

**WATER COMMISSIONER'S REPORT
ON THE PUBLIC HEARING WITH RESPECT TO
PHILADELPHIA WATER DEPARTMENT REGULATIONS
CHAPTER 1: CUSTOMER RIGHTS AND OBLIGATIONS**

September 19, 2016

On May 12, 2016, pursuant to Section 8-407(a) of the Philadelphia Home Rule Charter, the Water Department filed with the Department of Records proposed amendments to Sections 100.0 through 100.8, 100.10 and 100.13 of Chapter 1 of the Water Department's regulations entitled "Customer Rights and Obligations."

Public notice of the filing of the proposed amendments 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, July 22, 2016 at 9:00 a.m. at One Parkway, Philadelphia, Pennsylvania.

By letter dated July 18, 2016, revised July 21, 2016, CLS provided written comments to the Water Department regarding the proposed amendments. The following witnesses from CLS provided in-person testimony: Robert W. Ballenger, Josie B.H. Pickens, Thu B. Tran and George Gould. At the conclusion of the hearing, the Water Commissioner announced that the Water Department would keep the record open for any additional written comments until Friday, July 29, 2016. Additional written comments were received on July 22, 2016 from Darrell M. Zaslow, Esq., Legal Counsel to the Homeowners Association of Philadelphia (HAPCO) and on July 28, 2016 from Paula Weiss, Esq., Executive Director of the Office of Administrative Review (OAR) and the Tax Review Board (TRB).

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 showing all changes made to the current regulations by the amendment as modified by this Report is attached as Exhibit B. A blackline showing the modifications made to the version posted for public comment as a result of the hearing is attached as Exhibit C. All of the written testimony and comments received on the proposed regulations is attached as Exhibit D. A summary of the testimony and the Water Department's response is provided below.

Testimony Regarding Proposed Changes to Section 100.1 - Definitions

Proposed Section 100.1(a) - Definition of "Tenant-Customer"

CLS recommended that the definition of Tenant-Customer should eliminate the language "with legal proof of tenancy." The Water Department disagrees. The definition was developed through a mediation process in 2013 and 2014. The definition proposed in the regulations is the

same definition recommended by the mediator in the Mediation Report issued on November 11, 2014.

Proposed Section 100.1(m) - Definition of “USTRA Landlord”

In its written comments, CLS stated that its comments were not intended to address substantial revisions to the proposed regulations concerning Utility Service Tenant Rights Act (USTRA). CLS further noted that the requirements of USTRA are unambiguous and are fully detailed in the statute, and contended that the proposed regulations fall short of implementing the statutory requirements. CLS suggested that as an alternative to incorporating the statutory requirement in the regulations, the Water Department could append the statute to the regulations and substitute a statement that the Water Department will comply with USTRA for the text appearing in Section 100.3 of the regulations. At the public hearing, when asked to explain why CLS believes that the regulations do not fully comply with the statutory requirements, Mr. Ballenger initially deferred, citing his potential future obligations to CLS clients, but subsequently mentioned, among other things, the definition of “USTRA Landlord” in the proposed regulations creates some confusion.

The Water Department generally agrees with the alternative suggested by CLS of substituting statements referring to USTRA for the text in the regulations and is adopting modifications to Sections 100.1, 100.2, 100.3, 100.5 and 100.6 based on this alternative, with some specific modifications identified below. Rather than appending USTRA to the regulations, the Water Department intends to post a copy of or a link to USTRA on its webpage containing the regulations. This approach will make USTRA easily available for both Water Department staff and customers, and avoids the need of formally modifying our regulations in the event USTRA is amended in the future. By adopting this approach, it is no longer necessary to define “USTRA Landlord” in Section 100.1. Therefore, the Water Department strikes this definition and makes related changes to the footnote in the definition “USTRA Tenant.”

Testimony Regarding Proposed Changes to Section 100.2 – Applications for Service as Residential Customers

Proposed Section 100.2(a)(2)(B)

The proposed amendments would have eliminated the current provision in Section 100.2(a)(2)(B) allowing tenant or occupant applicants to establish an owner’s authorization to reside at a dwelling unit by presenting evidence of an applicant’s complaint against the Owner and scheduling of a hearing thereon by the Fair Housing Commission. CLS objected to this change, stating that the Fair Housing Commission requires proof of tenancy in connection with a complaint in order to schedule a hearing. CLS recommended that the stricken language concerning the Fair Housing Commission be retained. Based on the testimony from CLS and a review of the Intake Questionnaire for the Philadelphia Fair Housing Commission, the Water Department agrees with the recommendation by CLS and adopts the regulation without striking the current reference to the Fair Housing Commission.

Proposed Section 100.2(a)(5)

The proposed amendments included the addition of Section 100.2(a)(5) concerning USTRA. Tenants who apply to become a customer or who request continued service under USTRA. As noted above, in response to the statements and suggestions by CLS regarding USTRA, the Water Department is eliminating much of the text in its proposed regulations concerning USTRA and simply referencing the statute. By adopting this approach, the addition of subsection 100.2(a)(5) is no longer necessary. Therefore, this subsection is eliminated.

Proposed Section 100.2(b)(1)(C)

The proposed amendments included the addition of language stating that an owner, tenant or occupant is not qualified to become a customer if utility service is legally off due to nonpayment of prior bills. CLS contended that this change creates an unnecessary new barrier to customer status for applicants who lack service and is impermissible under recent amendments to Section 19-1605 of the Philadelphia Code. The Water Department disagrees with CLS's contentions. However, upon further review, the additional language appears to be unnecessary given the provision of Section 100.2(b)(1)(B), which addresses situations in which an applicant has not paid or arranged to pay past due charges for which the applicant is legally responsible. Therefore, the additional language is eliminated, as requested by CLS.

CLS also requested that the Water Department change Section 100.2(b)(1)(C) of the regulations to eliminate the current provision prohibiting an owner, tenant or occupant from becoming a customer if utility service is legally off due to uncorrected Water Department violations. The Water Department declines to eliminate this provision. Uncorrected Water Department violations may include leaking or broken pipes, defective curb stops, and defective or blocked drain systems, laterals and curb traps. These types of violations may create a risk to property and the health and safety of occupants and the public. Ordinances effective since the 1870s have authorized the City to shut off the supply of water to properties with leaking pipes, fixtures and appliances without making a separate determination that providing utility service to the service location will endanger health, safety, property or the environment. See 1871 Ordinance Book, page 237 and the Philadelphia Code Section 13-503. The Water Department believes that it is in the best interest of the City and the public for the Water Department to retain all of its current enforcement options for addressing uncorrected Water Department violations.

Proposed Section 100.2(b)(1)(F)

The proposed amendments included the addition of language stating that a tenant is not qualified to become a customer if the tenant is applying for service at a location for which no valid rental property license exists. CLS believes that the City should not deny customer status on the basis of an owner's failure to obtain a rental property license and asserted that denying customer status to a tenant is not an appropriate mechanism for obtaining landlord compliance. The Water Department disagrees.

The additional language reflects current practice with respect to tenant applications and concerns raised by certain landlord stakeholders at meetings of the Water Department's Residential

Customer Assistance and Service Committee (R-CAS). It also protects tenants' rights regarding safety and health standards, which are mandated to landlords through a number of City license and inspection requirements.

Proposed Section 100.2(d) and (e)

The proposed amendments to Section 100.2(d) and (e) clarify the specific conditions that tenants and occupants must fulfill to achieve customer status. CLS commented that the proposed amendments to Section 100.2(d) and (e) continue the City's longstanding practice of requiring the owner's consent to obtain customer status and asserted that the ability of an applicant to receive service in his or her name should not change based on third-party actions or whether water service is on or off. At the hearing, Robert Ballenger elaborated on the CLS's written comments by stating that CLS recommends eliminating the requirement of owner consent altogether.

HAPCO's written comments supported continuing the current requirement for owner consent before accepting an application of a tenant or occupant to become a customer. However, HAPCO stated that the ten-day period afforded to the owner to provide comments to the WRB regarding the applicant's eligibility or to indicate an objection to the application is unreasonably short. HAPCO explained that an owner on vacation or who missed the mail or is elderly or ill may be hard-pressed to respond to a ten-day deadline. For additional support, HAPCO referred to a recent Federal Court decision, presumably *Augustin v. City of Philadelphia*, 2016 WL 1073223 (E.D.Pa. March 18, 2016) (noting that the City's placement of a lien and/or an attachment against real estate constitutes a sufficient taking of property so as to warrant due process protection). HAPCO further asserted that the high importance of notice of a potential lien outweighs the tenant's need for an answer within twenty days because in reality, water is not being turned off during the twenty-day notice period.

The topic of owner consent has been discussed by various stakeholders at numerous prior meetings. Different stakeholders have different views as to this issue. However, consensus amongst stakeholders is not necessary in order for the Water Department to decide the most reasonable approach to resolving this issue.

The current regulations require owner consent before providing customer status to tenants or occupants when water service is currently off, and provide the owner an opportunity to object to a tenant or occupant becoming a customer if the water service is currently on. The Water Department declines to adopt the recommendation from CLS to eliminate the requirement for owner consent. The regulations define property owners as customers, not "third parties." The Water Department believes that retaining the current approach to owner consent is reasonable, especially considering that owners are customers, but also agrees with HAPCO's recommendation to extend the length of the notice period from ten to twenty days. Therefore, the Water Department adopts the proposed amendments with specific modifications to Section 100.2(d) and (e) to reflect the twenty-day notice period.

Proposed Section 100.2(e)(3)

The proposed regulations would eliminate a sentence in Section 100.2(e)(3), which states that after acceptance by the WRB, the Tenant or occupant Customer shall be entitled to the same rights and subject to the same legal obligations as any other Customer of WRB. CLS alleges that there is no basis for this change. The Water Department disagrees. For example, an owner with a loan under the Water Department's Homeowner Emergency Loan Program (HELP) has different obligation than a tenant customer, and owners have different obligations than tenants under various provisions of the Administrative Code and Title 13 of the Philadelphia Code. See e.g., Section A-105 of the Administrative Code (Responsibility) and Sections 13-303, 13-304, 13-306, 13-403, 13-404, 13-406 and 13-504 of the Philadelphia Code.

Proposed Section 100.2(e)(4)

CLS recommended that the Water Department further modify proposed Section 100.2(e)(4), which provides that an application by a tenant or occupant will be considered as pending during the period of notice to the Owner, to clarify that any pending termination will be deferred during such period. The Water Department agrees with this recommendation and adopts the proposed amendment to this section with the additional modification recommended by CLS.

Testimony Regarding Proposed Changes to Section 100.3 – USTRA Tenant Rights

As noted above, in response to the statements and suggestions by CLS regarding USTRA, the Water Department is eliminating much of the text in its proposed regulations concerning USTRA and simply referencing the statute. In applying this approach to Section 100.3, the Water Department is eliminating the text of Subsection 100.3(a) and substituting a statement that the Department and WRB will comply with the provisions of USTRA, and is modifying Subsection 100.3(b) to more closely track the language of Section 7 of USTRA pertaining to the rights of USTRA Tenants to continued service.

Testimony Regarding Proposed Changes to Section 100.4 – Shut off of Utility Service

Proposed Section 100.4(b)(2)

CLS recommended that the language at Section 100.4(b)(2), allowing for “two consecutive billing periods” before a shut off notice would be issued for denial of meter access, be restored. The Water Department accepts this recommendation and is restoring the language in this section.

Proposed Section 100.4(e)

CLS recommended that the Department delete the proposed Section 100.4(e), concerning immediate termination for unauthorized use, fraud or tampering. Based on the Water Department’s review of the comment and related decisions of the Public Utility Commission cited by CLS in its comments, the Water Department is deferring modifying Section 100.4 of its regulations to address unauthorized use, fraud or tampering at this time.

