

# 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: An Occupant as defined in Section 100.1(f)
5. 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 PWD 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 is lawfully permitted to reside at a service address.

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

(l) TAP Payment Agreement: A payment agreement provided to a Customer enrolled in TAP in accordance with these regulations

and Section 19-1605 of the Philadelphia Code.

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

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

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

(p) USTRA Tenant: A “tenant” as defined for water service by USTRA, 68 P.S. §399.2.<sup>1</sup>

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

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

## **100.2 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

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<sup>1</sup> 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

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 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

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.

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

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 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 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;

(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 shutoff for any of the reasons stated in these regulations will receive one written notice prior to the date of the proposed shutoff of service.

(2) Except as otherwise provided in Section 100.6(b) of these regulations for notices to landlords required by USTRA, a notice scheduling shutoff after a Customer has been delinquent for two billing cycles will be issued no earlier than the date of the second delinquent bill and at least thirty (30) days prior to the date of the proposed shutoff of service.

(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 and at least thirty (30) days prior to the date of the proposed shutoff of service.

(4) A notice of plumbing defect for a Customer who has been found to have a



plumbing defect will be mailed or hand delivered to the Service Location at least ten (10) days prior to the date of the proposed shutoff of service.

(5) If the Customer does not permit a reading or access to the meter, have a registered plumber correct the defect within the days specified in the notice, 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 shutoff any time on or after the shut-off date set forth on the 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 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 (F 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.

### **100.9 Payment Agreements<sup>2</sup>**

#### **(a) Standard Payment Agreements**

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

payments to the Department representative at the time of the shut off visit, payment agreements for Customers whose service is on will have the following terms:

(1) Initial Payment: 25% of the outstanding delinquency, provided that the WRB may waive all or a portion of the initial payment for Customers with household income at or below 250% of the federal poverty level.

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

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

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

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

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

(b) Water Revenue Assistance Program (WRAP) Payment Agreements<sup>3</sup>

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

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

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

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

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

(c) Extended Payment Agreements

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

(1) Shall be based on household income.

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

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

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

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

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

(d) TAP Payment Agreements

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

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

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<sup>3</sup> WRB will accept requests for new WRAP applications until June 30, 2017. Enrollment in new WRAP Payment Agreements will be closed to

Customers who do not return a completed WRAP application by July 14, 2017.

entered into two or more prior TAP Payment Agreements with the Customer.

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

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

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

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

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

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

(1) Advise the Customer of the amount that the Customer is required to pay each month, the dates when such monthly

payments are due, the date the last payment is due, and the number of months the agreement will take to complete.

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

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

(g) Breach of Payment Agreement and Bad Checks

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

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

(3) Subsequent to the mailing or delivery of a shut off notice as a result of a breach of the payment agreement, and prior

to actual shut off, a Customer shall have a right to cure the breach and resume making payments in accordance with the terms of the payment agreement and these regulations.

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

#### (h) WRAP-WRBCC Payment Agreements<sup>4</sup>

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

(1) Customers with household incomes at or below 250% of the federal poverty level who cannot afford the standard payment agreement described at Section 100.9 of

these regulations may apply to the WRB for WRBCC payment plans.

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

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

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

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

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

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<sup>4</sup> WRB will accept requests for new WRAP applications until June 30, 2017. Enrollment in new WRAP-WRBCC Payment Agreements will be closed

to Customers who do not return a completed WRAP application by July 14, 2017.



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

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

#### **100.10 Medical Emergency Procedures**

(a) The WRB shall delay shut off of water service and shall restore service previously shut off upon receipt of a medical certificate. A "medical certificate" is a written document that certifies that a customer or member of the customer's household, or a resident of a Residential Property, is seriously ill and is signed by a licensed physician, nurse practitioner, or physician assistant. The medical certificate must set forth the name, address and telephone number of the physician, nurse practitioner, or physician assistant, the name and address of the resident, customer or household member who is ill, and state the anticipated duration of the illness. WRB will make available a form that a licensed physician, nurse practitioner, or physician assistant may use for this purpose.

(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 twelve month period.

