

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

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

**PUBLIC ADVOCATE OBJECTIONS AND PARTIAL RESPONSES
TO HAVER'S DISCOVERY REQUESTS
TO THE PUBLIC ADVOCATE, SET I**

The Public Advocate hereby objects to the Haver Discovery Requests to the Public Advocate, Set I, which were submitted via email on April 23, 2026 (Interrogatories).¹ The Public Advocate requests the Hearing Officer sustain these Objections. The Public Advocate notes that it offers partial responses, where possible, 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). None of the information sought by Haver is relevant to the TAP-R rates and charges to be determined by the Board in this proceeding. Indeed, none of the Interrogatories pertain to the substance of the Public Advocate's testimony, the TAP-R rates proposed thereby, or the manner in which the Public Advocate's witness determined adjustments to PWD's proposed TAP-R rates. Additionally, several of the Interrogatories are imprecise and challenging to interpret, making them too indefinite to allow a reasonable response.

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

¹ Although designated as Set 2, these requests are the first set issued to the Public Advocate by Haver. They are renumbered herein Haver-PA-TAP-I-1 through I-19.

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

**DISCOVERY OBJECTIONS
AND PARTIAL RESPONSES**

Haver-PA-TAP-I-1. What is the total cost of the TAP Program

The Public Advocate objects to this request on the grounds that the “total cost of the TAP program” is imprecise and undefined as well as potentially overbroad, since the TAP program has been in effect since 2017 and the request could naturally be read to extend back to that date. In such event, the request is also objectionable as overly broad and burdensome, requiring the Public Advocate to assemble data over a nine-year period. Ultimately, the Public Advocate must not be required to speculate as to the intended meaning of an indefinite request that does not permit reasonable response.

Without waiving its objections, and by way of partial response, monthly TAP discounts are quantified in Exhibits to PWD’s Advance Notice, filed on February 17, 2026, available at: <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2026->

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).

[tap-r-reconciliation-proceeding/#advance-notice-of-filing](#). Totals for any period of months included therein can easily be determined based on this publicly available information.

Haver-PA-TAP-I-2. What are the Administrative Cost of the Tap Program?

The Public Advocate objects to this request as irrelevant. There is no administrative cost recovered through the TAP-R rate rider, which is the focus of this limited scope proceeding. The Public Advocate further objects that this request is imprecise and undefined as well as potentially overbroad, since the TAP program has been in effect since 2017 and the request could naturally be read to extend back to that date. The Public Advocate must not be required to speculate as to the intended meaning of an indefinite request that does not permit reasonable response.

Without waiving its objections, the Public Advocate incorporates PWD’s supplemental response to PA-I-10 in the 2023 General Rate Proceeding, available at: <https://www.phila.gov/media/20230620095258/Public-Advocate-Discovery-Set-I-Supplemental-Responses-2023.03.10-FINAL1.pdf> (“The Customer Assistance Program administrative costs are not specifically isolated within the Water Fund Budget, as they are a portion of the costs within the appropriate City Department/Division and class of cost.”).

Haver-PA-TAP-I-3. How many consultants were retained to create, file and answer questions about the filings regarding the TAP program.

The Public Advocate objects to this request as irrelevant. The number of consultants retained by the Public Advocate has no bearing on the subject matter of this proceeding, namely, the reconciliation of TAP-R rates and charges. Response to this discovery request will not provide information that assists the Board in resolving the issues before it in determining the appropriate TAP-R rates to be effective September 1, 2026. The Public Advocate further objects that this request is imprecise and undefined as well as potentially overbroad, since the TAP

program has been in effect since 2017 and there have been multiple filings in multiple proceedings before and after implementation. Furthermore, this request is naturally read to refer to the number of consultants retained by PWD and others over multiple proceedings. The Public Advocate must not be required to speculate as to the intended meaning of an indefinite request that does not permit reasonable response.

Without waiving its objections, the Public Advocate has retained Exeter Associates, Inc., in order to utilize the services of one (1) consulting witness, Lafayette K. Morgan, Jr., in this proceeding.

Haver-PA-TAP-I-4. Please list the consultants retain.

The Public Advocate incorporates its objection and response to Haver-PA-TAP-I-3.

Haver-PA-TAP-I-5. Please provide the contracts retaining the consultants.

