

**REPORT OF THE WATER COMMISSIONER
ON THE PUBLIC HEARING WITH RESPECT TO
PROPOSED AMENDMENTS TO THE WATER DEPARTMENT'S REGULATIONS –
CHAPTER 1: CUSTOMER RIGHTS AND OBLIGATIONS:
SECTIONS 100.1 DEFINITIONS, 100.9 PAYMENT AGREEMENTS,
100.11 PROCEDURE AT SHUT OFF AND 100.12 RESTORATION OF SERVICE**

June 20, 2017

This report summarizes the comments received by the Water Department regarding proposed amendments to Chapter 1, Sections 100.1, 100.9, 100.11 and 100.12 of the Water Department's regulations at a public hearing on June 16, 2017, provides responses to the comments, and modifies certain provisions of the regulations in response to the comments provided at the hearing.

The Water Department initially filed proposed amendments to these sections of its regulations with the Department of Records on December 13, 2016. A public hearing on the initially proposed amendments was held on January 26, 2017. Upon consideration of the comments provided at that hearing, the Water Commissioner issued a report rescinding the amendments as initially proposed and indicating that the Water Department would refile with the Department of Records proposed amendments to Chapter 1 of its regulations as revised to clarify certain issues.

On May 3, 2017, pursuant to Section 8-407(a) of the Philadelphia Home Rule Charter, the Water Department filed with the Department of Records revised proposed amendments to the Chapter 1, Sections 100.1, 100.9, 100.11 and 100.12 of the regulations. Public notice of the filing was published and one written request for a public hearing was made by Community Legal Services, Inc. (CLS) on behalf of residential customers of the Philadelphia Water Department, including but not limited to low income Philadelphians who are income eligible for legal services provided by CLS. A public hearing was scheduled and held on Friday, June 16, 2017 at 9:00 a.m. at the Municipal Services Building, Philadelphia, Pennsylvania. At the hearing, CLS provided written comments and Robert Ballenger of CLS provided in-person testimony. No additional comments were received. The Commissioner would like to thank CLS for its testimony at the public hearing and for working with the Water and Revenue Departments over the past two years to improve customer service in the areas covered by the regulations.

Through this Water Commissioner's Report (Report), the Water Department modifies the proposed amendment and adopts the amendment as modified. A copy of the regulations as amended is attached as Exhibit A and shall become effective 10 days after the filing of this Report with the Records Department. A blackline copy showing the modifications made to the version posted for public comment as a result of the hearing is attached as Exhibit B. A blackline copy showing all changes made to the current regulations by the amendment as modified by this Report is attached as Exhibit C. The written testimony and comments received on the proposed regulations are attached as Exhibit D. A summary of the comments received and the Water Department's responses are provided below.

Comments and Responses

Section 100.9 – Referral to TAP

CLS commented that the proposed regulations should include a provision stating that after July 1, 2017, customers eligible for the Tiered Assistance Program (TAP) will be referred to TAP. The Water Department does not agree that such a provision should be included in the regulations. After TAP goes into effect on July 1, 2017, there will be a single customer assistance application for all assistance programs, so that no formal referral will be necessary for a customer to be enrolled in TAP. Instead, WRB or its designee will review the information on the application to determine whether the customer would receive more affordable bills under TAP or a program other than TAP. If, based on that review, enrollment under TAP is the more affordable option, the customer will be enrolled in TAP. However, if the review shows that the customer's TAP bill would be higher than the payment the customer would need to make under another available program, the customer will not be eligible for enrollment in TAP.

Section 100.9 – Structural Changes

CLS expressed concern about altering the provisions of Section 100.9 related to existing payment agreements for low-income customers. The proposed modifications to these provisions are necessary and appropriate given that enrollment in new WRAP and WRAP-WRBCC payment agreements will be closed to customers who do not request applications by June 30, 2017. As a clarification and because WRB requires WRAP applications be returned within 14 days, the footnotes in Section 100.9 are being revised to clarify that enrollment in new WRAP and WRAP-WRBCC payment agreements will be closed to customers who do not return a completed application by July 14, 2017. In addition, a footnote is being added to 100.9 to clarify that nothing in the regulations will modify the rights of existing customers or the obligations of the WRB with respect to any existing payment agreement.

Sections 100.9 – WRAP and WRAP-WRBCC Payment Agreements

CLS expressed concern about the removal of language in Section 100.9 allowing customers to apply to the Water Revenue Bureau Conference Committee (WRBCC) for longer, more flexible payment arrangements. CLS also commented that the proposed modifications to the subsection on WRBCC payment agreements unreasonably enlarges WRBCC's ability to modify, rescind or revoke payment plans. The revised regulations are not intended to alter the length of WRAP-WRBCC payment plans or the substantive standards for the annual review of such payment plans. As a clarification and in response to the comment, we have restored most of the language currently in the regulations related to review of payment agreements by WRBCC. However, since WRAP will not include any City grants after July 1, 2017, we have removed the phrase suggesting that WRBCC will consider available grants or subsidies.

Sections 100.9(a) and 100.12 – Income-based initial payments

CLS objected to the elimination of provisions in Sections 100.9(a) and 100.12 which allow a customer to enter into standard payment agreements or restore service by making an initial payment of 15% of the combined gross monthly income of the customer's household if less than the standard initial payment amount, which is calculated as a percentage of the outstanding delinquency. The Water Department believes that the elimination of income-based initial payments is appropriate because after July 1, 2017, the customers who previously might have benefited from such income-based payment agreements will be eligible to apply for income-based payment plans under TAP. For example, under Sections 206.4(c) and 206.5(b) of the regulations, families at or below 150% of FPL who are enrolled in TAP will not be required to make any additional payment toward pre-TAP arrears. Families above 150% of FPL who qualify for TAP due to a special hardship condition also will not be required to make any additional payment of pre-TAP arrears to maintain service. As CLS noted in its comments, WRB may waive all or any portion of the initial payment with respect to extended payment agreements for families with household income between 150% and 250% of FPL. For consistency and based on a review of the comments, Section 100.9(a) is being modified to provide that WRB may waive all or a portion of the initial payment with respect to standard payment agreements for families with household income at or below 250% of FPL.

Section 100.9(f) – Household Expenses

CLS noted that Subsection 100.9(f) as drafted appears to require substantiation of household expenses for purposes of WRAP payment agreements and WRAP-WRBCC payment agreements. That was not the intended result of this subsection, and the Water Department agrees that the subsection should be revised further to make it clear that customers with household incomes below 150% of FPL do not need to document expenses to enroll in WRAP. In response to the comment, Subsection 100.9(f) is being reworded to delete the reference to Subsection 100.9(b) (WRAP Payment Agreements) and the remaining language in this subsection is being moved to the subsection on WRAP-WRBCC Payment Agreements (100.9(h) as re-lettered), along with an additional sentence stating that customers with household income below 150% of FPL do not need to document expenses.

Section 100.12 – Restoration of Service for TAP Applicants

CLS suggested modifying Section 100.12 to address restoration of service for customers who have applied for but not yet been enrolled in TAP. The Water Department agrees and has modified Section 100.12 to include the language recommended by CLS in subsection (e).

Section 100.12 – Restoration of Service for Customers between 150%-250% FPL

CLS objected to the provisions in Section 100.12 requiring that customers between 150% and 250% of FPL whose service has been shut off for nonpayment make an initial payment prior to restoration of service in the amount of 25% of the total bill due if no payment agreement has previously been entered into, and 50% of the total bill if a payment agreement has previously been entered into and service has been shut off due to a breach of that agreement. CLS refers to

Philadelphia Code §19-1605(3)(h.2), which states that customer within this income range shall be offered a payment plan that results in a total bill that is affordable, and alleges that requiring initial payments in these amounts specified in the regulations would not be affordable in the majority of circumstances. The Water Department does not agree with CLS that Philadelphia Code §19-1605(3)(h.2) applies to the amount of the initial payment that the customer must make to have service restored when a customer's service has been terminated for non-payment. Restoration of service for TAP customers is addressed in Philadelphia Code §19-1605(3)(f). There is no similar provision for customers between 150% and 250% of FPL and who are not enrolled in TAP. In addition, the final subsection of Section 100.12 allows the WRB, upon good cause shown, to restore service upon terms more favorable to the customer than otherwise permitted.

Section 100.12(b) – Restoration of Service After Shut Off for Breach of Payment Agreement.

CLS objected to a paragraph in Section 100.12(b) which requires customers above 250% of FPL to pay 100% of the delinquency if service has been shut off for breach of a prior payment agreement. The Water Department notes that this provision currently is in Subsection 100.12(b) and merely is being moved from the fourth to the first paragraph of this subsection for clarity. This provision does not apply to customers with household incomes below 250% of FPL or to customers with special hardships who are enrolled in TAP. Requiring full payment from a customer who has breached a prior payment agreement when the customer has household income above 250% of FPL and no special hardship is justified and consistent with the standards established for the Income-based Water Rate Assistance Program in Section 19-1605(3) of the Philadelphia Code.

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CHAPTER 1 CUSTOMER RIGHTS AND OBLIGATIONS

100.0 RESIDENTIAL CUSTOMERS

(k) TAP Bill: A bill issued by the Water Revenue Bureau to a Customer enrolled in the Tiered Assistance Program (TAP) for service, usage and stormwater charges and any payments toward pre-TAP arrears.

(l) TAP Payment Agreement: A payment agreement provided to a Customer enrolled in TAP in accordance with these regulations and Section 19-1605 of the Philadelphia Code.

(m) Tenant: A person who leases all or part of a Service Location pursuant to a current Rental Agreement and who is not an USTRA Tenant.

(n) Tiered Assistance Program (TAP): The Income-Based Water Rate Assistance Program described in these regulations and Section 19-1605 of the Philadelphia Code, also referred to as IWRAP.

(o) USTRA: The Utility Service Tenants Rights Act, 68 P.S. §399.1 et seq.

(p) USTRA Tenant: A “tenant” as defined for water service by USTRA, 68 P.S. §399.2.¹

¹ USTRA defines “tenant” as: Any person or group of persons whose dwelling unit in a residential building or mobile home park is provided gas, electricity, steam or water, pursuant to a rental arrangement for such dwelling unit, mobile home or plot of ground within a mobile home park, but who is not the ratepayer of the company which supplied such

(q) Utility Service: Water, sewer and/or stormwater service provided to an Authorized User or property.

(r) WRB: The Water Revenue Bureau, within the City of Philadelphia Department of Revenue.

* * * * *

100.9 Payment Agreements²

(a) Standard Payment Agreements

Customers with unpaid balances on their accounts may contact the WRB to apply for a payment agreement. Payment agreements for Customers whose service is shut off will have the terms set forth in Section 100.12 of these regulations.

