



June 11, 2025

**VIA EMAIL**

Marlane R. Chestnut  
Hearing Officer  
Philadelphia Water, Sewer and Storm Water Rate Board  
c/o Philadelphia Law Department  
1515 Arch St., 17<sup>th</sup> Fl.  
Philadelphia, PA 19102

RE: Philadelphia Water Department 2025 General Rate Proceeding (FY 2026, FY 2027 Rates)

Dear Hearing Officer Chestnut,

Kindly accept this letter in lieu of a Reply Brief in the above-captioned matter. As set forth below, the Public Advocate maintains its support for the proposed settlement terms set forth in the Joint Petition for Partial Settlement by and between the Philadelphia Water Department (PWD) and the Public Advocate. Modifications to rates and charges advanced by the Philadelphia Large Users Group (PLUG) should not be adopted and opposition to the proposed settlement should be disregarded.

**PLUG Rate Modifications Should Not be Adopted**<sup>1</sup>

PLUG advances two modifications to rates and charges to which the Public Advocate replies.<sup>2</sup>

First, PLUG contends that the Board should reject PWD's proposal to eliminate the 4<sup>th</sup> block water rate due to the impact on hand billed customers. It should be noted that the number of hand billed customers and their average water usage have steadily declined in recent years.<sup>3</sup> PWD reported there are currently 223 hand billed customers, with average usage (for FY 2024) of 1,672 MCF. Accordingly, on average, hand billed customers in that year used approximately 140 MCF per month, with usage projected to decline further.<sup>4</sup> Importantly, the fourth rate block does not apply until monthly usage exceeds 2000 MCF. Even then, the difference, under

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<sup>1</sup> As to PLUG's June 6, 2025, letter objecting to the proposed settlement, claiming it lacks information about allocation and rate design, the Public Advocate disagrees. The allocation of revenue requirements and rate design proposals in the proposed settlement are identical to those incorporated into PWD's request in this proceeding. Joint Petition at ¶15 ("Any rate related proposal by the Department that is not specifically modified by the terms and conditions in this Joint Petition is hereby submitted for approval by the Rate Board.").

<sup>2</sup> Although PLUG advanced its own approach to phasing in the extra capacity factors demonstrated by PWD's updated demand study, it concedes to the 25% and 50% phase in proposed by PWD. PLUG M.B. at 4. The Public Advocate does not take a position regarding PLUG's concerns with PWD's Charitable Discount regulations.

<sup>3</sup> PWD St. 7, Sch. BV-2, Appendix A.

<sup>4</sup> See PWD St. 7, Sch. BV-2, Tables 1-2, 3-3.



existing rates, in base charges per MCF is *de minimis*, at \$1.22. Indeed, the existing fourth rate block is more than 97% of the third block.<sup>5</sup> This minor cost difference at a level of usage that appears likely to be infrequently experienced by a few customers, does not warrant maintaining at this time. Ultimately, as provided in the Joint Petition, if there are good reasons for further changes in rate structure, they will be subject to more thorough discussion and review after January 2026.

Second, PLUG submits that the Board should adopt its proposal to increase monthly sewer charges by a uniform percentage (10%) applied both to volumetric rates and fixed service charges. The Public Advocate opposes this proposal, as it would reduce the ability of consumers to control their monthly bills by moderating usage and conserving water. Additionally, it should be noted that PLUG has not demonstrated that its proposal would produce adequate sewer revenues.

#### Opposition to the Proposed Settlement Should be Disregarded

Lance Haver, *pro se*, advances several misguided theories for why the proposed settlement should not be adopted.

He generally complains that the settlement includes provisions for the Public Advocate, PWD and others to collaborate outside of the confines of this general rate proceeding. He fails to acknowledge the benefits associated with such efforts. Namely, the purpose of pursuing “additional subsidization” for PWD is to obtain additional capital resources, to the direct benefit of PWD customers. Moreover, continuing to explore rate design alternatives is intended to ensure equitable rates and charges for all PWD customers.

His complaint regarding the size of the rate increase severely misstates the record. Haver contends that the rate increases in the proposed settlement “far exceed” what the Public Advocate’s consultant “stated are necessary.” When asked whether his testimony reflected the amount he determined PWD needed, the Public Advocate’s expert specifically explained: “I did not say that’s what they need. That was my recommendation.... Nowhere in that testimony do I say they’ll need [the amount of increased revenues projected].”<sup>6</sup> Moreover, when asked, the Public Advocate’s witness clearly stated he supported the negotiated settlement.<sup>7</sup>

As to specific objections, Haver first contends the proposed settlement violates the Pennsylvania Sunshine Act.<sup>8</sup> That is false and mischaracterizes the proceedings to date. The Board has not yet convened the public meeting at which it will deliberate and vote on the Joint Petition. The technical hearings are not public meetings of the Board subject to the Sunshine Act.

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<sup>5</sup> \$43.62 / \$44.84 = 97.28%.

<sup>6</sup> May 22, 2023 Tr. at 46.

<sup>7</sup> *Id.* at 56.

<sup>8</sup> 65 Pa. C.S. §§701-716.



Second, Haver submits that a black box settlement is improper for a publicly-owned utility. He falsely contends that the settlement is somehow shielded from public view, despite the fact that it has been publicly filed. Moreover, he contends that the black box prevents the public from knowing how operations of PWD may be affected, but he fails to recognize that the Board does not supervise PWD operations. Indeed, regardless of the nature of the proposed revenue requirements adjustments (black box or otherwise), the Board is powerless to dictate that PWD achieve specific cost reductions.

Third, Haver submits that the public has been prevented from commenting on the proposed settlement. In this context, it is important to note that he severely miscalculates the proposed settlement, contending that PWD got 97% of its request, when in fact the settlement reduces the incremental revenues by approximately 15%. The proposed settlement reflects downward revenue adjustments equivalent to more than 60% of the savings advanced by the Public Advocate's consultant.<sup>9</sup> Ultimately, members of the public are free to comment on the proposed settlement, if desired. More importantly, the requirements of the Philadelphia Code that the Board establish "open and transparent processes and procedures for public input and comment on proposed water rates and charges"<sup>10</sup> were clearly fulfilled.

Finally, Haver identifies several operational endeavors he contends would be minimum requirements for a settlement to be in the public interest. These are largely suggestions he has previously made, which have not gained traction and have not been substantiated in this or prior proceedings. Their absence does not impact the reasonableness of the proposed settlement, approval of which is in the public interest.

Respectfully submitted,

/s/ Robert W. Ballenger

Robert W. Ballenger, Esq.  
Energy Unit Attorney  
Community Legal Services

*For the Public Advocate*

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<sup>9</sup> PA Statement in Support at 7.

<sup>10</sup> Phila. Code §13-101(3)(e).