

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Deborah K. Scott

v.

Pennsylvania American Water Company

:  
:  
:  
:

C-20054741

INTERIM ORDER  
Transferring Docket No. C-20054741  
to OALJ Mediation Unit

DOCUMENT  
FOLDER

Before  
Ember S. Jandebour  
Administrative Law Judge

HISTORY OF THE PROCEEDINGS

On July 21, 2005, Deborah Scott (Complainant) filed a formal complaint with the Public Utility Commission (PUC or Commission) against Pennsylvania American Water Company (Respondent) alleging *inter alia* that her water bill was "way out of line" and that she could not afford it. She also alleged the Respondent's water main broke. The water main break flooded her basement, weakened her foundation, caused her landscaping to have to be removed and transplanted. She also alleged that her foundation was repaired, but that in the course of the repairs the backfilling was done improperly and caused subsidence and now she has water channeling through her basement and rodents coming in through the holes. She requested "an appeal to investigate further (*sic*) into both of my complaints." The Complainant stated she filed an earlier Complaint on May 9, 2005, appealing the informal decision of the Commission's Bureau of Consumer Services issued on May 3, 2005; the PUC sent a dismissal letter to the Complainant on July 20, 2005. The BCS informal decision related only to the high bill issue and not property damage.

On November 1, 2005, a hearing in the matter was held in person at the PUC's Scranton office. The Complainant appeared on her own behalf. The Respondent was represented by counsel. During a prehearing conference, the Parties alerted the undersigned administrative law judge (ALJ) that they were able to resolve the high bill portion of the Complaint and the Complainant withdrew that portion of her Complaint.

An Initial Decision was issued on April 11, 2006, and served to the Parties on April 20, 2006. No Exceptions were filed by either Party.

On September 28, 2006,<sup>1</sup> the Commission issued an Opinion and Order stating the following:

The Complainant's assertion that the initial water main break repairs in 2000 were not adequately reviewed and must be addressed. Since this appears to be a continuing problem from 2000 and the record is not dispositive of these issues, we cannot agree with the ALJ that the Complainant's claim is time barred as proposed by PAWC.

As discussed, we are of the opinion that a fair determination in this matter cannot be made until the parties provide the additional on the record information requested above. Accordingly, we shall remand this case to the Office of Administrative Law Judge for the purpose of introducing additional factual information into the record and the scheduling of an expedited hearing, if deemed necessary by the ALJ, followed by the issuance of an Initial Decision upon Remand;

**THEREFORE,**

**IT IS ORDERED:**

1. That the matter be remanded to the Office of Administrative Law Judge.
2. That the Office of Administrative Law Judge shall solicit responses from both PAWC and the Complainant to the directives set forth below:

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<sup>1</sup> Opinion and Order entered November 2, 2006.

A. The Parties are directed to provide documentation that a Company representative visited the Complainant's property on or about October 5, 2005, describing the contact which precipitated the visit, as well as providing results of the visit.

B. The Parties are directed to provide documentation that a representative of Hanover Enterprises visited the Complainant's property on or about October 6, 2005, describing the contact which precipitated the visit, as well as providing results of the visit.

C. The Parties are directed to provide any photographs of the alleged property damage in question, that were taken during the October 6, 2005 inspection by Hanover Enterprises.

D. The Parties are directed to provide current photographs of the alleged property damage in question, which photographs must be date and time stamped.

On November 16, 2006, the undersigned administrative law judge (ALJ) issued a Prehearing Order to the Parties. Included in the Prehearing Order were the mandates set out in the Commission's Opinion and Order.

On November 17, 2006, a Hearing Notice was issued setting the Initial Hearing on Remand for December 13, 2006. On December 3, 2006, Ms. Scott filed a letter indicating she was unaware "how the commission ruled" and she requested the hearing be held after the holidays.

On December 11, 2006, a Hearing Cancellation/Reschedule Notice was issued scheduling an Initial Hearing on Remand for January 23, 2007.

On January 4, 2007, counsel for Pennsylvania American Water Company (PAWC) filed a letter indicating the company and Ms. Scott would like the "matter referred to the Commission's Mediation Unit for resolution."

The Commission supports the use of mediation and this Interim Order transfers the matter to the mediation unit as requested.

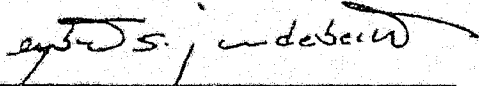
ORDER

THEREFORE,

IT IS ORDERED:

1. The Initial Hearing on Remand at Docket No. C-20054741 is referred to the Office of the Administrative Law Judge (OALJ) Mediation Unit for resolution. A final report shall be provided to the undersigned ALJ at the conclusion of the mediation effort.