Except as otherwise provided in Subsections (b), (c) and (h) of this Section for Customers with household income at or below 250% of the federal poverty level, subsection (d) of this Section for Customers enrolled in TAP, or in Section 100.11 of these regulations for initial payments to the Department representative at the time of the shut off visit, payment agreements for Customers whose service is on will have the following terms:

(1) Initial Payment: 25% of the outstanding delinquency, provided that the WRB may waive all or a portion of the initial payment for Customers with

gas, electricity, steam or water. USTRA defines “residential building” as: A building containing one or more dwelling units occupied by one or more tenants, but excluding nursing homes, hotels and motels.

² Nothing in these regulations will modify the rights of existing Customers or the obligations of WRB with respect to any existing payment agreements.

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Exhibit A

household income at or below 250% of the federal poverty level.

(2) Subsequent Payment: The remainder of the outstanding delinquency shall be paid in equal monthly installments on an agreed upon day of each month until the balance of the delinquency is paid in full. Standard payment agreement terms normally will not exceed eighteen (18) months.

(3) Current Charges: All subsequent undisputed charges, including penalties on the outstanding delinquency, must be paid when due in addition to the payments on the delinquency or the agreement will be breached.

(4) Penalty charges will not accrue on the outstanding balance for each month that the payment agreement is fully complied with.

(5) Customers with household incomes above 250% of the federal poverty level who cannot meet the foregoing standard payment agreement terms due to Special Hardship may apply to the WRB for TAP pursuant to Section 206.2 of these regulations. For purposes of this section and Section 100.12 of these regulations, the term "Special Hardship" shall have the meaning set forth in Section 206.1 of these regulations implementing TAP.

(b) Water Revenue Assistance Program (WRAP) Payment Agreements³

³ WRB will accept requests for new WRAP applications until June 30, 2017. Enrollment in new WRAP Payment Agreements will be closed to Customers who do not return a completed WRAP application by July 14, 2017.

Customers with household incomes at or below 250% of the federal poverty level may contact the WRB to make a WRAP payment agreement. The initial and subsequent payments on the delinquency shall be determined as follows:

(1) Before entering into a WRAP payment agreement, the WRB will require documentation of household income.

(2) Initial Payment: 10% of the outstanding delinquency. The outstanding delinquency shall include meter installation charges, if applicable.

(3) Subsequent Charges: 5% on arrearage balance plus current charges. All subsequent undisputed charges, including penalties on the outstanding delinquency, must be paid when due in addition to the payments on the delinquency or the agreement will be breached.

(4) Penalty charges will not continue to accrue on the outstanding delinquent balance for each month that the payment agreement is fully complied with.

(c) Extended Payment Agreements

Customers with household incomes above 150% of the federal poverty level and at or below 250% of the federal poverty level may apply to the WRB for an extended payment agreement. Such payment agreements:

(1) Shall be based on household income.

(2) May have payout terms which exceed eighteen (18) months if the WRB

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determines that a term of 18 months or less would result in an average monthly total bill for current service, usage and stormwater charges and for payment of arrears that is in excess of approximately 4% if the Customer's Monthly Household Income as defined in Sections 206.1 of these regulations.

(3) May waive all or a portion of the initial down payment.

(4) Shall provide that penalty charges will not accrue on the outstanding balance for each month that the payment agreement is fully complied with.

(5) Shall require the payment of all charges when due or the payment agreement will be breached.

(6) May require Customers to participate in the Department's Water Conservation Program.

(d) TAP Payment Agreements

(1) Customers enrolled in TAP with in-program arrears due to nonpayment of TAP Bills may apply to WRB for a TAP Payment Agreement regarding such unpaid TAP Bills and other charges assessed during the period such Customer's service was off (collectively referred to as "Post-TAP Arrears"). Such TAP Payment Agreements generally shall require payment of Post-TAP Arrears in twelve equal installments.

(2) WRB may deny a Customer's application for a TAP Payment Agreement for good cause shown, including without limitation, a determination that WRB has entered into

two or more prior TAP Payment Agreements with the Customer.

(e) Payment agreements shall be in writing and shall contain the Customer's promise or acknowledgement that:

(1) In addition to monthly payments under the agreement, the Customer must pay current charges on the account.

(2) Notwithstanding the payment agreement, a lien may be placed upon the Customer's property for the amount of the outstanding account balance. Customers enrolled in TAP will not have liens placed on their property in accordance with Section 206.8 of these regulations.

(3) The Customer may request a review of a payment agreement in person or in writing. Before defaulting on an agreement, the Customer must notify the WRB of circumstances which may warrant a review of the payment agreement. If the Customer presents satisfactory evidence to the WRB of a change in household income which would warrant a change in the payment terms of the agreement, the WRB may appropriately modify the payment agreement, provided the Customer is not in default on the agreement. The original agreement shall remain in effect unless so modified.

(4) Except as otherwise provided in Section 206.0 through 206.10 of these regulations for Customers enrolled in TAP, delinquencies which accrue during the course of a payment agreement will not be waived, suspended or deferred.

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(f) When a payment agreement is entered into, the WRB's representative will:

(1) Advise the Customer of the amount that the Customer is required to pay each month, the dates when such monthly payments are due, the date the last payment is due, and the number of months the agreement will take to complete.

(2) Provide the Customer with a copy of the agreement.

(3) Advise the Customer to inform WRB of change in household income before defaulting on an agreement, because the Customer may request a review of the agreement.

(g) Breach of Payment Agreement and Bad Checks

(1) "Breach" of a payment agreement means failure to make timely payment of the initial payment or subsequent payments, failure to pay current charges when due including penalties, tender of a "bad" check or a check returned for insufficient funds to the WRB, or failure to notify the WRB of a change in household income before defaulting on the agreement.

(2) If a Customer breaches a payment agreement entered into after receipt of a shut off notice relating to a property which is not USTRA Tenant occupied, the WRB may mail or otherwise deliver an appropriate shut off notice to the Customer scheduling shut off no less than ten (10) business days thereafter. Shut off of water service may thereafter proceed without further notice or attempt at personal contact. If a

Customer breaches a payment agreement relating to a property which is inhabited by USTRA Tenants, the Customer and the USTRA Tenants will be given appropriate notices scheduling shut off in conformance with USTRA and Sections 100.5(b) and 100.6(b) of these regulations.

(3) Subsequent to the mailing or delivery of a shut off notice as a result of a breach of the payment agreement, and prior to actual shut off, a Customer shall have a right to cure the breach and resume making payments in accordance with the terms of the payment agreement and these regulations.

(4) If a Customer breaches a payment agreement and the same is not cured as provided herein, or gives the WRB a bad check after having received a shut off notice, the decision to modify or review any existing agreement, enter into any future agreements, or to otherwise extend further credit on any existing or future delinquency of the Customer and the terms of such credit shall be within the sole discretion of the WRB.

(h) WRAP-WRBCC Payment Agreements⁴

The Water Revenue Bureau Conference Committee (WRBCC or The Committee) is a governing board that monitors the equity applied in determining the most affordable payment plan terms for income eligible customers. The Committee is comprised

⁴ WRB will accept requests for new WRAP applications until June 30, 2017. Enrollment in new WRAP-WRBCC Payment Agreements will be closed to Customers who do not return a completed WRAP application by July 14, 2017.

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of employees of the Revenue and Water Departments. Payment agreements issued by WRB under this subsection are known as WRBCC payment plans. The WRBCC is empowered to develop flexible payment plans based on a household's income and/or expenses. The WRBCC in its discretion may suspend all or a portion of any arrearages in the establishment of payment plans. The WRBCC is also empowered to review payment plans at any time, but at least on an annual basis. Based upon its review, the WRBCC may modify, rescind or revoke any payment plan previously established.

(1) Customers with household incomes at or below 250% of the federal poverty level who cannot afford the standard payment agreement described at Section 100.9 of these regulations may apply to the WRB for WRBCC payment plans.

(2) A Customer threatened with shut off whom the WRB knows to be between 150% and 250% of the federal poverty level must furnish proof of income and expenses to the WRB in order for it to determine which affordable payment plan the Customer is a candidate to receive. The WRB shall consider the following household expenses in determining ability to pay: Rent or mortgage, utility bills, telephone, food, medical bills, transportation, laundry, clothing, toiletries, taxes, insurance, and other reasonable expenses. Customers with household income below 150% of the federal poverty level shall not be required to document expenses.

(3) Accepted applicant may be required to participate in the Water

Department's Water Conservation Program as a condition of the WRBCC payment plan.

(4) Waiver of Penalty. Penalty charges will not accrue on the outstanding balance during the term of the WRBCC payment plan.

(5) "Breach" of a WRBCC payment plan is consistent with the definition of "breach" stated at Section 100.9(g) of these regulations. In the case of a breach of a WRBCC payment plan, the Customer will be afforded the same rights as in Subsection 100.9(g) of these regulations.

(i) Decisions in Writing. Any decision or determination of the WRB relating to a WRB payment agreement, the amount of arrears for which the Customer is responsible, the completeness of a Customer's application and the adequacy or completeness of any documentation submitted in connection with an application for a payment agreement, or the Customer's performance of his or her obligations under a WRB payment agreement shall be provided to the Customer in writing, and shall include a specific reason for the decision or determination, and a statement of the Customer's right to an administrative hearing to dispute such decision.

(j) Language Access/Non-English Speakers. Consistent with applicable law and policy, the WRB and the Department shall take reasonable steps to ensure meaningful access to payment agreements for Limited English Proficient (LEP) persons by complying with the requirements of Section 8-600 of the Philadelphia Home Rule Charter, Section 19-1605 of the Philadelphia

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Code, the Executive Order regarding Citywide Policy on Language Access and the applicable Language Access Plans prepared in accordance with the City's language access policy.

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100.11 Procedure at Shut Off

- (a) Provided that no action to avoid or delay a shut off has been taken as provided herein, a Department representative will visit the Residential Property on or after the scheduled date to shut off service.
- (b) Except as otherwise provided in Section 100.10 of these regulations for medical emergencies, Customers may avoid shut off of service for nonpayment of prior bills issued by WRB only under the following circumstances:
- (1) If no payment agreement has previously been entered into for the delinquency: (i) tender of the appropriate visit fee and 50% of the outstanding account balance to the Department representative by check, cashier's check or money order payable to the WRB if the Customer is not enrolled in TAP; or (ii) tender of the appropriate visit fee and 50% of the outstanding account balance of Post-TAP Arrears to the Department representative by check, cashier's check or money order payable to the WRB if the Customer is enrolled in TAP.
- (2) The Customer must thereafter contact the WRB and enter into a payment agreement within the next five (5) business days or service will automatically be shut off on or after the sixth (6th) business day following the initial visit by the Department

representative. All subsequent undisputed charges, including penalties on the unpaid delinquency, must be paid when due in addition to the installments under agreement, or the agreement will be considered breached.

