

STEVENS & LEE
LAWYERS & CONSULTANTS

17 North Second Street
16th Floor
Harrisburg, PA 17101
(717) 234-1090 Fax (717) 234-1099
www.stevenslee.com

Direct Dial: (717) 255-7365
Email: mag@stevenslee.com
Direct Fax: (610) 988-0852

November 16, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: Thomas Olup v. Pennsylvania-American Water Company
Docket No. C-2011-2247941

Dear Secretary Chiavetta:

Enclosed for filing on behalf of Pennsylvania-American Water Company is an original Motion for Continuance in the above-referenced matter. This document was e-filed at the Pennsylvania Public Utility Commission's website. Copies have been served on the Complainant in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Best Regards,

STEVENS & LEE


Michael A. Grum

Encl.

cc: Certificate of Service

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton
Williamsport • Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

THOMAS OLUP
Complainant

v.

PENNSYLVANIA-AMERICAN
WATER COMPANY
Respondent

Docket No. C-2011-2247941

NOTICE TO PLEAD

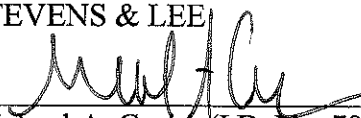
To: *Thomas Olup*

You are hereby notified to file a written response to the attached Motion for Continuance within twenty (20) days from the date of service of this notice. If you do not file a written response denying to the enclosed Motion within twenty (20) days of service, the facts set forth by Pennsylvania-American Water Company may be deemed to be true, thereby requiring no other proof. All pleadings, such as answers to Motions must be filed with the Secretary of the Pennsylvania Public Utility Commission:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

You must also serve a copy of your response on the undersigned counsel for Pennsylvania-American Water Company.

STEVENS & LEE


Michael A. Grum, (I.D. No. 78625)

17 N. 2nd St., 16th Fl

Harrisburg, PA 17101

Tel. (717) 255-7365

Fax (610) 988-0852

COUNSEL FOR PENNSYLVANIA
AMERICAN WATER COMPANY

DATE: November 16, 2011

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

THOMAS OLUP	:	
Complainant	:	
	:	
v.	:	Docket No. C-2011-2247941
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

**PENNSYLVANIA-AMERICAN WATER COMPANY'S
MOTION FOR A CONTINUANCE**

AND NOW, Pennsylvania-American Water Company ("Respondent" or "Company"), by and through its attorneys Stevens & Lee, P.C., hereby files this Motion pursuant to 52 Pa Code § 1.15 requesting a continuance of the hearing scheduled for November 30, 2011 in this matter, and requesting that the hearing be converted to an in-person hearing.

I. INTRODUCTION

1. On December June 22, 2011, the Company was served with a notice of the Formal Complaint ("Complaint") filed by the Complainant against the Company.
2. On July 12, 2011, the Company filed its Answer and New Matter and Preliminary Objections to the Complaint.
3. The Company's Preliminary Objections requested the partial dismissal of the Formal Complaint for pendency of a prior proceeding under 52 Pa. Code § 5.101(a)(6). The Complaint filed by Mr. Olup sought, in part, to oppose the Company's proposed rate increase, which was the subject of an open Commission proceeding at Docket No. R-

2011-2232243. By Order entered on November 10, 2011, the Commission issued a Final Order in connection with the Company's proposed rate increase, and dismissed the Complaint filed by Mr. Olup against the rate increase.

4. The Company's Preliminary Objections also requested partial dismissal of the Formal Complaint for legal insufficiency under 52 Pa. Code § 5.101(a)(4) to the extent that the Complaint sought an award of damages against the Company. One of the reliefs requested by the Complainant is monetary compensation, including punitive damages, from the Company. To the extent that the Complaint seeks monetary damages and/or punitive damages, the Commission is without jurisdiction to award such damages. It is well settled that the Commission does not have the power or jurisdiction to award monetary damages for the actions of a utility company. See *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977).

5. The Complainant filed a Reply to the Company's Preliminary Objections on July 25, 2011.

6. A Prehearing Order was issued in this matter on October 28, 2011, scheduling this matter for a telephonic hearing on November 30, 2011 before Administrative Law Judge Mary D. Long.

7. At the request of the Company, ALJ Long converted the hearing to an in-person hearing by Order issued on November 15, 2011.

8. With this Motion, Pennsylvania- American Water Company respectfully requests that the hearing be postponed due to the unavailability of its chief witness on November 30, 2011. This witness has first-hand knowledge of numerous aspects of the case and is crucial to the Company's defense of this matter. The witness is scheduled to be in Iowa on the date of the hearing.

9. Furthermore, the Company requests a continuance to allow for a resolution of its Preliminary Objections. As of the date of the filing of this Motion, the Company's Preliminary Objections have not been ruled upon. If the Company's Preliminary Objections are granted, it will significantly narrow the issues that need to be addressed during the evidentiary hearing.

10. The Company has sought the concurrence of the Complainant for this request for a continuance. The Complainant does not consent to the continuance.

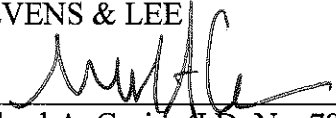
11. If a continuance is granted, both the Company and the Complainant are available for a hearing on the following days: January 9, 11, 13, 19, or 20.

REQUEST FOR RELIEF

WHEREFORE, for all of the reasons stated herein, Respondent Pennsylvania-American Water Company respectfully requests that the hearing in this matter be continued and rescheduled for an in-person hearing after the Pennsylvania-American Water Company's Preliminary Objections are ruled upon.

Respectfully submitted,

STEVENS & LEE


Michael A. Gruin, (I.D. No. 78625)
17 N. 2nd St., 16th Fl
Harrisburg, PA 17101
Tel. (717) 255-7365
Fax (610) 988-0852

COUNSEL FOR PENNSYLVANIA
AMERICAN WATER COMPANY

DATE: November 16, 2011

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

THOMAS OLUP
Complainant

v.

PENNSYLVANIA-AMERICAN
WATER COMPANY
Respondent

:
:
:
:
:
:
:
:
:
:
:


Docket No. C-2011-2247941

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Motion for Continuance upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class U.S. Mail

Jeffrey Olup, Esq.
Bassi, McCune, & Vreeland, P.C.
111 Fallowfield Ave.
Charleroi, PA 15222



Michael A. Gruin

DATED: November 16, 2011