

**OALJ Hearing Report**

Please Check Those Blocks Which Apply

Docket No.:	C-20055451 - Brian P DeGroot, C-20055453 - Kathleen Sylvester, C-20055454 - Kandi Jo Madill - cont below	Prehearing Held:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Case Name:	(see docket numbers) v. W P Water Co & W P Sanitary Co.	Hearing Held:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Testimony Taken:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Transcript Due:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Hearing Concluded:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Location:	SCR	Further Hearing Needed:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Estimated Add'l Days:		
Date:	December 20, 2005	RECORD CLOSED:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ALJ:	Ember S. Jandebaur	DATE:		
		Briefs to be Filed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		DATE:		
Reporting Firm:	Sargents Court Reporting	Bench Decision:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C-20055460 – Joseph Yakoski, C-20055468 – Leigh Powell, C-20055472 – Lisa Higgins, C-20055473 – William J Finker, C-20055556 – Fred T Reibelng, v. W P Water Company C-20055455 – Kathleen Sylvester, C-20055456 – Kandi Jo Mandill, C-20055457 – Fred T Reibelng v W P Sanitary Co. C-20055557		REMARKS:	<b>DOCUMENT FOLDER</b>	

PLEASE PRINT CLEARLY - Incomplete Information may result in delay of processing.

Name and Telephone Number	Address	Who are you representing?
Sylvester Yakowski Powell	<b>RECEIVED</b> JAN - 4 2006 City State Zip	pro se ↓ ✓
Telephone: PA PUBLIC UTILITIES COMMISSION SECRETARY'S BUREAU		Fax Number:
WP Water Co ↓ Sewer ↓	City State Zip	Kieran Casey
Telephone:	E-mail Address:	Fax Number:
PA PUC Prosec.	City State Zip	Rhonda Daviston
Telephone:	E-mail Address:	Fax Number:

Check this box if additional parties or attendees appear on back of form.

1/3/06 elp

*Kenneth J. Stearn*  
Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

Name and Telephone Number	Address			Who are you representing?
Telephone:	E-mail Address:			Fax Number:
Telephone:	E-mail Address:			Fax Number:
Telephone:	E-mail Address:			Fax Number:
Telephone:	E-mail Address:			Fax Number:
Telephone:	E-mail Address:			Fax Number:
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Telephone:	E-mail Address:			Fax Number:
Telephone:	E-mail Address:			Fax Number:

**Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.**



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560 (in PA only)

IRWINA. POPOWSKY  
Consumer Advocate

FAX (717) 783-7152  
consumer@paoca.org

January 4, 2006

ORIGINAL

James J. McNulty, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17120

DOCUMENT  
FOLDER

Re: Brian DeGroot  
v.  
WP Water Company  
Docket No. C-20055451

Dear Secretary McNulty:

Enclosed for filing please find an original and three (3) copies of the Notice of Intervention and Public Statement of the Office of Consumer Advocate in the above-referenced proceeding.

Sincerely yours,

Erin L. Gannon  
Assistant Consumer Advocate

Enclosure

cc: Hon. Ember Jandebour, ALJ  
Kimberly D. Borland, Esq.  
Rhonda Daviston, PUC Law Bureau  
Office of Trial Staff  
Office of Small Business Advocate  
Office of Special Assistants  
Bureau of Fixed Utility Services

87031.doc;1/ELG/smn

SECRETARY'S BUREAU  
PA PUC

2006 JAN -4 PM 3:48

RECEIVED

22

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

BRIAN P. DEGROOT

v.

WASHINGTON PARK WATER CO.

