



September 4, 2018

Jonathan P. Nase

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

Re: In re: Application of SUEZ Water Pennsylvania Inc. under Section 1102(a) of the Pennsylvania Public Utility Code, 66 Pa C.S. § 1102(a), for approval of (1) the transfer, by sale, of substantially all of the Township of Mahoning's assets, properties and rights related to its wastewater collection and conveyance system to SUEZ Water Pennsylvania Inc., and (2) the rights of SUEZ Water Pennsylvania Inc. to begin to offer or furnish wastewater collection and conveyance service to the public in portions of the Townships; Docket No. A-2018-3003517

In re: Application of SUEZ Water Pennsylvania Inc. under Section 1102(a) of the Pennsylvania Public Utility Code, 66 Pa C.S. § 1102(a), for approval of (1) the transfer, by sale, of substantially all of the Township of Mahoning's assets, properties and rights related to its water distribution system to SUEZ Water Pennsylvania Inc., and (2) the rights of SUEZ Water Pennsylvania Inc. to begin to offer or furnish water distribution service to the public in portions of the Townships of Mahoning, Cooper and Valley, Montour County, Pennsylvania; Docket No. A-2018-3003519; SUEZ WATER PENNSYLVANIA INC. PREHEARING MEMORANDUM

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Prehearing Memorandum of SUEZ Water Pennsylvania Inc. A copy of this document has been served in accordance with the attached Certificate of Service.

Please contact me if you have any questions regarding this filing. Thank you.

Sincerely,

COZEN O'CONNOR

By: Jonathan P. Nase
Counsel for SUEZ Water Pennsylvania Inc.

JPN:kmg
Enclosures

cc: Honorable Joel H. Cheskis
Per Certificate of Service
John D. Hollenbach, General Manager and Vice President

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Application of SUEZ Water Pennsylvania Inc. under :
Section 1102(a) of the Pennsylvania Public Utility Code, 66 :
Pa C.S. § 1102(a), for approval of (1) the transfer, by sale, :
of substantially all of the Township of Mahoning's assets, :
properties and rights related to its wastewater collection and : Docket No. A-2018-3003517
conveyance system to SUEZ Water Pennsylvania Inc., and :
(2) the rights of SUEZ Water Pennsylvania Inc. to begin to :
offer or furnish wastewater collection and conveyance :
service to the public in portions of the Townships :

and

In re: Application of SUEZ Water Pennsylvania Inc. under :
Section 1102(a) of the Pennsylvania Public Utility Code, 66 :
Pa C.S. § 1102(a), for approval of (1) the transfer, by sale, :
of substantially all of the Township of Mahoning's assets, :
properties and rights related to its water distribution system : Docket No. A-2018-3003519
to SUEZ Water Pennsylvania Inc., and (2) the rights of :
SUEZ Water Pennsylvania Inc. to begin to offer or furnish :
water distribution service to the public in portions of the :
Townships of Mahoning, Cooper and Valley, Montour :
County, Pennsylvania :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Prehearing Memorandum**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

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Consultant for *Office of Consumer Advocate*


Jonathan P. Nase, Esquire
Counsel for *SUEZ Water Pennsylvania Inc.*

Date: September 4, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS

In re: Application of SUEZ Water Pennsylvania Inc. :
under Section 1102(a) of the Pennsylvania Public :
Utility Code, 66 Pa C.S. § 1102(a), for approval of (1) :
the transfer, by sale, of substantially all of the :
Township of Mahoning’s assets, properties and rights :
related to its water distribution system to SUEZ Water : Docket No. A-2018-3003519
Pennsylvania Inc., and (2) the rights of SUEZ Water :
Pennsylvania Inc. to begin to offer or furnish water :
distribution service to the public in portions of the :
Townships of Mahoning, Cooper and Valley, Montour :
County, Pennsylvania :

and

In re: Application of SUEZ Water Pennsylvania Inc. :
under Section 1102(a) of the Pennsylvania Public :
Utility Code, 66 Pa C.S. § 1102(a), for approval of (1) :
the transfer, by sale, of substantially all of the :
Township of Mahoning’s assets, properties and rights :
related to its wastewater collection and conveyance : Docket No. A-2018-3003517
system to SUEZ Water Pennsylvania Inc., and (2) the :
rights of SUEZ Water Pennsylvania Inc. to begin to :
offer or furnish wastewater collection and conveyance :
service to the public in portions of the Townships :

