IDEA-prequalified TAP enrollees. Indeed, PWD stated that it had instead relied upon existing incentives for participation.³⁹ The Public Advocate proposed a Conservation Adjustment clause to the TAP-R

³⁵ PWD St. 3R at 27.

³⁶ PWD St. 3R at 27.

³⁷ Joint Petition ¶12.B.2.

³⁸ This provision of the Joint Petition was negotiated after distribution of the term sheet to the service list on May 23, 2025, and demonstrates the ongoing nature of settlement negotiations in this proceeding.

³⁹ PA St. 3 at 40.

to account for PWD’s failure to satisfy its obligations pursuant to the settlement in the 2024 TAP-R Reconciliation Proceeding, effectively reducing the recovery of TAP-R discounts to account for the estimated impact of conservation assistance that is not being provided.⁴⁰

PWD took issue with the Public Advocate’s recommendation, characterizing it as a penalty,⁴¹ and submitting that it had complied with the 2024 TAP-R Reconciliation Proceeding settlement, despite little time and resources, by focusing conservation efforts on new TAP participants.⁴² PWD also submitted that its outreach had provided a starting point for increased resources requested in the FY 2026 budget and that the refusal rate for its conservation services is “very low.”⁴³

The Joint Petition commits to a cost-benefit analysis designed to assess the value (in terms of usage at full tariff rates) of PWD’s conservation assistance efforts, utilizing twelve months of data.⁴⁴ With increased resources planned for conservation in FY 2026, the Public Advocate submits that this proposal is of significant value in permitting all stakeholders to obtain greater understanding of how PWD’s conservation assistance offerings assist low income households and, ultimately, inure to the benefit of customers who pay TAP-R rates by reducing the amount of financial assistance needed to provide affordable bills to TAP participants.

D. Miscellaneous; Briefing Issues

The Public Advocate and Department expended considerable time and effort to reach the agreements set forth in the Joint Petition. As part of that process, the Joint Petition seeks to resolve a number of outstanding issues that would otherwise remain for briefing. In addition,

⁴⁰ PA St. 3 at 45-46.

⁴¹ PWD St. 3R at 21.

⁴² PWD St. 3R at 16-17.

⁴³ PWD St. 3R at 17-18.

⁴⁴ Joint Petition ¶12.B.2.

PWD and the Public Advocate were unable to find compromise regarding certain issues raised by the Public Advocate's witnesses. However, the Joint Petition explicitly recognizes that such issues are withdrawn *without prejudice*.⁴⁵ As a consequence, although the Board's approval of the Joint Petition will obviate the necessity of considering those issues at this time, the Joint Petitioners have not, via the Joint Petition, modified their positions regarding matters not addressed herein and retain their ability to pursue those issues in future proceedings. In addition, the Joint Petition recognizes that participants may brief their positions regarding issues raised by Mr. Haver, Mr. Skiendzielewski, and PLUG (to the extent such issues are not otherwise addressed therein).⁴⁶

IV. CONCLUSION

For the foregoing reasons, the Public Advocate respectfully requests that the Hearing Officer recommend, and the Board approve in the final rate determination, the terms and conditions of the partial settlement proposed in the Joint Petition, without modification, as being in the public interest.

Respectfully submitted,

/s/ Robert W. Ballenger

Robert W. Ballenger
Charlotte E. Edelstein
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For the Public Advocate

⁴⁵ Joint Petition ¶¶12.B.3, 12.C, 14

⁴⁶ Joint Petition ¶12.C.1-3.