

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on October 23, 2026

COMMISSIONER PRESENT:

Rory M. Christian, Chair

CASE 26-M-0674 - Joint Petition of Veolia Water New York, Inc.
and Metropolitan Transportation Authority for
Authorization to Sell, Assign, Transfer and
Convey Easements Pursuant to Section 89-h of
the Public Service Law.

ORDER AUTHORIZING THE GRANT OF EASEMENTS

(Issued and Effective October 23, 2026)

INTRODUCTION

On October 9, 2026, Veolia Water New York, Inc.
(Veolia) and Metropolitan Transportation Authority (MTA)
(collectively, the Joint Petitioners) filed a joint petition
seeking authorization, pursuant to Public Service Law (PSL) §89-
h, for Veolia to grant to the MTA three easements over portions
of Veolia's utility property located in the City of New
Rochelle, Westchester County, New York (Joint Petition). The
Joint Petition also requests waiver of certain provisions of
Title 16 of the New York Codes, Rules and Regulations (16 NYCRR)
§31.1, requiring supporting information be provided with a PSL
§89-h petition, but which are not germane to this request for
authority.

This Order authorizes Veolia to grant the easements
over Veolia's utility property to the MTA. In addition, the
Joint Petitioners' request for waivers of certain provisions of
16 NYCRR §31.1 is granted.

JOINT PETITION

Veolia owns in fee simple real property at 174 Oak Street, New Rochelle, New York (Property). The Joint Petition represents that Veolia uses the Property for equipment and materials storage for its Westchester County water system, with an industrial garage as the primary structure on the lot. The Property is adjacent to Metro-North's New Rochelle Yard, which is located directly north of the Amtrak New Rochelle station.¹ The New Rochelle Yard is part of MTA's Penn Access Project (Project), which includes extending the Metro-North New Haven rail line service to the New York Pennsylvania Station via four new Bronx train stations; four bridge rehabilitations; reconfigured interlockings; expansion and upgrades to New Rochelle Yard; and modernization of signal, power, and communications equipment. The Project is projected to be completed in 2030. The Joint Petition states that expansion of the New Rochelle Yard is needed to help facilitate train movement, storage, and servicing of equipment. As a result of the New Rochelle Yard expansion, MTA needs to construct retaining walls to protect the yard from the main train tracks and adjacent land.

The Joint Petitioners request authority for Veolia to grant to the MTA three easements over the rear portion of the Property. Pursuant to the prospective Easement Agreement (Agreement), included in Exhibit 1 to the Joint Petition, the easements are necessary to complete the Project. Under the Agreement Veolia would grant three separate easements to the MTA: an exclusive easement to build part of the retaining wall, as well as a non-exclusive permanent easement and a temporary construction easement, for construction and ongoing maintenance

¹ The Metro-North Railroad (Metro-North) is operated by the MTA.

work related to the retaining wall. In aggregate, the easements necessary to construct the retaining wall cover approximately 2,058 square feet.

Veolia and the MTA agreed to a total purchase price of \$157,050, consisting of a \$117,390² appraisal value for the two permanent easements and \$39,660³ for a three-year temporary construction easement. The purchase price is based on an appraisal performed by Goodman-Marks Associates, Inc. Subsequently, Newmark Valuation & Advisory, LLC also completed an independent appraisal review of the report prepared by Goodman-Marks. The Joint Petitioners state that there was no competitive bidding process as it would not be practical due to the location and specialized nature of the property interests being transferred. Veolia proposes to record the payments it receives from granting the easements in the amount of \$157,050 as a regulatory liability for the benefit of customers for future disposition by the Commission.

² The combined appraisal value of the permanent easements is based on a sales comparison approach, resulting in a value per square foot of \$130. Applying the value per square foot to the square footage of the first permanent exclusive-use easement of 604 square feet results in a market value of \$78,520. Using the Property's underlying fee value of 90 percent yields an appraised Property value of \$70,670. For the second permanent non-exclusive-use easement of 599 square feet, applying the value per square foot of \$130, results in a market value of \$77,870. Using the Property's underlying fee value of 60 percent, yields an appraised Property value of \$46,720. As noted, the combined value of the two permanent easements equals \$117,390.

³ The temporary easement is based on the rental value of the property, using a value per square foot of \$130. Applying the value per square foot to the square footage of the temporary construction easement of 1,453 square feet results in a market value of \$188,890. Taking into consideration a rate of return of seven percent yields an annual rental value of \$13,222 or an approximate three-year value of \$39,660.

The Joint Petitioners assert that the Agreement is in the public interest because granting the easements will enable completion of the Project; the agreed upon purchase price of \$157,050 is reasonable and primarily based on a third-party appraisal. Additionally, they state that granting the easements would not impact Veolia's ability to continue to provide uninterrupted and reliable service to its ratepayers. Further, they state the construction of a retaining wall on the Property is exempt under the State Environmental Quality Review Act (SEQRA) and would not have any significant adverse impacts on the environment.

The Joint Petition requests waiver of certain sections of 16 NYCRR §31.1, specifically §31.1(a), (c)-(d), and (f)-(l). The Joint Petitioners assert that because Veolia will retain ownership of the Property, the information required under those specific subdivisions is not applicable. Finally, the Joint Petitioners request that Veolia be authorized to grant the easements on an expedited basis as the easements need to be secured before the MTA may begin the work on the Property. They also represent that prompt work is necessary to complete the expansion of the New Rochelle Yard. The Joint Petitioners state that construction of the retaining wall required to support the New Rochelle Yard expansion is already underway. Work will soon reach the Veolia property, and any inability to proceed there would delay construction of the retaining wall and increase execution risk.

STATE ENVIRONMENTAL QUALITY REVIEW ACT

In the Joint Petition, MTA provided Part 1 of a Short Environmental Assessment Form (SEAF), attached as Exhibit 5, in conformance with the requirements of SEQRA, Article 8 of the Environmental Conservation Law, found in 6 NYCRR §617.6(a)(3).

In addition, the Joint Petition provides, as Exhibit 3, the Environmental Assessment (EA) performed by the Federal Transit Authority (FTA) pursuant to the National Environmental Policy Act of 1969 (NEPA) before it could approve funding for the Project. The EA was also prepared to meet the requirements of SEQRA. According to the Joint Petition, the EA relied in part on extensive agency coordination, including meetings with the New York State Department of Conservation, the New York State Department of Transportation, and the New York State Historic Preservation Office.

In its Finding of No Significant Impact, provided as Exhibit 4 to the Joint Petition, the FTA found that there would be no significant or adverse environmental impacts as a result of the Project. Since the action being taken in this Order is granting authority for Veolia to grant temporary and permanent easements to MTA as part of the overall Project, there is no need for further review of the environmental impacts of granting the easements to MTA. Pursuant to 6 NYCRR §617.15(b) and (c), where a finding of no significant impact has been prepared under NEPA, the determination will not automatically constitute compliance with SEQRA and the agency remains responsible for compliance, but the agency may consider the federal agency's decision. There is no reason why the extensive environmental review of the Project should be reconsidered for this minor subsidiary action, the authorization for Veolia to grant temporary and permanent easements to MTA.

Furthermore, had the determination not been made by the FTA under NEPA, it would be concluded that the grant of authority here falls under the definition of a Type II action. This action falls under 6 NYCRR §617.5(c)(9), as it involves the construction of an accessory/appurtenant structure (the retaining wall) involving less than 4,000 square feet, does not

involve a change in zoning or use variance and is consistent with local land use controls. Thus, the proposed action is a Type II action pursuant to 6 NYCRR §617.5(C)(9). Accordingly, as Type II actions are deemed to not have significant adverse environmental impacts, no further SEQRA review is required.

LEGAL AUTHORITY

PSL §89-h(1) provides that no water-works corporation shall transfer or lease its franchise, works or system or any part of such franchise, works or system to any other person or corporation or contract for the operation of its works and system, without the written consent of the Commission.

DISCUSSION

When considering a proposed lease, sale, or transfer of utility property, the Commission considers whether the transaction is in the public interest, whether the consideration provided for the property is reasonable, whether ratepayer interests are adequately protected, and whether the transaction would adversely affect the utility's operations or its ability to provide safe and reliable service. Veolia and MTA seek authorization for Veolia to grant three easements pertaining to approximately 2,058 square feet of the rear portion of the Property. The three easements are necessary for the construction and maintenance of a retaining wall for the expanded New Rochelle Yard, which is needed to complete the Project.

A review of the proposed transaction shows that it is in the public interest. Granting the easements will not adversely affect Veolia's ability to provide safe and adequate water service to its customers, as there are no wells on site or other critical water service facilities. While Veolia uses the

Property for storage and operational support for its Westchester County water system, the easements are confined to a limited area at the rear of the Property and will not interfere with Veolia's access to its existing facilities, material storage, or its continued use of the Property. Veolia will retain the access and property rights necessary to conduct its operations, therefore the proposed transaction will not impair Veolia's ability to serve its customers.

In addition, granting the easements will facilitate the Project, which is expected to improve regional public transportation connectivity, expand access to employment and other opportunities for residents of underserved communities, improve travel times for certain Bronx-to-Manhattan trips by as much as 50 minutes, improve the reliability and operational flexibility of regional rail service, and make improvements to existing rail infrastructure. In this context, strengthening public commuter rail service advances the public interest. Further, the retaining wall construction is underway and a delay in obtaining the necessary property rights potentially would disrupt the planned construction sequence, increase project costs, and delay the availability of the Project's anticipated benefits. Therefore, authorizing Veolia to proceed in granting the three easements, subject to the terms of the Agreement, will allow the Project to proceed as planned.