:  
:  
:  
:  
:

Docket No. C-20055451

DOCUMENT  
FOLDER

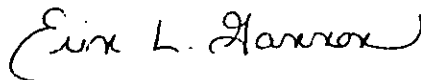
NOTICE OF INTERVENTION

Pursuant to 52 Pa. Code Sections 5.71-74, the Office of Consumer Advocate hereby gives Notice of Intervention in the above-captioned proceeding. A copy of all correspondence and notices, documents, orders or other communications with respect to the above-captioned proceeding should be addressed to the following:

Erin L. Gannon  
Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street 5th Floor, Forum Place  
Harrisburg, PA 17101-1923

DOCKETED  
JAN 27 2006

Respectfully submitted,



Erin L. Gannon  
Assistant Consumer Advocate  
Christine M. Hoover  
Senior Assistant Consumer Advocate

DATED: January 4, 2006

RECEIVED  
2006 JAN -4 PM 3:48  
PA PUC  
SECRETARY'S BUREAU

PUBLIC STATEMENT  
OF THE CONSUMER ADVOCATE  
PURSUANT TO 71 P.S. SECTION 309-4(e)

DOCUMENT  
FOLDER

Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (PUC or Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Notice of Intervention and participate in proceedings before the Commission involving Washington Park Water Company (W.P. or Company).

The Consumer Advocate has intervened in this proceeding in order to investigate the Formal Complaint filed by Brian DeGroot concerning W.P.'s water service, specifically relating to water quality, water pressure, outages, maintenance and condition of the system and customer service. As of the filing date of this Notice of Intervention, seven (7) other W.P. customers have filed Formal Complaints expressing similar concerns about their water service. The Consumer Advocate seeks to ensure that W.P. fulfills its obligation to provide safe, adequate, and reliable service to its customers pursuant to the Public Utility Code, 66 Pa.C.S. §1501. By its participation, the Consumer Advocate also seeks to ensure that adequate consideration is given to the concerns raised by Mr. DeGroot's complaint and that the interests of W.P.'s customers are fully protected.

Washington Park Water Company provides service in portions of Kingston Township, Luzerne County and Washington Township, Wyoming County.

**DOCKETED**  
JAN 27 2006

PLEASE DOCKET



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
OFFICE OF THE ADMINISTRATIVE LAW JUDGE  
100 LACKAWANNA AVENUE ROOM 317  
SCRANTON, PENNSYLVANIA 18503

Ember S. Jandebeur  
ejandebeur@state.pa.us  
Direct (570) 963-4818  
FAX (570) 963-3310

Brian P. Degroot	:	C-20055451
Kathleen Sylvester	:	C-20055453
Kandi Jo Madill	:	C-20055454
Joseph Yakowski	:	C-20056460
James Holly & Sandy Phillips	:	C-20055461
Leigh Powell	:	C-20055468
Lisa Higgins	:	C-20055472
William J. Finkler	:	C-20055473
Fred T. Riebeling	:	C-20055556

Formal Complainants

And

PA PUC Law Bureau,  
Office of Consumer Advocate  
Intervenors

v.

Washington Park Water Company

Kathleen Sylvester	:	C-20055455
Kandi Jo Madill	:	C-20055456
Fred T. Riebeling	:	C-20055557

Formal Complainants

And

PA PUC Law Bureau,  
Office of Consumer Advocate  
Intervenors

v.

Washington Park Sanitary Company

RECEIVED  
2006 FEB 14 PM 1:10  
PA P.U.C.  
SECRETARY'S BUREAU

DOCUMENT  
FOLDER

Dear Parties:

Attached please find a copy of a document I received in the mail. It arrived as you see it, that is, with no certificate of service to the Parties attached, therefore, I assume it was not sent to the Parties. Please note that the Public Utility Code at Section 334 (66 Pa. C.S. §334) prohibits "any off-the-record communication to or by any member of the commission, administrative law judge, or employee of the commission, regarding the merits or any fact in issue of any matter pending before

BTL

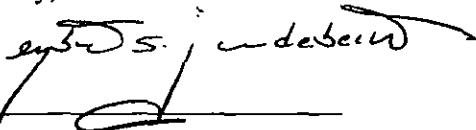
the commission in any contested on-the-record proceeding.” The prohibition against *ex parte* communications is based on the due process principle that no party should have the ability to unilaterally influence the decision maker regarding a contested issue of fact or law. The Commission procedures require that a copy of any written *ex parte* communication must be provided to all parties of record and be forwarded to the Secretary for inclusion in the record. By this letter, I am providing a copy of the subject correspondence to each of you and to the Secretary.

Additionally, the correspondence has been referred to the Commission’s Director of Operations for any further review and handling.

