

REIMAGINING THE WATER RATE-SETTING PROCESS IN PHILADELPHIA

Location: Philadelphia, PA
Issues Addressed: Affordability and Assistance, Giving Voice to the Public,
Public Education

In the early 1990s, the City of Philadelphia became the first municipality to appoint a temporary public advocate to represent the interests of “small users,” residential customers and small businesses, during water rate-setting proceedings. It also established the role of hearing officer whose function was to listen to testimony and provide a recommendation on water price during rate-setting cases.

Whenever a proposed rate change triggered case proceedings, the mayor, city council chairperson, and city controller appointed a public advocate. During the case, the public advocate was able to submit evidence, bring in experts to testify, and coordinate community testimony to provide additional perspectives on the water department’s proposal. The public advocate could also provide alternative approaches that could benefit the small users on whose behalf the advocate worked. The public advocate played a community engagement role by gathering information from, and disseminating it to, community organizations in order to better assist low-income residents in enrolling in assistance programs.

The public advocate position had some important limitations. For example, it was only active during rate-setting proceedings, having no role in appeal processes or other actions, such as seeking regulatory changes. Also, although able to raise issues and concerns about proposed rate changes representing the perspective of small users, the public advocate did not have a role in setting the final rates. In fact, recommendations from the hearing officer that reflected input from the public advocate could be ignored by the water commissioner, head of the Philadelphia Water Department, who had final say on new rates.

New water rate board governance

In 2014, city council passed an ordinance to adjust water rate setting decision-making again. The ordinance established the Philadelphia Water, Sewer and Storm Water Rate Board. The Water Rate Board consists of an independent, five-member water authority for establishing and regulating rates and charges for water and sewer services. The five members are unpaid city residents who must have at least five years of experience in public or business administration, finance, utilities, engineering, or water resources management.



Liberty Bell, Philadelphia, PA. *Wikimedia Commons*

PROCESS USED: RATE CASE PROCESS:

1. Philadelphia Water Department files an Advance Notice with the City Council and the Water Rate Board, which includes the rationale for proposed changes to rates and charges.
2. Philadelphia Water posts a notice of proposed changes to rates and charges, including an estimated average percentage increase.
3. The Water Rate Board appoints a hearing officer and public advocate (both funded by the City)
 - a. The public advocate is appointed to represent small users, residential customers and small businesses.
 - b. The hearing officer is appointed to schedule and preside over the public hearings and technical review.
4. Rate change proceedings include a technical review and information discovery period, wherein parties (water department, public advocate, large customer representatives) provide data analysis, cost of service overview, and testimony.
5. The hearing officer submits a report to the Water Rate Board based on a fair and comprehensive review of testimonies and briefs.
6. The Water Rate Board deliberates whether to adopt, modify, or reject the Hearing Officer Report and files the 'Rate Determination of the Board.'
7. The new rates go into effect.

The ordinance gave the new Water Rate Board final decision-making authority on water rates, removing it from the water commission and there by putting the public advocate and water department on equal footing. As a result, water rate-setting proceedings now play out much differently. Testimony and evidence is provided from several perspectives – the Philadelphia Water Department, the public advocate and legal representatives of larger users, such as hospitals and universities – and the hearing officer provides a recommendation to the Water Rate Board, which, in turn, makes the final decision on rates.

The public advocate under new rate proceedings

The public advocate continues to be a temporary position filled when the Philadelphia Water Department proposes a rate change under the new rate setting structure. Under the new ordinance, the Water Rate Board issues a request for proposals for an individual or organization to serve as public advocate, based on experience, reputation, and demonstrated efficiency.

2016 rate proceedings results

During the first rate case under the new governance arrangement in 2016, the Philadelphia Water Department submitted a request for rate increase that would amount to a total of \$106 million over two years. The Water Rate Board approved a budget of \$89.5 million, \$16 million lower than what Philadelphia Water proposed. This adjustment resulted from detailed and technical challenges provided by the public advocate. While the Water Rate Board did not agree with all of the public advocate's arguments, the public advocate successfully argued a series of technical issues that succeeded in reducing the final total of the rate increase.

Resources required

Funding for Water Rate Proceedings

The 2016 rate proceedings cost over a million dollars for Philadelphia Water and the public advocate to bring in rate consultants and legal expertise. The public advocate's 2016 contract was for \$300,000, which paid for legal staff and the outside experts to offer evidence and testimony.

Lessons learned

- A water rate governance system that includes an independent Water Rate Board and empowers a public advocate to be an equal party with water utilities in water rate proceedings can create a process that ensures a strong voice for all stakeholders during rate-setting discussions.
- Having an independent Board with decision-making authority enables the public advocate to represent small user rate payers in a powerful way. The public advocate can bring evidence, expert witness, and community testimony to rate proceedings, systematically advancing technical arguments behalf of small water users.

MANAGING PUBLIC WATER INFRASTRUCTURE WITH RESOURCE CONSTRAINTS

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Philadelphia skyline.

- A public advocate can benefit non-profit public assistance organizations by being a source of information related to rate proceedings, new rate structures, and new affordability and assistance programs. The public advocate's information sharing role provided valuable information to area non-profits working with low-income households on water bill payments and registration for affordability and assistance programs.

Project status

The most recent case heard by the Water Rate Board was in 2016.

What other communities have implemented similar projects?

The City of Los Angeles has a water rate setting structure and includes an Office of Public Accountability, which represents water rate payers. This is a full-time office, housed within city government, that represents small water rate payers year-round, not only during water rate case proceedings.

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