

**IN THE UNITED STATES COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p style="text-align: center;"><b>VEOLIA ENERGY PHILADELPHIA, INC.,</b> <b>Plaintiff,</b></p> <p style="text-align: center;">v.</p> <p style="text-align: center;"><b>FLOWSERVE US, INC.,</b> <b>Defendant.</b></p>	: : : : : : : : : : :	<p style="text-align: right;"><b>CIVIL ACTION NO. 18-2529</b></p>
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**ORDER**

**AND NOW**, this 30th day of April 2019, upon consideration of Defendant Flowserve US, Inc.’s Motion to Dismiss Veolia Energy Philadelphia Inc.’s Complaint [Doc. No. 9] and the response and reply thereto, it is hereby **ORDERED** that Defendant’s Motion to Dismiss is **GRANTED in part** and **DENIED in part** as follows:

1. Count II of Plaintiff’s Complaint is **DISMISSED with prejudice** as a separate cause of action, but the Complaint shall retain the pertinent allegations within Count II to support Plaintiff’s prayer for relief for punitive damages;
2. Plaintiff’s claims for express warranty in Counts IV and VI are **DISMISSED without prejudice** and with leave to amend the Complaint so as to allege a violation of an express warranty. If Plaintiff seeks to amend the complaint, it must do so by **May 22, 2019**;
3. Defendant’s motion is **DENIED** in all other respects;
4. If Plaintiff does not file an amended complaint by May 22, 2019, Defendant shall file its answer to the Complaint [Doc. No. 1] by **June 12, 2019**.

It is so **ORDERED**.

**BY THE COURT:**

/s/ **Cynthia M. Rufe**

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**CYNTHIA M. RUFÉ, J.**