

FRANK D. KITZMILLER

JULY 29, 2016

1041 PRESTON RD

LANCASTER, PA 17601

717-569-0132 / [dkitz@comcast.net](mailto:dkitz@comcast.net)

RE: DOCKET NUMBER C-2014-2435567

FRANK D. KITZMILLER, COMPLAINANT

CITY OF LANCASTER WATER DEPT, RESPONDENT

RECEIVED  
2016 AUG -1 AM 11:11  
PA PUC  
SECRETARY'S BUREAU

SECRETARY

PUBLIC UTILITY COMMISSION (PUC)

400 NORTH ST

HARRISBURG, PA 17120

The following information relates to Docket Number C-2014-2435567 referred to above which is indicated as "closed" in the Case Summary published by the PUC and included on the PUC website. This case relates to a Formal Complaint filed in connection with overbilling Frank D. Kitzmiller, the customer.

- ✓ Attached is a document filed on 10/30/14 and received by the PUC on 10/31/14 which is listed on Public Documents for C-2014-2435567 as "second request for status update of case - complainant" which will provide most of the background information on this case. I did not receive any updated information on this case from the PUC as a result of this request and this appears to be the last activity recorded by the PUC relating to this case other than the "closed" caption which appears at the top right side of the PUC Case Summary which appears to have been placed there sometime during 2015.

I was never notified that this case was closed and never noticed the "closed" caption until late 2015.

After I did notice it, I called the PUC in October, 2015, and communicated with Ms. Tiffany Tran who indicated that she would look into this matter and get back to me. I have not received any response from Ms. Tran either in writing or verbal to the present time.

The City of Lancaster Water Dept. has not corrected their overcharges on my account.

I am again seeking information as to the present status of this case and whether it can be reactivated which would allow for the discovery process to begin.

The following information may be helpful to you in your review of this situation. It appears that the PUC linked this case to a rate increase case R-2014-2418872 with the City of Lancaster Water Dept. and closed the overbilling case at the time that the City of Lancaster Water Dept. Rate case was closed.

The linking of the overcharge case may have resulted from the fact that the Formal Complaint for the overcharge was filed at the same time (but in a separate filing) as a Formal Complaint related to the City of Lancaster Water Dept. rate increase filing docketed as C-2014-2435548.

In connection with the gathering of information for the filing of the overcharge complaint, I reviewed information that was available on the Lancaster City website relating to ongoing rate increase activity (R-2014-2418872) and noticed that while the discovery process on the rate increase case had indicated that there was "unaccounted for water" in excess of 20% of total water produced, there was no downward adjustment of the direct costs of producing this unbilled water in arriving at allowable expenses for rate making purposes.

As a result of this discovery, I filed a Formal Complaint (C-2014-2435548) to have the proposed water rate increase reduced for the effect of this reduction in direct costs.

As I familiarized myself with the water rate making process calculations, I realized that my overcharge case settlement, if made within the time period being used for the rate increase case, could have an effect (it could allow a higher water rate increase due to increased expense resulting from overbilling settlements with me and the other 3,070 customers in Manheim Township who have been overcharged) on the rate increase amount. As a result of this discovery, I mentioned my overcharge case in my rate increase complaint and attached a copy of my overcharge complaint for explanation purposes.

It should be noted that my overcharge complaint case related to the City of Lancaster Water Dept. charging me (and certain other Manheim Township customers) for a 1 " meter in the calculation of the Customer Service Charge portion of the water billing rather than the  $\frac{3}{4}$  " meter that I have in my water system. The difference between the 1 " monthly billing of \$18.60 and the  $\frac{3}{4}$  " monthly billing of \$7.00 is \$11.60 or \$139.20 per year using rates in effect at 12/31/14.

When I filed my formal complaint, I did not know how many other customers were also overcharged so I made some estimated calculations for a period from 1985 to 2014 using estimates for the customer service charge rate in effect for prior periods (to be verified when the Discovery process is available) for 1 customer (\$ 2,016), 1,000 customers (\$2,016,000) and 5,000 customers (\$10,080,000) for cumulative overcharges (excluding statutory interest of 4%).

Subsequent to the filing of the overcharge complaint, I received information from the City of Lancaster as a result of a "right to know" request that indicated that 3,071 water customers had been charged for a 1 " meter rather than their actual  $\frac{3}{4}$  " meter. Such estimated overcharges for 3,071 customers using the above amount of \$2,016 per customer would amount to \$6,191,000 before 4% statutory interest.

