

**SAUL EWING  
ARNSTEIN  
& LEHR** LLP

RECEIVED  
CASE MANAGEMENT

MAY 13 2019

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

FORWARD  
CASE MANAGEMENT

2019 MAY 14 4:10 PM

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

Stephen B. Genzer

Phone: (973) 286-6712

Fax: (973) 286-6812

Stephen.Genzer@saul.com

www.saul.com

May 10, 2019

**VIA EMAIL and FEDERAL EXPRESS**

Honorable Aida Camacho-Welch, Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350

RECEIVED  
MAIL ROOM

MAY 13 2019

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

Re: In the Matter of the Joint Petition for Approval of SUEZ Water New Jersey Inc.  
for Approval of a Pilot Program to Facilitate the Replacement of Lead Service  
Lines and a Related Cost Recovery Mechanism  
BPU Docket No. WO19030381

Dear Secretary Camacho-Welch:

This firm represents Petitioner, SUEZ Water New Jersey ("SWNJ" or the "Company") in the above-referenced matter, which was filed with the Board of Public Utilities ("BPU" or "Board") on March 22, 2019. We have been asked to clarify the current status of the Company's request with respect to this Petition and are happy to do so.

We hope the following will clarify the current position of the Company and allow the BPU to act at its next Agenda meeting to appoint a Commissioner to preside over the matter and thus move the matter forward procedurally.

In Paragraphs 20 and 21 of the Petition, the Company suggested that a Pilot Program be initiated providing for a mechanism to encourage replacement of the customer-owned side of any identified LSLs. The Pilot Program would, in summary:

1. As further described in Paragraph 20, in certain instances, a customer that has a lead service line on the customer's side will be offered the opportunity for the customer side of the LSL to be replaced at a cost of \$1,000 and to be paid on that customer's water bill over a period of one year from the date of completion of the service line replacement.

*EMS*  
*list copied*

Stephen B. Genzer - Newark Managing Partner

One Riverfront Plaza, Suite 1520 ♦ Newark, NJ 07102-5426 ♦ Phone: (973) 286-6700 ♦ Fax: (973) 286-6800

DELAWARE FLORIDA ILLINOIS MARYLAND MASSACHUSETTS MINNESOTA NEW JERSEY NEW YORK PENNSYLVANIA WASHINGTON, DC

A DELAWARE LIMITED LIABILITY PARTNERSHIP

2. The difference between that \$1,000 and the total cost for the replacement would be paid by the Company, the unamortized amount accounted for as a regulatory asset, and amortized and included in rates over a period of seven years.
3. The unamortized amount of the regulatory asset would include a return at the Company's overall authorized rate of return and be similarly accounted for.
4. During the course of the Pilot Program, its amortization, recoveries, and ongoing costs records would be fully open for examination and true-ups as needed.
5. The \$1,000 paid by the customer for a portion of the cost of replacing their service line would not be reflected as a contribution<sup>1</sup> (since not company owned), but would be netted against the total cost of replacing the service line.
6. Both during the customer's \$1,000 surcharge period as well as during and at the conclusion of each 7 year regulatory asset amortization period, the Company will not own or be in control of the customer side of the service line, just as it is neither in control of, nor owns, the customer side of the service line today.
7. As further described in Paragraph 21, additionally, the Company is proposing as a part of the Pilot Program, approval of a surcharge to General Metered Service customers which includes the costs of the program including program and administration costs, surveys and other required costs, and the Company's costs incurred above the \$1,000 customer payment as part of the total.

The Company proposed that the Pilot Program be implemented in two phases as described in Paragraph 23 and 24 of the Petition. In summary, during the first phase as noted in Paragraph 23:

8. SUEZ is formally requesting the NJBPU to retain this matter rather than transmit the matter to the Office of Administrative Law for hearings as needed.
9. SUEZ requests that a Commissioner be assigned to conduct any needed proceedings.
10. The Company is requesting that the Board approve Exhibit E which is the tariff page allowing the \$1,000 customer reimbursement charge so that the Company may begin replacing LSLs in order to meet the DEP required number of LSL and gooseneck replacements.
11. The Company is requesting that Phase 1 would be Ordered through a BPU Order at the BPU's April Agenda meeting.

---

<sup>1</sup> The purpose of this is to avoid any potential income tax consequences related to the taxability of contributions.

12. The Company is requesting that the Board approve deferred accounting treatment for all costs related to this Pilot Program as of the date of this Petition so that upon further actions taken by the Board, appropriate action with respect to rates may be determined by the NJBPU.
13. SUEZ formally requests that the Board approve deferred accounting for all the costs of the program incurred to date in 2019 as of the date of this Petition and authorization for the Company to proceed with its program to begin to comply with DEP requirements within 2019.
14. Additionally, SUEZ formally requests the Board approve a surcharge as described above and tariff as included in Exhibit D to this Petition. During the ongoing months, SUEZ anticipates numerous meetings and discussions with parties to this proceeding culminating in an Interim Order on rates and the full implementation of the program.

