

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

FAX (717) 783-7152
consumer@paoca.org

November 5, 2018

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Application of SUEZ Water Pennsylvania Inc. for the Acquisition of the Township of Mahoning Water and Wastewater System Pursuant to Sections 1102 and 1329 of the Public Utility Code.

Docket Nos. A-2018-3003517 and A-2018-3003519

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Statement in Support of Settlement in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Christine Maloni Hoover".

Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Attachment

cc: Honorable Joel H. Cheskis, ALJ
Certificate of Service

CERTIFICATE OF SERVICE

Application of SUEZ Water Pennsylvania Inc. :
for the Acquisition of the Township of Mahoning : Docket Nos. A-2018-3003517
Water and Wastewater System Pursuant to Sections : A-2018-3003519
1102 and 1329 of the Public Utility Code :

I hereby certify that I have this day served a true copy of the following documents, the Office of Consumer Advocate's Statement in Support of Settlement, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 5th day of November 2018.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Scott Granger, Esquire
Carrie Wright, Esquire
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

David P. Zambito, Esquire
Jonathan P. Nase, Esquire
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101

Ryan M. Tira, Esquire
McNerney Page Vanderlin & Hall
433 Market Street
Williamsport, PA 17701



Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org
*262097

Counsel For:
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of SUEZ Water Pennsylvania Inc. :
for the Acquisition of the Township of Mahoning : Docket Nos. A-2018-3003517
Water and Wastewater System Pursuant to Sections : A-2018-3003519
1102 and 1329 of the Public Utility Code :

OCA STATEMENT IN SUPPORT OF
JOINT PETITION FOR APPROVAL OF SETTLEMENT OF ALL ISSUES

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Approval of Settlement of All Issues (Settlement) respectfully requests that the terms and conditions of the Settlement be approved by the Pennsylvania Public Utility Commission (Commission).

I. INTRODUCTION

On July 20, 2018, Suez Water Pennsylvania (Suez, SWPA, or Company) filed an Application pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Water and Wastewater System Assets of Mahoning Township pursuant to Section 1102(a) of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. § 1102(a), and Section 1329 of the Code, 66 Pa. C.S. § 1329, requesting (among other things) that the Commission issue Certificates of Public Convenience to SWPA for the transfer to SWPA, by sale, of substantially all of the assets, properties and rights of Mahoning, related to (a) Mahoning’s water distribution system and (b) Mahoning’s wastewater collection and conveyance system. The Commission’s Secretary issued a letter dated August 8, 2018, indicating that the Applications were accepted for filing.

On August 10, 2018, the OCA filed a Protest and Public Statement. The Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on August 13, 2018. Also on August 13, 2018, SWPA filed a Motion to Consolidate the Water Application and the Wastewater Application for purposes of hearing and disposition. Notices of the Applications were published in the *Pennsylvania Bulletin* on August 18, 2018. 48 *Pa. Bull.* 5111 (wastewater) and 48 *Pa. Bull.* 5112 (water). Those Notices established the deadline for filing protests and petitions to intervene as September 4, 2018.

On August 20, 2018, the parties filed a Stipulation Regarding Discovery Rule Modifications. Also on August 20, 2018, the parties filed a Stipulation of the Parties Regarding Objections and Preservation of Issues. Counsel for Mahoning filed his Notice of Appearance on August 21, 2018 and a Petition to Intervene for Mahoning Township on August 31, 2018.

A Prehearing Conference was held on September 6, 2018. On September 7, 2018, the ALJ issued a scheduling order which, *inter alia*, granted SWPA's Motion to Consolidate the Water Application and the Wastewater Application, granted Mahoning's Petition to Intervene, and established a litigation schedule.

On September 17, 2018, the OCA filed the Direct Testimony of Ashley E. Everette (OCA Statement 1) and Glenn Watkins (OCA Statement 2). Also on September 17, 2018, I&E filed Direct Testimony of Anthony Spadaccio (I&E Statement 1) and Ethan H. Cline (I&E Statement 2). SWPA and Mahoning Township filed rebuttal testimony of witnesses D'Ascendis, Watkin, and Hollenbach on September 26, 2018. OCA filed surrebuttal testimony of Ms. Everette and Mr. Watkins on October 4, 2018. I&E filed surrebuttal testimony of Mr. Spadaccio and Mr. Cline on October 5, 2018. Evidentiary hearings were scheduled for October 11 and 12, 2018. At the request of the Joint Petitioners, the ALJ cancelled the hearing scheduled for October 11,

2018. On October 11, 2018, the Joint Petitioners advised the ALJ that they had reached an agreement in principle to resolve this proceeding in its entirety. Consequently, the ALJ cancelled the hearing scheduled for October 12, 2018. The ALJ directed the Joint Petitioners to file a petition for settlement and statements in support on or before November 5, 2018.

II. TERMS AND CONDITIONS OF JOINT PETITION FOR SETTLEMENT

The terms of the proposed Settlement address matters raised by the OCA in its testimony: ratemaking rate base, non-dedicated plant, transaction and closing costs, the application of the Distribution System Improvement Charge (DSIC), the rate impact for existing SWPA wastewater customers, existing SWPA water customers and the acquired customers as follows:

Ratemaking Rate Base, Settlement ¶16 As part of this proceeding, SWPA sought to establish the ratemaking rate base for this acquisition pursuant to Section 1329 of the Public Utility Code, 66 Pa. C.S. § 1329. Based on appraisals presented by SWPA and Mahoning Township, SWPA sought a ratemaking rate base of \$9,500,000, which was the price SWPA agreed to pay for the Mahoning wastewater system. The purchase price was then allocated between water and wastewater.

