

24 December 2016

To: The Pa Public Utility Commission Secretary
400 North Street
Harrisburg, PA 17120

From: Ross E. Schell
203 Knollwood Drive
Harrisburg, PA 17109-5515
PH# 717-651-0824
Fax# same but call First.

C-2016-2578809

To Whom this may Concern
Preliminary Objection Answer

12/23/2016

1. I think the Objection brought up by Suez's attorney should be thrown out because the Judge on all past complaints has not ruled on the validity of my complaints but on the relief I have asked for. He has ignored all the pictures of dirty water I have summited. He ignored the DVD I tried to send him show Monica lies during her visit to my house

The new complaints all address the relief problems that he has been ruling on. Yes he could not give me the relief I

had requested. Yet the judge totally ignored the fact that the water coming in to my house has dirt in it. And it is not coming from the water pipe that feeds water into my house. He at least ruled on that. This complaint and the other complaints are not the same as the other complaints.

Though the Judge says the law does not require perfect service, it does say it needs to be safe and reliable. I have been paying for what is supposed to be good service and been getting water that me and my family cannot consume without getting sick, or filtering. As far as my Neighbor is concerned they are never home long and do not cook anything. They almost never are seen outside their house. The reason I had to put up cameras up was because of my neighbor, liked to complain in the past, and was told not to call any more. I have 28 cameras up on my house because of this. And they have been up since 2000. At no time did they read my meter inside my house since September 1999 even though the law sates every 5 years.

Think all the filings of 12/23/2016 should be dismissed.

Thank You

Ross. E. Schell

Certificate Of Service

I do Herby Certify That I have This Day 24 December 2016 I
Have Served a true And correct copy of the Answer 24
December 2016 upon The person's and manner Set Forth Below.

Via Fax Answer

Thomas T Niesen
Thomas, Niesen & Thomas LLC

212 Locust Street

Suite 600

Harrisburg, PA 17101

The Honorable Jeffery A. Watson Will not except any
communications at all.

Piatt Place

Suite 220

301 5th Avenue

Pittsburg, Pa 15222

Ross E. Schell



THOMAS, NIESEN & THOMAS, LLC

Attorneys and Counsellors at Law

THOMAS T. NIESEN
Direct Dial: 717.255.7641
tniesen@tntlawfirm.com

December 23, 2016

Via Electronic Filing

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

In re: Docket No. C-2016-2578809
Ross E. Schell v. Suez Water Pennsylvania Inc.

Dear Secretary Chiavetta:

We are counsel for Suez Water Pennsylvania Inc. in the above matter and are submitting via electronic filing the Company's Answer to the Complaint of Ross E. Schell. A copy of the Answer is being served in accordance with the certificate of service attached to it. Please enter our appearance for Suez Water Pennsylvania Inc.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Thomas T. Niesen

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

161223-Chiavetta (Answer to Compl).wpd

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ROSS E. SCHELL,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2016-2578809
	:	
SUEZ WATER PENNSYLVANIA INC.,	:	
Respondent	:	

ANSWER TO COMPLAINT

AND NOW, comes Suez Water Pennsylvania Inc. ("Suez"), by its attorneys, and, pursuant to 52 Pa. Code § 5.61, in *seriatim* fashion, answers the Complaint of Ross E. Schell ("Complainant"), as follows:

1. Admitted.
2. Admitted with the clarification that Respondent's name is Suez Water Pennsylvania Inc.
3. Admitted.
4. Denied. Suez denies Complainant's claim that his inside meter has not been read since September 1999. Suez denies that there are incorrect charges on Complainant's bill(s) and denies that Complainant is having a reliability, safety, quality or other problem with his water service. Contrary to the allegations in the Complaint, Suez is furnishing adequate, efficient, safe and reasonable water service consistent with the requirements of Section 1501 of the Public Utility Code.

Complainant's allegation that his meter has not been read is the very same allegation presented by him in the pending proceeding at C-2016-2558244, which was consolidated with Complainant's Complainant at C-2016-2551544, C-2016-2559741 and C-2016-2563040. A consolidated hearing on the Complaints was held on October 4, 2016, at which Complainant had a full and fair opportunity to address any and all billing and service matters.

Three other Complaints filed by Complainant against Suez at C-2016-2566322, C-2016-2566323 and C-2016-2566398 are the subject of pending Initial Decisions of Administrative Law Judge Watson dismissing the Complaints, without hearing, based on preliminary objections filed by Suez. Suez will file preliminary objections asking the Public Utility Commission to also dismiss this Complaint. Suez submits that Complainant is abusing the regulatory process by continuing to complain of the same matters. *See Newberry v. Pennsylvania Electric Company*, Docket No. C-2013-2358544, Final Order entered January 30, 2014.

