

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

In the Matter of the Philadelphia Water Department's Proposed Tiered Assistance Program Rate Rider Surcharge Rates :
: **TAP-R Rates to Become Effective**
: **September 1, 2026**
:
:

**PUBLIC ADVOCATE OBJECTIONS
TO PHILADELPHIA WATER DEPARTMENT INFORMATION REQUESTS
TO THE PUBLIC ADVOCATE, SET I**

The Public Advocate hereby objects to the Philadelphia Water Department (PWD) Information Requests, Set I, Nos. 8, 10, 11, and 12¹ (Interrogatories) which were submitted via email on April 20, 2026. The Public Advocate requests the Hearing Officer sustain these Objections. The Public Advocate notes that it offers the stipulations set forth herein in lieu of responses to these Interrogatories.

OVERVIEW

The Public Advocate objects to the Interrogatories on the basis that they are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this Tiered Assistance Program Rate Rider (TAP-R) proceeding before the Philadelphia Water, Sewer and Storm Water Rate Board (Board). The Public Advocate further objects to the Interrogatories to the extent they attempt to require the Public Advocate's witness, Lafayette K. Morgan, Jr., to investigate, research, acquire, disclose or affirm information not within the scope of his testimony. The Public Advocate further objects to the Interrogatories to the extent they attempt, in the rebuttal phase of this proceeding, to introduce evidence in support of PWD's proposed TAP-R rates which is not in PWD's case-in-chief, contradicts PWD's case-in-chief, and which is repetitive, cumulative and likely to create confusion. The probative value of much of the

¹ Referred to herein as PWD-TAP-I-8, I-10, I-11 and I-12.

information requested is significantly outweighed by the burden that would be imposed on the Public Advocate and its witness to respond.

In the context of Technical Review in rate proceedings before the Board, the Hearing Officer employs procedural standards analogous to those utilized by the Pennsylvania Public Utility Commission (PUC).² The appropriate scope of discovery in PUC proceedings, as here, is limited to information relevant to the subject matter of the proceeding or reasonably calculated to lead to the discovery of admissible evidence.³ However, unlike PUC proceedings, responses to discovery requests in rate proceedings before the Board are automatically included in the evidentiary record unless limited by the Hearing Officer.⁴ Discovery is subject to further limitation to the extent it would cause unreasonable annoyance, embarrassment, oppression, burden or expense or would require the making of an unreasonable investigation.⁵

In the first instance, the Public Advocate asserts that the requested information is irrelevant and will not lead to the discovery of admissible evidence. Requiring the Public Advocate's witness to respond would obligate him to investigate and conduct additional analysis unrelated to his testimony. Much of the information sought by PWD has no bearing on the methodology utilized by PWD or the Public Advocate to determine their proposed TAP-R rates. Such discovery is unduly burdensome and would cause unreasonable annoyance and expense, particularly in the context of this narrow proceeding.

Additionally, PUC regulations are clear that a utility is not permitted to introduce evidence in a rebuttal phase which is repetitive, should have been included in the utility's case-

² Board Regulation §II.B.5(b)(5).

³ 52 Pa. Code §5.321.

⁴ Board Regulations §§II.B.6(b)(3); II.C.3(b)(3).

⁵ 52 Pa. Code §5.361(a).

in-chief, or contradicts the utility's case in chief.⁶ This limitation is intended to ensure that participants are able to investigate and respond to the evidence presented by the utility in support of its proposed rates while prohibiting subsequent changes or embellishments to the utility's case that prejudice the parties, prolong the proceeding, and create confusion among participants and, ultimately, the rate maker.⁷ The Public Advocate objects to PWD's Interrogatories to the extent they seek evidence which is prohibited at the rebuttal stage of the proceeding.

**DISCOVERY OBJECTIONS
AND STIPULATIONS OFFERED**

PWD-TAP-I-8 Please confirm or deny that the typical bill for 0.7 MCF residential customer in Table C-4 of the compliance filing in the 2025 Rate Proceeding reflects a 10.1% increase for rates effective September 1, 2025.