Date: January 10, 2007

  
\_\_\_\_\_  
Ember S. Jandrew  
Administrative Law Judge



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Office of Administrative Law Judge  
P.O. BOX 3265, HARRISBURG, PA 17105-3265  
January 30, 2007

IN REPLY PLEASE  
REFER TO OUR FILE

In Re: C-20054741

(SEE ATTACHED LIST)

Deborah K. Scott  
v.  
Pennsylvania-American Water Company

MEDIATION NOTICE

The parties have consented to use the mediation process in the above-captioned matter.

A mediation session will be held as follows:

Date: Wednesday, February 28, 2007

Time: 1:00 p.m.

Location: Room 318  
Scranton State Office Building  
100 Lackawanna Avenue  
Scranton, PA 18503

Mediator: Herbert R. Nurick  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
Telephone: (717) 783-5428  
Fax: (717) 787-0481  
Email: [hnurick@state.pa.us](mailto:hnurick@state.pa.us)

DOCUMENT  
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BA

DOCKETED  
FEB 9 2007

Mediation is an informal, non-adjudicatory process. The mediator does not give advice, represent any party, evaluate or make a decision. Instead, the mediator serves as an impartial facilitator who helps the parties resolve their disputes. In other words, mediation is a process which allows the parties to control the outcome of their dispute, as opposed to a hearing where an Administrative Law Judge and the Commission control the outcome.

Moreover, mediation is different from a settlement conference which is based on competitive negotiations. In mediation, the parties agree to work together toward a final resolution of their differences considering how any solution must address the interests of all parties. The focus is not to determine fault, assign blame, or deal with past issues. Rather, the focus is on the future and on a consensual resolution that the parties can live with.

Because mediation is not an on-the-record proceeding, there will be no court reporter. Everything that takes place at the mediation session is, and must remain, confidential, unless otherwise provided for by law, regulation or rule. This applies to everyone who is in the room. An agreement reached between or among the parties becomes public upon submission of the mediator's brief procedural report to a judge (or Commission) when the agreement is attached to the report. Because the above-captioned case is a complaint case, the complainant could withdraw the complaint if the complaint is satisfied, in which case it would not be necessary to follow the report procedure.

The parties must act in good faith. A page entitled "Good Faith Factors for Mediation Sessions" is enclosed. If you feel that you cannot comply with these factors, please let the mediator know well in advance of the mediation session, because it may be that the case will not be suitable for mediation at the scheduled time.

Additionally, the parties must follow the Pennsylvania Bar Association Working Rules for Professionalism regarding their conduct. A copy of the Rules is also enclosed.

Mr. Nurick has noted that he became acquainted with Mr. Mendelsohn several years ago, when Mr. Mendelsohn was with the Office of Attorney General of Pennsylvania. Both persons have discussed mediation matters since that time and have also become friends as a result. Mr. Nurick has further pointed out that he has been the mediator in other cases in which Pennsylvania-American Water Company, including Mr. Mendelsohn, has participated. Additionally, Mr. Nurick has indicated that he has spoken

with both Ms. Scott and Mr. Mendelsohn about mediation for this case. Mr. Nurick has stated that these factors will have no effect on his ability to be fair and impartial in this case. Nevertheless, if you object to having him serve as the mediator, or if you are aware of any other factors which could affect his ability to be impartial, please let him know promptly.

In the meantime, please attempt to resolve the issues involved prior to the mediation session.

Any questions regarding the mediation should be directed to the mediator at the telephone number provided above.

If you are a person with a disability, and you wish to attend the mediation session, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399
- For persons who are deaf or hearing-impaired, contact the AT&T Relay Service: 1-800-654-5988

#### Enclosures

pc: Judge Jandebaur  
Mediator Nurick  
Beth Plantz  
Docket Section  
Calendar File

## GOOD FAITH FACTORS FOR MEDIATION SESSIONS

GOOD FAITH INCLUDES, AMONG OTHER THINGS:

1. GIVING THE PARTICIPANTS, PRIOR TO THE FIRST SESSION, ALL THE INFORMATION THEY NEED TO KNOW IN ORDER TO RESOLVE THE CASE. (The Commission believes "that formal discovery procedures are not appropriate in the informal [mediation] process." *Pa. Bul., Vol. 25, No. 20*, May 20, 1995, p. 1996. Therefore, discoverable information should be discovered informally.)

