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File #: 3297/139007

September 18, 2009

BY E-FILE AND BY HAND

James J. McNulty
Secretary
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
PO Box 3265
Harrisburg, PA 17105-3265

**RE: Robert W. Lynyak v. Superior Water Company, Inc.; Docket No. C-2009-2124527;
DISMISSAL OF THE COMPLAINT OF ROBERT W. LYNYAK**

Dear Secretary McNulty:

Superior Water Company, Inc. ("Superior") hereby requests that the above-referenced complaint be dismissed in its entirety and with prejudice. On August 5, 2009, Complainant Robert W. Lynyak filed a Formal Complaint against Superior. Said Complaint was served on August 14, 2009.

On August 27, 2009, Superior filed and served Preliminary Objections to the Formal Complaint, together with Notice to Plead requesting an answer thereto with ten (10) days from the date of service pursuant to 52 Pa. Code § 5.101. To date, Complainant has failed to file any pleading in response to the pending Preliminary Objections and the time to do so has closed. Accordingly, for the reasons set forth in the Preliminary Objections, Superior respectfully requests that the above-referenced Complaint be dismissed in its entirety and with prejudice.

Additionally, on August 27, 2009, Superior filed and served an Answer with New Matter, together with a Notice to Plead requesting an answer to the New Matter within twenty (20) days from the date of service pursuant to 52 Pa. Code § 5.63. To date, Complainant has failed to file an Answer to the New Matter within the applicable time period and, thus, Complainant is in default and the relevant facts alleged in the New Matter should be deemed admitted. See 52 Pa. Code § 5.63(b) ("Failure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted.") Accordingly, for the


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reasons set forth in the New Matter, Superior respectfully requests that the above-referenced Complaint be dismissed in its entirety and with prejudice.

If you have any questions regarding this filing, please direct them to me. Please date-stamp the extra copy and return it with our courier. Thank you for your attention to this matter.

Very truly yours,



Christopher T. Wright

CTW/skr

Enclosures

cc: Certificate of Service

CERTIFICATE OF SERVICE

I, Christopher T. Wright, hereby certify that I have this day served a true copy of the foregoing request for Dismissal of the Complaint of Robert W. Lynyak upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54.

VIA FIRST CLASS MAIL

Robert W. Lynyak
118 Birdsong Way
Pottstown, PA 19464

Complainant Pro Se

DATED: September 18, 2009



Christopher T. Wright