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January 31, 2024

By Electronic Filing

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

RE: Community Utilities of Pennsylvania Inc. Water Division;
Docket No. R-2023-3042804;

Community Utilities of Pennsylvania Inc. Wastewater Division;
Docket No. R-2023-3042805;

CUPA'S MOTION FOR PROTECTIVE ORDER

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is Community Utilities of Pennsylvania Inc.'s Motion for Protective Order.

If you have any questions concerning this filing, please contact me.

Very truly yours,

/s/ Whitney E. Snyder

Whitney E. Snyder (Attorney ID No. 316625)
Thomas J. Sniscak (Attorney ID No. 33891)
Phillip D. Demanchick Jr. (Attorney ID No. 324761)

*Counsel for
Community Utilities of Pennsylvania Inc.*

WES/das
Enclosures

cc: Administrative Law Judge Steven K. Haas (sthaas@pa.gov)
Administrative Law Judge Alphonso Arnold (alphonarno@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2023-3042804
	:	R-2023-3042805
Community Utilities of Pennsylvania, Inc.	:	
	:	

**MOTION FOR PROTECTIVE ORDER
COMMUNITY UTILITIES OF
PENNSYLVANIA, INC.**

**TO: THE HONORABLE STEVEN K. HAAS AND
THE HONORABLE ALPHONSO ARNOLD:**

Community Utilities of Pennsylvania, Inc. (“CUPA” or the “Company”), by and through its attorneys, Hawke McKeon & Sniscak LLP, hereby requests that the attached Protective Order be entered in the above-captioned proceedings pursuant to the provisions of 52 Pa. Code § 5.365(a). CUPA has conferred with the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”) regarding the attached Protective Order. None of these parties have indicated objection or opposition to entry of the attached Protective Order.

1. On November 9, 2023, CUPA filed Supplement No. 13 to Tariff Water – Pa. PUC No. 1, to become effective January 9, 2024. This filing contained proposed changes in rates, rules, and regulations intended to produce \$1,449,638 in additional annual operating revenues.

2. Also on November 9, 2023, CUPA filed Supplement No. 11 to Tariff Wastewater - Pa. PUC No. 1 to become effective January 9, 2024. This filing contained proposed changes in

rates, rules, and regulations intended to produce \$1,720,070 in additional annual operating revenues.

3. Both base rate filings included information designated as Confidential. Discovery to date has also yielded information designated as Confidential.

4. CUPA, I&E, OSBA, and OCA entered into a Stipulated Protective Agreement to protect against non-authorized disclosure of Confidential and Highly Confidential information.

5. Under 52 Pa. Code §§ 5.362(a)(7) and 5.365, the Office of Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of proprietary information where the potential harm to a participant would be substantial and outweighs the public's interest in having access to the proprietary information. In applying this standard, relevant factors to be considered include: the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information may already be known by others; and the potential value of such information to the participant and the participant's competitors and trade partners. 52 Pa. Code §§ 5.365(a)(1) - (3).

6. The attached proposed Protective Order defines "Confidential" information in Paragraph 3 as "those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury." The proposed Protective Order defines "Highly Confidential" information as "materials that are of such a commercially sensitive nature among the parties or of such a private, personal nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials." The proposed Protective Order collectively defines Confidential and Highly

Confidential information as “Proprietary Information.” Clearly, protecting this type of information from disclosure is appropriate.

7. Limitation on the disclosure of Proprietary Information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the Parties, the public, and the Commission.

8. The Company has conferred with I&E, the OCA, and OSBA. Those parties do not oppose entry of the attached Protective Order.

9. The Protective Order will protect Proprietary Information while allowing the Parties to use such information for purposes of the instant litigation.

WHEREFORE, for all the foregoing reasons, CUPA requests that the Presiding Officers grant this Motion and issue the attached Protective Order.

Respectfully submitted,

/s/ Whitney E. Snyder

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*Counsel for
Community Utilities of Pennsylvania, Inc.*

Dated: January 31, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos. R-2023-3042804 (water)
	:	R-2023-3042805 (wastewater)
v.	:	
	:	
Community Utilities of Pennsylvania, Inc.	:	
	:	

PROPOSED PROTECTIVE ORDER

An Order has been requested to grant Community Utilities of Pennsylvania, Inc.’s (“CUPA” or the “Company”) Motion for a Protective Order, which was filed on January 31, 2024 pursuant to the provisions of 52 Pa. Code § 5.36(a).

THEREFORE,

IT IS ORDERED:

1. That a Protective order is hereby granted with respect to all materials and information identified in Paragraphs 2, 3 and 4 below, which have been or will be filed with the Pennsylvania Public Utility Commission (“Commission”), produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated therewith. All persons previously or hereafter granted access to the materials and information identified in Ordering Paragraphs 2, 3 and 4 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. That the materials or information subject to this Protective Order includes testimony and exhibits that contain Proprietary Information. To the extent any additional

Proprietary Information is filed with the Commission or presented in this proceeding, such information shall also be subject to this Protective Order.