The Public Advocate objects to this Interrogatory as irrelevant to the determination of TAP-R rates in this limited-scope proceeding. The determination of TAP-R rates begins with the production and submission of data by PWD regarding the historical and projected TAP discounts, participation and usage, as well as data regarding the true-up mechanism for prior rate periods. PWD's compliance filing in a past General Rate Proceeding has no bearing on this data, nor does it influence any of the assumptions based on such data that have been made by PWD or the Public Advocate.

The Public Advocate further objects to this Interrogatory because it seeks to introduce evidence during the rebuttal phase that PWD could have included in its case-in-chief, if relevant, and which is repetitive, merely cumulative, and likely to create confusion. Having submitted its Advance and Formal Notice, PWD has provided the information it chose to utilize in support of

⁶ 52 Pa. Code §5.243(e).

⁷ See also Pa. R.E. 403 (disallowing repetitive evidence since such evidence has the potential to prolong proceedings and create confusion).

its proposed TAP-R rates. The Public Advocate examined that information and submitted its Direct Testimony explaining the bases for its adjustments to PWD’s proposed TAP-R rates. This matter has entered the rebuttal phase during which PWD is not permitted to introduce evidence that, if relevant and nonrepetitive, should have been included in its case-in-chief.

However, this evidence is repetitive, and so likewise objectionable. As set forth in the Advance and Formal Notices, PWD proposes to use the period beginning September 1, 2025, for purposes of calculating average TAP participant usage and average TAP participant discount. Indeed, PWD explains the reason for its preference in utilizing that data is that it “focuses on the period in which current rates are in place.”⁸ Accordingly, PWD’s attempt to provide additional justification for this position by interrogating the Public Advocate’s witness concerning base rates – not TAP-R rates – that went into effect on September 1, 2025 to support its position is repetitive and cumulative. If allowed to pursue this discovery, PWD would create confusion on the record between Table C-4 set forth at Schedule PWD-2 in this TAP-R proceeding, and the separate Table C-4 from the 2025 General Rate Proceeding introduced via this Interrogatory. The Public Advocate submits that the probative value of Table C-4 from the 2025 General Rate Proceeding, and the question submitted to the Public Advocate concerning that table, is outweighed by the confusion and cumulative production of evidence that would follow from allowing PWD-TAP-I-8.

Without waiving these objections, the Public Advocate is willing to stipulate that Table C-4 from the 2025 General Rate Proceeding is public record, prepared by PWD in July 2025, and

⁸ PA-TAP 1-2.

reflects PWD’s calculations based on existing rates as of September 1, 2024, and proposed rates as of September 1, 2025, and September 1, 2026.⁹

PWD-TAP-I-10 Confirm or deny: There is pending legislation (Bill No. 251021) to be introduced in City Council in this legislative session (before June 30, 2026) that will authorize a change in the eligibility threshold for the TAP program. If your response is anything other than an unqualified “confirm,” please provide a detailed explanation and reasoning for the response.

The Public Advocate objects to this discovery request because it is irrelevant to this TAP-R rate proceeding. Additionally, to the extent Bill No. 251021 and PWD discovery is intended to introduce evidence to support PWD’s case-in-chief, PWD is not permitted to introduce such evidence in the rebuttal phase of this proceeding, as discussed above.

As background, Bill No. 251021 was introduced on November 20, 2025, and referred to City Council’s Committee on Transportation and Utilities on the same date.¹⁰ It has not yet been heard in Committee and is subject to amendment.¹¹ Bill No. 251021 was not mentioned or considered in any way in PWD’s Advance or Formal Notice. Likewise, Bill No. 251021 was not mentioned or considered by the Public Advocate’s witness in his Direct Testimony. It is plainly irrelevant to this proceeding as neither PWD nor the Public Advocate can predict the impact of proposed City Council legislation that may or may not become law and has not even been the subject of Committee hearing, much less potential amendments if advanced. It is entirely speculative to suggest that Bill No. 251021 could impact TAP-R rates during the rate period at issue in this proceeding.

⁹ The Public Advocate notes that use of Fiscal Year designations in the referenced Table C-4 is inaccurate. Board-approved rate adjustments are typically effective on September 1, two months after the start of the City’s Fiscal Year.

¹⁰ Information regarding pending City Council legislation is publicly available at: <https://phila.legistar.com/Legislation.aspx>.