In its testimony the OCA addressed the non-dedicated plant that is included in the proposed rate base. OCA St. 1 at 3-5, 11-12; OCA St. 1S at 5-8. The OCA proposed conditions on Commission approval of the Applications related to the non-dedicated plant. Id. The Settlement provides that the approval of the Applications shall be conditioned upon Mahoning's acceptance of the dedication of all of the developer facilities listed in Appendix C, attached to the Settlement. Settlement, ¶ 16. Closing will not take place until the dedication of **all** of the developer assets listed in Appendix C and SWPA has filed a letter notification at this docket, including a verification and with copy to the Joint Petitioners, that specifically lists the remaining

assets that have been dedicated to the Township and accepted by the Township including the respective dates of dedication for each remaining project. Suez and Mahoning Township acknowledge that, as of the date of execution of the Settlement, Mahoning has accepted the dedication of developer facilities in the dollar amounts identified on Appendix C. SWPA and Mahoning agree that closing will not occur until Mahoning has accepted the dedication of the remaining facilities on Appendix C and the verified letter is provided to the Commission and the parties, as described above.

Tariffs, Settlement ¶ 15

SWPA intends to continue to charge the current Mahoning Township water rates to the Mahoning Township water customers. OCA St. 1 at 6; 66 Pa. C.S. § 1329(d)(v). SWPA does intend to charge monthly rates rather than quarterly rates. OCA St. 1 at 6. Regarding Mahoning Township wastewater customers, SWPA intends to continue to charge the current rates with the change from quarterly to monthly billing as well. OCA St. 1 at 7. The OCA identified issues with the Township's current rates and the proposed rates reflected in the originally proposed tariff. OCA St. 1 at 7-9; OCA St. 1S at 2-5.

The OCA is satisfied that the proposed pro forma tariff supplement attached to the Settlement as Appendix A (water) reflect rates that are the same as the current charges. Regarding the wastewater pro forma tariff (Appendix B to the Settlement), during the course of this proceeding, it became clear that some of the charges would not be able to be duplicated using rates that would be applicable to all customers. The proposed wastewater tariff supplement lists the rates for customers that are billed the higher of the consumption rate and the EDU rate. The proposed wastewater tariff supplement also clearly identifies which customers will be charged using the total current charges. (Tariff Original Page No. 7B). The OCA

submits that this represents a reasonable approach to the issues that it identified with the wastewater tariff.

Rates, Settlement ¶¶ 17-18

As part of its next base rate case, SWPA agrees to provide a separate cost of service study for each of the Systems at the time of the filing of SWPA's next base rate case. If SWPA files a separate rate increase request for Mahoning,¹ it agrees that it will provide separate water and wastewater cost of service studies for the Mahoning Systems.

Distribution System Improvement Charge, Settlement ¶19

The parties to the proposed Settlement agreed that SWPA may apply the water DSIC to customers in the Mahoning Township service area prior to the first base rate case in which the system's water plant in service is incorporated into rate base pursuant to Section 1329(d)(4) if certain conditions are met. In particular, Paragraph 19 states that SWPA will revise its Long Term Infrastructure Improvement Plan (LTIIIP) to include Mahoning Township and related water projects before it begins charging the DSIC to those customers. SWPA agrees that the water projects for Mahoning Township customers are in addition to the projects already included in its approved LTIIIP. This settlement term allows for Mahoning Township customers to begin contributing, up to 7.5% of their total water bill, toward water DSIC-eligible capital projects and helps to ensure that DSIC investment is not shifted away from PAWC's existing water service areas during the amended LTIIIP period.

¹ In the pending SWPA rate case at Docket No. R-2018-3000834, the parties have filed a Joint Petition for Settlement which provides, *inter alia*, that SWPA may propose a rate increase of less than \$1 million to be applied exclusively to customers in the Mahoning service territory in order to move such customers toward the Mahoning system's cost of service. The Joint Petitioners maintain their rights to participate in and contest any ratemaking item or issue relevant to such filing. Mahoning was not a party to the rate case at Docket No. R-2018-3000834 and does not join in this footnote; nor can anything in this Settlement be construed as agreement by Mahoning to any term or condition of the Joint Petition for Settlement at Docket No. R-2018-3000834.

Accrual of Allowance for Funds Used During Construction, Settlement ¶ 20

Joint Petitioners reserve their rights to litigate future claims for accrual of Allowance for Funds Used During Construction (AFUDC) pursuant to Section 1329(f). OCA's assent to this agreement should not be construed to operate as preapproval of SWPA's future requests. This provision preserves all parties' positions in future rate cases.

Deferral of Depreciation for Post-Acquisition Improvements, Settlement ¶ 21

Joint Petitioners reserve their rights to litigate claims in future rate cases that SWPA may make for deferred depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes. This provision preserves all parties' positions in future rate cases.

Transaction and Closing Costs, Settlement ¶ 22

The Applications include requests that SWPA be permitted to claim transaction and closing costs associated with the Transaction. Joint Petitioners reserve their rights to litigate future claims for and transaction costs in future rate cases. OCA's assent to this agreement should not be construed to operate as preapproval of SWPA's future requests. This provision preserves all parties' positions in future rate cases.

Approval of Section 507 Agreements, Settlement ¶ 23

OCA did not join but does not oppose SWPA's request for Certificates of Filing or approvals, for the agreements listed in Paragraph 23, between SWPA and a municipal corporation.

III. CONCLUSION

For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Settlement should be approved.

Respectfully Submitted,



Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: November 5, 2018
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