#### **100.11 Procedure at Shut Off**

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

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

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

(2) The Customer must thereafter contact the WRB and enter into a payment agreement within the next five (5) business days or service will automatically be shut off on or after the sixth (6<sup>th</sup>) business day following the initial visit by the Department

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

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

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

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

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

(f) When the Customer has given the WRB a "bad" check, such as a check returned for insufficient funds, within the previous thirty-six (36) months, the WRB will require payment of the sums listed above in this

Section by certified check, cashier's check or money order. Cash will not be accepted under any circumstances, except at the WRB's Municipal Services Building location.

### **100.12 Restoration of Service**

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

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

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

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

(4) One or more USTRA Tenants pays the Utility Service charges incurred in the thirty (30) day period preceding the notice of shutoff; and/or

(5) the Customer has a registered plumber perform the plumbing repairs and correct the defects indicated in a notice of plumbing defect.

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

(1) Initial Payment: If no payment agreement has previously been entered into for the outstanding account balance, 50% of the total bill presently due, such payment to

be made prior to restoration of water service. If a payment agreement has previously been entered into and service has been shut off because of a breach thereof, 100% of the outstanding delinquency must be paid.

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

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

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

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

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

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

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

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

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

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

### **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.

### **100.14 Modifications**

These regulations shall be subject to and shall be modified by any amendments to the Pennsylvania Utility Service Tenants Rights Act ("USTRA"), 68 P.S. §399.1 et seq., without further notice.

## **101.0 COMMERCIAL CUSTOMERS**

### **101.1 Definitions**

The following words and phrases when used in Sections 101.0 through 101.10 of these regulations have the meanings given to them in this Section unless specifically provided otherwise or unless the text clearly indicates otherwise:

(a) Business Use Property: Any property used for either profit or non-profit that can be classified in the following categories:

(1) Residential Rental Property: Any single family home or multi-unit building acquired with the intent of or actually renting all or part of the property to another for use as a residential dwelling. A property does not qualify as Residential Rental Property if it meets all of the following criteria:

(A) it is the principal residence of the Owner;

(B) it consists totally of residential units; and

(C) it consists of less than four (4) units.

(2) Commercial Property: Property acquired or leased for purposes of carrying on a trade, business, profession, vocation or any manufacturing, commercial, service, financial or utility business or activity including, but not limited to, hotels, office buildings, gas service stations, laundries, commercial establishments, stores, malls, car washes, parking lots or any other commercial use.

(3) Combined Use Property: Property used as both Residential Rental Property and Commercial Property.

(b) Commercial Tenant: An individual or entity that leases a Business Use Property pursuant to a current lease agreement.

(c) Commercial Property Owner: An individual or entity that owns a Business Use Property.

(d) Commercial Customer: An individual or entity with title to a Business Use Property, his or her duly authorized agent or his or her Guaranteed Lessee who by operation of law or agreement is primarily responsible for the payment of charges for water/sewer/stormwater service at a Business Use Property.

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

(f) Guaranteed Lessee: A Commercial Tenant to whom a Commercial Property Owner has made an assignment of ownership rights by agreement thereby making the Commercial Tenant primarily responsible for the payment of water/sewer charges.

(g) Guarantor: A Commercial Property Owner who guarantees payment of water/sewer/stormwater charges by a Guaranteed Lessee.

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

(i) USTRA Tenant: A “tenant” as defined for water service by USTRA, 68 P.S. §399.2.

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

### 101.2 Application for Service

The WRB will accept Commercial Property Owners, their duly authorized agents or Guaranteed Lessees as Commercial Customers and will direct the Department to provide water/sewer/stormwater service in their names to their Business Use Properties under the terms and conditions set forth in these regulations.

(a) Application to Become a Customer:

(1) A Commercial Property Owner shall become a Commercial Customer as of the date of title transfer established by the record deed subject to the eligibility requirements set forth below.

(2) A Commercial Tenant who wishes to become a Commercial Customer of the WRB may apply to become a Guaranteed Lessee. To apply for Commercial Customer status the Commercial Tenant (“applicant”) must submit:

(A) name(s) of principals, a current business address, a current business license, and phone numbers;

(B) a completed application and affidavit in such form as the WRB shall from time to time deem appropriate wherein the applicant provides:

(i) Satisfactory evidence of the Commercial Property Owner's consent to possession of the Business Use Property by the Commercial Tenant. Such evidence will

usually be in writing, including, for example, a current lease agreement for the Business Use Property for which the applicant desires service, or other written evidence of tenancy or written evidence of the owner’s consent to occupancy; and

(ii) A written guarantee from the Commercial Property Owner assuring payment of any water/sewer/stormwater charges billed to the Commercial Tenant.