¹¹ It is worth recognizing that Bill 140607-AA, the legislation authorizing TAP was amended four times prior to final passage and recalled after unanimous passage for reconsideration by City Council.

Furthermore, to the extent PWD intends to support its proposed TAP-R rates on the basis that they are more likely to respond to the future impacts of Bill No. 251021, such a submission is objectionable for the same reasons as PWD-TAP-I-8. Indeed, that would directly contradict PWD's position that its TAP-R rates are based upon the most recent actual data available.¹²

Without waiving these objections, the Public Advocate is willing to stipulate that Bill No. 251021 was introduced on November 20, 2025, and is a publicly accessible document.

PWD-TAP-I-11 Confirm or deny: That the proposed legislation referenced in PWD-TAP-I-10 is intended to authorize, among other things, the increase of the TAP income eligibility threshold to include households at 151-200% FPL. If your response is anything other than an unqualified "confirm," please provide a detailed explanation and reasoning for the response.

The Public Advocate objects to this discovery request for the same reasons set forth in its objection to PWD-TAP-I-10. Bill No. 251021 is irrelevant to this proceeding and its potential impacts on TAP-R are purely speculative. PWD's desire to introduce evidence regarding Bill No. 251021 is impermissible in the rebuttal phase and contradicts its own case-in-chief by suggesting its TAP-R rates are somehow capable of predicting and compensating for the hypothetical effects of potential future legislation.

Without waiving these objections, the Public Advocate is willing to stipulate that Bill No. 251021 was introduced on November 20, 2025, and is a publicly accessible document. The Public Advocate would further stipulate that PWD customers with special hardship conditions and household income in excess of 150% FPL can currently enroll in TAP and receive monthly bills calculated as 4% of household income.¹³

¹² PA-TAP 1-2.

¹³ PWD Reg. §206.4(b).

PWD-TAP-I-12 Please provide your best estimate of the maximum number of eligible TAP participants in the following Federal Poverty Level (FPL) household income tiers:

- a. 0-150% FPL**
- b. 150-200% FPL**
- c. 200-250% FPL**

The Public Advocate objects to this discovery request because an estimate of the maximum number of TAP participants in each of the FPL tiers identified by PWD is irrelevant to this TAP-R proceeding. TAP-R rates are not determined based upon the maximum number of customers who could potentially participate but instead are based upon actual participation and usage data, as well as projections of future participation.

The Public Advocate further objects to this request on the basis that the probative value of any response is far outweighed by the unnecessary burden preparing a response would place on its responding witness. Preparing an adequate response would require the Public Advocate to invest significant time and expense to, at a minimum: (1) estimate the number of households in each income tier in Philadelphia, likely based on census data; (2) create and apply a methodology to assign those households to specific property types where residents may qualify to be PWD customers (e.g., single family owner-occupied homes or single family homes with active rental licenses); (3) create and apply a methodology to determine the estimated number of households over 150% FPL for whom a bill set at 4% of household income is the most affordable bill option, while also taking into account that some subset of those households may qualify for PWD's Senior discount (which could produce a monthly bill lower than 4% of household income); and, (4) overlay a separate evaluation of the frequency of special hardships (e.g., significant illness, job loss, loss of household member) experienced by customers in tiers above 150% FPL so as to

qualify for TAP. This undertaking will not affect PWD or the Public Advocate's positions in this proceeding and will have no impact on the Board's determination of TAP-R rates.

The Public Advocate notes that PWD was asked a similar question in this proceeding by the Philadelphia Large User Group (PLUG). In response, PWD stated: "We cannot confirm the maximum number of eligible TAP participants as the question is phrased."¹⁴ Without waiving these objections, the Public Advocate is willing to stipulate that it cannot estimate the maximum number of eligible TAP participants in the tiers identified in PWD-TAP-I-12 in time to prepare a response or without diverting resources away from those available to serve the core functions of the Public Advocate.

* * * * *

For all of the foregoing reasons, the Public Advocate objects to PWD's Interrogatories and requests an order sustaining these objections.

Respectfully submitted,

/s/ Robert W. Ballenger

Robert W. Ballenger, Esq.

Community Legal Services, Inc.
1424 Chestnut St.
Philadelphia, PA 19102

For the Public Advocate

¹⁴ PLUG-PWD I-4.