2. BEING FULLY PREPARED WITH FULL KNOWLEDGE OF THE CASE AND WITH POSSIBLE SOLUTIONS FOR RESOLVING THE CASE.

3. BEING WILLING TO CREATE OPTIONS TO RESOLVE A MATTER, CONSIDERING HOW THE SOLUTION MUST ADDRESS THE INTERESTS OF ALL THE PARTIES, AS OPPOSED TO TAKING AN UNYIELDING POSITION.

4. HAVING THE PERSON WITH THE AUTHORITY TO APPROVE THE TERMS FOR RESOLUTION ATTEND THE MEDIATION SESSION, OR, AT LEAST, BE AVAILABLE TO CONFER WITH THE PARTY'S REPRESENTATIVE DURING THE MEDIATION REGARDING APPROVAL OF TERMS.

5. DEMONSTRATING A WILLINGNESS TO LISTEN AND TO UNDERSTAND THE PERSPECTIVES OF THE OTHER PARTIES.

6. BEING WILLING TO SPEND THE ENTIRE DAY, IF NECESSARY, AT THE SESSION.

# *PBA Working Rules for Professionalism*

The practice of law is a profession, a genuine calling inspired with service to the system of justice, not a common business enterprise. The quality of the profession is only as worthy as the character of the people who practice it.

Self-esteem, shared respect for each other, the clients we serve, the judges and the officers with whom we work, are essential to it.

Civility is a virtue, not a shortcoming. Willingness to temper zeal with respect for society's interest in preserving responsible judicial process will help to preserve it.

Unwritten rules of professional courtesy have long sustained us. Since they are sometimes forgotten, or sometimes ignored, we should set them down again and conscientiously observe them.

1. Treat with civility the lawyers, clients, opposing parties, the Court, and all the officials with whom we work. Professional courtesy is compatible with vigorous advocacy and zealous representation.
2. Communications are lifelines. Keep the lines open. Telephone calls and correspondence are a two-way channel; respond to them promptly.
3. Respect other lawyers' schedules as your own. Seek agreement on meetings, depositions, hearings and trial dates. A reasonable request for a scheduling accommodation should never be unreasonably refused.
4. Be punctual in appointments, communications and in honoring scheduled appearances. Neglect and tardiness are demeaning to others and to the judicial system.
5. Procedural rules are necessary to judicial order and decorum. Be mindful that pleadings, discovery processes and motions cost time and money. They should not be heedlessly used. If an adversary is entitled to something, provide it without unnecessary formalities.
6. Grant extensions of time when they are reasonable and when they will not have a material, adverse effect on your client's interest.
7. Resolve differences through negotiation, expeditiously and without needless expense.
8. Enjoy what you are doing and the company you keep. You and the world will be better for it.

*Beyond all this, the respect of our peers and the society which we serve is the ultimate measure of responsible professional conduct.*



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Office of Administrative Law Judge  
P.O. BOX 3265, HARRISBURG, PA 17105-3265  
February 27, 2007

IN REPLY PLEASE  
REFER TO OUR FILE

In Re: C-20054741

(SEE LETTER DATED 1/30/07)

Deborah K. Scott  
v.  
Pennsylvania-American Water Company

Cancellation Notice

This is to inform you of the following cancellation:

Type: Mediation Session  
Date: Wednesday, February 28, 2007  
Time: 1:00 p.m.  
Mediator: Bruce Bigelow

DOCUMENT  
FOLDER

Please mark your records accordingly.

pc: Mediator Bigelow  
ALJ Jandebaur  
Linda Salome  
Beth Plantz  
Docket Section  
Calendar File

**DOCKETED**  
MAR 1 - 2007

BTL

**MEDIATION ATTENDANCE SHEET**

Mediation Session Report

Docket No. C-20054741

CHECK THOSE WHICH APPLY

Case Name Deborah K. Scott v. Pennsylvania-American

Mediation Session Held  YES  NO

Water Company

Mediation Concluded  YES  NO

Further Session Needed  YES  NO

Estimated Add'l Days

Location Scranton

REMARKS *Settled; certificate of satisfaction to be filed.*

Date Wednesday, February 28, 2007

Mediator Bruce Bigelow

Names, Addresses and Telephone Numbers of Parties or Counsel of Record  
PLEASE PRINT CLEARLY

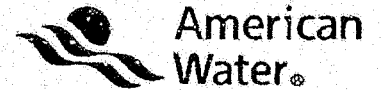
Incomplete Information May Result In Delay Of Process

Name and Telephone Number	Address			Appearing for
	City	State	Zip	
Telephone:	E-mail Address:		Fax Number:	
	City	State	Zip	
Telephone:	E-mail Address:		Fax Number:	
	City	State	Zip	
Telephone:	E-mail Address:		Fax Number:	
	City	State	Zip	
Telephone:	E-mail Address:		Fax Number:	
	City	State	Zip	
Telephone:	E-mail Address:		Fax Number:	
	City	State	Zip	

**DOCUMENT  
FOLDER**

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

ORIGINAL



April 10, 2007

RECEIVED

APR 10 2007

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**VIA OVERNIGHT MAIL.**

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

Re: Deborah K. Scott v. Pennsylvania-American Water Company  
Docket No. C-20054741

Dear Secretary McNulty:

Enclosed for filing are an original and three copies of a Certificate of Satisfaction in the above-captioned matter, and a Certificate of Service.

