

**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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**PHILADELPHIA WATER DEPARTMENT
OBJECTIONS AND PARTIAL RESPONSES TO HAVER DISCOVERY REQUESTS
(SET I)**

I. INTRODUCTION

The Philadelphia Water Department (“Department” or “PWD”), by and through its undersigned counsel, hereby serves these Objections and Partial Responses to “Haver Discovery Requests Set I,” which contains twenty numbered requests concerning the TAP Program, related costs, consultants, attorneys, grants, surcharge design, and asserted policy comparisons. These objections are made to preserve all applicable rights, privileges, immunities, and protections, and no response shall be construed as a waiver of any objection to the admissibility, relevance, materiality, or discoverability of any information or document.

II. GENERAL OBJECTIONS

PWD objects to each request to the extent that it seeks information or documents that are not relevant to any issue properly presented in this proceeding, are not material to this proceeding, or are otherwise beyond the permissible scope of discovery. Under Pennsylvania Rule of Civil Procedure 4003.1, discovery is limited to nonprivileged matter relevant to the subject matter involved in the pending action, and Pennsylvania courts recognize that relevance

remains the focal point of discovery. *PECO Energy Co. v. Ins. Co. of N. Am.*, 852 A.2d 1230, 1235 (Pa. Super. Ct. 2004); *Office of the Dist. Attorney of Phila. v. Bagwell*, 155 A.3d 1119 (Pa. Commw. Ct. 2017).

PWD further objects to each request to the extent it is vague, ambiguous, overbroad, unlimited as to time, undefined as to scope, or premised on terms susceptible to multiple meanings, including but not limited to “total cost,” “administrative cost,” “help,” “similar in purpose,” and “public policy.”

PWD also objects to each request to the extent that it seeks information protected by the attorney-client privilege, attorney work-product doctrine, deliberative or investigative protections, confidentiality obligations, or other applicable immunity from disclosure. Pennsylvania courts have recognized that discovery may not compel production of privileged material and that claims of privilege are entitled to protection in discovery practice. *McGovern v. Hosp. Serv. Ass’n*, 785 A.2d 1012, 1017-18 (Pa. Super. Ct. 2001); *Commonwealth v. Williams*, 86 A.3d 771 (Pa. 2014).

PWD further objects to each request to the extent that it seeks confidential commercial, contractual, personnel, or third-party information, or information equally available to the requesting party from public sources or the requesting party’s own files. Any response, if any, is made subject to and without waiver of these General Objections.

III. SPECIFIC OBJECTIONS TO INTERROGATORIES AND DOCUMENT REQUESTS

Requests Nos. 1-2

1. What is the total cost of the TAP Program?
2. What are the Administrative Cost of the Tap Program?

PWD OBJECTIONS: PWD objects that these requests are impermissibly vague and ambiguous as to the meaning of “total cost” and “administrative cost,” fail to define the time period at issue, and do not specify whether they seek budgeted amounts, accrued amounts, historical expenditures, projected expenditures, direct costs, indirect allocations, or costs attributable to other programs or departments. PWD further objects that, absent clarification, these requests are overbroad and not reasonably tailored to discrete issues in this proceeding, given that discovery must remain relevant to the subject matter involved in the pending action under Pennsylvania Rule of Civil Procedure 4003.1. *PECO Energy Co. v. Ins. Co. of N. Am.*, 852 A.2d 1230, 1235 (Pa. Super. Ct. 2004).

Subject to and without waiving these objections, PWD states that nonprivileged information sufficient to show cost figures PWD relied upon in this proceeding are included in PWD’s 2025 general rate proceeding, and grants and information are available and provided in the quarterly reports filed by PWD with the Rate Board. PWD’s 2025 general rate proceeding can be found at: <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2025-general-proceeding>.

Requests Nos. 3-8

3. How many consultants were retained to create, file and answer questions about the filings regarding the TAP program.
4. Please list the consultants retain.
5. Please provide the contracts retaining the consultants.
6. How many non-City of Philadelphia Lawyers were retained to help PWD with the TAP filing, discovery and hearings?
7. Please list the name and if applicable the law firm of the lawyer retain.
8. Please provide the contract specifying the hourly rate each lawyer charges, the total amount the lawyer will charge and the supervisor of each lawyer.

PWD OBJECTIONS: PWD objects that these requests are overbroad and seek information not relevant to any claim or defense properly before the tribunal merely because a consultant or attorney may have assisted with filings, discovery, or hearings. Discovery in Pennsylvania is broad but remains limited to nonprivileged matter relevant to the pending action, and discovery may not be used to search for information having no bearing on the underlying dispute. *Office of the Dist. Attorney of Phila. v. Bagwell*, 155 A.3d 1119 (Pa. Commw. Ct. 2017). PWD further objects that these requests seek documents and information protected in whole or in part by the attorney-client privilege, attorney work-product doctrine, and related protections to the extent they would reveal counsel's retention for litigation tasks, litigation strategy, scope of legal assignments, supervision, or mental impressions concerning this proceeding. Pennsylvania courts recognize that orders compelling disclosure of putatively privileged or protected material implicate important privilege interests and that post-disclosure review is inadequate once disclosure occurs. *Commonwealth v. Williams*, 86 A.3d 771 (Pa. 2014). PWD also objects to the extent these requests seek confidential commercial terms, proprietary pricing information, personnel information, and third-party contractual provisions subject to confidentiality obligations.

