

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of Veolia Environnement S.A.,	:	
Veolia North America, Inc., SUEZ S.A.,	:	A-2021-3026515
SUEZ Water Pennsylvania Inc.	:	A-2021-3026522
and SUEZ Water Bethel Inc. for all approvals	:	A-2021-3026523
pursuant to Sections 1102(a)(3), (4), and 1103	:	
of the Pennsylvania Public Utility Code, and	:	
as otherwise required under the Pennsylvania	:	
Public Utility Code for the change in control of	:	
SUEZ Water Pennsylvania Inc.	:	
and SUEZ Water Bethel Inc.	:	

RECOMMENDED DECISION

Before
Joel H. Cheskis
Deputy Chief Administrative Law Judge

Charece Z. Collins
Administrative Law Judge

INTRODUCTION

This decision recommends that the joint petition for approval of settlement filed in the above-captioned proceeding be approved in its entirety without modification because it is in the public interest, consistent with the Public Utility Code, and supported by substantial evidence. The settlement allows for the transfer of control of two Pennsylvania public utilities to another entity pursuant to a Combination Agreement previously entered into between the parties. The parties have requested that the Commission address the settlement at its Public Meeting no later than December 2, 2021.

HISTORY OF THE PROCEEDING

On June 11, 2021, Veolia Environnement S.A. (Veolia), a French société anonyme (S.A.), Veolia North America, Inc., a Delaware corporation and wholly-owned subsidiary of Veolia (Veolia North America), Suez S.A., a French société anonyme (SUEZ), SUEZ Water Pennsylvania, Inc. (SWPA), a Pennsylvania corporation and SUEZ Water Bethel Inc. (SWB), a Pennsylvania corporation (collectively referred to as “Veolia/SUEZ”) filed with the Pennsylvania Public Utility Commission (Commission) a joint application for all approvals pursuant to Sections 1102(a)(3), (4) and 1103 of the Pennsylvania Public Utility Code, and as otherwise required under the Pennsylvania Public Utility Code, for the change in control of SWPA and SWB (application). In the application, Veolia/SUEZ is seeking Commission approval of Veolia’s acquisition of a majority or all of the outstanding shares of SUEZ in accordance with a Combination Agreement entered into between the entities on May 14, 2021.

On June 15, 2021, the Commission issued Secretarial Letters instructing Veolia/SUEZ to serve copies of the application on each city, borough, town and county in the service area, as well as all water and wastewater utilities, municipal corporations or authorities with service areas abutting the service areas of SWPA and SWB. The Commission also directed that a copy of the application be served on the Pennsylvania Department of Environmental Protection. Notice of the application was published in the *Pennsylvania Bulletin* on June 26, 2021, with a protest and intervention deadline of July 12, 2021. 51 Pa.B. 3580 (June 26, 2021).

On July 12, 2021, the Office of Small Business Advocate (OSBA) filed a notice of intervention, the Coalition for Affordable Utilities Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a petition to intervene, and the Office of Consumer Advocate (OCA) filed a protest. No other protests, interventions or notices of appearances were filed in this proceeding.

Subsequently, Veolia/SUEZ responded to two sets of data requests issued by the Commission’s Bureau of Technical Utility Services, directed questions issued by Commissioner Ralph V. Yanora, and formal and informal discovery issued by the OCA and CAUSE-PA.

Consistent with the Commission's policies promoting settlement, the parties entered into a stipulation addressing and resolving the issues raised by the OCA, OSBA and CAUSE-PA. The stipulation was filed with the Commission on October 13, 2021.

On October 20, 2021, a notice was issued establishing an initial call-in telephonic prehearing conference for this matter for Thursday, October 28, 2021 at 10:00 a.m. and assigning the undersigned as presiding officers.

On October 27, 2021, Veolia/SUEZ, OCA, OSBA and CAUSE-PA filed a joint petition for approval of settlement (settlement). The parties requested approval of the settlement at the earliest possible public meeting and no later than December 2, 2021. Attached to the settlement were the October 13, 2021 stipulation, proposed findings of fact, proposed conclusions of law, proposed ordering paragraphs and statements in support of the settlement filed by Veolia/SUEZ, the OCA, the OSBA and CAUSE-PA.

Also filed on October 27, 2021, was a joint stipulation for the admission of the application and supporting testimony on behalf of Veolia/SUEZ, the OCA, the OSBA and CAUSE-PA. The joint stipulation sought the admission of the application and the following accompanying testimony and exhibits from Veolia/SUEZ:

- Attachment A: SUEZ North America Inc. – Utility Division Organizational Chart
- Attachment B: Veolia Environnement Organizational Chart
- Attachment C: Combination Agreement between Veolia Environnement S.A. and SUEZ S.A.
- Attachment D-1: Corporate Resolutions
- Attachment D-2: Post-Transaction Organization Chart
- Attachment E: Financial Statements of Veolia
- Attachment F: Joint Applicants Statement No. 1 (Direct Testimony of Keith Oldewurtel), including Exhibit KW-1

- Attachment G: Joint Applicants Statement No. 2 (Direct Testimony of John Hollenbach), including Exhibit JDH-1
- Supplemental Testimony Addressing Commissioner Yanora's July 13, 2021 Letter. Joint Applicants Statement 2-S (Supplemental Direct Testimony of John Hollenbach)
- Attachment H: Joint Applicants Statement No. 3 (Direct Testimony of James C. Cagle).

The parties added that the Joint Application was not sponsored by any witness but was signed by counsel and verified by Keith Oldewurtel of Veolia and John D. Hollenbach of SUEZ. The parties agreed to the authenticity of these documents and agreed to waive cross examination of them. No party opposed the admission of the documents into the record of this proceeding. The parties will be directed to submit the requisite number of copies of the documents to the Commission's Secretary's Bureau.

The initial prehearing conference was held on October 28, 2021, as scheduled. Adeolou Bakare, Esquire and Kenneth Stark, Esquire appeared on behalf of Veolia; David Zambito, Esquire appeared on behalf of SUEZ; John Sweet, Esquire appeared on behalf of CAUSE-PA; Erin Gannon, Esquire appeared on behalf of the OCA; and Erin Fure, Esquire appeared on behalf of the OSBA.

During the prehearing conference, no party objected to the petition to intervene filed by CAUSE-PA. Therefore, CAUSE-PA's petition was granted. In addition, a discussion was held regarding the fact that a settlement, along with supporting documents, had already been submitted. Therefore, there was no need for a procedural schedule to be established. All parties agreed to a resolution of all issues. The parties requested that the settlement be addressed as expeditiously as possible.

As a result, this recommended decision recommends that 1) the joint stipulation for the admission of the application and supporting testimony be granted and 2) the settlement be

approved in its entirety without modification because it is in the public interest and supported by substantial evidence.