(3) If service is to be shut off for breach of a payment agreement for which the Customer has not availed himself or herself of his or her right to cure, tender of the appropriate visit fee and 100% of the outstanding balance on the agreement to the Department representative by check, cashier's check or money order payable to the WRB.

(c) If partial payment in an amount approved by a WRB supervisor is received where no payment agreement has previously been entered into for the delinquency or if a showing of serious illness is made, service will be shut off without further notice, unless within five (5) business days, the Customer pays the balance in full, enters into a payment agreement for the balance due on the terms set forth in Section 100.9 of these regulations or submits a certification of illness as provided in Section 100.10 of these regulations.

(d) If service is to be shut off for lack of a meter reading, shut off may be avoided by permitting the Department representative to read the meter.

(e) When water service is shut off, the Department representative shall leave at the property a notice informing the residents of the shut off and what steps can be taken to restore the water service.

(f) When the Customer has given the WRB a "bad" check, such as a check returned for insufficient funds, within

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the previous thirty-six (36) months, the WRB will require payment of the sums listed above in this Section by certified check, cashier's check or money order. Cash will not be accepted under any circumstances, except at the WRB's Municipal Services Building location.

100.12 Restoration of Service

(a) Service shall be restored within one (1) day, if possible, when the following conditions are met:

(1) The Customer permits a meter reading or access to the meter for inspection, changes or repairs; and/or

(2) The Customer permits installation of a meter if the Dwelling Unit is not separately metered. The Dwelling Unit must be set up for individual metering by a registered plumber to the Department's satisfaction at the expense of the Customer. Installation charges for the meter will be charged to the Customer; and/or

(3) The Customer makes payment in full of the outstanding account balance and appropriate restoration charges; and/or

(4) One or more USTRA Tenants pays the Utility Service charges incurred in the thirty (30) day period preceding the notice of shut off.

(b) Customers above 250% of the federal poverty level and not enrolled in TAP may pay appropriate restoration charges and enter into a payment agreement as follows:

(1) Initial Payment: If no payment agreement has previously been entered

into for the outstanding account balance, 50% of the total bill presently due, such payment to be made prior to restoration of water service. If a payment agreement has previously been entered into and service has been shut off because of a breach thereof, 100% of the outstanding delinquency must be paid.

(2) Subsequent Payments: The remainder of the outstanding delinquency shall be divided equally amongst the number of months of the agreement.

(3) Current Charges: All subsequent undisputed charges, including penalties on the unpaid delinquency, must be paid when due in addition to the installments under the payment agreement, or the agreement will be breached.

(c) Customers who are determined to be at or below 250% of the federal poverty level pursuant to Section 100.9 of these regulations and who are not enrolled in TAP may pay appropriate restoration charges and enter a payment agreement as follows:

(1) Initial Payment: If no payment agreement has previously been entered into for the outstanding account balance, 25% of the total bill presently due, such payment to be made prior to restoration of water service. If a payment agreement has previously been entered into and service has been shut off because of a breach thereof, 50% of the outstanding delinquency must be paid.

(2) Subsequent Payments: The remainder of the outstanding delinquency shall be divided equally amongst the number of months of the

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agreement. The number of months of the payment agreement will be determined so that the Customer's estimated average monthly total bill for the current service, usage and stormwater charges and payment of arrears is reasonably anticipated to be approximately 4% of the Customer's Monthly Household Income as defined in section 206.1 of these regulations.

(3) Current Charges: All subsequent undisputed charges, including interest and penalties on the unpaid delinquency, must be paid when due in addition to the installments under the payment agreement, or the agreement will be breached.

(d) In the event service to a Customer enrolled in TAP is terminated for non-payment of TAP bills, such Customer shall be entitled to restoration of service (i) upon payment of such unpaid Post-TAP Arrears, (ii) upon such Customer's entry into a TAP Payment Agreement with the WRB regarding such Post-TAP Arrears pursuant to Section 100.9(d) of these regulations, or (iii) upon a finding of Special Hardship by the WRB.

(e) Restoration of service shall be available to applicants for TAP, subject to reasonable limitations established by WRB and the Department concerning the frequency and number of applications that may be requested in order to restore service.

(f) Where the Customer has given the WRB a "bad" check or a check returned for insufficient funds within the previous twelve (12) months, the WRB will require payment of the sums listed above in this Section by certified check, cashier's check or money order. Cash

will not be accepted under any circumstances, except at the WRB's Municipal Services Building location.

(g) Upon good cause shown, the WRB or the Department may in its discretion allow restoration of service upon terms more favorable to the Customer than otherwise permitted herein.

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DEPARTMENT OF RECORDS

CHAPTER 1 CUSTOMER RIGHTS AND OBLIGATIONS

100.0 RESIDENTIAL CUSTOMERS

(k) TAP Bill: A bill issued by the Water Revenue Bureau to a Customer enrolled in the Tiered Assistance Program (TAP) for service, usage and stormwater charges and any payments toward pre-TAP arrears.

(l) TAP Payment Agreement: A payment agreement provided to a Customer enrolled in TAP in accordance with these regulations and Section 19-1605 of the Philadelphia Code.

(m) Tenant: A person who leases all or part of a Service Location pursuant to a current Rental Agreement and who is not an USTRA Tenant.

(n) Tiered Assistance Program (TAP): The Income-Based Water Rate Assistance Program described in these regulations and Section 19-1605 of the Philadelphia Code, also referred to as IWRAP.

(o) USTRA: The Utility Service Tenants Rights Act, 68 P.S. §399.1 et seq.

(p) USTRA Tenant: A “tenant” as defined for water service by USTRA, 68 P.S. §399.2.¹

¹ USTRA defines “tenant” as: Any person or group of persons whose dwelling unit in a residential building or mobile home park is provided gas, electricity, steam or water, pursuant to a rental arrangement for such dwelling unit, mobile home or plot of ground within a mobile home park, but who is not the ratepayer of the company which supplied such

(q) Utility Service: Water, sewer and/or stormwater service provided to an Authorized User or property.

(r) WRB: The Water Revenue Bureau, within the City of Philadelphia Department of Revenue.

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100.9 Payment Agreements²

(a) Standard Payment Agreements

Customers with unpaid balances on their accounts may contact the WRB to apply for a payment agreement. Payment agreements for Customers whose service is shut off will have the terms set forth in Section 100.12 of these regulations. Except as otherwise provided in Subsections (b), ~~and~~ (c) and (h) of this Section for Customers with household income at or below 250% of the federal poverty level, subsection (d) of this Section for Customers enrolled in TAP, or in Section 100.11 of these regulations for initial payments to the Department representative at the time of the shut off visit, payment agreements for Customers whose service is on will have the following terms:

(1) Initial Payment: 25% of the outstanding delinquency, provided that the WRB may waive all or a portion of the initial payment for Customers with

gas, electricity, steam or water. USTRA defines “residential building” as: A building containing one or more dwelling units occupied by one or more tenants, but excluding nursing homes, hotels and motels.

² Nothing in these regulations will modify the rights of existing Customers or the obligations of WRB with respect to any existing payment agreements.

Exhibit B

household income at or below 250% of the federal poverty level.

(2) Subsequent Payment: The remainder of the outstanding delinquency shall be paid in equal monthly installments on an agreed upon day of each month until the balance of the delinquency is paid in full. Standard payment agreement terms normally will not exceed eighteen (18) months.

(3) Current Charges: All subsequent undisputed charges, including penalties on the outstanding delinquency, must be paid when due in addition to the payments on the delinquency or the agreement will be breached.

(4) Penalty charges will not accrue on the outstanding balance for each month that the payment agreement is fully complied with.

(5) Customers with household incomes above 250% of the federal poverty level who cannot meet the foregoing standard payment agreement terms due to Special Hardship may apply to the WRB for TAP pursuant to Section 206.2 of these regulations. For purposes of this section and Section 100.12 of these regulations, the term "Special Hardship" shall have the meaning set forth in Section 206.1 of these regulations implementing TAP.

(b) Water Revenue Assistance Program (WRAP) Payment Agreements³

³ WRB will accept requests for new WRAP applications until June 30, 2017. Enrollment in new WRAP Payment Agreements will be closed to Customers who do not return a completed WRAP application by July 14, 2017.

Customers with household incomes at or below 250% of the federal poverty level may contact the WRB to make a WRAP payment agreement. The initial and subsequent payments on the delinquency shall be determined as follows:

(1) Before entering into a WRAP payment agreement, the WRB will require documentation of household income.

(2) Initial Payment: 10% of the outstanding delinquency. The outstanding delinquency shall include meter installation charges, if applicable.

(3) Subsequent Charges: 5% on arrearage balance plus current charges. All subsequent undisputed charges, including penalties on the outstanding delinquency, must be paid when due in addition to the payments on the delinquency or the agreement will be breached.

(4) Penalty charges will not continue to accrue on the outstanding delinquent balance for each month that the payment agreement is fully complied with.

(c) Extended Payment Agreements

Customers with household incomes above 150% of the federal poverty level and at or below 250% of the federal poverty level may apply to the WRB for an extended payment agreement. Such payment agreements:

(1) Shall be based on household income.

(2) May have payout terms which exceed eighteen (18) months if the WRB

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determines that a term of 18 months or less would result in an average monthly total bill for current service, usage and stormwater charges and for payment of arrears that is in excess of approximately 4% if the Customer's Monthly Household Income as defined in Sections 206.1 of these regulations.

(3) May waive all or a portion of the initial down payment.

(4) Shall provide that penalty charges will not accrue on the outstanding balance for each month that the payment agreement is fully complied with.

(5) Shall require the payment of all charges when due or the payment agreement will be breached.

(6) May require Customers to participate in the Department's Water Conservation Program.

(d) TAP Payment Agreements

(1) Customers enrolled in TAP with in-program arrears due to nonpayment of TAP Bills may apply to WRB for a TAP Payment Agreement regarding such unpaid TAP Bills and other charges assessed during the period such Customer's service was off (collectively referred to as "Post-TAP Arrears"). Such TAP Payment Agreements generally shall require payment of Post-TAP Arrears in twelve equal installments.

(2) WRB may deny a Customer's application for a TAP Payment Agreement for good cause shown, including without limitation, a determination that WRB has entered into

two or more prior TAP Payment Agreements with the Customer.

(e) Payment agreements shall be in writing and shall contain the Customer's promise or acknowledgement that:

(1) In addition to monthly payments under the agreement, the Customer must pay current charges on the account.

(2) Notwithstanding the payment agreement, a lien may be placed upon the Customer's property for the amount of the outstanding account balance. Customers enrolled in TAP will not have liens placed on their property in accordance with Section 206.8 of these regulations.

(3) The Customer may request a review of a payment agreement in person or in writing. Before defaulting on an agreement, the Customer must notify the WRB of circumstances which may warrant a review of the payment agreement. If the Customer presents satisfactory evidence to the WRB of a change in household income which would warrant a change in the payment terms of the agreement, the WRB may, appropriately modify the payment agreement, provided the Customer is not in default on the agreement. The original agreement shall remain in effect unless so modified.

