



March 28, 2024

VIA E-FILING

David P. Zambito

Direct Phone 717-703-5892

Direct Fax 215-989-4216

dzambito@cozen.com

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

Re: Pennsylvania Public Utility Commission v. Veolia Water Pennsylvania, Inc.;
Docket Nos. R-2024-3045192, R-2024-3045193, et al.

Petition for Protective Order of Veolia Water Pennsylvania, Inc.

Dear Secretary Chiavetta:

Enclosed please find the Petition for Protective Order of Veolia Water Pennsylvania, Inc. Copies have been served as shown on the attached Certificate of Service.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,

COZEN O'CONNOR

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

DPZ

Enclosures

cc: Administrative Law Judge Emily I. DeVoe

Per Certificate of Service

James C. Cagle, Vice President, Rates and Regulatory Affairs

Maryanne Hatch, Senior Director, Rates and Regulatory Affairs

Larry Finnicum, Vice President and General Manager, VWPA

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos. R-2024-3045192 <i>et al.</i> ,
	:	(Water)
v.	:	
	:	
Veolia Water Pennsylvania, Inc.	:	Docket No. R-2024-3045193, <i>et al.</i>
	:	(Wastewater)

CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of March, 2024, served a true copy of the foregoing **Petition for Protective Order of Veolia Water Pennsylvania, Inc.**, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL ONLY (with Attachments):

Christy M. Appleby, Esq.
Darryl Lawrence, Esq.
Barrett C. Sheridan, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
E-mail: OCAVeolia2024@paoca.org
Counsel for *Office of Consumer Advocate*

Michael A. Podskoch, Jr., Esq.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street – 2 West
Harrisburg, PA 17120
E-mail: mpodskoch@pa.gov
Counsel for *Bureau of Investigation and Enforcement*

Sharon E. Webb, Esq.
Rebecca Lyttle, Esq.
Office of Small Business Advocate
555 Walnut Street
Forum Place, 1st Floor
Harrisburg, PA 17101-1923
E-mail: swebb@pa.gov
E-mail: relyttle@pa.gov
Counsel for *Office of Small Business Advocate*

Kevin C. Higgins
Neal Townsend
Shantell Garrett
Energy Strategies
111 East Broadway, Suite 1200
Salt Lake City, Utah 84111
khiggins@energystrat.com
sgarrett@energystrat.com
ntownsend@energystrat.com
Consultants for *Office of Small Business Advocate*

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA
John W. Sweet, Esq., PA ID: 320182
Lauren N. Berman, Esq., PA ID: 310116
Ria M. Pereira, Esq., PA ID: 316771
Elizabeth R. Marx, Esq., PA ID: 309014
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org

VIA FIRST CLASS MAIL (without Attachments)

Chris and Laurie Hays
P.O. Box 29
Pennrose Talley
Garnet Valley, PA 19060
4jetset@gmail.com

Andrew Breining
4500 Lancaster Street
Harrisburg, PA 17111
acbreining@gmail.com

Mercedes Coffman
19 W. 8th Street
Bloomsburg, PA 17815
mchh9@umsystem.edu

Kristen Khan
5484 Grouse Drive
Harrisburg, PA 17111
Kristenkhan757@yahoo.com

Hunter and Katelyn Moyer
60 White Oak Lane
Etters, PA 17319
Huntermoyer98@gmail.com

Elisa Giusto
85 Greenspring Drive
Mechanicsburg, PA 17050
elisagi@paom.edu

Norman L. Lowe
2631 Old Berwick Road
Bloomsburg, PA 17815
JaneandLarryLowe@gmail.com

John and Linda Brown
7024 Brookdale Drive
Harrisburg, PA 17111
linda_rose@verizon.net

Ida N. Gorman
563 Brighton Place
Mechanicsburg, PA 17055

Respectfully submitted,

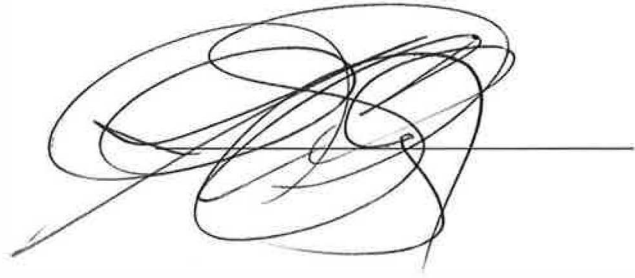


David P. Zambito, Esq.
Counsel for *Veolia Water Pennsylvania, Inc.*

VERIFICATION

I, James C. Cagle, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: March 28, 2024