FINDINGS OF FACT

The following findings of fact regarding the settlement were proposed by the settling parties in the Joint Settlement at Appendix B, and are adopted verbatim herein in their entirety:

1. Veolia Environnement S.A. ("Veolia"), Veolia North America, and SUEZ S.A. ("SUEZ") are experienced in the provision of water and wastewater service across multiple countries. Joint Application at 4, 6; Joint Applicants Statement No. 1 – Direct Testimony of Keith Oldewurtel ("Joint Applicants Statement No. 1") at 7-8, 16; Joint Applicants Statement No. 2 – Direct Testimony of John Hollenbach ("Joint Applicants Statement No. 2") at 22.

2. Through its extensive international expertise owning and operating water, wastewater, and other resource management operations, Veolia has the legal, technical and financial fitness to own and operate the SUEZ Pennsylvania Utilities. Joint Application at 14-17; Joint Applicants Statement No. 1 at 19.

3. On May 14, 2021, Veolia and SUEZ executed a Combination Agreement to establish the terms and conditions of the combination of the two companies. Joint Application at 1.

4. The underlying Transaction is complex, subject to multiple conditions, and requires regulatory approvals in multiple United States and foreign jurisdictions. Joint Application at 6-10, 22-23.

5. Subject to satisfaction of certain conditions precedent and receipt of regulatory approvals, and in order to minimize market volatility, Veolia and SUEZ seek to consummate the Transaction by the end of 2021. Joint Application at 8.

6. The Transaction would result in Veolia being the "beneficial owner of the largest voting interest" in SUEZ. Joint Application at 10.

7. Day-to-day operations and customer service will remain the same before and after the Transaction. Joint Applicants Statement No. 1 at 13.

8. Veolia will continue SUEZ Pennsylvania Utilities' capital plan, including implementing potential improvements to customer service, continued robust access to the financial markets, and continued and enhanced community engagement. Joint Application at 2, 14, 19; Joint Applicants Statement No. 1 at 22.

9. Veolia's experience and expertise will enable the SUEZ Pennsylvania Utilities to further develop technological solutions to satisfy the need for safe and sufficient supplies of water, and to create value and opportunities for its employees, shareholders, and customers. Joint Application at 2, 7, 19; Joint Applicants Statement No. 1 at 19.

10. Veolia, by combining the expertise of both SUEZ and Veolia in water treatment and water storage, will be able to meet future challenges such as the increasing demand for clean water, compliance with stricter regulatory mandates, addressing climate change, finding solutions to the rising costs of water, and responding to threats posed by pandemics such as the continuing COVID-19 pandemic. Joint Application at 6-7; Joint Applicants Statement No. 1 at 16.

11. Veolia has significant experience evaluating technology solutions to improve water clarification and purification, softening, disinfection, purification, and mobile drinking water production systems, which the SUEZ Pennsylvania Utilities can leverage for their water treatment processes. Joint Application at 20.

12. After consummation of the Transaction and for a period of at least three years thereafter, no material changes will be made by Veolia to the management, employees, employee compensation and benefits, property, plant, equipment, or other contract rights and

obligations of the SUEZ Pennsylvania Utilities. Joint Application at 12; Joint Applicants Statement No. 1 at 23; Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 1.

13. Veolia will proceed with planned capital investments and improvements made pursuant to any current or future Commission-approved Long Term Infrastructure Plan. Joint Application at 12; Joint Applicants Statement No. 1 at 14.

14. Veolia will honor all collective bargaining agreements in effect as of the closing of the proposed Transaction through the remaining terms and beyond the expiration dates thereof until new agreements are negotiated. Joint Application at 12; Joint Applicants Statement No. 1 at 14; Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 1.

15. The acquisition of SUEZ's shares will occur at the ultimate parent level and none of the costs related to the proposed Transaction will be passed down to the SUEZ Pennsylvania Utilities or other subsidiaries. Joint Application at 13; Joint Applicants Statement No. 3 – Direct Testimony of James Cagle ("Joint Applicants Statement No. 3") at 8; Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 2(b).

16. Because the only organizational change associated with the Transaction is at the parent company level, the SUEZ Pennsylvania Utilities' workforce levels and community and civic involvement will remain the same post-Transaction. Joint Application at 20.

17. All financial projections between the SUEZ Pennsylvania Utilities and other SUEZ entities currently in place will continue without change. Joint Application at 13, Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 2(c)-(n).

18. No transaction or transition costs associated with the proposed Transaction will be requested for recovery in rates from SUEZ Pennsylvania customers. Joint Application at 13; Joint Applicants Statement No. 1 at 23; Joint Applicants Statement No. 3 at 8; Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 2(b).

19. The SUEZ Pennsylvania Utilities' capital structure will not change as a result of the Transaction. Joint Application at 13.

20. Veolia, Veolia North America, Veolia subsidiaries and affiliates in the Transaction will not pledge or use as collateral, any assets of the SUEZ Pennsylvania Utilities, SUEZ Water Resources ("SWR"), or any of SWR's subsidiaries. Joint Application at 13.

21. Veolia maintains a stable credit outlook of Baa1/Prime-2 from Moody's and BBB/A-2 from Standard and Poor's, has ready access to the financial markets and will be able to support the SUEZ Pennsylvania Utilities' capital and other financial needs. Joint Application at 17; Joint Applicants Statement No. 1 at 5.

22. Any future changes to the SUEZ Pennsylvania Utilities' rates or tariffs will remain subject to Commission review and approval. Joint Application at 13; *see* Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 2(e)-(m).

23. The SUEZ Pennsylvania Utilities will continue to operate as Pennsylvania public utilities subject to the continuing jurisdiction and oversight of the Commission and comply with all applicable Commission rules and regulations. Joint Application at 14.

24. Veolia offers multichannel systems for customers globally and in the United States, such as the Hubgrade Smart Digital Solutions to communicate with Veolia, including service centers, local and mobile branches, web portals, mobile applications for smartphones, and payment and social support platforms. Joint Application at 19; Joint Applicants Statement No. 1 at 21.

25. Veolia's Hubgrade Smart Digital Solutions combines real-time data, advanced analytics, and human expertise to create new opportunities to manage and optimize water systems. Joint Application at 19; Joint Applicants Statement No. 1 at 21.

26. The SUEZ Pennsylvania Utilities and their employees support their local communities in many ways by participating in local community events and fundraisers and serving on the boards of non-profit organizations. Joint Application at 20-21; Joint Applicants Statement at 24; Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 2(b).

27. Veolia will not only continue to provide financial and educational support to its local communities through the SUEZ Pennsylvania Utilities, but further improve upon the level of presence and engagement in Pennsylvania that now exists. Joint Application at 21; Joint Applicants Statement No. 1 at 6; Joint Petition for Settlement, Appendix A (Stipulation) at ¶¶ 3, 8.

28. Many SUEZ customers experienced a significant financial toll due to the COVID-19 pandemic, with some experiencing high arrearages and greater risk of service termination. Joint Application at 21.

29. Disadvantaged communities and low-income residents have been particularly impacted by the COVID-19 pandemic. Joint Application at 21.

