**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

:

James and Reva Crownover : C-2018-3003017

:

v. :

:

Suez Water Pennsylvania, Inc. :

**ORDER ADMITTING EXHIBIT**

On July 11, 2018, Administrative Law Judge (ALJ) Andrew M. Calvelli and ALJ Joel H. Cheskis conducted public input hearings in this matter at 1:00 p.m. and 6:00 p.m. respectively in Hearing Room 1 in the Commonwealth Keystone Building, Harrisburg. During the 6:00 p.m. hearing, Kyle Miller testified. N.T. 52-74.

Mr. Miller stated that he was a member of the Mechanicsburg Borough Council. N.T. 52. Mr. Miller indicated that the Mechanicsburg Borough Council had authorized him to testify on its behalf. N.T. 53. Mr. Miller testified that Suez Water Pennsylvania, Inc. (Suez) was currently replacing water mains in Mechanicsburg Borough. N.T. 53 According to Mr. Miller, the Suez replacement project began in 2017 and will continue though 2018. N.T. 53.

As part of the replacement project, Suez has excavated portions of the streets and sidewalks in Mechanicsburg Borough. N.T. 53. Mr. Miller asserted that Suez has failed to adequately repave the streets or replace the sidewalks. N.T. 53-55. Mr. Miller referred to photographs depicting the condition of various streets and sidewalks located in Mechanicsburg Borough. N.T. 53-54. According to Mr. Miller, Mechanicsburg Borough has received numerous complaints about the condition of its streets and sidewalks from its residents. N.T. 55. Mr. Miller requested that Suez’ rate increase request be denied. N.T. 56.

At the end of his testimony, Mr. Miller requested that the photographs and the map he referred to be moved into evidence. N.T. 63-64, 68-69. The Office of Consumer Advocate (OCA) and the Commission’s Bureau of Investigation and Enforcement (I&E) joined in this request. ALJ Cheskis marked the photographs and map as Miller Exhibits A-E. N.T. 69. Suez objected to the admission of the proposed exhibits. N.T. 69. ALJ Cheskis deferred ruling on the admission of the map and photographs. N.T. 69.

In addition, ALJ Cheskis marked Mr. Miller’s written statement as Miller Statement 1. N.T. 70. ALJ Cheskis deferred ruling on the admission of the written statement. N.T. 72.

Since Mr. Miller had only one copy of the statement and exhibits, OCA agreed to provide copies of the statement and exhibits to the parties. N.T. 70-71. On July 16, 2018, OCA served copies of the statement and exhibits on the parties. Miller Statement 1 consists of two typewritten pages. Miller Exhibits A-E consist of a one-page map and 62 photographs.

Suez objected to the admission of the photographs in Miller Exhibits A-E because the photographs depict the water main replacement project before it has been completed and are therefore misleading. N.T. 68-69. I will overrule Suez’ objection and admit Miller Statement 1 and Miller Exhibits A-E.

At the July 11, 2018 public input hearing, Mr. Miller testified concerning the condition of the streets and sidewalk in Mechanicsburg Borough. His testimony is basically a recitation of what is set forth in Miller Statement 1. Suez did not object to the admission of Miller Statement 1. Since Suez did not object to the admission of Miller Statement 1, I will admit it into evidence in this proceeding.

Turning to Miller Exhibits A-E, the photographs depict the conditions described in Mr. Miller’s testimony. The photographs support and corroborate Mr. Miller’s testimony by showing the streets and sidewalks throughout Mechanicsburg Borough.

Suez cannot object to the admission of the photographs simply because they depict the water main replacement project before it has been completed. Mr. Miller testified that the photographs accurately depict the condition of the streets and sidewalk at the time the photographs were taken. N.T. 71.

On cross examination Mr. Miller acknowledged that the pictures were taken in either June or July 2018. N.T. 65-66. Mr. Miller also indicated that he had no reason to believe that what was depicted in the photographs would be the condition of the streets and sidewalks when Suez completes the water main replacement project. N.T. 67. He also stated that part of his testimony was that the water main project was taking too long. N.T. 68.

Suez’ objection appears not to be to the admissibility of the photographs but to the weight they should be given. The photographs are admissible if they are relevant.

Information is relevant if it tends to establish a material fact, tends to make a fact at issue more or less probable or supports a reasonable inference or presumption regarding a material fact. Smith v. Morrison, 47 A.3d 131 (Pa.Super. 2012) app. denied, 57 A.3d 71 (Pa. 2012), Pa.R.E. 401. The photographs corroborate the testimony by Mr. Miller concerning the condition of the sidewalks and streets in Mechanicsburg Borough on the date those photographs were taken. Since the photographs tend to make the accuracy Mr. Miller’s testimony more probable, it is relevant and therefore admissible. Since the photographs are relevant, I will admit Miller Exhibits A-E.

Since the transcript of the public input hearings were in this case were filed on July 17, 2018 and the transcript does not list Miller Statement 1 and Miller Exhibits A-E as admitted into the record, I will issue this order admitting them into the record and directing that they be placed in the appropriate exhibit folder.

THEREFORE,

IT IS ORDERED:

1. That the previously marked and identified Miller Statement 1 and Miller Exhibits A-E are admitted into evidence in this proceeding and made a part of the record. Miller Statement 1 and Miller Exhibits A-E shall be placed in the exhibit folder for the July 11,2018 public input hearing.

Date: July 19, 2018 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

David A. Salapa

Administrative Law Judge

**R-2018-3000834 & C-2018-3001786- PENNSYLVANIA PUBLIC UTILITY COMMISSION & OFFICE OF CONSUMER ADVOCATE v. SUEZ WATER PENNSYLVANIA, INC.**DAVID P ZAMBITO ESQUIRECOZEN O'CONNOR17 NORTH SECOND ST SUITE 1410HARRISBURG PA 17101**717.703.5892**  
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