

## Certificate Of Service

I do Herby Certify That I have This Day 21 February 2017 I Have Served a true And correct copy of the Petition for exceptions 21 February 2017 upon The person's and manner Set Forth Below.

Via Fax Petition for exceptions

Thomas T Niesen  
Thomas, Niesen & Thomas LLC

212 Locust Street

Suite 600

Harrisburg, PA 17101

The Honorable Jeffery A. Watson

Piatt Place

Suite 220

301 5<sup>th</sup> Avenue

Pittsburg, Pa 15222

Will not except any form of communication from me

Ross E. Schell

21 February 2017

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.

Petition for Exceptions to Judges ruling

C-2016-2551544

C-2016-2558244

C-2016-2559741

C-2016-2563040

Suez Water Complaints

C-2016-2551544

5 Both the meter and pipe were installed at the same time.

I had camera proof of this but since Judge Watson refuses to  
except anything mailed from me I could not send it. Also since the

PUC Secretary keeps ejecting all my filings because they do not paint a pretty picture of her of the judge in these complaints or she just feel like it.

Also with every complaint I have filed I included with the PDF e file the pictures of my dirty filters and water. He the judge has ignored them even though they are part of the complaints as filed. He evidently is so far prejudice against me it's not funny. I did not use my downstairs bathroom since I have no meniscus in my right knee and tears on both sides of the left knee meniscus. And am totally disabled and have trouble using steps. My son has used it every day. Pretty much since we moved in.

Also if the water system is a closed system there is no reason for the dirt. As far a testing the Suez has tested it at points where my water does not come from. My water comes from a water tank up the road from Price Street. And they never test that water according to people who lie on that street.

And the question need to be asked if any dirty water comes out where does it go, when the blow out valve is not opened. And since I am home all the time and is using water all the time and my neighbor does not even cook dinner at their house. And are almost never home.

C-2016-2558244

First I would like to know what TR's are he keeps mentioning them and has yet to clarify what he means.

The meter in my house has not been read by any one from the water company. Since September 1999. It was read by a remote

read system since that date. Not an AMR as he has defined. Again the meter was installed at the same time the pipe was changed in 2015 I have it on camera just like I have been videotaping outside my house since 2000. I tried to show Monica Lying where her van as parked during her visit to my home and trying to explain to me how the meter worked. Yet when I tried to send a copy to the Judge he refused to accept it. And I never got it back. When I tried to file a petition since he did this it got rejected by the Secretary out of hand because she did not want to hear it.

C-2016-2558244 Metering.

Up until the installed the meter was installed it the pit beside the road they were using a remote meter reading device and like I said earlier in this document they never asked to see the inside meter since September 1999. This is in direct violation of the law.

As I stated in this complaint

C-2016-2559741

It is against Pa law and Federal Law to auto dial any home without the Home owner's permission. And I have never given anyone that permission and both laws overrides any law the PUC may have regarding his issue.

As Far and calling Suez Water about dirty water. When they bought out United water they did not keep all records. Or they

would see that I did indeed call few time and Once Monica came out and told me it was normal.

And Evidently the Judge is forgetting that it was agreed during Hearing that my service pipe was not compromised in every hearing we had. Besides if anything is wrong with it is because Suez when they installed the new system cut 4 feet of a pipe that has been at least 24 inches under the ground since 1956 when my house was built. And besides if it was broken or leaking I would have a bigger water bill than I have. As far as people in my house I mentioned in the hearings that I have my 3 Granddaughters most weekends and they take baths instead of showers like everyone else does in my house.

C-2016-2551544

Have flushed the water system in my house numerous times over the years since I have to replace toilet valves every time one gets too much dirt in it and stops working. As far as testing water at certain points around the area. According to United and Suez my water does not even come close to where they tested. I have been told it come s from a tank on a street up Prince Street in Lowe Paxton township. Not even close to where they tested.

Since the testing was done No proof was summited to the court during our hearing so this is all hearsay and should never be summited to a court of law. But Judge Watson will take anything summited by a utility and ignore what has been summited by me.

Including the pictures of dirty water in my house that were submitted with my complaints. Again in a decision he make she mentions them yet would not submit them as evidence. Even though they were part of my complaint and neither party objected to them being admitted as evidence. If I do not submit all evidence with my complaints or justify them the Secretary will reject them. And if dirty water for years is good service then I would like to know what the Judges definition of bad service is.

C-2016-2558244

As far as metering, none of the meters they that have been installed of device to read the meter. Have met the definition of what he wrote in his decision. Judge Watson ignored the Proof that I had and just sided as always with the utility. SO again I guess the PA PUC is totally in the pockets of the Utility's that they are not serving the purpose that they say they are for.