Testimony Regarding Proposed Changes to Section 100.5 – Notice of Shutoff

Proposed Section 100.5(a)

CLS recommended that the Water Department revise Section 100.5(a) to include a short statement regarding the Water Department's language access protocol and take other steps to assist Limited English Proficient (LEP) customers. The Water Department declines to further revise this section at this time. The Water Department's language access protocols are set forth in its Language Access Plan, which is currently being modified pursuant to Section 8-600 of the Home Rule Charter, and Executive Order 7-16, issued by the Mayor on May 12, 2016.

Proposed Section 100.5(b)

As noted above, in response to the statements and suggestions by CLS regarding USTRA, the Water Department is eliminating much of the text in its proposed regulations concerning USTRA and simply referencing the statute. In applying this approach to Section 100.5, the Water Department is eliminating the proposed addition of references to "USTRA Landlords" and modifying the proposed amendments pertaining to shut off notices to state that shut off notices required to be given to landlords and USTRA Tenants shall comply with the notice provision of USTRA.

Testimony Regarding Proposed Changes to Section 100.6 – Shut-off Notice Schedule

As noted above, in response to the statements and suggestions by CLS regarding USTRA, the Water Department is eliminating much of the text in its proposed regulations concerning USTRA. In applying this approach to Section 100.6, the Water Department is eliminating the proposed addition of references to "USTRA Landlords" and modifying the text of Section 100.6(b) to state that shutoff notices required to be given to landlords and USTRA Tenants shall comply with the notice provision of USTRA.

Testimony Regarding Proposed Changes to Section 100.7 – Administrative Hearings

CLS raised various issues with respect to the proposed amendments to Section 100.7 and contended that the regulations as proposed deprive users of due process. CLS recommended that the Water Department revise this section to state that all adverse eligibility determinations are contestable and to allow an Authorized User to request a hearing to dispute all denials of applications for a loan under the Water Department's Homeowner Emergency Loan Program, commonly referred to as a HELP loan. The Water Department denies these contentions and declines to accept these recommendations.

Paula Weiss, Esq., Executive Director of the OAR and TRB, recommended that the Water Department modify Section 100.7 of the proposed regulations to clarify which determination and disputes in that section are directly appealable to the TRB or OAR. She noted that the TRB and OAR previously agreed to hear appeals of decisions by the Revenue Department's hearing officers, but also pointed out that in many instances Customers appeal bills issued by WRB directly to the TRB pursuant to Section 19-1702 of the Philadelphia Code. In addition, pursuant

to the recent enactment of Philadelphia Code Section 19-1605, the TRB is authorized to review any adverse final decision or determination relating to initial or continued eligibility for an Income-Based Water Rate Assistance Program (IWRAP) agreement or to a customer's performance of his or her obligations under an IWRAP Agreement. See Philadelphia Code, Section 19-1605(3)(l). Ms. Weiss also noted that at times, TRB and OAR staff receive inquiries from customers on other matters that are appealable to other boards, such as notices of plumbing defects issued by the Water Department and appealable to the Board of License and Inspection Review (L&I Review Board).

At the public hearing, CLS was asked whether, in order to address the Water Department's concerns about stretching out the appeals process through multiple levels of appeals, it would be in favor of allowing Customers to file direct appeals related to payment agreements and applications for service with the OAR rather than filing informal appeals with a Revenue Department hearing officer. CLS also was asked whether, given the recent amendments authorizing appeals to the TRB of adverse decisions involving the Income-Based Water Rate Assistance Program (IWRAP), the regulations should be amended to allow direct appeals of such decisions to the TRB. CLS indicated that such changes would require a broader discussion.

The Water Department and WRB make numerous determinations which are not appropriate for resolution through the informal hearing process before a Revenue Department hearing officer. Examples include determinations about plumbing defects during property inspections, which often result in a notice of a plumbing defect. Appeals of such notices are heard by the L&I Review Board pursuant to Section 5-1005 of the Philadelphia Home Rule Charter and must be filed within thirty days of the initial notice. Appealing to the incorrect office, board or City department creates a potential pitfall for customers, as a customer who incorrectly appeals such a notice to a Revenue Department hearing officer could unnecessarily incur additional time and expense and ultimately have his or her eventual appeal to the L&I Review Board rejected as untimely.

To allay concerns about lack of clarity regarding where customers and authorized users should file appeals, while at the same time addressing concerns about an extended appeals process due to multiple levels of appeal, the Water Department is making several modifications to Section 100.7 as initially proposed. In order to more clearly state where to appeal, Section 100.7(a) is modified and Sections 100.7(b), (c) and (d) are being inserted to notify customers and users which issues are appealable through informal appeals to Revenue Department hearing officers and which issues are directly appealable through administrative appeals to the OAR, TRB and L&I Review Board. Section 100.7(c) as modified by this Report will allow customers and authorized users to appeal written determinations by WRB related to applications for service and payment agreements directly to OAR. To avoid a protracted appeal process, these determinations will not be appealable to Revenue Department hearing officers. The title of Section 100.7 is being changed from its current title ("Hearing") and proposed title ("Informal Hearings") to "Administrative Hearings" so as to more clearly describe the types of hearings. The procedures for informal appeals before Revenue Department hearing officers are being consolidated in Subsection 100.7(e). Finally, to avoid confusion, the reference in the first sentence of 100.7(a) to hearings provided in Section 100.2(d)(2) is being stricken since all hearings are now addressed in Section 100.7.

The Water Department does not believe that any additional changes are necessary to address the CLS comment that the proposed regulations adopt a position that only a written decision or determination is contestable. During the mediation, the City agreed that for all disputes, the Authorized User will receive a written decision from the Customer Service Representative or Account Analysis Unit, as appropriate. In addition, under the newly enacted provisions of Philadelphia Code Section 19-1605, any decision or determination regarding a payment agreement must be in writing. See Philadelphia Code Section 19-1605(3)(k).

In response to the comment by CLS that the proposed regulation continues the Water Department's longstanding practice of limiting appeals to decisions and determinations included on a list of contestable issues, the Water Department notes that the proposed regulations expand the list of contestable issues. The Water Department also notes that while it is not subject to the regulations of the Pennsylvania Public Utility Commission (PUC), the PUC regulations establishing standards and billing practices for residential utility service do not provide customers with the right to appeal all grievances, but rather only those grievances covered by Chapter 56 of the PUC regulations. See 52 Pa. Code §§ 56.2 and 56.252 (definition of "Dispute").

CLS pointed out three specific determinations that it asserted are not contestable under the regulations as proposed: (1) a determination that an applicant is an agent of a current or previous delinquent customer under Section 100.2(b)(1)(A); (2) USTRA issues other than denial of an application for continued water service; and (3) shut off for reasons other than nonpayment or failure to provide access to the meter. To address the first issue and to ensure that all eligibility determinations under Section 100.2 are appealable, the Water Department has modified the wording in Section 100.7(b)(2) to clearly state that any rejection of an application for service under Section 100.2 is appealable to the OAR. With respect to USTRA issues, any denial of application for continued water service under USTRA is appealable to a Revenue Department hearing officer pursuant to Section 100.7(a)(6). CLS has not identified any other USTRA issues that are not appropriately addressed through the informal hearing process. As to shut offs for reason other than nonpayment or failure to provide access to the meter, these issues generally involve property inspections with shut off notices appealable to the L&I Review Board.

As in the past, CLS also recommended that the regulations be modified to allow an Authorized User to appeal the decisions that an applicant is not eligible for a loan under the Water Department's Homeowner Emergency Loan Program because the applicant is not the property owner of record. The Water Department declines to accept this recommendation. Complex property ownership issues are not appropriate for resolution by Revenue Department hearing officers. Informal Hearings are scheduled at 15 minute intervals. Submitting such issues for resolution through an informal hearing might unfairly bind both the Customer and the City to an administrative decision that is more fairly and appropriately decided by a court proceeding. The Water Department also notes that this loan program is subject to availability of funds and will be suspended if funds for any fiscal year are exhausted.

Testimony Regarding Proposed Changes to Section 100.8 – Rights Pending Final Decision

The proposed amendment to Section 100.8 would have added a paragraph providing that informal hearing requests related to the completeness of an application for a payment agreement or the adequacy or completeness of any documentation submitted in connection with such application will not result in a delay or stay of the shut off of water service pending the outcome of the appeal. CLS suggested that this proposed paragraph was contrary to agreements made in 2013 and 2014 as part of mediation between the City and CLS on issues related to the informal dispute and hearing process. CLS further contended that the proposed paragraph is contrary to Section 19-1605(3)(m) of the Philadelphia Code, which became effective in 2015 and requires the Water Department and WRB to promulgate standards governing stay, postponement and holds of pending enforcement actions or service terminations to allow customers time to apply for and enter into payment agreements.

The Water Department first notes that there was no agreement reached during mediation concerning stays of enforcement in situations where a customer submits an incomplete application for a payment agreement. With respect to the Philadelphia Code, the cited provision refers to promulgating standards rather than regulations. Subsection 100.8(a)(6) of the regulations, as proposed, provides the Water Department and WRB with sufficient flexibility to apply enforcement stays through written policy as necessary to incorporate all of the changes to the informal dispute and hearing process agreed to during mediation and to comply with Section 19-1605(3)(m) of the Philadelphia Code.

In considering whether to stay enforcement during an appeal of a decision that an application is incomplete, the Water Department and WRB continue to be concerned about the potential for a customer to avoid enforcement altogether by appealing incomplete applications through multiple levels of appeals. This concern, however, may be alleviated by providing for direct appeals to TRB regarding any decision relating to an IWRAP payment agreement and to OAR relating to other payment agreements. Based on the modifications to proposed Section 100.7 providing for such direct appeals to TRB and OAR, the Water Department has decided not to add the proposed paragraph denying stays for appeals involving incomplete applications for payment agreements at this time. As a result, enforcement will be stayed under Section 100.8(a)(4) of the Water Department's regulations while such appeals are pending before TRB and OAR.

Testimony Regarding Proposed Changes to Section 100.10 – Medical Emergency Procedures

CLS recommended that the proposed replacement of “resident” with “Occupant” in Section 100.10 regarding Medical Emergency Procedures be eliminated. The Water Department accepts this recommendation and is restoring the term “resident” in this section.

Testimony Regarding Proposed Changes to Section 100.13 – Posting of Authorized User Rights

CLS commented that Section 100.13 as proposed does not fully incorporate the Water Department's prior agreement to post a one-page flyer or brochure describing the dispute process

on the websites of the Water Department and WRB. The Water Department is adding a subsection (b) based on the prior agreement.

The Water Department and WRB also agreed that the City would share the poster referenced in subsection (a) and the flyer or brochure referenced in subsection (b) with CLS prior to posting. Therefore, subsection (a) is modified to change “shall” to “will” so as to reflect that the poster will be drafted with input from CLS and will not be posted as of the effective date of the proposed regulations.

Miscellaneous

CLS commented that the regulations should be further revised to include additional agreements reached during the mediation process. The Water Department believes that the agreements not addressed in these regulations as proposed are more appropriately implemented through policies and procedures rather than regulations.

CHAPTER 1 CUSTOMER RIGHTS AND OBLIGATIONS

100.0 RESIDENTIAL CUSTOMERS

100.1 Definitions

The following words and phrases when used in Sections 100.0 through 100.14 of these regulations have the meanings given to them in this Section unless specifically provided otherwise or unless the text clearly indicates otherwise:

(a) Authorized User: Any of the following types of Customers or users of the City's Utility Service:

1. Owner-Customer: An Owner in whose name the Utility Service account is established or who by operation of law is responsible for payment of charges for Utility Service.
2. Tenant-Customer: A Tenant with legal proof of tenancy, in whose name the Utility Service account is established.
3. USTRA Tenant: As defined hereinafter in this Section.
4. Occupant with ownership interest: A current Occupant with proof of residency and with the intent of gaining ownership of the Service Location.
5. Occupant without ownership interest: A current Occupant with proof of residency that accepts responsibility for the account and without any intent of gaining ownership of the Service Location.
6. Household Member with Medical Emergency: Any person who resides at the Service Location and who seeks

to delay shutoff of service pursuant to Section 100.10 of these regulations.

