

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

Re Philadelphia Water Department Proposed Changes in Water, Wastewater and Stormwater Rates and Charges	2026 TAP-R Proceeding
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**ANSWER OF PHILADELPHIA WATER DEPARTMENT TO THE PUBLIC ADVOCATE’S
MOTION TO COMPEL DISCOVERY RESPONSES**

The Philadelphia Water Department (“Department” or “PWD”) hereby files this Answer opposing the Public Advocate’s (“Advocate” or “PA”) Motion to Compel Responses to Discovery propounded to the Department related to PA-TAP Set II (“Motion to Compel” or “Motion”).

For the reasons set forth in the Department’s Objections to Information Requests Propounded by the Public Advocate (“PWD Objections”) and this Answer, the Department requests that the Philadelphia Water, Sewer and Storm Water Rate Board (“Rate Board”), by its Hearing Officer, deny the Public Advocate’s Motion and sustain the PWD Objections.

I. ARGUMENT

The Advocate’s Motion to Compel addresses discovery in three subject areas: (a) requested update to the reconciliation workbook; (b) LICAP expenditures (disaggregated by water conservation and leak repair assistance); and (c) TAP monthly usage (broken down by various categories). The Advocate’s information requests are restated below for ease of reference.

A. Update Reconciliation Workbook.

PA-TAP-2-1. Please update Rate Rider Reconciliation Workbook to incorporate actual data (participants, discounts, non-tap volumes, etc.) for January, February and March 2026.

On March 25, 2026, the Public Advocate requested that the Rate Rider Workbook (“Workbook”) be updated with three months of actual data January through March 2026. In response, the Department indicated that the requested data (through the end of March) was not immediately available, but would be produced by late April. Note that this PWD acknowledgment was more of a clarification than an objection, as more time is needed to compile and report the requested data for TAP participants for the requested three months. Notably, the full month of March data was not even complete and available when the Advocate’s request was submitted (on March 25).

The PWD proposed timeline will allow the necessary time to gather “static data” for over sixty thousand customers; and report such data in an identical format as the TAP-R filing for comparative purposes. As explained below, the use of static data for reporting purposes is important as raw or production data is subject to change based on billing changes and adjustments. Notwithstanding the foregoing, the Advocate, without consideration of the logistics in providing the data, has demanded an earlier timeline for the submission of same (April 15).

In this context, PWD estimated that static data for reporting purposes could be reasonably produced by late April. PWD also acknowledged that the Advocate could reserve the right to supplement its testimony (without objection) based upon the timing of submission of such actual data. We have followed a very similar timeline and preservation of right to respond in prior proceedings.¹ The Advocate’s Motion arbitrarily requests an April 15 deadline for the requested actual data. The PA approach is untenable, if static data is to be utilized consistent with the methodology used to develop the data provided with the current and prior TAP-R filings.

By way of background, reporting used in the reconciliation filing is based upon static data produced from Basis-2 and provided by the Water Revenue Bureau (“WRB”). Such data is based on a “snapshot” of the data base as of a certain date (in this instance March 31). Raftelis Financial Consultants (“RFC”), on behalf of the Department, utilizes this static data to develop its Workbook. It has always been PWD/WRB practice to provide data based on a date certain snapshot of the data, because this data set is reproducible. This approach is taken to avoid using production data which, although more readily available, is subject to a myriad of factors that can change on a daily basis (e.g., bill payment, back-billing, changes in service, bill reversal, bankruptcy). In other words, pulling production data today for a given time period will likely differ from an analogous data set generated on another day. Accordingly, for TAP-R reconciliation purposes, production data is not used.

The Department maintains that static data available in late April should be used to update the Workbook in the instant context, as has been the practice in previous TAP-R Proceedings. The Advocate’s

¹ In the 2024 and 2025 TAP-R Proceedings, PWD provided actual TAP enrollment data through the end of March in response to similar discovery requests from the Public Advocate on April 29, 2024 and April 30, 2025, respectively. See, 2024 PWD Response to PA-TAP-2-3 and 2025 PWD Response to PA-TAP-1-2.

testimony can be supplemented (if need be) based on the actual static data. The Motion To Compel should be denied.²

B. LICAP Expenditures.

PA-TAP-2-2. Please provide the following information by Year.

- a. For each of the past three most recent fiscal years, the actual LICAP expenditures disaggregated by water conservation and leak repair assistance.
- b. For the current fiscal year (year-to-date), the budgeted and actual LICAP expenditures disaggregated by water conservation and leak repair assistance.

PA-TAP-2-3. Please provide the total actual LICAP FY 2026 expense disaggregated by water conservation and leak repair assistance components.

PA-TAP-2-4. Please provide the budgeted LICAP expense for FY 2026 and FY 2027 disaggregated by water conservation and leak repair assistance components.