Receipt of the document has not influenced me and I do not believe my ability to conduct the hearing impartially or to render a decision impartially has been affected.

If you have any objections to this course of action, please advise me in writing, with copies to all parties, prior to the hearing scheduled for February 27, 2006.

Sincerely,

A handwritten signature in black ink, appearing to read "Ember S. Jandebaur", written over a horizontal line.

Ember S. Jandebaur

Administrative Law Judge

Date: Friday February 10, 2006

w/encl.

Cc: All Parties of Record

James J. McNulty, Secretary

C-20055451 - BRIAN P DEGROOT V. W P WATER COMPANY  
C-20055453 - KALTHEEN SYLV. ESTER V. W P WATER COMPANY  
C-20055454 - KANDI JO MADILL V. W P WATER COMPANY  
C-20055460 - JOSEPH YAKOSKI V. W P WATER COMPANY  
C-20055468 - LEIGH POWELL V. W P WATER COMPANY  
C-20055472 - LISA HIGGINS V. W P WATER COMPANY  
C-20055473 - WILLIAM J FINKLER V. W P WATER COMPANY  
C-20055556 - FRED T RIEBELING V. W P WATER COMPANY

C-20055455 - KATHLEEN SYLVESTER V. W P SANITARY COMPANY  
C-20055456 - KANDI J MADILL V. W P SANITARY COMPANY  
C-20055457- FRED T RIEBELING V. W P SANITARY COMPANY

BRIAN P DEGROOT  
13 ROSEMARY DRIVE  
TUNKHANNOCK PA 18657

KATHLEEN SYLVESTER  
17 JEANNE DRIVE  
TUNKHANNOCK PA 18657  
570.836.8622

KANDI JO MADILL  
27 MORIO DRIVE  
TUNKHANNOCK PA 18657  
570.836.4316

JOSEPH YAKOSKI  
7 ROSE MARY DRIVE  
TUNKHANNOCK PA 18657-9582  
570.836.2954

LEIGH POWELL  
31 MORIO DRIVE  
TUNKHANNOCK PA 18657  
570.836.7214

LISA HIGGINS  
17 KARIN DRIVE  
TUNKHANNOCK PA 18657  
570.836.1922

WILLIAM J FINKLER  
18 JEANNE DRIVE  
TUNKHANNOCK PA 18657  
570.836.0715

FRED T RIEBERLING  
13 JEANNE DRIVE  
TUNKHANNOCK PA 18657  
570.836.6156

KIERAN M CASEY ESQUIRE  
BORLAND & BORLAND LLP  
69 PUBLIC SQUARE  
11TH FLOOR  
WILKES-BARRE PA 18701-2597  
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RHONDA DAVISTON  
PUC LAW BUREAU  
PO BOX 3265  
HARRISBURG PA 17101-3265  
717.787.6166

CHRISTINE HOOVER  
OFFICE OF CONSUMER ADVOCATE  
555 WALNUT STREET  
HARRISBURG PA 17101

I N T E R  
O F F I C E

MEMO

**Subject: WP Sanitary Company, Inc. – Washington Park System**

**WP Water Company, Inc. – Washington Park & Sleepy Hollow Water Systems**

**66 Pa.C.S.A. § 529 Power of commission to order acquisition of small water and sewer utilities**

**To:**

**From:**

The purpose of this memo is to outline the violations of the above referenced sewer and water utilities.

**WP Sanitary Company, Inc. – Washington Park System (144 customers)**

**66 Pa.C.S.A. § 529(a)(1)** Under the Clean Streams Law and the Pennsylvania Sewage Facilities Act, since 2001, DEP has cited this utility for 125 various violations of the preceding Law and Act, ie: discharge violations, reporting problems, excess effluent, etc. On December 2, 2005 DEP gave Notice of Proposed Assessment subject to a civil penalty of \$394,116.

Under **30 Pa.C.S.A. §§ 2505(a) and 2504(a)(2)**, the Fish and Boat Commission has filed 40 counts of criminal violations against the utility's owner and 40 counts of criminal violations against the utility's manager, Sandra Kresge, Jr. and Carl K. Kresge, Jr. (Kresge or Kresges if collective), respectively, for disturbance of waterways and watersheds and pollution of waters violations.