- (b) Customer: An Owner, Tenant or Occupant, other than an USTRA Tenant, who by operation of law or agreement is responsible for payment of the charges for Utility Service at a Service Location.
- (c) Department: The Philadelphia Water Department also referred to as Philadelphia Water or the Water Department.
- (d) Dwelling Unit: An individual housing unit in a Residential Property such as a single family home or a single apartment within a multi-unit apartment building.
- (e) Frivolous Appeal: An appeal taken other than in good faith and solely for purposes of delay.
- (f) Occupant: A person who has the Owner's authorization to reside at a Service Location.
- (g) Owner: A person who has title to a Service Location, or his or her agent acting on his or her behalf.
- (h) Rental Agreement: An agreement between two parties, either oral or written, by which the Owner of a Service Location agrees to lease all or part of the Service Location to a Tenant.
- (i) Residential Property: Any building containing one or more Dwelling Units occupied for residential purposes, but not including dormitories, nursing homes, hotels, or motels.
- (j) Service Location: A Dwelling Unit or Residential Property of a Customer or Authorized User that is eligible to receive Utility Service after acceptance of an application for such Utility Service or by

operation of law.

(k) 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.

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

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

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

(o) WRB: The Water Revenue Bureau, within the Philadelphia Revenue Department.

100.2 Application for Service as Residential Customers

The Water Revenue Bureau (WRB), subject to the terms and conditions set forth in these regulations, will receive completed applications to become a Customer from Owners, Tenants and Occupants and will, upon acceptance of a completed application, direct the Department to provide Utility Service in the name of the Customer to the authorized Service Location under the

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 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.

terms and conditions set forth in these regulations.

(a) Application to Become a Customer

(1) An Owner shall become a Customer as of the date of title transfer established by the record deed or otherwise established by sufficient evidence to show title to the Service Location.

(2) A Tenant or Occupant who wishes to become a Customer must submit:

(A) His or her name and current address, and, when available, a current telephone number. An applicant generally will be required to provide at least one form of personal identification in the form of a United States or State government issued photo identification, i.e. driver’s license (any state), PA photo ID, U.S. passport, U.S. passport card, U.S. Permanent Resident Card, U.S. Visa, or U.S. Department of Defense Common Access Card. Other forms of personal identification will be referred to a WRB Supervisor.

(B) Satisfactory evidence of Owner’s authorization to reside at the Dwelling Unit by a Tenant or Occupant. Such evidence will usually be in writing, including, for example, a current: Rental Agreement or Agreement of Sale for the Dwelling Unit for which the applicant desires service, a lease, rent book, money order receipts, canceled checks, other utility bills in the applicant’s name at that address, rent receipts, or other written evidence of tenancy or written evidence of the Owner’s consent to occupancy. Evidence of a prior determination by a court of competent jurisdiction of the existence of a current rental arrangement for the Dwelling Unit between the Owner and the applicant or the acceptance of the applicant’s complaint against the Owner and the scheduling of a

hearing thereon by the Philadelphia Fair Housing Commission shall be considered conclusive of this issue.

(C) A completed application and affidavit in such form as the WRB shall from time to time deem appropriate wherein the applicant agrees to pay for Utility Service supplied in his or her name and makes certain acknowledgements and certifications consistent with these regulations.

(3) All WRB determinations shall be made in writing upon the application form and a copy given or mailed to the applicant.

(4) Where a person with a household income at or below 250% of the federal poverty level becomes the Owner of a Service Location with an existing delinquent balance, the Department and the WRB will not deprive or refuse the new Owner of Utility Service solely on the basis of that pre-existing delinquent balance, where the Owner becomes or is eligible to become a Customer. The City may lien the property for any delinquent balance.

(b) Eligibility

(1) An Owner, Tenant or Occupant of a Service Location is qualified to become a Customer, UNLESS:

(A) The applicant is the agent of a current or previous delinquent Customer at the Service Location and is attempting on that delinquent Customer's behalf to avoid shut off or restore service previously shut off without payment of that Customer's past due charges for Utility Service or any other miscellaneous charges. Such agency will normally be found to exist where the property that would be receiving Utility

Service is or will be occupied by a currently delinquent Customer or where such delinquent Customer would otherwise use or receive the benefit of the Utility Service;

(B) The applicant has not paid or arranged to pay for past due charges for Utility Service for which the applicant is legally responsible at this or another Service Location, including charges for unauthorized usage;

(C) Utility Service to the Service Location is legally off and there exist uncorrected Water Department violation(s) at the Service Location or a determination that providing Utility Service to the Service Location would endanger life, health, safety or property;

(D) Service to a Service Location cannot be accomplished without revision of the Department's distribution and/or collector facilities or acquisition of additional rights-of-way;

(E) The Tenant or Occupant is a Customer currently receiving service at another Service Location and has a delinquent bill at the other Service Location; or

(F) The Tenant is applying for Utility Service at a Service Location for which no valid residential rental property license exists.

(2) Upon receipt of the evidence and documents required in Section 100.2(a) of these regulations, the WRB shall determine whether the applicant is a qualifying Owner, Occupant, or Tenant and whether the applicant is eligible to become a Customer.

(3) In determining whether uncorrected Water Department violations exist at a

Exhibit A

Service Location, the WRB shall request that the Department promptly review its files and provide the WRB with a listing of any violations. The applicant shall be given a written list of any violations and advised that it is his or her responsibility to correct the violations. The applicant may be required to provide a certification from a registered plumber that the corrections have been made before service will be provided. In no case will Utility Service be turned on if the Service Location is found at any time by the Department to be in a condition not suitable to receive water, or in a condition which would create an emergency or dangerous condition to itself or another Service Location or endanger life, health, safety or property.

(c) Additional Conditions

(1) If the Dwelling Unit is already separately metered, a meter reading must be taken before the applicant will be accepted as a Customer. The reading may be taken by the applicant. In such cases, the Customer must provide the meter number and the meter interface unit (MIU) or encoder receiver transmitter (ERT) number. The WRB reserves the right to require a reading by the WRB or the Water Department before the application will be accepted. In such cases, the WRB will promptly order a meter reading and advise the applicant to facilitate entry of the meter reader into the Dwelling Unit.

(2) If the applicant's Dwelling Unit is presently set up for individual metering but no meter is at the property, a meter must be installed before the applicant will be accepted as a Customer. In such cases, WRB will promptly order from the Water Department the installation of a meter and the applicant must provide entry to Department personnel into the property for

this purpose. Meter charges must be paid or scheduled for payment as part of a payment agreement by the applicant before application approval.

(3) If the applicant's Dwelling Unit is not individually 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 applicant or the Owner and a water meter must be installed before an applicant will be accepted as a Customer. Meter charges must be paid or must be scheduled for payment as part of a payment agreement before application approval.

(d) Notice to Owner

(1) Upon receipt of a Customer application for Utility Service by a person not the Owner of a Service Location, the WRB shall mail to the Owner at the license address on file with the Department of Licenses and Inspections for the property in which an applicant's Service Location is located, or if no such license address is available, at such other address as the WRB reasonably believes is the valid current address of the Owner, a notice of the application in such form as the WRB shall from time to time deem appropriate.

(2) The notice shall advise the Owner of the application for and the possible provision of the Utility Service to the Service Location for which the Owner will be responsible for payment if the applicant becomes delinquent. The notice shall afford the Owner twenty (20) days from the date of the notice in which to provide the WRB with any comments regarding the applicant's eligibility and to indicate any objection to the application. The notice shall also advise the Owner to notify the WRB immediately if an emergency condition exists which makes the provision of

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water service a danger to the property or to the safety of others or their property.

(3) Should the Owner fail to object prior to such time as the WRB is otherwise prepared to accept the applicant as a Customer, the Owner shall be deemed to have no objection to provision of Utility Service in the applicant's name, and Utility Service will be provided to the applicant, unless the water is currently off and the applicant has no evidence of a current lease or a right to possess the property, as described in Section 100.2(a)(2)(B).

(e) Acceptance of Application

(1) An applicant otherwise eligible shall be entitled to become a Customer for his or her Dwelling Unit only or to have service continued or restored to his or her Dwelling Unit only, upon fulfillment of the above conditions in Subsection 100.2(a) through (c), unless:

(A) Water service is currently on and the Owner expressly objects to the application; or

(B) Water service is currently off and the Owner has not given his or her express written consent to the provision of service in the applicant's name.

(2) The WRB may determine in its sole discretion to temporarily continue or restore service to the applicant's Dwelling Unit at no cost to the applicant.

(3) If a Tenant or Occupant is accepted as a Customer, the WRB shall so indicate on the application by signing it and giving or mailing the applicant a copy.

(4) Acceptance of an application from a Tenant or Occupant will not occur until the 20-day notice period to the Owner pursuant to Subsection (d) of this Section has expired. Prior to that time the application of a Tenant or Occupant will be considered as pending. Any termination will be deferred during the period when the application is pending.

(f) Turn-on of Utility Service

(1) If Utility Service has been shut off by the Department, the Department will visit the Service Location to turn-on Utility Service for a new Customer at no charge to the applicant where service can be provided by operation of the curb stop.

(2) Where Utility Service can only be provided by means other than the operation of the curb stop, such as restoration of the ferrule, service line or curb-stop to operable condition, such restoration must be made by a licensed plumber at the expense of the applicant or Owner.

(3) Notwithstanding any other provision of these regulations, where Utility Service has previously been shut off by the Water Department or the WRB for any reason under these regulations or permitted by law, and the WRB has been notified that the Department of Licenses and Inspections has determined the premises to be in dangerous or imminently dangerous condition pursuant to the Building Code, Title 4 of the Philadelphia Code, service will be provided only upon the prior written consent of the Department of Licenses and Inspections.

(g) Rejection of Application

If the applicant is rejected as a Customer, the WRB shall so indicate on the application and give its reasons in writing in the appropriate

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space on the application. WRB will note any condition that must be met and itemize charges that must be paid in order to obtain service and will provide a description of the process by which the applicant may dispute the WRB determination. A copy of the rejected application shall be promptly mailed or hand-delivered to the applicant.

(h) Revocation of Acceptance

Should the WRB after issuance of a written acceptance of the application, receive a valid objection from an Owner or determine that any of the certifications in the application are materially false or that the applicant may otherwise not be eligible to be a Customer, the WRB may deny, revoke and rescind acceptance of the application. The WRB will give its reasons for revocation in writing on the application. The WRB will note any condition that must be met and itemize any charge that must be paid in order to obtain service and will provide a description of the process by which the applicant may dispute the WRB determination.

(i) Termination of Customer Relationship

(1) After acceptance by the WRB of an application for Utility Service, Tenants and Occupants who are Customers will remain responsible for paying all future charges for Utility Service to their Dwelling Units until such time as there is:

(A) Revocation of acceptance of the Customer application;

(B) A written request received from the Tenant or Occupant Customer to terminate Customer status;

(C) Acceptance of a subsequent Customer for the Dwelling Unit by the

WRB and the taking of a final meter reading; or

(D) Purchase of a discontinuance permit and termination of service at the Owner's request. Responsibility for the stormwater service charge will not terminate upon the issuance of a discontinuance permit.

(2) The WRB will notify Tenants and Occupants who are Customers of termination of their status as Customers in writing by first class mail.

(3) Owners, whether or not they are Customers or occupy the Service Location where Utility Service is being provided, remain responsible for paying water/sewer charges until the issuance of a discontinuance permit, and remain responsible for paying stormwater charges at all times during ownership.

100.3 USTRA Tenant Rights

(a) The Department and WRB will comply with the provisions of USTRA, 68 P.S. §399.1 et seq. The rights of USTRA Tenants to continued service are set forth in Section 7 of USTRA, 68 P.S. §399.7.

