

BEFORE THE
PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD

Re: Philadelphia Water Department Proposed Charges in Rates and Charges	2026 TAP-R Adjustment Proceeding
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**PHILADELPHIA WATER DEPARTMENT’S RESPONSE TO
PUBLIC ADVOCATE’S OBJECTIONS AND MOTION TO COMPEL RESPONSES TO
THE DEPARTMENT’S INFORMATION REQUESTS (SET I)**

The Philadelphia Water Department (“Department” or “PWD”) responds to the [objections](#) by the Public Advocate (“Public Advocate” or “Advocate”) to the Department’s Information Requests, Set I (filed [April 20, 2026](#)), and respectfully requests that the Hearing Officer Kathryn G. Sophy (“Hearing Officer”) overrule the objections and compel the Public Advocate to provide full and complete answers to Information Requests, Set I, Nos. 8, 10, 11, and 12. (Each an “Information Request” or “Interrogatory,” and collectively the “Information Requests” or “Interrogatories”).

Introduction

The Advocate’s objections seek **not only** to prevent responses by its witness, Lafayette K. Morgan, Jr. to the Department’s discovery, **but also** to preclude PWD from introducing evidence or making arguments in its upcoming rebuttal testimony.

The Public Advocate offered stipulations in lieu of responses to the Information Requests. The proffered stipulations are not accepted (at this time) because they do not confirm or deny the requests made in Information Requests, Set I, Nos. 8, 10 and 11. The proffered stipulation for Information Request, Set I, No. 12, would be accepted upon either the Public

Advocate’s withdrawal of its objections to that Information Request or the Hearing Officer’s overruling of Public Advocate’s objections to that Information Request, whichever occurs first.

The Department and the Advocate preliminarily discussed the Information Requests and the Advocate’s objections as well as the stipulations proffered by the Public Advocate on Friday, April 24. The Department is open to further discussions, but time has run out. PWD must have the Public Advocate’s objections withdrawn or overruled so that Department can have full and complete answers to the Information Requests **on or before April 28, 2026** — for purposes of preparing its rebuttal testimony (due on April 30, 2026).

PWD-TAP-I-8

Prior Rate Period

The Department’s request is based on projections that start with four (4) months of actual data, as articulated in the [Advance Notice](#) and [Formal Notice](#).¹ Those months, September 2025 to December 2025, are part of the Most Recent Rate Period.²

The Public Advocate’s projections start with twelve (12) months of data. See [Public Advocate Direct Testimony](#) at 5.³ The months that the Advocate has selected include April 2025 to August 2025, which are part of the Prior Rate Period.⁴ The remaining months, September 2025 to March 2026, are part of the Most Recent Rate Period.

¹ PWD’s requested TAP-R rates set forth in the Advance Notice were unchanged by its Formal Notice.

² In its entirety, the Most Recent Rate Period covers September 2025 to August 2026.

³ The Public Advocate just provided the workpapers for its witness on April 27, 2026 — three days before PWD rebuttal testimony is due. Such workpapers should have been submitted with its testimony. The workpapers were also requested in Information Requests, Set I, Nos. 1 and 2.

⁴ In its entirety, the Prior Rate Period covers September 2024 to August 2025.

The Rate Board approved an increase in base rates effective September 1, 2025. *See* [Rate Determination in 2025 General Rate Proceeding](#). The Department made a compliance filing to reflect the increase. *See* [Rates and Charges Effective Sept. 1 2025 and Sept. 1 2026](#). The Advocate based its recommendation, in part, on data from the Prior Rate Period (before September 1, 2025). The Department requested that the Public Advocate confirm that a rate increase was effective on September 1, 2025. PWD specifically asked:

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.

Please also note that the Advocate did not object to PWD-TAP-I-7 which also addresses this subject matter. A full response is expected as to this issue which affects (biases) data used to determine the TAP average discount.