30. Cost burdens on low-income customers in particular are increasing due in part to the COVID-19 pandemic. Joint Application at 22.

31. The SUEZ Pennsylvania Utilities' low-income programming currently consists of the SUEZ CARES program, which provides grant assistance to low-income customers or customers that experience a temporary financial crisis. Joint Applicants Statement No. 2 at 15.

32. The SUEZ Pennsylvania Utilities will establish a Low-Income Advisory Committee and utilize input from the committee to develop improvements to its low-income programs, which they will propose in their next base rate case. This future proposal will include bill discount, arrearage management, service line repair/conservation, and hardship grant components. Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 3.

33. Veolia will provide financial support to reduce arrearages caused by the COVID-19 pandemic by having its shareholders contribute an amount equal to 30% of residential and commercial arrears that are more than 60 days overdue. Joint Application at 21; Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 5.

34. Veolia will contribute additional funding in light of the hardships imposed by COVID-19 to low-income customers, and to help improve the ability of low-income customers to connect and maintain safe service to their home. Joint Application at 21; Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 3.

35. The SUEZ Pennsylvania Utilities agree to continue their community presence by maintaining their administrative office in the service territory. Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 1(c).

36. Veolia will adequately fund and maintain the SUEZ Pennsylvania Utilities' treatment, transmission, and distribution and collection systems and supply the needs of SUEZ Pennsylvania Utilities' customers, consistent with the Commission's water quality, pressure, and quality of service standards. Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 7(a).

37. No changes will be made to the SUEZ Pennsylvania Utilities' affiliate interest agreement with SUEZ Water Management and Services Inc. or other affiliate interest agreements as a result of the Transaction. Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 6.

38. All existing ring-fencing measures will remain in place for at least two years from the consummation of the Transaction. Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 10(a), Attachment A (ring-fencing measures in place for SUEZ Pennsylvania Utilities).

39. Long-term debt financial covenants for SUEZ Water Resources which contribute to the existing ring-fencing of SUEZ Water Resources will remain in place for at least four years following the consummation of the Transaction. Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 10(d).

40. Except as modified and enhanced by the Settlement in this proceeding, Veolia and SUEZ will adhere to all the commitments expressed in the Joint Application. Joint Petition for Settlement, Appendix A (Stipulation) at ¶ 11.

DISCUSSION

1. Legal Standard

Section 1102(a) of the Public Utility Code, 66 Pa. C.S. § 1102(a), permits a public utility to undertake certain actions only upon Commission approval evidenced by a certificate of public convenience. Among the activities that require Commission approval is the following:

(3) For any public utility or an affiliated interest of a public utility . . . to acquire from, or to transfer to, any person or corporation . . . by any method or device whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service....

66 Pa. C.S. § 1102(a)(3). When a certificate of public convenience is required under Section 1102, pursuant to Section 1103(a) of the Public Utility Code, 66 Pa. C.S. § 1103(a), the Commission may issue the certificate only upon a finding or determination that the granting of such certificate is “necessary or proper for the service, accommodation, convenience, or safety of the public.” In addition, Section 1103(a) allows the Commission to impose upon its issuance of a certificate of public convenience “such conditions as it may deem to be just and reasonable.” 66 Pa. C.S. § 1103(a).

In general, the Pennsylvania Supreme Court has determined that satisfying this standard requires the Commission to find that a proposed transaction would “affirmatively promote the service, accommodation, convenience or safety of the public in some substantial way.” *City of York v. Pa. Pub. Util. Comm’n*, 295 A.2d 825, 828 (Pa. 1972) (*York*); *see also*, *Popowsky v. Pa. Pub. Util. Comm’n*, 937 A.2d 1040, 1057 (Pa. 2007) (*Popowsky*) (when addressing the issue of affirmative public benefits “the appropriate legal framework requires a reviewing court to determine whether substantial evidence supports the Commission's finding that a merger will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way”).

Additionally, pursuant to Section 1103 of the Code, the applicants must show that they are technically, legally, and financially fit to own and operate the assets it will acquire from the Authority. *Seaboard Tank Lines v. Pa. Pub. Util. Comm’n*, 502 A. 2d 762, (Pa. Cmwlth. 1985)(*Seaboard*); *Warminster Twp. Mun. Auth. v. Pa. Pub. Util. Comm’n*, 138 A.2d 240, (Pa. Super. 1958).

In this case, the parties submitted a settlement of all issues. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters. *Pa. Pub. Util. Comm’n v. City of Lancaster – Bureau of Water*, Docket No. R-2010-2179103 (Opinion and Order entered July 14, 2011) (*Lancaster*). Instead, the benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. *Id.*, citing, *Warner v. GTE N., Inc.*, Docket No. C-00902815 (Opinion and Order entered April 1, 1996) (*Warner*); *Pa. Pub. Util. Comm’n v. CS Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991). In addition, the Commission has held that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Pa. Pub. Util. Comm’n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).

Finally, on appeal, the decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); and *Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth.1984).

2. Settlement

In the settlement, the parties agreed to resolve all outstanding issues. The relevant terms of the settlement are verbatim as follows, with the original paragraph numbering provided in the settlement:

1. Operational Stability.

a. For three years following consummation of the Transaction, the Joint Applicants¹ [footnotes original] will (i) not permit a net reduction due to involuntary attrition related to the Transaction in the employment levels at SWPA or SWB; and (ii) provide current employees of the SUEZ Pennsylvania Utilities with compensation and benefits that are at least as favorable in the aggregate as the compensation and benefits currently in place for those employees. In the event changes in management occur, key positions (V.P., Director/Manager of Operations, Finance, Customer Service, Water Quality, EH&S, and Public Relations) will be filled with qualified applicants consistent with the current job descriptions and duties for those positions.

b. The collective bargaining agreements with the unionized work force that are currently in effect will be honored in full by the Joint Applicants through the

¹ Please note that post-closing of the Transaction, SUEZ will cease to exist in its current form. Therefore, any obligations of the Joint Applicants herein that are scheduled to occur post-closing will be obligations of Veolia, Veolia North America, and the SUEZ Pennsylvania Utilities only.

remaining terms and beyond the expiration dates until new agreements are negotiated.

c. The SUEZ Pennsylvania Utilities agree to continue their community presence by maintaining their administrative office in the service territory.

