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CASE MANAGEMENT

State of New Jersey

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

PHIL MURPHY
Governor

2019 MAY 17 A 12:43

SHEILA OLIVER
Lt. Governor

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

STEFANIE A. BRAND
Director

May 15, 2019

via Electronic and USPS Regular Mail

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Ave., 10th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

FORWARDED
CASE MANAGEMENT
2019 MAY 21 A 1:15
BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Re: I/M/O Joint Petition for Approval of SUEZ New Jersey Inc. for Approval of a Pilot Program to Facilitate the Replacement of Lead Service Lines & a Related Cost Recovery Mechanism
BPU Docket No. WO19030381

Dear Secretary Camacho-Welch:

Please accept this letter in response to the most recent letter ("Second Suez Letter") to the Board of Public Utilities ("Board") sent by Petitioner SUEZ New Jersey ("Suez" or "Company") on May 10, 2019 regarding the above-referenced matter. In its letter, the Company sought to clarify the details of what it was requesting in its Petition.

First, the Company reiterates its request that a Commissioner be "assigned to conduct any needed proceedings." Second Suez Letter at 2. While we have no objection to the appointment of a Commissioner to preside over this matter, Rate Counsel respectfully requests that in appointing a Commissioner the Board designate the matter a "contested case" pursuant to the Administrative Procedure Act. N.J.S.A. 52:14B-2. Suez's Petition involves issues of fact as well as a novel rate proposal, specifically a request that it be allowed to conduct work on customer-owned property, create a regulatory asset in rate base, and receive a return of and on investment in return. In order to protect the State's ratepayers, Rate Counsel has the right and obligation to thoroughly review this filing. Given the novel rate treatment requested by this Petition, Rate Counsel and Board Staff must be afforded the opportunity to fully vet this Petition. Treatment of this matter as a contested case will afford Rate Counsel and Board Staff the opportunity to conduct discovery, submit testimony, participate in evidentiary hearings, and submit briefs. A contested case under the APA is defined as a "proceeding...in which the legal rights, duties, obligations, privileges, benefits or other legal relations of specific parties are required by constitutional right or by statute to be determined by an agency...." N.J.S.A.

Case mgmt

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52:14B-2. Because Suez is asking its ratepayers to bear the cost of program proposed in its Petition, the Board is being asked to make a determination as to ratepayers' obligation to do so. This matter clearly meets the standard for contested cases under the APA. Moreover, the unique public policy concerns presented by Suez's Petition further compel Rate Counsel to request this matter be designated as a contested case.

Additionally, while the Company appears to have withdrawn its request for expedited approval of Exhibit E, Rate Counsel found that aspect of the Second Suez Letter somewhat unclear. Accordingly, Rate Counsel would like to reiterate its position regarding Exhibit E. Rate Counsel strenuously objects to any and all approval of Exhibit E or any other new tariff on an expedited or interim basis. Furthermore, we continue to object to the Company's request for deferred accounting, as the Company has failed to explain what "extraordinary circumstances" exist that necessitate deferred accounting.¹ We maintain that the only appropriate actions to be taken at a subsequent Agenda meeting are the appointment of a presiding Commissioner, and designation of this matter as a contested case.

Respectfully submitted,

STEFANIE A. BRAND
DIRECTOR, DIVISION OF RATE COUNSEL

By:


Christine M. Juarez
Assistant Deputy Rate Counsel

cc: Service List (via e-mail & regular mail)

¹ While Suez argues that its recent lead exceedance constitutes "extraordinary circumstances" warranting deferred accounting, there is evidence undermining this argument that Suez has been grappling with the lead issue for years. Indeed, Suez has been on the cusp of exceeding the lead action level since as far back as 2012. <https://www.northjersey.com/story/news/environment/2019/05/13/lead-nj-water-suez-nearly-exceeded-lead-levels-years-before-current-spike-flint/3424975002/>

**In the Matter the Petition of
SUEZ 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. WO1903381

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