Reiterating our Answer to Complainant's Complaint at C-2016-2558244, Suez obtains an Automatic Meter Reading (AMR) of Complainant's meter every month. Chapter 56 explains that meter reading by an AMR "shall" be deemed an actual reading for the purpose of the Chapter. 52 Pa. Code Section 56.2 – *AMR – Automatic meter reading*. Section 56.12 of Chapter 56 cited by Complainant and the language therein concerning remote meter reading devices do not support his Complaint. The AMR is not a remote meter reading device. 52 Pa. Code Section 56.2. The AMR, rather, is an actual meter reading. Prior to the installation of the AMR in April 2016 as part of a meter pit construction at the location, Suez used an encoder device to read Complainant's inside meter. The encoder permitted direct interrogation of Complainant's meter and, thus, was also an actual meter reading under Chapter 56. 52 Pa. Code Section 56.2 – *Remote reading device*.

5. Paragraph 5 of the Complaint is a request for relief for which no answer is required. If answer is deemed necessary, Suez denies that Complainant is entitled to a refund of bills for 17 years and submits that the Commission is without jurisdiction to direct such a refund. Suez is furnishing adequate, efficient, safe and reasonable water service consistent with the requirements of Section 1501 of the Public Utility Code.

6. Admitted. Suez is not aware of any Protection from Abuse Order that would be relevant to this matter and agrees with Complainant's averment that no such Order exists.

7. Admitted in part and denied in part. The Complaint is not an appeal from a decision of the Commission's Bureau of Consumer Services. In regard to contact with Complainant, a formal evidentiary hearing has been held addressing his service and billing allegations. Suez denies lying to Complainant.

8. Paragraph 8 of the Complaint presents no factual averment and does not identify any legal representative for Complainant in this matter. No answer is required.

WHEREFORE, for the reasons set forth above, Suez Water Pennsylvania Inc. requests that the Pennsylvania Public Utility Commission dismiss the Complaint of Ross E. Schell at Docket No. C-2016-2578809.

Respectfully submitted,

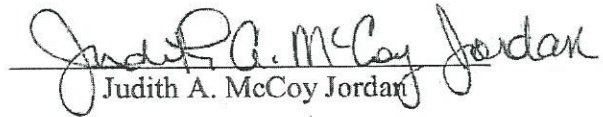
By 
Thomas T. Niesen, Esq. (PA ID # 31379)
THOMAS, NIESEN & THOMAS, LLC
212 Locust Street, Suite 600
Harrisburg, PA 17101
Tel: 717-255-7600

*Attorney for Respondent
Suez Water Pennsylvania Inc.*

DATED: December 23, 2016

VERIFICATION

I, Judith A. McCoy Jordan, Customer Service Manager of Suez Water Pennsylvania Inc., hereby state that the facts set forth in the foregoing Answer to Complaint are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).


Judith A. McCoy Jordan

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROSS E. SCHELL, :
Complainant :
v. : Docket No. C-2016-2578809
SUEZ WATER PENNSYLVANIA INC., :
Respondent :

CERTIFICATE OF SERVICE

I hereby certify that I have this 23rd day of December 2016, served a true and correct copy of the foregoing Answer to Complaint upon the persons and in the manner set forth below:

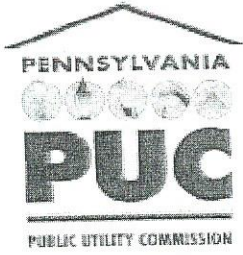
FIRST CLASS MAIL, POSTAGE PREPAID

Ross E. Schell
203 Knollwood Drive
Harrisburg, PA 17109

The Honorable Jeffrey A. Watson
Administrative Law Judge
Pennsylvania Public Utility Commission
Piatt Place
Suite 220
301 5th Avenue
Pittsburgh, PA 15222



Thomas T. Niesen (PA ID # 31379)



PENNSYLVANIA
PUBLIC UTILITY COMMISSION

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Docket Number:	C-2016-2578809
Description:	Ross E. Schell v. Suez Water Pennsylvania Inc.
Transmission Date:	12/23/2016 1:05:03 PM
Filed On:	12/23/2016 1:05:03 PM
eFiling Confirmation Number:	1661123

Uploaded File List

File Name	Document Class	Document Type
Suez Water Answer to Complaint C-2016-2578809.pdf	Communication	Answer to Formal Complaint

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THOMAS, NIESEN & THOMAS, LLC

Attorneys and Counsellors at Law

THOMAS T. NIESEN
Direct Dial: 717.255.7641
tniesen@tntlawfirm.com

December 23, 2016

Via Electronic Filing

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

In re: Docket No. C-2016-2578809
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.)