(4) Except as otherwise provided in Section 206.0 through 206.10 of these regulations for Customers enrolled in TAP, delinquencies which accrue during the course of a payment agreement will not be waived, suspended or deferred.

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~~(f) For purposes of WRAP payment agreements pursuant to subsection 100.9(b) of this section and WRAP-WRBCC payment agreements pursuant to subsection 100.9(i) of this section, the WRB shall consider the following household expenses in determining ability to pay: Rent or mortgage, utility bills, telephone, food, medical bills, transportation, laundry, clothing, toiletries, taxes, insurance, and other reasonable expenses.~~

~~(g)~~(f) When a payment agreement is entered into, the WRB's representative will:

(1) Advise the Customer of the amount that the Customer is required to pay each month, the dates when such monthly payments are due, the date the last payment is due, and the number of months the agreement will take to complete.

(2) Provide the Customer with a copy of the agreement.

(3) Advise the Customer to inform WRB of change in household income before defaulting on an agreement, because the Customer may request a review of the agreement.

~~(h)~~(g) Breach of Payment Agreement and Bad Checks

(1) "Breach" of a payment agreement means failure to make timely payment of the initial payment or subsequent payments, failure to pay current charges when due including penalties, tender of a "bad" check or a check returned for insufficient funds to the WRB, or failure to notify the WRB

of a change in household income before defaulting on the agreement.

(2) If a Customer breaches a payment agreement entered into after receipt of a shut off notice relating to a property which is not USTRA Tenant occupied, the WRB may mail or otherwise deliver an appropriate shut off notice to the Customer scheduling shut off no less than ten (10) business days thereafter. Shut off of water service may thereafter proceed without further notice or attempt at personal contact. If a Customer breaches a payment agreement relating to a property which is inhabited by USTRA Tenants, the Customer and the USTRA Tenants will be given appropriate notices scheduling shut off in conformance with USTRA and Sections 100.5(b) and 100.6(b) of these regulations.

(3) Subsequent to the mailing or delivery of a shut off notice as a result of a breach of the payment agreement, and prior to actual shut off, a Customer shall have a right to cure the breach and resume making payments in accordance with the terms of the payment agreement and these regulations.

(4) If a Customer breaches a payment agreement and the same is not cured as provided herein, or gives the WRB a bad check after having received a shut off notice, the decision to modify, or review any existing agreement, enter into any future agreements, or to otherwise extend further credit on any existing or future delinquency of the Customer and the terms of such credit shall be within the sole discretion of the WRB.

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~~(i)~~(h) WRAP-WRBCC Payment Agreements⁴

The Water Revenue Bureau Conference Committee (WRBCC or The Committee) is a governing board that monitors the equity applied in determining the most affordable payment plan terms for income eligible customers. The Committee is comprised of employees of the Revenue and Water Departments. Payment agreements issued by WRB under this subsection are known as WRBCC payment plans. ~~The Committee may modify, rescind or revoke any payment plan previously established in this category based on approval criteria and associated evidence.~~ The WRBCC is empowered to develop flexible payment plans based on a household's income and/or expenses. The WRBCC in its discretion may suspend all or a portion of any arrearages in the establishment of payment plans. The WRBCC is also empowered to review payment plans at any time, but at least on an annual basis. Based upon its review, the WRBCC may modify, rescind or revoke any payment plan previously established.

(1) Customers with household incomes at or below 250% of the federal poverty level who cannot afford the standard payment agreement described at Section 100.9 of these regulations may apply to the WRB for WRBCC payment plans.

⁴ WRB will accept requests for new WRAP applications until June 30, 2017. Enrollment in new WRAP-WRBCC Payment Agreements will be closed to Customers who do not return a completed WRAP application by July 14, 2017.

(2) A Customer threatened with shut off whom the WRB knows to be between 150% and 250% of the federal poverty level must furnish proof of income and expenses to the WRB in order for it to determine which affordable payment plan the Customer is a candidate to receive. The WRB shall consider the following household expenses in determining ability to pay: Rent or mortgage, utility bills, telephone, food, medical bills, transportation, laundry, clothing, toiletries, taxes, insurance, and other reasonable expenses. Customers with household income below 150% of the federal poverty level shall not be required to document expenses.

(3) Accepted applicant may be required to participate in the Water Department's Water Conservation Program as a condition of the WRBCC payment plan.

(4) Waiver of Penalty. Penalty charges will not accrue on the outstanding balance during the term of the WRBCC payment plan.

(5) "Breach" of a WRBCC payment plan is consistent with the definition of "breach" stated at Section 100.9(hg) of these regulations. In the case of a breach of a WRBCC payment plan, the Customer will be afforded the same rights as in Subsection 100.9(hg) of these regulations.

~~(j)~~(i) Decisions in Writing. Any decision or determination of the WRB relating to a WRB payment agreement, the amount of arrears for which the Customer is responsible, the completeness of a Customer's application and the adequacy

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or completeness of any documentation submitted in connection with an application for a payment agreement, or the Customer's performance of his or her obligations under a WRB payment agreement shall be provided to the Customer in writing, and shall include a specific reason for the decision or determination, and a statement of the Customer's right to an administrative hearing to dispute such decision.

~~(k)~~(j) Language Access/Non-English Speakers. Consistent with applicable law and policy, the WRB and the Department shall take reasonable steps to ensure meaningful access to payment agreements for Limited English Proficient (LEP) persons by complying with the requirements of Section 8-600 of the Philadelphia Home Rule Charter, Section 19-1605 of the Philadelphia Code, the Executive Order regarding Citywide Policy on Language Access and the applicable Language Access Plans prepared in accordance with the City's language access policy.

* * * * *

100.11 Procedure at Shut Off

(a) Provided that no action to avoid or delay a shut off has been taken as provided herein, a Department representative will visit the Residential Property on or after the scheduled date to shut off service.

(b) Except as otherwise provided in Section 100.10 of these regulations for medical emergencies, Customers may avoid shut off of service for nonpayment of prior bills issued by WRB only under the following circumstances:

(1) If no payment agreement has previously been entered into for the delinquency: (i) tender of the appropriate visit fee and 50% of the outstanding account balance to the Department representative by check, cashier's check or money order payable to the WRB if the Customer is not enrolled in TAP; or (ii) tender of the appropriate visit fee and 50% of the outstanding account balance of Post-TAP Arrears to the Department representative by check, cashier's check or money order payable to the WRB if the Customer is enrolled in TAP.

(2) The Customer must thereafter contact the WRB and enter into a payment agreement within the next five (5) business days or service will automatically be shut off on or after the sixth (6th) business day following the initial visit by the Department representative. All subsequent undisputed charges, including penalties on the unpaid delinquency, must be paid when due in addition to the installments under agreement, or the agreement will be considered breached.

(3) If service is to be shut off for breach of a payment agreement for which the Customer has not availed himself or herself of his or her right to cure, tender of the appropriate visit fee and 100% of the outstanding balance on the agreement to the Department representative by check, cashier's check or money order payable to the WRB.

(c) If partial payment in an amount approved by a WRB supervisor is received where no payment agreement has previously been entered into for the delinquency or if a showing of serious illness is made, service will be shut off without further notice, unless within five

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(5) business days, the Customer pays the balance in full, enters into a payment agreement for the balance due on the terms set forth in Section 100.9 of these regulations or submits a certification of illness as provided in Section 100.10 of these regulations.

(d) If service is to be shut off for lack of a meter reading, shut off may be avoided by permitting the Department representative to read the meter.

(e) When water service is shut off, the Department representative shall leave at the property a notice informing the residents of the shut off and what steps can be taken to restore the water service.

(f) When the Customer has given the WRB a "bad" check, such as a check returned for insufficient funds, within the previous thirty-six (36) months, the WRB will require payment of the sums listed above in this Section by certified check, cashier's check or money order. Cash will not be accepted under any circumstances, except at the WRB's Municipal Services Building location.

100.12 Restoration of Service

(a) Service shall be restored within one (1) day, if possible, when the following conditions are met:

(1) The Customer permits a meter reading or access to the meter for inspection, changes or repairs; and/or

(2) The Customer permits installation of a meter if the Dwelling Unit is not separately metered. The Dwelling Unit must be set up for individual metering by a registered plumber to the Department's satisfaction

at the expense of the Customer. Installation charges for the meter will be charged to the Customer; and/or

(3) The Customer makes payment in full of the outstanding account balance and appropriate restoration charges; and/or

(4) One or more USTRA Tenants pays the Utility Service charges incurred in the thirty (30) day period preceding the notice of shut off.

(b) Customers above 250% of the federal poverty level and not enrolled in TAP may pay appropriate restoration charges and enter into a payment agreement as follows:

(1) Initial Payment: If no payment agreement has previously been entered into for the outstanding account balance, 50% of the total bill presently due, such payment to be made prior to restoration of water service. If a payment agreement has previously been entered into and service has been shut off because of a breach thereof, 100% of the outstanding delinquency must be paid.

(2) Subsequent Payments: The remainder of the outstanding delinquency shall be divided equally amongst the number of months of the agreement.

(3) Current Charges: All subsequent undisputed charges, including penalties on the unpaid delinquency, must be paid when due in addition to the installments under the payment agreement, or the agreement will be breached.

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(c) Customers who are determined to be at or below 250% of the federal poverty level pursuant to Section 100.9 of these regulations and who are not enrolled in TAP may pay appropriate restoration charges and enter a payment agreement as follows:

(1) Initial Payment: If no payment agreement has previously been entered into for the outstanding account balance, 25% of the total bill presently due, such payment to be made prior to restoration of water service. If a payment agreement has previously been entered into and service has been shut off because of a breach thereof, 50% of the outstanding delinquency must be paid.

(2) Subsequent Payments: The remainder of the outstanding delinquency shall be divided equally amongst the number of months of the agreement. The number of months of the payment agreement will be determined so that the Customer's estimated average monthly total bill for the current service, usage and stormwater charges and payment of arrears is reasonably anticipated to be approximately 4% of the Customer's Monthly Household Income as defined in section 206.1 of these regulations.

(3) Current Charges: All subsequent undisputed charges, including interest and penalties on the unpaid delinquency, must be paid when due in addition to the installments under the payment agreement, or the agreement will be breached.

(d) In the event service to a Customer enrolled in TAP is terminated for non-payment of TAP bills, such Customer shall be entitled to restoration of service

(i) upon payment of such unpaid Post-TAP Arrears, (ii) upon such Customer's entry into a TAP Payment Agreement with the WRB regarding such Post-TAP Arrears pursuant to Section 100.9(d) of these regulations, or (iii) upon a finding of Special Hardship by the WRB.

(e) Restoration of service shall be available to applicants for TAP, subject to reasonable limitations established by WRB and the Department concerning the frequency and number of applications that may be requested in order to restore service.