If dirty water in place of clean potable water is not a miss billing then I do not know what one is. I have been paying for Clean water and getting dirty water. How Judge Watson has not seen this and says it is ok. Then I have a problem that he does not see or want to see.

C-2016-2559741

Again it is a violation of state and federal law to Auto dial anyone without permission. I do not get to watch TV very much since I have house work to do, and never watch the news anymore because of the false reporting they do. And I never listen to a

radio of get a read a newspaper. I do not even get to check my email very often so forget Facebook or twitter. There website is lousy and is not up to date because you cannot pay your bill online. So why would I go to it. I tried to summit evidence But Judge Watson would not allow me to do it. He even cut off all contact between me and him.

C-2016-2563040

As fa as Monica Poziemski is concerned she Lied about everything I had video Proof of this on DVD and Judge Watson refused to accept it. Even though he accepted the DVD with from Suez's Counsel during a hearing as evidence but would not except mine. Again he took hearsay as evidence. Judge Watson and the secretary did not want to hear she lied in the hearing by rejecting all proof that I had. And no vehicles went up or down the road while she was parked on the road beside the meter pit they installed the meter in. Have cameras on all sides of my house recording everything that goes on. I have been doing this since 2000. Because of other problems that have occurred at my house do to the other house on the same water pipe am on. I also showed in my complaints that the dirty water if occurring all over my house. Not just the basement. Again Judge Watson forgot I even said this at the hearings. And he ignores this fact in his decisions. And again I ask the water system is supposed to be a closed system why the dirty water coming out when they open a blowout valve.

Ross E. Schell

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Ross E. Schell	:	C-2016-2551544
	:	C-2016-2558244
v.	:	C-2016-2559741
	:	C-2016-2563040
Suez Water Pennsylvania Inc.	:	

**INITIAL DECISION**

Before  
Jeffrey A. Watson  
Administrative Law Judge

**INTRODUCTION**

Ross E. Schell (Complainant or Mr. Schell) filed four formal complaints against Suez Water Pennsylvania Inc. (Suez, Company or Respondent) alleging Respondent was threatening to shut off his service; the existence of incorrect charges on his bill; challenging the accuracy of his meter; that he was having reliability, safety or quality problems; and that he receives dirty water from Respondent. This decision denies the formal complaints for failure of Complainant to meet his burden of proof.

**HISTORY OF THE PROCEEDING**

On May 26, 2016, Complainant filed a formal complaint (first complaint) at Docket No. C-2016-2551544. The first complaint alleges reliability, safety or quality problems with his water service and that he receives “dirty” water in his toilet tank. As relief, Complainant requests that Respondent clean up the water system and stop charging for the unclean water. On June 20, 2016, Complainant filed an amended complaint (amended first complaint) averring reliability, safety or quality problems with his water service and that he is

paying for clean water but is receiving dirty water. Complainant requests that Respondent “clean up” the water supply. Respondent filed an answer on July 7, 2016 essentially denying the averments set forth in Complainant’s amended first complaint.

Complainant filed another formal complaint (second complaint) on July 25, 2016 at Docket No. C-2016-2558244. The second complaint alleges that Respondent has not obtained adequate meter readings and has not read his meter since September of 1999; that Respondent is threatening to shut off his service; and alleges incorrect charges on Complainant’s bill. As relief, Complainant requests a five year refund from Respondent and that he receive no bills from Respondent for an additional three years. Respondent filed an answer on August 12, 2016, essentially denying the averments set forth in the second complaint. Complainant filed a reply to the answer of Suez, which essentially reiterates the averments set forth in the second complaint.

Complainant filed another formal complaint (third complaint), on August 3, 2016 at Docket No. C-2016-2559741. The third complaint alleges that Respondent failed to give Complainant proper notice of a water outage. As relief, Complainant requests a refund of his payments as billed by Respondent for the past ten years. Respondent filed an answer on August 24, 2016, denying the material averments set forth in the third complaint. Complainant filed a reply to the answer of Suez on August 27, 2016, which essentially reiterates the averments set forth in the third complaint.

On August 22, 2016, Complainant filed another formal complaint (fourth complaint), at Docket No. C-2016-2563040. The fourth complaint alleges that Complainant’s meter reacts to ground vibrations from passing trucks, causing him to be billed for water that he does not receive. As relief, Complainant requests a refund for three years and that the meter be repaired so that it does not react to ground vibrations. Respondent filed an answer on September 12, 2016, admitting that it provides water service to Complainant and denying the remaining averments set forth in the fourth complaint. On September 12, 2016, Complainant filed a letter with the Commission requesting that the Commission reject the answer filed by Respondent for failure to conform with “§ 5.61 Answers to complaints, petitions, motions and preliminary objections B5,” without further explanation.

