

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Corrected Motion to Intervene

was served upon the persons listed below:

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Hon. Charles E. Rainey, Jr.
Chief Administrative Law Judge
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120
bobbwillia@pa.gov

Cheryl R. McAbee

Dated: July 26, 2023

Cheryl R. McAbee
Pa I.D. No. 44344

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission)	
)	
V.)	Docket No. R-2023-3039919
)	Stormwater
)	
Pittsburgh Water and Sewer Authority)	
)	

**Corrected Petition to Intervene in the Stormwater Proceeding
by River Development Corporation**

Pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission” or “PUC”) at 52 Pa. Code §§ 5.41, 5.72 and 5.75, River Development Corporation through its legal counsel, hereby Petitions the Commission to Intervene in Docket No. R-2023-3039919 for Stormwater proceeding. In support thereof, avers as follows:

I. Background

1. On July 25, 2023, at the 6:00 pm PUC Public Input Hearing on the Rate Increase request in the above captioned matter, I not permitted to (a) speak as attorney for River Development or (b) testify for River Development at the public hearing due my listing my ending salutation as a Pro Se Attorney on this Intervention.
2. I apologize to the Court, as I did not realize the Public Utility Commission does recognize a Pro Se Attorney.
3. On behalf of River Development Corporation I am correcting the ending salutation next to my name by removing the term Pro Se.
4. River Development Corporation, is a certified woman owned small, disadvantaged, business, duly organized under the laws of Pennsylvania, with a principal place of business

located at 243 McAbee Drive, Pittsburgh, Allegheny County, Pennsylvania, 15204.

5. River Development's President is a Pro Se Attorney as she has no trial experience.

6. The Pittsburgh Water and Sewer Authority ("PWSA") is a body organized and existing under the Pennsylvania Municipality Authorities Act, 53 Pa. C.S. § 5601 et seq. (the "Act"). It was created pursuant to Resolution No. 36 of the Council of the City of Pittsburgh ("City Council") on February 6, 1984, approved on February 8, 1984, and effective on February 16, 1984. The Secretary of the Commonwealth of Pennsylvania approved the PWSA's Articles of Incorporation on February 17, 1984.

7. The City of Pittsburgh established the PWSA in 1984 to assume responsibility for operating the City's water supply and distribution and wastewater collection systems.

8. The Pennsylvania Department of State approved Articles of Amendment and issued a Certificate of Amendment on May 9, 2008, extending the PWSA's term of existence to May 21, 2045.

9. The PWSA's Articles of Incorporation specifically authorize it to acquire, hold, construct, finance, improve, maintain, operate, own and lease, either as lessor or lessee, projects of the following kinds and character: sewers, sewer systems or parts thereof, waterworks, water supply works, and water distribution systems, low head dams and facilities for generating surplus power.

10. Stormwater or rainwater was not authorized or intended.

II. Request to Intervene in Stormwater Proceeding

11. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72, which provides in relevant part that "[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought." 52 Pa. Code § 5.72 (a)(1)

and Section 5.72 (a)(2) and further provides that the right or interest may be one "... which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding." 52 Pa. Code. § 5.72(a)(2).

12. Even though Section 5.72 speaks of the rights of a "person" to intervene, this includes entities such as River Development Corporation in addition to natural born persons. See *Lyft, Inc. v. Pa. Public Utility Commission*, 145 A.3d 1235, 1246 (Pa. Commw. Ct. 2016) (which discusses the Pittsburgh Post Gazette's ability to intervene before the Commission).

III. River Development's Position Regarding the Issues

13. Further, the Commonwealth Court has ruled that intervention in a Commission proceeding is appropriate where intervention "may be in the public interest" and that "the standard for intervention in a proceeding before the [Commission] is easily satisfied." *Allegheny Reproductive Health Ctr. v. Pa. Dept. of Health and Human Servs.*, ___ A.3d ___, 2020 WL 424866 at *6 (Pa. Commw. Ct. 2020) (emphasis added) (internal quotations omitted).

14. Wastewater, or sewage, comes from drains and toilets in homes and businesses. It is treated at a wastewater treatment plant before being released back into a waterway. Stormwater is rainwater that does not soak into the ground.

15. PWSA has sent no documents to customers demonstrating it is authorized to institute or administer a Stormwater Fee or any other rainwater fee.

16. The Commonwealth Court has ruled a " the Stormwater Charge constitutes a local tax" *Borough West Chester v. Pa. State System of Higher Education and West Chester University of Pa. of the State System of Higher Education*, No. 260 M.D. 2018 (Pa. Cmwlth. Jan. 4, 2023) because it provides benefits enjoyed by the general public.

17. This case is now the legal precedent in Pennsylvania, the Doctrine of Stare Decisis

requires this honorable court to abide by legal precedent set by the Commonwealth Court.

18. In Pennsylvania, a tax can only be increased 5 % or less each year for residential and commercial owners. This 5% value was instituted to prevent massive numbers of owners losing their properties due to exorbitant and devastating increases.

19. River Development Corporation with its septic system, was not a customer of PWSA and was sent a notice in December of 2021 to begin paying \$820 per month in thirty days.

20. The \$820 was calculated improperly and was reduced to a disputed \$739.04.

21. River Development Corporation's parking lot is filled with potholes and permeable millings.

22. Paved areas were due to the City of Pittsburgh Permits Licensing and Inspection Department Notice of Violation of pothole ordinance and required River to pave.

23. River Development received no offset in charges due to the millings, pothole and earth in the parking lot.

24. In 2023 the amount was increased to \$977.85 per month, an exorbitant 32% increase.

25. PWSA has announced River's Stormwater fee will increase to a devastating payment in excess of \$1800 per month payment or a 100% increase.

26. This rate increase if allowed will lead to a massive number of disadvantaged businesses losing their property, including River Development.

27. River Development Corporation cannot be "...adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding." 52 Pa. Code. § 5.72(a)(2).

28. River Development Corp. has been in business since 1996 and is fighting for its very existence!

29. Monday, July 10, 2023, was the official end to intervening but 52 Pa. Code. § 5.75 (d)

“...petitions to intervene may be filed or will be acted upon [even] during a hearing unless prohibited by the Commission or presiding officer after opportunity for all parties to object“.

30. River Development Corp. has filed a Formal Complaint at C - 2023-3039163.

31. It has a “common question of law and fact” with this proceeding and if intervention is not allowed, it will petition to consolidate.

IV. Conclusion

WHEREFORE, River Development Corporation respectfully requests this Honorable Court grant this Petition to Intervene

Respectfully submitted:
River Development Corporation

By: *Cheryl R. McAbee*

Cheryl R. McAbee
(Pa. I.D. No. 44344)
2005 Garrick Drive
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crm121@pitt.edu

Dated: July 26, 2023

VERIFICATION

I, Cheryl R. McAbee, as President of River Development Corporation, hereby verifies that the facts set forth in the foregoing *Corrected Petition to Intervene in the Stormwater Proceeding by River Development Corporation* are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities, which provides for criminal penalties if a person with intent to mislead makes a written false statement which they do not believe to be true.

Date: July 26, 2023

Cheryl R. McAbee
By: _____
Cheryl R. McAbee, President
River Development Corporation

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Cheryl R. McAbee, Esquire

Signature: *Cheryl R. McAbee, Esquire*

Attorney No. 44344