

September 27, 2016

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

In re: Docket No. C-2016-2566323
Ross E. Schell v. Suez Water Pennsylvania Inc.

Dear Secretary Chiavetta:

We are counsel to Suez Water Pennsylvania Inc. in the above referenced matter and are submitting via electronic filing its Preliminary Objections to the Complaint of Ross E. Schell. A copy of the Preliminary Objections is being served upon Mr. Schell by first class mail, postage prepaid, as set forth on the certificate of service attached to them.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By 

Thomas T. Niesen

Enclosure

cc: Certificate of Service (w/encl.)
Judith A. McCoy Jordan (via email, w/encl.)

160927-Chiavetta (Preliminary Objections).wpd

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ROSS E. SCHELL,	:
Complainant	:
	:
v.	:
	:
SUEZ WATER PENNSYLVANIA INC.,	:
Respondent	:
	:

Docket No. C-2016-2566323

NOTICE

TO: ROSS E. SCHELL
203 KNOLLWOOD DRIVE
HARRISBURG, PA 17109

PURSUANT TO 52 PA CODE SECTION 5.101(b), NOTICE IS HEREBY GIVEN THAT AN ANSWER TO THE FOLLOWING PRELIMINARY OBJECTIONS SHALL BE FILED WITHIN 10 DAYS OF THE DATE OF SERVICE.

DATE OF SERVICE: SEPTEMBER 27, 2016.

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ROSS E. SCHELL,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2016-2566323
	:	
SUEZ WATER PENNSYLVANIA INC.,	:	
Respondent	:	

**PERLIMINARY OBJECTIONS OF
SUEZ WATER PENNSYLVANIA INC.
TO THE COMPLAINT OF ROSS E. SCHELL**

AND NOW comes Suez Water Pennsylvania Inc. (“Suez”), by its attorneys, and, pursuant to 52 Pa. Code § 5.101, files these Preliminary Objections to the Complaint of Ross E. Schell (“Complainant”) at C-2016-2566323:

1. This proceeding concerns the Complaint of Ross E. Schell at Public Utility Commission (“Commission”) Docket No. C-2016-2566323.
2. Service of the Complaint was made by the Commission’s Office of the Secretary on September 13, 2016.
3. Regulations of the Commission at 52 Pa. Code Section 5.101 provide for the filing of preliminary objections in response to a Complaint.

4. Suez objects to the Complaint as follows:

Insufficient Specificity of Pleading – 52 Pa. Code § 5.101(a)(3)

5. Complainant avers that he has a reliability, safety, quality or other problem with his water service. He includes a photocopy of several sections of the Public Utility Code with his Complaint but presents no factual explanation of his alleged problem.

6. The Complaint, as filed, is insufficiently specific and presents no basis for requiring Suez to answer it or for the Commission to entertain it. The Complaint presents no factual averment for either Suez or the Commission to address.¹

Legal Insufficiency of Pleading – 52 Pa. Code § 5.101(a)(4)

7. Complainant, as set forth above, avers that he has a reliability, safety, quality or other problem with his water service. He includes a photocopy of several sections of the Public Utility Code with his Complaint but presents no factual explanation of his alleged problem.

8. The Complaint, as filed, is legally insufficient to provide Suez with notice of the issues to be litigated. Allowing the Complaint, as filed, to go forward would be a denial of due process.

Pendency of Prior Proceedings – 52 Pa. Code § 5.101(a)(6)

9. Complainant has three other Complaint proceedings at C-2016-2551544, C-2016-2558244 and C-2016-2559741 presently scheduled for hearing on October 4, 2016.

10. In the proceeding at C-2016-2551544, Complainant avers that he has a reliability, safety, quality or other problem with his water service, specifically, dirty water.

¹ Having filed this Preliminary Objection, Suez is not obligated to answer the Complaint until further directed by the presiding officer or the Commission. 52 Pa. Code § 5.101(b)(1).

11. The pendency of the prior water quality proceeding at C-2016-2551544 makes this water quality proceeding unnecessary.

Lack of Commission Jurisdiction – 52 Pa. Code § 5.101(a)(1)

12. The Complaint seeks, as relief, \$150,000 dollars paid to Complainant as a penalty or fine.

13. The Commission has no jurisdiction to direct a civil penalty payment (fine) to Complainant. Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301, provides that civil penalties are paid to the Commonwealth of Pennsylvania.

14. The Complaint also seeks, as relief, a “restart” of billing, suggesting that Complainant wants to be relieved of paying for his water service.

15. The Commission has no jurisdiction to relieve Complainant from paying tariff charges for his water service. Section 1303 of the Public Utility Code, 66 Pa. C.S. § 1303, requires that Suez charge and Complainant pay the tariff rate for service.

WHEREFORE, Suez Water Pennsylvania Inc. requests that the Pennsylvania Public Utility Commission grant these Preliminary Objections and dismiss the Complaint of Ross E. Schell at C-2016-2566323.

Respectfully submitted,

By 

Thomas T. Niesen, Esq. (PA ID # 31379)

THOMAS, NIESEN & THOMAS, LLC

212 Locust Street, Suite 600

Harrisburg, PA 17101

Tel: 717-255-7600

Attorney for Respondent Suez Water Pennsylvania Inc.

DATED: September 27, 2016

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROSS E. SCHELL, :
Complainant :
v. : Docket No. C-2016-2566323
SUEZ WATER PENNSYLVANIA INC., :
Respondent :

CERTIFICATE OF SERVICE

I hereby certify that I have this 27th day of September 2016, served a true and correct copy of the foregoing Preliminary Objections of Suez Water Pennsylvania Inc., upon the persons and in the manner set forth below:

VIA FIRST CLASS MAIL, POSTAGE PREPAID

Ross E. Schell
203 Knollwood Drive
Harrisburg, PA 17109

The Honorable Jeffrey A. Watson
Piatt Place
Suite 220
301 5th Avenue
Pittsburgh, PA 15222


Thomas T. Niesen (PA ID # 31379)