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1101 Market Street  
Philadelphia, PA 19107-2994*

**FOR IMMEDIATE RELEASE**

**Water Commissioner's Rate Determination for FY 2005**

**January 21, 2005**

**1. Introduction**

I would like to thank everyone who participated in the process to establish the Water Department's Rates and Charges for Fiscal Year 2005 (July 1, 2004 – June 30, 2005). I greatly appreciate the efforts put forth over the last several weeks by the Public Advocate, the representative for the Commercial Customer Consortium, representatives of the Action Alliance for Senior Citizens and other citizens of Philadelphia to make sure that the concerns of our customers were heard. I would like to thank the staff of the Philadelphia Water Department for its hard work in developing and presenting the proposed water and sewer rates. Based on the Hearing Record, I believe that Hearing Officer, Henri P. Marcial, provided for an orderly presentation of evidence, testimony and advocacy by all parties. His decision to hold hearings separately for the Fiscal Year 2005 rates, and the manner in which he conducted the proceedings have resulted in an open process that addressed the pressing financial needs of the Water Department and the concerns of our customers.

In setting rates, the Water Commissioner is guided by the Philadelphia Home Rule Charter, the ordinances of City Council and Water Department Regulations. These laws require that water and sewer rates be just and reasonable, but rates must also be sufficient to cover the operating expenses and loan obligations of the Water Department. A determination on rates and charges is a balancing of important concerns – having the lowest rates possible while preserving the Water Department's ability to provide high quality drinking water and safe, environmentally responsible sewer service. I am very aware that many of our customers have limited means, and that any increase in rates and charges will be a hardship for them. However, I cannot allow our water and sewer systems to be under-funded and fail to provide all our customers with safe drinking water and the proper management of sewage and storm water.

**2. Background for Changes to Rates and Charges**

Water and sewer rates have been increasing in our region and throughout the country. The Philadelphia Water Department's rates and charges remain among the lowest in the Philadelphia region. Many area residents are now paying more for water service alone than the combined Water Department rates for water, sanitary sewer service and storm water management (PWD Statement 1-11). Water Department initiatives have helped

keep costs lower than in many other communities. These initiatives have included improvements in operating efficiency, substantial refinancing of debt and increased efforts to identify and recover unpaid revenues. (PWD Statement 1-4).

However, the Water Department has not been immune from rising costs. Since 2001, the Water Department's annual expenses have risen from \$427 million to the \$520 million budgeted for 2005. The increased costs include salaries for our 2,000 employees and benefits, particularly health care; additional debt service for loans that pay for the rebuilding of our aging water and sewer system; additional costs for compliance with environmental, security and safety regulations; and increased utility, chemical and waste disposal costs. (PWD Statement 1-3) At the same time the Water Department lost a significant state subsidy for sewage treatment plants to Pennsylvania budget cuts. Interest earnings on Water Fund accounts have also declined over this period. (PWD Statement 1-3)

### **3. Procedural History**

The Water Department gave notice of a proposed rate increase to City Council on January, 27 2004. On February 26, 2004, the Water Department filed its proposed rate increase with the Department of Records. A hearing on the proposed rates and charges was requested by Community Legal Services (CLS) and by James Melia, Esq. on behalf of the Commercial Customer Consortium (CCC) and other clients.

During the spring and summer of 2004, several public hearings were conducted by the Philadelphia City Council with regard to the proposed rates and charges and the operations of the Water Department and Water Revenue Bureau. While these hearing did not closely examine the Water Department's rate filing, they served to further alert our customers and City Council members of the need for additional revenue to support the water and sewer systems.

In accordance with Water Department Regulations, the Hearing Officer, Henri P. Marcial, was appointed by the Mayor, the President of City Council and the City Controller. CLS was appointed the Public Advocate in the same manner. On December 17, 2004, the Hearing Officer conducted a pre-hearing conference with the Water Department, the Public Advocate and Mr. Melia. At that meeting, the Water Department presented a revised filing of its proposed rates and charges. This revision reflected updates in revenue requirements since the filing with the Department of Records. The revisions included a reduction in revenues needed to fund a proposed water service/sewer lateral maintenance program that had been proposed, but not approved. It also included revisions for increased salaries and benefits based on the City's union contracts that had been negotiated in the Fall of 2004.

