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July 3, 2018

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Office of Consumer Advocate, Office of Small
Business Advocate v. Suez Water Pennsylvania, Inc.,
Docket Nos. R-2018-3000834, C-2018-3001786 and C-2018-3002132

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Pennsylvania Builders Association's Petition to Intervene with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Kristine E Marsilio

Kristine E. Marsilio

KEM/lww
Enclosure

cc: Hon. David A. Salapa w/enc.
Cert. of Service w/enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2018-3000834
	:	
Office of Consumer Advocate	:	C-2018-3001786
	:	
Office of Small Business Advocate	:	C-2018-3002132
	:	
v.	:	
	:	
Suez Water Pennsylvania, Inc.	:	

**PETITION TO INTERVENE OF THE PENNSYLVANIA
BUILDERS ASSOCIATION**

Pursuant to 52 Pa. Code §§ 5.72-5.75, the Pennsylvania Builders Association (the “PBA”) petitions to intervene in the above-captioned proceeding filed by Suez Water Pennsylvania, Inc. (“Suez” or the “Company”) at the Pennsylvania Public Utility Commission (the “Commission”). In support of its Petition to Intervene, PBA states as follows:

1. On April 30, 2018, Suez filed Supplement No. 53 to its Tariff Water-Pa P.U.C. No. 7 (“Supplement No. 53”) to become effective June 29, 2018, containing proposed changes in rates, rules, and regulations. In Supplement No. 53, Suez seeks an overall annual operating revenue increase of approximately \$6.2 million, or 13.2%.

2. Importantly, Supplement No. 53 also addresses, among other things, the impact of the Federal Tax Cuts and Jobs Act (“TCJA”) on the requirement for water and sewer utilities to recognize Contributions in Aid of Construction (“CIAC”) as taxable income. As the Company

explains in its testimony in this proceeding, the TCJA eliminated the exemption for water and sewer utilities from recognizing CIAC as taxable income. As a result, it appears that Suez has proposed that the Commission grant it authority to require developers to pay the entirety of the income tax consequences of CIAC. *See* Statement No. 3 at 8-9.

3. By Order dated May 17, 2018, Supplement No. 53 was suspended by operation of law until January 29, 2019, unless otherwise directed by Order of the Commission.

4. PBA is a Pennsylvania non-profit corporation with offices at 2509 N. Front St., Harrisburg, PA 17110.

5. The PBA is a professional trade organization representing approximately 5,000 members, all located in Pennsylvania, including in the service territory of Suez, that are involved in the building industry, primarily as builders, developers, remodelers, material suppliers, subcontractors, and consultants. Chartered in 1952, the PBA represents its members on state regulatory and legislative issues. The PBA is the primary organization representing individuals and businesses in the building industry. The PBA seeks to represent its members that will be affected by Suez's proposed treatment of the tax on CIAC through its intervention in this proceeding.

6. The PBA's attorneys in this matter are:

Kristine Marsilio, Esquire
Dan Clearfield, Esquire
Carl Shultz, Esquire
Loudon L. Campbell

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7. The Commission's regulations allow intervention where a person has an interest in the proceeding which may be directly affected and which is not adequately represented by existing parties, and as to which the person may be bound by the action of the Commission in the proceeding. 52 Pa. Code § 5.72(a)(2). Intervention is also permitted where participation of the person may be in the public interest. 52 Pa. Code § 5.72(a)(3). A "person" includes a corporation and an association. 52 Pa. Code § 1.8.

8. The PBA meets the standards for intervention set forth in 52 Pa. Code § 5.72(a). As a trade organization representing individuals and companies in the building industry, within the Company's service territory and in the Commonwealth, the PBA satisfies the standard for intervention because the PBA possesses an "interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding." 52 Pa. Code § 5.72(a)(1).

9. The PBA has a substantial and direct interest in the outcome of this proceeding. Specifically, the PBA has a substantial and direct interest in the Company's apparent proposal to require developers to pay the entirety of the income tax consequences of CIAC, and thus placing a new financial obligation on these developers. The PBA submits that the Company's proposal is

inconsistent with reasonable ratemaking policy and is inconsistent with the methods used and proposed by other Pennsylvania utilities with taxable CIACs. *See e.g.* Pennsylvania-American Water Company Supplement No. 6 to Tariff Water- Pa P.U.C., Docket No. R-2018-3002502.

10. The PBA also has an interest in ensuring that the proposals of other parties that are advanced through testimony, legal arguments, or settlement discussions related to this issue do not adversely impact the interests of the PBA.

11. The PBA's interests in this proceeding are unique from and not adequately represented by other parties that have or may seek to intervene, including any individual development companies that may have unique business models, interests and perspectives. As noted, the PBA is the primary organization representing individuals and businesses in a variety of aspects of the building industry. As such, the PBA's interests cannot be adequately represented by any other parties in this proceeding.

12. The PBA's members will be bound by the action of the Commission in this proceeding, as the PBA's members may have to bear the burden of the impact on taxable CIACs.

13. The PBA acknowledges that a procedural schedule has already been established in this proceeding, and the PBA will not seek to modify the procedural schedule or otherwise unduly delay the outcome of this proceeding.

WHEREFORE, the PBA respectfully requests that the Commission grant its Petition to Intervene and that the PBA be granted full party status in this matter.

Respectfully submitted,

Kristine E Marsilio

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Date: July 3, 2018

Attorneys for
Pennsylvania Builders Association

Verification

I, Daniel E. Durden, am the Chief Executive Officer, of the Pennsylvania Builders Association (the "PBA"), and I hereby state that the facts set forth in the foregoing **Petition to Intervene** are true and correct to the best of my knowledge, information and belief and that I expect the PBA to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to sworn falsification to authorities).



Daniel E. Durden
Chief Executive Officer
Pennsylvania Builders Association

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Pennsylvania Builders Association's Petition to Intervene upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email and/or First Class Mail

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Dated: July 3, 2018



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