After several meetings and discussions between the DEP, BPU Staff and the Company regarding the impact of the Lead and Copper Rule on SWNJ, it became apparent that, in order to meet the 2019 requirements of that Rule, the Company needed to clarify some of the requested actions contained in its Petition.

During these meetings and discussions, it became apparent that DEP, BPU Staff and Rate Counsel were unwilling to agree to any program which exceeded the current requirements of the Lead and Copper Rule, which require only that the Company replace its side of the LSLs while offering to have the customer side of the LSL replaced at the customer's cost. In order to reach an agreement with the DEP on the specific terms of the letters which the Company would provide to relevant customers, the Company agreed to continue the discussions on exactly how to best encourage the replacement of the customer-owned side of the LSLs during the course of the instant proceeding.

On April 8, 2019, the Company submitted a letter to formally clarify and adjust one aspect of our filed Petition. This letter was intended to clarify that the Company was withdrawing its request for immediate action on the Tariff sheet, attached as Exhibit E to the Petition, at the April BPU meeting (please refer to point 11 included in the above summary). For the avoidance of doubt, the Company continues to petition for approval of each portion of its pilot program including Exhibit E to the Petition. Only the timing of BPU approval of such request has been adjusted.

We hope this clarifies clearly that we are not requesting the BPU to take action to approve the Tariff sheet included as Exhibit E to the Petition at the time of the appointment of a Commissioner, but we will continue to urge the BPU to adopt this, or something comparable, if and when the BPU adopts a Pilot Program in the context of this proceeding. Similarly, we believe the request for deferred accounting treatment will need to be discussed and resolved in

May 10, 2019

Page 4

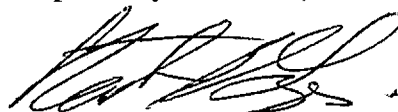
the context of the proceeding, but in order to move this process along, SWNJ is willing to await subsequent good faith discussions with the parties to resolve that issue as well.

We hope it is absolutely clear that, while the Company continues to believe its suggested Pilot Program to deal with the issue of Lead Service Lines ("LSL") is both sound and reasonable, we are not trying to foreclose any party to this proceeding from discussing, proposing or recommending whatever they believe appropriate to confront and resolve the public policy concerns leading to the replacement of LSLs. We believe appointing a Commissioner to preside over this matter will move this process along and allow the parties to discuss the numerous issues and hopefully come to a speedy and satisfactory resolution. To that end, we urge the BPU to move ahead on May 28 only with the appointment of a Commissioner.

While SWNJ will continue good faith discussions during the proceeding, it continues to believe that some appropriate economic incentives will be necessary to convince customers to replace their side of the LSLs and accomplish this important public policy goal. This issue is too important to delay action any longer.

As SWNJ has stated numerous times before, the Company is continuing to comply with the protocols of the Lead and Copper rule and is working diligently to meet the 7% 2019 requirement. As noted, SWNJ is fully open to discussing any of the specifics of its proposed Pilot Program and how to better encourage the replacement of any Lead Service Lines in its service territory. The Company expects that, through a Pilot Program which we hope will be acceptable to all parties, the LSL issue will be resolved in a prompt and efficient manner.

Respectfully submitted,



Stephen B. Genzer

SBG/jg

cc: Attached Service List (via email only; w/attachments)



## SERVICE LIST

In the Matter of the Petition of  
SUEZ Water New Jersey Inc. for Approval of a Pilot Program to Facilitate the  
Replacement of Lead Service Lines and a Related Cost Recovery Mechanism  
BPU Docket No. WO19030381

### **BPU STAFF**

Aida Camacho-Welch, Secretary  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[aida.camacho@bpu.nj.gov](mailto:aida.camacho@bpu.nj.gov)  
[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Karriemah Graham  
Director of Case Management  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[karriemah.graham@bpu.nj.gov](mailto:karriemah.graham@bpu.nj.gov)

Donna Thomas, Case Management  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[donna.thomas@bpu.nj.gov](mailto:donna.thomas@bpu.nj.gov)

Grace Strom Power, Esquire  
Chief of Staff  
Board of Public Utilities  
44 South Clinton Avenue, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[grace.power@bpu.nj.gov](mailto:grace.power@bpu.nj.gov)

Michael Kammer, Chief  
Bureau of Rates, Div. of Water  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[mike.kammer@bpu.nj.gov](mailto:mike.kammer@bpu.nj.gov)

Dr. Son Lin Lai, Senior Economist  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[son-lin.lai@bpu.nj.gov](mailto:son-lin.lai@bpu.nj.gov)