**PREHEARING CONFERENCE MEMORANDUM
OF SUEZ WATER PENNSYLVANIA INC.**

AND NOW COMES SUEZ Water Pennsylvania Inc. (“SWPA”), by and through its
counsel, Cozen O’Connor, pursuant to 52 Pa. Code § 5.222(d) and in compliance with the
Prehearing Conference Order of the Honorable Administrative Law Judge Joel H. Cheskis (the

“Administrative Law Judge” or “ALJ”), dated August 20, 2018, to file this Prehearing Conference Memorandum in the above-captioned matter. In support thereof, SWPA states as follows:

I. INTRODUCTION AND PROCEDURAL HISTORY

On July 20, 2018, SWPA filed an application pursuant to Sections 507, 1102 and 1329 of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. §§ 507, 1102 and 1329, to acquire the water distribution system (“Water System”) currently owned by the Township of Mahoning, Montour County, Pennsylvania (“Mahoning”). This filing was assigned Docket Number A-2018-3003519. This application was accepted by the Commission by Secretarial Letter dated August 8, 2018.

Also on July 20, 2018, SWPA filed an application pursuant to Sections 507, 1102 and 1329 of the Code, 66 Pa. C.S. §§ 507, 1102 and 1329, to acquire the wastewater collection and conveyance system (“Wastewater System”)¹ currently owned by Mahoning. This filing was assigned Docket Number A-2018-3003517. This application was accepted by the Commission by Secretarial Letter dated August 8, 2018.

The Office of Consumer Advocate (“OCA”) filed a Protest and Public Statement concerning each of the above-described applications on August 10, 2018. On August 13, 2018, counsel for the Commission’s Bureau of Investigation and Enforcement (“I&E”) filed their Notice of Appearance in each proceeding.

On August 13, 2018, SWPA filed a Motion to Consolidate the two applications described above. This Motion remains pending as of this date.

On August 20, 2018, SWPA, the OCA, I&E and Mahoning filed a Stipulation Regarding Discovery Rule Modifications. Also on August 20, 2018, SWPA, the OCA, I&E and Mahoning

¹ The Water System and the Wastewater System are referred to collectively herein as the “Systems.”

filed a Stipulation of the Parties Regarding Objections and Preservation of Issues. SWPA filed a Motion for Protective Order on August 21, 2018. This Motion remains pending at this time.

On August 31, 2018, the Township of Mahoning filed a Petition to Intervene.

The Commission notified the parties that an In-Person Prehearing Conference would be held on September 6, 2018. On August 20, 2018, the ALJ issued a Prehearing Conference Order.

II. COUNSEL

Counsel for SWPA are:

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Jonathan P. Nase, Esq. (PA ID 44003)
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jnase@cozen.com

III. SERVICE OF DOCUMENTS

SWPA's attorneys are authorized to accept service on behalf of SWPA in this proceeding. SWPA requests that hard copies of documents be served on Attorney Zambito at the address listed above. SWPA agrees to receive service of documents electronically in this proceeding.

IV. ISSUES

This case involves 66 Pa. C.S. §§ 507, 1102 and 1329. As the Commission has interpreted those sections in several recent decisions, including but not limited to *Application of Pennsylvania-American Water Company Wastewater for the Acquisition of the Wastewater Assets of The Municipal Authority of the City of McKeesport*, Docket No. A-2017-2606103 (Final Order entered October 26, 2017), the legal issues are well defined.