~~(e)~~(f) Where the Customer has given the WRB a "bad" check or a check returned for insufficient funds within the previous twelve (12) months, the WRB will require payment of the sums listed above in this Section by certified check, cashier's check or money order. Cash will not be accepted under any circumstances, except at the WRB's Municipal Services Building location.

~~(f)~~(g) Upon good cause shown, the WRB or the Department may in its discretion allow restoration of service upon terms more favorable to the Customer than otherwise permitted herein.

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CHAPTER 1 CUSTOMER RIGHTS AND OBLIGATIONS

100.0 RESIDENTIAL CUSTOMERS

(k) TAP Bill: A bill issued by the Water Revenue Bureau to a Customer enrolled in the Tiered Assistance Program (TAP) for service, usage and stormwater charges and any payments toward pre-TAP arrears.

(l) TAP Payment Agreement: A payment agreement provided to a Customer enrolled in TAP in accordance with these regulations and Section 19-1605 of the Philadelphia Code.

(m) Tenant: A person who leases all or part of a Service Location pursuant to a current Rental Agreement and who is not an USTRA Tenant.

(n) Tiered Assistance Program (TAP): The Income-Based Water Rate Assistance Program described in these regulations and Section 19-1605 of the Philadelphia Code, also referred to as IWRAP.

(o) USTRA: The Utility Service Tenants Rights Act, 68 P.S. §399.1 et seq.

(p) USTRA Tenant: A “tenant” as defined for water service by USTRA, 68 P.S. §399.2.¹

¹ USTRA defines “tenant” as: Any person or group of persons whose dwelling unit in a residential building or mobile home park is provided gas, electricity, steam or water, pursuant to a rental arrangement for such dwelling unit, mobile home or plot of ground within a mobile home park, but who is not the ratepayer of the company which supplied such

(q) Utility Service: Water, sewer and/or stormwater service provided to an Authorized User or property.

(r) WRB: The Water Revenue Bureau, within the City of Philadelphia Department of Revenue Department.

* * * * *

100.9 Payment Agreements²

(a) Standard Payment Agreements

Customers with unpaid balances on their accounts -household incomes above 250% of the federal poverty level who demonstrate a financial need based on disposable household income may come to contact the WRB in person to apply for negotiate a payment agreement. Such Payment agreements for Customers whose service is shut off will have the terms set forth in Section 100.12 of these regulations. Except as otherwise provided in Subsections (b), (c) and (h) of this Section for Customers with household income at or below 250% of the federal poverty level, subsection (d) of this Section for Customers enrolled in TAP, or in Section 100.11 of these regulations for initial payments to the Department representative at the time of the shut off visit, payment agreements

gas, electricity, steam or water. USTRA defines “residential building” as: A building containing one or more dwelling units occupied by one or more tenants, but excluding nursing homes, hotels and motels.

² Nothing in these regulations will modify the rights of existing Customers or the obligations of WRB with respect to any existing payment agreements.

Exhibit C

for Customers whose service is on will have the following standard terms:

(1) Initial Payment: 25% of the outstanding delinquency, provided that the WRB may waive all or a portion of the initial payment for Customers with household income at or below 250% of the federal poverty level including restoration charges, if any, or 15% of the combined gross monthly income of the Customer's household, whichever is less.

(2) Subsequent Payment: The remainder of the outstanding delinquency shall be paid in equal monthly installments on an agreed upon day of each month until the balance of the delinquency is paid in full. ~~In no event will the second installment be due less than twenty eight (28) days from the date of the initial installment. Payout~~ Standard payment agreement terms normally will not exceed eighteen (18) months.

(3) Current Charges: All subsequent undisputed charges, including penalties on the outstanding delinquency, must be paid when due in addition to the payments on the delinquency or the agreement will be breached.

(4) Penalty charges will not accrue on the outstanding balance for each month that the payment agreement is fully complied with.

~~(4) The WRB will require documentation of household income and expenses to demonstrate financial need before entering into a payment agreement.~~

~~(5) The WRB shall complete for each Customer a payment agreement form and provide a copy to the Customer.~~

~~(6)(5) Customers with household incomes above 250% of the federal poverty level who cannot meet the foregoing standard payment agreement payment agreement terms due to Special Hardship because of extraordinary expenses (e.g., a senior citizen with high medical expenses), may apply to the WRB Conference Committee (Committee) for TAP extended payment agreements pursuant to Section 206.2 of these regulations. the terms set forth at Section 100.9(m) 100.9(p) of these Regulations For purposes of this section and Section 100.12 of these regulations, the term "Special Hardship" shall have the meaning set forth in Section 206.1 of these regulations implementing TAP.~~

(b) Water Revenue Assistance Program (WRAP) Payment Agreements³

Customers with household incomes at or below 250% of the federal poverty level may ~~contact come to the WRB in person~~ to make a WRAP payment agreement. The initial and subsequent payments on the delinquency shall be determined as follows:

(1) Before entering into a WRAP payment agreement, the ~~The~~ WRB will require documentation of household income and expenses ~~before entering into a payment agreement.~~

³ WRB will accept requests for new WRAP applications until June 30, 2017. . . Enrollment in new WRAP Payment Agreements will be closed to Customers who do not return a completed WRAP application by July 14, 2017.

Exhibit C

~~(2) The value of any food stamps received by a household will not be considered by the WRB in determining monthly income.~~

~~(3) The WRB shall complete for each Customer a payment agreement form and provide a copy to the Customer.~~

~~(4)(2) Initial Payment: 10% of the outstanding delinquency or 15% of gross monthly income whichever is less. The outstanding delinquency shall include the restoration fee and meter installation charges, if applicable.~~

~~(5)(3) Subsequent Charges: 5% on arrearage balance plus current charges. All subsequent undisputed charges, including penalties on the outstanding delinquency, must be paid when due in addition to the payments on the delinquency or the agreement will be breached, except that Customers at or below 250% of the federal poverty level will only be held responsible for payment of delinquent service charges for the first year following each period of time in which service was terminated.~~

~~(6)(4) Penalty charges will not continue to accrue on the outstanding delinquent balance for each month that the payment agreement is fully complied with throughout the term of the payment agreement. If the agreement is otherwise successfully completed, penalty charges on the original delinquency shall be waived.~~

~~(7) The Customer must agree to apply for all available energy assistance funds as a condition of the payment agreement.~~

~~(8) If the standard payment agreement terms for Customers at or below 250% of the federal poverty level exceed a low income Customer's ability to pay, the WRB will make every effort to establish more manageable terms by analyzing household income and expenses. Such payment terms shall be based on disposable income. In no event will the WRB accept less than an initial payment of 10% of the outstanding balance or 15% of gross monthly income or payout terms which exceed thirty six (36) months. For payment agreements under this Section, written approval of a WRB supervisor must be obtained.~~

~~(9) Customers with household incomes at or below 250% of the federal poverty level who cannot meet the foregoing payment agreement terms may apply to the Committee for extended payment agreement pursuant to the terms set forth at Section 100.9(m) 100.9(p) of these Regulations.~~

(c) Extended Payment Agreements

Customers with household incomes above 150% of the federal poverty level and at or below 250% of the federal poverty level may apply to the WRB Committee for an extended payment agreement. Such payment agreements:

~~(1) Shall be based on household income, including available grants or subsidies and expenses. Customers with household income below 150% of the federal poverty level shall not be required to document expenses.~~

~~(2) May have payout terms which exceed eighteen (18) thirty-six (36)~~

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Exhibit C

months if the WRB determines that a term of 18 months or less would result in an average monthly total bill for current service, usage and stormwater charges and for payment of arrears that is in excess of approximately 4% if the Customer's Monthly Household Income as defined in Sections 206.1 of these regulations.

(3) May waive ~~defer collection of~~ all or a portion of the any-initial down payment arrearage existing at the time of first application.

~~(4) Shall include any applicable restoration fee and meter installation charges.~~

~~(4)(5) Shall provide that penalty charges will not accrue on the outstanding balance for each month that the payment agreement is fully complied with.~~

~~(5)(6) Shall require the payment of all charges when due or the payment agreement will be breached.~~

~~(7) Shall be completed for each Customer by the Committee and the Customer provided a copy thereof.~~

~~(8) Shall be subject to review at any time, but must be reviewed at least annually.~~

~~(9) Shall be subject to modifications, recession or revocation for failure to supply any household income or expense information requested by the Committee or because of a material change in household income or expenses.~~

~~(10) Shall require Customers to apply for and accept all available energy assistance funds.~~(7)

~~(6)(11) May require Customers to participate in the Department's Water Conservation Treatment Program.~~

(d) TAP Payment Agreements

(1) Customers enrolled in TAP with in-program arrears due to nonpayment of TAP Bills may apply to WRB for a TAP Payment Agreement regarding such unpaid TAP Bills and other charges assessed during the period such Customer's service was off (collectively referred to as "Post-TAP Arrears"). Such TAP Payment Agreements generally shall require payment of Post-TAP Arrears in twelve equal installments.

(2) WRB may deny a Customer's application for a TAP Payment Agreement for good cause shown, including without limitation, a determination that WRB has entered into two or more prior TAP Payment Agreements with the Customer.

(d) As a condition of the entry into a payment agreement, the initial payment under the agreement shall be due at the time of signing. The WRB in its discretion may delay the shut off up to five (5) days when an agreement has been negotiated and the WRB believes that the Customer intends to sign the agreement and pay the initial payment during the extended five-day period.

(e) Payment agreements shall be in writing and shall contain the Customer's promise or acknowledgement that:

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(1) In addition to monthly payments under the agreement, the Customer must pay current charges on the account.

(2) Notwithstanding the payment agreement, a lien may be placed upon the Customer's property for the amount of the outstanding account balance. Customers enrolled in TAP will not have liens placed on their property in accordance with Section 206.8 of these regulations.

(3) The Customer may request a ~~renegotiation~~ review of a payment agreement in person or in writing. Before defaulting on an agreement, the Customer must notify the WRB of circumstances which may warrant a review of the payment agreement. If the Customer presents satisfactory evidence to the WRB of a change in household income which would warrant a change in the payment terms of the agreement, the WRB may appropriately modify the payment agreement, provided the Customer is not in default on the agreement. The original agreement shall remain in effect unless so modified. ~~A Customer whose request for renegotiation is denied may request a hearing to dispute whether standard payment agreement terms have been applied.~~

(4) Except as otherwise provided in Section 206.0 through 206.10 of these regulations for Customers enrolled in TAP, delinquencies which accrue during the course of a payment agreement will not be waived, suspended or deferred.

~~(f) The WRB shall consider the following household expenses in determining ability to pay: Rent or mortgage, utility bills, telephone, food, medical bills, transportation, laundry, clothing, toiletries, taxes, insurance, and other reasonable expenses. The WRB will also consider evidence from other low income programs in determining ability to pay.~~

~~(g)~~(f) When a payment agreement is entered into, the WRB's representative will:

~~(1) Accept the initial payment.~~

~~(1)~~(2) Advise the Customer of the amount that the Customer is required to pay each month, the dates when such monthly payments are due, the date the last payment is due, and the number of months the agreement will take to complete.