Without formal Discovery proceedings, the prior year overcharge amounts have to be estimated. I did locate some billing rates for periods prior to 7/21/11 which if used in lieu of amounts used in my Formal Complaint would reduce the estimated overcharge from \$2,016 per customer to \$888 per customer for a period 3/15/88 (when the water service began) to 12/31/14. Using \$888 per customer, the total overcharge for 3,071 customers would amount to \$2,727,000 before 4% statutory interest. These are significant amounts that should be considered in any ratemaking decision.

In response to my inquiry to the PUC on 9/29/14 relating to the fact that I had received no information regarding my right to make interrogatories relating to my 2 separate Formal complaints, PUC Secretary Rosemary Chivetta communicated with All Parties of Record to the rate case R-2014-2418872 and indicated that my 2 separate cases were both "Formal Rate Complaints" and not 1 Formal Rate Complaint and 1 Formal Overcharge Complaint and that my "Formal Rate Complaints" were served on

Mr. John Gallagher, counsel for the City of Lancaster Water Dept. on 8/4/14. Administrative Law Judge Angela Jones was also notified of this situation. (A copy of this document is attached)

The PUC website Case Summaries for the rate case (C-2014-2435548) and the overcharge case (C-2014-2435567) both indicate that on 8/4/14 the cases were "Assigned Responsible Bureau - ALJ" and "Document Served - Other - See Comments Assigned to ALJ". With respect to the Case Summaries' "Private Document Published on Web" on 8/4/14, there was a distinction between the 2 cases, with the rate case identified as "Complaint Against the Rate Case" and the overcharge case identified as "Frank D Kitzmiller vs City of Lancaster Water Dept.". Each case had a separate coding number. (Possibly this information will be useful in reviewing this matter).

In a Footnote #1 to the text of Prehearing Conference Order #3 dated 10/2/14, Administrative Law Judge Angela T. Jones indicated that in addition to Case C-2014-2435548, "Mr. Kitzmiller also filed a formal complaint at Docket No. C-2014-2435567. This complaint is about billing and facilities specific to his service address in Manheim Township. As of the date of this order, the undersigned has not been assigned this complaint or been informed that it will be addressed in the rate case, or addressed as a separate complaint." (A copy of page 1 of this Prehearing Conference Order # 3 is attached)

Based on this Footnote #1, it appears that Administrative Law Judge Angela T. Jones had not been assigned the overcharge case C-2014-2435567 which was supposed to have been assigned on 8/4/14 to an Administrative Law Judge. This Prehearing Conference Order #3 was not posted in the Case summary for the overcharge case. The last posting on the Case Summary was on 10/31/14 for the "Second Request for Status Update of Case - Complainant".

The last reference to the overcharge case C-2014-2435567 is in the Case Summary for the rate case R-2014-2418872 under the caption of "Statement of Frank D Kitzmiller in Support of the Joint Petition for Settlement of Rate Investigation" in which Frank D Kitzmiller on 11/24/14 in the last paragraph states "Assuming that any action on my part to support the Joint Petition will not have any effect on my unrelated current Formal Complaint with the City of Lancaster Water Bureau (Docket C-2014-2435567 relating to an alleged overcharge of the Customer service charge portion of my water bill), I hereby support the proposed Joint Petition..... (A copy of this document is attached)

In addition to the above information, on 1/5/15, I wrote to the Office of Consumer Advocate (OCA) and provided information on Case C-2014-2435567 and sought help in resolving this formal complaint and the filing of a Consolidated Formal Complaint on behalf of all 3,071 customers in Manheim Township PA who have been overcharged due to being billed for a 1" size meter for their 3/4" size meter. I received word in February, 2015, that Christine Hoover had the document I sent to the OCA and would get back to me. To the present date I have not received any communication from Christine Hoover of OCA.

PLEASE EITHER PHONE, WRITE OR EMAIL ME WITH ANY QUESTIONS OR COMMENTS ON THE ABOVE INFORMATION.

PLEASE ACKNOWLEDGE RECEIPT OF THIS INFORMATION BY WRITING OR EMAIL TO ME.

