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June 6, 2025

VIA E-MAIL

Hearing Officer Marlane R. Chestnut
chestnutmarlane@gmail.com

RE: PLUG Objections to 2025 PWD GRC Joint Settlement Petition

Dear Hearing Officer Chestnut:

The Philadelphia Large Users Group ("PLUG") submits this letter objecting to the Joint Petition for Partial Settlement ("Joint Petition"). As discussed at the May 20, 2025, Prehearing Conference before your Honor, the Philadelphia Water Department ("PWD") informed the parties that it has reached a black box settlement with the Public Advocate on the evening of May 19, 2025, just before the Prehearing Conference convened by Your Honor on May 20, 2025. Despite investing considerable resources in retaining an expert witness for the proceeding and sponsoring both Direct and Rebuttal testimony statements, PLUG was not contacted by PWD to engage in settlement discussions before settlement terms were reached with the Public Advocate and announced at the May 20, 2025, Prehearing Conference.

PLUG did have an opportunity to discuss the announced settlement with PWD's counsel following the initial announcement of the deal. These discussions presumably led to the incorporation of PLUG as a participant in the prospective stakeholder discussions to be initiated in 2026 addressing potential rate design changes. Additional issues raised through PLUG's testimony statements, including the critical aspects of revenue allocation and rate design, are reserved for litigation. While PLUG appreciates the opportunity to review the settlement with PWD and address them through these written comments, PLUG respectfully requests that the Rate Board encourage PWD to comply with the following guidance developed by the Pennsylvania Public Utility Commission ("Commission") regarding settlement discussions:

In the Commission's judgment, the results achieved from a negotiated settlement or stipulation, or both, *in which the interested parties have had an opportunity to participate* are often preferable to those achieved at the conclusion of a fully litigated proceeding. It is also the Commission's judgment that the public interest will benefit by the adoption of §§ 69.402—69.406 and this section which establish guidelines and procedures designed to encourage full and partial settlements as well as stipulations in major section 1308(d) general rate increase cases. A partial settlement is a comprehensive resolution of all issues in which less than all interested parties have joined. A stipulation is a resolution of less than all issues in which all or less than all interested parties have joined.¹

¹ 52 Pa. Code § 69.401.

Recognizing that PWD is not subject to the regulations and policy statements applicable to the Commission, PLUG submits that the Rate Board and all participants would benefit from full participation in settlement proceedings and thus the guidance adopted by the PUC should be considered by the Rate Board and PWD. While PWD has achieved a partial settlement, the settlement before the Rate Board in this case is not the product of a negotiation in which all parties had an opportunity to fully participate.

PLUG further understands that the maximum 120-day review period for the Hearing Officer's Decision under the Rate Board's Regulations may have contributed to PWD's inability to conduct full settlement discussions. To that end, PLUG encourages the Rate Board to explore opportunities to extend the 120-day review period to allow sufficient time for parties to develop a record and engage in thorough settlement discussions. These processes will become even more critical as PWD takes additional steps to update its billing systems, cost-of-service studies, and rate design, as these developments have and will continue to complicate rate cases presented to the Rate Board for review.

With regard to the Joint Petition currently before the Rate Board, PLUG submits that the Joint Petition is not a complete document. It omits any information as to how the settlement revenue requirements will be allocated among the customer classes or the final rate design that will ultimately determine the specific impacts of the settlement upon PLUG members or other PWD customers. Accordingly, PLUG cannot, at this time, fully assess the Joint Petition for Settlement and therefore cannot support the proposal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', with a stylized flourish extending from the end.

Adeolu A. Bakare
MCNEES WALLACE & NURICK LLC