OALJ, currently, has three Formal Complaints before it and BCS has one active Informal Complaint alleging raw sewerage backing up into residential homes (a grave matter of health and safety).

The supervisors of Washington Township filed an informal complaint with the Wyoming County Emergency Management Agency requesting the agency contact the PUC to help solve the sewer back up problem into residential homes.

**66 Pa.C.S.A. § 529(a)(2)** DEP cites the utility for failure to comply, within a reasonable period of time, with Notice of Violations and Orders. DEP cites that the utility's NPDES permit has expired and the department will not renew this permit to the permittee. DEP also cites that the utility does not have a licensed operator.

**66 Pa.C.S.A. § 529(a)(3)** DEP cites that the utility cannot reasonably be expected to furnish and maintain adequate, efficient and safe service, ie: excessive inflow and infiltration, discharge violations, operational violations, reporting violations, etc. DEP has reported that the utility avers lack of funds to adequately address these violations and maintenance issues.

**66 Pa.C.S.A. § 529(a)(4)** In light of the aforementioned, the Commission will offer the utility its due process under **66 Pa.C.S.A. § 529(b)**. Again in referencing the above, it is most likely that this utility cannot survive these multiple charges and should capitulate.

**WP Water Company, Inc. – Washington Park System (144 customers)**

**66 Pa.C.S.A. § 529(a)(1)** Under the Pennsylvania Safe Drinking Water Act, during a ten year span from 1995, DEP reports that the utility has had 115 monitoring violations, 12 formal complaints, seven informal complaints and six outages. This year alone, the utility was cited six times for operational/management violations. DEP had to petition the Commonwealth Court, twice, for enforcement of a 1998 Compliance Order and to find the utility in contempt for failure to comply with the 1998 order.

The utility is not in compliance with a Commission Order at **Docket No. M-00802308**, entered on April 26, 1991 concerning metering of customers. Since 2002, the utility owes an outstanding civil penalty of \$1,000.00 at **Docket No. C-20026733** for failure to purchase and install customer meters.

OALJ, currently, has 10 Formal Complaints citing service issues, before it and BCS has had 19 Informal Complaints filed since 1998 of which 17 were service related and two were company/customer relation issues.

**66 Pa.C.S.A. § 529(a)(1)** DEP, as indicated above, has had a long history of violations. DEP also reports that the utility does not have a certified operator in charge of the maintenance and operation of the facilities. DEP noted that the utility did issue a boil water advisory on October 16, 2005.

Several of the current Formal Complaints allege numerous all day outages. The PUC has no record of these outages. The utility is in violation of **52 Pa. Code § 67**, concerning telephone calls to the Commission and the filing of Outage Reports.

**66 Pa.C.S.A. § 529(a)(3)** DEP has reported that Kresge stated he had paid for the new pump out of his own pocket (October 16, 2005 pump failure) because the utility does not have any money. This is a clear indication that this utility does not have financial viability.

**66 Pa.C.S.A. § 529(a)(4)** In light of the aforementioned, the Commission will offer the utility its due process under **66 Pa.C.S.A. § 529(b)**. Again in referencing the above, it is most likely that this utility cannot survive these multiple charges and should capitulate.

**WP Water Company, Inc. – Sleepy Hollow System (22 customers)**

**66 Pa.C.S.A. § 529(a)(1)** DEP just activated the utility's operations permit this past July of this year; unfortunately, the Sanitary Specialist is currently unavailable. DEP has another Specialist to inspect the facilities but Kresge will not return phone calls. Another indication of non-responsiveness by the utility. DEP also, at this time, assumes the utility does not retain a certified operator.

