



May 4, 2020

The Honorable Sharon Green Middleton
Council Vice President and Chairwoman, Taxation, Finance,
and Economic Development Committee
100 Holliday St., Suite 500
Baltimore, MD 21202

Dear Chairwoman Middleton:

I want to thank you for the opportunity to testify before the Taxation, Finance, and Economic Development Committee on the Water Accountability and Equity Act. As promised during the hearing, I am herein providing information regarding the Department of Public Works' (DPW's) implementation plan for the legislation.

The legislation comprises a significant policy change, which, once passed, has allowed less than six months to implement. Most major policy changes allow significantly more time for implementation. Indeed, the water affordability program in Philadelphia allowed for an 18 month implementation date. While DPW has made significant progress in the midst of a pandemic in spite of the size and scope of this legislation, we do not expect to be in a position to implement all provisions of the Water Accountability and Equity Act by July 13, 2020. Below is a summary of the implementation status to date and some of the major issues DPW faces in fully meeting the implementation date.

1. Water for All Program Implementation

The Water for All (WFA) program laid out in the legislation requires the use of a formula to individually calculate each and every enrollee's discount. The current UMAX billing system cannot perform such individualized calculations. A second, separate, application will be necessary to perform this function. One option being considered is to use a simplified spreadsheet to perform individualized calculations. This approach would require manually applying the calculated discounts to each water account and would require multiple checks and balances to ensure accuracy. DPW is also exploring potential systems or processes other municipalities have considered or are using. However; even if another application could be utilized, there would still need to be a manual process for running the accounts through UMAX and then through a secondary system.

DPW is committed to doing everything within its control to implement this program by July 13. However; there is no guarantee that complementary software will be found, procured, and installed in time. Further, the Department will continue to develop training and will look for simple, manual stop-gap measures to implement these provisions. However; there may be auditing or internal control issues with such an approach. Please keep in mind that this process is further complicated by the inclusion of tenants who have no direct billing account with the utility as eligible households for assistance.

2. Tenants

The greatest challenge to implementing the WFA program is determining the methods by which tenants are enrolled. Tenants living in single-unit rental properties, if listed on the water bill by the landlord, can receive the discount. While the calculation methods for a tenant's discount are no different than for water account holders, the means to determine the basis for and delivery of the discounts to tenants served by a centralized meter are not. To be eligible, these tenants need a lease or other document showing what they are required to pay every month for water and sewer service. Whether a tenant resides in a single-unit rental or in a multi-family dwelling served by a centralized meter, both rental circumstances require cooperation of landlords. It is important to note that such limitations are governed by State law as well as case law. The WFA program then requires a check to be issued to the tenant household, or divided among members of the household under certain circumstances. The generation of checks for a year's worth of water discounts in advance creates several problems: accountability, changes in income status within the projected year, the costs involved in producing and tracking these checks, and tax status.

The Baltimore City Department of Finance estimates it would need at least \$1 million to develop a unit for generating the required checks and corresponding tax documents, such as 1099-Gs, as the requirement to issue a check instead of a credit means the assistance a tenant receives is treated as income. In order for the Finance Department to pay people and vendors, they must have tax identification numbers. For individuals, these numbers are Social Security numbers. Providing this information could be problematic for some tenants. Further, a true estimate of how much DPW might spend on such a program is unknown. However; as noted below, if DPW were to provide checks to tenants without any defensible and auditable methodology or process, the risk and expense to the city could be significant. It is these types of complications that may prevent DPW from being able to fully implement the WFA program in the time allotted.

Philadelphia has an income-based program very similar to the WFA program, but it does not include assistance for tenants served by a centralized meter. In fact, DPW has found limited evidence of water utilities providing direct affordability assistance to tenants based on income. There is an example of a tenant assistance program in Oregon, however; it has its power and water utilities under one entity, thus allowing for the application of a tiered credit to the electric bill account. We have found that having a third party relationship to screen income eligibility has worked well for our BH2O assistance programs, therefore, working with a potential third-party, which does have a direct relationship with a tenant, may hold promise.

While DPW is working hard on this aspect of the WFA program, we are unable to state at this time that we will meet the implementation date. Not only will it take some time to consider possible solutions, the pandemic may make it difficult for potential third-parties to commit to any policy change at this time.

3. Public Participation in the Hiring of a Customer Advocate

As requested during the hearing, DPW has consulted with the Law Department and the Department of Human Resources about the ability for members of the public to be directly involved in the hiring of the customer advocate. Unfortunately, DPW has been advised that members of the public may not participate in the hiring and selection process. However; they may help the city craft the job and position description.

Conclusion and Recommendations

DPW will work as hard as it can to implement the provisions of the Water Accountability and Equity Act. However; there are certain provisions that may very well require additional time. To that end, there are some rather simple corrective changes to the legislation that would address the issues that have been raised:

- Change the WFA program such that tiers of income would receive a fixed discount. For example: \$0 of income through 50% of the Federal Poverty Level (FPL) would receive a certain discount; 50.1% through 100% FPL would receive slightly less discount; etc. The UMAX billing system can be coded to handle this process
- The tenant provisions must be reworked. Rather than specifying in detail the procedures that the program must adhere to, perhaps it could instruct DPW to develop a process for reasonably including tenants in the WFA program within one year or 1.5 years.
- Finally, and perhaps most importantly, the effective date of the legislation should be pushed back six months or one year. DPW has expanded its successful BH2O program and it is not performing water turn-offs for lack of payment. Additionally, there are no late fees and anyone can enter into a payment plan. Further, the Governor has declared that no one can be evicted during this state of emergency. Such provisions provide protections for those needing water bill assistance, at least until processes that can be implemented are determined.

Again, thank you for the opportunity to testify on this issue. I hope this correspondence has answered the questions that were raised during the hearing. As always, should there be any additional questions, please feel free to contact me.

Sincerely,



Matthew W. Garbark
Acting Director of Public Works

Attachments: DPW Implementation of Water Accountability and Equity Act
Detailed Cost Assumptions and Projections
Draft Regulations on the Water Customer Advocate and the Appeals Process

The Honorable Sharon Green Middleton
Page Four

cc: The Honorable Bernard C. "Jack" Young, Mayor of Baltimore
The Honorable Brandon M. Scott, Council President
The Honorable Danielle McCray, Vice Chair
The Honorable Eric Costello
The Honorable Edward Reisinger
The Honorable Robert Stokes
Ms. Kimberly Morton, Chief of Staff, Office of the Mayor
Ms. Sheryl Goldstein, Deputy Chief of Staff for Operations, Office of the Mayor
Mr. Henry Raymond, Director, Department of Finance
Ms. Rebecca Woods, Executive Director, Environmental Control Board
Ms. Julie Day, Chief Administrative Officer, Department of Public Works
Ms. Marcia Collins, Chief of Legislative Affairs, Department of Public Works