On August 9, 2016, a hearing notice was issued which scheduled the initial telephonic hearing on all four complaints for September 1, 2016 at 10:00 a.m.

On August 23, 2016, the undersigned presiding officer issued an interim order consolidating the proceedings filed at Docket No. C-2016-2551544, C-2016-2558244, and C-2016-2559741 for the purpose of conducting one hearing and issuing one decision. On August 26, 2016, a hearing notice was issued which rescheduled the initial telephonic hearing on the complaints filed at Docket No. C-2016-2551544, C-2016-2558244, and C-2016-2559741 for October 4, 2016 at 10:00 a.m. On September 16, 2016, Respondent filed a motion to consolidate the proceeding filed at Docket No. C-2016-2563040, with the proceedings previously consolidated. On September 1, 2016, the undersigned presiding officer issued a prehearing order, which set forth the procedural requirements for a formal hearing before the Commission.

On September 29, 2016, an interim order was issued consolidating all four complaint proceedings.

On October 4, 2016, the undersigned presiding officer convened the initial telephonic hearing as scheduled. Complainant appeared *pro se* and testified on his own behalf. Complainant indicated that he intended to offer into evidence copies of pictures which were not previously provided to Respondent nor the undersigned presiding officer prior to the hearing. The copies of pictures were not admitted into evidence. Respondent was represented by Thomas T. Niesen, Esquire, who presented testimony from five witnesses and offered eight exhibits which were marked as Suez Exhibits 1 through 8, and admitted into evidence.

An interim order was entered on October 12, 2016, directing the parties to file briefs in support of their respective positions no later than December 1, 2016. Respondent filed a brief on November 30, 2016.

On October 20, 2016, Complainant filed a "Petition for Interlocutory Commission review". The basis for the Petition was that the undersigned presiding officer did not admit into evidence a picture showing dirt in his toilet. On November 29, 2016, a Secretarial Letter was

issued. The Secretarial letter provided that the Petition for Interlocutory Commission review was deemed denied pursuant to 52 Pa.Code §5.303(b).

A transcript of the hearing was generated, consisting of 125 pages. The record closed upon receipt of the Secretarial Letter dated November 29, 2016.

For the reasons set forth below, the formal complaints will be denied.

#### FINDINGS OF FACT

1. Complainant is Ross E. Schell who resides at 203 Knollwood Drive in Harrisburg, Pennsylvania (service address or service location). Tr. 14.
2. Respondent is Suez Water Pennsylvania Inc.
3. Complainant has lived at the service address since 1999. Tr. 17-18.
4. Respondent provides residential water service to Complainant at the service address. Tr. 90.

#### Docket No. C-2016-2551544 – Dirty Water

5. Complainant is one of two customers served from a one-inch copper water main that extends along Knollwood Drive in front of Complainant's property to a point past the water service line of the neighboring property. Tr. 48.
6. The one-inch copper main was newly installed in 2015 (new main) as part of an upgrade of Respondent's facilities in the general area. Tr. 48-49.

7. There is a blow-off valve at the end of the new main, downstream of Complainant's residence and past Complainant's residence and the neighboring residence at 201 Knollwood Drive. Tr. 49, 53.

8. There is a meter pit at the service location which was installed in 2015. Tr. 50.

9. There is a meter in the pit. Tr. 50.

10. Complainant observed dirty water in the tank to his basement toilet, which has not been used for approximately one year. Tr. 18.

11. Complainant's customer-owned service line is likely old and corroded. Tr. 51-52.

12. Other than Complainant's allegation in his amended first complaint, Respondent was not informed of any dirty water complaints in the area of the service address. Tr. 51.

13. Respondent opened the blow-off valve on June 23, 2016. Tr. 55-56.

14. Upon opening the blow-off valve, an insignificant amount of slightly discolored water was discharged from the valve and after approximately twenty seconds, the water discharged from the blow-off valve was clear. Suez Exhibit No. 1; Suez Exhibit No. 2; Tr. 60-62, 66.

15. An initial discharge of discolored water is not unusual upon opening a blow-off valve. Tr. 60-61.

16. As a public water system, Suez is required to test the integrity of its system one hundred times each month at DEP-approved testing sites. Tr. 71.

17. Three of the DEP-approved Harrisburg area testing sites are in close proximity to the service location, namely the Lower Paxton Township Building at 425 Prince Street; the Turkey Hill Convenience Store at 5009 Locust Lane; and the Locust Lane Pump Station at Locust Lane and Porsche Lane. Tr. 68-69, 73.

18. From September 2015 through September 2016, Respondent observed no cloudiness or discoloration at either the Turkey Hill Convenience Store or the Locust Lane Pump Station. One incident of cloudiness/discoloration at the Lower Paxton Township Building on April 4, 2016 was observed. Tr. 72-73; Suez Exhibit No. 3.