~~(3) Advise the Customer how to read a bill in order to determine current charges.~~

~~(4)~~(2) Provide the Customer with a signed copy of the agreement.

~~(5)~~(3) Advise the Customer to inform WRB of change in household income before defaulting on an agreement, because in some circumstances the Customer may be able to renegotiate. the Customer may request a review of the agreement.

(g) Breach of Payment Agreement and Bad Checks

(1) "Breach" of a payment agreement means failure to make timely payment of the initial payment or

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subsequent payments, failure to pay current charges when due including penalties, tender of a "bad" check or a check returned for insufficient funds to the WRB, or failure to notify the WRB of a change in household income before defaulting on the agreement.

(h)(2) If a Customer breaches a payment agreement entered into after receipt of a shut off notice relating to a property which is not USTRA Tenant occupied, the WRB may mail or otherwise deliver an appropriate shut off notice to the Customer scheduling shut off no less than ten (10) business days thereafter. Shut off of water service may thereafter proceed without further notice or attempt at personal contact. If a Customer breaches a payment agreement relating to a property which is inhabited by USTRA Tenants, ~~or occupants~~ the Customer and the USTRA Tenants ~~inhabitants~~ will be given sent an appropriate notices scheduling shut off ~~in no less than thirty (30) days. Service of the notice to USTRA Tenants or occupants will be~~ in conformance with USTRA and Sections 100.5(b) and 100.6(b) of these regulations.

(i) "Breach" of a payment agreement means failure to make timely payment of the initial payment or subsequent payments, failure to pay current charges when due including penalties, tender of a "bad" check or a check returned for insufficient funds to the WRB, or failure to notify the WRB of a change in household income before defaulting on the agreement.

(j) If a Customer requests a hearing pursuant to Section 100.7 of these Regulations, within the time period provided in the shut off notice after there

~~has been a breach of payment agreement, the only issue which will be considered at the hearing will be the Customer's compliance with the terms of the payment agreement.~~

(k)(3) Subsequent to the mailing or delivery of a shut off notice as a result of a breach of the payment agreement, and prior to actual shut off, a Customer shall have a ~~one-time~~ right to cure the breach and resume making payments in accordance with the terms of the payment agreement and these regulations. For good cause shown, the WRB may in its discretion allow a Customer to cure additional breaches of a payment agreement.

(l)(4) If a Customer breaches a payment agreement and the same is not cured as provided herein, or gives the WRB a bad check after having received a shut off notice, the decision to modify or ~~renegotiate~~ review any existing agreement, enter into any future agreements, or to otherwise extend further credit on any existing or future delinquency of the Customer and the terms of such credit shall be within the sole discretion of the WRB.

(hm) WRAP-WRBCC Payment Agreements⁴

The Water Revenue Bureau Conference Committee (WRBCC or The Committee) is a governing board that monitors the equity applied in determining the most affordable payment plan terms for income eligible

⁴ WRB will accept requests for new WRAP applications until June 30, 2017. Enrollment in new in WRAP-WRBCC Payment Agreements will be closed to Customers who do not return a completed WRAP application by July 14, 2017.

customers. The Committee is comprised of employees of the Revenue and Water Departments. Payment agreements issued by WRB under this subsection are known as WRBCC payment plans. ~~has been formed to establish payment agreements for those Customers who cannot afford the standard payment plans as stated at Section 100.9 of these Regulations.~~—The WRBCC is empowered to develop flexible payment plans based on a household's income and/or expenses ~~and available grants or subsidies.~~ The WRBCC in its discretion may suspend all or a portion of any arrearages in the establishment of payment plans. The WRBCC is also empowered to review payment plans at any time, but at least on an annual basis. Based upon its review, the WRBCC may modify, rescind or revoke any payment plan previously established.

~~The WRBCC is comprised of employees of the Revenue and Water Departments.~~

~~(n) Eligibility for establishment of payment agreement by the WRBCC:~~

(1) All Customers with household incomes at or below 250% of the federal poverty level who cannot afford the standard payment agreement described at Section 100.9 of these Regulations may apply to the WRBCC for WRBCC payment plans ~~more affordable payment terms.~~

~~(2) All Customers with household incomes at or below 150% of the federal poverty level will be referred by the WRB to the WRBCC~~

~~(3) A Customer threatened with shut off, or whose service is already off, and who is known by the WRB to be at~~

~~or below 150% of the federal poverty level, will be referred by the WRB to the WRBCC.~~

(2)(4) A Customer threatened with shut off whom the WRB knows to be between 150% and 250% of the federal poverty level must furnish proof of income and expenses to the WRBCC in order for it to determine which affordable payment plan the Customer is a candidate to receive. ~~whether the Customer is a candidate for either the 10/5 payment agreement plans (see Section 100.9(b) of these Regulations) or a payment agreement plan to be established by the WRBCC.~~ The WRB shall consider the following household expenses in determining ability to pay: Rent or mortgage, utility bills, telephone food, medical bills, transportation, laundry, clothing, toiletries, taxes, insurance, and other reasonable expenses. Customers with household income below 150% of the federal poverty level shall not be required to document expenses.

~~(5) A Customer above 250% of the Federal poverty level who cannot meet the standard payment agreement terms described at Section 100.9(a) of these Regulations because of extraordinary expenses (e.g., a senior citizen with high medical expenses), must be referred by the WRB for either the 10/5 payment agreement plan or a payment agreement plan to be established by the WRBCC.~~

~~(o) Accepted Applicants:~~

~~(1) Accepted applicants must apply for all available energy assistance funds as a condition of the payment agreement plan established by the WRBCC.~~

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(3)(2) Accepted applicant may be required to participate in the Water Department's Water Conservation Treatment Program as a condition of the WRBCC payment agreement plan established by WRBCC.

~~(3)The accepted applicant whose water/sewer service has been terminated will only be held responsible for payment of the service charge for the first year following termination.~~

(4) Waiver of Penalty. Penalty charges will not accrue on the outstanding balance during the term of the WRBCC payment plan. The City will waive the normal penalty for late payment during the course of a payment agreement plan established for a low-income Customer. The penalty, however, will be reimposed upon breach of the payment agreement plan, but not on the portion of the arrearage paid prior to the breach.

(5) "Breach" of a WRBCC payment agreement plan established by the WRBCC is consistent with the definition of "breach" stated at Section 100.9(i)(g) of these Regulations. In the case of a breach of a WRBCC payment agreement plan established by the WRBCC, the Customer will be afforded the same rights as appear in Sub-sections 100.9(i)-(k) Subsection 100.9(g) of these Regulations.

~~(p) Final decisions of the WRBCC may be appealed and are subject to hearings consistent with Sections 100.7 and 100.8 of these Regulations and Chapter 19-1700 of the Philadelphia Code.~~

(i) Decisions in Writing. Any decision or determination of the WRB relating to a

WRB payment agreement, the amount of arrears for which the Customer is responsible, the completeness of a Customer's application and the adequacy or completeness of any documentation submitted in connection with an application for a payment agreement, or the Customer's performance of his or her obligations under a WRB payment agreement shall be provided to the Customer in writing, and shall include a specific reason for the decision or determination, and a statement of the Customer's right to an administrative hearing to dispute such decision.

(j) Language Access/Non-English Speakers. Consistent with applicable law and policy, the WRB and the Department shall take reasonable steps to ensure meaningful access to payment agreements for Limited English Proficient (LEP) persons by complying with the requirements of Section 8-600 of the Philadelphia Home Rule Charter, Section 19-1605 of the Philadelphia Code, the Executive Order regarding Citywide Policy on Language Access and the applicable Language Access Plans prepared in accordance with the City's language access policy.

* * * * *

100.11 Procedure at Shut Off

(a) Provided that no action to avoid or delay a shut off has been taken as provided herein, a Department representative shut-off crew will visit the Residential Property on or after the scheduled date to shut off service.

(b) Except as otherwise provided in Section 100.10 of these regulations for medical emergencies, For Customers

DEPARTMENT OF PUBLIC WORKS
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Exhibit C

~~who have not previously identified themselves to the WRB as being below 150% of the federal poverty level within the preceding twelve (12) months~~
Customers may avoid shut off of service for nonpayment of prior bills issued by WRB may only be avoided under the following circumstances:

(1) If no payment agreement has previously been entered into for the delinquency: (i) and the Customer has not previously avoided shut off by making payment under this paragraph, tender of the appropriate visit fee and 50% of the outstanding account balance to the Department representative crew by check, cashier's check or money order payable to the WRB if the Customer is not enrolled in TAP; or (ii) tender of the appropriate visit fee and 50% of the outstanding account balance of Post-TAP Arrears to the Department representative by check, cashier's check or money order payable to the WRB if the Customer is enrolled in TAP.

(2) The Customer must thereafter ~~contact come to the WRB in person and enter into a payment agreement within the next five (5) business days or service will automatically be shut off on or after the sixth (6th) business day following the initial visit by the Department representative shut off crew.~~

All subsequent undisputed charges, including penalties on the unpaid delinquency, must be paid when due in addition to the installments under agreement, or the agreement will be considered breached.

(3) If service is to be shut off for breach of a payment agreement for which the Customer has not whether or

~~not the Customer has not previously availed himself or herself of his or her right to cure, tender of the appropriate visit fee and 100% of the outstanding balance on the agreement to the Department representative crew, by check, cashier's check or money order payable to the WRB.~~

~~(c) For Customers whose income has been determined within the preceding twelve (12) months to be at or below 150% of the federal poverty level pursuant to 100.9 shut off of service may only be avoided under the following circumstances:~~

(1) If service is to be shut off for breach of a payment agreement for which the Customer has not availed himself or herself of his or her right to cure, tender of the appropriate visit fee and 25% of the outstanding balance on the agreement to the crew, by check, cashier's check or money order, payable to the WRB.

(2) If service is to be shut off for breach of a payment agreement for which the Customer has not availed himself or herself of his or her right to cure, tender of the appropriate visit fee and 50% of the outstanding balance to the crew, by check, cashier's check or money order.

(3) The Customer must thereafter come to the WRB in person to enter into a payment agreement or renegotiate an existing payment agreement in the next five (5) working days or service will automatically be shut off on the sixth (6th) day following the initial visit by the shut off crew.

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DEPARTMENT OF REVENUE

Exhibit C

~~(4) All subsequent undisputed charges, including penalties on the unpaid delinquency, must be paid when due in addition to the installments under agreement, or the agreement will be breached.~~

~~(c)~~(d) If partial payment in an amount approved by a WRB supervisor is received where no payment agreement has previously been entered into for the delinquency or if a showing of serious illness is made, service will be shut off without further notice, unless within five (5) business days, the Customer pays the balance in full, enters into a payment agreement for the balance due on the terms set forth in Section 100.9 of these Regulations or submits a certification of illness as provided in Section 100.10 of these Regulations.