2. Rate Stability.

a. The SUEZ Pennsylvania Utilities will not file a general base rate increase pursuant to 66 Pa C.S. § 1308(d) before January 1, 2023, or no sooner than 12 months after the Transaction is consummated, whichever is later.²

b. The Joint Applicants will not seek recovery of any Transaction or transition costs directly associated with the Transaction, including costs related to brokers' fees, insurance, consulting or advisory costs, accounting fees, or legal fees from SUEZ Pennsylvania Utilities' customers.

c. The Joint Applicants will not seek recovery from SUEZ Pennsylvania Utilities' customers of any termination fees incurred if the Transaction is not consummated.

d. The Joint Applicants will ensure that the Transaction closing will not affect ratemaking treatments of the SUEZ Pennsylvania Utilities' Accumulated Deferred Income Taxes ("ADIT"), including excess deferred income taxes, accumulated deferred tax credits and net operating losses. The Joint Applicants commit that no tax election will be employed as a result of this Transaction that would result in a reduction of the pre-closing SUEZ Pennsylvania Utilities' ADIT liability balances.

e. The Joint Applicants will ensure any accounting treatments associated with the Transaction accounting do not affect rates charged to the SUEZ Pennsylvania Utilities' customers and, more generally, agree that there will be no impact from the Transaction on the SUEZ Pennsylvania Utilities' books of account.

² Changes to the SUEZ Pennsylvania Utilities' distribution system improvement charge, purchased water adjustment clause and state tax adjustment surcharge are not included in this moratorium.

- f. The SUEZ Pennsylvania Utilities will not do the following without Commission authorization:³
- i. Guarantee the debt or credit instruments of any parent or affiliate;
 - ii. Mortgage utility assets on behalf of any parent or affiliate; and
 - iii. Loan money or otherwise extend credit to any parent or affiliate.
- g. The cost of capital used in establishing all water and wastewater rates for the SUEZ Pennsylvania Utilities shall not reflect any risk adjustment associated with its corporate parents or any affiliate not regulated by the Commission.
- h. If equity/debt ratios were to change such that the average long term debt for a calendar year were to comprise more than 55% of the capital structure, the SUEZ Pennsylvania Utilities will report the change to the Commission and to OCA, OSBA, the Commission's Bureau of Investigation & Enforcement (I&E) (collectively, the "Public Advocates").
- i. The existing dividend restriction for the SUEZ Pennsylvania Utilities of below 85% of net income will be maintained or strengthened. The Commission and the Public Advocates be notified if the dividend is to meet or exceed the restriction, prior to the dividend being issued.
- j. For a period of three years commencing on the date of the Commission Order approving the Proposed Transaction, the SUEZ Pennsylvania Utilities will report to the Commission any downgrading of the bonds of SUEZ Water Resources LLC ("SWR") within 30 days of the public notification of such downgrading and, where available, will provide an English language copy of the report of the rating agency relating to the downgrading. The report will state the reason for the downgrade and remedial actions intended to strengthen credit ratings.
- k. No goodwill will be recorded on the books of the SUEZ Pennsylvania Utilities as a result of the Transaction.

³ This provision does not restrict the SUEZ Pennsylvania Utilities with regard to transactions governed by the Commission-approved Money Pool Agreement.

l. No equity or debt issued to finance goodwill will be included in ratemaking capital structure of the SUEZ Pennsylvania Utilities.

m. Any goodwill resulting from this transaction will be permanently excluded from rate base of the SUEZ Pennsylvania Utilities in establishing future rates subject to the Commission's jurisdiction and also will be excluded from the SUEZ Pennsylvania Utilities' capital structures for ratemaking purposes.

n. No costs or expenses for operating Veolia's Nuclear Solutions Business Unit or its operations in Europe, Africa, Asia, Australia or South America, including but not limited to Argentina, will be passed down to the SUEZ Pennsylvania Utilities.

3. Low Income Programming.

a. Within 90 days of consummation of the Transaction, the SUEZ Pennsylvania Utilities shall establish a Low Income Advisory Committee ("LIAC").

i. The LIAC shall meet at least twice annually until the SUEZ Pennsylvania Utilities' next base rate cases. The frequency of subsequent LIAC meetings will be determined in SUEZ Pennsylvania Utilities' next rate case, but shall not be less than at least one meeting annually.

ii. Membership of the LIAC shall include interested parties to this proceeding (the Joint Applicants, OCA, CAUSE-PA, and the OSBA), as well as interested representatives from the Bureau of Consumer Services and I&E ("LIAC Members"). The other LIAC Members will assist the SUEZ Pennsylvania Utilities in identifying community-based organizations, social service providers serving low-income customers and other vulnerable groups, and other interested parties in SUEZ Pennsylvania Utilities' service territories. Subject to the consent of each LIAC Member, which shall not be unreasonably withheld, representatives from these community-based organizations, social service providers, and other interested parties ("Additional LIAC Participants") will be invited to provide input at the

LIAC meetings. On at least an annual basis, LIAC Members will review the LIAC meeting invitation list and evaluate whether additional parties should be invited to provide input at LIAC meetings as Additional LIAC Participants and whether any existing Additional LIAC Participants should be removed from the invitation list.

- iii. In its initial meetings leading up to SUEZ Pennsylvania Utilities' next base rate cases, the LIAC will focus on evaluating potential improvements to the SUEZ Pennsylvania Utilities' low-income programs, including but not limited to developing i) a Customer Assistance Program that includes rate discount and arrearage management components; ii) changes that expand CARES enrollment; and iii) expansion of CARES benefits to include monthly bill reductions as an alternative to a one-time grant. The LIAC will also discuss potential improvements to the SUEZ Pennsylvania Utilities' processes for verifying program eligibility and communicating with customers with limited English proficiency. Customer-identifiable information will not be produced or provided to LIAC Members or Additional LIAC Participants during or as a result of LIAC meetings.
- iv. The Joint Applicants will use input from the LIAC to propose changes to the SUEZ Pennsylvania Utilities' low-income programs in their next base rate cases (see paragraph 2.a. related to timing for the base rate filing). The changes will include the following, unless any such change conflicts with a Commission Order, regulation, statute, or statement of policy:
 1. Bill discount component based on a percentage of bill, percentage of specific charges, or percentage of household income.
 2. Arrearage management component, which allows customers to earn arrearage forgiveness for each full monthly payment.

3. SUEZ CARES grant component.
 4. Service Line Leak Repair and Conservation component that provides resources for leak repairs and conservation measures available to low-income customers at no upfront cost to the low-income customer.
- v. Following SUEZ Pennsylvania Utilities' next base rate cases, the LIAC will continue to meet at least once annually (as determined in SUEZ Pennsylvania Utilities' next rate case as detailed in paragraph 3.a.i. above) with respect to the company that has completed its base rate case, SUEZ will make best efforts to begin tracking the following information and share the following data, when it becomes available, and will invite comments and input to improve the accessibility of its programs and related policies and practices:⁴
1. Number of confirmed low-income customers (defined as the number of customers for whom SUEZ has information indicating household income at or below 150% FPL).
 2. Number of SUEZ CARES grants awarded.
 3. Average amount of SUEZ CARES grants awarded.
 4. Number of customers enrolled in each approved program.
- vi. Veolia commits to providing a shareholder contribution of \$300,000 to support the low-income program changes presented in this future base rate case. Unspent funds will be rolled over and added to the budget for the following year. The SUEZ Pennsylvania Utilities reserve the right to propose ratepayer recovery for all costs associated with the low-income programming changes referenced in Paragraph 3 beyond this initial \$300,000 shareholder contribution.