A. Satisfaction of Section 1102 Standards

SWPA submits that the proposed transaction is necessary or proper for the service, accommodation, convenience or safety of the public. SWPA submits that the transaction provides substantial affirmative public benefits and that SWPA, as an existing public utility, is presumed to possess the legal, financial, and technical fitness to own and operate the Systems. Indeed, SWPA is one of the largest investor-owned water and wastewater service providers in the Commonwealth and has existing operations in the proximity of the Systems. The transaction will promote the Commission's goal of regionalization and consolidation, and the purchase price is reasonable in light of the appraisals that have been performed by the Utility Valuation Experts (singularly, "UVE" or, collectively, "UVEs"). Commission approval of the transaction will open the possibility of further consolidation and regionalization of water and wastewater services in Central Pennsylvania.

B. Scope of Section 1329 Proceedings

The parties have competing views regarding the proper scope of Section 1329 proceedings, including the proper scope of discovery and the Commission's scope and standard of review. However, in order to streamline the litigation of this matter, SWPA, OCA, I&E and Mahoning have entered into a Stipulation of the Parties Regarding Objections and Preservation of Issues.

C. Satisfaction of Section 1329 Standards

SWPA submits that it has complied with all of the requirements of Section 1329. The negotiated purchase price for both Systems combined is \$9,500,000. SWPA has allocated \$4,734,800 of the negotiated purchase price to the Water System and \$4,765,200 of the negotiated purchase price to the Wastewater System. The basis for that allocation is as follows: Gannett Fleming Rate and Valuation Consultants, LLC ("Gannett Fleming") valued the Water System at \$5,688,000 (rounded) and the Wastewater System at \$5,414,200 (rounded), for a total value for

both Systems of \$11,102,000.² ScottMadden, Inc. (“ScottMadden”) found that the Water System was valued at \$5,384,879 and the Wastewater System was valued at \$5,731,341 for a total value of both Systems of \$11,116,220. The average of these two valuations was a total of \$11,109,110 for both Systems, with the Water System valued at an average of \$5,536,440 (or 49.84% of the total value of both Systems) and the Wastewater System was valued at an average of \$5,572,770 (or 50.16% of the total value of both Systems). The negotiated purchase price was allocated based on those same percentages; 49.84% of the purchase price was allocated to the Water System and 50.16% of the purchase price was allocated to the Wastewater System. Accordingly, the allocated purchase price of \$4,734,800 for the Water System and \$4,765,200 for the Wastewater System is the fair market value for ratemaking purposes under Section 1329 (*i.e.* the lower of the negotiated purchase price and the average of the UVEs’ appraisals).

The Asset Purchase Agreement between SWPA and Mahoning (“APA”) does not contain a “rate stabilization plan” as defined by Section 1329. As permitted by Section 1329, SWPA has petitioned, as part of the instant filing, for approval to implement a Distribution System Improvement Charge with respect to water customers in the applied-for service territory. SWPA has also, in accordance with Section 1329, petitioned for approval to accrue and defer certain post-acquisition improvement costs associated with the provision of water and wastewater service in the applied-for territory.

D. Certificates of Filing or Approvals for Section 507 Agreements

Section 507 of the Code, 66 Pa. C.S. § 507, requires SWPA to file an agreement between itself and a municipal corporation with the Commission. SWPA seeks either Certificates of Filing or approvals of the APA and the agreements with municipal corporations that it will be assuming as a result of the transaction.

² Gannett Fleming valued the Water System and the Wastewater System independently. Additionally, the Water and Wastewater Systems were valued together at \$11,046,000 (rounded).

V. WITNESSES

SWPA expects to call the following witnesses and provide their testimony in written question and answer form:

John D. Hollenbach

Mr. Hollenbach is the General Manager and Vice President of SWPA. His business address is 4211 East Park Circle, Harrisburg, PA 17111. His business phone number is (717) 901-6325. Mr. Hollenbach will: describe the applications; describe SWPA and the Systems; describe the transaction by which SWPA is acquiring the Systems; explain why the Transaction is in the public interest; explain SWPA's legal, financial and technical fitness to own and operate the Systems; describe the service territory SWPA is requesting; and describe several municipal contracts that SWPA seeks to assume as part of the transaction.