~~(d)~~(e) If service is to be shut off for lack of a meter reading, shut off may be avoided by permitting the Department representative ~~shut off crew~~ to read the meter ~~and by paying the appropriate visit fee.~~

~~(e)~~(f) When water service is shut off, the Department representative crew shall leave at the property a notice informing the residents of the shut off and what steps can be taken to restore the water service.

~~(f)~~(g) ~~When~~ Where the Customer has given the WRB a "bad" check, such as a check returned for insufficient funds, within the previous thirty-six (36) months, the WRB will require payment of the sums listed above in this Section by certified check, cashier's check or money order. Cash will not be accepted under any circumstances, except at the

WRB's Municipal Services Building location.

100.12 Restoration of Service

(a) Service shall be restored within one (1) day, if possible, when the following conditions are met:

(1) The Customer permits a meter reading or access to the meter for inspection, changes or repairs; and/or

(2) The Customer permits installation of a meter if the Dwelling Unit is not separately metered. The Dwelling Unit must be set up for individual metering by a registered plumber to the ~~Water~~ Department's satisfaction at the expense of the Customer ~~or the Owner~~. Installation charges for the meter will be charged to the Customer; and/or

(3) The Customer makes payment in full of the outstanding account balance and appropriate restoration charges; and/or

(4) One or more USTRA Tenants pays the Utility Service ~~water/sewer/stormwater~~ charges incurred in the thirty (30) day period preceding the notice of shut off.

(b) Customers above 250% of the federal poverty level and not enrolled in TAP, ~~who have been determined to be eligible for a payment agreement pursuant to Section 100.9 of these Regulations~~ above, if no payment agreement has previously been entered into for the ~~outstanding account balance~~, may pay appropriate restoration charges and enter into a payment agreement as follows:

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Exhibit C

(1) Initial Payment: If no payment agreement has previously been entered into for the outstanding account balance, 50% of the total bill presently due, such payment to be made prior to restoration of water service. If a payment agreement has previously been entered into and service has been shut off because of a breach thereof, 100% of the outstanding delinquency must be paid.

(2) Subsequent Payments: The remainder of the outstanding delinquency shall be divided equally amongst the number of months of the agreement. paid in installments equal to 25% of the original bill due at the time of shut off or 15% of the combined gross monthly income of the Customer's household, whichever is less.

(3) Current Charges: All subsequent undisputed charges, including penalties on the unpaid delinquency, must be paid when due in addition to the installments under the payment agreement, or the agreement will be breached.

(4) If a payment agreement has previously been entered into and service has been shut off because of a breach thereof, 100% of the outstanding delinquency must be paid.

(c) Customers who are determined to be at or below 250% of the federal poverty level pursuant to Section 100.9 of these Regulations and who are not enrolled in TAP, if no payment agreement has previously been entered into for the outstanding account balance, may pay appropriate restoration charges and enter a payment agreement as follows:

(1) Initial Payment: If no payment agreement has previously been entered into for the outstanding account balance, 25-10% of the total bill presently due, including the restoration fee or 15% of gross monthly income, such payment to be made prior to restoration of water service. If a payment agreement has previously been entered into and service has been shut off because of a breach thereof, 50% of the outstanding delinquency must be paid.

(2) Subsequent Payments: The remainder of the outstanding delinquency shall be divided equally amongst the number of months of the agreement. The number of months of the payment agreement will be determined so that the Customer's estimated average monthly total bill for the current service, usage and stormwater charges and payment of arrears is reasonably anticipated to be approximately 4% of the Customer's Monthly Household Income as defined in section 206.1 of these regulations. paid in installments equal to 5% of the original bill due at the time of shut off including the restoration fee, except that the penalty will be waived if all the other terms of the payment agreement are satisfied.

(3) Current Charges: All subsequent undisputed charges, including interest and penalties on the unpaid delinquency, must be paid when due in addition to the installments under the payment agreement, or the agreement will be breached.

(4) If a payment agreement has previously been entered into and service has been shut off because of a breach

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Exhibit C

~~thereof, 25% of the outstanding delinquency must be paid.~~

(d) In the event service to a Customer enrolled in TAP is terminated for non-payment of TAP bills, such Customer shall be entitled to restoration of service (i) upon payment of such unpaid Post-TAP Arrears, (ii) upon such Customer's entry into a TAP Payment Agreement with the WRB regarding such Post-TAP Arrears pursuant to Section 100.9(d) of these regulations, or (iii) upon a finding of Special Hardship by the WRB.

(e) Restoration of service shall be available to applicants for TAP, subject to reasonable limitations established by WRB and the Department concerning the frequency and number of applications that may be requested in order to restore service.

~~(f)(d)~~ Where the Customer has given the WRB a "bad" check or a check returned for insufficient funds within the previous twelve (12) months, the WRB will require payment of the sums listed above in this Section in Sub-sections 100.11(b) and (c) of these Regulations by certified check, cashier's check or money order. Cash will not be accepted under any circumstances, except at the WRB's Municipal Services Building location.

~~(g)(e)~~ Upon good cause shown, the WRB or the Department may in its discretion allow restoration of service upon terms more favorable to the Customer than otherwise permitted herein.

334695

DEPARTMENT OF REVENUE
2017 JUN 20 AM 11:22



EXHIBIT D

Before the Commissioner of
The Philadelphia Water Department

In the Matter of the Proposed Amendments :
To Chapter 1 (Customer Rights and Obligations) :
Of the Philadelphia Water Department Regulations :

Comments of Community Legal Services, Inc. Energy Unit

Submitted by:

Robert W. Ballenger, Esq.
Lydia R. Gottesfeld, Esq.

June 16, 2017

334696

DEPARTMENT OF PROPOSED
2017 JUN 20 11:02



These comments set forth the concerns and recommendations of Community Legal Services, Inc. Energy Unit (CLS) regarding the Philadelphia Water Department's Amendments to Chapter 1 of the Philadelphia Water Department Regulations, Stamped May 3, 2017.

By public notice in The Philadelphia Inquirer and Philadelphia Daily News on Friday June 9, 2017, the Records Department indicated a public hearing will be held on June 16 at 9:00 a.m. on these proposed regulations.

We recognize and appreciate that several improvements have been suggested in these proposed regulations, some of which are responsive to concerns we have previously raised. Nonetheless, CLS has substantial concerns about the proposed regulations, and urges their further amendment at this time.

Restoration of Service Must Be Available Through TAP

IWRAP legislation provides a definition of "customer" that makes clear that IWRAP must be available to restore service. The term "customer" is defined to include any person who is "in the process of requesting or simultaneously requests to receive or restore service from the Water Department at such person's primary residence in Philadelphia." Phila. Code § 19-1605(2)(a). Accordingly, customers who lack service are entitled to restoration of service through TAP under Phila. Code § 19-1605(3)(i.1).

We understand from conversations with legal counsel for the Water and Revenue Departments that commitment to restore service for TAP applicants is intended to be included in internal operating procedures. We are concerned that this commitment is not reflected in the proposed regulations, and so customers and their advocates may not be aware of it. Furthermore, in any dispute that may arise regarding the restoration of service, it is not clear from the regulations how a hearing officer would approach the resolution of that dispute. Accordingly, we suggest that the proposed regulations, in Section 100.12, include the following language:

Restoration of service shall be available to applicants for TAP, subject to reasonable limitations established by the Department concerning the frequency and number of applications that may be requested in order to restore service.

The Regulations Should Require that Customers With Household Income at or Below 150% FPL Will Be Referred to TAP

In Proposed Regulations, the Department has eliminated provisions in 100.9(n)(2) and 100.9(n)(3) that required low income customers to be referred to WRBCC. This specific



change is discussed below. Noticeably absent is any provision of the regulations which would require, on or after July 1, that potentially TAP-eligible individuals be provided information and referred appropriately in order to apply for TAP. Such a mechanism appears to be required by the IWRAP legislation, which provides:

Both the Department and the Water Department shall provide information about the IWRAP program and about organizations that can assist in applying for IWRAP to any individual who contacts those departments under circumstances that suggest the individual may qualify for and may benefit from the program.
Phila. Code § 19-1605(5)(a).

Simply training staff on a referral process to TAP will be insufficient to comply with the IWRAP legislation's requirement to refer. We are concerned that without regulations to reflect this legislative mandate, customers and the organizations assisting them will not be able to enforce this requirement.

The Department's payment agreement regulations and restoration of service regulations should incorporate provisions which ensure that customers will be appropriately referred to TAP and organizations that can assist them upon contact with customer service personnel.

Restoration of Service Must Be Available For Customers Between 150-250% FPL Through Affordable Payment Agreements

As with TAP applicants, IWRAP legislation provides that "Customers with household income from one hundred fifty percent (150%) to two hundred fifty percent (250%) of FPL, shall be offered payment plans that result in a total bill – including arrearages – that is affordable." Phila. Code § 19-1605(3)(h.2). Although Section 100.9(c)(2) seeks to fulfill this commitment for customers whose service is on, there is no corresponding commitment in Section 100.12 for customers whose service is off. Again, the language of the IWRAP legislation, which requires affordable total bills for customers between 150-250% FPL, defines a customer to include a natural person in the process of requesting to receive or restore service from the Water Department.

Under Section 100.12, the Department proposes to charge these customers "25% of the total bill presently due" to restore service or "50% of the outstanding delinquency" if a payment agreement has been entered into previously and service has been shut off due to breach. These requirements would only be permissible if the payment demand were "affordable" within the meaning of the IWRAP legislation. It appears unlikely that 25% and 50% payment demands would be affordable in the majority of circumstances. Accordingly, we recommend that Section 100.12 clarify that customers between 150-250% of FPL will

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be entitled to restoration upon entry into payment agreement terms consistent with Section 100.9(c) (e.g., an agreement to pay 4% of monthly household income, or a more affordable alternative).

The Departments Should Not Eliminate the Income-Based Initial Payment Provisions in Sections 100.9(a) and 100.12

CLS opposes changes to Department regulations which eliminate favorable payment agreement and restoration terms for customers. Although we believe that IWRAP legislation restricted the Department's ability to request an initial payment that is "unaffordable" from any customer with income at or below 250% FPL (as discussed above), we believe the Department's regulations should continue to include income-based initial payments for customers with income above 250% FPL. Moreover, if the Department disagrees with our conclusion regarding the IWRAP legislation's restriction on initial payments for customers with income at or below 250% of FPL to restore service, the proposed imposition of an initial payment of 25% of the outstanding balance (Section 100.12(c)) is unduly harsh.