19. A toilet bowl or toilet tank is not an appropriate water sampling location, as sediment inside the toilet bowl or toilet tank is not indicative of a dirty water problem. Tr. 75.

20. From and after 2003, Suez has no record of any contact with Complainant concerning dirty water. Tr. 92.

Docket No. C-2016-2558244 – Metering

21. Complainant's household is made up of Complainant, his wife and his son. Tr. 25-26.

22. Complainant's other son and his girlfriend moved out in approximately February of 2016. Tr. 26-27.

23. Since April 2016, Complainant's billed water usage has gone down from \$57.00 a month to \$47.00 a month. Tr. 27.

24. The meter presently in place in the meter pit at the service location uses automatic meter reading technology (AMR) and is not a remote meter reading device. Tr. 81-82.

25. The meter presently in place at the service location was installed in the meter pit on April 12, 2016. Tr. 81.

26. Suez obtains an actual meter reading every month for water usage at the service location and reads the meter every month in the meter pit with the automatic meter reading technology. Tr. 82.

27. Suez changes meters at residential properties every 20 years. Tr. 82.

28. The inside meter at the service address was not removed when Suez placed the outside meter in the meter pit. Tr. 82-84.

29. Complainant has personal items in front of the inside meter, making access to the inside meter difficult. Tr. 83-85.

30. The inside meter was used prior to April 2016 for billing and usage recording purposes and is not presently being used. Tr. 83.

31. The inside meter uses automatic meter reading technology. Tr. 83.

32. The inside meter is not due to be replaced pursuant to the 20 year replacement requirement. Tr. 83.

33. Both before and after April 2016 when the new meter was installed in the meter pit, Suez has been obtaining actual meter readings of Complainant's water usage every month. Tr. 85.

34. With the exception of February 2014, Suez obtained an actual meter reading every month, from August 2012 through April 2016 at the service address. Suez Exhibit No. 5, Column Headed Read Type. Tr. 95.

35. Suez obtained an actual meter reading every month, from April 2016 through September 2016 at the service address. Suez Exhibit No. 6, Column Headed Read Type. Tr. 96.

36. Meter reading records sponsored by Respondent show that Complainant's water usage varies but, for the three most recent months, was between 4,000 gallons per month and 5,000 gallons per month. Suez Exhibits Nos. 5 and 6.

Docket No. C-2016-2559741 – August 3, 2016 Main Break

37. Suez had a break in a 24-inch main in the early morning hours of August 3, 2016, an emergency situation which affected over 16,000 customers in its Harrisburg area service territory. Tr. 98, 103-104.

38. Complainant experienced low pressure or no water as a result of the emergency situation. Tr. 98, 103-104.

39. Suez became aware of the break at approximately 6:00 a.m. on August 3, 2016 and service was restored by 9:00 a.m. that same day. Tr. 98.

40. Suez provided notices of the main break and boil water advisory via television, radio and social media, including Facebook and Twitter, as well as the Company's website. Tr. 98-99, 102.

41. Suez also provided notice of the boil water advisory through its rapid alert telephone message service. Tr. 98-99, 102.

42. Notice provided by Respondent explained that the Susquehanna Township Main Break was a catastrophic main break that affected over 16,000 customers in Lower Paxton Township, Susquehanna Township, Marysville and portions of Penbrook. Suez Exhibit No. 7; Tr. 102.

43. A rapid alert telephone call was made to Complainant at 10:18 a.m. on August 3, 2016 and was answered. Tr. 103.

44. Complainant's wife was aware of a Suez main break on August 3, 2016 and called Complainant regarding the outage. Tr. 3.

45. Complainant received a call to boil water on either August 3 or August 4, 2016. Tr. 33-34.

Docket No. C-2016-2563040 – Impact of Heavy Truck Traffic on Outside Meter

46. Suez employee Monica Poziemski (Ms. Poziemski) went to Complainant's residence and opened the lid to the meter pit and observed the meter operating. Tr. 42.

47. Ms. Poziemski, a Field Customer Service Technician with Suez, went to Complainant's house on September 8, 2016 and showed Complainant how the outside meter works. Tr. 83-85.

48. While Ms. Poziemski was at the property, a FedEx truck and a trash truck drove by the area where the meter was located and the meter did not advance or show water usage. Tr. 86.

49. The meter is working properly. Tr. 87.

DISCUSSION

Burden of Proof

Section 332(a) of the Public Utility Code (Code), 66 Pa. C.S. § 332(a), provides that the proponent of a rule or order has the burden of proof. As the proponent of a rule or order,

Complainant has the burden of proof in each of these consolidated proceedings and, therefore, the duty to establish facts by a preponderance of the evidence. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.Cmwlth. 1990). Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. 2 Pa.C.S. § 704; *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa.Cmwlth. 1993). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Commonwealth, Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa.Cmwlth. 1984).