At **Docket No. A-213520**, entered on May 5, 1994, the Commission Order stated:

- "2. That a certificate of public convenience be issued...:
  - a. That applicant obtain a public water supply permit(s) for its water source(s) from the Pennsylvania Department of Environmental Resources and submit copies of said permit(s) to the Commission's Secretary's Bureau and the Bureau of Safety & Compliance within 10 working days following the receipt of such permit(s).
  - b. That applicant file a tariff supplement with the Commission's Secretary's Bureau and the Office of Special Assistants, Tariff Section, within 30 days of date of service of this order incorporating the proposed service territory (Sleepy Hollow Development) within its present effective tariff.
  - c. That applicant meter all of its customers, in the Sleepy Hollow Development, in Dallas and Kingston Townships, Luzerne County, pursuant to Section 65.7 of Title 52 of the Pennsylvania Code, 52 Pa. Code §65.7.
  - d. That applicant meter its sources of supply pursuant to Section 65.14 of Title 52 of the Pennsylvania Code, 52 Pa. Code §65.14.
  - e. That applicant comply with all regulations of the Pennsylvania Department of Environmental Resources in the operation and maintenance of its water supply service.
3. That the applicant's failure to comply with any of the above conditions may result in the imposition of civil fines and penalties."

The utility has not complied with any of the above conditions.

**66 Pa.C.S.A. § 529(a)(2)** As indicated above, the utility has not complied with any Commission directives.

**66 Pa.C.S.A. § 529(a)(3)** If this operation is indicative of the utility's Washington Park system, the financial viability of the utility is in question. This system has only 22 residential ratepayers (\$15.00 per month and \$3.00 per hose permit per month or about \$216.00 annually).

**66 Pa.C.S.A. § 529(a)(4)** In light of the aforementioned, the Commission will offer the utility its due process under **66 Pa.C.S.A. § 529(b)**. Again in referencing the above, it is most likely that this utility cannot survive these multiple charges and should capitulate.

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
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800-684-6560 (in PA only)

IRWIN A. POPOWSKY  
Consumer Advocate

FAX (717) 783-7152  
consumer@paoca.org

February 22, 2006

DOCUMENT  
FOLDER

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
P. O. Box 3265  
Harrisburg, PA 17105-3265

ORIGINAL

**Re: Brian P. DeGroot v. WP Water Co., Docket No. C-20055451; Kathleen Sylvester v. WP Water Co., Docket No. C-20055453; Kandi Jo Madill v. WP Water Co., Docket No. C-20055454; Kathleen Sylvester v. WP Sanitary Co., Docket No. C-20055455; Joseph Yakoski v. WP Water Co., Docket No. C-20055460; Kandi Jo Madill v. WP Sanitary Co., Docket No. C-20055456; Leigh Powell v. WP Water Co., Docket No. C-20055468; Lisa Higgins v. WP Water Co., Docket No. C-20055472; William J. Finkler v. WP Water Co., Docket No. C-20055473; Fred T. Reibeling v. WP Water Co., Docket No. C-20055556; Fred T. Reibeling v. WP Sanitary Co., Docket No. C-20055557**

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of the Application of the Office of Consumer Advocate For Subpoena To Obtain Entry For Inspection And For Subpoena Duces Tecum in the above caption-proceeding.

Copies have been served on all parties of record as evidenced by the attached Certificate of Service.

Sincerely,

Erin L. Gannon  
Assistant Consumer Advocate

Enclosures

cc: Honorable Ember Jandebour  
All parties of record

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RECEIVED  
2006 FEB 22 PM 3:55  
SECRETARY'S BUREAU

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED  
2005 FEB 22 PM 3:56  
PA PUBLIC  
SECRETARY'S BUREAU

Re: Brian P. DeGroot v. WP Water Co.	:	Docket No. C-20055451
Kathleen Sylvester v. WP Water Co.	:	Docket No. C-20055453
Kandi Jo Madill v. WP Water Co.	:	Docket No. C-20055454
Kathleen Sylvester v. WP Sanitary Co.	:	Docket No. C-20055455
Joseph Yakoski v. WP Water Co.	:	Docket No. C-20055460
Kandi Jo Madill v. WP Sanitary Co.	:	Docket No. C-20055456
Leigh Powell v. WP Water Co.	:	Docket No. C-20055468
Lisa Higgins v. WP Water Co.	:	Docket No. C-20055472
William J. Finkler v. WP Water Co.	:	Docket No. C-20055473
Fred T. Reibelng v. WP Water Co.	:	Docket No. C-20055556
Fred T. Riebelng v. WP Sanitary Co.	:	Docket No. C-20055557