⁴

Customer-identifiable information will not be included in this data production.

b. Additionally, as stated in the Application, Veolia commits to expanding its shareholder-funded relief to low-income customers. Once the Transaction is consummated, a total of \$50,000 will be contributed collectively to the SUEZ Pennsylvania Utilities' CARES grant program annually until approval of the SUEZ Water Pennsylvania Inc.'s next base rate case. Thereafter, a minimum \$20,000 annual contribution will be made to support the SUEZ Pennsylvania Utilities' CARES program, though a higher annual contribution level may be established as part of any future proceeding. All unspent funds will be rolled over and added to the budget for the CARES program in the following year. If, at the end of any year, the CARES grant budget falls below \$50,000, rollover funds will be first used to replenish the grant budget. This annual contribution may be evaluated in subsequent base rate cases of the SUEZ Pennsylvania Utilities, subject to the minimum contribution level identified above. CARES will be expanded to include wastewater customers. Maximum annual grant assistance available to a residential consumer through CARES shall be increased to \$300 per year for water and \$150 per year for wastewater within 90 days of Closing of the Transaction. This grant amount may be subject to review and modification in future Commission proceedings, but in any event shall not be decreased.

c. The SUEZ Pennsylvania Utilities will promote the CARES programs and other low-income programs through public advertising and community outreach within the SUEZ Pennsylvania Utilities' service territories. No other program rules related to the CARES program will be diminished.

d. The Joint Applicants will work with the state agencies, the parties to this proceeding, and other interested stakeholders to fully implement and participate in other low-income programs which are currently being developed, including the Low Income Household Water Assistance Program funded by the American Rescue Plan and the Consolidated Appropriations Act of 2021 and other state or federally funded plans.

4. Customer Service Policies

a. Within 180 days of the consummation of the Transaction, the SUEZ Pennsylvania Utilities will review with the LIAC their policies regarding language access,

protections for victims of domestic violence and medically vulnerable households, as well as their policies for complying with the Discontinuance of Service to Leased Premises Act, and will solicit from the LIAC methods to improve their interactions with these vulnerable consumers. Within 90 days of the consummation of the Transaction, SUEZ Pennsylvania Utilities will provide LIAC members with copies of all applicable policies, procedures, and training materials related to these topics.

5. Arrearage/COVID-19 Relief.

a. Veolia proposes that its shareholders would contribute an amount equal to 30% of residential and commercial arrears that are more than 60 days overdue, measured as of the date of a Commission Order approving the Transaction, which will be passed along to customers through bill credits. Only active customers and those who have been terminated within the past 12 months will be eligible to receive this bill credit, which will appear on customers' bills within 90 days of consummation of the Transaction. This bill credit will be automatically applied to the accounts of active customers. For customers who have been terminated within the past 12 months, these credits will be applied once they call to reestablish their accounts.

b. All residential and commercial customers and applicants with an arrears of 60-days old, measured as of the date of the Commission's Order approving the Transaction and including customers and applicants who have had service disconnected for 12 months or less, will be offered a 24-month payment plan with no upfront payment for reconnection.

c. For customers and applicants subject to paragraphs 5.a. and 5.b., SUEZ Pennsylvania Utilities will make at least two phone calls on different days and at different times of the day and will send at least one written notice advising consumers of the credit and offering a 24-month payment arrangement for any remaining arrears.

d. As of June 21, 2021, 30% of the residential and commercial arrears balance at more than 60 days overdue equaled approximately \$300,000.

e. The arrearage relief set forth here shall be incremental to any state, local, or federally funded utility assistance programming or other charitable assistance programming, including SUEZ Pennsylvania's CARES program.

6. Affiliate Interest Agreements.

a. No changes will be made to the SUEZ Pennsylvania Utilities' affiliate interest agreement with SUEZ Water Management and Services Inc. or other affiliate agreements as a result of the Transaction.

b. No charges from any Veolia subsidiaries shall be made to the SUEZ Pennsylvania Utilities, directly or indirectly, unless and until modified affiliated services agreements are approved by the Commission.

c. To the extent upstream changes occur in the future that require any amendment to affiliate interest agreements or arrangements, the SUEZ Pennsylvania Utilities will seek all necessary regulatory approvals in advance of finalizing such changes.

7. Service Quality and Capital Plans.

a. The Joint Applicants will adequately fund and maintain the SUEZ Pennsylvania Utilities' treatment, transmission and distribution and collection systems and supply the service needs of SUEZ Pennsylvania Utilities' customers in accordance with the Public Utility Code and applicable provisions of the Commission's regulations, orders and policy statements including, but not limited to, all water quality, pressure and quality of service standards.

b. The Joint Applicants will continue to implement the SUEZ Pennsylvania Utilities' existing capital plans through 2024. Similarly, the Joint Applicants intend to adopt SWPA's Long-Term Infrastructure Improvement Plan that is in place through 2026.

c. Veolia will evaluate the potential of its Actiflo⁵ and other technologies to reduce the costs of water treatment.

⁵ Actiflo is a Veolia-patented high-performance water clarifier for municipal and industrial water treatment offering compact, high flow rate water clarification. It has been exclusively developed by Veolia Water Technologies.

d. Veolia will ascertain whether and how to implement its Hubgrade data optimization system within existing budgets to conduct probabilistic assessments for prioritization of capital projects, identify and reduce leaks, and generally improve system performance at reduced costs.⁶

e. After the efforts outlined in (c) and (d) are completed, the Joint Applicants will develop and, subject to any required Commission review, implement a best practices plan, including a cost-benefit analysis related to any planned operational changes. In the event any current management system is replaced, recovery of any stranded costs of the existing system will not be sought.

8. Community Benefits.

a. As stated in the Application, Veolia will not only continue to provide financial and educational support to its local communities through the SUEZ Pennsylvania Utilities, but further improve upon the level of presence and engagement in Pennsylvania that now exists. In addition to preserving the approximately \$66,000 contributed by SUEZ Pennsylvania Utilities over the prior three-year period, Veolia's shareholders will contribute an additional \$50,000 per year in support of community, charitable, or conservation and sustainability organizations impacting the SUEZ Pennsylvania Utilities' service territories beginning the calendar year following Closing of the Transaction. These contributions shall not be recovered in the rates of SUEZ Pennsylvania Utilities' customers. SUEZ will file its charitable contribution spending annually with the Commission and serve the Public Advocates and CAUSE-PA.

b. The Joint Applicants will build and expand upon the community activities in which the SUEZ Pennsylvania Utilities are currently engaged and additionally will work with local communities to identify how the Joint Applicants can improve relations with the communities.