161223-Chiavetta (Preliminary Objections).wpd

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROSS E. SCHELL,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2016-2578809
	:	
SUEZ WATER PENNSYLVANIA INC.,	:	
Respondent	:	

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: DECEMBER 23, 2016.

Law Judge Watson dismissing the Complaints, without hearing, based on preliminary objections filed by Suez.

5. Regulations of the Commission at 52 Pa. Code Section 5.101 provide for the filing of preliminary objections in response to a Complaint. Suez submits the following objections to this Complaint.

6. Along with these Preliminary Objections, Suez submits that Complainant is abusing the regulatory process by continuing to complain of the same matters. *See Newberry v. Pennsylvania Electric Company*, Docket No. C-2013-2358544, Final Order entered January 30, 2014.

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

7. Complainant alleges that Suez has not read his inside meter since September 1999. Complainant raised this same concern with a lack of meter reading in the pending proceeding at C-2016-2558244.

8. The proceeding at C-2016-2558244 was consolidated with Complainant's Complaints at C-2016-2551544, C-2016-2559741 and C-2016-2563040. A formal, consolidated evidentiary hearing was held on the four Complaints on October 4, 2016.

9. Complainant participated in the hearing on October 4 and testified about his claim that Suez has not been reading his meter. Complainant had a full and fair opportunity to address any and all metering issues at the hearing.

10. Three other Complaints filed by Complainant against Suez at C-2016-2566322, C-2016-2566323 and C-2016-2566398 are before the Commission for final action based on Initial Decisions of Judge Watson granting Suez Preliminary Objections and dismissing the Complaints without hearing.

11. In the Initial Decision, dated October 27, 2016, Judge Watson granted Suez Preliminary Objections and dismissed the Complaint at C-2016-2566322. In support of its Preliminary Objections, Suez cited Complainant's four pending Complaint proceedings as prior and pending proceedings warranting preliminary dismissal of the Complaint.

12. Judge Watson explained that preliminary dismissal based on a prior and pending proceeding – the doctrine of *lis pendens* – is warranted where the case, parties, rights asserted and relief sought are the same. The doctrine applies even if the wording of the Complaint varies. Applying the doctrine, Judge Watson dismissed the Complaint.

13. Suez submits that the doctrine of *lis pendens* should be applied here in similar fashion to dismiss this repetitive Complaint. The wording of this repetitive Complaint does not vary in any material way from the Complaint at C-2016-2558244. It is, in fact, the very same matters complained of at C-2016-2558244.

14. More importantly, the parties – Mr. Schell and Suez – are the same, as are the rights asserted by Mr. Schell under the Public Utility Code and the relief that he seeks. Complainant asks, again, for a refund on bills to which he is not entitled and the Commission has no jurisdiction to entertain.

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


15. The Complaint seeks, as relief, refund of bills for 17 years. We submit that the Commission has no jurisdiction to order a refund of bills for 17 years. 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. *See Ross E. Schell v. Suez Water Pennsylvania Inc.*, Docket No. C-2016-

2566323, Initial Decision Granting Respondent's Preliminary Objections and Dismissing the Complaint dated October 31, 2016.

16. We submit, further, that the Complainant is essentially asking for money damages. The Commission, however, has no jurisdiction to award money damages. See *Elkin v. Bell Telephone Company of Pennsylvania*, 491 Pa. 123, 420 A.2d 371 (1980); *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977); *Poorbaugh v. Pa. Pub. Util. Comm'n*, 666 A.2d 744 (Pa.Cmwlt. 1995); *Ross E. Schell v. Suez Water Pennsylvania Inc.*, Docket No. C-2016-2566322, Initial Decision dated October 27, 2016.

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-2016-2578809.

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: December 23, 2016

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROSS E. SCHELL, :
Complainant :
v. : Docket No. C-2016-2578809
SUEZ WATER PENNSYLVANIA INC., :
Respondent :

CERTIFICATE OF SERVICE

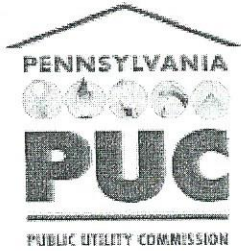
I hereby certify that I have this 23rd day of December 2016, served a true and correct copy of the foregoing Preliminary Objections of Suez Water Pennsylvania Inc., upon the persons and in the manner set forth below:

VIA FIRST CLASS MAIL

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)



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