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APPLICATION OF THE OFFICE OF CONSUMER ADVOCATE  
FOR SUBPOENA TO OBTAIN ENTRY FOR INSPECTION  
AND FOR SUBPOENA DUCES TECUM

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ORIGINAL

Pursuant to 52 Pa. Code § 5.421, the Office of Consumer Advocate (OCA) hereby files this Application for issuance of a subpoena to obtain entry for inspection of W.P. Water Company and W.P. Sanitary Company (together, the Companies) facilities located in Washington Township, Wyoming County, PA on a reasonable date agreed to by the Companies' and OCA. The OCA also seeks issuance of a Subpoena Duces Tecum, to review and copy documents in the possession of W.P. Water Company and W.P. Sanitary Company, in the Companies' service territory and/or at the Companies' business address, 1199 Laurel Run Road, Bear Creek Township, PA 18702 on the same reasonable date established for the facility inspection. In support of its Application, the OCA avers as follows:

1. The above-captioned matter was initiated through Complaints filed between October 19, 2005 and November 10, 2005 by eight customers of W.P. Water regarding water

pressure, outages, water quality, maintenance and condition of the system, and customer service and by three customers of W.P. Sanitary regarding quality of service, relating to odors<sup>1</sup> and maintenance and condition of the collection system and treatment plant.

2. On January 4, 2006, the OCA filed a Notice of Intervention in each of the above-captioned complaints. In its Public Statements, the OCA stated that its purpose for intervening is to ensure that W.P. Water and W.P. Sanitary fulfill their obligations to provide safe, adequate and reliable service to customers pursuant to the Public Utility Code, 66 Pa. C.S. § 1501.

3. An inspection of the water and wastewater systems is necessary to gather information to support the complaints of customers served by W.P. Water and W.P. Sanitary and to determine if the Companies are in compliance with pertinent provisions of the Public Utility Code and Public Utility Commission (PUC or Commission) regulations. 66 Pa. C.S. § 1501, *et seq.*; 52 Pa. Code Chs. 65, 67. Specifically, the OCA needs to inspect and photograph, as necessary, the following physical facilities:

- Water and wastewater treatment plant, including the inside of any control buildings
- Pressure and control valve installations
- Manholes
- Pumps
- Water sources, including wells, and finished water
- Storage facilities

Inspection and photography of the condition, design and operation of these facilities is necessary for the OCA to discover the cause of water quality concerns, including “cloudiness” and the possibility of sewage leaking into the water system (water treatment plant, manholes, water sources, finished water and storage facilities), low pressure complaints and outages (pressure and

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<sup>1</sup> Telephonic Prehearing Conference, December 20, 2005, tr. 15-16.

control valve installations, pumps, water sources and storage facilities), odors (water and wastewater treatment plant, manholes and finished water) and to evaluate the overall maintenance and condition of the systems.

The OCA also needs to review and copy, as necessary, the following records<sup>2</sup> kept in the normal course of business:

- Accident reports (includes facility or operation accidents resulting in “a prolonged and serious interruption of normal service of more than 3 days”)
- Customer complaints and disposition records
- Distribution and collection system maps
- Interruption of service records
- Pressure surveys
- Conservation measure plans
- Water supply quantity reports
- Water and wastewater treatment plant operation records
- 2005 and 2006 monitoring reports submitted to the Department of Environmental Protection to comply with Safe Drinking Water Act and Water Pollution Control Act (includes water testing reports and wastewater discharge monitoring reports)

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<sup>2</sup> As used herein the word “record” includes, but is not limited to, the original and all copies in whatever form, stored or contained in or on whatever media or medium including computerized memory, magnetic, electronic, or optical media, regardless of origin and whether or not including additional writing thereon or attached thereto, and may consist of: a) notations of any sort concerning conversations, telephone calls, meetings or other communications; b) bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys; c) worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing.