A handwritten signature in black ink, appearing to be "James C. Cagle", written over a horizontal line. The signature is highly stylized and somewhat illegible due to overlapping loops and flourishes.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge Emily J. DeVoe

Pennsylvania Public Utility Commission	:	Docket Nos. R-2024-3045192 <i>et al.</i> ,
	:	(Water)
v.	:	
	:	Docket No. R-2024-3045193, <i>et al.</i>
Veolia Water Pennsylvania, Inc.	:	(Wastewater)

PETITION FOR PROTECTIVE ORDER

Veolia Water Pennsylvania, Inc. (“VWPA”) files this petition pursuant to 52 Pa. Code § 5.365 for the protection from public disclosure of certain confidential and proprietary information that VWPA has submitted to and exchanged in discovery in the above matter and which VWPA anticipates submitting to and exchanging with the Pennsylvania Public Utility Commission (“Commission”) and the parties during the course of these proceedings. In support, VWPA states as follows:

I. Procedural History

1. On February 16, 2024, VWPA (Water Division) filed a general base rate proceeding at Docket No. R-2024-3045192. Also on February 16, 2024, VWPA (Wastewater Division) filed a general base rate proceeding at Docket No. R-2024-3045193.

2. On February 16, 2024, the Office of Consumer Advocate (“OCA”) filed its Formal Complaint and Public Statement. The lead counsel for the OCA in this matter is Christy M. Appleby, Esq.

3. On February 20, 2024, Michael A. Podskoch, Jr. entered his Notice of Appearance on behalf of the Commission’s Bureau of Investigation and Enforcement (“I&E”).

4. On February 21, 2024, VWPA filed corrected cover letters for its water and wastewater general base rate cases.

5. On February 23, 2024, VWPA filed affidavits verifying compliance with the notice requirements for its water and wastewater filings.

6. On February 26, 2024, counsel for the Office of Small Business Advocate (“OSBA”) filed their Notice of Appearance. The lead counsel for the OSBA in this matter is Sharon E. Webb, Esq.

7. On March 4, 2024, VWPA filed a revised answer to minimum filing requirement II-8.

8. On March 8, 2024, CAUSE-PA filed a Petition to Intervene. The lead counsel for CAUSE-PA is John W. Sweet, Esq.

9. On March 14, 2024, the Commission issued orders suspending both the proposed water tariff and the proposed wastewater tariff until November 16, 2024, and directing VWPA to file suspension tariffs within ten days.

10. On March 20, 2024, the Commission issued a Call-In Telephone Prehearing Conference Notice advising the parties that a Prehearing Conference would be held on March 27, 2024. Also on March 20, 2024, the ALJ issued her Prehearing Conference Order.

11. On March 25, 2024, VWPA filed its suspension water tariff and its suspension wastewater tariff.

12. On March 26, 2024, VWPA, the OCA, the OSBA, I&E and CAUSE-PA filed Prehearing Conference Memoranda.

13. The Prehearing Conference was held as scheduled on March 27, 2024.

II. Background

14. The rate filings, and discovery materials that have already been exchanged, along with additional materials that VWPA anticipates exchanging in this proceeding pursuant to Commission rules and regulations, formal and informal discovery procedures, testimony or oral examination, or as a courtesy to parties, contain information that VWPA considers confidential and proprietary.

III. Legal Standards

15. Section 5.365(a) of the Commission's regulations provide that a petition for protective order will be granted "when a party demonstrates that the potential harm to the party of providing the [confidential or proprietary] information would be substantial and that the harm to the party if the information is disclosed without restriction outweighs the public's interest in free and open access to the administrative hearing process." The factors that the Commission evaluates include: "(1) The extent to which the disclosure would cause unfair economic or competitive damage. (2) The extent to which the information is known by others and used in similar activities. (3) The worth or value of the information to the party and to the party's competitors. (4) The degree of difficulty and cost of developing the information. (5) Other statutes or regulations dealing specifically with disclosure of the information." *See* 52 Pa. C.S. § 5.365(a)(1)-(5).

IV. The ALJ Should Issue the Requested Protective Order

16. Disclosure of confidential and proprietary information contained in the materials VWPA has exchanged, or anticipates will be exchanged during these proceedings, would cause VWPA unfair economic or competitive disadvantage because the information that VWPA would seek to protect is not generally known, is valuable to VWPA, derives value in part due to VWPA's efforts to maintain the confidentiality of the information, and could be valuable to competitors (and, in turn, harmful to VWPA) if disclosed publicly.