⁶ Hubgrade encompasses a wide range of digital solutions for monitoring, evaluating, and optimizing data which combined with human expertise allows optimization of facilities and infrastructure. See Application, p. 19.

c. In addition to continuing the SUEZ Pennsylvania Utilities' existing community outreach programs, the Joint Applicants will continue to coordinate with community leaders in Pennsylvania. The Joint Applicants are committed to supporting the communities the SUEZ Pennsylvania Utilities serve, whether through collaborating to support local events or supporting local organizations.

9. Records.

a. The SUEZ Pennsylvania Utilities' Annual Reports to the Commission shall include a complete, English-language copy of the annual report of Veolia. This requirement can be satisfied by providing an Internet link to an English-language copy.

b. Whenever the SUEZ Pennsylvania Utilities are requested to provide documents to the Commission, or in any proceeding before the Commission, concerning the operations of Veolia or any other subsidiaries or holdings of Veolia, those documents shall be provided in English. If the original document is not in English, then the SUEZ Pennsylvania Utilities must verify the accuracy of the English-language translation.

10. Ring-Fencing.

a. All currently existing ring-fencing, including all ring-fencing described in **Attachment A**, will remain in place for at least two years from consummation of the Transaction.

b. After the two-year period referenced in Paragraph 10.a., the Joint Applicants will notify the Public Advocates regarding any changes to existing ring-fencing 60 days in advance of such changes taking effect and seek any necessary Commission approvals.

c. Related to existing commitments to utility regulatory agencies in New Jersey and New York:

i. Through December 31, 2023, should the common equity ratio of SWR fall below 50 percent on a 12-month rolling basis, the Joint Applicants will notify the Public Advocates.

- ii. Through February 27, 2024, if the equity portion of the SWR capital structure rises above 54% at December 31, the Joint Applicants will notify the Public Advocates.

- d. Long-term debt financial covenants for SWR which contribute to the existing ring-fencing of SWR will remain in place for at least four years following the consummation of the proposed transaction, including:
 - i. Regulated Utility Revenues must be 90% of the consolidated revenues of SWR.
 - ii. The minimum consolidated tangible net worth is \$900 million.
 - iii. Net utility assets no less than \$400 million.
 - iv. The debt portion of the capital structure of SWR is limited to 65% of Total Capitalization.
 - v. Short Term Debt may not exceed 20% of Total Capitalization.
 - vi. Total secured debt cannot be more than 15% of total indebtedness or \$15 million. Currently, SWR has no secured debt.
 - vii. A subsidiary of SWR may not have more than \$15 million of secured debt. Currently, there is no secured debt at the SWR subsidiary level.

11. Other Transaction-Related Commitments.

- a. Except as modified by this Stipulation, the Joint Applicants will adhere to all other commitments in the Joint Application filed on June 14, 2021 at the above-referenced docket.

Stipulation at 2-16.

In addition, the settlement is conditioned upon the standard conditions found in most settlements. For example, if the Commission modifies the settlement, any petitioner may elect to withdraw from the settlement and proceed with litigation and, in such event, the

settlement will be void and of no effect. *Settlement* at 5. Furthermore, the settlement is made without any admission against or prejudice to any position which any petitioner may adopt in the event of any subsequent litigation of these proceedings or any other proceeding, except to the extent required to implement the settlement. *Id.* at 6. The settling parties also agreed to support the settlement and make good faith efforts to obtain the Commission's approval of the application as modified by the settlement as expeditiously as reasonably possible. *Id.*

3. Position of Parties

As noted above, the benchmark for determining whether a settlement should be approved is whether the proposed terms and conditions are in the public interest. *See, Lancaster, Warner, supra.* In the settlement, the parties stated that the terms of the settlement reflect a carefully balanced compromise of the parties' interests and is in the public interest and should be approved without modification. *Settlement* at 4. The parties also noted that the Commission's acceptance of the settlement would avoid the necessity of further administrative and potential appellate proceedings at substantial cost to the parties and waste of the Commission's resources. *Id.* at 5.

a. Veolia/SUEZ

Veolia and SUEZ jointly filed a statement in support of the settlement. In their joint statement, Veolia/SUEZ noted that both Veolia and SUEZ have been global leaders in water resource management for over 150 years and have developed similar services and technologies, particularly in water treatment and distribution. Veolia/SUEZ stated that by combining the two companies, Veolia will be positioned to accelerate the development of future technological solutions, evaluate possible synergies and create value for its customers and the Commonwealth. Veolia/SUEZ also noted Veolia's state-of-the-art integrated management center that provides decision-making support for the continued provision of water supply, customer safety, crisis prevention and crisis management for the benefit of its customers. Veolia/SUEZ noted the many customer service benefits that will arise as a result of the implementation of these services in the SUEZ system.

In addition, Veolia/SUEZ further noted several other factors why the settlement is in the public interest. In particular, Veolia/SUEZ noted that within 180 days of closing SUEZ will review the Low Income Advisory Committee policies regarding language access, protections for victims of domestic violence and medically vulnerable households. With regard to water quality, Veolia/SUEZ noted many of the existing provisions that will be continued after closing, including continuing to implement SUEZ's existing capital plans through 2024. With regard to financial stability, Veolia/SUEZ stated that SUEZ will continue to have access to sufficient capital for the repair, maintenance, improvement and extension of the systems to ensure the continued provision of safe and reliable service for current and future customers, noting that the settlement provides that all currently existing ring-fencing measures will remain in place for at least two years after closing.

Next, Veolia/SUEZ addressed issues regarding local economy and community involvement, operational stability, rate stability, low-income programming and COVID-19 assistance. Veolia/SUEZ noted that Veolia's shareholders will contribute an additional \$50,000 per year in support of community, charitable or conservation and sustainability organizations impacting SUEZ's service territories, and those contributions will not be recovered in rates. Veolia/SUEZ noted that the compensation and benefits for employees of SUEZ will be preserved for at least three years following the consummation of the transaction. With regard to rates, Veolia/SUEZ stated that no general base rate case will be filed for at least one year after the transaction is consummated or January 1, 2023, whichever is later, and that no recovery will be sought of any transaction or transition costs associated with the transaction. Veolia/SUEZ added that shareholder-funded relief provided to low-income customers will be expanded with \$50,000 contributed collectively to SUEZ's CARES programs and \$20,000 annually thereafter. Finally, as a result of the COVID-19 pandemic, the settlement also provides that Veolia's shareholders will contribute an amount equal to 30% of residential and commercial arrears that are more than 60 days overdue through bill credits and that all residential and commercial customers with an arrears of 60-days old will be offered a 24-month payment plan with no upfront payment for reconnection.

Veolia/SUEZ concluded by stating that the Commission should approve the proposed transaction as modified by the settlement.

b. OCA

In its statement in support of the settlement, the OCA noted that the settlement includes a number of provisions that will prevent harm to SUEZ customers resulting from the transfer of control and that other provisions will affirmatively promote the public interest. First, the OCA notes the operational stability and rate stability provisions in the settlement. This includes that no material changes will be made to management, employees, compensation, and other things for one year after the transaction is consummated to ensure that the transfer of control will be seamless. The OCA added that the continuation of the community presence and public access to the utility is valuable to both the utility and the public in general. With regard to rate stability, the OCA noted the commitment that no costs related to the transaction or the transition will be passed down to customers and that there will be no filing to increase base rates for at least one year post consummation, among other things.