Subject to and without waving these objections, PWD states that attorneys Brooke C. Darlington, Carl Shultz and Renardo L. Hicks have been engaged by Andre C. Dasent, P.C. as consulting attorneys in this proceeding and consultants from Raftelis Financial Consultants and Black and Veatch Corporation have been engaged by PWD in this proceeding.

Request No. 9

9. Are the lawyers' fees considered costs of the Tap program?

PWD OBJECTION: PWD objects that this request, as phrased, seeks a legal conclusion and is vague as to whether it asks about accounting treatment, ratemaking treatment, budget classification, reimbursement treatment, or advocacy position in this proceeding. Subject to and without waiving these objections, PWD will respond, if at all, by reference to nonprivileged cost categorizations actually used or advanced in this proceeding.

Subject to and without waiving these objections, PWD states that nonprivileged information sufficient to show cost figures PWD relied upon in this proceeding are included in PWD's 2025 general rate proceeding, and grants and information are available and provided in the quarterly reports filed by PWD with the Rate Board which are available at: <https://www.phila.gov/departments/water-sewer-storm-water-rate-board/rate-proceedings/2025-general-proceeding>.

Requests Nos. 10-12

- 10. Is the Water Department able to accept grants from governments and/or foundations?
- 11. Provide all letter of inquiries to government and/or foundations seeking funding for the TAP Program.
- 12. Provide the amount of each grant received over the last three years.

PWD OBJECTIONS: PWD objects that these requests are overbroad, not limited to any defined custodians or subject matter nexus, and, as to Request No. 11, seek "all" letters without time or subject-matter limitation beyond a general funding topic. PWD further objects that these requests seek information that may concern third-party communications, preliminary funding inquiries, internal deliberations, and materials not relied upon in this proceeding. Discovery must

be relevant and not a mechanism to go “fishing” outside the issues actually presented. *Office of the Dist. Attorney of Phila. v. Bagwell*, 155 A.3d 1119 (Pa. Commw. Ct. 2017).

Subject to and without waiving these objections, PWD is self-sustaining and collects necessary operating expenses in rates, just like other utilities.

Requests Nos. 3-12 Seeking Documents That May Be Privileged or Confidential

To the extent any of Requests Nos. 3 through 12 are construed to require production of contracts, correspondence, internal communications, or materials exchanged with counsel, consultants, agencies, or third parties, PWD objects to production of any document or portion of a document protected by privilege, work product, confidentiality obligations, or other applicable protection. Pennsylvania courts have made clear that privileged material is not properly compelled through discovery without appropriate judicial scrutiny. *McGovern v. Hosp. Serv. Ass’n*, 785 A.2d 1012, 1017-18 (Pa. Super. Ct. 2001). Any nonprivileged responsive documents, if produced, will be produced subject to appropriate redactions and confidentiality protections.

Requests Nos. 13-15

13. Is the surcharge on each person’s water bill based on a person’s income?
14. 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?
15. 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 surcharge?

PWD OBJECTIONS: PWD objects that these requests are vague and ambiguous as to the terms “surcharge,” “based on,” and “ability to pay,” and that Request No. 15 is hypothetical and assumes facts not established in the record, including specified income levels, identical usage,

and identical customer classifications. PWD further objects that, to the extent these requests seek abstract policy comparisons untethered to the actual rate design at issue, they call for an advisory or hypothetical response rather than discovery directed to concrete issues. Pennsylvania law recognizes that discovery must be assessed in the context of defined issues in the case and relevance to the actual controversy. *PECO Energy Co. v. Ins. Co. of N. Am.*, 852 A.2d 1230, 1235 (Pa. Super. Ct. 2004); *Office of the Dist. Attorney of Phila. v. Bagwell*, 155 A.3d 1119 (Pa. Commw. Ct. 2017).

Subject to and without waving these objections, there is one surcharge pursuant to PWD tariffs and customers pay the same surcharge in accordance with their usage.

Requests Nos. 16-20

16. Is the TAP program an anti-poverty program?
17. Is the TAP program similar in purpose to anti-poverty programs?
18. Is the TAP program similar in purpose, helping families afford a basic necessity of life, to the SNAP program?
19. Is the TAP program similar in purpose to the Fund to help low-income SEPTA riders?
20. If the surcharge pays for a public policy, how is it different from a sales tax

PWD OBJECTIONS: PWD objects that these requests are improper because they seek argumentative characterizations, rhetorical comparisons, legal and policy conclusions, and abstract analogies to external programs not shown to bear on any adjudicative fact in this proceeding. These requests are also vague and ambiguous as to “anti-poverty program,” “similar in purpose,” “public policy,” and “sales tax,” and they are not reasonably calculated to obtain discoverable factual information relevant to the issues presented. Discovery may not be used to compel responses to broad policy debate questions lacking a concrete nexus to matters at issue.

Office of the Dist. Attorney of Phila. v. Bagwell, 155 A.3d 1119 (Pa. Commw. Ct. 2017). No further response is required.

IV. RELIEF REQUESTED

For all of the foregoing reasons, PWD objects to the Interrogatories and Requests for Documents of Haver Set I and requests an Order sustaining these objections.

Respectfully submitted,

/s/ *Renardo L. Hicks*

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