

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Application of SUEZ Water Pennsylvania Inc, Pursuant to the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1102(a), and 66 Pa. C.S. §1329 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 and its wastewater collection and conveyance systems to SUEZ Water Pennsylvania Inc.

**Public Meeting held December 20, 2018
3003517-ALJ
Docket Nos. A-2018-3003517
A-2018-3003519**

STATEMENT OF CHAIRMAN GLADYS M. BROWN

Pursuant to Section 1329 of the Code, 66 Pa. C.S §1329 (§1329), Suez Water Pennsylvania Inc. (Suez) and the Township of Mahoning filed an application to transfer ownership of Mahoning Township water distribution assets to Suez (Mahoning Proceeding). Presently before the Commission is a Recommended Decision approving a full settlement of the Mahoning Proceeding, joined by all parties of record, without modification.

I wish to highlight the uniquely challenging situation that this proceeding, and the recently approved §1329 application proceeding of Pennsylvania American Water's acquisition of Sadsbury Township's wastewater system (Sadsbury Proceeding), have presented to this Commission.¹

During the pendency of both the Mahoning Proceeding and the Sadsbury Proceeding the Commonwealth Court issued a decision in the §1329 proceeding involving Aqua Pennsylvania's acquisition of New Garden Township² (New Garden Decision). In that decision, the court found that the Commission's requirement for service of the application was inadequate since the proceeding involved substantial property rights.³ In essence, the New Garden Decision requires applicants utilizing §1329 to provide individual notice to all the customers of the purchasing utility, and, all customers of the municipal utility being purchased.

The New Garden notice requirements augment the Commission's original notice requirements in these proceedings. Both applications in the Sadsbury Proceeding and the instant proceeding met the notice requirements at the time of filing. These requirements mandated applicants to publish notice in newspapers of general circulation. Further, these initial notice requirements mandated service of the application on municipal entities whom are part of the

¹ Order entered on October 25, 2018 at Docket No. A-2018-3002437

² *McClosky v. Pa. Public Utility Commission*, 1624 CD 2017 (Oct. 11, 2018)

³ The New Garden proceeding at the Commission was not settled by the participating parties.

selling entities original territory; neighboring municipal water utilities; and the Department of Environmental Protection.⁴

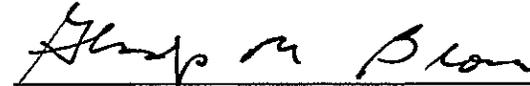
Understanding this background, I focus attention to the existing requirement in §1329 mandating that “[t]he Commission shall issue a final order on an application submitted ... within six months of the filing date....⁵”

This context leads to the dilemma only applicable to the Sadsbury Proceeding and the Mahoning Proceeding – the conflicting requirements of the Commission to meet the mandated statutory six-month timeline while also meeting the newly court mandated notice requirements.

Since the Sadsbury Proceeding and the Mahoning Proceeding are both full settlements, since no entity that is a party to the New Garden Decision and an active party to the instant case or the Sadsbury Proceeding has filed for action to update notice requirements in those unique cases, and, since both of these proceedings did satisfy the legal notice requirements at the time of initial filing, I find adoption of the respective Recommended Decisions reasonable.

I echo that this transitory issue is uniquely germane to the Sadsbury Proceeding and Mahoning Proceeding. All future §1329 proceedings must be compliant with the New Garden Decision.

December 20, 2018
Date


Gladys M. Brown, Chairman

⁴ Implementation of Section 1329 of the Public Utility Code proceeding at M-2016-2543193

⁵ 66 Pa. C.S §1329 (d) (2)