SINCERELY YOURS, *Frank D. Kitzmiller* FRANK D KITZMILLER 7/29/16 DATE

FRANK D. KITZMILLER

OCTOBER 30, 2014

1041 PRESTON RD

LANCASTER PA 17601

717-569-0132 / DKITZ@COMCAST.NET

RECEIVED  
2014 OCT 31 AM 11:04  
PA P.U.C.  
SECRETARY'S BUREAU

RE: DOCKET NUMBER C-2014-2435567

FRANK D. KITZMILLER, COMPLAINANT

CITY OF LANCASTER WATER DEPT, RESPONDENT

SECRETARY

PUBLIC UTILITY COMMISSION

400 NORTH ST

HARRISBURG, PA 17120

RECEIVED  
2016 AUG - 1 AM 11:11  
PA P.U.C.  
SECRETARY'S BUREAU

Please provide information as requested below for the above noted case.

1. What is the present status of this case?

BACKGROUND - On 7/10/14, I filed a Formal Complaint with your office relating to an apparent overcharge of the Customer Charge portion of my water bill resulting from a billing based on a 1 " meter size rather than the 3/4 " meter size that the City of Lancaster Water Dept provided to me.

On 8/4/14, your office recorded this case as C-2014-2435567

On 8/4/14, your office served a notice of this Formal Complaint to John Gallagher, attorney for the City of Lancaster Water Dept and required certain actions, including the submission of an answer by the City of Lancaster Water Dept. within 20 days. A copy of such answer was required to be provided to the Complainant.

Through 10/29/14, I have not received any copy of any answer to the Formal Complaint.

Please note that on 9/17/14, I discussed the status of this case with various members of the staff of your office and was told that they were experiencing delays in processing of the Formal Complaint information due to presently being understaffed, but was assured that action would be taken within the next week or 2.

2. If the City of Lancaster Water Dept has made a written answer to your office related to this Formal complaint, please provide a copy of this answer.

Q. 7/25/16

3. Please confirm that I, as Complainant, have the ability to initiate Discovery at this time, even though it is not known whether the City of Lancaster Water Dept is contesting the Formal Complaint. (52 PA Code section 5.331).
4. If this case is scheduled for resolution, could your office provide me with a timeline estimate showing the various events which will be scheduled and the approximate dates of such events?

8/14/14 – Case created

8/4/14 – Document served to City of Lancaster Water Dept

/14 – Answer(s) to served document

/14 - Discovery / Interrogatories

/14 – Prehearing conference

/ 14 – Rebuttal, Surrebuttal testimony

/14 – Main, Reply briefs

/14 – Hearing

5. Could the provisions of 52 PA Code Section 5.23, Joinder of Formal Complaints, or 52 PA Code Section 5.81, Consolidations, be applied to this case? Based upon information provided by the City of Lancaster, PA in connection with a right-to-know request, it has been determined that 3,071 customers of the City of Lancaster Water Dept. located in Manheim Township of Lancaster County, PA having a ¾ " water meter size are being billed the 1 " meter size in the calculation of the Customer Charge portion of their water bill. It would appear that a group filing would benefit all parties to the complaint by reducing or eliminating legal and administrative expenses which would be incurred if such complaint was part of a class action lawsuit.

Please either phone, write or email me with any questions or comments on the above information.

Sincerely yours,

*Frank D. Kitzmiller*

FRANK D KITZMILLER



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

October 1, 2014

By eService and First Class Mail  
**ALL PARTIES OF RECORD**

Re: Frank D. Kitzmiller v. City of Lancaster Bureau of Water  
Docket Number: R-2014-2418872  
Docket Number C-2014-2435548  
Docket Number C-2014-2435567

To All Parties of Record:

On September 30, 2014, my office received a filing from Mr. Frank D. Kitzmiller informing the Commission that he has not received any documentation regarding the two formal rate complaints he filed at the above docket numbers against the City of Lancaster in its proposed rate increase by the Bureau of Water at the above R docket number.

The Secretary's Bureau received Mr. Kitzmiller's rate complaints on July 14, 2014. The Commission by order entered on July 9, 2014, suspended the case for an investigation and assigned the matter to the Office of Administrative Law Judge, prior to the filing of Mr. Kitzmiller's rate complaints. A pre-hearing conference was held on July 24, 2014; however, Mr. Kitzmiller's rate complaints were processed and served on Mr. John Gallagher, Counsel for the City of Lancaster, on August 4, 2014.

