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November 14, 2016

Via Electronic Filing

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

In re: Dockets Nos. C-2016-2551544, C-2016-2558244, C-2016-2559741 and C-2016-2563040
Ross E. Schell v. Suez Water Pennsylvania Inc.

Dear Secretary Chiavetta:

We are counsel to Suez Water Pennsylvania Inc. in the above referenced consolidated matters and are submitting via electronic filing its Brief in Opposition to Petition for Interlocutory Review and Answer to a Material Question. A copy of the Brief is being served upon Mr. Schell as set forth on the certificate of service attached to it.

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.)

161114-Chiavetta (Brief in Opp to Pet for Inter Rev).wpd

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judge
Jeffrey A. Watson, Presiding

ROSS E. SCHELL : C-2016-2551544
 : C-2016-2558244
v. : C-2016-2559741
 : C-2016-2563040
SUEZ WATER PENNSYLVANIA INC. :

BRIEF OF SUEZ WATER PENNSYLVANIA INC. IN OPPOSITION TO
PETITION FOR INTERLOCUTORY REVIEW AND
ANSWER TO A MATERIAL QUESTION

Thomas T. Niesen, Esquire
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Attorney for Suez Water Pennsylvania Inc.

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DATED: November 14, 2016

I. INTRODUCTION

Suez Water Pennsylvania Inc. (“Suez” or “Respondent”) submits this Brief pursuant to the Secretarial Letter, dated November 3, 2016, in this consolidated matter. The Secretarial Letter explains that, on or about October 20, 2016, Ross E. Schell (“Complainant”) filed a Petition for Interlocutory Review and Answer to a Material Question (“Petition”). A copy of Complainant’s Petition was provided with the Secretarial Letter. The Secretarial Letter explains that Suez may file a Brief in Opposition to the Petition within ten days.

II. ARGUMENT

Complainant challenges the ruling of Administrative Law Judge Watson which sustained Suez’s objection to Complainant’s attempt to offer certain pictures into the evidentiary record. Judge Watson’s ruling is presented at pages 34 through 37 of the transcript of the call-in telephonic hearing of October 4, 2016.

In anticipation of the call-in telephonic hearing, Judge Watson issued a Prehearing Order, dated August 26, 2016. The Prehearing Order directed the parties to provide copies of any documents or exhibits in advance of the hearing. Ordering Paragraph 2 of the Prehearing Order states as follows:

2. If you intend to present any documents or exhibits for my consideration at the hearing, you must send three (3) copies of each document to me, and one (1) copy of each document to every other party in this case. Your documents or exhibits must be received by me and every other party one (1) week before the scheduled hearing. Be sure that you serve me directly with a copy of any document that you file in this proceeding at the time of its filing. If you send me any correspondence or document, you must also send a copy of that correspondence or document to every other party. For your convenience, a copy of the Commission’s current service list of all parties to this proceeding is enclosed with this Order.

Complainant did not comply with the Prehearing Order. He failed to provide copies of his picture evidence in advance of the telephonic hearing. At transcript page 37, Complainant

acknowledges that he did not send his pictures to Judge Watson. Complainant's claim in his Petition that he provided "pdfs" of the pictures with his Complaint does not relieve him from compliance with the Prehearing Order, nor does it relieve him of his obligation to provide notice of the pictures he intends to offer into evidence along with sufficient copies of the actual pictures for the Judge and Suez and for inclusion in the record.

Rulings by administrative law judges regarding admissibility of evidence or testimony constitute routine evidentiary rulings which do not warrant interlocutory review. *Schell v. PPL Electric Utilities Corporation*, Dockets Nos. C-2016-2535220, *et al.*, Opinion and Order entered November 9, 2016. Interlocutory review is not warranted here.

III. CONCLUSION

Complainant has failed to justify his Petition for Interlocutory Review and Answer to a Material Question and the Public Utility Commission should decline to answer the question or, if it desires to answer the question, affirm the decision of Judge Watson which denied the admission of Complainant's picture evidence into the record.

Respectfully submitted,

By  _____

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DATED: November 14, 2016

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROSS E. SCHELL,	:	Docket No. C-2016-2551544
Complainant	:	Docket No. C-2016-2558244
	:	Docket No. C-2016-2559741
v.	:	Docket No. C-2016-2563040
	:	
SUEZ WATER PENNSYLVANIA INC.,	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 14th day of November 2016, served a true and correct copy of the foregoing Brief in Opposition to Petition for Interlocutory Review and Answer to a Material Question, upon the persons and in the manner set forth below:

VIA FIRST CLASS MAIL

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)