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**VIA E-FILE**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor North  
Harrisburg, PA 17120

**Re: Implementation of Section 1329 of the Public Utility Code; M-2016-2543193 Tentative Supplemental Implementation Order; SUEZ Water Pennsylvania Inc. Replies to Comments**

Dear Secretary Chiavetta:

SUEZ Water Pennsylvania Inc. ("SUEZ") has reviewed all the comments submitted by various parties on the Tentative Supplemental Implementation Order ("TSIO"). As an initial matter, SUEZ wishes to thank the Pennsylvania Public Utility Commission ("PUC") for the opportunity to continue to provide comments on the implementation of this important piece of legislation.

Section 1329 is a valuable piece of legislation for investor-owned utilities, municipalities, and municipal authorities when determining who can provide the best service to the public. The fundamental issue is not the validity of Section 1329; Section 1329 is the law. Instead, the PUC and interested stakeholders should focus their efforts on making the Section 1329 process more efficient, while ensuring that the public's interest is held paramount. With that in consideration, SUEZ offers the following replies to the comments of other parties:

**Pennsylvania-American Water Company** – SUEZ is in general agreement with the comments provided by David P. Zambito of Cozen O'Conner on behalf of Pennsylvania-American Water Company.

**Aqua Pennsylvania, Inc.** SUEZ is in general agreement with the comments provided by Alexander Stahl, Regulatory Counsel for Aqua Pennsylvania, Inc.

**The York Water Company** – SUEZ is in full support of the comments provided by Jeff Hines, CEO of The York Water Company.



### **Pennsylvania Municipal Authorities Association (“PMAA”)**

In regards the comments provided by Steven A. Hann of Hamburg, Rubin, Mullin, Maxwell & Lubin on behalf of PMAA, SUEZ offers the following replies:

1. SUEZ does not agree with PMAA’s assertion that timely individualized notice should be given to all of the acquiring entity’s existing ratepayers irrespective of geographic location. (See PMAA Comments in Item 2, page 3) SUEZ agrees with Pennsylvania-American Water Company’s general comments regarding public notification on pages 4 and 5 of its comments and with Aqua Pennsylvania’s comments on pages 8-10 of its comments.
2. In Item 4 on page 4 of PMAA’s comments, PMAA asserts that “*municipal authorities are not entitled to use money for purposes other than a service or project directly related to the mission or purpose of the authority...*” SUEZ is not in the position to comment on all of the 700 water and wastewater authorities that PMAA purports to represent in the Commonwealth of Pennsylvania; but, SUEZ would simply highlight that Section 1329 does not require any municipality or municipal authority to sell its water or wastewater system. Section 1329 simply provides an interested municipality or municipal authority with the opportunity to divest when it believes that ownership is no longer in its or the public’s best interest. Moreover, the question is not whether or not the revenues collected are used appropriately; the concern should be whether or not the rates represent full cost of service and the facilities and infrastructure are being maintained properly. The ability to maintain and operate the facilities effectively is one of the main reasons that many municipalities are looking to divest their assets to a private water or wastewater utility. Section 1329 provides a viable alternative. This is further supported by the American Society of Civil Engineers (ASCE) 2018 Report Card. See the following excerpt:

*These improvements demonstrate the impact that increased funding, the right leadership, and strategic planning can have on our infrastructure. However, despite three categories’ letter grades improving since the 2014 Report Card, 11 categories’ letter grades have remained unchanged and two grades have declined with the following opportunities for improvement:*

- *As the state with the most combined sewer overflows, billions of gallons of untreated sewage enter into our streams every year and is reflected through Stormwater’s downgraded letter grade and Wastewater’s D-grade.*
- *Pennsylvania’s aging drinking water mains saw an over 40% increase in breaks contributing to a D grade.*

3. In Item 5 on pages 4 and 5 of PMAA’s comments, PMAA asserts that any proposed acquisition of a municipal authority–owned water or wastewater system by an acquiring public utility must “*be in the public interest.*” SUEZ fully supports that all acquisitions be in the public interest; in fact, it



is a legal requirement for PUC approval under Section 1103 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1103. SUEZ, however, also believes that ownership by an investor-owned utility provides the technical and financial capabilities to ensure that the acquisition will be in the public interest. In addition, the regulatory oversight of the PUC and Pennsylvania Department of Environmental Protection (“DEP”) is a safeguard for the public interest.

4. In regards to all other comments made by PMAA, SUEZ neither supports nor opposes them.

#### **Chester Water Authority**

In regards to the comments provided by Francis J. Catania, Solicitor for Chester Water Authority, SUEZ offers the following replies:

1. SUEZ does not support the inferred recommendation that a referendum be required to sell a water and or wastewater system. SUEZ believes that an authority’s board members and the municipal administrative employees are best-suited to decide whether or not to sell. This is especially true for systems like Chester Water Authority, which are well-managed and may not be a candidate for a Section 1329 acquisition. Further, SUEZ notes that the PUC lacks jurisdiction to compel a municipality to conduct a referendum. As such, the Authority’s comments are beyond the scope of the TSIO.
2. On page 9 of its comments, the Chester Water Authority asserts that the sale under Section 1329 results in a permanent loss of public control over water assets. However, this is not the case. It is simply a different form of public oversight. Investor-owned utility ownership still provides the proper controls to ensure the public concerns are maintained via regulatory oversight from a number of agencies, including the PUC, DEP, the Susquehanna River Basin Commission, and others.
3. In regards to all other comments by Chester Water Authority, SUEZ neither supports nor opposes them.

#### **Office of Consumer Advocate (OCA)**

In regard to the comments provided by Christine Maloni Hoover, Senior Assistant Consumer Advocate, SUEZ offers the following replies:

1. OCA, on page 3 of its comments, states: *“The General Assembly did not intend to have Section 1329 to have the effect of significantly increasing rates and does not support acquisitions that will negatively impact customers by significantly increasing rates.”* SUEZ contends that, in many cases (if not most cases), the very reason that municipalities and municipal authorities would consider divesting their assets is because their existing rates do not come close to a full cost of service rate -- which in turn has resulted in the Water Infrastructure D Grade and the Wastewater Infrastructure D- grade by the American Society of Civil Engineers (ASCE) 2018 Report Card. SUEZ agrees that the rate impact should be a factor in the selection process but does not agree that a



significant increase in rates should disqualify the sale. Ensuring water and wastewater rates are set at a full cost of service, regardless of whether it results in a significant increase, is paramount in ensuring the sustainability of any system.

2. SUEZ, in its initial comments on the TSIO recommended a two-tier filing approach based on both the size and purchase price of the system being sold under Section 1329. SUEZ believes the two-tier system will provide a more efficient approval process; and therefore, if adopted, OCA's recommendations to modify the existing checklist requirements may not be necessary (or at least reduced).
3. SUEZ does not agree with OCA's recommendation in Attachment A of its comments. SUEZ believes that the UVE appraisals should suffice in establishing the fair market value and submission of the buyer's and seller's independent and confidential evaluation studies should not be required. In addition, disclosing the buyer's evaluation provides strategic information that should not be accessible to its competition.
4. In regards to all other comments by OCA, SUEZ neither supports nor opposes them.

SUEZ thanks the PUC for this opportunity to submit these replies to comments. It further welcomes the opportunity to be a full participant in future working groups or collaborative on the implementation of Section 1329.

Best regards,

A handwritten signature in blue ink, appearing to read "John D. Hollenbach". The signature is fluid and cursive, with the first name being particularly prominent.

John D. Hollenbach  
Vice President