

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  
OBJECTIONS AND RESPONSES  
TO THE PUBLIC ADVOCATE’S INFORMATION REQUESTS, SET 3**

The Philadelphia Water Department (“Department” or “PWD”) objects and responds (without waiver of its objections) to each of the Information Requests, Set 3, from the Public Advocate (hereafter “Public Advocate” or “Advocate”). The Department requests that the Philadelphia Water, Sewer and Storm Water Rate Board (“Rate Board”), by its Hearing Officer, sustain these Objections and strike or limit the subject discovery requests.

**Introduction**

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.

The Department will discuss PA-TAP Set 3 Information Requests and these objections with the Advocate. Notwithstanding and without waiver of the Department’s objections to PA-TAP Set 3 Information Requests, the Department is providing partial responses herein.

**PWD-TAP-3-1 and PWD-TAP-3-2**

**Downward Trend in Usage**

The last [Settlement](#) provided for an average monthly usage of 647 cf (cubic feet) per TAP Participant for the period of September 2025 to August 2026.

The Department projected that the average usage for TAP Participants would be **661** cf per month in the Projected Period (September 1, 2026 through August 31, 2027), as articulated in the [Advance Notice](#) and [Formal Notice](#).<sup>1</sup>

The Advocate's witness, Lafayette K. Morgan Jr. opined (in his Direct Testimony filed [April 17, 2026](#)) that the average usage for TAP Participants would be **654** cf per month in the Projected Period. Mr. Morgan states that he used twelve months of actual data to calculate and project the average usage of TAP Participants in the Projected Period. See, Advocate Direct Testimony at 9. Mr. Morgan does not state that he examined trends in usage from December 2023, December 2024 and December 2025 for TAP Participants with usage in excess of 6 ccf (hundred cubic feet) per month.

On April 27, 2026, Mr. Morgan's workpapers were produced by the Advocate. Those workpapers do not contain calculations of usage from December 2023, December 2024 and December 2025 for TAP Participants with usage in excess of 6 ccf per month.

Thereafter, on April 29, 2026,<sup>2</sup> the Public Advocate submitted its Information Requests, Set 3, to the Department. The Advocate asks the Department to confirm or deny the conclusion that **the percentage of TAP bills issued having monthly usage in excess of 6 ccf per month is trending downward**. The Advocate specifically asks:

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<sup>1</sup> PWD's requested TAP-R rates set forth in the Advance Notice were unchanged by its Formal Notice.

<sup>2</sup> This is one day prior the due date for the Department's Rebuttal (April 30, 2026).

PWD-TAP-3-1 Reference PWD’s response to PA-TAP-2-5 (attachment). Please confirm that, based on the data supplied, the percentage of TAP bills issued having monthly usage in excess of 6 ccfs per month is trending downward.

For illustrative purposes:

- a. In December 2023, 6,915 TAP bills were issued with 7 or more ccfs of usage, representing 31.85% of all TAP bills issued that month.
- b. In December 2024, 18,782 TAP bills were issued with 7 or more ccfs of usage, representing 30.74% of all TAP bills issued that month.
- c. In December 2025, 21,731 TAP bills were issued with 7 or more ccfs of usage, representing 30.26% of all TAP bills issued that month.

PWD-TAP-3-2 If the response to PA-TAP-3-1 is anything other than confirmation, please explain and illustrate how the data supplied in PA-TAP-2-5 supports a contrary conclusion.

Read together, the above Information Requests are asking the Department to confirm or deny a conclusion: “the percentage of TAP bills issued having monthly usage in excess of 6 ccf per month is trending downward.” If the response is “anything other than confirmation,” the Department is required to explain its “contrary conclusion.”

### **PWD Objections to Set 3**

The Department’s objections to the Advocate’s Set 3 Information Requests are grouped together in an effort to minimize the repetition of objections.