Docket No. C-2016-2551544 – Dirty Water

Complainant testified that his water was dirty but provided no substantive details concerning his allegation. Complainant explained that the dirty water is in the tank of his basement toilet, which he doesn't use, and that it has been about a year since Complainant has used the toilet.

Dennis Rudisill (Mr. Rudisill), a construction coordinator for Suez, has oversight responsibility for main replacement work and has 41 years of experience related to water construction. Mr. Rudisill testified that Complainant is one of two customers served from a one-inch copper water main that extends along Knollwood Drive in front of Complainant's property to a point past the water service line of the neighboring property.

The one-inch copper main was newly installed in 2015 as part of an upgrade of Respondent's facilities in the general area. There is a blow-off valve at the end of the new main, downstream of Complainant's residence at 203 Knollwood Drive and past Complainant's residence and the neighboring residence at 201 Knollwood Drive. The neighboring property, which is also served by the new main and is closer to the end of the main than Complainant, has not complained of dirty water.

Mr. Rudisill explained that if Complainant is experiencing dirty water, it may be the result of the age and corrosion of his customer-owned water service line or his customer-owned in-home piping. Complainant was advised by Respondent to flush his service line and in-home piping to address any dirty water problem he may experience. Other than Complainant's allegation, Respondent was not made aware of any dirty water complaints in the area.

In response to Complainant's allegations, Adam Gutschmidt, a Transmission and Distribution representative with Suez, and another Suez representative opened the blow-off valve on the new main line serving Complainant on June 23, 2016. Upon opening, an insignificant amount of slightly discolored water ran from the blow-off valve. The water then ran clear about 20 seconds after opening the valve for about 10 minutes until the blow-off valve was closed. The initial discoloration is not unusual. As explained by Mr. Gutschmidt, who has opened hundreds of blow-off valves, there was not much discoloration upon opening the valve.

Penny Bumbarger, a Water Quality Specialist for Suez, collects water quality samples and does water testing throughout the Suez system. Suez has 50 DEP-approved water sampling locations in the Harrisburg area. As a public water system, Suez is required to test the integrity of its system one hundred times each month at DEP-approved testing sites.

Three of the DEP-approved Harrisburg area testing sites are in close proximity to 203 Knollwood Drive, and include the Lower Paxton Township Building at 425 Prince Street, the Turkey Hill Convenience Store at 5009 Locust Lane and the Locust Lane Pump Station at Locust Lane and Porsche Lane.

Ms. Bumbarger explained the testing protocol. She opens a tap, a water tap, and a cold water faucet at each site. She notes the chlorine residual, collects a water sample for total coliform analysis, collects a water sample for pH analysis and observes any cloudiness/discoloration.

From September 2015 through September 2016, Ms. Bumbarger observed no cloudiness or discoloration at either the Turkey Hill Convenience Store or the Locust Lane Pump

Station. She observed one incident of cloudiness/discoloration at the Lower Paxton Township Building on April 4, 2016.

In regard to Complainant's testimony concerning the water in his basement toilet bowl and basement toilet tank, a toilet bowl or toilet tank is not an appropriate water sampling location. Sediment inside the toilet bowl or toilet tank is not indicative of a dirty water problem.

Judy Jordan is the Mid-Atlantic Customer Service Manager for Suez. Ms. Jordan testified that from and after 2003, Suez has no record of any contact with Complainant concerning dirty water. Meter reading records sponsored by Ms. Jordan as Suez Exhibits Nos. 5 and 6 show that Complainant's water usage varies but, presently, for the three most recent months, is between 4,000 gallons per month and 5,000 gallons per month. Complainant's usage is such that he is using the water supplied to him for his household purposes.

Section 1501 of the Public Utility Code (Code), 66 Pa.C.S. § 1501, requires all public utilities to furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and to make all repairs, changes, improvements, etc., to its service and facilities as shall be necessary or proper for the accommodation, convenience and safety of its patrons, employees, and the public. As defined, in pertinent part, in Section 102 of the Code, 66 Pa.C.S. § 102:

“Service.” Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities...in the performance of their duties under this part to their patrons, employees, other public utilities, and the public....

Complainant alleges that Respondent violated the provisions of 66 Pa.C.S. § 1501 by failing to provide adequate and reasonable utility service. Absent proof by a preponderance of the evidence that Respondent violated the provisions of 66 Pa.C.S. § 1501, the Commission has no authority to require any action by Respondent. *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 478 A.2d 947 (Pa.Cmwlth. 1984).