The Advocate also requested information related to Low Income Conservation Assistance Program (“LICAP”) expenditures in PA-TAP Set II. The Department objected to these requests as irrelevant to the instant TAP-R Reconciliation proceeding. That is, the requested LICAP data is not relevant and not material to the PWD proposed changes in rates and charges as set forth in the 2026 TAP-R Reconciliation filing. The Advocate argues that such information is relevant as it may impact future TAP participant usage. This is highly speculative, however. The LICAP program serves roughly 1,600 households out of over 60,000 TAP participants. The budget is growing (\$900,000 approved for FY 2026), but water savings realized even under the expanded program will not on their own be sufficient to change the usage enough to appreciably alter usage during the Next Rate Period — which ends August 31, 2027.

In accordance with the Rate Board Regulations, changes to TAP and TAP-R rider formula are proposed, reviewed and made in general rate proceedings. *See*, Hearing Officer Report (2021 TAP-R Adjustment Proceeding), at pp. 4-5. *See also*, the General Rate Determination (2021 Rate Case) relating to TAP-R issues. The proper scope of this proceeding is limited to the application of the TAP-R formula approved by the Rate Board in the general rate proceeding. The requested information and documents related to LICAP are not pertinent to the annual reconciliation of TAP-R rates.

² Assuming *arguendo* that the Hearing Officer directs that production data be provided here to facilitate discovery given the short timeline to prepare testimony, this direction should be subject to the caveat that such production data be restated once official (static) data is produced (in late April).

Another problem with the Advocate's requests is that it is seeking information and documents related to LICAP for the past three years. The LICAP program was even smaller in prior years than it is today and thus has had even less of an impact in past years than it has the potential for, going forward. The Hearing Officer should be aware that the TAP program expanded significantly in the last two years (from 17,000 to over 60,000). The LICAP program has not grown in lockstep with TAP. In fact, it is far behind. The Department has also agreed to undertake a cost/benefit analysis of LICAP in the settlement of the 2025 General Rate Case. The Public Advocate and the Department agreed that the aforesaid analysis will be completed by the next general rate proceeding filing. The aforesaid analysis and issues related to LICAP (expenditures over the past three years) may be appropriate in a general rate case, but not a TAP-R reconciliation proceeding.

Given the foregoing, PWD submits that the Advocate's LICAP requests are not reasonably calculated to lead to the discovery of admissible evidence for this reconciliation proceeding. The TAP-R reconciliation proceeding sets TAP-R related rates and charges for an annual period beginning on September 1, 2026. The requested information will not assist the Rate Board in determining the prospective TAP-R rates and charges proposed for September 1, 2026. No nexus has been established between the requested information and documents and the prospective TAP-R rates and charges proposed for September 1, 2026. This proceeding is limited to the application of the TAP-R formula.

As a practical matter, even if the Hearing Officer finds the discovery request to be reasonable, there is only limited LICAP expenditure data disaggregated by water conservation and leak repair assistance. Without waiving its objection, the Department will provide this data for September 2025 to March 2026.

C. TAP Monthly Usage

PA-TAP-2-5. For the three most recent fiscal years, please provide the following:

- a. Please provide the monthly usage for TAP customers broken down by the categories shown in PA-TAP-1-4.
- b. Please provide the monthly number of TAP customers broken down by the categories shown in PA-TAP-1-4.

PA-TAP-2-6. For the three most recent fiscal years:

- a. Please provide the number of high usage TAP customers that were referred for conservation outreach based on "high usage."
- b. Please provide the number of high usage TAP customers that were referred for conservation outreach and whose high usage was determined to be caused by leaks.

- c. Please provide the number of high usage TAP customers that were referred for conservation outreach and whose high usage was determined to be caused by something other than leaks.
- d. For high usage TAP customers that were referred for conservation outreach, and whose high usage was determined to be caused by something other than leaks, please identify the strategies and/or solutions that are provided to reduce usage and encourage conservation.

The Advocate also requested information related to a three year period prior to the reconciliation proceeding. The Department objects to these requests as overly broad and irrelevant to the instant TAP-R Reconciliation proceeding which addresses TAP-R related rates and charges starting on September 1, 2026. These requests are seeking information and documents related to high usage TAP customers for the past three years. These requests are not reasonably calculated to lead to the discovery of admissible evidence for this reconciliation proceeding. The TAP-R reconciliation proceeding sets TAP-R related rates and charges for an annual period beginning on September 1, 2026. The requested information will not assist the Rate Board in determining the prospective TAP-R rates and charges proposed for September 1, 2026. No nexus has been established between the requested information and documents and the prospective TAP-R rates and charges proposed for September 1, 2026.

Notwithstanding the above objections and without waiver thereof, the Department has recently provided responses to PA-TAP-2-5 and PA-TAP-2-6 (a) and (d) as they relate to the time period at issue in this proceeding. PWD will also provide responses to PA-TAP-2-6 (b) and (c) as they relate to the time period at issue in this proceeding.

WHEREFORE, the Department requests that the Hearing Officer deny the Public Advocate's Motion to Compel and sustain the PWD Objections.

Respectfully submitted,

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