The Department objects to the Advocate's Set 3 Information Requests to the extent that they (a) attempt to introduce evidence in support of the Advocate's proposed TAP-R rates, which is not in the Advocate's **case-in-chief**;<sup>3</sup> and (b) require the Department to investigate, research, and respond to a conclusion that is not within Mr. Morgan's Direct Testimony (beyond what has already been provided in such testimony).

Mr. Morgan may testify and provide his conclusions, if he is able to present them without surprise or prejudice to the Department. He stated his conclusions in this Direct Testimony (of April 17, 2026). However, the Advocate's Set 3 Information Requests seek to introduce a conclusion or evidence not presented in Mr. Morgan's testimony.

Stated differently, the Set 3 Information Requests seek to introduce a "new" conclusion. They ask the Department to introduce evidence related to an illustrative **comparison of percentages** from three months (December 2023, December 2024 and December 2025). Mr. Morgan did not compare the usage from December 2023, December 2024 and December 2025 in his Direct Testimony or workpapers. Nor did he compare the percentages from those months. Mr. Morgan also did not opine (as part of this testimony, as filed on April 17, 2026) that the percentage of TAP bills issued having monthly usage in excess of 6 ccf per month is trending downward. Nor did he amend or supplement his testimony or workpapers as of this writing to do so.

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<sup>3</sup> See 52 Pa. Code § 5.243(e). The Advocate has argued that: "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." Advocate Objections (filed [April 23, 2026](#)) at 3, citing 52 Pa. Code §5.243(e). and Pa. R.E. 403.

The Department's witnesses should not be required to answer questions designed to introduce the Advocate's new conclusions that are not in Mr. Morgan's testimony. *Commonwealth v. Lobel*, 440 A.2d 602 (Pa. Super. 1982) (Pennsylvania does not subscribe to the notion of wide-open cross-examination, i.e., that the cross-examiner is always free to ask about any subject relevant to any issue in the case); *Commonwealth v. Ballard*, 80 A.3d 380 (Pa. 2013) (Inquiry on cross-examination was an attempt to call into question witness's judgment on points not proffered by other side and was outside the scope of cross-examination).

Nor should the Department's witnesses be compelled to confirm or deny a conclusion not made by Mr. Morgan. *See, Boucher v. Pa. Hospital.*, 831 A.2d 623 (Pa. Super. 2003) (One party may not compel an expert for the opposing party to divulge his expert opinion); *Stang v. Smith*, 2014 Pa. Dist. & Cnty. Dec. LEXIS 943, 39 Pa. D. & C.5th 428 (2014) (One party may not compel an expert for the opposing party to offer an opinion against his will. The basis for that rule is an acknowledgment of an expert's proprietary interest in his own opinion, and the recognition that he should not be required to relinquish it without his consent).

The Department objects to the Advocate's Set 3 Information Requests on the basis that they are **irrelevant** and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding.

The conclusion stated in the Set 3 Information Requests only **compares percentages.** The conclusion is based on comparing percentages of bills issued in December 2023, December 2024 and December 2025. The Set 3 Information Requests provide illustrative calculations for 3 months (December 2023, December 2024 and December 2025) out of the 36 months of those calendar years. The conclusion in the Set 3 Information Requests is based on, first, calculating

the percentage of TAP bills that were issued with 7 or more ccf of usage as compared to the total number of TAP bills issued in that month; and, second, comparing the different percentages in different calendar years.

The conclusion in the Set 3 Information Requests emphasizes a small percentage decrease (of 1.59% from December 2023 to December 2025). In doing so, the Set 3 Information Requests ignore the underlying data and focus only on a specific, non-representative statistic. The calculated percentages are derived from different base sizes (total TAP bills issued), so they are really incomparable. The Department is concerned that the lack of (stated) consideration of underlying base numbers could lead to misleading conclusions and confusion. There is no testimony in this proceeding from the Public Advocate establishing causation or correlation between the **percentage of TAP bills** issued having monthly usage in excess of 6 ccf per month and actual usage in that month. Therefore, this request is entirely outside the scope of Mr. Morgan's direct testimony.