Response to the Proffered Stipulation

The Public Advocate offered a stipulation in lieu of responses to that Information Request. The proffered stipulation merely points to the C- Tables in the 2025 General Rate Proceeding. The Department believes that the proffer is insufficient because it does not confirm or deny the request in Information Requests, Set I, No. 8. That Information Request does not even ask for an explanation of a denial, so Mr. Morgan should be able to respond. If he cannot, he should be required to explain that he cannot confirm or deny the aforesaid change (10.1% increase) in the typical bill.

Response to the Objections

The Public Advocate objects to this Information Request as **irrelevant** to the determination of TAP-R rates in this limited-scope proceeding. The Public Advocate is wrong. The average discount for Next Rate Period is relevant to this proceeding. Mr. Morgan expressed his opinion of the average discount for the Next Rate Period. [Public Advocate Direct Testimony](#) at 9. If Mr. Morgan used twelve (12) months of data to develop his projections, perforce he used data from the Prior Rate Period and the Most Recent Rate Period. He should be able to formulate a response (in this case affirming or denying that the typical bill for a residential customer was impacted by the increase in rates and charges that became effective on September 1, 2025).

The Public Advocate has not shown how responding to Information Requests, Set I, No. 8 would be **repetitive**. If the Advocate means that the same subject matter is addressed in PWD-TAP-I-7 (a discovery request the Public Advocate did not raise an objection to) then PWD expects a full response to PWD-TAP-I-7 and a cross reference can be made to PWD-TAP-I-8 together with a confirmation or denial — in other words a full response.

The Public Advocate argues that eliciting information regarding a general rate increase which became effective on September 1, 2025 would be **confusing** in the instant context. This argument is without basis. There is no jury to be confused. The Rate Board is fully aware of its decisions regarding PWD rates.

The Public Advocate further argues that information regarding a prior general rate increase (2025 General Rate Proceeding) was required to be included in the Department's **case-in-chief**. Please recall that the Department's "case-in-chief" relies on the Most Recent Rate Period (September 2025 to December 2025). Nothing suggests that the Department based its

modest projection of growth in the program upon data before September 1, 2025 (which predates the 2025 Rate Determination).

In contrast, the Public Advocate’s “case” relies on upon data from the Prior Rate Period (April 2025 to August 2025). The use of that older data “opens the door” for the Department to discuss this issue (impact of lower rates effective prior to September 1, 2025 on the calculation of the TAP average discount). In view of the above, PWD asks that PWD-TAP-I-8 be answered in full (confirm or deny).

Please note that the Public Advocate sent an email indicating that it intended to withdraw its objection to PWD-TAP-I-8 on April 27, 2026 — just before this document was to be filed.

PWD-TAP-I-10 and 11

Projections of Future Participation

The Department projected future TAP participation in the instant filing. Specifically, PWD projected an average TAP Participation of 70,318 for the Next Rate Period. *See*, [Advance Notice](#) and [Formal Notice](#). The Public Advocate made a lower projection of average TAP Participation. It projected 68,405. [Public Advocate Direct Testimony](#) at 9. The Advocate concedes that TAP-R rates for the Next Rate Period are based, in part, on projections of future participation. Public Advocate Objections at 7. *See also* Public Advocate Objections at 3 (projected “participation and usage”). Despite the foregoing, the Advocate objects to PWD-TAP-I-10 and PWD-TAP-I-11.

The Department requested information from the Public Advocate to confirm that potential legislation **could significantly increase** TAP participation. PWD specifically asked:

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.

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.

Response to the Proffered Stipulation

The Public Advocate proffered a **stipulation**. The proffered stipulation points to the proposed legislation. The Department believes that the stipulation is insufficient because it does not confirm or deny the request in Information Requests, Set I, Nos. 10 and 11. If Mr. Morgan does not agree with the description of the proposed legislation, Mr. Morgan should be required to provide a detailed explanation and reasoning for the response. Likewise, if Mr. Morgan was unaware of the proposed legislation in preparing his testimony, he should state that.