The Public Advocate incorporates its objection and response to Haver-PA-TAP-I-3. Furthermore, the contract for the Public Advocate's consultant referenced in response to Haver-PA-TAP-I-3 has no bearing on the subject matter of this proceeding, namely, the reconciliation of TAP-R rates and charges. Response to this discovery request will not provide information that assists the Board in resolving the issues before it in determining the appropriate TAP-R rates to be effective September 1, 2026.

Without waiving its objections, the subcontract between CLS and Exeter Associates is supplied together herewith.

Haver-PA-TAP-I-6. How Community Meetings did the Rate Board's appointed advocate meet with before its testimony was created? Before the testimony was filed? Please list the name(s) and any and all community and civic groups the rate board's advocate met with before filing its testimony.

The Public Advocate objects to this request as irrelevant. As has been articulated multiple times in multiple proceedings, the Public Advocate independently and forcefully represents the shared interests of more than a half a million residential and small commercial customers of PWD in proceedings before the Board.

Without waiving its objections, the Public Advocate's outreach and engagement obligations are set forth in Exhibit PA-1 to its contract, provided in response to Haver-PA-TAP-I-7.

Haver-PA-TAP-I-7. Please provide the contract specifying the hourly rate each lawyer charges, the total amount the lawyer will charge and the supervisor of each lawyer.

The Public Advocate objects to this request as irrelevant. The Public Advocate contract has no bearing on the subject matter of this proceeding, namely, the reconciliation of TAP-R rates and charges. Response to this discovery request will not provide information that assists the Board in resolving the issues before it in determining the appropriate TAP-R rates to be effective September 1, 2026. The Public Advocate further objects to the request for employee supervisory information to the extent such information is vague and imprecise ("supervision" in practice is not necessarily a hierarchical construct and in many cases is project-based and dynamic), may constitute confidential employee information protected by law, and/or be intended to otherwise burden and oppress CLS employees serving as Public Advocate.

Without waiving its objections, the contract for Public Advocate services is supplied together herewith.

Haver-PA-TAP-I-8. Are the lawyers' fees considered costs of the Tap program?

The Public Advocate objects to this question as irrelevant, imprecise and undefined. It is not clear whether this question concerns lawyers for PWD, the Public Advocate, or others. It is

also not clear what is meant by “costs of the Tap program,” particularly in light of the question designated Haver-PA-TAP-I-2, above.

Without waiving its objections to this question, if the question is whether attorneys fees are included in the costs recovered by the TAP-R, the answer is “no.” The Public Advocate incorporates its witness testimony, PA-St. 1 at 7 (briefly explaining the equation used to determine TAP-R rates), available at: <https://www.phila.gov/media/20260417161552/PA-St-1-LKM-Final.pdf>.

Haver-PA-TAP-I-9. Is the Water Department able to accept grants from governments and/or foundations?

The Public Advocate objects to this question as improperly posed to it, rather than PWD. The Public Advocate further objects to this question as imprecise and undefined since it is overbroad and not reasonably limited by purpose, nature, source or other relevant parameters that may assist in formulating a response regarding potential government or foundation grants.

Without waiving these objections, the Public Advocate incorporates PWD’s responses to PA-X-21 and PA-X-22 in the 2023 General Rate Proceeding, available at: <https://www.phila.gov/media/20230412175437/Public-Advocate-Discovery-Set-X-2023.04.03-FINAL.pdf>. Those responses explain a difference in how PWD’s General Bond Ordinance treats grants that constitute project revenues versus grants solely in aid of construction. The Public Advocate is aware that the City Department of Finance has expressed that grants that are treated as project revenues may adversely impact PWD’s bond ratings. See, e.g., City Council Committee on Transportation and Public Utilities, Hrg. Tr. at 16-17 (May 8, 2023), available at: <https://www.transcriptroom.org/tr/CAF/DownloadFile/7030821?docType=30&FileName=tr050823.pdf>.

Haver-PA-TAP-I-10. Provide all requests that the rate board’s advocate made asking PWD to seek funds to pay for TAP? If the rate board did not make any attempt to help PWD find other sources of funds, other than struggling rate payers, please explain why?

The Public Advocate objects to this question as irrelevant to the determination of TAP-R rates in this proceeding.

