

KOZLOFF STOUDT
Professional Corporation
By: Joan E. London, Esquire
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2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

SOLICITOR FOR RESPONDENTS,
TOPTON BOROUGH AND TOPTON
BOROUGH MUNICIPAL AUTHORITY

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

LONGSWAMP TOWNSHIP,	: No. C-2017-2587742
	:
Petitioner	:
	:
vs.	:
	:
TOPTON BOROUGH AND	:
TOPTON BOROUGH MUNICIPAL	:
AUTHORITY,	:
	:
Respondents	: Assigned to:
	: Andrew M. Calvelli, A.L.J.

OBJECTIONS OF RESPONDENTS, TOPTON BOROUGH AND TOPTON BOROUGH
MUNICIPAL AUTHORITY TO DISCOVERY REQUESTS OF PETITIONER,
LONGSWAMP TOWNSHIP

Respondents, Topton Borough and Topton Borough Municipal Authority, through their undersigned Solicitors, Joan E. London, Esquire and Kozloff Stoudt, Professional Corporation, set forth the following in objection to the discovery requests of Petitioner, Longswamp Township:

1. On or about January 20, 2017, Petitioner, Longswamp Township, filed a Formal Complaint against Respondents, Topton Borough and Topton Borough

Municipal Authority, alleging, *inter alia*, extraterritorial service and requirement of a Certificate of Public Convenience.

2. On that date, Petitioner served a copy of the Formal Complaint on Respondents.

3. On February 8, 2017, the Formal Complaint was docketed by the Commission, and served upon Respondents' counsel.

4. On February 14, 2017, Respondents filed an Answer and New Matter to the Formal Complaint, attaching approximately two hundred (200) pages of documents, with a request for hearing.

5. The matter was scheduled for an Initial In-Person Hearing on June 7, 2017.

6. At the request of Petitioner's counsel due to a scheduling conflict, and with concurrence of Respondents' counsel, the Initial In-Person Hearing was continued to June 22, 2017.

7. On June 2, 2017, Petitioner's counsel served Respondents' counsel with discovery requests in the form of an eight (8) paragraph Request for Production of Documents, requiring response within fifteen (15) days. A true and correct copy of the discovery requests is attached hereto, incorporated herein, and marked as Exhibit "A."

8. There had been no discussion of discovery nor need for discovery prior to June 2, 2017.

9. Commission regulations provide for discovery in formal complaint proceedings, but require that discovery be initiated as early as reasonably possible, as follows:

§ 5.331. Sequence and timing of discovery.

(a) A party to the Commission proceeding may conduct discovery.

(b) A party shall initiate discovery as early in the proceedings as reasonably possible. In a proceeding, the right to discovery commences when a complaint, protest or other adverse pleading is filed or when the Commission institutes an investigation or on the record proceeding, whichever is earlier.

52 Pa. Code § 5.331.

10. In this case, discovery could have been initiated as early as February 8, 2017, with the filing of the Formal Complaint, and any need for the same could have been readily ascertained by February 14, 2017, when the Answer and New Matter was filed and served.

11. Petitioner, however, waited nearly four (4) months, issuing discovery requests twenty (20) days prior to the scheduled and continued hearing, with responses to the requests required by June 17, 2017, five (5) days prior to the hearing.

12. Respondents' ability to properly prepare for the hearing will be prejudiced by having to locate the documents in question and respond to the requests in such close proximity to the hearing date.

13. The discovery requests are unduly burdensome and not calculated to lead to relevant information.

14. Respondents object to the discovery requests at this late date, less than three (3) weeks prior to the scheduled hearing, and asks that the requests be stricken and that Respondents not required to provide answers to the same.

WHEREFORE, it is respectfully requested by the Respondents, Topton Borough and Topton Borough Municipal Authority, that the within objections be granted, and that the Respondents not required to respond to the discovery requests.

KOZLOFF STOUDT
Professional Corporation

A handwritten signature in cursive script, appearing to read "Joan E. London". The signature is written in black ink and is positioned above a horizontal line.

Joan E. London, Esquire
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

Exhibit A



SUMMERS NAGY LAW OFFICES

READING - YORK - JOHNSTOWN

SUMMERSNAGY.COM

June 2, 2017

Via Electronic Mail Only to jlondon@kozloffstoudt.com

Joan E. London, Esq.
Kozloff Stoudt Professional Corporation
2640 Westview Drive
Wyomissing, PA 19610

**Re: Longswamp Township v. Topton Borough, et al.
No. C-2017-2587742**

Dear Ms. London:

Please find enclosed a Request for Production of Documents in the above referenced matter.

If you should have any questions, please do not hesitate to contact me to discuss.

