

**REGULATIONS OF THE PHILADELPHIA WATER,
SEWER AND STORM WATER RATE BOARD**

Restated to include Amendment adopted September 8, 2021, reaffirmed October 13, 2021

SECTION I. DEFINITIONS.

(a) **Advance Notice:** The Department's notice filed with Council and the Board pursuant to Section 13-101(7) of the Code and Section II.A.2(a) of these Regulations that the Department intends to propose any change in rates or charges.

(b) **Board:** The Philadelphia Water, Sewer and Storm Water Rate Board, established pursuant to Section 5-801 of the Home Rule Charter and Section 13-101 of the Code.

(c) **City:** The City of Philadelphia.

(d) **City Council:** The Council of the City of Philadelphia, existing pursuant to Section 1-101 and Sections 2-100 and following of the Home Rule Charter.

(e) **Code:** The Philadelphia Code, the body of general ordinances enacted and published by City Council pursuant to Section 2-304 of the Home Rule Charter.

(f) **Department:** The City of Philadelphia Water Department, established pursuant to Sections 8-500 and following of the Home Rule Charter; and for all purposes related to water, sewer and storm water rates and collections, the City of Philadelphia Revenue Department established as the Department of Collections under Sections 6-200 and following of the Home Rule Charter.

(g) **Department of Records:** The City of Philadelphia Department of Records, established pursuant to Sections 5-1100 and following of the Home Rule Charter.

(h) **Formal Notice:** The Department's filing with the Department of Records of notice pursuant to Section 13-101(7)-(8) of the Code and Section II.A.2(b) of the Regulations of any proposed change in rates and charges.

(i) **General Rate Proceeding:** A proceeding concerning any change in customer rates and charges proposed by the Department for supplying water, sewer and storm water service for accounts and properties located in the City of Philadelphia, excluding any Special Rate Proceeding and TAP Rate Rider Reconciliation Proceeding.

(j) **Hearing Officer:** A person chosen to preside over a Rate Proceeding.

(k) **Hearing Officer Report:** The Hearing Officer's summary of all written information submitted and all testimony presented in both public hearings and technical review hearings. If the Board so requests, the Hearing Officer Report shall also include a discussion of relevant issues, recommendations for the Board's consideration, and such other matters as the Board may

dictate. The Board may establish procedures for Special Rate Proceedings and TAP-R Reconciliation Proceedings that do not require a Hearing Officer Report.

(l) **Home Rule Charter:** The Philadelphia Home Rule Charter, as adopted pursuant to the Pennsylvania First Class City Home Rule Act, April 21, 1949, P.L. 665, 351 Pa. Code §1-100 et seq.

(m) **Participant:** Any individual, corporation or other entity affected by the Department's proposed rates and charges who timely notifies the Board of a desire to participate in the technical review hearings. A Participant may give that notice as soon as the date of the filing of Advance Notice and, unless the Board specifically grants permission to join the Rate Proceeding later, no later than seven (7) days after the filing of Formal Notice. Both the Department and, if one is appointed, the Public Advocate will be deemed to be Participants without notification to the Board.

(n) **Public Advocate:** A qualified firm, organization or individual(s) appointed to represent the interests of Small User Customers pursuant to a formal City contract.

(o) **Rate Determination:** The Board's final, written decision pertaining to proposed rates and charges in any Rate Proceeding.

(p) **Rate Proceeding:** A proceeding pursuant to the process described in the Regulations governing the Board's review, evaluation and determination in General Rate Proceedings, Special Rate Proceedings, and TAP-R Reconciliation Proceedings.

(q) **Reconciliation Statement:** A TAP-R Reconciliation Statement.

(r) **Regulations:** These regulations adopted by the Board.

(s) **Small User Customers:** All residential and small business customers of the Department within the City of Philadelphia, typically with 5/8 inch meters.

(t) **Special Rate Proceeding:** A proceeding (a) concerning a proposed change in rate structure, which has not more than a de minimis impact on residential customer bills, arising from a City Council ordinance, or a change in State or Federal law, that, due to factors beyond the Department's ability to control, cannot reasonably be addressed in a General Rate Proceeding or (b) required to be initiated as a Special Rate Proceeding pursuant to a Rate Determination.

(u) **TAP-R:** Tiered Assistance Program Rate Rider Surcharge rates.