Without waiving its objection, the Public Advocate incorporates its response to Haver-PA-TAP-I-9.

Haver-PA-TAP-I-11. Is the TAP payment based on a person and/or family income?

The Public Advocate objects to this question as imprecise and undefined since it is unclear what is meant by “the TAP payment” and the grammar is confusing. The Public Advocate must not be required to speculate as to the intended meaning of an indefinite request that does not permit reasonable response. The Public Advocate further objects to this question, to the extent it intends to inquire how TAP participant *bills* are calculated, as irrelevant to the issues present in this TAP-R rate reconciliation proceeding which does not involve consideration of TAP program design, but simply addresses the reconciliation mechanism for TAP program *costs*.

Without waiving its objections, the Public Advocate submits that: (1) the Philadelphia Code requires that TAP participant bills be affordable, based on a percentage of the household’s income; and (2) the Board established the affordability targets for TAP in its 2016 General Rate Determination, available at: <https://www.phila.gov/media/20200123162020/DeterminationDate-Stamped.060716.pdf>.

Haver-PA-TAP-I-12. Is the sur charge on each person’s water bill based on a person and or family’s income?

The Public Advocate objects to this question as irrelevant to the narrow determination of TAP-R rates in this proceeding.

Without waiving its objection, the Public Advocate incorporates its witness testimony, PA-St. 1 at 7 (briefly explaining the equation used to determine TAP-R rates), available at:

<https://www.phila.gov/media/20260417161552/PA-St-1-LKM-Final.pdf>.

Haver-PA-TAP-I-13. Is the sur charge on each person’s bill based on a person’s ability to pay, if they are not participants in the tap program?

The Public Advocate incorporates its objection and response to Haver-PA-TAP-I-12.

Haver-PA-TAP-I-14. Does a person making \$ 500,000 dollars a year and a person making \$ 50,000 a year, if they have the same water usage, pay the same sur charge?

The Public Advocate incorporates its objection and response to Haver-PA-TAP-I-12.

Haver-PA-TAP-I-15. Is the TAP program an anti-poverty program?

The Public Advocate objects to this question as irrelevant to the narrow determination of TAP-R rates in this proceeding.

Without waiving its objection, the Public Advocate recognizes that TAP provides clear and measurable benefits to Philadelphians enduring poverty, but submits that TAP is not an anti-poverty program. Rather, TAP, like Customer Assistance Programs (CAP) first developed by the Pennsylvania Public Utility Commission state-wide in 1992, serves several purposes, including decreasing utility uncollectible accounts, reducing utility collection costs, and assisting low-income customers in maintaining their service.

Haver-PA-TAP-I-16. Is the TAP program similar in purpose to anti-poverty programs?

The Public Advocate incorporates its objection and response to Haver-PA-TAP-I-15.

Haver-PA-TAP-I-17. Is the TAP program similar in purpose, helping families afford a basic necessity of life, to the SNAP program?

The Public Advocate incorporates its objection and response to Haver-PA-TAP-I-15.

Haver-PA-TAP-I-18. Is the TAP program, similar in purpose to the Fund to help low income SEPTA riders?

The Public Advocate incorporates its objection and response to Haver-PA-TAP-I-15.

Haver-PA-TAP-I-19. If the surcharge pays for a public policy, how is it different from a sales tax

The Public Advocate objects to this question as irrelevant to the narrow determination of TAP-R rates in this proceeding. The Public Advocate further objects to this question to the extent it requests a legal opinion regarding the difference between a tax and a rate.

Without waiving its objections, the Public Advocate submits that, like PUC-regulated CAPs which are statutorily-required to be adequately funded through non-bypassable rate mechanisms for all large natural gas and electric utilities in Pennsylvania, the TAP-R is cost based and imposed for the limited and specific purpose of recovering TAP discounts. In contrast, “[t]axes are defined as being the enforced proportional contribution of persons and property, levied by the authority of the state for the support of the government, and for all public needs.” Thomas M. Cooley, *Treatise on the Law of Taxation Including the Law of Local Assessments*, 1 (1876). The Public Advocate incorporates its objection and response to Haver-PA-TAP-I-15.

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

Respectfully submitted,

/s/ Robert W. Ballenger

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For the Public Advocate