Please call me if you have any questions about this filing.

Respectfully submitted,

A handwritten signature in cursive script that reads "Seth A. Mendelsohn".

Seth A. Mendelsohn

DOCUMENT  
FOLDER

Enclosure

c: Deborah K. Scott  
Judy Jordan

Pennsylvania American Water

Seth A. Mendelsohn  
Corporate Counsel  
800 West Hersheypark Drive  
Hershey, PA 17033 USA

T 717-533-5000  
F 717-531-3252  
E [seth.mendelsohn@amwater.com](mailto:seth.mendelsohn@amwater.com)  
I. [www.pawc.com](http://www.pawc.com)

The logo for RWE Group, featuring a stylized globe icon to the left of the text "RWE Group".

47

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DEBORAH K. SCOTT  
Complainant

v.

PENNSYLVANIA-AMERICAN WATER  
COMPANY  
Respondent

Docket No. C-20054741

RECEIVED

APR 10 2007

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

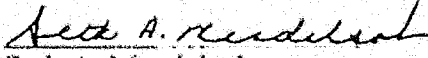
Certificate of Satisfaction

Pennsylvania American Water (the "Company"), by its attorneys, hereby certifies, pursuant to 52 Pa. Code § 5.24(b), that it has satisfied the Formal Complaint filed by Deborah K. Scott who has acknowledged, satisfaction to the Company.

A copy of this certification is being served by Overnight Mail, postage prepaid, upon Deborah K. Scott, Complainant, as evidenced by the attached Certificate of Service. Unless Complainant objects to this certification within 10 days of its filing, the Formal Complaint shall be withdrawn.

DOCUMENT  
FOLDER

Respectfully submitted,

  
Seth A. Mendelsohn  
Pennsylvania American Water  
800 West Hershey Park Drive  
Hershey, PA 17033  
717-533-5000

Dated: April 10, 2007

DOCKETED  
APR 12 2007

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DEBORAH K. SCOTT  
Complainant

v.

PENNSYLVANIA-AMERICAN WATER  
COMPANY  
Respondent

Docket No. C-20054741

**Certificate of Service**

I hereby certify that I have this day served by Overnight Mail, postage prepaid, a true copy of the Certificate of Satisfaction upon the following participant(s) in accordance with the requirements of 52 Pa. Code § 1.54.

**VIA OVERNIGHT MAIL**

Deborah K. Scott  
395 Hanover Street  
Warrior, PA 18706



Seth A. Mendelsohn  
Pennsylvania American Water  
800 West Hershey Park Drive  
Hershey, PA 17033  
717-533-5000

Dated: April 10, 2007

**RECEIVED**

APR 10 2007

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

COMMONWEALTH OF PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

**DATE:** April 12, 2007

**SUBJECT:** Deborah K. Scott v. Pennsylvania-American Water Company  
C-20054741

**TO:** Wanda Zeiders  
Docket Management

**FROM:** Linda Salome, ALJ Support Staff  
Office of Administrative Law Judge

On April 10, 2007, a Certificate of Satisfaction was filed in the above-captioned proceeding. If no objection is filed to this certificate within 10 days of the filing, this proceeding will be closed.

All parties should be notified that the case is closed and a copy of that notification placed in the document folder.

Attachment

pc: Bruce Bigelow, Mediator  
Beth Plantz  
Case File

**DOCUMENT  
FOLDER**

**DOCKETED**  
APR 16 2007



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

IN REPLY PLEASE  
REFER TO OUR FILE

May 4, 2007

C-20054741

DEBORAH SCOTT  
395 HANOVER STREET  
WARRIOR PA 18706

DEBORAH SCOTT  
v.  
PENNSYLVANIA-AMERICAN WATER COMPANY

**DOCKETED**  
MAY - 2 2007

TO WHOM IT MAY CONCERN:

Please be advised that the Commission has marked closed the above-entitled proceeding.

Very truly yours,

James J. McNulty  
Secretary

cc: All parties of Record

nvl

**DOCUMENT  
FOLDER**