Response to the Objections

The Public Advocate objects to this discovery request maintaining that it is **irrelevant** to this TAP-R rate proceeding. The Public Advocate is wrong. The average number of TAP Participants for the Next Rate Period is relevant to this proceeding. Mr. Morgan made a projection of the average number of TAP Participants for the Next Rate Period. [Public Advocate Direct Testimony](#) at 9. The Department asked questions that probe what, if any, **knowledge** Mr.

Morgan has of potential legislation that could significantly increase TAP participation. Information Requests, Set I, Nos. 10 and 11.

The proposed legislation is relevant to the reasonableness of Mr. Morgan's projection of TAP participation. As currently written, the proposed legislation is to become effective immediately upon enactment. Assuming passage of the pending legislation (as written) and that the Rate Board is directed to expand the TAP program, this is a possible scenario to explore. As discussion of the legislation involving PWD and its counsel has taken place in the recent past (April 17), it is also very much "front of mind."

In this context, the Public Advocate again argues that the requested information was required to be **included** in the Department's **case-in-chief**. The Department made a growth projection in its case-in-chief. But the proposed legislation was not the Department's justification for growth in TAP Participation. The Department used a modest growth rate, as explained in the [Advance Notice](#) and [Formal Notice](#). It projected that participation will increase 0.25% per month, on average, over the projection period (April 2026 to August 2027). Nothing suggests that the Department based its modest projection of growth in the program upon the passage of the proposed legislation.

The Public Advocate does not explain why the proposed legislation should have been discussed by the Department in its "case-in-chief." Please note that the Department does not base its position on the passage of such legislation. Nonetheless, the introduction and anticipated passage of same is an issue that may impact (increase) future TAP enrollment.

The Advocate also argues that the requested information will **contradict** the Department's **case-in-chief** and cannot be introduced in the Department's Rebuttal Testimony.

The alleged “contradiction” is not explained by the objections. It appears that any contradiction comes from the (unstated) belief that the potential legislation, if passed, would significantly increase TAP Participation in the Next Rate Period. If that happens, it could show that Mr. Morgan’s projection of TAP Participation for the Next Rate Period is too low. It could also show that the Department’s projection of TAP Participation is too low (although higher than Mr. Morgan’s estimate). That would mean that the Department’s projection of average TAP Participation of 70,318 for the Next Rate Period, as articulated in the in the [Advance Notice](#) and [Formal Notice](#), would be more reasonable and reliable than the projection made by Mr. Morgan. PWD asks that Mr. Morgan be directed to answer the above discovery requests.

PWD-TAP-I-12

Potential Growth

Participation in TAP has grown significantly in recent years. In the instant filing, the month with the highest level of participation is March 2026.⁵

Both the Department and the Public Advocate made projections of average TAP Participation, as discussed above. Different growth rates were used to reach their projections of average TAP Participation. The Department projected that participation will increase 0.25% per month, on average, over the projection period (April 2026 to August 2027). The Public Advocate projected that participation will increase 0.00%, on average, over the same projection period.

The Public Advocate’s projected zero growth, on average (from enrollment in March 2026 to August 2027), suggests that there are no additional income-eligible households in

⁵ The production data showed 68,405 participants in March 2026. PWD-5 Rate Rider Reporting Model (filed [April 15, 2026](#)). The production data was subject to restatement. *Id.* The static data shows 68,413 participants in March 2026.

Philadelphia. The Department requested information from the Public Advocate to provide its understanding of the potential number of eligible TAP participants in Federal Poverty Level (FPL) household income tiers. PWD specifically asked.

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

Response to the Proffered Stipulation

The Public Advocate proffered a stipulation. That stipulation states that: [The Public Advocate] 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.

Response to the Objections

The Advocate objects to this Information Request because it is not **relevant**. The Public Advocate is wrong. PWD is asking the Advocate to opine on estimates of its own constituents. It is in the best position to know the population it serves. PWD has preliminarily found that the number of Philadelphia households that are below 200% FPL is estimated to be roughly 150,000 based upon census data. It seeks to confirm this estimate.

