



December 11, 2025

**VIA E-FILING**

**David P. Zambito**

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Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**Re: Office of Small Business Advocate v. Veolia Water Pennsylvania, Inc.; Docket No. C-2025-3058757**

**Preliminary Objection of Veolia Water Pennsylvania, Inc.**

Dear Secretary Homsher:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Preliminary Objection of Veolia Water Pennsylvania, Inc. to the above-referenced Complaint proceeding.

Copies are being served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

Cozen O'Connor

A handwritten signature in blue ink, appearing to read "David P. Zambito", written over a light blue circular stamp.

Counsel for  
**Veolia Water Pennsylvania, Inc.**

DPZ:kmg  
Enclosure

cc: Per Certificate of Service  
Phoebe Youhanna, Esq., Veolia North America  
Larry Finnicum, Regional President, VWPA

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office of Small Business Advocate	:	
	:	
v.	:	Docket No. C-2025-3058757
	:	
Veolia Water Pennsylvania, Inc.	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 11<sup>th</sup> day of December, 2025 served a true copy of the foregoing **Preliminary Objection of Veolia Water Pennsylvania, Inc.** upon the parties, listed below and in the manner described below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Via E-mail and First Class Mail**

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Respectfully submitted,



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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office of Small Business Advocate	:	
	:	
v.	:	Docket No. C-2025-3058757
	:	
Veolia Water Pennsylvania, Inc.	:	

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.101(b), you are hereby notified that you have ten (10) days from the service of the enclosed Preliminary Objection of Veolia Water Pennsylvania, Inc. (“VWPA”) to file an Answer to the Preliminary Objections. All pleadings, such as an Answer, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for VWPA, and where applicable the Administrative Law Judge presiding over the case.

**File with:**

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**With a copy to:**

David P. Zambito, Esq. (PA ID #80017)  
Jonathan P. Nase, Esq. (PA ID #44003)  
Dawn Kurtz Crompton, Esq. (PA ID #311701)  
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Date: December 11, 2025

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David P. Zambito, Esq.  
Counsel for *Veolia Water Pennsylvania, Inc.*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office of Small Business Advocate	:	
	:	
v.	:	Docket No. C-2025-3058757
	:	
Veolia Water Pennsylvania, Inc.	:	

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**PRELIMINARY OBJECTION OF  
VEOLIA WATER PENNSYLVANIA, INC.**

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AND NOW COMES VEOLIA WATER PENNSYLVANIA, INC. (“VWPA” or “Veolia”), pursuant to 52 Pa. Code § 5.101, to file this Preliminary Objection to the Formal Complaint (“Complaint”) filed by the Office of Small Business Advocate (“OSBA”) on November 19, 2025. VWPA respectfully requests that the Commission dismiss or strike one of the OSBA’s requests for relief. The requested relief is an order directing VWPA to reimburse the damages of small business customers, but the Commission lacks authority to order a utility to pay damages. In addition, VWPA respectfully requests that the Commission dismiss or strike paragraphs in the Complaint alleging facts supporting this request for relief.

In support whereof, VWPA avers as follows:

**I. Background**

1. VWPA is certificated by the Commission to provide water and wastewater service, but this case only concerns VWPA’s water service. The utility code for VWPA’s water service is 210013.

2. The OSBA is authorized by the Small Business Advocate Act, 73 P.S. §§ 399.41-399.50 to represent the interests of small business consumers of utility services in proceedings before the Commission.

3. The Complaint was served on VWPA by the Secretary's Bureau on November 21, 2025.

## **II. Legal Standard**

4. The Commission's regulations permit a party to file preliminary objections in response to a pleading for certain enumerated reasons, including but not limited to the legal insufficiency of a pleading. 52 Pa. Code § 5.101(a)(4).

5. When ruling on preliminary objections, the Presiding Officer must accept as true all well-pleaded allegations of material facts as well as all inferences reasonably deducible therefrom. *Stilp v. Cmwlth.*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (citing *Dep't of General Serv. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)). In order to sustain preliminary objections, it must appear with certainty that the law will permit no recovery, and any doubt must be resolved in favor of the non-moving party. *Stilp*, 910 A.2d at 781. However, the Presiding Officer does not need to accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Stanton-Negley Drug Co. v. Dep't of Public Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007).

## **III. Preliminary Objection - The Commission Should Strike Certain Allegations and a Request for Relief Because the Commission Lacks Authority to Award Damages**

6. The OSBA's Complaint contains a lengthy Request for Relief, which includes a request that the Commission "[r]equire Veolia to implement a small business customer relief

program, including bill credits, *reimbursement for damages*, and other mitigation funds as needed.” Complaint p. 5 ¶ VI.c. (emphasis added).

7. To support this request for damages as a form of relief, the OSBA’s Complaint includes several paragraphs alleging that small businesses suffered damages as a result of the discolored water incidents described in the Complaint. These paragraphs include the following:

- Paragraph 8, describing damages alleged by an unidentified dentist.
- Paragraph 9, alleging that VWPA provided discolored water that was “unsuitable for normal commercial use by ... small businesses reliant on clean water.”
- Paragraph 10, alleging that VWPA provided discolored water that “created direct and measurable harm to small businesses.”

8. In civil practice, a preliminary objection based on legal insufficiency is referred to as a demurrer. Preliminary objections in the form of a demurrer will be sustained only in cases which are free and clear of doubt and where dismissal is clearly warranted by the record. *Community Life Support Systems, Inc., et al. v. Cmwlth.*, 689 A.2d 1014, 1017 (Pa. Cmwlth. 1997).

9. Any doubt must be resolved in favor of overruling a demurrer. *Id.* The question presented by the demurrer is whether, on the facts averred, the law states with certainty that no recovery is possible. *Hoffman v. Misericordia Hospital of Philadelphia*, 439 Pa. 501, 267 A.2d 867 (1970).

10. In this case, it is clear and free from doubt that dismissal of the request for damages is warranted because the law states with certainty that no recovery of damages is permissible in a Commission proceeding.

11. As a creation of the General Assembly, the Commission has only the powers and authority explicitly or implicitly granted to it by the General Assembly. *Feingold v. Bell of Pa.*, 383 A.2d 791 (1977).

12. The General Assembly did not explicitly or implicitly give the Commission authority to award damages; it is well-established in Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages. *Byer v. Peoples Natural Gas Co.*, 380 A.2d 383 (Pa. Super. 1977); *Feingold, supra*; *DeFrancesco v. Western Pennsylvania Water Company*, 383 A.2d 791 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371 (1980).

13. Since the Commission does not have authority to award damages, the request for relief asking the Commission to order VWPA to reimburse small businesses for their damages should be dismissed or stricken.

14. Since the Commission cannot award damages, the paragraphs alleging that small businesses have incurred damages should be dismissed or stricken as legally insufficient.

### **Relief Requested**

WHEREFORE, for the foregoing reasons, Veolia Water Pennsylvania, Inc. respectfully requests that the Commission

- (1) dismiss or strike the OSBA's request for damages as a form of relief, and
- (2) dismiss or strike Paragraphs 8-10 of the Formal Complaint, which allege that small businesses suffered damages as a result of the discolored water events discussed in the Formal Complaint.

[Signature appears on next page.]

Respectfully submitted,



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Dawn Kurtz Crompton, Esq. (PA ID #311701)  
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Date: December 11, 2025