In determining whether Respondent has violated the provisions of 66 Pa.C.S. § 1501, it must be understood that what is required is adequate, efficient, safe, and reasonable service and facilities, not “perfect service.” *Manuel A. Biason v. Metropolitan Edison Company*, PUC Docket No. C-00004450 (Opinion and Order entered December 19, 2001). Likewise, service must only be reasonably continuous and without unreasonable interruptions or delay. The Code does not mandate perfect service nor must a public utility provide the best possible service. Most certainly, a public utility is not a guarantor of either perfect service or the best possible service. *Re Metropolitan Edison Company*, 80 Pa. PUC 662 (November 19, 1993).

In his first complaint, Mr. Schell averred, at some unspecified time, prior to the filing of the first complaint on May 26, 2016, he received dirty water from Respondent. Complainant testified he saw the dirty water in his unused basement toilet. Respondent conducted an investigation and determined that from September of 2015 through September of 2016, there were no incidences of water cloudiness or discoloration at the three testing sites near the service location, with the exception of one such incident on April 4, 2016. In addition, Complainant’s customer-owned service lines are old and likely corroded. No other report of dirty water was received by Respondent in the area of the service location or from Complainant’s neighbor who is served by the same line as Complainant.

Even if Complainant had established the existence of dirty water in the basement toilet of the service location, no evidence was presented that the dirty water was provided by Respondent. To the contrary, if any dirty water even existed, it was likely from the Complainant’s service lines or the toilet itself. No evidence was presented that dirty water existed in the kitchen sink or any other area of the residence. The evidence presented by Complainant is not sufficient to support a finding that Respondent provided inadequate, inefficient, unsafe, or unreasonable service and facilities. Mr. Schell failed to establish a *prima facie* case.

Complainant failed to prove any violation of Commission Regulations or the Public Utility Code. Accordingly, his amended first complaint filed at C-2016-2551544 will be denied.

In his second complaint, Mr. Schell alleges that Suez has not read his meter since September of 1999. Complainant testified that his household is comprised of himself, his wife and his son. His other son and his other son's girlfriend also resided at the service address until approximately February of 2016. Since April of 2016, Complainant's billed water usage has gone down from \$57.00 a month to \$47.00 a month.

Although Complainant checked the box on the complaint form alleging that he has been incorrectly charged, Complainant did not identify any incorrect charges that have been billed or any explanation for this allegation.

Monica Poziemski (Ms. Poziemski) is a Field Customer Service Technician with Suez. Ms. Poziemski has 29 years' experience in that position. She explained that the meter presently in place in the meter pit at 203 Knollwood Drive uses automatic meter reading technology. It is not a remote meter reading device.

Commission Regulations at 52 Pa. Code Section 56.2 address and define AMR technology explaining that meter readings by an AMR "shall be deemed to be actual meter readings" as follows:

*AMR—Automatic meter reading—*

- (i) Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes.
- (ii) The term does not include remote meter reading devices as defined by this section.
- (iii) Meter readings by an AMR shall be deemed actual readings for the purposes of this chapter.

Citing 52 Pa. Code Section 56.15(5), Complainant argued that Suez is using a remote meter reading device and, therefore, must obtain an actual meter reading every five years. AMR technology is, however, by definition, not a “remote meter reading device,” as explained in the definitional section of the Commission’s Regulation reproduced above. With AMR technology, Suez has been obtaining, since 1999 (with the old inside meter), and, is continuing to obtain, going forward (with the new outside meter), an actual meter reading every month.

The meter presently in place at the service location was installed in the meter pit on April 12, 2016. Suez obtains an actual meter reading every month for water usage at the service location. Suez reads the meter every month in the meter pit with automatic meter reading technology. The inside meter had been used prior to April 2016 for billing and usage recording purposes but is not presently being used. Like the meter in the meter pit, the inside meter uses automatic meter reading technology. Both before and after April 2016, when the new meter was installed in the meter pit, Suez has been obtaining actual meter readings of Complainant’s water usage every month.

With the exception of February 2014, Suez has obtained an actual meter reading every month, from August 2012 through April 2016, at 203 Knollwood Drive.

No evidence was presented to support Complainant’s allegation that he is not being accurately billed for his water service. There was no evidence presented to support the allegation that there are incorrect charges on Complainant’s bill. Complainant acknowledges past billing of \$57 a month and that his water usage has gone down subsequent to his other son and his girlfriend relocating from the residence.

When a customer alleges a high bill dispute, the *Waldron* Rule applies.

In *Waldron v. Philadelphia Electric Company*, 54 Pa. PUC 98 (1980), the Commission adopted the Michigan Public Service Commission’s (PSC’s) policy announced in *Hallifax v. O & A Electric Co-Op*, Case No. U-5825, May 1979, which stated that, while the accuracy of the meter is an important factor in resolving billing disputes, it is not the sole criterion. The Michigan PSC

stated that it will also consider the following factors: the billing history of the complainant; any change in the number of occupants residing at the household; the potential for energy utilization; and any other relevant facts or circumstances that are brought to light during the complaint proceeding. *Waldron* at 100.

*Charisse M. Bennett v. The Peoples Natural Gas Company, LLC*, Docket No. C-2009-2122979, (Opinion and Order entered September 23, 2010, at page 5).

More recently, in *Thomas v. PECO Energy Company*, Docket No. C-2010-2187197 (Opinion and Order entered November 15, 2011), the Commission reaffirmed its position in *Bennett*, *supra*, when it specified:

[T]he Waldron Rule allows a Complainant to establish a prima facie case in a “high bill” complaint by showing that the disputed bill is abnormally high when compared to prior usage patterns and his or her pattern of usage has not changed *or by providing other relevant evidence showing that the disputed bill is unreasonably high*. In evaluating a “high bill” complaint, the Commission may consider such evidence as the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), *and any other relevant facts or circumstances that come to light during the proceeding*. (Emphasis in original).

With the exception of February 2014, Suez obtained an actual meter reading every month, from August 2012 through April 2016, at the service address. Meter reading records provided by Respondent show that Complainant’s water usage varies but, presently, for the three most recent months, is between 4,000 gallons per month and 5,000 gallons per month. Respondent investigated Mr. Schell’s complaint and found no problem with the meter or billing rendered to Complainant.

Mr. Schell failed to provide any evidence that his bills were abnormally high when compared to any usage patterns. Complainant provided no evidence that his consumption decreased at any time. In addition, no evidence was presented by Complainant indicating any specific increase or decrease in Complainant’s water bills. The household size decreased in

approximately February of 2016, and since approximately April of 2016, Complainant's usage has decreased from approximately \$57 to \$47 per month.

Complainant provided no credible evidence to support his conclusion that the billed water usage at the service location from 1999 to the present was not correct as rendered. Similarly, Complainant did not present any evidence regarding his usage that would support his claim and did not present any evidence to challenge Respondent's meter readings or bills. Based on the evidence presented, Complainant did not meet the burden of proving Respondent has overcharged him for water service.

Complainant failed to establish a *prima facie* case of any violation of Commission Regulations or the Public Utility Code and accordingly, his second complaint filed at C-2016-2558244 will be denied.

Docket No. C-2016-2559741 – August 3, 2016 Main Break

On August 3, 2016, Suez experienced an unscheduled main break and service outage that affected over 16,000 customers in its Harrisburg area service territory.

The Commission Policy Statement concerning Unscheduled Water Service Interruptions and Associated Actions provides guidelines for public notification in the event of an unscheduled interruption of water service. The Policy Statement identifies several acceptable methods of public notification which should be considered and utilized by the utility, as appropriate. The first three of the acceptable methods are as follows:

- (1) *Mass media.* Facsimile/electronic mail notification to local radio and television stations, cable systems, newspapers and other print and news media as soon as possible after the event occurs. These notifications must provide relevant information about the event, such as the affected locations, its potential impact including the possible duration of the outage, the possible adverse health effects and the population or subpopulation particularly at risk, and a description of actions affected ratepayers/occupants should take to ensure their safety, with updates as often as needed. Updates should be provided on a predictable, regular schedule for the duration of the event. The Commission's Office of

Communications and Lead Emergency Preparedness Liaison Officer should also receive these notifications.

(2) *Web site.* Use of the utility's own Internet web site and 24/7 emergency phone line and integrated voice response system to provide relevant information about the event, such as the affected locations, estimated duration, its potential impact including possible adverse health effects and the population or subpopulation particularly at risk, and a description of actions affected ratepayers/occupants should take to ensure their safety, with updates as often as needed. A section of the utility's web site shall be dedicated to presenting outage information where regular updates of the number of customers without service by geographic area and estimated restoration times are available. Depending on the utility's system limitations, this could be as simple as a PDF or spreadsheet file of information that is updated at regular intervals.

(3) *Automated dialer system.* Automated dialer system (outbound dialing) notification to affected ratepayers'/occupants' landline or wireless phones. Updates should be provided at regular intervals or if the estimated restoration time changes by more than 2 hours.

52 Pa.Code § 69.1602

Complainant alleges that he had no water on August 3, 2016 and received no notice that he would be without water. Complainant testified that he received a call to boil water on either August 3 or August 4. Suez became aware of the unexpected break at approximately 6:00 a.m. on August 3. It restored service by 9:00 a.m. that same day.

Suez provided notices of the main break and boil water advisory through television, radio and social media, including Facebook and Twitter, as well as the Company's website. Suez also provided notice of the boil water advisory through its rapid alert telephone notice program.

The rapid alert call to Complainant was made at 10:18 on August 3, 2016. The call was answered.

Suez utilized each of these acceptable methods to provide public notification to its customers of the main break and the boil water advisory. Notification was promptly provided

upon the discovery of the break. Affected areas were identified and notice was provided. A boil water advisory notice was also provided and updates were issued throughout the relevant period.

In addition, Complainant received actual notice of the main break and Complainant's wife was aware of the notice published by the media and she advised him of the situation the day it occurred. Complainant also received an auto dialer call of the boil water advisory and Suez records show that the call was answered.

No prior notice of the interruption in service was provided to Complainant because of the emergency nature of the interruption.

As stated above, absent proof by a preponderance of the evidence that Respondent violated the provisions of 66 Pa.C.S. § 1501, the Commission has no authority to require any action by Respondent. *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 478 A.2d 947 (Pa.Cmwlth. 1984).

The evidence presented by Complainant is not sufficient to support a finding that Respondent provided inadequate, inefficient, unsafe, or unreasonable service and facilities. Mr. Schell failed to establish a *prima facie* case. Complainant presented no credible evidence or authority to establish, under the circumstances, that the emergency interruption of service experienced by him or the customer service provided in addressing the outages constituted inadequate, inefficient, unsafe, or unreasonable service.

In *Elkin v. Bell Telephone Company*, 372 A.2d 1203 (Pa.Super. 1977), the Pennsylvania Superior Court explained that the duty is upon the Commission to determine, on the basis of the facts and circumstances indicated by the substantial evidence, whether the service provided was reasonable and adequate. Therefore, a case-by-case analysis must be made with regard to the notice provided by Respondent in this instance.

Furthermore, the evidence in this proceeding indicates that the actions of Suez were reasonable and appropriate and consistent with the service standards in Section 1501 of the

Public Utility Code and the Commission's Policy Statement. Complainant failed to prove any violation of Commission Regulations or the Public Utility Code. His third complaint filed at C-2016-2559741 will be denied.

Docket No. C-2016-2563040 – Impact of Heavy Truck Traffic on Outside Meter

In his fourth complaint, Mr. Schell alleges that the meter in the outdoor meter pit is affected by heavy truck traffic. Complainant alleges that, on an unspecified date, he opened the meter box and lifted the lid on the meter. He stated that he observed the meter go to zero when a FedEx truck went by. According to Complainant, the reading display then showed additional water usage that was not used.

Monica Poziemski, an experienced Field Customer Service Technician with Suez, went to Complainant's house on September 8, 2016 and showed Complainant how the outside meter works. Ms. Poziemski opened the lid to the meter, observed the meter go through the test mode, and it came back to Complainant's meter reading. Two large trucks came down the road while Ms. Poziemski was at the property. The meter did not advance. There was no indication that the meter in the meter pit was reacting to heavy truck traffic.

Complainant is concerned that the meter in the outdoor meter pit is affected by heavy truck traffic. His concern is unfounded. The evidence suggests that the meter is operating properly.

Respondent's metering of Complainant's residence is reasonable and appropriate and consistent with the service standards in Section 1501 of the Public Utility Code. Complainant failed to prove any violation of Commission Regulations or the Public Utility Code. Accordingly, his fourth complaint filed at C-2016-2563040 will be denied.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this dispute. 66 Pa.C.S. § 701.

2. As the proponent of a rule or order, Complainant has the burden of proof in each of his complaint proceedings. 66 Pa.C.S. § 332(a).

3. Complainant has the duty to establish facts by a preponderance of the evidence. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.Cmwlth. 1990).

4. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. 2 Pa. C.S. § 704; *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa.Cmwlth. 1993).

5. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Commonwealth, Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa.Cmwlth. 1984).

6. Complainant has not met his burden of proof in any one of his four complaint proceedings.

7. Complainant has failed to demonstrate by a preponderance of the evidence that he is experiencing any reliability, safety or quality problems with his water service.

8. Complainant has failed to demonstrate by a preponderance of the evidence that there are incorrect charges on his water bill.

9. Complainant has failed to demonstrate by a preponderance of the evidence that there are any deficiencies in the metering of his water service.

10. Complainant failed to meet his burden of proving that Respondent violated the Public Utility Code, a Commission regulation or a Commission order. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaints of Ross E. Schell against Suez Water Pennsylvania Inc. filed at Docket Nos. C-2016-2551544, C-2016-2558244, C-2016-2559741 and C-2016-2563040 are denied.

2. That the Secretary's Bureau shall mark Docket Nos. C-2016-2551544, C 2016-2558244, C-2016-2559741 and C-2016-2563040 closed.

Date: January 31, 2017

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/s/  
Jeffrey A. Watson  
Administrative Law Judge