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August 15, 2011

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AUG 15 2011

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VIA FEDERAL EXPRESS

Secretary
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 Sir or Madam:

Enclosed please find Complainant's Responses to Preliminary Objections to the Borough and the Authority and two copies of each for filing in your office. Also enclosed is a self-addressed stamped envelope for you to return the time-stamped copies to me.

Very truly yours,

KATHERMAN, HEIM & PERRY

Stacey R. MacNeal

SRM/trw
Enc.

cc: Jeffrey L. Rehmeyer, Esquire
Eric Suter, Esquire
Mr. Baron E. Matthews

BEFORE THE PENNSYLVANIA
PUBLIC UTILITIES COMMISSION

BARON E. MATTHEWS,
Complainant,

vs.

SHREWSBURY BOROUGH
MUNICIPAL AUTHORITY
Respondent

No. C-2011-2250687

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RESPONSE TO PRELIMINARY OBJECTIONS

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

Respondent's Preliminary Objections as follows:

1. Admitted.
2. Admitted in part and Denied in part. The allegations contained in this paragraph are denied to the extent that the Shrewsbury Borough Municipal Authority (the "SBMA") is operating as a sham, paper authority and a front for Shrewsbury Borough (the "Borough") in order to avoid the Public Utilities Commission (the "PUC") regulations.
3. Admitted.
4. Denied. The Borough provides sewer service in the Township through SBMA, which is a leaseback Authority.
5. Denied. A map of SBMA's service area includes a portion of the Borough.
6. Denied. The SBMA is a leaseback Authority, and Baron E. Matthews ("Matthews") is billed by and pays all fees to the Borough, not SBMA.

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. It is admitted that generally authorities are not regulated by the PUC; however, authorities that leaseback their operations to the municipality may be subject to PUC regulations.

10. Denied. See response to number 9 above.

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.

B. Lack of Standing/Capacity to Sue

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

14. Admitted.

15. Denied. Pursuant to the Complaint, the Borough is acting through SBMA outside of its jurisdiction without proper PUC approval. East Hempfield Township v. City of Lancaster and the City of Lancaster Authority, 273 A.2d 333 (Pa. 1971).

16. Denied. See response to number 15 above.

17. Denied. See response to number 15 above.

C. Failure to Conform to Code

18. Admitted.

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

II. Conclusion

20. 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
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York, Pennsylvania 17403
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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

By: 

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Recipient

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Express US Airbill

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Company KATHERMAN, HEIM & PERRY

Address 345 E MARKET ST

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Address [Handwritten]
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