The Public Advocate has not shown how responding to Information Requests, Set I, No. 12 would be **prejudicial**. Mr. Morgan should be required to explain why he projected zero growth in the program. Again, his use of zero growth “opens the door” for the Department to ask questions about the data Mr. Morgan used to come to this conclusion, which includes his

awareness of the current potential TAP participant population and any outside factors (pending legislation) that could affect those numbers in the near term.

Undue Burden on Mr. Morgan

The Public Advocate argues, as part of its overview, that this Information Request (PWD-TAP-I-12) would require a “special study or analysis” by Mr. Morgan. It is apparent, however, that the Information Request does not require Mr. Morgan to undertake an unreasonable investigation, research, or analysis. The Information Request only requires Mr. Morgan to reveal the basis and rationale for his opinions (in this instance related to his growth projections).

Exclusion of Rebuttal Evidence

As noted above, in addition to objecting to PWD discovery, the Advocate seeks to preclude PWD from introducing evidence or making arguments in its upcoming rebuttal testimony.

The Public Advocate is advancing an unreasonable and unfair standard. This is not a situation where an item was missed, and sought to be added later to the prejudice of the other participants. The Public Advocate seems to be arguing that anything that shows Mr. Morgan’s projections are too low must be excluded from the record.

First: The Public Advocate argues, as part of its overview, that the Department must be precluded from introducing evidence or making arguments in its upcoming rebuttal testimony regarding the general rate increase effective September 1, 2025. That rate increase could impact the reasonableness of Mr. Morgan’s opinions. Mr. Morgan relied on data that pre-dates that general rate increase. Those lower rates impact the average “discount” received by TAP Participants. Those lower rates and lower average “discounts” are not representative of present

circumstances (with higher rates post September 1, 2025) or what could be expected to occur in the Next Rate Period. PWD-TAP-I-8 hits upon the difference between past lower rates and the current rates, and reasonableness of the data relied upon by Mr. Morgan. There is no justification for the preclusion of evidence and arguments based on the general rate increase effective September 1, 2025. That is just an historical fact and its mathematical impact is plain (Mr. Morgan's analysis in determining the average TAP discount is biased in using months with lower rates during the Prior Rate Period).

Second: The Public Advocate also argues, as part of its overview, that the Department must be precluded from introducing evidence or making arguments in its upcoming rebuttal testimony regarding the proposed legislation. The proposed legislation, however, could arguably impact the reasonableness of Mr. Morgan's opinions. Mr. Morgan's opinion is for zero growth, on average, over the projection period (April 2026 to August 2027). He made that projection in April 2026 — apparently in ignorance of the proposed legislation. PWD-TAP-I-10 and 11 hit upon the gap between the potential for a significant increase in TAP Participation and the zero growth opinion expressed by Mr. Morgan. But that does not justify the preclusion of evidence and arguments based on potential impact of the proposed legislation. The record should reflect relevant events that potentially affect TAP-R rates.

Third: The Public Advocate further argues, as part of its overview, that the Department must be precluded from introducing evidence or making arguments in its upcoming rebuttal testimony regarding the potential higher number of TAP Participants. Please recall that the Department projected only modest growth in this proceeding (0.25% per month on average). Mr. Morgan projected no growth. PWD-TAP-I-12 hits upon the potential for additional income-

eligible households to enroll in TAP. The response could impact the reasonableness of Mr. Morgan's opinions. PWD only asks for a reasonable discussion of all factors that may effect the TAP-R reconciliation process.

Conclusion and Relief Requested

The Department respectfully requests that the Hearing Officer (a) overrule all of the objections by the Public Advocate; (b) compel the Public Advocate to provide full and complete answers to the Information Requests, Set I, Nos. 8, 10, 11 and 12 **on or about April 28, 2026**; and (c) grant any other relief deemed appropriate under the circumstances.

Respectfully submitted,

/s/ Andre C. Dasent

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