(b) Application for Continued Service under USTRA

(1) USTRA Tenants who wish to apply to have Utility Service continued or resumed pursuant to Section 7(a) of USTRA or an USTRA Tenant who has been notified of a proposed discontinuance or Utility Service pursuant to Section 3 of USTRA and wishes to subscribe for future Utility Service individually pursuant to Section 7(b) of USTRA must submit a completed application and supporting documentation in such form as the WRB shall from time to time deem appropriate

and which provides information necessary to support the applicant's claim of tenancy.

(2) All USTRA Tenant

determinations will be made by the WRB in writing upon the application form. If an applicant is entitled to continued service under USTRA, the WRB shall accept the application by signing it and giving or mailing the applicant a copy. The WRB may determine in its sole discretion that in lieu of continuing service under USTRA, the WRB will temporarily continue or restore service at no cost to the USTRA Tenant.

100.4 Shut off of Utility Service

(a) Nothing in this regulation shall modify the Department's right to shut off Utility Service without prior notice to prevent or alleviate an emergency which presents a danger to life, health, safety or property.

(b) In addition to shut offs caused by revocations of acceptance of applications, the WRB may cause the Water Department to shut off Utility Service at a Service Location, after notice has been given and the opportunity for an informal hearing provided, on the following grounds:

(1) ten (10) days after a Customer is delinquent for two billing periods; or

(2) when the Water Department or the WRB is denied for two consecutive billing periods access to the Service Location to read or make changes or repairs to the meter.

(c) When the Department shuts off Utility Service to a Service Location, the water and sewer service charges shall not be charged against the Service Location during the period of any termination beginning with the

date of any termination. The Owner shall be responsible for the stormwater service charge at all times and under all circumstances.

(d) The Department will suspend the termination of Utility Service to residential occupied properties for nonpayment of a delinquent bill from December 1st to March 31st of the ensuing year. This suspension does not release any water Customer of the obligation to pay for Utility Service.

100.5 Notice of Shut off

(a) Shut off Notice to Residential Customer

A shut off notice in English and Spanish will be mailed or delivered to a Customer. Translations to other languages will be provided upon request. If the WRB directly bills a Tenant Customer, a duplicate notice will be mailed or delivered to the Owner Customer. The shut off notice to a Customer shall include at least the following information, when applicable, in such form, as the WRB or the Department shall from time to time deem appropriate.

(1) Account number;

(2) Date of notice;

(3) Address of property;

(4) Amount past due;

(5) Date on or after which water service will be shut off;

(6) The available methods for avoiding shut off, including:

(A) tendering sufficient payment to avoid or postpone shut off of water service or otherwise eliminate the grounds for shut off of service;

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- (B) entering into a payment agreement before the shut off date;
 - (C) paying what is past-due on the most recent payment agreement before the shut off date;
 - (D) enrolling in the City's Water Revenue Assistance Program, if the Authorized User is eligible for the program;
 - (E) applying to the WRB for continued service under USTRA, if the Authorized User is an USTRA Tenant;
 - (F) completing such other steps as may be required as specified in a notice issued by the Department; or
 - (G) requesting an informal hearing within ten (10) days if a dispute exists as to any matter described in Section 100.7(a) of these regulations;
- (7) A notice that a timely hearing request will prevent shut off until a final decision is made;
- (8) A notice that a hearing request must be made in person or in writing, and must be received within ten (10) days of the date of the notice;
- (9) A telephone number to call for further information or explanation; and
- (10) The Medical Emergency Procedures for delaying shut off pursuant to Section 100.10 of these Regulations.
- (b) Shut off Notices Required by USTRA
- Shut off notices required to be given to

landlords and USTRA Tenants pursuant to USTRA shall comply with the notice provisions of USTRA, 68 P.S. § 399.1 et seq.

(c) Shut off for Lack of Meter Access

If a Service Location is subject to shut off due to lack of a meter reading or lack of access to the meter, the Department will send or deliver a notice to the Service Location by mail or hand delivery stating that to avoid shut off of service and possible additional charges the Customer must contact the Department and provide access to the meter by the Department. If the Department's records show that the mailing address of the Owner is different from the Service Location address, a duplicate notice will be sent or delivered to the Owner by mail or hand delivery to his or her mailing address.

(d) Service of Notices

In the case of service of notices referred to in this Section which are mailed or delivered to a Customer or Service Location, WRB and the Department shall be entitled to rely on the mailing address or service address as reflected on the bill and in the records of WRB or the Department, as of the date the notice is served.

100.6 Shut-Off Notice Schedule

(a) Notice Schedule for Residential Customers

(1) Except as otherwise provided in Section 100.4 of these regulations, Customers subject to shut off for any of the reasons stated in these regulations will receive two prior written notices of the scheduled shut off date.

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(2) A notice scheduling shut off no earlier than ten (10) days after a Customer has been delinquent for two billing cycles will be issued no earlier than the date of the first delinquent bill.

(3) A notice for failure to provide access to the meter pursuant to Section 100.4 of these regulations will be mailed or hand delivered in accordance with Section 100.5(c) of these regulations.

(4) A second notice will be issued at least thirty (30) days after mailing or hand delivery of the first notice. This will be the final notice scheduling shut off.

(5) If the Customer does not permit a reading or access to the meter, pay the delinquent bill in full, enter into a payment agreement, request a hearing or produce a certificate of serious illness pursuant to Section 100.10 of these regulations, the water service to the Residential Property will be subject to shut off any time on or after the shut off date set forth on the second notice.

(b) Notice Schedule for Notices Required by USTRA

Shut off notices required to be given to landlords and USTRA Tenants pursuant to USTRA shall comply with the notice provisions of USTRA, 68 P.S. 399.1 et seq.

(c) Notice to Tenant Customers, Occupant Customers and Owners.

Where water service to a Tenant Customer or Occupant Customer is to be shut off for reasons of his or her non-payment of charges for Utility Service or his or her failure to permit access to the meter, the Tenant Customer or Occupant Customer shall be afforded the same notice and

hearing rights as any other residential Customer under these regulations. In such a case, the WRB or the Department shall promptly send to the Owner by mail or hand delivery to his or her record address(es) a copy of the shut off notice mailed or delivered to the Tenant Customer or Occupant Customer.

100.7 Administrative Hearings

(a) Informal Hearings before Revenue Department Hearing Officers

Unless a hearing or an opportunity for a hearing has already been given on the same issue or charges (as determined by the Revenue Department), upon timely request, an Authorized User may request an informal hearing before a Revenue Department hearing officer to contest a written decision or determination of the Water Department or WRB with regard to the following:

(1) the Authorized User's responsibility for the Utility Service charges;

(2) the amount due or any possible errors in computing charges on the Utility Service bill;

(3) shut off for nonpayment;

(4) shut off for failure to provide access to the meter;

(5) denial of a request for continued service pursuant to Section 100.10 of these regulations (Medical Emergency Procedures);

(6) denial of an application for continued water service under USTRA and/or;

(7) a determination that an applicant is

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ineligible for a HELP loan due to a delinquent balance on his or her Utility Service bill or for a reason other than homeownership.

(b) Appeals to the Tax Review Board (TRB)

(1) Pursuant to Section 19-1605 of the Philadelphia Code, the TRB is authorized to review any adverse final decision or determination of the Revenue Department relating to initial or continued eligibility for an Income-Based Water Rate Assistance Program (IWRAP) agreement or to a customer's performance of his or her obligations under an IWRAP agreement.

(2) Pursuant to Section 19-1702 of the Philadelphia Code, the TRB has jurisdiction to hear appeals of decisions or determination relating to the liability of any person for any unpaid money or claim collectible by the Department of Revenue for the on behalf of the City, including but not limited to any water or sewer rents.

(c) Appeals to the Office of Administrative Review (OAR)

An Authorized User may appeal the following written decisions or determinations of the WRB directly to OAR:

(1) rejection of an application for service or revocation of acceptance of an application for service under Section 100.2 of these regulations; and/or

(2) any decision or determination relating to a WRB payment agreement, other than an IWRAP agreement.

(d) The Board of License and Inspection Review

The Board of License and Inspection Review hears appeals of notices of property violations and notices of plumbing defects issued by the Water Department.

(e) Procedures for Informal Hearing before Revenue Department Hearing Officers

(1) To be timely, requests for informal hearings before a Revenue Department Hearing Officer must be made:

(A) within thirty (30) days of the date of the disputed bill or written determination that is being disputed; or

(B) within ten (10) days from the date of the first shut off notice, or notice of rejection or revocation of an application for service.

Thereafter, the right to request a hearing is waived, except to dispute charges accruing and determinations made after the date of the first shut off notice, or unless the hearing officer, for good cause shown, grants an untimely request for an informal hearing.

(2) Hearing requests may be made in person to the WRB or by mail. An Authorized User may request a hearing by completing and submitting a form prepared by WRB. The form may be completed by a WRB customer or service representative in exceptional circumstances on a case-by-case basis, e.g. where the Authorized User is visually impaired. If shut off has not occurred, the WRB may upon good cause shown grant a hearing request made after the scheduled shut off date, or more than ten (10) days after the first shut off notice.

(3) Where an Authorized User has requested an informal hearing and Utility Service to a Service Location is on, the

WRB shall give at least ten (10) days notice by regular mail or hand delivery to the Authorized User or his or her specified representative, if any, setting forth the time, date and place of hearing and the Authorized User's rights at the hearing as set forth in Sub-sections 100.7(a) of these regulations, provided that an earlier hearing may be scheduled by mutual agreement. Where a hearing is requested and water service to a property is off, or the hearing is requested by an Authorized User to dispute denial of a request for continued service pursuant to Section 100.10 of these regulations (Medical Emergency Procedures), or a hearing is requested by an Authorized User subject to immediate termination pursuant to Section 100.8(b) of these regulations (Frivolous Appeals), the WRB shall schedule an informal hearing to be held within ten (10) days of receipt of an informal hearing request form, unless a later time is requested.

(4) The Authorized User, or his or her designated representative who need not be an attorney, may request in writing or may visit the WRB in person during regular working hours, to review and receive copies of any available records relevant to Utility Service at such individual's primary residence, including any computer printout relevant to the billings for Utility Service to the Service Location. WRB will make a good faith effort to respond to such a request in accordance with WRB policy and procedures.

(5) Upon showing of good cause by the Authorized User, such as illness, one continuance of the informal hearing shall be granted for a total period not to exceed ten (10) days. Additional continuances may be granted within the discretion of the Revenue Department.

(6) The informal hearing shall be conducted by an impartial hearing officer who shall be an employee of the City knowledgeable about water usage, billing practices and procedures, but who has not previously discussed or considered the dispute with the Authorized User, except in his or her capacity as a hearing officer.

(7) At the informal hearing, the hearing officer shall consider all relevant evidence and shall permit the presentation and questioning of relevant witnesses and documents as determined by the hearing officer. The Authorized User may bring a representative who need not be an attorney. All testimony at the hearing may be recorded by the hearing officer but the recording will not be transcribed unless a party at the hearing requests and makes arrangements for payment for such a transcript or other circumstances warranting a transcription exists. Unless objected to, parties may make their own tape recording of the hearing, but the only official record shall be that made by the hearing officer.

(8) The hearing officer may request a meter re-reading at no charge to the Authorized User and/or a meter test, the cost of which will be charged to the Authorized User if the test shows that the meter is accurate within 2%. The hearing officer shall review such evidence in reaching a final decision on the dispute.

(9) The hearing officer may conduct the hearing telephonically upon a timely request of a party and a showing of good cause, e.g. Authorized User is disabled, ill, a senior citizen or out of town.

(10) The hearing officer has the authority to determine, either on his or her own motion or upon a motion of a party to the

hearing, that an Authorized User does not have standing, or that a matter is moot or not yet ripe for a decision, or that the matter is more appropriately decided by another City office, department, board or commission.

(11) After the hearing, the hearing officer shall send to the Authorized User and to his or her specified representative, if any, by first class mail a written decision with a summary of the facts and reasoning that are the basis of the decision. Any meter rereading, inspection or meter test findings shall be included in the hearing decision, if applicable and relevant to the decision.

(12) Thereafter, any obligation of the Authorized User affirmed by the hearing officer must be satisfied within thirty (30) days of the date of the decision. Upon the expiration of thirty (30) days, unpaid disputed charges shall be delinquent.

100.8 Rights Pending Final Decision

(a) Except as otherwise provided in this Section or elsewhere in these regulations, WRB and the Water Department will not shut off Utility Service to a Service Location in the following circumstances and during the following periods:

(1) from the initiation of a dispute covered by Section 100.7(a) of these regulations until thirty (30) days after the issuance of a decision on that dispute;

(2) while a dispute about an account is being reviewed by the Account Analysis Unit (AAU) of the Revenue Department;

(3) from the filing of a completed informal hearing request form in accordance with Section 100.7 of these regulations until

thirty (30) days after the issuance of an informal hearing decision;

(4) from the filing of a completed hearing request with the Tax Review Board (TRB) or Office of Administrative Review (OAR) until thirty (30) days after the issuance of a TRB or OAR decision;

(5) when WRB is notified of a medical emergency condition in accordance with Section 100.10 of these regulations; or

(6) during such other periods as established by WRB or Water Department rules, regulations or written policy.

However, the Authorized User must pay the undisputed portion of disputed bill(s) and shut off of service may occur if the undisputed portion becomes delinquent.

(b) **Frivolous Appeals.** Except as provided in this Subsection below, if an Authorized User is found by a decision of a hearing officer to have filed or submitted at least two Frivolous Appeals and the hearing officer's decision is not appealed further or is appealed and upheld after further appeal, then subsequent informal hearing requests by such Authorized Users within 18 months of the hearing officer's Frivolous Appeal determination will not result in a stay or postponement of shut off of Utility Service. Instead, upon filing of a subsequent informal hearing request by such an Authorized User under the circumstances described above, an informal hearing will be scheduled on an expedited basis (within 10 days of an informal hearing request form), unless a later time is requested by the Authorized User. A request to delay the hearing will not stay shut off of Utility Service. If a hearing officer decides a future informal hearing request in favor of such Authorized User, the Frivolous Appeal restrictions will be lifted.

(c) A notice of the rights of review, compromise, waiver and refund with the TRB, OAR and/or the Department of Revenue under Chapter 19-1700 of The Philadelphia Code and the stay procedures set forth below shall be included by the hearing officer in every hearing decision.

(d) If an Authorized User timely files a petition for review with the TRB or the OAR raising matters within the jurisdiction of the TRB/OAR and the matters were raised before the informal hearing officer, the WRB will stay further shut off action pending a final decision of the TRB/OAR, provided that the Authorized User or his or her representative promptly notifies the hearing officer in writing of the petition and the Authorized User pays or arranges to pay any undisputed past charges, including penalties, and thereafter complies with any outstanding payment agreements and pays or arranges to pay all current charges when due in the future, except as otherwise provided during medical emergencies as set forth in Section 100.10 of these regulations.

If a stay is revoked because of the failure of an Authorized User or their representative to comply with these conditions, the WRB shall give at least ten (10) days written notice by mail or hand delivery of its intention to shut off Utility Service. In no case will the filing of a petition for review require the Water Department to restore Utility Service already shut off, except as otherwise provided during medical emergencies as set forth in Section 100.10 of these regulations.

(e) After a final decision of the TRB/OAR regarding a billing issue, the WRB will mail a final bill to the Authorized User who requested review by TRB/OAR with a

notice that the Authorized User will have thirty (30) days from the date of the bill to pay or enter into payment agreement with the WRB to pay the original or modified charges or the Service Location will be subject to shut off without further notice, unless the property is occupied by one or more USTRA Tenants, in which case appropriate notice shall be provided in accordance with USTRA and Section 100.6 of these regulations.

(f) If the Authorized User files a petition for compromise, waiver or refund, the Authorized User may apply in writing to the WRB, which may in its discretion grant a stay of further shut off action pending final decision on the petition.

* * * * *

100.10 Medical Emergency Procedures

(a) The WRB shall delay shut off of water service where shut off will aggravate an existing serious illness of any person who is a resident of the Residential Property if a written certification on a physician's stationery, dated and signed by a physician is submitted to the WRB which sets forth the name, address, and telephone number of the physician, the name and address of the resident who is ill, that the physician has examined the person, and the nature, seriousness and expected duration of the illness.

(b) The certification of illness shall delay shut off for the length of the illness or thirty (30) days from the date that the certificate is submitted, whichever is less, and may be renewed for no more than an additional thirty (30) days.

(c) The right to delay shut off under this Section may only be exercised once in any

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twelve month period.

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100.13 Posting of Authorized User Rights

- (a) The WRB will post in several conspicuous places in its offices easily understood posters to notify Authorized Users of their rights, including the right to dispute the WRB's decision.
- (b) The Department and WRB will post a flyer or brochure describing the dispute process on their websites.

* * * * *

CHAPTER 1 CUSTOMER RIGHTS AND OBLIGATIONS

100.0 RESIDENTIAL CUSTOMERS

100.1 Definitions

The following words and phrases when used in Sections 100.0 through 100.14 of these regulations have the meanings given to them in this Section unless specifically provided otherwise or unless the text clearly indicates otherwise:

(a) Authorized User: Any of the following types of Customers or users of the City's Utility Service:

1. Owner-Customer: An Owner in whose name the Utility Service account is established or who by operation of law is responsible for payment of charges for Utility Service.
2. Tenant-Customer: A Tenant with legal proof of tenancy, in whose name the Utility Service account is established.
3. USTRA Tenant: As defined hereinafter in this Section.
4. Occupant with ownership interest: A current Occupant with proof of residency and with the intent of gaining ownership of the Service Location.
5. Occupant without ownership interest: A current Occupant with proof of residency that accepts responsibility for the account and without any intent of gaining ownership of the Service Location.
6. Household Member with Medical Emergency: Any person who resides at the Service Location and who seeks

to delay shutoff of service pursuant to Section 100.10 of these regulations.

(ab) Customer: An eOwner, tTenant or eOccupant, other than an USTRA Tenant, who by operation of law or agreement is responsible for payment of the charges for water/sewer/stormwater service Utility Service at a Residential Property Service Location.

(b) Delinquent Bill: All water sewer/stormwater charges unpaid within the billing cycle in which they are due.

(c) Department: The Philadelphia Water Department also referred to as Philadelphia Water or the Water Department.

(ed) Dwelling Unit: An individual housing unit, in a Residential Property such as a single family home or a single apartment within a multi-unit apartment building.

(e) Frivolous Appeal: An appeal taken other than in good faith and solely for purposes of delay.

(ef) Occupant: A person who has the Owner's authorization to reside at a Service Location to whom an owner has yielded possession of a Residential Property or Dwelling Unit and who has a reasonable expectation of residing at such Dwelling Unit for a period of six months or longer.

(eg) Owner: A person who has title to a Residential Property or Dwelling Unit Service Location, or his or her agent acting on his or her behalf.

(fh) Rental Agreement: An agreement between two parties, whether either oral or written in writing, by which the Owner of the property a Service Location agrees to lease all or part of the Service Location to a

Tenant.

(gi) Residential Property: Any building containing one or more Dwelling Units occupied for residential purposes, but not including dormitories, nursing homes, hotels, or motels.

(hj) Service AddressLocation: A Dwelling Unit or Residential Property of a Customer or Authorized User that receives or received, is eligible to receive water/sewer/stormwater service Utility Service pursuant to an agreement between a customer and the City of Philadelphia after acceptance of an application for such Utility Service or by operation of law.

(ik) Tenant: A person who leases a Dwelling Unit all or part of a Service Location in a Residential Property pursuant to a current Rental Agreement and who is not an USTRA Tenant.

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

(jm) USTRA Tenant: A Tenant, not a Customer, whose Dwelling Unit had water/sewer/stormwater service at the time of rental, and who would be adversely affected by a shut off of service. A person is not an USTRA tenant if he is or has agreed under the Rental Agreement to be a customer or if he took possession of the Dwelling Unit when it was without water/sewer/stormwater service.

"USTRA" refers to the Utility Service Tenants Rights Act, 68 P.S. §399.1 et seq. 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

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

(o) WRB: The Water Revenue Bureau, within the Philadelphia Revenue Department.

100.2 Application for Service as Residential Customers

The Water Revenue Bureau (WRB), subject to the terms and conditions set forth in these regulations, will accept receive completed applications to become a Customer from Owners, Tenants and Occupants as Water Department (Department or PWD) customers and will, upon acceptance of a completed application, direct the Department to provide water/sewer/stormwater service Utility Service in their names to their Dwelling Units of the name of the Customer to the authorized Service Location under the terms and conditions set forth in these regulations.

(a) Application to Become a Customer

(1) An Owner shall become a eCustomer as of the date of title transfer established by the record deed or otherwise established by sufficient evidence to show title to the property Service Location.

(2) A Tenant or Occupant who wishes to become a eCustomer of the WRB must submit:

mobile home park, but who is not the ratepayer of the company which supplied such 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.

(A) His or her name and current address, and, when available, a current telephone number. An applicant ~~may generally will~~ be required to provide ~~two pieces of at least one form of personal identification in the form of a United States or State government issued photo identification, i.e. driver's license (any state), PA photo ID, U.S. passport, U.S. passport card, U.S. Permanent Resident Card, U.S. Visa, or U.S. Department of Defense Common Access Card. Other forms of personal identification will be referred to a WRB Supervisor.~~

(B) Satisfactory evidence of Owner's ~~consent to possession of the authorization to reside at the Dwelling Unit or Residential Property~~ by a Tenant or Occupant. Such evidence will usually be in writing, including, for example, a current ~~Rental Agreement or Agreement of Sale~~ for the Dwelling Unit for which the applicant desires service, a lease, rent book, money order receipts, canceled checks, other utility bills in the applicant's name at that address, rent receipts, or other written evidence of tenancy or written evidence of the Owner's consent to occupancy. Evidence of a prior determination by a court of competent jurisdiction of the existence of a current rental arrangement for the Dwelling Unit between the Owner and the applicant or the acceptance of the applicant's complaint against the Owner and the scheduling of a hearing thereon by the Philadelphia Fair Housing Commission shall be considered conclusive of this issue.

(C) A completed application and affidavit in such form as the WRB shall from time to time deem appropriate wherein the applicant agrees to pay for ~~Utility Service supplied in his or her name and makes certain acknowledgements and~~

certifications consistent with these regulations.

(3) All WRB determinations shall be made in writing upon the application form and a copy given or mailed to the applicant.

(4) Where ~~one~~ a person with a household income at or below 250% of the federal poverty level becomes the Owner of a ~~residential property Service Location~~ with an existing delinquent balance, the Department and the WRB will not deprive or refuse the new Owner of ~~water/sewer/stormwater service Utility Service~~ solely on the basis of that pre-existing delinquent balance, where the Owner ~~becomes or~~ is eligible to become a ~~water/sewer/ stormwater service Customer as defined in Sub-sections 100.2 (a) and (b) of these Regulations. The PWD and the WRB City may lien the property for any delinquent balance.~~

(b) Eligibility

(1) An Owner, Tenant or Occupant of a ~~Residential Property Service Location~~ is qualified to become a ~~water/sewer/stormwater~~ Customer , UNLESS:

(A) The applicant is the agent of a current or previous delinquent Customer at the ~~Residential Property Service Location~~ and is attempting on ~~that said~~- delinquent Customer's behalf to avoid shut off or restore service previously shut off without payment of ~~that said~~-Customer's past due charges for ~~ater/sewer/stormwater service Utility Service~~ or any other miscellaneous charges ~~related to water/sewer service Utility Service which are due~~. Such agency will normally be found to exist where the property that would be receiving ~~service Utility Service~~

is or will be occupied by ~~the current or previous a currently delinquent Customer or where such delinquent Customer would otherwise use or receive the benefit of the service Utility Service;~~

(B) The applicant has not paid or arranged to pay for past due charges for ~~water/sewer/stormwater service Utility Service~~ for which the applicant is legally responsible at this or another ~~s~~Service addressLocation, including charges for unauthorized usage;

(C) ~~Water Utility S~~ervice to the ~~dwelling unit Service Location~~ is legally off and there exist uncorrected ~~PWD Water Department~~ violation(s) at the ~~Residential Property Service Location~~ or a determination that providing ~~and~~ Utility ~~S~~ervice to the ~~property Service Location~~, would endanger life, health, or safety or property;

(D) Service to a ~~Tenant or occupant Service Location~~ cannot be accomplished without ~~major~~ revision of the Department's distribution ~~and/or collector~~ facilities or acquisition of additional rights-of-way; or,

(E) The Tenant or ~~e~~Occupant is a Customer currently receiving service at another ~~Service Location and has a delinquent bill at the other Service Location; or residential service address.~~

(F) The Tenant is applying for ~~Utility Service at a Service Location for which no valid residential rental property license exists.~~

(2) Upon receipt of the evidence and documents required in Section 100.2(a)(2)-(A) of these ~~R~~egulations, the WRB shall determine whether the applicant is a

~~qualifying eOwner, an eOccupant, a or Tenant or an USTRA tenant and whether the applicant is eligible to become a PWD Customer.~~

(3) In determining whether uncorrected ~~PWD Water Department~~ violations exist ~~at a Service Location in a Dwelling Unit~~, the WRB shall request that the Department promptly review its files and provide the WRB with a listing of any violations. The applicant shall be given a written list of any violations and advised that it is his ~~or her~~ responsibility to correct the violations. ~~and The applicant may be required to provide a certification from a registered plumber that the corrections have been made from a registered plumber before service will be provided. In no case will water Utility S~~ervice be turned on if the ~~Service Location Dwelling Unit~~ is found at any time by the Department to be in a condition not suitable to receive water, or in a condition which would create an emergency or dangerous condition to itself or another ~~Residential Property or Dwelling Unit Service Location or~~ endanger life, health, safety or property.

(c) Additional Conditions

(1) If the Dwelling Unit is already separately metered, a meter reading must be taken before the applicant will be accepted as a Customer. The reading may be taken by the applicant. ~~In such cases, the Customer must provide the meter number and the meter interface unit (MIU) or encoder receiver transmitter (ERT) number.~~ ~~, but t~~The WRB reserves the right to require a reading by the WRB or the ~~PWD Water Department~~ before the ~~application~~ applicant will be accepted. In such cases, the WRB will promptly order a meter reading and advise the applicant to facilitate entry of the meter reader into the Dwelling Unit.

(2) If the applicant's Dwelling Unit is presently set up for individual metering but no meter is at the property, a meter must be installed before the applicant will be accepted as a Customer. In such cases, WRB will promptly order from the Water Department the installation of a meter and the applicant must provide entry to Department personnel into the property for this purpose. Meter charges must be paid or scheduled for payment as part of a payment agreement by the applicant before application approval.

(3) If the applicant's Dwelling Unit is not individually 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 applicant or the Owner and a water meter must be installed before an applicant will be accepted as a Customer. Meter charges must be paid or must be scheduled for payment as part of a payment agreement before application approval.

(d) Notice to Owner

(1) Upon receipt of a Customer application for Utility Service by ~~one a person~~ not the Owner of a Service Location, the WRB shall mail to the Owner ~~or his agent~~, at his the license address on file with the Department of Licenses and Inspections for the property in which an applicant's Service Location dwelling unit is located, or if no such license address is available, at such other address as the WRB reasonably believes is the valid current address of the Owner ~~or his agent~~, a "Notice to Owner of Application by Tenant or Occupant to Become a Water Service Customer or For Continued Service, notice of the application in such form as the WRB

shall from time to time deem appropriate.

(2) The ~~N~~otice shall advise the Owner of the application for and the possible provision of the ~~water/sewer/stormwater service~~ Utility Service to the ~~Service Location~~ property for which the ~~property~~ Owner will be responsible for payment if the applicant becomes delinquent. The ~~N~~otice shall afford the Owner ~~or his agent ten (10)~~ twenty (20) days from the date of the notice in which to provide the WRB with any comments regarding the applicant's eligibility and to indicate any objection to the application ~~and to request a hearing to dispute the grant of an application over the Owner's objection~~. The ~~N~~otice shall also advise the Owner to notify the WRB immediately if an emergency condition exists which makes the provision of water service a danger to the property or to the safety of others or their property. ~~The Notice shall state that water service, if currently legally off, may be turned on if the Owner fails to timely notify the WRB of his or her objections.~~

(3) Should the Owner ~~or his agent~~ fail to object ~~and request a hearing~~ prior to such time as the WRB is otherwise prepared to accept the applicant as a Customer, the Owner shall be deemed to have no objection to provision of ~~service~~ Utility Service in the applicant's name, and ~~service~~ Utility Service will be provided to the applicant, unless the water is currently off and the applicant has no evidence of a current lease or a right to possess the property, as described in Section 100.2(a)(2)(B).

(4) If comments disputing an applicant's eligibility are received from an Owner ~~or his agent after the WRB accepts an application, the Owner may request a hearing before the WRB. The WRB shall not consider an Owner's~~

~~objection and will not schedule a hearing on an Owner's objection received ten (10) days after the date of the notice of an application unless the WRB is satisfied that:~~

(A) ~~The Philadelphia address to which the Owner's notice was sent was incorrect, if not taken from a residential rental property license, and~~

(B) ~~The Owner or his agent did not timely receive the notice originally mailed.~~

(e) Acceptance of Application

(1) An applicant otherwise eligible shall be entitled to become a Customer for his or her Dwelling Unit only or to have service continued or restored to his or her Dwelling Unit unit only, upon fulfillment of the above conditions in Subsections 100.2(a) through (c), unless:

(A) Water service is currently on, ~~the applicant has not presented evidence of a current lease or a right to possess the property, as described in Section 100.2(a)(2)(B)~~, and the Owner expressly objects to the application; or

(B) Water service is currently off, ~~the applicant has not presented evidence of a current lease or a right to possess the property, as described in Section 100.2(a)(2)(B)~~, and the Owner has not given his or her express written consent to the provision of service in the applicant's name.

(2) The WRB may determine in its sole discretion to temporarily continue or restore service to the applicant's Dwelling Unit at no cost to the applicant.

(3) If a Tenant or ~~e~~Occupant is accepted as a Customer, the WRB shall so indicate on the application by signing it and giving or mailing the applicant a copy. ~~After acceptance by the WRB, the Tenant or occupant Customer shall be entitled to the same rights and subject to the same obligations as any other residential Customer of the WRB.~~

(4) Acceptance of an application from a Tenant or Occupant will not occur until the 20-day notice period to the Owner pursuant to Subsection (d) of this Section has expired. Prior to that time the application of a Tenant or Occupant will be considered as pending. Any termination will be deferred during the period when the application is pending.

(f) Turn-on of Utility Service

(1) If Utility Service has been shut off by the Department, t~~The Department will visit the property Service Location to turn-on Utility Sservice for a new Customer at no charge to the applicant where service can be provided by operation of the curb stop.~~

(2) Where Utility Sservice can only be provided by means other than the operation of the curb stop, such as restoration of the ferrule, service line or curb-stop to operable condition, such restoration must be made privately by a licensed plumber at the expense of the applicant or Owner.

(3) Notwithstanding any other provision of these regulations, where Utility Sservice has previously been shut off by the PWD Water Department or the WRB for any reason under these regulations or permitted by law, and the WRB has been notified that the Department of Licenses and

Inspections has determined the premises to be in dangerous or imminently dangerous condition pursuant to the Building Code, Title 4 of the Philadelphia Code, service will be provided only upon the prior written consent of the Department of Licenses and Inspections.

(g) Rejection of Application

If the applicant is rejected as a Customer, the WRB shall so indicate on the application and give its reasons in writing in the appropriate space on the application. WRB will note any condition that must be met and itemize charges that must be paid in order to obtain service and will provide a. A description of the process by which the applicant may dispute the WRB determination will be set forth. A copy of the rejected application shall be promptly mailed or hand-delivered to the applicant.

(h) Revocation of Acceptance

Should the WRB after issuance of a written acceptance of the application, receive a timely and valid objection from an Owner or agent or determine that any of the certifications in the application are materially false or that the applicant may otherwise not be eligible to be a Customer, the WRB may deny, revoke and rescind acceptance of the application. The revocation and rescission will be effective twenty (20) days after notice to the applicant of the intent to revoke and revocation will subject the property to immediate shut off unless a hearing is requested. The WRB will give its reasons for revocation in writing on the application. The WRB will note any condition that must be met and itemize any charge that must be paid in order to obtain service and will provide a. A description of the manner in process by which the

applicant may dispute the WRB determination revocation or rescission will be set forth.

(i) Termination of Customer Relationship

(1) After acceptance by the WRB of an application for Utility Service, Tenants and eOccupants who are Customers will remain responsible for paying all future charges for water/sewer/stormwater service Utility Service to their Dwelling Units until such time as there is:

(A) rRevocation of acceptance of the Customer application;

(B) Shut off of service pursuant to A written request being received from the Tenant or Occupant Customer to terminate Customer status and shut off service (for which there is a charge);

(C) Acceptance of a new subsequent Customer for the Dwelling Unit by the WRB and the taking of a final meter reading; or

(D) Issuance Purchase of a discontinuance permit and termination of service at the Owner's request. Responsibility for the stormwater service charge will not terminate upon the issuance of a discontinuance permit.

(2) The WRB will notify Tenants and eOccupants who are Customers of termination of their status as Customers in writing by first class mail. Provided, however, where a Customer requests the termination of his Customer status, service to his Dwelling Unit may thereafter be shut off without prior notice.

(3) Owners, whether or not they are Customers or occupy the Service Location where Utility Service is being provided,

remain responsible for paying water/sewer charges until the issuance of a discontinuance permit, and remain responsible for paying stormwater charges at all times during ownership.

100.3 USTRA Tenant Rights

(a) The Department and WRB will comply with the provisions of USTRA, 68 P.S. §399.1 et seq. The rights of USTRA Tenants to continued service are set forth in Section 7 of USTRA, 68 P.S. §399.7.

(a) An USTRA tenant may apply to the WRB for continued service at any time, UNLESS:

(1) The Tenant is the agent of a current or previous delinquent Customer at the Residential Property and is attempting on the Customer's behalf to avoid shut off or restore service previously shut off without payment of the Customer's past due charges for water/sewer/stormwater services. Such agency may be found to exist where the property that would be receiving service under a tenant Customer arrangement is or will be occupied by the current or previous delinquent Customer or where such delinquent Customer would otherwise use or receive the benefit of the service;

(2) The Tenant has not paid or arranged to pay delinquent charges for water/sewer/stormwater services arising out of illegal, unauthorized or authorized usage for which he is responsible at this or another service address.

(b) Application for Continued Service under USTRA

(1) USTRA Tenants who wish to apply

to have Utility Service continued or resumed pursuant to Section 7(a) of USTRA or an USTRA Tenant who has been notified of a proposed discontinuance or Utility Service pursuant to Section 3 of USTRA and wishes to subscribe for future Utility Service pursuant to Section 7(b) of USTRA A person who wishes continued service as an USTRA tenant, must submit:

(A) A completed Application and supporting documentation Affidavit in such form as the WRB shall from time to time deem appropriate and which provides information necessary to support the applicant's claim of tenancy.

(C) Satisfactory written evidence of the tenancy, such as a lease, rent book, money order receipts, canceled checks, or other utility bills in the applicant's name at that address, rent receipts, or other written evidence.

(D) Satisfactory evidence that the property had water/sewer/stormwater service when the tenancy began.

(2) All USTRA Tenant determinations will be made by the WRB in writing upon the application form. If an applicant is entitled to continued service under USTRA, the WRB shall accept the application by signing it and giving or mailing the applicant a copy. The WRB may determine in its sole discretion that in lieu of continuing service under USTRA, the WRB will temporarily continue or restore service at no cost to the USTRA Tenant

100.4 Shut off of Utility Service

(a) Nothing in this regulation shall modify

the Department's right to shut off ~~water and/or sewer's Utility Service~~ without prior notice to prevent or alleviate an emergency which presents a danger to life, health, safety or property.

(b) In addition to shut offs caused by revocations of acceptance of applications, the WRB may cause the ~~PWD Water Department~~ to shut off ~~terminate water's Utility Service~~ at a ~~Residential Property Service Location~~, after notice has been given and the opportunity for an informal hearing provided, on the following grounds:

- (1) ten (10) days after a Customer is delinquent for two billing periods; or
- (2) when the ~~PWD Water Department~~ or the WRB is denied for two consecutive billing periods access to the ~~Residential Property Service Location~~ to read or make changes or repairs to the meter..

(c) When the Department ~~terminates shuts off water service Utility Service~~ to a ~~residential occupied property Service Location~~, the water and sewer service charges shall not be charged against the ~~property Service Location~~ during the period of any termination beginning with the date of any termination. The Owner shall be responsible for the stormwater service charge at all times and under all circumstances.

(d) The Department will suspend the termination of ~~water service Utility Service~~ to residential occupied properties for nonpayment of a delinquent bill from December 1st to March 31st of the ensuing year. This suspension does not release any water Customer of the obligation to pay for ~~water serviee Utility Service~~.

100.5 Notice of Shut off

(a) Shut off Notice to Residential Customer

A shut off notice in English and Spanish will be mailed or delivered to a Customer. Translations to other languages will be provided upon request. If the WRB directly bills a Tenant Customer, a duplicate notice will be mailed or delivered to the Owner Customer.

The shut off notice to a Customer shall include at least the following information, when applicable, in such form, as the WRB or the Department shall from time to time deem appropriate.

- (1) Account number;
- (2) Date of notice;
- (3) Address of property;
- (4) Amount past due;
- (5) Date on or after which water service will be shut off;
- (6) ~~To avoid shut off Customer must The available methods for avoiding shut off, including:~~
 - (A) ~~Pay the entire balance, including penalty, before the shut off date tendering sufficient payment to avoid or postpone shut off of water service or otherwise eliminate the grounds for shut off of service;~~
 - (B) ~~Negotiate or renegotiate entering into a payment agreement before the shut off date;~~
 - (C) ~~paying what is past-due on the most recent payment agreement before the shut off date;~~

(D) enrolling in the City's Water Revenue Assistance Program, if the Authorized User is eligible for the program;

(E) applying to the WRB for continued service under USTRA, if the Authorized User is an USTRA Tenant;

(EF) Make completing such other steps as may be required as specified in a notice issued by the Department an appointment for a meter reading or for access to the meter by the Water Department, such appointment to be scheduled within ten (10) days of the date of the notice; or

(DG) Request a requesting an informal hearing within ten (10) days if a dispute exists as to: any matter described in Section 100.7(a) of these regulations;

(i) Customer's responsibility for the bill;

(ii) amount due or other possible errors in the bill;

(iii) Whether the WRB has applied the standard payment agreement terms, or

(iv) Whether the Customer has unreasonably refused to take reading or to provide access to the meter.

(7) A notice that a timely hearing request will prevent shut off until a final decision is made;.

(8) A notice that a hearing request must be made in person or in writing, and must be received within ten (10) days of the date of the notice;.

(9) A telephone number to call

for further information or explanation; and

(10)A seriously ill recipient of service (Customer in a household in which a member is seriously ill) may delay shut off by providing the WRB with a certificate of serious illness The Medical Emergency Procedures for delaying shut off pursuant to Section 100.10 of these Regulations.

(b) Shut off Notices Required by USTRA to Owner of Occupant or Tenant Inhabited Property

Shut off notices required to be given to landlords and USTRA Tenants pursuant to USTRA shall comply with the notice provisions of USTRA, 68 P.S. § 399.1 et seq.

The shut off notice to the Owner where the Residential Property is non owner occupied shall include the same information set forth in Sub-sections 100.5 (c)(1-10) of these Regulations and the following information, in such form as the WRB shall deem appropriate:

(1) The obligation of Owners of tenant occupied property within seven days of receipt of the notice to provide the WRB with names and addresses of every Tenant, unless the Owner has paid the bill in full, entered into an agreement to pay the amount due, requested a hearing, or allowed access to the meter for a reading or changes or repairs, and the penalties for failure to provide such information.

(2) Should an Owner within ten (10) days of the receipt of the notice fail to pay the bill, enter into a satisfactory payment agreement, request an appropriate hearing, or allow the WRB or PWD

access to the meter, the WRB will attempt to notify each Tenant and occupant of the date of the proposed shut off and their rights. USTRA tenant(s) have the right to continue water service by paying the bill for the thirty (30) days preceding notice and each subsequent thirty (30) day period and to deduct the amount of such payment from any rental or other payment currently due the Owner or that will become due in the future. Tenants and occupants may apply to become Customers for water/sewer/stormwater service.

(3) An Owner may not retaliate against an USTRA tenant for the exercise of the above rights.

(4) An Owner may stay notification to the Tenants or occupants and the proposed shut off of service by petitioning the appropriate court.

(5) The date after which Tenants or occupants will be notified of the proposed shut off of service.

(6) In addition to shutting off the water service, the WRB may sue the Owner in court for nonpayment and file a lien against the Residential Property for the amount of the delinquency.

(e) Shut off Notice to Tenants and Occupants who are not Customers.

The shut off notice to tenants and occupants shall include at least the following information, in such form as the WRB shall deem appropriate:

(1) Account Number

(2) Address of the property

(3) Date of the notice

(4) Amount due for water/sewer/stormwater services for thirty days preceding the date of the notice

(5) Reason for shut off

(6) Date on or after which water service will be shut off

(7) USTRA tenant(s) may pay the amount due for the preceding thirty (30) days. The USTRA tenant(s) will receive, by mail or hand delivery, bills for subsequent periods of 30 days, so long as there is an outstanding delinquent water service bill for the Residential Property for which the landlord has not arranged payment.

If the USTRA tenant(s) fails to pay a thirty (30) day bill within thirty (30) days of the date that the bill is mailed or delivered, service may be shut off after an appropriate shut off notice is mailed or delivered to the address of each USTRA tenant.

(8) The manner in which service to tenants affected by non payment may be continued and a notice explaining the process as provided by law in substantially the following form:

NOTICE TO TENANTS: YOUR WATER SERVICE MAY BE SHUT OFF. PLEASE READ THIS NOTICE ABOUT YOUR RIGHTS.

THIS NOTICE DOES NOT APPLY TO ANY WATER SERVICE NOW IN YOUR NAME AND FOR WHICH YOU ALREADY PAY THE BILL. THE WATER BILL FOR YOUR BUILDING HAS NOT BEEN PAID. YOUR WATER SERVICE WILL BE SHUT OFF ON OR AFTER [DATE] UNLESS THIS BILL IS

~~PAID.~~

~~AS A TENANT AFFECTED BY
THIS SHUT OFF, YOU HAVE THE
FOLLOWING RIGHTS:~~

~~You can join with the other tenants to pay the bill for the last thirty (30) days preceding this notice, or you can pay the total bill yourself. If you pay either way, you do not have to pay a deposit or get credit granted in your name. You will not have to pay your landlord's other debts or the debts of prior tenants, and water service will remain in the name of the landlord.~~

~~If you join with other tenants to pay the bill, you must provide the WRB with the name of each tenant who paid part of the bill and the amount paid by each tenant. You must also designate an agent for the group of tenants with whom Water Revenue Bureau ("WRB") will deal on your group's billing.~~

~~You may deduct your payment for water service from your rent due now or from future rent. The WRB will tell your landlord how much you paid for that utility service.~~

~~If your building has one meter for more than one tenant, the water/sewer/stormwater bill is for all tenants and must be paid in full. If you only pay part of the last thirty (30) day billing, your water service will be shut off and the WRB will return your money. If service is shut off for sixty (60) consecutive days, the WRB will refund your money without request.~~

~~The law provides that your landlord cannot punish you if you pay the water/sewer/stormwater bill. Your landlord cannot raise your rent, cannot evict you, and~~

~~cannot take action against you in any other way for paying the bill and deducting it from the rent. You have a right to recover money damages from the landlord for any damages or injury he causes you for exercising your rights as a result of this Notice.~~

~~You can become a Water Department Customer and get your water service billed in your name if your unit has its own meter, or you choose to pay to have your unit individually metered if in the Water Department's opinion it is technically feasible to do so. Please call the number below if you want further information.~~

~~Payments may be made by check or money order, or by bringing cash to the WRB. You will be advised that the shut off is canceled if you or your landlord pays the bills.~~

~~IF YOU HAVE ANY QUESTIONS ABOUT YOUR RIGHTS OR RESPONSIBILITIES, PLEASE TELEPHONE []. YOU SHOULD CALL OR WRITE BEFORE THE SHUT OFF DATE.~~

(9) ~~A Customer in a household in which a member is seriously ill may delay shut off for thirty (30) days by providing the WRB with a certificate of serious illness pursuant to Section 100.10 of these Regulations.~~

(10) ~~The City reserves the right in its sole discretion to continue service to USTRA tenants on terms more favorable to them than those set forth in the notice.~~

~~(e) Shut off Notice to USTRA Tenants~~

~~A shut off notice to an USTRA tenant who has failed to pay a second or succeeding thirty (30) day bill(s) shall~~

include the following information:

(1) ~~The date on or after service will be shut off which in no event will occur less than thirty (30) days following to the first written notification of the proposed shut off.~~

(2) ~~The amount due on any thirty (30) day bill(s) or Customer bill(s).~~

(3) ~~A telephone number to call for information or explanation.~~

(4) ~~A statement that the tenant has the right to sue in court to enforce any legal rights that he or she may have.~~

(d) Shut off for Lack of Meter Access

If a Service Location is subject to shut off is due to lack of a meter reading or lack of access to the meter, the WRB Department will contact the Customer, tenant or occupant by phone or send a reminder notice which states: "Your water service is subject to shut off unless [a meter reading] [access to your meter] is obtained within thirty (30) days. For further information, see the enclosed shut off notice." send or deliver a notice to the Service Location by mail or hand delivery stating that to avoid shut off of service and possible additional charges the Customer must contact the Department and provide access to the meter by the Department. If the Department's records show that the mailing address of the Owner is different from the Service Location address, a duplicate notice will be sent or delivered to the Owner by mail or hand delivery to his or her mailing address.

(d) Service of Notices

In the case of service of notices referred to

in this Section which are mailed or delivered to a Customer or Service Location, WRB and the Department shall be entitled to rely on the mailing address or service address as reflected on the bill and in the records of WRB or the Department, as of the date the notice is served.

100.6 Shut-Off Notice Schedule

(a) Notice Schedule for Residential Customers

(1) Except as otherwise provided in Section 100.4 of these regulations, Customers subject to shut off for any of the reasons stated in these regulations will receive two prior written notices of the scheduled shut off date.

(2) A shut off notice scheduling shut off no earlier than ten (10) days after a Customer has been delinquent for two billing cycles will be issued no earlier than the date of the first delinquent bill.

(3) A shut off notice scheduling shut off for failure to provide a Customer who has refused the City access to the meter pursuant to Section 100.4 of these Regulations will be mailed or hand delivered to the Customer in accordance with Section 100.5(c) of these regulations.

(4) A second shut off notice will be issued mailed or hand delivered to a Customer, at least thirty (30) days after mailing or hand delivery of the first notice. This will be the final notice scheduling shut off.

(5) If the Customer does not permit a reading or access to the meter, pay the delinquent bill in full, enter into a payment agreement, request a hearing or produce a certificate of serious illness pursuant to

Section 100.10 of these ~~R~~egulations, the water service to the Residential Property will be subject to shut off any time on or after the shut off date set forth on the second notice.

(b) Notice Schedule for Notices Required by USTRA Non-Customers

Shut off notices required to be given to landlords and USTRA Tenants pursuant to USTRA shall comply with the notice provisions of USTRA, 68 P.S. § 399.1 et seq.

(1) Where the Customer of property inhabited by tenants or occupants is the Owner, a shut off notice will be issued to the Owner at the address which the WRB reasonably believes to be the Owner's address scheduling shut off no earlier than ten (10) days after the Customer has been delinquent for two billing cycles.

(2) If within fifteen (15) days after the mailing or delivery of a shut off notice to the Owner, the Owner has not permitted a meter reading or access to the meter, paid the delinquent bill in full, entered into a payment agreement, requested a hearing or petitioned the appropriate court to dispute shut off, a second shut off notice will be mailed or delivered to the Owner. At the same time a shut off notice will be mailed or delivered to the tenants or occupants of the property advising them of the steps they may take to continue water service.

(3) Service shall be effective upon the Owner or his agent by certified mail with a return receipt signed by the Owner or agent, or hand delivery at the address(es) which the WRB reasonably believes to be the Owner's address.

(4) After unsuccessful attempts at personal service on two (2) separate days at any address where the Owner or agent might be reasonably found or, at the Residential Property, service may be effected by conspicuously posting the notice at the Owner's principal place of business or billing address. If the Owner has not otherwise designated a billing or business address, the WRB may consider the Residential Property as the principal place of business of the Owner for this purpose.

(5) Service shall be effective upon tenants and occupants by hand delivery to the service address or delivery by first class mail and, in the case of multi-unit dwellings, by posting notices in those common areas where it is reasonably likely to be seen by all tenants and occupants and may include a warning that any person who removes or tampers with the notice commits a criminal act punishable by fine.

(6) After mailing or delivery of the second notice, a WRB representative will visit the property to post a notice scheduling shut off no earlier than fifteen (15) days thereafter and, if possible, to make contact with tenants and occupants to inform them of their rights.

(7) A shut off notice to an USTRA tenant who has failed to pay a second or succeeding thirty (30) day bill(s) shall be mailed or otherwise delivered to the address of each tenant, scheduling shut off no earlier than thirty (30) days after delivery of the notice.

(8) (c) Notice to Tenant Customers, Occupant Customers and Owners.

Where water service to a ~~tenant or occupant~~ Tenant Customer or Occupant Customer is

to be shut off for reasons of his or her non-payment of charges for ~~water/sewer/ stormwater services~~ Utility Service or his or her failure to permit access to the meter, the ~~tenant or occupant~~ Tenant Customer or Occupant Customer shall be afforded the same notice and hearing rights as any other residential Customer under these ~~shut off~~ regulations. In such a case, the WRB or the Department shall promptly send to the Owner or his agent by mail or hand delivery to his or her record address(es) a copy of the shut off notice mailed or delivered to the ~~tenant or occupant~~ Tenant Customer or Occupant Customer.

100.7 Administrative Hearings

(a) Informal Hearings before Revenue Department Hearing Officers

~~In addition to the hearing provided in Section 100.2(d)(2) of these Regulations, and unless a hearing or an opportunity for a hearing has already been given on the same issue or charges (as determined by the Revenue Department), upon timely request, a Customer—an Authorized User may request an informal hearing before the WRB a Revenue Department hearing officer to contest a written decision or determination of the Water Department or WRB with regard to the following:~~

(1) Dispute the Authorized User's Customer's responsibility for the Utility Service water and sewer, but not the stormwater charges;

(2) Dispute the amount due or any possible errors in computing charges on the water, sewer, or stormwater Utility Service bill;

(3) Dispute whether the agreement

~~terms have been properly applied;~~

(4) Dispute rejection or revocation of acceptance of an application;

(53) Dispute shut off for nonpayment failure to take or permit a meter reading or to provide access to the meter;

(64) Dispute shut off for failure to provide nonpayment or lack of access to the meter to change, repair or read;

(75) Dispute denial of a request for continued service pursuant to Section 100.10 of these Regulations (Medical Emergency Procedures); and/or

(86) Dispute denial of an application for continued water service under USTRA and/or; -

(97) a determination that an applicant is ineligible for a HELP loan due to a delinquent balance on his or her Utility Service bill or for a reason other than homeownership.

(b) Appeals to the Tax Review Board (TRB)

(1) Pursuant to Section 19-1605 of the Philadelphia Code, the TRB is authorized to review any adverse final decision or determination of the Revenue Department relating to initial or continued eligibility for an Income-Based Water Rate Assistance Program (IWRAP) agreement or to a customer's performance of his or her obligations under an IWRAP agreement.

(2) Pursuant to Section 19-1702 of the Philadelphia Code, the TRB has jurisdiction to hear appeals of decisions or determination relating to the liability of any person for any unpaid money or claim collectible by the

Department of Revenue for the on behalf of the City, including but not limited to any water or sewer rents.

(c) Appeals to the Office of Administrative Review (OAR)

An Authorized User may appeal the following written decisions or determinations of the WRB directly to OAR:

(1) rejection of an application for service or revocation of acceptance of an application for service under Section 100.2 of these regulations; and/or

(2) any decision or determination relating to a WRB payment agreement, other than an IWRAP agreement.

(d) The Board of License and Inspection Review

The Board of License and Inspection Review hears appeals of notices of property violations and notices of plumbing defects issued by the Water Department.

(e) Procedures for Informal Hearing before Revenue Department Hearing Officers

(b1) To be timely, requests for informal hearings before a Revenue Department hearing officer must be made::

(1A) within thirty (30) days of the date of the disputed bill or written determination that is being disputed; or

(2B) within ten (10) days from the date of the first shut off notice, or notice of rejection or revocation of an application for service.

Thereafter, the right to request a hearing is waived, except to dispute charges accruing and determinations made after the date of the first shut off notice, or unless the hearing officer, for good cause shown, grants an untimely request for an informal hearing.

(e2) Hearing requests may be made in person to the WRB or by mail. An Authorized User may request a hearing by completing and submitting a form prepared by WRB. The form may be completed by a WRB customer or service representative in exceptional circumstances on a case-by-case basis, e.g. where the Authorized User is visually impaired. If shut off has not occurred, the WRB may upon good cause shown grant a hearing request made after the scheduled shut off date, or more than ten (10) days after the first shut off notice.

(d3) Where a hearing is requested an Authorized User has requested an informal hearing and Utility Service service to a Service Location property is on, the WRB shall give at least ten (10) days notice by regular mail or hand delivery to the Customer and Authorized User or his or her specified representative, if any, setting forth the time, date and place of hearing and the Customer's Authorized User's rights at the hearing as set forth in Sub-sections 100.7(ae-l) of these Regulations, provided that an earlier hearing may be scheduled by mutual agreement. Where a hearing is requested and water service to a property is off, or the hearing is requested by an Authorized User to dispute denial of a request for continued service pursuant to Section 100.10 of these regulations (Medical Emergency Procedures), or a hearing is requested by an Authorized User subject to immediate termination pursuant to Section 100.8(b) of these regulations

(Frivolous Appeals), the WRB shall schedule an informal hearing to be held within ten (10) days of receipt of an informal hearing request form, unless a later time is requested.

(e4) The Customer or applicant Authorized User, or his or her designated representative who need not be an attorney, may request in writing or may visit the WRB in person during regular work hours, to review and receive copies of any available records relevant to Utility Service at such individual's primary residence documents at any time during regular working hours prior to the date of the hearing, including any computer printout relevant to the billings for water/sewer/stormwater service Utility Service to the Residential Property Service Location. WRB will make a good faith effort to respond to such a request for in accordance with WRB policy and procedures.

(f5) Upon showing of good cause by the Customer or applicant Authorized User, such as illness, one continuance of the informal hearing shall be granted for a total period not to exceed ten (10) days. Additional continuances may be granted within the discretion of the WRB Revenue Department.

(g6) The informal hearing shall be conducted by an impartial hearing officer who shall be an employee of the City knowledgeable about water usage, billing practices and procedures, but who has not previously discussed or considered the dispute with the Customer or applicant Authorized User, except in his or her capacity as a hearing officer.

(h7) At the informal hearing, the hearing officer shall consider all relevant

evidence and shall permit the presentation and questioning of relevant witnesses and documents as determined by the hearing officer. The Customer Authorized User may bring a representative who need not be an attorney. All testimony at the hearing may be recorded by the hearing officer but the recording will not be transcribed unless a party at the hearing requests and makes arrangements for payment for such a transcript or other circumstances warranting a transcription exists. Unless objected to, parties may make their own tape recording of the hearing, but the only official record shall be that made by the hearing officer.

(i8) The hearing officer may request a meter re-reading or leak inspection at no charge to the Customer Authorized User and/or a meter test, the cost of which will be charged to the Customer Authorized User if the test shows that the meter is accurate within 2%. The hearing officer shall review such evidence in reaching a final decision on the dispute.

(j9) If a Customer or applicant demonstrates to the hearing officer's satisfaction that he or she is unable to attend a hearing in person because of disability or illness, the hearing officer shall conduct the hearing by telephone or take such other steps as the officer in his discretion deems appropriate under the circumstances to reasonably accommodate the Customer applicant. The hearing officer may conduct the hearing telephonically upon a timely request of a party and a showing of good cause, e.g. Authorized User is disabled, ill, a senior citizen or out of town.

(10) The hearing officer has the authority to determine, either on his or her own motion or upon a motion of a party to the hearing, that an Authorized User does

not have standing, or that a matter is moot or not yet ripe for a decision, or that the matter is more appropriately decided by another City office, department, board or commission.

(k11) After the hearing, the hearing officer shall send to the Customer or applicant Authorized User and to his or her specified representative, if any, by first class mail a written decision with a summary of the facts and reasoning that are the basis of the decision. Any copy of any meter rereading, inspection or meter test findings shall be attached to included in the hearing decision, if applicable and relevant to the decision.

(l12) Thereafter, any obligation of the Customer or applicant Authorized User affirmed by the hearing officer must be satisfied within thirty (30) days of the date of the decision. Upon the expiration of thirty (30) days, unpaid disputed charges shall be delinquent.

100.8 Rights Pending Final Decision

(a) Except as otherwise provided in this Section or elsewhere in these regulations, WRB and the Water Department will not shut off Utility Service to a Service Location in the following circumstances and during the following periods:

(1) from the initiation of a dispute covered by Section 100.7(a) of these regulations until thirty (30) days after the issuance of a decision on that dispute;

(2) while a dispute about an account is being reviewed by the Account Analysis Unit (AAU) of the Revenue Department;

(3) from the filing of a completed informal hearing request form in accordance

with Section 100.7 of these regulations until thirty (30) days after the issuance of an informal hearing decision;

(4) from the filing of a completed hearing request with the Tax Review Board (TRB) or Office of Administrative Review (OAR) until thirty (30) days after the issuance of a TRB or OAR decision;

(5) when WRB is notified of a medical emergency condition in accordance with Section 100.10 of these regulations; or

(6) during such other periods established by WRB or Water Department rules, regulations or written policy.

However, the Authorized User must pay the undisputed portion of disputed bill(s) and shut off of service may occur if the undisputed portion becomes delinquent.

(b) Frivolous Appeals. Except as provided in this Subsection below, if an Authorized User is found by a decision of a hearing officer to have filed or submitted at least two Frivolous Appeals and the hearing officer's decision is not appealed further or is appealed and upheld after further appeal, then subsequent informal hearing requests by such Authorized Users within 18 months of the hearing officer's Frivolous Appeal determination will not result in a stay or postponement of shut off of Utility Service. Instead, upon filing of a subsequent informal hearing request by such an Authorized User under the circumstances described above, an informal hearing will be scheduled on an expedited basis (within 10 days of an informal hearing request form), unless a later time is requested by the Authorized User. A request to delay the hearing will not stay shut off of Utility Service. If a hearing officer decides a future informal hearing request in favor of such Authorized User, the