#### Partial Response to Set 3

PA-TAP-3-1 asks the Department to confirm or deny a conclusion. It does not ask the Department to confirm or deny the illustrative calculations provided therein.

The Department's response to PA-TAP-3-1 is "denied" because the data provided in [PA-TAP-2-5-Attachment](#) supports a contrary conclusion. For its response to PA-TAP-3-2, the Department explains its contrary conclusion as follows:

The underlying base numbers were provided in [PA-TAP-2-5-Attachment](#) on April 7, 2026. The data provided in [PA-TAP-2-5-Attachment](#) categorizes bills based on usage. It was explained that a participant is a unique customer receiving a TAP bill, and some TAP customers

may receive more than one bill in a month, so totals may be higher than unique participants reported. The data does not show any causation or correlation between the number of bills issued in any month with the actual usage in that month or the average usage per TAP participant. Nor could it. The data is limited to the number of bills.

The Department disagrees with the premise of the Advocate's Set 3 Information Requests because comparing percentages between months without any consideration of the actual baseline values is not a reliable or reasonable analysis for determining a trend. The Set 3 Information Requests compare percentages between three different months, but each of the percentages are based on different quantities (i.e., total bills in that month). Comparing percentages based on different quantities is a misuse of statistics that leads to bad conclusions.

The underlying data (base numbers) show that in the later years (2024 and 2025) there are **more TAP Participants with 7 or more ccf of usage** than the prior year (2023 and 2024). Such circumstances support the Department's position that the average usage for TAP Participants is reasonably estimated to be **661** cf per month in the Projected Period (September 1, 2026 through August 31, 2027), as articulated in the [Advance Notice](#) and [Formal Notice](#).

Specifically, the data in [PA-TAP-2-5-Attachment](#) shows that between December 2023 and December 2025, the number of TAP bills issued in those respective months increased from 6,915 to 21,731. It shows:

- In December 2023, 6,915 TAP bills were issued with 7 or more Ccf of usage.
  - The total number of TAP bills issued in December 2023 was 21,714.
- In December 2024, 18,782 TAP bills were issued with 7 or more ccf of usage.
  - The total number of TAP bills issued in December 2024 was 61,106.

- In December 2025, 21,731 TAP bills were issued with 7 or more ccf of usage.
  - The total number of TAP bills issued in December 2025 was 71,823.

In addition, the data in [PA-TAP-2-5-Attachment](#) shows that:

- The category of 7-8 ccf increased from 2,579 TAP bills in December 2023 to 8,969 TAP bills in December 2025. **An increase of more than 200%.**
- The category of 9-10 ccf increased from 1,499 TAP bills in December 2023 to 4,900 TAP bills in December 2025. **An increase of more than 200%.**
- The category of 11-15 ccf increased from 1,524 TAP bills in December 2023 to 4,654 TAP bills in December 2025. **An increase of more than 200%.**
- The category of 16-20 ccf increased from 511 TAP bills in December 2023 to 1,248 TAP bills in December 2025. **An increase of more than 140%.**
- The category of over 21 ccf increased from 802 TAP bills in December 2023 to 1,870 TAP bills in December 2025. **An increase of more than 130%.**

Please see Attachment PWD-TAP-3-2 for the Department's math.

The Department concludes that **more bills with 7 or more ccf of usage** potentially supports an upward trend. That conclusion is contrary to the conclusion articulated in PA-TAP-3-1. It should also be noted that based on the number of TAP Participants and TAP Participant Water Usage reflected in the TAP-R Reconciliation Workbook and TAP Reconcilable Rider Reports and Projection Model (PWD-5), the overall average TAP usage per Participant of

6.69 ccf in December 2025 reflects an increase of the average TAP usage per Participant of 6.35 ccf in December 2024.

Respectfully submitted,

/s/ Andre C. Dasent

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Dated: May 4, 2026

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