(v) **TAP-R Reconciliation Proceeding:** A proceeding concerning the review of a Reconciliation Statement filed by the Department with the Board for TAP-R. A TAP-R Reconciliation Proceeding may be consolidated with a General Rate Proceeding.

SECTION II. PROCESS FOR SETTING WATER, SEWER AND STORM WATER RATES AND CHARGES

A. General Provisions

The following provisions apply to all Rate Proceedings.

1. Purpose.

(a) Pursuant to Section 5-801 of the Home Rule Charter, the Board shall evaluate and determine proposed changes to the rates and charges fixed for supplying water, sewer and storm water service for accounts and properties located in the City of Philadelphia. In conducting the Rate Proceeding and reaching its Rate Determination, the Board shall adhere to the standards set forth in Section 13-101 of the Code.

(b) The Regulations establish an open and transparent process for public input and comment on proposed rates and charges. Consistent with Section 13-101, Rate Proceedings shall be conducted within 120 days of the filing of the Formal Notice and shall address rates and charges and any service-related issues relevant thereto. If the Board is unable to act on proposed rates and charges within 120 days of the filing of the Formal Notice, and so must extend the duration of the Rate Proceeding, the Water Department may establish emergency rates and charges on a temporary basis pending a final determination by the Board.

2. Department Filings.

(a) The Department shall file its Advance Notice with City Council and the Board. The Advance Notice shall include all documents that the Department intends to file with the Formal Notice pursuant to Section II.A.2(c) hereof (although those documents may be amended between the Advance Notice and Formal Notice).

(b) The Department shall file its Formal Notice with the Department of Records no less than thirty (30) days after its filing of the Advance Notice with City Council and the Board. The Formal Notice shall include all documents required by Section II.A.2(c) and such other documents as the Department believes will be useful to the Participants and the Board. The Formal Notice shall clearly highlight any changes from the Advance Notice, and shall explain the rationale for such changes.

(c) Except as otherwise provided in Section II.C for TAP-R Reconciliation Proceedings or Section II.D for Special Rate Proceedings, the documents that the Department files with its Advance Notice and Formal Notice shall include, but not be limited to, the following:

(1) clear estimates of the effects of the proposed rate changes on customer bills, including, but not limited to, the estimated average percentage Small User bill increase;

(2) all financial, engineering and other data upon which the proposed rates and charges are based;

(3) evidence demonstrating that such rates and charges (A) were developed in accordance with sound utility rate making practices, (B) are consistent with current industry standards for such rates and charges, and (C) are consistent with the Department's bond covenants and other legal requirements; and

(4) a summary fact sheet, designed for the layperson, that explains the proposed rates and charges, the need for such rates and charges, and the information relied upon by the Department to develop and support such proposed rates and charges.

(d) The Board shall post the Advance Notice and the Formal Notice, with all accompanying documents, on the Board's website for public review and the convenience of the Participants. The Board, by itself or through the Department of Records, also shall provide public notice of the Advance Notice and Formal Notice by advertising in accordance with Section 8-407 the Home Rule Charter and Section 21-1703 of the Code.

(e) Beginning when the Department makes its Advance Notice and until the close of the final public hearing, the Department shall post notice of the proposed changes in rates and charges, including the estimated average percentage Small User bill increase, in conspicuous locations in all Water Department and Water Revenue Bureau offices that accept customer payments or that provide customer walk-in service. In addition to the notice provided by the Department of Records, the Board and the Department may publish additional advertisements in newspapers or on the Internet to bring the proposed changes in rates and charges to the attention of affected customers.

(f) The Department may incorporate certain documents by reference in its Advance Notice and Formal Notice. Such documents must be specifically enumerated, shall be deemed a part of the Advance Notice and Formal Notice, and shall be incorporated into the record. The documents that may be incorporated by reference are documents ordinarily produced by the City of Philadelphia other than for the Department's rate request. Documents incorporated by reference must be publicly available on City-owned web pages.

3. Decision on Changes in Rates and Charges.

(a) The Board, in making the Rate Determination on the proposed changes in rates and charges, shall fully consider and give substantial weight to the Hearing Record and any Hearing Officer Report. The Rate Determination shall adopt, modify or reject any Hearing Officer Report and shall incorporate (by reference or otherwise) those portions of the Hearing Record containing the information used by the Board in reaching its decision and supporting the conclusions contained in the Rate Determination.

(b) The Rate Determination of the Board shall include instructions to the Department to prepare a new tariff incorporating the new rates and charges and any changes in rate structure or terms of service and other issues included in the Rate Determination. The new tariff shall conform to the Rate Determination.

(c) The Rate Determination of the Board shall be filed with the Department of Records, shall be posted on the Board's website and shall be sent to all Participants.

(d) The effective date of the changes in the rates and charges shall be the date set in the Rate Determination, but shall not be sooner than ten (10) days after the Department files the new rates and charges with the Department of Records.

4. Computation of Time. In computing any time(s) set forth in these Regulations, days shall mean calendar days unless otherwise stated. If the last day is a Saturday, Sunday or a legal holiday for the City of Philadelphia, the Commonwealth of Pennsylvania or the United States of America, the deadline shall be the next business day.

5. Conformity with Existing Law. Nothing contained in these Regulations shall be deemed to overrule or annul any existing provisions of the Home Rule Charter or the Code.

6. Severability. If any provision, paragraph, word or section of these Regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect.

B. General Rate Proceedings

The following provisions apply to all General Rate Proceedings.

1. Hearing Officer.

(a) An independent Hearing Officer shall be appointed by the Board, which appointment shall take effect, pursuant to a formal City contract with the Board, on or after the date of the Advance Notice.

(b) The Hearing Officer shall have the power and authority to:

- (1) Schedule conferences that the Board or Hearing Officer deems appropriate;
- (2) In consultation with the Board, schedule all public hearings and technical review hearings, including time and locations of such hearings;
- (3) Conduct and preside over all public hearings and technical review hearings;
- (4) Make all procedural rulings necessary to conduct a fair, impartial and expeditious hearing process, including the exclusion of irrelevant or redundant testimony or evidence;
- (5) Issue and modify a plan and schedule for discovery, submission of Participant testimony and briefs, issuance of the Hearing Officer Report, and submission of Participant exceptions;

(6) Make rulings with regard to all objections to information requests including those related to privilege, relevance, timing, scope, expense, extent and/or unreasonable burden associated with responding to such requests;

(7) In conjunction with Department staff, post on the Board's website all written information submitted during the Rate Proceeding; and

(8) Prepare and submit the Hearing Officer Report to the Board and all Participants.

(c) Any Hearing Officer appointed by the Board shall be paid reasonable compensation as negotiated with the Board, pursuant to a formal City contract.

(d) The Board or its Chair may designate a Board member or other impartial person to handle certain Hearing Officer tasks, such as presiding over a hearing.

2. Public Advocate.

(a) A Public Advocate shall be appointed by the Board, effective no later than the date of the Advance Notice. The Public Advocate shall be a Participant in the Rate Proceeding.

(b) The Public Advocate shall be paid reasonable compensation as negotiated with the Board, pursuant to the formal City contract. The contract shall include a budget permitting the Public Advocate to be compensated for its services and costs and reimbursed for reasonable expenses of hiring experts to analyze, prepare testimony, and participate in hearings concerning the Department's proposed rates and charges and service-related issues relevant to rates and charges.

3. Technical Expert.

(a) The Board may hire or appoint a Technical Expert to advise the Board on the Department's proposed rates and charges and directly related issues. Unless the Technical Expert is a City employee, the terms shall be set forth in a formal City contract with the Board.

(b) The Technical Expert shall be paid reasonable compensation as negotiated with the Board, pursuant to the formal contract if the Technical Expert is not a City employee.

4. Public Hearings.

(a) The Board, or a designated member or Hearing Officer on its behalf, shall hold public hearings for the following purposes:

(1) to ensure an open and transparent Rate Proceeding;

(2) to make Departmental personnel available to answer relevant questions about the proposed changes in rates and charges;

(3) to permit the Department and any person or entity affected by the proposed rates and charges to provide information to the Board regarding any change in rates or charges as proposed by the Department; and

(4) to assist the Board in the collection of information relevant to the Department's proposed changes in rates and charges.

(b) Generally, except as may be required to ensure a thorough and fair Rate Proceeding and a full Hearing Record, the public hearings shall be held at least ten (10) days and no more than sixty (60) days after the Formal Notice.

(c) A minimum of four (4) public hearings shall be held. Additional public hearings may be scheduled by the Board or Hearing Officer at the Board's discretion.

(d) Notice of public hearings shall be advertised on the Board's website, in at least one daily newspaper with substantial circulation in the City, and, as feasible, also in newspapers with community circulation at least three (3) days prior to any such hearing.

(e) Each Public Hearing shall begin with a brief presentation by the Department summarizing its proposed rates and charges and the reasons supporting them.

(f) Participation at Public Hearings.

(1) Members of the public may provide written submissions to the Board prior to or at any public hearing. Any submissions must be signed and submitted in person, electronically, or by mail to the Board at or before the public hearing at which the written submissions are to be entered into the record. Members of the public also may make written submissions at any time before the close of the record. The Board shall post instructions for submitting written information, including an address for first-class mail and any restrictions on length or format on its website.

(2) Members of the public may also provide information orally at a public hearing. Time limits for such presentations may be established by the Hearing Officer as appropriate. Members of the public who desire to provide information orally at a public hearing shall sign a log-in sheet at the hearing, as provided by the Hearing Officer or other presiding officer, who may exclude from a public hearing any person who poses a threat to the safety of any other person or who interferes with the presiding officer's ability to conduct a fair and orderly hearing.

(g) Information and comments provided in oral or written form shall become part of the record used by the Hearing Officer to develop the Hearing Officer Report.

(h) A stenographic record shall be made of all public hearings.

5. Technical Review.

(a) Procedure.

(1) The Hearing Officer, or a designated member of the Board on its behalf, shall schedule and preside over the technical review process of the Rate Proceeding, including:

- (i) the submission of Participant testimony;
- (ii) the conduct of technical review hearings;
- (iii) the submission of Participant briefs;
- (iv) the preparation and submission of the Hearing Officer Report;
- (v) the submission of Participant exceptions to the Hearing Officer Report; and

(vi) such additional aspects of the technical review process as the Board or Hearing Officer may determine to be necessary for a rigorous and thorough assessment of potential changes in rates and charges (and related issues) and the establishment of a full Hearing Record.

(2) Notice of technical review hearings shall be duly advertised, except that once a technical review hearing has been convened, the hearing may be continued to another time, date or location by the Hearing Officer or other presiding officer without any additional notice except to the Participants and by announcement at the technical review hearing to be continued.

(3) A stenographic record shall be made of all technical review hearings.

(4) Generally, except as may be required to ensure a thorough and fair Rate Proceeding and a full Hearing Record, the technical review hearings shall be held at least ten (10) days and no more than seventy (70) days after the Formal Notice.

(b) Information Exchange.

(1) Subject to the direction of the Board, or a designated member or Hearing Officer on its behalf, Participants shall be permitted to propound information requests regarding any matter, not privileged, that is relevant to the proceeding. The Board, or a designated member or Hearing Officer on its behalf, may limit discovery (i) as to subject matter that is privileged, (ii) to the extent the information request is unreasonably burdensome (e.g., because of time, extent or expense related to producing the information requested) and/or (iii) to the extent the request is otherwise objectionable.

(2) Information requests to any Participants must be in writing. A Participant may begin to make information requests as soon as it has registered with the Board.

(3) Responses to requests for information shall be timely provided by the responding party to all Participants, submitted to the Board and any Hearing Officer and posted on the Board's website. Participants may, but are not required to, supply each other with paper copies of responses. The Board or Hearing Officer shall have discretion to make changes to these general rules as circumstances require.

(4) Any objections to information requests shall be served on all Participants and the Hearing Officer within three (3) business days after receipt of the request, unless the Board, or a designated member or Hearing Officer on its behalf, extends the time for objections for good cause shown.

(5) The Hearing Officer shall not be bound by formal rules of procedure but shall generally employ procedural standards analogous to those utilized in utility ratemaking proceedings at the Pennsylvania Public Utility Commission.

6. Hearing Record.

(a) Completion of Hearing Record:

(1) Following the conclusion of technical review hearings, any Participant wishing to do so may file its brief according to the schedule promulgated by the Hearing Officer. The Hearing Officer shall thereafter complete and file the Hearing Officer Report with the Board. The Hearing Officer Report and Participant briefs shall be posted on the Board's website and shall become part of the Hearing Record.

(2) Any Participant may file exceptions to the Hearing Officer Report according to the schedule promulgated by the Hearing Officer. The Participant shall identify any discussion or recommendation to which exception is taken and the supporting reasons for the exceptions, and/or indicate that its position has been misstated, that a false impression was created, or that an error or omission has been made. The exceptions shall be posted on the Board's website and shall become part of the Hearing Record.

(b) The Hearing Record shall consist of the following:

(1) The Advance Notice and Formal Notice, including any supporting documents and any documents incorporated by reference as part of the documents submitted with the Advance Notice or Formal Notice.

(2) Evidence of proper advertising and posting as required by the Regulations and other applicable law.

(3) All information accepted into the record by the Board or Hearing Officer, from both the public hearings and the technical review hearings, including written statements from members of the public, Participant responses to information requests, and Participant testimony.

(4) The stenographic record of the public hearings and technical review hearings.

(5) The Hearing Officer Report.

(6) Briefs, exceptions, and other arguments submitted by the Participants, except and to the extent stricken by the Board or Hearing Officer for good cause.

C. TAP-R Reconciliation Proceedings

The following provisions apply to all TAP-R Reconciliation Proceedings.

1. Initiation of TAP-R Reconciliation Proceedings.

(a) The Department shall initiate a TAP-R Reconciliation Proceeding by filing an Advance Notice with the Board and City Council at least ninety (90) days prior to the proposed effective date of the new rates, or at such earlier times as the Board may prescribe. The Advance Notice will include a preliminary proposed Reconciliation Statement and will be contemporaneously served upon Participants in the Department's most recent General Rate Proceeding and posted on the Board's website.

(b) The Department's Formal Notice shall include a final proposed Reconciliation Statement.

(c) The Reconciliation Statement shall identify the persons responsible for preparing the data and documentation submitted with the Reconciliation Statement and include: (1) the new TAP-R and all rates and charges that will increase or decrease because of the new TAP-R, (2) supporting calculations for the new TAP-R in accordance with the formula approved by the Board in the most recent General Rate Proceeding; (3) underlying data and assumptions utilized in determining the proposed TAP-R; and (4) a bill comparison showing the effects of the revised rates on bills for typical Small User Customers.

(d) The Advance Notice and Formal Notice and the proposed changes in rates and charges shall be posted and advertised in accordance with Section II.A.2(d) and (e) of these Regulations.

2. Flexibility of Proceedings.

(a) The Board shall have flexibility in TAP-R Reconciliation Proceedings to set an expedited schedule as compared to a General Rate Proceeding; to schedule one or more public hearings; to retain or consider appropriate alternatives to the appointment of a Hearing Officer, Public Advocate, and Technical Expert pursuant to Sections II.B.1-3 hereof, with adjustments in the scope of services as the Board may deem appropriate; and to establish (or delegate to the Hearing Officer to establish) appropriate procedures to ensure that the TAP-R Reconciliation Proceeding review process remains open and transparent.

(b) Procedures for TAP-R Reconciliation Proceedings shall, at a minimum: ensure that the person designated to serve as the Hearing Officer or other presiding officer is independent of

the Participants to the proceeding; provide Participants rights to receive and exchange requested information that is not privileged and that is relevant to the calculation of the proposed TAP-R; afford Participants the opportunity to participate in technical review hearings or conferences; and permit Participants to submit written arguments.

(c) The effective date of the new TAP-R shall be the date set by the Board in its Rate Determination, but not be sooner than ten (10) days after the Department files the new TAP-R approved by the Board with the Department of Records. The TAP-R approved in the most recent rate proceeding shall remain in effect until the effective date of the new TAP-R approved by the Board.

3. Hearing Record.

(a) The Board shall ensure that a full and complete Hearing Record is established in TAP-R Reconciliation Proceedings.

(b) The Hearing Record shall consist of the following:

(1) The Advance Notice and Formal Notice, including any supporting documents and any documents incorporated by reference as part of the documents submitted with the Advance Notice or Formal Notice.

(2) Evidence of proper advertising and posting as required by the Regulations and other applicable law.

(3) All information accepted into the record by the Board or Hearing Officer, from both the public hearings and the technical review hearings and conferences, including written statements from members of the public, Participant responses to information requests, and Participant testimony.

(4) The stenographic record of the public hearings and technical review hearings and conferences.

(5) Any Hearing Officer Report.

(6) Any Briefs, exceptions, written statements, and arguments submitted by Participants, except and to the extent stricken by the Board or Hearing Officer for good cause.

D. Special Rate Proceedings

The following provisions apply to all Special Rate Proceedings.

- 1. Designation of Special Rate Proceedings.** Any Participant may petition the Board for a determination, for cause shown, whether a rate change proposal should be handled in a Special Rate Proceeding.
- 2. Flexibility of Proceedings.** The Board shall have further flexibility in Special Rate Proceedings within the general parameters of Sections II.C.2-3 hereof.