

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

Philadelphia Water Department Proposed Changes in Rates and Charges	2026 TAP-R Reconciliation Proceeding
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**PHILADELPHIA WATER DEPARTMENT’S RESPONSE TO MR. HAVER’S  
OPPOSITION TO THE JOINT SETTLEMENT PETITION**

This Philadelphia Water Department (“Department” or “PWD”) Response to Mr. Haver’s Opposition to the [Joint Petition for Settlement](#) (“Response”) is filed with the Philadelphia Water, Sewer and Storm Water Rate Board (“Rate Board”) to memorialize PWD’s opposition to Mr. Haver’s objections to the Settlement of the annual reconciliation proceeding for the Tiered Assistance Program (“TAP”) Rate Rider Surcharge Rates (“TAP-R”).

**I. INTRODUCTION**

The Department supports the Joint Settlement Petition, including [Exhibit 1](#) thereto and the associated typical customer bill impact tables (“Joint Petition” or “Settlement”). The Department maintains that the proposed rates contained in the Settlement (i) provide a fair, just and reasonable reconciliation of TAP-R revenues;<sup>1</sup> (ii) are supported by the record; (iii) are in compliance with all applicable ordinances;<sup>2</sup> and (iv) are in the best interests of the Department and its customers.

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<sup>1</sup> Proposed rates contained in the Settlement are intended to recover (i) the discounts provided to eligible households through TAP (“TAP Discounts”) during the Next Rate Period (September 2026 - August 2027) as well as (ii) any over or under-collection of the TAP Discounts from the Most Recent Period (September 1, 2025 through August 31, 2026) and the prior reconciliation period.

<sup>2</sup> See, Philadelphia Code, Section 13-101 (Rate Ordinance); Philadelphia Code Section 19-1605 (Income- Based Water Rate Assistance Program).

The Department submits that the Settlement should be approved without modification. Mr. Haver (for a variety of reasons addressed below) opposes the Settlement. He asserts that the Settlement is unreasonable as he believes Philadelphia City Council may be considering other ways to support the TAP program.<sup>3</sup> He provides no specifics as to what other means are currently available to the Department. He takes a “wait and see” approach. Mr. Haver also criticizes the Settlement for providing 96% of the requested reconciliation amount.<sup>4</sup> He fails to mention that PWD has been chronically behind (past three years) in recovering necessary revenues to cover TAP costs.<sup>5</sup> He also asserts that TAP surcharge rates are taxes and repeats unfounded criticisms of the Public Advocate (“Advocate” or “PA”).

The Department supports the Settlement. The Department and Public Advocate have found “common ground” for purposes of the Settlement. They have agreed to the adjustments to TAP-R rates as shown in the Settlement. Such rates are fully supported by the record, which establishes that they will provide a reasonable level of funding to recover TAP costs through the Next Rate Period (September 2026 - August 2027). The proposed Settlement will result in rates that are fair, reasonable, and consistent with applicable ordinances<sup>6</sup> and regulations established by the Rate Board.

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<sup>3</sup> See, Haver Opposition at ¶ 12. Mr. Haver’s desired outcome is unclear. Mr. Haver’s opposition does not clearly explain if he is seeking a litigated outcome for this proceeding, a modification of the Settlement or some other relief - as opposed to the proposals made in the Settlement.

<sup>4</sup> See, Haver Opposition at ¶ 4. PWD argued that the PA positions are unreasonable, due in part to errors and inconsistencies in the Public Advocate’s testimony. See, Department’s Main Brief at 7, Footnote 8, *citing*, PWD Rebuttal Statement 1 at 29-31 and Schedule PWD-11.

<sup>5</sup> See, PWD Rebuttal Statement 1 at 22-28.

<sup>6</sup> See, Footnote 2.

To arrive at the Settlement, the Department and the Advocate compromised their respective positions. The respective positions of PWD and the Advocate are set forth in the record and are summarized in the Joint Petition itself.<sup>7</sup> The compromises are within the range of outcomes that were being argued by the Department and the Advocate. The Settlement, however, does not endorse any of the methodologies or calculation methods employed by any party to project the number of TAP Participants, the average discount per TAP Participant, or the average monthly consumption per Participant.

Please note that TAP-R revenues will be reconciled in the next TAP-R proceeding. That is important because the Settlement may not perfectly project what the Department will experience in the Next Rate Period (September 2026 - August 2027). It is, however, a compromise based on a reasonable set of assumptions and represents a just resolution of an adversarial proceeding in the public interest.

## **II. ARGUMENT**

Mr. Haver opposes the Settlement raising four primary arguments (A) City Council is considering alternative ways of supporting the TAP; (B) TAP surcharge rates are taxes; (C) the calculated percentage of revenues to be recovered is 96% of the original request; and (D) general criticisms of the Public Advocate.

### **A. City Council Has Not Provided an Alternative to the Settlement.**

Mr. Haver suggests that the proposed Settlement be rejected based upon his belief that additional support may be forthcoming from City Council.<sup>8</sup> He offers no specifics. His belief is

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<sup>7</sup> See, PWD Brief at 4-6; Joint Petition at 4-5.

<sup>8</sup> Haver Opposition at ¶ 12.

based on extra record evidence (his interpretation of City Council considerations). Mr. Haver essentially recommends a “wait and see” approach (as if some change in policy with attendant revenues is imminent). His recommendation to reject the Settlement seeks to obscure the fact that he has proposed no alternative. During the proceeding, Mr. Haver presented no evidence, testimony or expert opinion to support his position. In contrast to his recommendation, the Settlement clearly explains the compromises made and cites record support. [Exhibit 1](#) shows how the TAP-R revenues and TAP-R rates are determined based on the Settlement. The [typical bill impacts](#) show how the TAP-R rates will impact typical residential and non-residential customers.