(3) Upon receipt of the evidence and documents required in Section (b) above, the WRB shall determine whether the Commercial Tenant is eligible to become a Commercial Customer.

(4) All WRB determinations shall be made in writing upon the application form and a copy given or mailed to the applicant. After acceptance by the WRB, the Guaranteed Lessee customer shall be entitled to the same rights and subject to the same obligations as any other Commercial Customer of the WRB.

(b) Eligibility

A Commercial Property Owner or Commercial Tenant (either shall be known as "applicant") is qualified to become a Commercial Customer under these regulations, UNLESS:

(1) The applicant has not paid or arranged to pay for past due charges for water/sewer/stormwater service for which he is legally responsible at this or another service address, including charges for unauthorized usage.

(2) The Guarantor has not paid outstanding water/sewer/stormwater charges at time of application.

(3) Water service to the Business Use Property is legally off, there exist

uncorrected PWD violation(s) at the property and/or service to the property would endanger health or safety.

In determining whether uncorrected PWD violations exist in a Business Use Property, the WRB shall request that the PWD promptly review its files and/or the property 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 provide a certification that the corrections have been made from a registered plumber before service will be provided. In no case will water service be provided if the Business Use Property is found at any time by the PWD 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 property.

(4) Service to a Business Use Property necessitates revision of the Department's distribution facilities or acquisition of additional rights-of-way or the quantity of water required or expected pattern of usage negatively impacts existing customers or does not comply with the regulations governing water service and sewer service.

(c) Additional Conditions

(1) All commercial applicants shall provide any information as may be required by the WRB or PWD.

(2) If the Business Use Property is already separately metered, a meter reading must be taken before the applicant will be accepted as a Commercial Customer. The reading may be taken by the applicant, but the WRB reserves the right to require a reading by the WRB or the PWD before the applicant will be accepted. In such cases, the WRB will promptly order a meter reading

and advise the applicant to facilitate reading of the meter.

(3) If the applicant's property is presently set up for individual metering but no meter is at the property, a meter will be installed before the applicant will be accepted as a Commercial Customer. In such cases, the WRB will promptly order from the PWD the installation of a meter and advise the applicant to facilitate entry of the necessary PWD personnel into the property for this purpose. Meter charges must be paid before water services will be provided.

(4) If the applicant's property is not individually metered, the Dwelling Unit must be set up for individual metering by a registered plumber to the PWD's satisfaction at the expense of the applicant and a water meter must be installed before an applicant will be accepted as a Commercial Customer. Installation charges must be paid before water service will be provided.

(d) Turn-on of Service

Notwithstanding any other provision of these regulations, where service has previously been shut off by the PWD or the WRB for any reason under these regulations, 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.

(e) Rejection of Application

If the applicant is rejected as a Commercial Customer, the WRB shall so indicate on the application and give its reasons therefore 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. A copy of the rejected application shall be promptly mailed to the applicant.

(f) Revocation of Acceptance of Guarantee

Should the WRB after issuance of a written acceptance of the application receive written notice, in a form acceptable to the WRB, that the payment guarantee by the Commercial Property Owner has been withdrawn, revoked or rescinded, the WRB may deny, revoke and rescind Commercial Customer status to the Commercial Tenant. The WRB will give its reasons for revocation or rescission in writing. The revocation and rescission will be effective ten (10) days after notice to the applicant unless the applicant requests a hearing to dispute withdrawal of the guarantee.

(g) Termination of Customer Relationship

(1) After acceptance by the WRB of an application, Commercial Customers will remain responsible for paying all future charges for water/sewer/stormwater service to business use properties until such time as there is:

(A) a revocation of the payment guarantee by the Guarantor;

(B) acceptance of a new Commercial Customer for the Business Use Property by the WRB and the taking of a final meter reading; or

(C) issuance of a discontinuance permit and termination of service at the Commercial Property Owner's request provided there is no outstanding guarantee on the property. Commercial Property Owners remain responsible for paying the stormwater charge even after a discontinuance permit is issued.

