



KATHERMAN, HEIM & PERRY

ATTORNEYS AT LAW
345 EAST MARKET STREET
YORK, PENNSYLVANIA 17403
(717) 854-5124
FAX 843-2590
FAX 848-5898 (LCH)

J. ROBERT KATHERMAN
L.C. HEIM
RONALD PERRY
STACEY R. MACNEAL

August 24, 2011

Secretary
Attn: Melissa Strawser
Pennsylvania Public Utility Commission
400 North Street
Commonwealth Keystone Building, 2nd Floor
Harrisburg, PA 17120

Re: Baron E. Matthews v. Shrewsbury Borough Municipal Authority and
Shrewsbury Borough
Docket No. C-2011-2250687

Dear Melissa:

I understand that you had multiple conversations with my assistant Tammy regarding documents that were filed in the above-referenced case. As you discussed, on August 15, 2011 I sent to your office via Federal Express, Response to Preliminary Objection to Shrewsbury Borough Municipal Authority and a separate Response to the separate Preliminary Objections of Shrewsbury Borough for filing in your office. I also provided you with two copies of each to be time-stamped and returned to me.

What we received from you was two time-stamped copies of the Response to Preliminary Objections v. Shrewsbury Borough Municipal Authority. We did not receive any time-stamped copies of the Response to Preliminary Objections of Matthews v. Shrewsbury Borough.

At this time, I am returning to you our copy of the Response to Preliminary Objections in Matthews v. Shrewsbury Borough. Kindly provide a time-stamped copy dated August 15, 2011 for my records. I would note that this documentation is not currently listed on the PUC website.

RECEIVED
2011 AUG 25 AM 9:42
P.A.P.U.C.
SECRETARY'S BUREAU

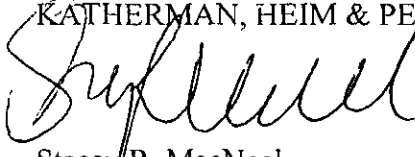
ORIGINAL

710398

Secretary
Attn: Melissa Strawser
Pennsylvania Public Utility Commission
Page 2
August 24, 2011

I hope that this resolves this issue. If not, or if you need additional information, please let me know as soon as possible.

Very truly yours,

KATHERMAN, HEIM & PERRY

Stacey R. MacNeal

SRM/trw
Enc.

cc: Mr. Baron E. Matthews
Eric Suter, Esquire

BEFORE THE PENNSYLVANIA
PUBLIC UTILITIES COMMISSION

BARON E. MATTHEWS,
Complainant,

No. C-2011-2250687

vs.

SHREWSBURY BOROUGH
Respondent

RECEIVED
15th
2011 AUG 28 AM 9:44
PA.P.U.C.
SECRETARY'S BUREAU

RESPONSE TO PRELIMINARY OBJECTIONS

NOW, TO WIT, comes Complainant Baron E. Matthews and answers

Respondent's Preliminary Objections as follows:

1. Admitted.
2. Denied. Pursuant to the allegations to the Complaint, Shrewsbury Borough (the "Borough") provides sewer service beyond its geographical boundaries.
3. Admitted.
4. Denied. Pursuant to the Complaint, the Borough does provide sewer service in Shrewsbury Township through the Borough's Municipal Authority, which is a leaseback Authority.
5. Denied. A map of the SBMA's sewer service area includes portions of the Borough.
6. Denied. Pursuant to the Complaint, Shrewsbury Borough Municipal Authority (the "SBMA") is a leaseback Authority, with all billing and collection occurring through the Borough.
7. Admitted. By way of further answer, pursuant to the Complaint SBMA is a paper authority. It leases back its operations, collections, billings and establishment of fees to the Borough.

I. Preliminary Objections

A. Absence of Regulatory Jurisdiction

8. Admitted.

9. Admitted in part and Denied in part. While it is admitted that the Borough is not a public utility to the extent it provides service solely within its geographical boundaries, once municipalities provide service beyond their geographical boundaries, they are now regulated by the Public Utilities Commission (the "PUC").

10. Admitted. Pursuant to the Complaint, the Borough is providing services beyond its lawful service area.

11. Admitted. This matter has been appealed by the Complainant as well as the Law Bureau Prosecutory Staff (the "LBS").

12. Denied. The PUC is able to determine the extent of PUC jurisdiction in the context of a proceeding brought under the provisions of the Public Utility Code.

13. Denied. Pursuant to the Complaint, the Borough is providing sewer services beyond the corporate limits of the Borough through the leaseback authority SBMA. See East Hempfield Township v. City of Lancaster and the City of Lancaster Authority, 273 A.2d 333 (Pa. 1971).

B. Lack of Standing/Capacity to Sue

14. Denied. This allegation contains conclusion of law to which no response is required.

15. Admitted.

16. Denied. Pursuant to the Complaint the Borough is acting outside of its jurisdiction without proper PUC approval. See the above-referenced East Hempfield Township case.

17. Denied. See response to number 16 above.

18. Denied. See response to number 16 above.

C. Failure to Conform to Code

19. Admitted.

20. Denied. The Complaint sets forth sufficient facts to support a violation.

II. Conclusion

21. Denied. For the reasons set forth herein and in the Complaint, the allegations of which must be deemed to be true, the Complaint is legally sufficient and the PUC has jurisdiction over this Complaint.

DATE: 8/15/2011

Respectfully submitted,

KATHERMAN, HEIM & PERRY

By: 

Stacey R. MacNeal, Esquire
Supreme Ct. I.D. #80099
345 East Market Street
York, Pennsylvania 17403
(717) 854-5124
(717) 843-2590 (Facsimile)

BEFORE THE PENNSYLVANIA
PUBLIC UTILITIES COMMISSION

BARON E. MATTHEWS,
Complainant,

No. C-2011-2250687

vs.

SHREWSBURY BOROUGH
Respondent

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of August, 2011, Complainant's Responses to Preliminary Objections to Respondent's Preliminary Objections have been served via first-class United States mail, postage prepaid, upon the following:

Jeffrey L. Rehmeyer, Esquire
Eric Suter, Esquire
CGA Law Firm
135 North George Street
York, PA 17401

RECEIVED
15th
2011 AUG 26 AM 9:45
PA P.U.C.
SECRETARY'S BUREAU

By: 