

## Process for Adjusting PWD Water and Sewer Rates



Under the City Charter, the Water Department is authorized and required to establish rates for water and sewage service, in accordance with standards ordained by City Council. The process for establishing new rates is governed by the Water Department's Rate Process Regulations.

The Water Department's Rates Process is open and transparent to all, guided by principles that ensure that the revenue necessary for utility stability is available over a period of time. PWD works to enact required increases on a gradual basis (over a four year period) and that are predictable to our customers for their own budgeting purposes. This allows the Department to meet regulatory obligations while enhancing our communities by maintaining a strong nexus among our costs and services, as defined through a rigorous accounting and technical process.

A filing for new rates and charges for water, sewer and stormwater services officially begins when a notice of a proposed rate change is delivered to the City Council President. Prior to that time, a briefing is held for City Council and the City Controller.

### General Outline of Current Rate Setting Process

1. City Council and City Controller are briefed of pending rate change proposal
2. Notice of Proposed Rate Change is delivered to the City Council President followed immediately by a press release and a Q&A
3. After 30 days, Notice of Proposed Rate Change filed Department of Records
4. Concurrently, the Mayor, President of City Council and the City Controller jointly appoint independent Hearing Officer and Public Advocate
5. Hearing Officer schedules pre-hearing conference for all interested parties
6. Informal and formal hearings held before the Hearing Officer
7. Public hearing records compiled
8. Hearing Officer makes non-binding recommendations to the Water Commissioner
9. Water Commissioner responds to the Hearing Officer's Report and files Decision
10. Revised rates and charges become effective 10 days later or a date thereafter

Any affected member of the public can also challenge the rate filing and become a Party to the formal technical hearings consistent with the regulations. In prior proceedings, the parties included large commercial customers, colleges, churches (Interfaith Coalition), industrial customers, multi-family property owners and the Public Advocate (representing residential customers). In all recent rate hearings, CLS has served as the Public Advocate. It should be noted that Community Legal Services (CLS) has served the public well in the past in its role as public advocate in every water rate case since the current rate regulations were enacted.

In accordance with the City's contracting procedures, Notice of Opportunities for both Hearing Officer and Public Advocate are posted on the City's e-contracts Philly website. These Notices of Opportunities were extended until December 12, 2011. PWD hopes to recommend Hearing Officer and Public Advocate candidates by mid-February.

## Process for Adjusting PWD Water and Sewer Rates



### Legal Framework

Section 5-800 of the Philadelphia Home Rule Charter conveys responsibility to the Department to operate the water and wastewater utilities. In addition, the Charter authorizes the Department to fix and regulate rates and charges for utility services. Section 5-801 requires the Department to set rates that will yield annually amounts sufficient to cover its operating expenses and debt service, in accordance with standards City Council ordains. The City Council standards referenced above are set forth in the Philadelphia Code, Sections 13-101 and 13-201.

The City Council standards conservatively require that the Department fix and regulate rates so as to yield sufficient revenues over a reasonable period of years to pay its operating expenses, including interest and sinking fund charges approved by Ordinance in connection with the issuance of bonds, meet its obligations to investors and pay proportionate charges for all services performed for the Department by all officers, departments, boards or commissions of the City.

The Water Department's rate regulations, referenced previously, provide for:

- appointment of a Hearing Officer
- enumeration of the duties of the Hearing Officer
- provision of a time frame for various elements of the rate change process
- establishment of rules and guidelines for public hearings on proposed rate changes and their advertisement
- compilation of a hearing record
- the Hearing Officer's report and
- the Water Commissioner's rate determination

The regulations provide for an open process with disclosure of the Water Department's supporting documentation for the rate increase, the examination of Water Department personnel and other City witnesses, expert Departmental testimony and testimony offered in opposition to proposed rates. The Hearing Officer is charged with managing both the technical hearing process and receiving testimony from the general public at scheduled informal public hearings. The Water Commissioner does not participate in the rate hearings.

At the conclusion of the hearings, the Public Advocate, the Water Department and all other parties may file briefs and reply briefs in support of their various positions. The Hearing Officer reviews all testimony and based on the record provides the Water Commissioner with a Report. The Water Commissioner in making his final determination must fully consider and give substantial weight to the Hearing Officer's recommendations and the hearing record. If the Commissioner disagrees with the report, he must state the reasons for that disagreement citing to support in the record for his decision. The Commissioner's rate determination can be appealed by any Party to the Philadelphia Court of Common Pleas.