The Water Department also presented a request for an expedited hearing and a Recommended Decision from the Hearing Officer on the proposed rates and charges for the City's FY 2005 (FY 2005 is July 1, 2004 to June 30, 2005). The Water Department's January 2004 filing had anticipated that new rates and charges would commence in July 2004. Because of delays in the appointment of the Hearing Officer and the Public Advocate, there remained a very limited period of time to collect revenues necessary for

FY 2005. The Water Department's principal concern was that revenue collection would not be high enough to meet the coverage requirements of the City's bond financing and insurance agreements. (PWD Position 3) A failure to meet coverage requirements could result in a down-grading of both the Water Department and City of Philadelphia bond ratings, and significant additional future financing costs. (PWD Statement 5-7) Further delays in establishing new rates and charges for 2005 could result in very high monthly increases for customers.

The Public Advocate and the CCC agreed that the merits of the FY 2005 proposed rates should be discussed separately. The Hearing Officer determined that a Recommended Decision could be rendered for FY 2005, provided it would be subject to adjustment following the full examination of the proposed rates and charges for the period FY 2006 to FY 2008. A schedule for the exchange of technical information among the parties was established. A public hearing was advertised in several newspapers (the Philadelphia Inquirer, the Daily News, the Philadelphia Tribune, Al Dia and El Sol) and held at the Gas Commission Hearing Room at 1515 Arch Street on January 10, 2005.

At the hearing testimony was given by the Action Alliance of Senior Citizens, several neighborhood representatives, an expert witness on behalf of the Public Advocate and employees and experts for the Water Department. In addition to the testimony at the hearing, the Public Advocate provided written testimony of its expert witness. The Water Department provided additional evidence supporting the proposed rates and charges in the form of written testimony, standard interrogatories and responses to the interrogatories from the Public Advocate.

Following the hearing, written briefs were submitted to the Hearing Officer by the Public Advocate, the CCC and the Water Department on January 13, 2005. Each party has had the opportunity to review the record and provide the Hearing Officer with its findings of fact and conclusions of law in support of its position.

On January 18, the Hearing Officer submitted his Hearing Officer Report. This report is a thorough review of the record. It incorporates findings of fact and conclusions of law from all briefs, and recommendations to me in forming my Rate Determination.

#### **4. Hearing Officer's Report**

Under Water Department Regulations, the Hearing Officer's Report is the template for the Commissioner's Determination on Rates. Where the Commissioner disagrees with the Hearing Officer's Report, he may modify the Hearing Officer's Report stating the reasons for that modification and identifying support for the modification in the Hearing Record.

The Hearing Officer has concluded that a revenue requirement in FY 2005 of an additional \$13,883,000 is supported by the evidence submitted for the Hearing Record. According to the Report, the resulting rate increase should be subject to adjustments during the establishment of the revenue requirements for FY 2006 to FY 2008 to account for inaccuracies in the Water Department's FY 2005 filing. I am incorporating the Hearing Officer's recommendation into my Determination, and it is attached as Exhibit

1. I have indicated where I agree with it, and also where I believe some modification was needed.

## **5. Findings of Fact**

In his Hearing Officer's Report, the Hearing Officer has provided enumerated findings of fact. I generally agree with them as listed, with certain modifications. These modifications are consistent with the Discussion section of his Recommended Decision.

**Findings 1-7.** No modification

**Finding 8.** Consistent with the Hearing Officer's discussion and the Public Advocate's and CCC's Briefs, the \$16.071 million proposed revenue requirement of the Water Department for FY 2005 can be reduced by \$682,000 by increasing contributions from the rate stabilization fund. This transfer may have implications for rates in later years, but keeping the increase for FY 2005 as low as possible is a higher priority. I find that the Department should also decrease its operating expenses for FY 2005 by \$1,506,000. (PA Statement 12). This too may have implications for rates in FY 2006 or later years. The adjusted FY 2005 revenue requirement is \$13,883,000.