17. The issuance of a protective order adequate to cover all parties and establish procedures in accordance with 52 Pa. Code § 5.365 for the provision of information believed to be confidential or proprietary would serve administrative economy and efficiency by obviating the need for parties to address confidential/proprietary concerns on a piecemeal basis every time confidential/proprietary information is requested.

18. The proposed protective order included with this Petition is in the usual accepted form, consistent with due process rights and evidentiary burdens. It allows parties to retain the right to question or challenge the confidential or proprietary nature of information; to challenge the admissibility of confidential or proprietary information; to refuse or object to the production of confidential or proprietary information on any proper ground; to seek disclosure of confidential or proprietary information beyond that allowed in the Protective Order; and to seek additional measures of protection beyond those provided in the Protective Order. The Protective Order also provides that the party claiming that the information is confidential or proprietary retains the burden of demonstrating that such designation is necessary and appropriate.

19. Counsel for VWPA contacted Counsel for I&E, the OCA, and CAUSE-PA, and they advise that they do not object to the entry of the proposed protective order. Counsel for OSBA did not respond.

WHEREFORE VWPA requests that the Honorable Administrative Law Judge Emily J. DeVoe enter the Protective Order included with this Petition.

Respectfully submitted,



David P. Zambito, Esquire (PA ID #80017)
Jonathan P. Nase, Esquire (PA ID #44003)
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Phone: (717) 703-5892
E-mail: dzambito@cozen.com
E-mail: jnase@cozen.com

Counsel for *Veolia Water Pennsylvania, Inc.*

Date: March 28, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge Emily J. DeVoe

Pennsylvania Public Utility Commission	:	Docket Nos. R-2024-3045192 <i>et al.</i> ,
	:	(Water)
v.	:	
	:	Docket No. R-2024-3045193, <i>et al.</i>
Veolia Water Pennsylvania, Inc.	:	(Wastewater)

PROTECTIVE ORDER

THEREFORE, upon consideration of the petition for protective order filed by Veolia Water Pennsylvania, Inc. (“VWPA”) in the above matter and any response thereto,

IT IS ORDERED:

1. That the Petition for a Protective Order is granted with respect to all materials and information identified in Paragraph 2 below, which are filed with the Pennsylvania Public Utility Commission (“Commission”), produced in discovery, or otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. That materials subject to this Protective Order are all correspondence, documents, data, information, excerpts, summaries, studies, methodologies and other materials (including materials derived therefrom) which a party or an affiliate of a party furnishes in this proceeding pursuant to Commission rules and regulations, formal and informal discovery procedures, testimony or oral examination, or provided as a courtesy to a party to this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated “PROPRIETARY

INFORMATION” or “CONFIDENTIAL AND PROPRIETARY” or “PRIVILEGED AND CONFIDENTIAL” (hereinafter collectively referred to as “Proprietary Information”).

3. That, in addition, the parties may designate extremely sensitive Proprietary Information as “HIGHLY CONFIDENTIAL INFORMATION” or “HIGHLY CONFIDENTIAL MATTER” (hereinafter referred to as “Highly Confidential Information”) and thus secure the additional protections set forth in this Protective Order pertaining to such material.

4. That Proprietary Information and Highly Confidential Information produced in this proceeding shall be made available, solely for use in this proceeding, to VWPA; the Office of Consumer Advocate (“OCA”); the Office of Small Business Advocate (“OSBA”), the Commission’s Bureau of Investigation and Enforcement (“I&E”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), and additional parties, if any. To the extent that Proprietary Information or Highly Confidential 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 or Highly Confidential 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 and Highly Confidential Information shall be permitted only in accordance with this Protective Order.