It has been suggested to us that the elimination of these income-based initial payments is largely intended to align the regulations with current practice. That suggestion is troubling and does not justify eliminating initial payment rights that customers have had, whether or not the Water Revenue Bureau has systematically recognized them.

As we explained in testimony regarding the previous version of these proposed regulations:

[T]he Department proposes to eliminate the current regulatory limitations on initial payments. Under existing regulations, customers above 250% FPL can enter a payment agreement upon initial payment of 25% of the balance or 15% of monthly household income, whichever is less. Similarly, customers below 250% FPL can enter a payment agreement and restore service upon payment of 10% of the balance or 15% of monthly household income, *whichever is less*. The proposed regulations eliminate these provisions, and the important path toward restoration of service for customers between 150-250% FPL. Although the proposed regulations provide discretion to defer initial payments for customers between 150-250% FPL who are not off (Section 100.9(b)), and the proposed regulations authorize the Department to provide more favorable restoration terms (Section 100.12(f)), the Department's discretion is no substitute for the right of customers to enter agreements and restore service on the terms currently provided by PWD regulations, if other means are not available.



While CLS urges the Department to apply its Special Hardship standards liberally, in order to maximize the ability of low- and moderate-income customers to restore service, it nonetheless submits that the Department should not eliminate payment agreement options and paths toward restoration that have been available in Department regulations and useful for customers and CLS clients in the past.

All Customers Should Have the Right to Cure Non-Payment After Shut Off

As drafted, the proposed regulations limit the ability of customers who are not enrolled in TAP to cure payment agreement defaults. Proposed Section 100.9(h)(3) provides this right only prior to shut off. IWRAP legislation ensures that participants who are shut off may restore upon payment of unpaid IWRAP bills and charges that accrued during the period service is off. Phila. Code § 19-1605(3)(f). Although this right is specific to IWRAP, CLS does not believe there is a logical justification, other than to inflict punishment for nonpayment, to fail to provide the same rights to customers who are not income eligible for TAP.

All customers, regardless of income level, may, from time to time, face financial hardship. If a customer whose income is above 250% FPL enters a payment agreement, but is unable to maintain that agreement and suffers a termination of service, that customer should nonetheless have a reasonable pathway to restore service. Currently, proposed Section 100.12(b)(1) would require that customer to pay 100% of the outstanding delinquency. We submit that Section 100.12(b)(1) should provide cure opportunities, similar to TAP, that allow restoration upon repayment of missed payments, plus outstanding charges that accrued during the period service was off.

Structural Changes to WRAP and WRBCC Regulations Should Be Reversed

As we shared with counsel for the Water and Revenue Departments, we have concerns about the proposed revisions to provisions of Section 100.9 that would appear to significantly alter the functioning of existing payment agreements for low-income customers.

Generally, our concerns with altering the regulations governing existing arrangements, which may continue for extended periods after July 1, is the ambiguity this creates in ensuring that any disputes regarding these agreements are fairly resolved. Such disputes would require recognition of the regulations and obligations that were in effect at the time the agreements were entered. A copy of our email correspondence with counsel for the Water and Revenue Departments is attached, giving some examples of how the proposed changes could impact on future disputes.

As a solution, we propose that the existing provisions of Section 100.9 should remain in force, according to their terms, for applicants and agreements prior to July 1, 2017. The proposed provisions to Section 100.9 to govern applicants and agreements after July 1, should be incorporated into a newly renumbered section (e.g., "Section 100.9.1"), with the modifications we suggest.

Specific Changes to WRAP and WRBCC Regulations Should Be Made if Structural Changes Are Not Reversed

If the Department does not adopt our recommendation to maintain Section 100.9 without revision for applicants and agreements prior to July 1, the Department should, at a minimum, make the following additional changes to its Proposed Section 100.9:

- 100.9(b) and (c) now define "WRAP payment agreements" as requiring 5% of the balance to be repaid each month, and "Extended Payment Agreements" as incorporating repayment terms longer than 18 months only if required to make bills approximately 4% of household income. Language explicitly allowing for longer, more flexible payment arrangements has been eliminated. Previously included under 100.9(b)(9), the regulations allowed for extended payment agreements under 100.9(m), which provided that "WRBCC is empowered to develop flexible payment plans." That language has been removed. The regulations should not suggest that the long-standing ability of the WRBCC to enter into more lengthy payment agreements, such as the 60-month payment agreement option, has been eliminated. The regulations should include language explicitly allowing for more flexible payment arrangements for customers with income below 250% of FPL.
- 100.9(f) as drafted appears to require substantiation of household expenses for purposes of WRAP payment agreements and WRBCC agreements. However, no substantiation of expenses is required for customers with income below 150% FPL, as agreed in settlement of Phase 1 of the 2013-2016 Water Rate Proceeding. The regulations should be clear that no expense documentation is required for customers below 150% FPL.
- 100.9(i) unreasonably enlarges WRBCC's ability to modify, rescind or revoke payment plans.¹ WRBCC should only be authorized to make modifications to existing agreements as a result of changed income or expense information (if

¹ The proposed regulations provide WRBCC the ability to modify, rescind, or revoke previously established payment plans based on "approval criteria and associated evidence." It is not clear what this language means, but it appears inconsistent with the existing obligation to review payment agreements and to base modifications on that review, as well as limited authority to modify payment plans currently in section 100.9(c). Compare Proposed Regulation 100.9(i) with Current Regulations 100.9(c) and 100.9(m).




applicable), or in order to ensure that the customer receives the most affordable payment alternative available. This revision would be consistent with WRBCC's existing authority in current regulation sections 100.9(c) and 100.9(m), and reflect the obligations imposed by IWRAP legislation.

- 100.9 should maintain the affirmative obligation to refer customers with household income at or below 150% FPL to WRBCC. See current regulation sections 100.9(n)(2) and 100.9(n)(3).

* * * * *

Based on all of the foregoing, CLS submits that the proposed amendments to Chapter 1 (Customer Rights and Obligations) of the Water Department regulations should be further revised to address the issues set forth in these Comments.

Respectfully submitted,


Robert W. Ballenger, Esq.
Lydia R. Gottesfeld, Esq.

334702

Energy Unit, Community Legal Services, Inc.

DEPARTMENT OF REVENUE
2017 JUN 20 11:11:32

Robert Ballenger

From: Robert Ballenger
Sent: Wednesday, June 07, 2017 4:36 PM
To: Scott Schwarz; susan.crosby@phila.gov
Cc: Josie Pickens; Lydia Gottesfeld
Subject: Proposed 100.9/100.12 Regulations - Follow Up

Dear Scott and Susan,

Following up on our conversation from last week, I wanted to give you some context for our concerns about the proposed changes to the regulations affecting the current WRAP program. I've created an example, to try to highlight how the changes may have some undesirable consequences.

In this example, I use a family of four, with income at just below 150% FPL (\$3,070 per month). I assume an average bill amount, \$70.87 per month. Under current WRBCC-WRAP, this family, if approved, could have arrears frozen and pay a monthly bill of approximately \$54.20 (\$70.87 – 16.67). Under TAP, this family would be expected to pay 3% of monthly income, or \$92.10. Clearly, WRBCC-WRAP would be the more affordable alternative. If, on the other hand, if this family was on a non-WRBCC payment agreement, instead of WRBCC-WRAP, that payment agreement would only be more advantageous than TAP if the monthly payment was less than \$92.10, meaning payment installments of \$31.23 (\$92.10 - \$70.87) or less on the balance.

Obviously, this is just one hypothetical, and changing income, usage, or arrears would alter the actual amounts.

Here are some potential issues that the proposed regulations create:

- If the family is on a non-WRBCC payment agreement because they were not referred to WRBCC, that would be a violation of the current regulations. Even if the payment agreement amount is less than \$21.23 per month, and TAP is not the most advantageous rate going forward, the family should have been referred to WRBCC and should be paying even less. (Notably, the proposed regulations also fail to impose a requirement after July 1 that families at or below 150% FPL be referred to TAP.)
- Additionally, there may be questions about whether the family, if on a non-WRBCC payment agreement, was denied a WRBCC payment plan because the family did not provide expense information. Under the current regulations, expense documentation is not required for families below 150% FPL. This provision (currently in 100.9(c)) was agreed to in settlement of the 2012 rate proceeding (Attachment C to the Phase 1 settlement) and is intended to avoid D/I agreements for these low income families. The proposed regulations eliminate this provision and impose an obligation on all WRAP and WRBCC applicants to document expenses under 100.9(f) of the proposed regulations.
- If this family is on a 60 month non-WRBCC payment agreement, what provision of the proposed regulations would authorize that alternative to continue if it were more affordable? For non-WRBCC agreements, the proposed regulations appear to establish: (1) standard payment agreements (100.9(a)) as normally not exceeding 18 months, (2) WRAP payment agreements are 5% of the arrears per month, so 20 months (100.9(b)), and (3) extended payment arrangements for customers between 150-250% that may exceed 18 months, if the total bill would exceed 4% of household income (100.9(c)). There are customers both below 150% and between 150-250% of FPL who are on 60 month payment agreements, some of which could be more beneficial than TAP. Does WRB intend to eliminate the 60 month payment agreement for customers from 0-250% of FPL, or some segment of that group, going forward?
- If the family is on a WRBCC payment plan, the regulations currently allow WRBCC to conduct a review and modify, rescind or revoke the plan based on that review. Under the proposed regulations, WRBCC could modify, rescind or revoke "based on approval criteria and associated evidence." This appears to give more authority to WRBCC to unilaterally terminate payment plans at any time, without the assurance that the WRBCC has conducted a review. We only aware of such reviews being conducted with annual renewals. Eliminating the

review process suggests to us that WRBCC may determine to cancel WRBCC payment plans, making them unavailable, even if there is no change in income/usage/circumstance that would make TAP more affordable.

As I think we indicated during our conference call, we have concerns about eliminating the traditional provisions of the regulations allowing customers to make initial payments (either to restore or to enter a payment agreement) calculated as a percentage of household income. Specifically, proposed payment agreement regulations under 100.9(a)(1) eliminate the option to pay 15% of income and require a down payment of 25% of the balance, and, concerning restoration, the proposed regulations under 100.12(c)(1) require a 25% down payment of the entire balance for restoration and eliminate the option to pay 15% of monthly gross income. Although we realize WRB may not have systematically implemented those provisions, which is an issue in and of itself, customers should not have those options taken off the table.

Of course, as we prepare for the hearing, we may find there are other issues we want to address. But I wanted to let you know some of our concerns with the structural revision of the regulations governing WRAP. In our view, it would be preferable to have these regulations continue in their current form. Prior versions of your regulations are not posted on your website, and so customers and their advocates will not likely have access to those regulations to determine if a violation under occurred, much less seek to correct it.

We will also see if we can come up with some language that may assist with clarifying in the regulations that TAP is a route to restore service previously terminated.

Let us know your thoughts and whether we can have a discussion about this early next week.

Thank you,

Rob

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