**Findings 9-11.** No modification

**Finding 12.** The implications of a technical default on the Water Department's loan covenants are more than academic. The Water Department fully intends to borrow \$250 million during the Spring of 2005 (PWD Statement 1- 9). These new funds are essential to support the ongoing efforts to renew the water and sewer systems. As further noted by the Hearing Officer's Report on page 9, the long-term effect of a technical default could be as much as \$80 million in additional financing costs to the Water Department and its customers.

**Findings 13-15.** No modification

**Finding 16.** The Water Department's budget accounts for only 46.5% of the annual revenue requirement. The 53.5.% of the Water Fund budget that is not under direct control of the Water Commissioner includes the 34% of overall expenditures for debt service.(PWD Statement1-9)

**Findings 17-19.** No modification

**Finding 20.** Both the Public Advocate and the CCC have suggested that the City's General Fund should intervene and provide support for Water Department rates as it has for the Gas Works by foregoing the transfer of excess interest funds from the Debt Reserve account to the General Fund. While this would clearly reduce the rates and charges, the overall impact on City residents and businesses may not be favorable. (N.T. 157) The Water Department cannot direct a transfer of excess interest funds from the Debt Reserve Account to its Revenue Account for the purpose of increasing FY 2005 revenues for coverage purposes. The excess interest funds are under the control and

direction of the City's Finance Department. The transfer of these funds is authorized by an ordinance of City Council, and the City's approved budget for FY 2005 relies on this transfer. (N.T. 152-162) The Water Department has received further confirmation of this from Budget Director, Dianne Reed, in her letter to the Water Department on January 7, 2005. (PWD Exhibit 8.)

## **6. Conclusions of Law**

I concur with the Hearing Officer's Conclusions of Law.

**Conclusion 1.** No modification

**Conclusion 2.** The Water Department has provided substantial and sufficient evidence to justify the revenue requirement for FY 2005, as adjusted in Finding of Fact 8. Some concerns were raised by both the Public Advocate and the CCC with regard to accuracy of revenue and expense projections for FY 2005. The evidence presented showed a record of projection accuracy to 0.5% (N.T. 95). The standard that City Council has provided in Section 13-102 and Section 13-201 of the Philadelphia Code of Ordinances requires that "The rates and charges shall yield not more than the total appropriation for the Water Fund to the Water Department ... plus a reasonable sum to cover unforeseeable or unusual expenses..." The proposed Water Fund revenue requirement for FY 2005, as adjusted in this Determination, is consistent with general rate making principles and with the City Council's directive.

**Conclusion 3.** No modification

## **7. Rate Adjustments for FY 2005**

(a) The additional Water Fund revenue requirement for FY 2005 is \$13,883,000.

(b) The Water Department shall establish new rates and charges for General Service Water Rates, General Service Sewer Rates and General Fire Service Rates effective February 1, 2005. The rates shall provide the same level of increases to all classes of customers.

(c) The new rates and charges shall remain in effect unless and until modified by the Water Commissioner at the conclusion of the FY 2006 to FY 2008 rate proceeding.

(d) The new rates and charges shall be subject to such adjustments as are supported by the Hearing Record for the FY 2006 to FY 2008 rate proceeding.

**8. Conclusion**

I have directed the Water Department to prepare revised rates and charges for the General Service Water Rates, General Service Sewer Rates and General Fire Service Rates effective February 1, 2005 in accordance with my Rate Determination. The revised rates and charges shall be filed with the Department of Records. These new rates and charges will allow the Water Department to continue to provide safe and reliable water, wastewater collection and treatment and storm water management at reasonable costs while meeting all bond covenants, allowing the Department access to the capital markets, and protecting the ratepayer to the maximum extent possible.

DATE ISSUED: \_\_\_\_\_  
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BERNARD BRUNWASSER

Water Commissioner

## **Hearing Record**

Position Statement of the Public Advocate (PA Position)

Position Statement of the Water Department (PWD Position)

Water Department Direct Testimony and Supporting Exhibits (PWD Statements 1-6)

Direct testimony of Michael A. Bleiweis on behalf of the Public Advocate (PA Statement)

Public Advocate's Interrogatories

Water Department Responses to Public Advocates Interrogatories

Notes of Testimony, Public Hearing January 10, 2005 (N.T.)

PWD Exhibits 1-8

Water Department Brief

Public Advocate Brief

Commercial Customer Consortium Brief

Hearing Officer Report

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