The Settlement obscures nothing. TAP-R rates are reconciled each year. There are no excess revenues. The Settlement does not obscure or hide the increase to TAP-R rates. Such rates are reviewed annually by the Rate Board. The TAP-R rates are uniform surcharges (not taxes).<sup>9</sup> The surcharge rates themselves do not change with higher or lower usage. They do not change with the customer’s “class,” such as residential or non-residential. Nor do they change with a customer’s income, except that customers participating in the TAP program do not pay the surcharges (because they pay a percentage of their income).

The Settlement is supported by the record, which is posted on the Rate Board’s website. The Participants had the opportunity to explain their positions regarding the Department’s proposals. The Participants also had the opportunity to submit discovery, present written testimony, present and cross-examine witnesses, and submit briefs. The Participants also had the

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<sup>9</sup> Mr. Haver repeats his argument that TAP-R rates are taxes. *See discussion infra* Part B.

opportunity to support, oppose or indicate non-opposition to the proposed Settlement. It is noteworthy that PLUG has indicated it will not oppose the Settlement.<sup>10</sup>

**B. TAP Surcharge Rates Are Not Taxes.**

Mr. Haver repeats an oft-made argument that TAP-R surcharge rates are taxes.<sup>11</sup> He previously raised this issue in the 2022 TAP-R Reconciliation Proceeding where it was thoroughly refuted.<sup>12</sup> This “taxation” argument attacks the existence of the TAP-R surcharge itself. However, other than the declaration, Mr. Haver offers no explanation (or analysis) as to how and/or why the TAP-R is tax (as opposed to a surcharge). Contrary to Mr. Haver’s argument, the Department submits that the TAP-R is a regulatory surcharge intended to recover TAP costs consistent with applicable Ordinances and Rate Board regulations. The surcharge is established to recover a discrete expense and is considered apart from the Department’s other expenses. In fact, the formula (which was approved in the Rate Board’s 2018 Rate Determination) sets forth the basis for calculating and adjusting the TAP-R surcharge and limits the use of the surcharge to recover the cost of TAP. It does not provide the Department with the means to pay other expenses.

**C. The Percentage Recovery Reflects the Strength of PWD’s Position.**

The calculation of the percentage recovery provided by the Settlement compared to the original TAP-R filing, that Mr. Haver complains of, is the result of the fact that the Department is currently under-recovering revenues to cover TAP costs. Simply put, the Department is playing

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<sup>10</sup> See, PLUG Response to Joint Petition for Settlement, dated June 8, 2026.

<sup>11</sup> Haver Opposition at ¶¶ 1-3.

<sup>12</sup> See, PWD Response to Haver Objections ([May 22, 2022](#)) at 2-3.

“catch up” in this proceeding. This was clearly established in the instant record.<sup>13</sup> Please recall that this is the third consecutive TAP-R proceeding in which TAP-R rates have not recovered total net recoverable costs.<sup>14</sup> The Department cannot reasonably embrace the continuation of the *status quo* (chronic, significant under-recovery of TAP costs).<sup>15</sup> This is a reconciliation proceeding. If the Settlement is adopted, PWD will likely still be under-recovering — but more moderately so. The 96% recovery indicates we are moving to a just resolution in this reconciliation proceeding.

#### **D. General Criticisms of the Public Advocate.**

Mr. Haver also repeats his criticisms of the Public Advocate in this context.<sup>16</sup> Those criticisms are unfounded for the reasons already expressed by the Department in its Main Brief in this proceeding as well as in prior proceedings.<sup>17</sup>

### **III. CONCLUSION**

For all of the reasons stated in this Response, the Department’s Main Brief, Reply Brief and the facts and information contained in the record, the Department respectfully requests that the Hearing Officer recommend that (1) the Rate Board find that the TAP-R rates proposed in the

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<sup>13</sup> PWD Rebuttal Statement 1 at 21.

<sup>14</sup> *Id.*

<sup>15</sup> A “wait-and-see” approach to TAP cost recovery is not reasonable. This was explained on pages 19 to 20 of the Department’s Main Brief (the *status quo* is not reasonable). Mr. Haver would like to wait on City Council’s decision(s) on pending legislation because he believes that they will direct other ways to fund the TAP Program. *See*, Haver Objections at ¶¶ 2, 4, 11, 12. The Rate Board is required under the existing legislation and framework to annually adjust the TAP-R surcharges. There is no guarantee that legislation will be enacted that will provide external funding for TAP. Nor is there any guarantee that such legislation, if enacted, would provide external funding for Fiscal Year 2027 in its entirety.

<sup>16</sup> Haver Opposition at ¶¶ 5 to 14.

<sup>17</sup> *See*, Department’s Main Brief at 46-47. *See also*, 2022 TAP-R Reconciliation Proceeding, Department’s Response to Haver Objections ([May 22, 2022](#)) at 5-6.

Settlement are supported by the record, are in compliance with the Rate Ordinance and other applicable requirements and therefore should be permitted to be placed in effect for the Next Rate Period (effective on and after September 1, 2026); (2) the Rate Board reject any remaining issues, proposals, modifications and/or adjustments by Mr. Haver and any of the other Participants hereto; and (3) the Rate Board authorize the Department to file revised TAP-R rates consistent with the Settlement.

Respectfully submitted,

*/s/ Andre C. Dasent*

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