3. That “Confidential” materials are those material which customarily are treated by that party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that party or its clients to risk of competitive disadvantage or other business injury. “Highly Confidential” materials are those materials that are of such a commercially sensitive nature among the parties or of such a private, personal nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials. Together, these materials will be referred to as “Proprietary Information” for the purposes of this Protective Order.

4. That the information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies, and other materials, furnished in this proceeding, which are proprietary or confidential in nature and which are so designated by being marked “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.” “Requesting Party” shall mean a Party that either requests or receives Proprietary Information, and “Producing Party” shall mean the Party that produces or otherwise supplies Proprietary Information to another Party.

5. That Proprietary Information shall be made available to counsel for Requesting Parties subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of participating in this proceeding. Counsel for Requesting Parties shall not disclose Proprietary Information to anyone other than counsel for the Parties, except that, to the extent required for participation in this proceeding, counsel for a Requesting Party may disclose Proprietary Information to the Requesting Party’s independent expert(s) subject to the terms of this Protective Order and provided that if an attorney qualified as

a Reviewing Representative has executed such a certificate, the in-house analysts, paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so but shall be made aware that such information is not for public disclosure except under the terms in the Protective Order. Notwithstanding the foregoing, counsel for the Office of Consumer Advocate may afford access to Proprietary Information to the Consumer Advocate or Deputy Consumer Advocate, and support staff that do not work substantively with the Proprietary Information, without the need for their execution of Appendix A. Counsel for the Office of the Small Business Advocate may afford access to Proprietary Information to the Small Business Advocate without the need for their execution of Appendix A. The Consumer Advocate, Deputy Consumer Advocate, and Small Business Consumer Advocate are bound by this Order by virtue of their counsels' execution of Appendix A. Nothing in this Protective Order shall be deemed to restrict the right of the original Producing Party to disclose or use its own Proprietary Information.

6. That, prior to disclosing Proprietary Information to an independent expert as provided in paragraph 5, a Requesting Party shall deliver a copy of this Protective Order to the expert and obtain from the expert a written acknowledgment of the terms of the Protective Order in the form of Appendix A attached hereto. Each party shall promptly notify the other parties of the identity of all persons provided access to Proprietary Information pursuant to this paragraph and paragraph 5.

7. That the Producing Party shall designate information or documents as constituting or containing Proprietary Information by marking the documents "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the Producing Party, insofar as reasonably practicable, shall designate as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" only the

specific data, passages or pages of documents which constitute or contain Proprietary Information. One permissible means of designating portions of a document to be Proprietary Information shall be to mark the first page of the document and on each page thereof containing Proprietary Information with the word “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” in bold, capital letters.

8. The Parties will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Right to Know Law, Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104, until such time as the information is found to be non-proprietary.

9. That any public reference to Proprietary Information by a Party or its independent expert(s) shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

10. That the part of any record in this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, direct testimony, cross-examination, argument and responses to discovery, including any reference thereto as mentioned in paragraph 9 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the Parties or pursuant to an order of the Administrative Law Judge or the Commission.

11. The parties retain the right to require additional protection for Proprietary Information that it deems to be “Highly Confidential.” To the extent that a Producing Party identifies any information or materials to be of a highly confidential nature, said Party will contact

the Requesting Party to negotiate specific treatment for such materials. However, such additional requirements shall not preclude counsel for a party from viewing any materials so designated.

12. Each Party shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. Nothing herein shall be construed to remove the right of a Party to present such question or challenge to the Administrative Law Judge or the Commission. If a Party challenges the designation of a document or information as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” the Producing Party retains the burden of demonstrating that the designation is appropriate.

13. That Proprietary Information produced in this proceeding shall be made available to the Commission and its Staff. For purposes of filing, to the extent that Proprietary Information is placed in the Commission’s report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission’s testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Proprietary Information shall be permitted only in accordance with this Protective Order.

14. That within 30 days after a request by a Producing Party, the other party shall either destroy or return to the Producing Party all copies of all documents and other materials which contain any Proprietary Information. In the event that the Requesting Party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the Producing

Party, the Requesting Party shall certify in writing to the Producing Party that the documents and other materials containing Proprietary Information have been destroyed.

15. A single copy of documents returned to the Producing Party or certified as destroyed upon resolution of this Proceeding shall be kept on file at the Producing Party's office for two years after the final resolution of this Proceedings, as defined previously, for review by the parties under the terms of the Agreement upon at least twenty (20) days' notice to counsel for the Producing Party

Date: _____

Administrative Law Judge

APPENDIX A

Pennsylvania Public Utility Commission :
v. : Docket Nos. R-2023-3042804
Community Utilities of Pennsylvania, Inc. : R-2023-3042805

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____. The undersigned has read and understands the Protective Order, which deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order.