Megan Lupo  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[megan.lupo@bpu.nj.gov](mailto:megan.lupo@bpu.nj.gov)

Kenneth Welch  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[kenneth.welch@bpu.nj.gov](mailto:kenneth.welch@bpu.nj.gov)

Kyle Felton  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[kyle.felton@bpu.nj.gov](mailto:kyle.felton@bpu.nj.gov)

Carol Artale, Esq.  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[carol.artale@bpu.nj.gov](mailto:carol.artale@bpu.nj.gov)

Noreen Giblin, Chief Counsel  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[noreen.giblin@bpu.nj.gov](mailto:noreen.giblin@bpu.nj.gov)

Suzanne Patnaude, Esq.  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[suzanne.patnaude@bpu.nj.gov](mailto:suzanne.patnaude@bpu.nj.gov)

Paul Flanagan, Executive Director  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[paul.flanagan@bpu.nj.gov](mailto:paul.flanagan@bpu.nj.gov)

Benjamin Witherell  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[benjamin.witherell@bpu.nj.gov](mailto:benjamin.witherell@bpu.nj.gov)

Jacqueline O'Grady  
Office of the Economist  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[jackie.ogrady@bpu.nj.gov](mailto:jackie.ogrady@bpu.nj.gov)

Christine Sadovy  
Deputy Chief of Staff  
Board of Public Utilities  
44 South Clinton Ave., Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[christine.sadovy@bpu.nj.gov](mailto:christine.sadovy@bpu.nj.gov)

### **RATE COUNSEL**

Stefanie A. Brand, Director  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Fl.  
P.O. Box 003  
Trenton, NJ 08625  
[sbrand@rpa.nj.gov](mailto:sbrand@rpa.nj.gov)

Debra F. Robinson, Esq.  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625  
[drobinson@rpa.nj.gov](mailto:drobinson@rpa.nj.gov)

Brian O. Lipman, Esq.  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625  
[blipman@rpa.nj.gov](mailto:blipman@rpa.nj.gov)

Susan McClure, Esq.  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625  
[smcclure@rpa.nj.gov](mailto:smcclure@rpa.nj.gov)

Christine M. Juarez, Esq.  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625  
[cjuarez@rpa.nj.gov](mailto:cjuarez@rpa.nj.gov)

Kathryn A. Hart, Legal Assistant  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625  
[khart@rpa.nj.gov](mailto:khart@rpa.nj.gov)

Howard Woods, Jr., P.E.  
Howard J. Woods, Jr. & Associates, LLC  
49 Overhill Road  
East Brunswick, NJ 08816  
[howard@howardwoods.com](mailto:howard@howardwoods.com)

**DIVISION OF LAW**

Caroline Vachier, DAG  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07101  
[caroline.vachier@law.njoag.gov](mailto:caroline.vachier@law.njoag.gov)

Geoffrey Gersten, DAG  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07101  
[geoffrey.gersten@law.njoag.gov](mailto:geoffrey.gersten@law.njoag.gov)

Patricia Krogman, DAG  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07101  
[patricia.krogman@law.njoag.gov](mailto:patricia.krogman@law.njoag.gov)

**COMPANY**

Gary S. Prettyman  
Senior Director Regulatory Business  
SUEZ Water New Jersey Inc.  
461 From Road, Suite 400  
Paramus, NJ 07652  
[gary.prettyman@suez.com](mailto:gary.prettyman@suez.com)

James C. Cagle, Vice President  
Regulatory Business  
SUEZ Water New Jersey Inc.  
461 From Road, Suite 400  
Paramus, NJ 07652  
[jim.cagle@suez.com](mailto:jim.cagle@suez.com)

Bryant Gonzalez  
SUEZ Water New Jersey Inc.  
461 From Road, Suite 400  
Paramus, NJ 07652  
[bryant.gonzalez@suez.com](mailto:bryant.gonzalez@suez.com)

Debra Visconti  
Regulatory Coordinator  
SUEZ Water New Jersey Inc.  
461 From Road, Suite 400  
Paramus, NJ 07652  
[debra.visconti@suez.com](mailto:debra.visconti@suez.com)

Stephen B. Genzer, Esq.  
Saul Ewing Arnstein & Lehr LLP  
One Riverfront Plaza, Suite 1520  
1037 Raymond Blvd.  
Newark, NJ 07102  
[stephen.genzer@saul.com](mailto:stephen.genzer@saul.com)

Colleen Foley, Esq.  
Saul Ewing Arnstein & Lehr LLP  
One Riverfront Plaza, Suite 1520  
1037 Raymond Blvd.  
Newark, NJ 07102  
[colleen.foley@saul.com](mailto:colleen.foley@saul.com)