The OCA also noted the benefits in the settlement regarding low-income programming and arrearage forgiveness. The OCA noted that Veolia has committed to provide shareholder-funded relief targeted to low-income customers and others most impacted by the COVID-19 pandemic through a one-time contribution to reduce arrearages and to create a low-income advisory committee to assist SUEZ in evaluating potential improvements to the existing low-income programs. The OCA also noted Veolia's shareholder contribution of \$300,000 to support the low-income program changes plus \$50,000 annually. The OCA stated that, among other things, another benefit of the settlement is the commitment that the CARES program will be expanded to include wastewater customers. With regard to arrearage forgiveness, the OCA noted that active customers and customers disconnected for 12 months or less with arrears of 60 days old, will be offered a 24-month payment plan with no upfront payment for reconnection.

Lastly, the OCA noted the provisions in the settlement regarding ring-fencing and access to records, noting that the settlement provides that all currently existing ring-fencing will

remain in place for at least two years from consummation of the transaction which will help prevent any risk or credit issues experienced by the parent companies from translating into increased cost of capital and rates for Pennsylvania customers. The OCA noted as a public benefit that the settlement provides that the annual reports and documents related to Veolia will be provided in English.

The OCA concluded that the settlement, taken as a whole, provides substantial affirmative public benefits in accord with Pennsylvania law and applicable precedent and should be adopted by the Commission without modification because it is in the public interest.

c. OSBA

In its statement in support of the settlement, the OSBA noted that rate stability and arrearage/COVID-19 relief issues in the settlement were of particular significance to it. The OSBA added that the settlement provision that no general rate base increase request will be filed before January 1, 2023, or no sooner than 12 months after the transaction is consummated, whichever is later is a substantial affirmative public benefit to all ratepayers which provides certainty and predictability which allows small businesses to better budget and forecast their own financial needs. The OSBA also noted the provision in the settlement that allows commercial customers and applicants with arrears at least 60 days old to be offered a 24-month repayment plan with no upfront payment for reconnection as a public benefit that will assist small businesses at a time when commercial customers are still experiencing the ongoing effects of the COVID-19 pandemic.

The OSBA concluded by stating that avoiding further litigation of this matter will serve judicial efficiency and allow the OSBA to more efficiently employ its resources in other areas and that the settlement should be approved in its entirety.

d. CAUSE-PA

In its statement in support of the settlement, CAUSE-PA, noted that the settlement is in the public interest because it addresses the ability of SUEZ's low-income customers to access safe and affordable service, balances the interests of the parties and fairly resolves several important issues raised by CAUSE-PA and other parties.

More specifically, CAUSE-PA noted the operational stability to be provided by the settlement, including that, for three years following consummation of the transaction, Veolia will not permit a net reduction due to involuntary attrition related to the transaction in the employment levels at SWPA or SWB and will provide current employees of SUEZ with compensation and benefits currently in place for those employees. CAUSE-PA also noted that the collective bargaining agreements with the unionized workforce that are currently in effect will be honored through the remaining terms and beyond the expiration dates until new agreements are negotiated. CAUSE-PA stated that the settlement will not detrimentally impact the local community as the settlement ensures that the jobs SUEZ currently provides in the local community will not be taken away as a result of this transaction.

With regard to rate stability, CAUSE-PA noted that there are several provisions in the settlement designed to ensure that the proposed transaction does not detrimentally impact the rates charged to consumers, including the stay-out period and the fact that there will be no recovery sought of the costs of the transaction or the transition. Next, CAUSE-PA noted the various benefits to low-income programming that will arise as a result of the settlement, including, among other things, the establishment of a low-income advisory committee, a shareholder contribution of \$300,000 to support the low-income program changes and \$50,000 contributed annually to the CARES program under approval of the next SUEZ base rate case. CAUSE-PA noted that these terms address its concerns raised in this proceeding by providing additional resources for low-income customers, protecting SUEZ's low-income programs and laying the groundwork for the systematic improvements to SUEZ's low-income programs.

Next, CAUSE-PA noted that provisions in the settlement regarding customer service policies, arrearage/COVID-19 relief and community benefits in support of its position that the settlement is in the public interest. With regard to customer service policies, CAUSE-PA stated that policies regarding language access, protections for victims of domestic violence and medically vulnerable households will be reviewed and will help customers avail themselves of important protections. With regard to arrearages/COVID-19 relief, CAUSE-PA noted that Veolia shareholders will contribute approximately \$300,000 to be passed along to customers through bill credits for arrears that are more than 60 days overdue and that all residential and commercial customers and applicants with arrears of 60 days old will be offered a 24-month payment plan with no upfront payment for reconnection. Lastly, CAUSE-PA noted that Veolia agreed to continue to provide financial and educational support to its local communities through improving upon the level of community presence.

CAUSE-PA concluded that the settlement is in the public interest and accepting the settlement avoids the necessity of further administrative and possible appellate proceedings regarding the settled issues. CAUSE-PA requested that the settlement be approved without modification.

4. Disposition

The joint petition for settlement will be recommended for approval in its entirety without modification because it is in the public interest and is supported by substantial evidence.

Most notably, we believe the settlement is in the public interest because of the financial provisions contained in the settlement. This includes the fact that SUEZ will not file a general base rate increase before January 1, 2023, or no sooner than 12 months after the transaction is consummated, whichever is later. This is an affirmative public benefit that will provide rate stability to SUEZ's customers for the near future. The settlement also provides an affirmative public benefit in the form of COVID-19 relief whereby Veolia will provide additional bill credits for customers with past due accounts and all residential and commercial

customers with an arrears of at least 60-days old will be offered a 24-month payment plan with no upfront payment for connection.

In addition, Veolia/SUEZ have agreed not to seek recovery of various costs associated with the transaction and that the transaction closing will not affect ratemaking treatments of the SUEZ accumulated deferred income taxes. In addition, the cost of capital used in establishing all water and wastewater rates will not reflect any risk adjustment associated with the corporate parents or any affiliate not regulated by the Commission. Similarly, the settlement includes other financial protections that will help ensure that SUEZ ratepayers are not paying those costs. Although these provisions in the settlement aim to prevent public harm as opposed to provide affirmative benefits, they nonetheless support recommending that the settlement be approved because it is in the public interest.

In addition to these rate protections agreed to in the settlement, the settlement is also in the public interest because of other financial provisions, including improvements to various low-income customer support programs. For example, the settlement provides that a low-income advisory committee will be formed within 90 days of consummation of the transaction. The committee will, among other things, focus on evaluating potential improvements to existing low-income programs. Significantly, Veolia committed to providing a shareholder contribution of \$300,000 to support the low-income program changes presented. This contribution is in addition to Veolia's commitment in the application to expand its shareholder-funded relief to low-income customers. These provisions of the settlement are affirmative public benefits arising as a result of the transaction and will help the Commission ensure the universal provision of utility services.