NAME

ADDRESS

EMPLOYER

DATED: _____

CERTIFICATE OF SERVICE

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

BY ELECTRONIC MAIL ONLY

<p>Erin L. Gannon, Esquire Harrison W. Breitman, Esquire Jacob D. Guthrie, Esquire Office of Consumer Advocate 555 Walnut Street 5th Floor, Forum Place Harrisburg, PA 17101-1923 OCACUPA2023@paoca.org</p>	<p>Mierzwa, Jerry jmierzwa@exeterassociates.com; Jennifer Rogers jrogers@exeterassociates.com; Lafayette Morgan lmorgan@exeterassociates.com</p> <p><i>Consultants for OCA</i></p>
<p>Sharon E. Webb, Esquire Small Business Advocate Office of Small Business Advocate 555 Walnut Street 1st Floor, Forum Place Harrisburg, PA 17101 swebb@pa.gov</p>	<p>Scott B. Granger, Esquire Lisa Gumby Christine Wilson DC Patel Zach Walker Esysan Sakaya Pennsylvania Public Utility Commission Bureau of Investigation & Enforcement Commonwealth Keystone Building 400 North Street, 2nd Floor Harrisburg, PA 17120 sgranger@pa.gov lgumby@pa.gov cswilson@pa.gov dupatel@pa.gov zawalker@pa.gov esakaya@pa.gov</p>
<p>Mr. Kevin C. Higgins Principal, Energy Strategies 111 East Broadway, Suite 1200 Salt Lake City, Utah 84111 khiggins@energystrat.com</p> <p><i>Consultant for OSBA</i></p>	<p>Mr. Justin Bieber Principal, Energy Strategies 111 East Broadway, Suite 1200 Salt Lake City, Utah 84111 jbieber@energystrat.com</p> <p><i>Consultant for OSBA</i></p>

<p>John Hoopingarner PO Box 1110 Long Lake Road Tamiment, PA 18371 jwhoop@ptd.net</p> <p><i>Pro Se Complainant, Water & Wastewater</i></p>	<p>Michael J. Sanfilippo 503 Dwalin Way Tamiment, PA 18371 michaeljsanfilippo@gmail.com</p> <p><i>Pro Se Complainant, Water & Wastewater</i></p>
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<p>Rafail Kovalenko 2138 Wilderland Road Tamiment, PA 18371 Dmitrykov@outlook.com</p> <p><i>Pro Se Complainant, Water & Wastewater</i></p>	<p>Christine Corbissero 221 Ravenhill Road Tamiment, PA 18371 turkeyhunter333@gmail.com</p> <p><i>Pro Se Complainant, Water & Wastewater</i></p>
<p>Scott & Vicky Furey 212 Ravenhill Road Tamiment, PA 18371 Furiousvicky1@aol.com</p> <p><i>Pro Se Complainants, Water & Wastewater</i></p>	<p>Christina Boers 157 Oakenshield Drive Tamiment, PA 18371 Christina.boers82@gmail.com</p> <p><i>Pro Se Complainant, Water & Wastewater</i></p>
<p>George & Miriam Lingg 417 Underhill Drive Tamiment, PA 18371 Glingg52@gmail.com</p> <p><i>Pro Se Complainants, Water & Wastewater</i></p>	<p>Natalie Ortiz 106 Thorin Way Tamiment, PA 18371 natalie.e.ortiz@gmail.com</p> <p><i>Pro Se Complainant, Water</i></p>

<p>Gregory Leone 213 Thistlebrook Court Tamiment, PA 18371 gregleone@msn.com</p> <p><i>Pro Se Complainant, Water & Wastewater</i></p>	<p>Cassandra Kramer 1321 Sterling Drive East Stroudsburg, PA 18301 cassierovitti@hotmail.com</p> <p><i>Pro Se Complainant, Water & Wastewater</i></p>
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<p>Lynn Buckingham 981 Belle Avenue Teaneck, NJ 07666 LYNN.BUCKINGHAM@GMAIL.COM</p> <p><i>Pro Se Complainant, Wastewater</i></p>	<p>Ernesha Holloway Bolden 119 Sundew Drive East Stroudsburg, PA 18301 ehollo3609@gmail.com</p> <p><i>Pro Se Complainant, Water</i></p>
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<p>Anna Paryzki 212 Gollum Lane Tamiment, PA 18371 ppemaile@msn.com</p> <p><i>Pro Se Complainant, Water</i></p>	<p>Brian Morrison 500 Kili Way Tamiment, PA 18371 bmorrison@me.com</p> <p><i>Pro Se Complainant, Water & Wastewater</i></p>

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<p>Rene Bressant 204 Gollum Lane Tamiment, PA 18371 RBJRCD@gmail.com</p> <p><i>Pro Se Complainant, Wastewater</i></p>	<p>Craig Morris 4205 Woodacres Drive East Stroudsburg, PA 18301 Motorman_18301@yahoo.com</p> <p><i>Pro Se Complainant, Water</i></p>
<p>Christopher Williams 1604 Russell Drive Downingtown, PA 19335 Cwilliams10@gmail.com</p> <p><i>Pro Se Complainant, Wastewater</i></p>	

/s/ Whitney E. Snyder
Whitney E. Snyder
Thomas J. Sniscak
Phillip D. Demanchick Jr.

Dated this 31st day of January, 2024.