5. That Proprietary Information and Highly Confidential Information shall be made available to counsel of record in this proceeding pursuant to the following procedures:

a. Proprietary Information. To the extent required for participation in this proceeding, a party’s counsel, upon execution of the attached Appendix A, may afford access to Proprietary Information made available by another party (“the producing party”) to the party’s expert(s) and staff (except that the Consumer Advocate, the Deputy Consumer Advocate, the Small Business Advocate, and support staff in OCA and OSBA need not execute Appendix A, provided that OCA’s and OSBA’s counsel execute

Appendix A). Any information provided under this provision may be used only for and to the extent that it is necessary for participation in this proceeding. Any person obtaining information disclosed through this provision may not use that information to gain any commercial advantage and any person obtaining information may not forward it to any person to gain commercial advantage.

b. Highly Confidential Information. Where information is asserted to be Highly Confidential Information, it will be made available for inspection and review as provided for in this Protective Order and copying only as specified herein. The producing party shall permit counsel for VWPA, OCA, OSBA, I&E, CAUSE-PA and other counsel to take custody of a copy of such Highly Confidential Information, provided that it shall not be copied, except for counsel, and the OCA's, OSBA's, I&E's, and CAUSE-PA's in-house staff, independent consultants, or non-lawyer representatives, in accordance with the protocols set forth below and shall be returned as provided for in this Protective Order. Such Highly Confidential Information may be provided by the OCA or OSBA to the Consumer Advocate, the Deputy Consumer Advocate, the Small Business Advocate, or eligible in-house staff without the need for execution of Appendix A. Additionally, such Highly Confidential Information may be provided by the OCA or OSBA or other counsel to its eligible independent consultants (as defined in 52 Pa. Code § 5.365(d)) or other non-lawyer representatives who are assisting counsel with these proceedings, provided that such consultants and non-lawyer representatives execute and return the attached Appendix A to the producing party pursuant to Paragraph 6 of this Protective Order.

c. No other persons may have access to the Proprietary or Highly Confidential Information except as authorized by order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary or Highly Confidential Information, shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

6. Prior to making Proprietary or Highly Confidential Information available to any independent consultant or non-lawyer representatives, counsel shall, except as specifically exempted under Paragraph 5(b) of this Protective Order, deliver a copy of this Protective Order to such person and shall receive a written acknowledgment from that person in the form attached to this Protective Order and designated as Appendix A. Counsel shall promptly deliver to the producing party a copy of the executed Appendix A.

7. A producing party shall designate data or documents as constituting or containing Proprietary or Highly Confidential Information by affixing an appropriate proprietary stamp or type-written designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Proprietary or Highly Confidential Information, the producing party shall designate only the specific data or pages of documents which constitute or contain Proprietary or Highly Confidential Information.

8. Any public reference to Proprietary or Highly Confidential Information by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary or Highly Confidential Information to fully understand the reference and not more. The Proprietary or Highly Confidential Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

9. Part of any record of this proceeding containing Proprietary or Highly Confidential Information, including but not limited to all exhibits, writings, testimony, cross examination, argument and responses to discovery, and including reference thereto as mentioned in paragraph 8 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary or Highly Confidential Information is released from the restrictions of this Protective Order, either through the agreement of the parties or pursuant to Order of the Administrative Law Judge, the Commission or appellate court. Unresolved challenges arising under paragraph 10 shall be decided on petition by the presiding officer or the Commission as provided by 52 Pa. Code § 5.365(a). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

10. The parties affected by the terms of this Protective Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary or Highly Confidential Information; to question or challenge the admissibility of Proprietary or Highly Confidential Information; to refuse or object to the production of Proprietary or Highly Confidential Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; to seek an order permitting disclosure of Proprietary or Highly Confidential Information beyond that allowed in this Protective Order; and to seek additional measures of protection of Proprietary or Highly Confidential Information beyond those provided in this Protective Order. If a challenge is made to the designation of a document or information as Proprietary or Highly Confidential, the party claiming that the information is Proprietary or Highly Confidential retains the burden of demonstrating that the designation is necessary and appropriate.

11. This Protective Order shall continue to be binding throughout and after the conclusion of this proceeding.

12. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Proprietary or Highly Confidential Information, shall be immediately returned upon request to the party furnishing such Proprietary or Highly Confidential Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary or Highly Confidential Information have been destroyed.

Dated: _____

Administrative Law Judge

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge Emily J. DeVoe

Pennsylvania Public Utility Commission : Docket Nos. R-2024-3045192 *et al.*,
: (Water)
v. :
: Docket No. R-2024-3045193, *et al.*
Veolia Water Pennsylvania, Inc. : (Wastewater)

ACKNOWLEDGMENT

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____ (the receiving party).

The undersigned has read the Protective Order dated _____, 2024, and understands that it deals with the treatment of Proprietary and Highly Confidential Information. The undersigned agrees to be bound by, and to comply with, the terms and conditions of said Protective Order. In the case of an independent expert, the undersigned represents that he/she has complied with the provisions of paragraph 5 of the Protective Order prior to submitting this Acknowledgement.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE