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Our File No. 26-162

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Via E-mail: kmarciniec@cupe.ca

Ken Marciniec, Political Action Coordinator, Ontario Region
Canadian Union of Public Employees
80 Commerce Valley Dr E Suite 1
Thornhill, ON L3T 0B2

Dear Mr. Marciniec:

RE: ONTARIO BILL 60 “AN ACT TO AMEND VARIOUS ACTS AND TO ENACT THE WATER AND WASTEWATER PUBLIC CORPORATIONS ACT, 2025” (“BILL 60”) – REVIEW AND COMMENTARY

1. You asked us to provide commentary on provisions of Bill 60,¹ and in particular to discuss the features of corporations that may be designated under the new *Waste and Wastewater Public Corporations Act, 2025*, and whether and how these corporations may be owned, financed and operated. You asked us whether these corporations are, or are required to be, owned and operated by public sector entities, or whether private persons may have ownership interests in them.

BACKGROUND

General

2. There are currently an estimated 1,106 water systems in Ontario (and about 9,000 in Canada). Most Ontario municipalities deliver water and wastewater directly, but some municipalities use municipal service corporation (wholly owned), and others contract out to other providers such as the Ontario Clean Water Agency.²

¹ *Fighting Delays, Building Faster Act, 2025*, SO 2025, c 14, enacting *Water and Wastewater Public Corporations Act, 2025*, SO 2025, c 14, Sch 16 (not yet in force).

² The Ontario Clean Water Agency is a provincial Crown agency that acts as a major contract operator and service provider for municipal and other water systems in Ontario.

3. The estimated value of Ontario municipal potable water and wastewater infrastructure was \$175.8 billion in 2021.³ Water and wastewater infrastructure accounts for about 37% of municipal assets, or 48% including stormwater facilities.⁴

Regulation of Water and Wastewater

4. The Ontario Government regulates water and wastewater under the *Ontario Water Resources Act*, the *Safe Drinking Water Act*, the *Environmental Protection Act*, and the *Environmental Assessment Act*, which set standards and require approvals for facilities.
5. The three main forms of water and wastewater governance, ownership and operation used in Ontario are:
 - a. Direct ownership of water assets and service delivery by municipality, in which municipal councils make all key decisions including asset management, capital funding plans, operational funding and user fee rates where applicable. All assets and liabilities are held by the municipality and consolidated on their financial statements.
 - b. Joint service boards (largely created in 1990s) established by one or more municipalities who decide composition, eligibility of persons to be board members, degree of delegated authority given to the board. All assets and liabilities are jointly held by the participating municipalities and include debt distributed respectively impacting participating municipalities financial information returns.
 - c. Municipal service corporations established under the *Municipal Act, 2001*. These are share capital corporations incorporated under the *Ontario Business Corporations Act*, 100% of whose shares are required to be owned by a municipality.⁵ Directors of these corporations are appointed by municipalities and typically include members of municipal councils as well as independent directors. Financial statements may also be separate.
6. Other forms of governance are used to deliver municipal infrastructure and services in Ontario, such as public utilities (local electrical distribution corporations or Hydro One) and private utilities (Enbridge Gas). Unlike municipal service corporations, public utilities may issue shares to private persons (typically to raise capital) and there are tax implications for private ownership (e.g., a public utility may be income tax exempt if

³ Financial Accountability Office: Municipal Infrastructure (2021).

⁴ Association of Municipalities of Ontario, Municipal Finance Officers' Association on Ontario, *Backgrounder to Water & Wastewater Municipal Services Corporations* (June, 2024).

⁵ See O Reg 599/06 to the *Municipal Act, 2001*, which requires ownership by "public sector entities".

more than 90% owned by municipality).⁶ Public utilities are also subject to the *Public Utilities Act* (Ontario), which regulates some aspects of operations (but not ownership).

Funding and Financing of Water and Wastewater

7. The current primary funding sources of revenue for water and wastewater infrastructure are:
 - a. user fees, which typically involve several components including cost of operations, reserve funds for asset maintenance, and debt service;
 - b. development charges, which are typically set with capital costs of expansion of services and infrastructure;
 - c. federal and provincial government grants targeted at specific development projects;
 - d. reserves held for maintenance and capital re-investment; and
 - e. debt financing of capital costs (limited by statutory limits on municipalities, the “annual repayment limit”, currently 25% of revenues).⁷
8. Other sources of funding, or different limits on debt financing, could be available depending on ownership structures of the service delivery model. These options include private ownership, public-private partnerships,⁸ special levies in municipal tax rolls.

Bill 60

9. Schedule 7 to Bill 60 amends the *Municipal Act, 2001* by providing for the transfer of jurisdiction over water and sewage public utilities from the Regional Municipality of Peel to the City of Mississauga, the City of Brampton and the Town of Caledon, within their geographic areas.⁹

⁶ *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) s. 149(1)(d.5). Note that the 2024 Fall Economic Statement of the prior government identified a policy priority to raise the 10% limit to permit greater ownership of municipal electricity distributors. See Department of Finance Background: Unlocking Pension Investment in Canada, available online at: <https://www.canada.ca/en/departement-finance/news/2024/12/unlocking-pension-investment-in-canada.html>.

⁷ Ontario Regulation 403/02 under the *Municipal Act, 2001* limits principal and interest payments on long-term debt and other financial obligations to 25% of projected own-source revenues which may be adjusted for existing debt charges or reduced revenue recognition.

⁸ There are examples of failed P3 delivery models in Ontario. See, for example, see Bob Carty, “Hard Water: the Uphill Campaign to Privatize Canada’s Waterworks” *ICIJ*, February 13, 2003.

<https://www.icij.org/investigations/waterbarons/hard-water-uphill-campaign-privatize-canadas-waterworks/>. Hamilton returned to public delivery in 2004.

⁹ Bill 60, Schedule 7.

10. Schedule 16 to Bill 60 enacts a new statute, the *Water and Wastewater Public Corporations Act, 2025* (the “WCA”).
11. The WCA creates powers of the Minister of Municipal Affairs and Housing to designate business corporations as “water and wastewater public corporations” (“WWCs”).¹⁰
12. Being so designated, lower-tier municipalities are required to deliver water and sewage services to residents through WWCs, and are required to transfer “employees, assets, liabilities, rights and obligations of the municipality, or other body through which the municipality provides water and sewage services, to a water and wastewater public corporation [a WWC]”.¹¹
13. WWCs are also subject to certain obligations under the WCA, including:
 - a. a list of duties to provide “safe, reliable and sustainable” water and sewage services;
 - b. charge rates for providing services, through the municipal tax rolls;
 - c. provide annual reports to the Minister and in some circumstances provide plans for rates and other matters;
 - d. ownership of shares and election of directors are subject to regulations promulgated by the Minister; and
 - e. otherwise comply with regulations promulgated by the Minister.¹²
14. The WCA provides that WWCs are not agents of the Crown and not administrative units of the Government of Ontario, or local boards under the *Municipal Act, 2001*.¹³
15. The Minister “may make regulations which, in the opinion of the Minister, are necessary or desirable to provide for, govern or facilitate the transfer of the ownership and operation of water and sewage services to a water and wastewater public corporation, including the transfer of employees, assets, liabilities, rights and obligations from a municipality, or other body through which the municipality provides water and sewage services, to a water and wastewater public corporation.”¹⁴
16. The Minister may make regulations governing WWCs, including regulations for:

¹⁰ *Water and Wastewater Public Corporations Act, 2025*, SO 2025, c 14, Sch 16, s. 2(1).

¹¹ *Ibid*, s. 3.

¹² *Ibid*, ss. 4, 5, 7, 8, 9, 10, 20.

¹³ *Ibid*, s. 12.

¹⁴ *Ibid*, s. 20.

- a. imposing requirements, conditions, restrictions and limitations on WWCs and their shareholders, directors and officers;
 - b. governing the election, nomination, appointment, resignation or removal of the members of the board of directors, including the chair of the board, of WWCs, including requirements respecting conflicts of interest, the independence and competencies of directors, the composition of the board of directors and the board's quorum;
 - c. governing the proceedings of the meetings of shareholders and directors, including the quorum of shareholders;
 - d. requiring WWCs and shareholders to enter into agreements, prescribing the content of the agreements and requiring the corporation to modify, terminate or suspend the agreements;
 - e. governing the transfer, issuance, redemption or purchase of shares and dividends of a WWC, including,
 - i. determining the number, classes and series of shares of a WWC and their rights, privileges, conditions and restrictions, and prescribing their initial issuance and subsequent issuances,
 - ii. determining the consideration received in an exchange for shares in a WWC, and
 - iii. prescribing a formula for the redistribution, redemption or purchase of the shares of a WWC and specifying a frequency of such redistribution, redemption or purchase and the manner in which it is to be conducted;
 - f. governing the amalgamation, continuance, winding up and dissolution of a WWC or other changes affecting the organization, reorganization, structure, assets or undertakings of the corporation, including any acts or transactions that require the approval of shareholders; and
 - g. imposing conditions and limitations on the power of a WWC to invest money or to incur debt, whether by borrowing money or in any other way.¹⁵
17. Government representatives have publicly stated that WWCs are “publicly owned” and will be “wholly owned by municipalities not private entities”.

¹⁵ Ibid.

18. Opposition MPPs noted in debate that Bill 60 contains no language requiring a WWC to be owned by public entities and clearly stated that the WCA could be used to permit private ownership of water and wastewater assets.¹⁶
19. Minister Smith stated that a “municipal service company... by law has to be owned by the municipality 100%”.¹⁷
20. Minister Flack made the following statement about Bill 60:
- “Let me be clear once more, undeniably: This is not privatization. They will remain publicly owned. It is public innovation—a smarter, faster, publicly accountable approach to managing vital infrastructure that supports Ontario’s housing and economic goals. It’s in the name, twice, actually—municipal service corporations, because it’s municipally owned, a.k.a. public; and the *Water and Wastewater Public Corporations Act, 2025*—again, there goes the word “public.” I don’t know how much clearer I can be.”
21. Minister Saunderson stated that Bill 60 “is not privatization; it is innovation. It is about using public ownership to deliver better results”.¹⁸
22. James Bulanoff of *The Toronto Star* reported that Daniel Strauss, a spokesperson for Minister Flack, stated:

“Our government is piloting a new publicly owned water and wastewater delivery model in Peel Region to save homebuyers money,”

...

“Publicly owned municipal service corporations will be wholly owned by municipalities, not private entities. Our legislation gives municipalities more tools to respond to growth pressures — all while maintaining strong local oversight.”¹⁹

¹⁶ “Bill 60, An Act to amend various Acts and to enact the Water and Wastewater Public Corporations Act, 2025”, 2nd reading, Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, 44-1, No 31A (30 October 2025) at 1863a (Hon Lisa Gretzky), online (pdf): https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2025/2025-11/30-OCT-2025_L031A_1.pdf [*Hansard Oct 30*].

¹⁷ *Ibid* (Hon Dave Smith).

¹⁸ *Ibid* at 1859a, 1861a (Hon Brian Saunderson). See also “Bill 45, An Act to make statutory amendments respecting the transfer of jurisdiction within The Regional Municipality of Peel and the appointment of Deputy Provincial Land and Development Facilitators”, Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, 44-1, No 33A (4 November 2025) at 1960b (Hon Brian Saunderson), online (pdf): https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2026/2026-02/04-NOV-2025_L033A.pdf [*Hansard Nov 4*].

¹⁹ James Bulanoff, “Ford government denies Marit Stiles’ claims of water privatization in omnibus bill”, *The Toronto Star*, November 13, 2025.

23. The Toronto Star published a “correction” to the article on November 14, 2025, stating “The provincial government’s Bill 60 is not a water privatization proposal, as stated incorrectly in a previous version. It creates a public corporation model for water and wastewater services.”²⁰

DISCUSSION AND ANALYSIS

24. WWCs are share capital corporations incorporated under the OBCA. This is the Ontario statute enabling the standard form of incorporating the as-of-right share capital corporation used by the vast majority of private for-profit corporations.²¹
25. The designation of “public water and wastewater corporation” by the Minister under the WCA does not mean a WWC will be owned by a public sector entity. It is merely a defined term for a OBCA corporation designated by the Minister.
26. In this respect, the term “public” in the WWC name is meaningless, because it does not actually require ownership by public sector entities. There are no terms of the WCA itself that require WWCs to be owned by municipalities or public sector entities. The WCA itself does not limit ownership in WWCs at all.
27. The WCA *does* provide the Minister with powers to determine who owns WWCs. The Minister has extensive powers to determine, by regulation, who can own shares, on what terms, and who can transfer them, among other things.
28. Put simply, the ownership and governance of WWCs can be closely regulated by the Minister – but nothing in the WCA itself requires that ownership and governance be by public sector entities.
29. The Minister has not yet promulgated regulations under the WCA.
30. In support of their contention that the WCA and WCCs are required to be owned by public entities, several of the government representatives including Ministers Smith and Flack stated that the WCA creates “municipal service corporations”. Mr. Strauss, Minister Flack’s spokesperson, also made specific reference to “publicly owned municipal service corporations”.
31. This is simply not true. All three (and other government representatives) made factually incorrect and misleading statements.

²⁰ Ibid., November 14, 2025.

²¹ In contrast, Ontario has other legislation permitting the incorporation of non-share capital, not-for-profit corporations, and permits incorporation of “special act” corporations under various statutes, including the *Municipal Act, 2001*, as is discussed below.

32. Municipal service corporations are a long-standing form of corporation already available to municipalities under the *Municipal Act, 2001*, and must comply with O Reg 599/06, which restricts ownership of those corporations to “public sector entities” as defined in the regulation.
33. However, the WCA creates WWCs – not municipal service corporations – and there is no provision in the WCA that is equivalent to the regulations governing municipal services corporations. The Minister may pass such similar regulations, but has not yet done so.
34. However, if the Minister was intending to create corporations with the same ownership and control features as municipal service corporations, then it is unclear why the WCA was needed at all.
35. The Minister was certainly aware of the policy option to use municipal service corporations to house water and waste water infrastructure and services, and of the advantageous financing terms those might provide, because this was the policy preference of the Association of Ontario Municipalities, who had advocated for this model of governance and ownership of water and wastewater services.²²
36. Opposition MPPs were alive to this issue and said so in debate over the Bill.²³
37. It is therefore reasonable to assume at this time that the Minister is not intending to require full ownership of WWCs by “public sector entities”. The Minister may require it initially or for some period of time, all of which is subject to regulation, and may change at any time. There is simply no legislative requirement for public ownership.
38. Moreover, the previous experience with corporatizing (and private ownership of) municipal electricity distribution in the early 2000s was achieved with a model strikingly similar to that in the WCA.

Analogy to Electricity Infrastructure Corporatization

39. Other municipal infrastructure has been “corporatized” and has permitted some private sector ownership of that infrastructure through corporations that are the same as or similar to WWCs.
40. For example, the *Electricity Act, 1998* provides for the “corporatization” of municipal hydroelectric and public utility commissions.²⁴ Municipalities were required to transfer their distribution assets, liabilities and businesses to newly incorporated local

²² See footnote 4.

²³ *Ibid* at 1863 (Hon Lisa Gretzky) and numerous other passages during debate of the Bill.

²⁴ *Electricity Act, 1998*, SO 1998, c 15, Sch A, s. 142 et seq.

- distribution companies (“LDCs”) incorporated under the OBCA.²⁵ Municipalities were initially required to hold 100% of the shares of the new LDCs, but were permitted to transfer and sell those shares.²⁶
41. Some municipalities retained sole ownership of LDCs, some merged their distribution businesses with those of others, and some sold their distribution businesses (generally to Hydro One). Many LDCs are municipally owned, but there are not limits on private ownership of LDCs. Fortis Inc. is a private corporation that owns interests in LDCs in Ontario, and EPCOR is a corporation owned by the City of Edmonton that owns LDCs in Ontario (and elsewhere in Canada and the U.S.). EPCOR also owns water and wastewater infrastructure in Edmonton.
 42. Beginning in about 2015, Ontario began selling its ownership interests in Hydro One and now owns about 47% and other (private) investors the balance.
 43. Although levels of private ownership vary in the LDC sector, LDCs themselves and energy distribution in general is far more concentrated in ownership than it was prior to the “corporatization”, and is farther removed from municipal governance and oversight. Electricity rates vary by LDC; Hydro One has a history of seeking large rate increases, and the Ontario government currently subsidizes electricity rates for consumer in Ontario by at least \$2 billion per year.²⁷
 44. Further, in addition to the express power under s. 22(f) of the WCA to limit reporting of WCCs, removing WCCs from public entity ownership is likely to have the effect of reducing information available about these entities’ finances and operations over time. LDCs are generally exempt from freedom of information obligations and only subject to disclosures requires by public issuers, if any. If a corporate owner is privately held, disclosures are highly limited.²⁸ Generally speaking, during or outside bargaining, more information is or can be available from public sector entities than corporatized or privatized employers.
 45. The WCA provisions for “corporatizing” WCCs closely resemble LDCs, and it is reasonable to assume that the Minister intends to follow a similar pattern in the treatment of WCCs. There already exist municipal service corporations that could house water and wastewater infrastructure (and already do in some cases) while remaining wholly owned by public entities, which could issue debts to fund infrastructure renewal.

²⁵ *Ibid.*, s. 143, 144.

²⁶ *Ibid.*, s. 142(5).

²⁷ Government of Ontario, *2025 Fall Economic Statement*.

²⁸ WCA, s. 22(f) and for example, certain limited disclosures may be obtained through collective bargaining procedures.

Examples of Failed Water Privatization

46. As noted above, there have been previous attempts to corporatize or partially privatize municipal water and wastewater services in Ontario and elsewhere.
47. In 1994, the City of Hamilton contracted with a consortium (initially Philip Utilities Management Corporation, and ownership stakes by Ontario Teachers Pension Plan) to provide 10 years of water and wastewater services. There were frequent service delivery problems and significant staff layoffs, among other complications with the delivery. Eventually, the City of Hamilton returned to public delivery of the services in 2004.
48. One of the subsequent five owners of Philip Utilities Management Corporation (which also held contracts for water and wastewater in the U.S.) over the 10 year contract was Thames Water. Thames Water is the U.K.'s largest water utility, and was partially owned by Ontario Municipal Employees Retirement System (OMERS) (about 32%). OMERS “has written off its entire investment in troubled British utility Thames Water, walking away from a stake once valued at well over \$1 billion” in May 2024.²⁹
49. Under corporatized and private ownership, Thames Water had a history of underinvestment in its assets (drinking water pipes, sewers and water treatment facilities) while big dividends were paid out to owners, resulting eventually in significant service problems, regulatory fines, proposed user fee increases (at times, of up to 59%) and effective insolvency of the entity.³⁰ It is still restructuring and, as of last summer, plans for renationalisation of this water service were being discussed by the British government.³¹
50. Other European countries have encountered similar issues in corporatized or privatized water delivery. A study analyzing public-private partnerships in Italy and Germany’s water provision showed that the government’s prioritizing of debt service led to underinvestment in infrastructure and poorer quality of product yielded.³² The World Bank has reported that 37% of private investment in the water and sanitation sector

²⁹ See J. Bradshaw, “OMERS writing off stake in troubled British utility Thames Water” May 17, 2024, *The Globe and Mail*, available online at: <https://www.theglobeandmail.com/business/article-omers-writing-off-stake-in-troubled-british-utility-thames-water/>.

³⁰ See, for e.g., S. Laville, Anna Leach and C Aguilar Garcia, “In Charts: how privatizations drained Thames Water coffers”, *The Guardian*, June 30, 2023. See also: https://en.wikipedia.org/wiki/Thames_Water.

³¹ Thames Water nationalisation prep ‘stepped up’, June 20 2025, *British Broadcasting Corporation*, available online at: <https://www.bbc.com/news/articles/cwyq17lwe99o>.

³² Andrea Muhlenbach, *A Vital Frontier: Water Insurgencies in Europe* (Durham & London: Duke University Press, 2023) at 203-204n23; Doreen Nicoll, “Public-private partnerships de-democratize water”, *Rabble* (20 August 2020), online: <https://rabble.ca/politics/canadian-politics/public-private-partnerships-recipe-water-disasters/>.

become distressed (or were cancelled or renegotiated).³³ Such renegotiations have been found to often favour the contractor and entail large costs for users and local governments.³⁴

51. Outside water privatization, a study of 28 public-private partnerships in Ontario, valued at more than \$7 billion, found that the costs were 16% more than conventionally tendered contracts, with 3% of the increase due to service provider intermediaries (e.g. lawyers and consultants).³⁵ According to Food and Water Watch, privately owned water systems charge 59% more, on average, than publicly owned water utilities.³⁶

Potential for Discriminatory Impacts

52. Minister Flack described Peel Region as a “pilot” for Bill 60.³⁷ Peel Region’s residents are 69% racialized compared with the 34% average in Ontario.³⁸
53. In the United States, water systems of distressed, racialized communities are disproportionately delivered through private providers, a practice critics describe as “disaster capitalism”.³⁹ Two examples are Pittsburgh, Pennsylvania and Flint, Michigan.
54. In 2012, Pittsburgh, a majority Black municipality, contracted with Veolia, the world’s largest supplier of water services,⁴⁰ to manage water provision until 2015. Pittsburgh was \$720 million in debt and privatized water provision to alleviate its burden.⁴¹ Applying a “performance solutions” model, Veolia cut costs and staff, laying of 23

³³ Eduardo Araral, “The failure of water utilities privatization: Synthesis of evidence, analysis and implications” (2009) 27 *Policy & Society* 221 at 222; Corporate Accountability, “Shutting the Spigot: On Private Water, the Case for the World Bank to Divest” (2012) at 7, online (pdf): https://corporateaccountability.org/wp-content/uploads/2012/05/CAI_CasetoDivest_Final_web_rev_FINAL.pdf.

³⁴ M. Siemiatycki, “Public-Private Partnerships in Canada: Reflections on twenty years of practice” (2015) 58:3 *Canadian Public Administration* 343 at 355; Carlos Oliveira Cruz & Rui Cunha Marques, “Endogenous Determinants for Renegotiating Concessions: Evidence from Local Infrastructure” (2013) 39:3 *Local Government Studies* 352 at 353-354.

³⁵ B. McKenna, “The hidden price of public-private partnerships”, *The Globe and Mail* (15 October 2012) B8.

³⁶ Food and Water Watch, “The State of Public Water in the United States” (2016) at 7-8, online (pdf): https://foodandwaterwatch.org/wp-content/uploads/2021/03/report_state_of_public_water.pdf.

³⁷ “Peel Transition Implementation Act, 2025”, Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, 44-1, No 33A (4 November 2025) at 1954 (Hon Don Flack).

³⁸ Peel Region, “Ethnic Diversity and Religion” (2021), online: <https://census.peelregion.ca/pages/ethnic-diversity-and-religion-2021>.

³⁹ C. Smith, “Amid Water Crisis, Majority-Black Town Faces Higher Utility Bills”, *Pulitzer Center* (19 September 2022), online: <https://pulitzercenter.org/stories/amid-water-crisis-majority-black-town-faces-higher-utility-bills>.

⁴⁰ “Veolia and Suez: the New Face of the Private Water Giants”, *Public Services International* (22 May 2022), online: <https://publicservices.international/resources/news/veolia-and-suez-the-new-face-of-the-private-water-giants>.

⁴¹ L. Hosea & S. Lerner, “From Pittsburgh to Flint, the Dire Consequences of Giving Private Companies Responsibility for Ailing Public Water Systems”, *The Intercept* (20 May 2018), online: <https://theintercept.com/2018/05/20/pittsburgh-flint-veolia-privatization-public-water-systems-lead/> [Hosea & Lerner, “From Pittsburgh to Flint”].

- workers, including the head of engineering, water quality directors and half of the laboratory staff responsible for water testing.⁴² Veolia switched to lower-cost corrosion control chemicals without approval from the Department of Environmental Protection.⁴³
55. Pursuant to these changes, lead levels rose significantly, to amounts substantially exceeding the EPA action level of 15 ppb, reaching 22 ppb in 2016. Between 2013 and 2015, there was a 13.5% increase of positive testing for lead in Pittsburgh’s children.⁴⁴
56. Users were also affected financially. A year after Veolia was contracted, rates rose 20%. By 2015, there were 50,000 claims of inaccurate billing, with thousands of dollars allegedly overcharged.⁴⁵
57. The Pittsburgh Water and Sewer Authority sued Veolia in 2016. Veolia settled the suit without admitting liability and retained its \$11 million in revenue. Recent testing of lead levels remains at 21 ppb.⁴⁶
58. Relying on its record in Pittsburgh, Veolia (along with Lockwood, Andrews & Newnam Inc.) contracted with another predominantly black municipality, Flint, to provide water testing services.
59. After the municipality switched to a new water source in the Flint River, the provision system was not adequately tested with corrosion controls, which allowed lead to leach into the water.⁴⁷ In a water quality report released March 12, 2015, Veolia stated that the issues with the discoloured water were merely “aesthetic”, but it met “drinking water requirements”. Lead was not mentioned once.⁴⁸

⁴² J. Lurie, “How One Company Contaminated Pittsburgh’s Drinking Water”, *Wired* (28 October 2016), online: <https://www.wired.com/2016/10/pittsburghs-drinking-water-got-contaminated-lead/>.

⁴³ *Ibid.*

⁴⁴ B. Conway, “How dangerous is Pittsburgh’s lead problem? The data is contradictory and the damage could be worse than officials say”, *Pittsburgh’s Public Source* (18 April 2017), online: <https://www.publicsource.org/how-dangerous-is-pittsburghs-lead-problem/>.

⁴⁵ Hosea & Lerner, “From Pittsburgh to Flint”.

⁴⁶ *Ibid.*

⁴⁷ M. Kennedy, “‘They Made It Worse’: Michigan Sues 2 Companies over Flint Crisis”, *NPR* (22 June 2016), online: <https://www.npr.org/sections/thetwo-way/2016/06/22/483083095/they-made-it-worse-michigan-files-suit-against-2-companies-over-flint-crisis>.

⁴⁸ Veolia, “Water Quality Report: Flint, Michigan” (12 March 2015), online: <https://www.cityofflint.com/wp-content/uploads/Veolia-REPORT-Flint-Water-Quality-201503121.pdf>.

60. Testing in January 2016 found that twenty-six locations in Flint had at least ten-times the federal limit of lead.⁴⁹ Lead levels were likely the cause of an outbreak of legionnaires' disease in the region.⁵⁰
61. A coalition of residents sued Veolia and named the governor of Michigan in the lawsuit. The attorney general of the state also sued Veolia, leading to a settlement of \$53 million. Again, as a term of the settlement, Veolia admitted to no liability.⁵¹

Other Comments

62. We note that in the case of LDCs, they were deemed to be successor employers for those employees transferred to the LDC. The WCA does not contain these provisions at this time. Section 15 of the WCA provides that it prevails over other statutes, which would include labour relations statutes. Section 16 provides immunity from liability for acts done in connection with the WCA, including by employees, except for judicial review and constitutional remedies (section 16(c)).
63. We trust the forgoing is of assistance.

Sincerely,



Simon Archer
SA:lrSS/cope 343

/Encls.

⁴⁹ R. Fonger, "Pregnant Woman and Children Told to Stop Drinking Flint Tap Water Until Tested", *mLive* (29 January 2016), online: http://www.mlive.com/news/flint/index.ssf/2016/01/flint_water_crisis_filter.html.

⁵⁰ K. Bouffard, "Flint Water Likely Legionella Cause, Expert Says", *Detroit News* (6 December 2016) online: <http://www.detroitnews.com/story/news/michigan/flint-water-crisis/2016/12/04/flint-water-switch-bacteria-legionnaires/94979698/>.

⁵¹ *In Re Flint Water Cases*, No 5:16-cv-10444-JEL-MKM, Amended Settlement Agreement at para P, online (pdf): <https://officialflintwaterpayments.com/Content/Documents/Amended%20Master%20Settlement%20Agreement.pdf>.