Michael Watkin

Mr. Watkin is the Director of Finance of SWPA. His business address is 4211 East Park Circle, Harrisburg, PA 17111. His business phone number is (717) 901-6333. Mr. Watkin will: address the financial fitness of SWPA to acquire and operate the Systems and discuss the rates that SWPA will charge the customers of the Systems after closing.

Harold Walker, III

Mr. Walker is Manager, Financial Studies with Gannett Fleming. His business address is P.O. Box 80794, Valley Forge, Pennsylvania 19484-0794. His business phone number is (610) 650-8101 (extension 7243). Mr. Walker will: discuss the qualifications of Gannett Fleming as a

UVE and describe the fair market value appraisal of the Systems that he and his team completed on behalf of SWPA.

SWPA reserves the right to call additional witnesses and present testimony on additional issues that may arise during the course of the proceeding.

V. DISCOVERY

On August 20, 2018, SWPA filed a Stipulation Regarding Discovery Rule Modifications, in which SWPA, I&E, OCA and Mahoning agreed to the following modifications of the discovery rules:

- a. Answers to written interrogatories shall be served in-hand within five (5) calendar days of service.
- b. Objections to interrogatories shall be communicated orally within two (2) calendar days and in writing within three (3) calendar days of service of the interrogatories.
- c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within two (2) calendar days of service of the written objections.
- d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within two (2) calendar days of service of such motions.
- e. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within five (5) calendar days.
- f. Requests for admissions will be deemed admitted unless answered or denied within three (3) calendar days of service.
- g. Discovery and all discovery-related pleadings, such as objections, motions, or answers, served after 12:00 noon on a Friday or after 12:00 noon the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

h. The parties are directed to make every reasonable effort to comply with the discovery response times set forth in this agreement. In those instances when compliance is not possible, despite a party's best efforts, the responding party shall so advise and the parties shall work together to address the requests and responses on a timely basis.

i. These discovery rule modifications are for the limited purpose of this proceeding and should not be viewed as binding, or otherwise limiting, upon positions taken by the parties in any other proceeding.

In addition, in order to expedite discovery, on August 20, 2018, counsel for SWPA filed a stipulation signed on behalf of SWPA, OCA, I&E, and Mahoning regarding objections and the preservation of issues, so that the parties will preserve arguments raised in prior Section 1329 cases, without unduly delaying discovery in this proceeding.

SWPA has already responded to discovery from OCA, has provided discovery responses on an informal basis, and has offered to conduct informal discovery sessions with the parties. In addition, SWPA responded to extensive data requests from the Commission's Bureau of Technical Utility Services that were issued prior to referral of the case to the Office of Administrative Law Judge.

VI. PROTECTIVE ORDER

On August 21, 2018, SWPA filed a Petition for Protective Order, which was unopposed. That Petition remains pending at this time.

VII. PROCEDURAL SCHEDULE

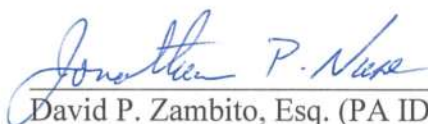
The parties have agreed to the following procedural schedule:

Non-Company Direct Testimony	September 17
Rebuttal Testimony	September 26
Surrebuttal Testimony	October 5
Rejoinder Testimony Outline	October 9
Hearings (With Oral Rejoinder Testimony)	October 11-12
Main Briefs	October 24
Reply Briefs	November 5

VIII. SETTLEMENT DISCUSSIONS

SWPA believes that there is a reasonable possibility of settlement. SWPA is open to and available for settlement discussions with the other parties, and will take the initiative to schedule settlement conferences as soon as reasonably possible.

Respectfully submitted,



David P. Zambito, Esq. (PA ID 80017)

Jonathan P. Nase Esq. (PA ID 44003)

Cozen O'Connor

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Date: September 4, 2018

Counsel for *SUEZ Water Pennsylvania Inc.*