(2) The Guarantor shall notify the Guaranteed Lessee of the termination of their status as Commercial Customers in writing by first class mail.

(3) Commercial Property Owners remain responsible for paying water/sewer charges until the issuance of a discontinuance permit or replacement by a new Commercial Customer. Commercial Property Owners remain responsible for paying the stormwater charge even after a discontinuance permit is issued.

**101.3 Shutoff of Service**

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

(b) The WRB may cause the PWD to terminate water service at a Business Use Property, after an appropriate shut-off notice has been given, on the following grounds:

(1) after a Commercial 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 Business Use Property to read, make changes to or repair the meter or the Commercial Customer has unreasonably refused to take or permit a meter reading or to provide access to the meter.

**101.4 Notice of Shutoff**

(a) Shut-off Notice to Commercial Customer

A shut-off notice will be mailed to a Commercial Customer. The shut-off notice shall include at least the following information, in such form as the WRB shall from time to time deem appropriate.

- (1) Account number,
- (2) Address of property,
- (3) Amount past due,
- (4) Date on or after which water service will be shut off,
- (5) The available methods for avoiding shutoff, including:
  - (A) Paying the entire balance, including penalty, before the shut-off date; or
  - (B) Negotiating a payment agreement before the shut-off date; or
  - (C) Making 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 shut-off date.
  - (D) Requesting a hearing within ten (10) days if a dispute exists as to:
    - (i) Commercial Customer's responsibility for the bill,
    - (ii) amount due or other possible errors in the bill
    - (iii) whether the WRB has properly applied payment agreement terms,
    - (iv) whether the Commercial Customer has unreasonably refused to take or permit a meter reading or to provide access to the meter.
- (6) A timely hearing request will prevent shutoff until a final decision is made.
- (7) A hearing request may be made by telephone, in person or in writing, and must be received within ten (10) business days prior to the date of shutoff.

(8) A telephone number to call for further information or explanation.

**(b) Shut-off Notices Required by USTRA**

Shutoff 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) Shutoff for Lack of Meter Access**

If a Commercial Property is subject to shutoff due to lack of a meter reading or lack of access to the meter, the Department will send or deliver a notice to the Commercial Customer by mail or hand delivery stating that to avoid shutoff of service and possible additional charges the customer must contact the Department and provide access to the meter by the Department.

**101.5 Shut-Off Notice Schedule**

(a) Commercial Customers subject to shutoff for any of the reasons stated in these regulations will receive one written notice prior to the date of the proposed shutoff of service.

(b) Except as otherwise provided in Section 101.5(c) of these regulations for notices to landlords required by USTRA, a shut-off notice scheduling shutoff after a Commercial Customer has been delinquent for two billing cycles will be issued no earlier than the date of the second delinquent bill and at least ten (10) days prior to the date of the proposed shutoff of service.

(c) Shutoff 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.

(d) A shut-off notice scheduling shutoff for a Commercial Customer who has refused the



City access to the meter pursuant to Section 101.3 of these regulations will be mailed to the Commercial Customer and at least ten (10) days prior to the date of the proposed shutoff of service.

(e) A notice of plumbing defect for a Commercial Customer who has been found to have a plumbing defect will be mailed or hand delivered to the service address at least ten (10) days prior to the date of the proposed shutoff of service.

(f) If the Commercial Customer does not permit a reading or access to the meter, have a registered plumber correct the defect within the days specified in the notice, pay the delinquent bill in full, enter into a payment agreement, or request a hearing, water service to the Business Use Property will be subject to shutoff any time on or after the shut-off date set forth on the notice, unless the property is occupied by a residential tenant, in which case appropriate notice shall be provided as specified in Section 100.5 of these regulations.