The records listed above bear directly on: customers' complaints regarding low water pressure and outages (accident reports, customer complaints, water system maps, interruptions, pressure surveys, conservation measure plans and water supply quantities), water "cloudiness" and concerns about sewage contamination (accident reports, customer complaints, water and wastewater system maps, interruptions, water and wastewater treatment plant operation records and water and wastewater monitoring reports); odors (customer complaints, water and wastewater treatment plant operation records, water and wastewater monitoring reports); and the Companies' operation of their systems in compliance with relevant Commission record keeping requirements as those records may bear on the problems identified by customers.

4. In addition, the OCA's facility inspection and on-site review of records will permit the OCA to reduce and refine the scope of further written discovery, narrow the issues, enable meaningful settlement discussions and limit the scope of any necessary expert testimony. The OCA notes that, currently, we have not obtained any information through discovery because the Companies have not answered, or objected to, any OCA interrogatories, responses to which were due on February 13, 2006.<sup>3</sup>

5. The OCA specifically requests that the OCA's engineering consultant, Mr. Terry L. Fought, participate in the facility inspection and document review. Mr. Fought has more than forty years' experience as a civil engineer. He is a registered Professional Engineer in Pennsylvania, New Jersey and Virginia and is a Professional Land Surveyor in Pennsylvania. Mr. Fought has prepared studies related to and designed water treatment, pumping, storage, and distribution facilities and wastewater collection, pumping, treatment and stormwater facilities for private and municipal water and wastewater agencies.

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<sup>3</sup> The discovery response period in this proceeding has been reduced to ten days. Tr. 28. The February 13, 2006 date includes three days for the mailbox rule. 52 Pa. Code § 1.56(b).

6. If necessary, Mr. Fought will develop testimony regarding the problems experienced by W.P. Water and W.P. Sanitary customers and, to an extent, will be corroborative of testimony by customer complainants at the February 27, 2006 evidentiary hearing.

7. Counsel for the Public Utility Commission's Law Bureau has advised the OCA that Law Bureau does not object to the issuance of a subpoena to obtain entry for inspection and review of documents.

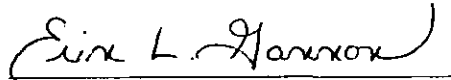
8. Pursuant to 52 Pa. Code § 5.421(b), the OCA must provide notice that an answer or objection to this Application for Subpoena may be filed with the Commission and Presiding Officer within 10 days of service of this application. If an answer or objection is filed, it should be served on all those named on the attached certificate of service and submitted to the following persons:

Mr. James J. McNulty, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

The Honorable Ember S. Jandebour  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Room 317, Scranton State Office Building  
100 Lackawanna Avenue  
Scranton, PA 18503

WHEREFORE, for the foregoing reasons, the OCA respectfully requests that the Honorable Administrative Law Judge Ember S. Jandebour grant this Application and issue a Subpoena as described herein (see Attachment A) to be delivered to the OCA for service upon W.P. Water Company and W.P. Sanitary Company as soon as possible.

Respectfully submitted,



Christine M. Hoover  
Senior Assistant Consumer Advocate  
Erin L. Gannon  
Assistant Consumer Advocate

Counsel for:  
Irwin A. Popowsky

Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Telephone: 717-783-5048  
Fax: 717-783-7152

Dated: February 22, 2006

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Brian P. DeGroot v. WP Water Co.	:	Docket No. C-20055451
Kathleen Sylvester v. WP Water Co.	:	Docket No. C-20055453
Kandi Jo Madill v. WP Water Co.	:	Docket No. C-20055454
Kathleen Sylvester v. WP Sanitary Co.	:	Docket No. C-20055455
Joseph Yakoski v. WP Water Co.	:	Docket No. C-20055460
Kandi Jo Madill v. WP Sanitary Co.	:	Docket No. C-20055456
Leigh Powell v. WP Water Co.	:	Docket No. C-20055468
Lisa Higgins v. WP Water Co.	:	Docket No. C-20055472
William J. Finkler v. WP Water Co.	:	Docket No. C-20055473
Fred T. Reibelng v. WP Water Co.	:	Docket No. C-20055556
Fred T. Riebelng v. WP Sanitary Co.	:	Docket No. C-20055557