Regarding the proposed purchase price for the three easements in the amount of \$157,050, consisting of \$117,390 for the permanent easements and \$39,660 for the temporary easement, the Commission typically expects such transactions to reflect a competitive bidding process to ensure that ratepayers receive compensation respective of the fair market value of the property for which the easements are being granted. In this instance, due to the unique nature of the transaction, a competitive

bidding process is not applicable, given the easements are to facilitate a specific project being undertaken by the MTA. Therefore, the purchase price for the three easements was determined based on the fair market value of the Property conducted by a third party for which the easements are being granted. Further, another firm conducted an independent review of the third-party appraisal, which concluded that the appraisal report was sufficiently credible and reliable. Both the appraisal report and the independent appraisal review support the agreed upon purchase price for the easements, therefore the purchase price is reasonable.

Regarding the proposed accounting treatment, which is to record the proceeds from the easements as a regulatory liability for future disposition by the Commission, this treatment is reasonable and consistent with the Uniform System of Accounts for water utilities, as well as beneficial to ratepayers as these funds can be used to reduce future expenditures that Veolia would otherwise seek to recover from ratepayers. Veolia shall accrue carrying costs on the deferred balance at its Commission authorized pre-tax weighted average cost of capital until the balance has been fully provided to customers. Veolia shall file with the Secretary to the Commission copies of the documents showing grant of the three easements to MTA and the associated journal entries recording the transaction, within 30 days of the date of closing.

Commission rules require petitions requesting approval for transfers or leases of the works or system of a water-works corporation under PSL §89-h, to set forth certain information pursuant to 16 NYCRR §31.1 (a) through (l). The Joint Petition includes a request for waiver of the requirements of certain provisions of 16 NYCRR §31.1 as they are not applicable in the instant case. Granting the requested waivers is reasonable.

The proposed transaction involves Veolia granting easement interests to the MTA. The provisions of 16 NYCRR §31.1 identified in the Joint Petition are not germane to the specific authorization requested in this proceeding. Accordingly, those provisions are waived.

Given the overall benefits of the proposed transaction, as described above, the proposed grant of the easements is in the public interest. The proposed transaction will not adversely affect Veolia's ability to provide safe and adequate water service to its customers. Furthermore, the proposed ratemaking treatment will ensure that ratepayers receive the proceeds associated with the transaction. Accordingly, Veolia is authorized to grant the easements to the MTA in accordance with the Agreement, for the reasons discussed herein.

EMERGENCY ADOPTION

This Order is issued on an emergency basis pursuant to the State Administrative Procedure Act (SAPA) §202(6) because delaying Veolia's grant of easements to MTA to comply with the requirements of SAPA §202(1) is contrary to the public interest. The retaining wall to be built following the granting of the easements is necessary for public safety; for this reason, good cause exists to act on the instant Joint Petition on an emergency basis.

As required by SAPA §202(6), the Department of Public Service will submit for publication in the State Register a Notice of Proposed Rulemaking and an opportunity for public comment after issuance of this Order and prior to a Commission action regarding permanent adoption of the rule pursuant to SAPA §202(5). The notice of adoption and proposed rulemaking shall constitute notice of proposed rulemaking in accordance with SAPA

§202(1). This Order constitutes the full text of this rulemaking.

CONCLUSION

Given the benefits and need for the proposed transaction, as described above, Veolia is authorized to grant the easements to the MTA and the requirements for 16 NYCRR §31.1(a), (c)-(d), and (f)-(l) are waived. This action is taken on an emergency basis pursuant to SAPA §202(6).

It is ordered:

1. The joint petition of Veolia Water New York, Inc. and the Metropolitan Transportation Authority requesting authorization for Veolia Water New York, Inc. to grant three easements to the Metropolitan Transportation Authority, as discussed herein, is granted.

2. As discussed in the body of this Order, the provisions of Title 16 of the New York Codes, Rules and Regulations Section 31.1 (a), (c), (d), (f), (g), (h), (i), (j), (k), and (l) requiring petitions requesting approval for transfers or leases of the works or system of a water-works corporation under Public Service Law §89-h, to set forth certain information, are waived.

3. Within 30 days of the date of closing, Veolia Water New York, Inc. shall file with the Secretary to the Commission copies of documents showing that the granting of the three easements to Metropolitan Transportation Authority has occurred and providing the associated journal entries recording the transaction.

4. Veolia Water New York, Inc. and the Metropolitan Transportation Authority shall record the easements, as appropriate, with the County Clerk.

5. This Order is adopted on an emergency basis under Section 202(6) of the State Administrative Procedure Act.

6. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

7. This proceeding is continued.

(SIGNED)

Commissioner