### **101.6 Hearings**

(a) Upon timely request, a Commercial Customer may request an informal hearing before a Revenue Department hearing officer to:

(1) Dispute the Commercial Customer's responsibility for the charges on the water/sewer/stormwater bill;

(2) Dispute the amount due or any possible errors in computing charges on the water and sewer bill;

(3) Dispute whether payment agreement terms have been properly applied;

(4) Dispute shutoff for failure to take or permit a meter reading or to provide access to the meter; and/or

(5) Dispute shutoff for nonpayment or lack of access to the meter to change repair or read.

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

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

### **(c) 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.

### **(d) Procedures for Informal Hearings before Revenue Department Hearing Officers**

The procedures for informal hearing before Revenue Department Hearing Officers regarding disputes by Commercial Customers shall be the same as the procedures set forth in Section 100.7(e) of these regulations.

### **101.7 Rights Pending Final Decision**

(a) A notice of a Commercial Customer's rights of review, compromise, waiver and refund with the Tax Review Board ("TRB") and 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.

(b) If a Commercial Customer timely files a petition for review with the TRB raising matters within the jurisdiction of the TRB and the matters were raised before the

hearing officer, the WRB will stay further shutoff action pending a final decision of the TRB, provided that the Commercial Customer promptly notifies the hearing officer in writing of the petition and 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.

If a stay is revoked because a Commercial Customer's failure to comply with these conditions, the WRB shall give at least ten (10) days written notice by mail of its intention to shut off service. In no case, will the filing of a petition for review require the WRB to restore service already shut off.

(c) After a final decision of the TRB, the WRB will mail a final bill to the Commercial Customer with a notice that the Commercial Customer 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 Business Use Property will be subject to shutoff without further notice, unless the property is occupied by a residential tenant, in which case appropriate notice shall be provided as specified in Section 100.5 of these regulations.

(d) If the Commercial Customer files a petition for compromise, waiver or refund, the Commercial Customer may apply in writing to the WRB which may in its discretion grant a stay of further shutoff action pending final decision on the petition. If a stay is granted, the procedures in Sub-sections 101.7 (b) and (c) shall apply.

### **101.8 Payment Agreements**

(a) Commercial Customers may negotiate a payment agreement with the WRB. Such

agreements will have the following standard terms:

(1) To enter an agreement fifty percent (50%) of the outstanding balance must be paid at the signing of the agreement. The WRB may, with proof of personal and business financial condition as specified in Section 101.8 (a)(5) of these regulations, accept thirty-three percent (33%) of the outstanding balance with supervisory review and twenty-five percent (25%) of the outstanding balance with management review.

(2) The balance outstanding must be paid in six (6) equal installments beginning thirty (30) days after the initial down payment.

(3) All current bill(s) must be paid when rendered.

(4) A three (3) month extension on the payout of the balance (nine (9) month payout) may be granted with supervisory review and approval. Any payout exceeding nine (9) months will require management review and approval.

(5) If a Commercial Customer requests a payout to exceed nine (9) months, proof of personal and business financial condition must be presented. Proof of financial condition shall include:

(A) a statement by the Commercial Customer.

(B) one (1) full year of financial statements, i.e., tax returns, income statements: cashflow analysis (actual and projected), profit and loss statements.

(6) Payout may not exceed twelve (12) months. A payment agreement will be granted only once in a twelve (12) month period.

(7) Commercial accounts are not eligible for consideration for medical emergencies or utility grants.

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

(c) If a Commercial Customer requests a hearing pursuant to Section 101.6 of these regulations, within the time period provided in the shut-off notice after a payment agreement has been breached, the only issue which will be considered at the hearing will be the Commercial Customer's compliance with the terms of the payment agreement.

(d) Subsequent to the mailing or delivery of a shut-off notice as a result of a breach of the payment agreement, and prior to actual shutoff, a Commercial Customer shall have a one-time right to cure the breach and resume payments in accordance with the terms of the payment agreement.

### **101.9 Procedure at Shutoff**

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

### **101.10 Restoration of Service**

(a) Service shall be restored within 24 hours, if possible, when the following conditions are met:

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

(2) the Commercial Customer enters into a payment agreement; and/or

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

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

(5) One or more USTRA Tenants pays the Utility Service charges incurred in the thirty (30) day period preceding the shut-off notice; and/or

(6) the Commercial Customer has a registered plumber perform the plumbing repairs and correct the defects indicated in a notice of plumbing defect.