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SUBPOENA TO OBTAIN ENTRY FOR INSPECTION  
AND SUBPOENA DUCES TECUM

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 2006 FEB 22 PM 3:56  
 SECRETARY'S BUREAU

To W.P. Water Company and W.P. Sanitary Company:

1. You are ordered by the Honorable Ember S. Jandebaur to allow entry for inspection and photography of your water and wastewater treatment plant, pressure and control valve installations, manholes, pumps, water sources and finished water, and storage facilities on a reasonable date agreed to by the Companies and the Office of Consumer Advocate.
2. You are ordered by the Honorable Ember S. Jandebaur to provide for review and copying all documents relating to: accident reports, customer complaints and disposition, distribution and collection system maps, interruptions of service, pressure surveys, conservation measure plans, water supply quantity reports, water and wastewater treatment plant operation records and 2005 and 2006 monitoring reports submitted to the Department of Environmental Protection to

comply with Safe Drinking Water Act and Water Pollution Control Act. This review will take place at the Companies' service territory and/or at the Companies' business address, 1199 Laurel Run Road, Bear Creek Township, PA 18702, on the date established for the facility inspection.

If you fail to allow entry for inspection or provide documents for review as required by this subpoena, you shall be in violation of 66 Pa. C.S. § 3307 and shall be guilty of a summary offense.

Requested by: Christine M. Hoover, Senior Assistant Consumer Advocate  
Erin L. Gannon, Assistant Consumer Advocate  
Pennsylvania Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101  
717-783-5048 - phone  
717-783-7152 - fax

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Ember S. Jandebaur  
Administrative Law Judge

CERTIFICATE OF SERVICE

**Re: Brian P. DeGroot v. WP Water Co., Docket No. C-20055451; Kathleen Sylvester v. WP Water Co., Docket No. C-20055453; Kandi Jo Madill v. WP Water Co., Docket No. C-20055454; Kathleen Sylvester v. WP Sanitary Co., Docket No. C-20055455; Joseph Yakoski v. WP Water Co., Docket No. C-20055460; Kandi Jo Madill v. WP Sanitary Co., Docket No. C-20055456; Leigh Powell v. WP Water Co., Docket No. C-20055468; Lisa Higgins v. WP Water Co., Docket No. C-20055472; William J. Finkler v. WP Water Co., Docket No. C-20055473; Fred T. Reibelung v. WP Water Co., Docket No. C-20055556; Fred T. Reibelung v. WP Sanitary Co., Docket No. C-20055557**

I hereby certify that I have this day served a true copy of the foregoing document, Application of the Office of Consumer Advocate For Subpoena To Obtain Entry For Inspection And For Subpoena Duces Tecum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 22nd day of February, 2006.

SERVICE BY INTER-OFFICE MAIL

Rhonda Daviston  
Law Bureau  
PA Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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Kimberly D. Borland, Esq.  
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Wilkes-Barre, PA 18701-2597

Kieran Michael Casey, Esq.  
Borland & Borland, L. L. P.  
69 Public Square  
Suite 1100  
Wilkes Barre, PA 18701

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SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Kathleen Sylvester  
17 Jeanne Drive  
Tunkannock, PA 18657

Leigh Powell  
32 Morio Drive  
Tunkhannock, PA 18657

Kandi Jo Madill  
27 Morio Drive  
Tunkhannock, PA 18657

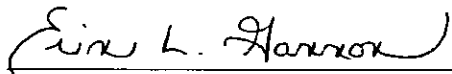
Lisa Higgins  
17 Karin Drive  
Tunkhannock, PA 18657

Brian P. DeGroot  
13 Rosemary Drive  
Tunkhannock, PA 18657

William J. Finkler  
18 Jeanne Drive  
Tunkhannock, PA 18657

Joseph Yakoski  
7 Rosemary Drive  
Tunkhannock, PA 18657

Fred Riebeling  
13 Jeanne Drive  
Tunkhannock, PA 18657



Erin L. Gannon  
Assistant Consumer Advocate

Counsel for  
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555 Walnut Street 5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
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