Our review of Mr. Kitzmiller's September 30, 2014 filing revealed that no certificate of service or other indication that the parties of record to the rate case were served with the Complainant's filing. Therefore, the Commission, to ensure due process and to constitute service for purposes of 52 Pa. Code §1.54, is serving a copy of Mr. Kitzmiller's September 30, 2014 filing on all parties of record to this case, and has notified the presiding officer, Administrative Law Judge Angela Jones of the issues raised by Mr. Kitzmiller.

Sincerely,

Rosemary Chiavetta  
Secretary

Enclosure

cc: All Parties of Record  
Administrative Law Judge Angela Jones

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Office of Consumer Advocate	:	
Office of Small Business Advocate	:	R-2014-2418872
Frank Kitzmiller	:	C-2014-2426000
	:	C-2014-2344724
v.	:	C-2014-2435548
	:	
City of Lancaster—Bureau of Water	:	

**PREHEARING CONFERENCE ORDER #3**

On July 14, 2014, Frank Kitzmiller filed a formal complaint (Complaint) regarding the proposed rate increase by City of Lancaster (Company) at Docket No. C-2014-2435548.<sup>1</sup> On August 4, 2014, the Pennsylvania Public Utility Commission's (PUC or Commission) Secretary's Bureau served John Gallagher, Esquire, counsel for the City of Lancaster with the Complaint of Mr. Kitzmiller. There is no evidence that any of the non-Company parties of record were served with the Complaint.

By letter dated September 29, 2014, Mr. Kitzmiller asked the Secretary about the status of his Complaint. By electronic mail (email) dated October 1, 2014, the Secretary asked the undersigned Administrative Law Judge (ALJ) by what procedure should the parties of record be notified about the September 29, 2014 Kitzmiller letter. It is through this email on October 1, 2014, that the ALJ became aware of the Complaint.

The ALJ requested that the Secretary serve the parties of record the Complaint and the September 29, 2014 Kitzmiller letter. By email the ALJ acknowledged the Complaint of Mr.

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<sup>1</sup>Mr. Kitzmiller also filed a formal complaint at Docket No. C-2014-2435567. This complaint is about billing and facilities specific to his service address in Manheim Township. As of the date of this Order, the undersigned has not been assigned this complaint or been informed that it will be addressed in the rate case, or addressed as a separate complaint.

(DATED 10/2/14)  
ON PAGE 3

1

(SIGNED BY ANGELA T JONES  
ON PAGE 3)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
PENNSYLVANIA PUBLIC UTILITY COMMISSION v. CITY OF LANCASTER BUREAU OF WATER

DOCKET NO. R-2014-2418872  
C-2014-2435548

STATEMENT OF FRANK D. KITZMILLER IN SUPPORT OF THE  
JOINT PETITION FOR SETTLEMENT OF RATE INVESTIGATION ("JOINT PETITION")

I am a retired financial/tax accountant holding an inactive CPA certificate.

I filed a Formal Complaint relating to the City of Lancaster Bureau of Water rate increase because in reviewing the rate increase request, I noted that unaccounted-for water levels were in excess of 20% and should be considered in determining the amount of the proposed rate increase. These concerns of mine were discussed in the negotiations.

When filing the Formal Complaint, I did not signify that I wanted to be an "active" complainant as there was no place on the Formal Complaint form to indicate this "active" status and I did not know that this *additional step was necessary*.

I was impressed with the proposed rate increase review process which included sufficient detailed reviews of the proposal which provided confidence that any amount awarded is fair to all parties.

Assuming that any action on my part to support the Joint Petition will not have any effect on my unrelated current Formal Complaint with the City of Lancaster Water Bureau (Docket Number C-2014-2435567 relating to an alleged overcharge of the Customer Service charge portion of my water bill), I hereby support the proposed Joint Petition and respectfully request that the Administrative Law Judge and the PA Public Utility Commission approve the Joint Petition in its entirety.

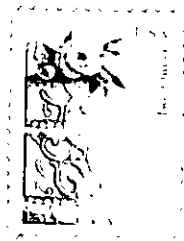
Respectfully submitted,

FRANK D. KITZMILLER , Dated: November 24, 2014.

Frank D. Kitzmiller  
1041 Preston Rd  
Lancaster, PA 17601

RECEIVED  
2014 DEC -4 AM 8:35  
PA PU  
SECRETARY'S BUREAU

FRANK KITZMILLER  
1041 PRESTON RD.  
LANCASTER PA 17601



SECRETARY  
PUBLIC UTILITY COMMISSION  
400 NORTH STREET  
HARRISBURG, PA 17120

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2016 AUG - 1 AM 11:10

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