We also believe that there are service-related provisions in the settlement that support finding the settlement to be in the public interest and approving the settlement without modification. For example, Veolia has agreed to not permit a net reduction in employment levels at SUEZ due to involuntary attrition related to the transaction and will provide current employees of SUEZ with compensation and benefits that are at least as favorable as the compensation and benefits currently in place for those employees. These provisions of the

settlement will help maintain or improve service quality for SUEZ customers. The administrative offices will continue to be maintained within the service territory and SUEZ will review policies regarding language access, protections for victims of domestic violence and medically vulnerable households. These are all service-related provisions of the settlement that support finding the settlement to be in the public interest in addition to the extensive international experience owning and operating water and wastewater operations Veolia has in providing water services to approximately 95 million people and wastewater services to approximately 62 million people in 55 countries that Veolia will bring to the SUEZ systems.

Of note, Veolia's extensive experience in already serving over 150 million people water and wastewater services also supports finding that the acquiring entity is technically, legally, and financially fit to own and operate the assets it will acquire as is required by Section 1103 of the Code. *See*, 66 Pa.C.S. § 1103; *Seaboard, supra*.

The settlement also contains other provisions that support approving the settlement without modification. It is further noted that the settlement is also in the public interest because of general benefits of agreeing to a settlement. The settlement will save the parties from expending substantial time and expense involved with further litigation on the settled issues. Although the parties exchanged discovery, additional costs could have included the preparation and exchange of pre-served testimony, lengthy hearings, briefs, exceptions and possible appeals. Avoiding such expenditures minimizes the costs that might ultimately be passed on to the ratepayers, and also conserves the resources of all other parties involved in these proceedings including the Commission.

The fact that the parties have engaged in extensive discovery in order to properly investigate and resolve the issues presented also supports a finding that the settlement is in the public interest. These efforts demonstrate that the initial filings and the responses to the filings have been thoroughly vetted and considered by all concerned parties. The settlement is also the result of extensive and fruitful negotiations between all the parties and represents what each party believes to be a fair and reasonable compromise. This is of particular note, as despite the

parties in this matter having diverse and competing interests they were able to reach a settlement on all of the issues.

In addition, the settlement is supported by substantial evidence. On appeal, decisions of the Commission will be examined to determine if they are supported by substantial evidence. 2 Pa.C.S. § 704. The parties moved into the record via stipulation, and with cross examination waived, multiple pieces of pre-served testimony with accompanying exhibits and verifications. The inclusion of the pre-served testimony supports adopting the settlement as being in the public interest.

As a result, the settlement will be recommended for approval without modification because it is in the public interest, consistent with the Public Utility Code and supported by substantial evidence. *Lancaster, Warner, supra*. The parties are commended for obtaining a complete resolution of the issues in this case. Settlements can be difficult under normal circumstances and achieving this settlement during the COVID-19 pandemic and with multiple issues was likely even more difficult.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. §§ 1102(a)(3), 1102(a)(4) and 1103.
2. The Public Utility Code provides that the Commission must issue a Certificate of Public Convenience as a legal prerequisite to a public utility prior to certain transfers by public utilities, including in situations of mergers and transfers of stock. 66 Pa.C.S. § 1102(a)(3); *see also* 52 Pa. Code § 69.901 (Utility Stock Transfer Under 66 Pa.C.S. § 1102(a)(3) – Statement of Policy).
3. As the movants and Joint Applicants, Veolia, SUEZ, and the SUEZ Pennsylvania Utilities have the burden to demonstrate that the Joint Application should be granted, and that Certificates of Public Convenience should be issued. 66 Pa.C.S. § 332. *Se-Ling*

Hosiery v. Margulies, 70 A.3d 854 (Pa. 1950); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

4. A Certificate of Public Convenience will be issued "only if the Commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public." 66 Pa.C.S. § 1103(a).

5. The Commission will approve a Certificate of Public Convenience if the proposed transfer will "affirmatively promote the 'service, accommodation, convenience, or safety of the public' in some substantial way." *City of York v. Pa. Pub. Util. Comm'n*, 295 A.2d 825, 828 (Pa. 1972).

6. The "substantial public interest" standard is satisfied by a preponderance of the evidence of benefits, which can be established by showing a likelihood or probability of public benefits. *Popowsky v. Pa. Pub. Util. Comm'n*, 937 A.2d 1040 (Pa. 2007).

7. An entity with a controlling interest in a public utility must demonstrate that it possesses the requisite technical, financial, and legal fitness to provide public utility service. *Re: O'Connor*, 54 Pa. PUC 547, (Nov. 20, 1980); *Warminster Twp. Mun. Auth. v. Pa. Pub. Util. Comm'n*, 138 A.2d 240 (Pa. Super. 1958).

8. The Commission encourages and promotes settlements. 52 Pa. Code §§ 5.231, 69.401.

9. The Joint Application, as modified by the Joint Petition for Settlement, provides substantial affirmative public benefits. *City of York v. Pa. Pub. Util. Comm'n*, 295 A.2d 825, 828 (Pa. 1972).

10. The Joint Applicants demonstrated through a preponderance of the evidence and substantial evidence of record, that the Joint Application, as modified by the Joint Petition for Settlement, will affirmatively promote the service, accommodation, convenience, or

safety of the public in substantial ways. *City of York v. Pa. Pub. Util. Comm'n*, 295 A.2d 825, 828 (Pa. 1972).

11. Veolia is legally, technically, and financially fit to provide public utility water and wastewater services through its acquisition of the SUEZ Pennsylvania Utilities. *Re: O'Connor*, 54 Pa. PUC 547, (Nov. 20, 1980); *Warminster Twp. Mun. Auth. v. Pa. Pub. Util. Comm'n*, 138 A.2d 240 (Pa. Super. 1958).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the joint stipulation for the admission of the application and supporting testimony filed in this matter on October 27, 2021 is hereby approved and the parties are directed to submit the requisite number of copies of those documents to the Commission's Secretary's Bureau for inclusion in the Commission's official files.

2. That the Joint Application filed by Veolia, Veolia North America, SUEZ, SWPA, and SWB (together, the SUEZ Pennsylvania Utilities) (collectively, Joint Applicants), as modified by the Joint Petition for Settlement filed on October 27, 2021, is approved without further modification.

3. The Joint Petition for Settlement filed on October 27, 2021 in this proceeding is approved without modification.

4. That the Commission's Secretary's Bureau issue Certificates of Public Convenience evidencing the right of Veolia Environnement S.A. and Veolia North America, Inc. under Sections 1102(a)(1) and 1102(a)(3) of the Pennsylvania Public Utility Code, 66 Pa. C.S.