Very truly yours,

Jill E. Nagy

JEN:rmq

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Longswamp Township,	:	
Appellants	:	
v.	:	C-2017-2587742
	:	
Topton Borough et. al.	:	
Respondents	:	

REQUEST FOR PRODUCTION OF DOCUMENTS

JOAN E LONDON ESQUIRE
KOZLOFF STOUTD PROFESSIONAL CORPORATION
2640 WESTVIEW DRIVE
WYOMISSING PA 19610

PLEASE TAKE NOTICE, Appellants requests that Respondents produce the documents hereinafter described and allow Permittee, through its attorneys, to inspect them and copy such of them as they may desire. Permittee requests that the documents be made available for inspection at the offices of their attorneys, Summers Nagy Law Offices, 200 Spring Ridge Drive, Suite 202, Wyomissing, Pennsylvania, within fifteen (15) days of the date of service hereof.

This request is intended to cover all documents in the possession, custody and control of the Respondents and their attorney and is considered to be continuing.

Respondent's responses to this request should be modified or supplemented as they and/or their attorneys, obtain further or additional documents.

DEFINITIONS AND INSTRUCTIONS

1. Whenever the term "you" or "your" appears herein and whenever the designation of the party served with this request for production of documents appears herein and whenever any person or entity is referred to herein, such term, designation, person or entity includes not only the party served with these requests, other person or entity in his, her, its or their own right, but also his, her, its or their agents, servants, workmen, representatives, employees or attorneys. If the Plaintiff to whom these requests is addressed is not an individual Plaintiff, the terms "you" or "your" include the entire entity, its divisions, its merged or acquired predecessors, its present and former officers, directors, agents, employees and all other persons purporting to act on behalf of it or its predecessors.

2. The term "representative" includes the attorney for the party and any consultant, surety, indemnitor, insurer, agent, adjuster or investigator for the party or the party's insurer.

3. The term "statement" includes any written statement signed or otherwise adopted or approved by the person making it. The term "statement" also includes any stenographic, mechanical, electrical or other recording or a transcription thereof that is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

4. The term "document" includes writings and printed matter of every kind and description, including but not limited to checks, bank drafts, invoices, memoranda, photographs and drawings, graphs, charts, telegrams, letters, contracts, diaries, notes, minutes of any board of directors or committee thereof and records of any event, written or oral communication and recordings (tape, disc or other) of events or oral communications and other data compilations in whatever form from which information may be obtained or translated through human, mechanical or other means into a reasonably usable form, including drafts, copies, transcripts and summaries of any of the foregoing, whether or not within the possession, custody or control of Plaintiff. The term "document" also includes the originals of the materials above-listed as well as all copies, reproductions and printouts of such documents which bear any notations or other alterations not found on the original or differ in form or in substance from the original or if the original is not in the possession, custody and control of Plaintiff or that of its subsidiaries, affiliates, divisions or other organizational unity or his, her or its agent or representative.

6. The use of the singular includes the use of the plural where applicable.

7. The use of the present tense includes the use of the past tense where applicable.

8. The term "and," as well as the term "or," shall be construed both disjunctively and conjunctively, in order to bring within the scope of these requests all responses that might otherwise be construed to be outside of said scope.

9. With regard to each document hereby requested by Appellants and not produced by the Resondent and/or their representative on the ground of privilege, please identify each such document by enumerating its date, author, subject matter and recipients and/or other parties to whom said document has been shown or discharged, including a statement addressing the basis of the privilege claim with respect thereto.

REQUESTS:

1. Any and all executed intergovernmental agreements for sewer service for Topton Lutheran Home located in Longswamp Township between the Township of Longswamp and the Borough of Topton and/ or Topton Borough Municipal Authority.
2. Any and all executed intergovernmental agreements for sewer service to Brandywine Heights School District between Longswamp Township and Topton Borough and/or Topton Borough Authority.
3. Executed and approved act 537 plan amendment (i.e., sewer module) for Brandywine Heights School District.
4. Topton Borough Sewer Authority sewer rate resolution and attendant Act 57 rate study.
5. Any and all agreements to provide water or sewer service within Longswamp Township to any person or entity between Topton Borough, Topton Borough Authority and Longswamp Township.
6. All communications for any reason between Topton Borough consultants and staff and Council Members and Grande Land, LP's agents, consultants and/ or employees from 2004- present.
7. All management agreements between Topton Borough and Topton Borough Municipal Authority with regard to staffing, billing, sewage treatment plant operations.
8. The Bylaws and Articles of Incorporation for the Topton Borough Municipal Authority.

SUMMERS NAGY LAW OFFICES

By: _____

Jill E. Nagy, PA I.D. 85858
Sean E. Summers, PA I.D. 92140
200 Spring Ridge Drive, Suite 202
Wyomissing, PA 19610
(610) 939-9866
Fax: (610) 939-9863
E-mail: jnagy@summersnagy.com

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: FORMAL COMPLAINT OF LONGSWAMP TOWNSHIP AGAINST
TOPTON BOROUGH AND TOPTON BOROUGH
MUNICIPAL AUTHORITY

Docket No. C-2017-2587742

CERTIFICATE OF SERVICE

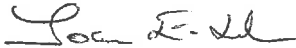
I hereby certify that I have this day served a true and correct copy of the forgoing document (Objections of Respondents, Tipton Borough and Tipton Borough Municipal Authority to Discovery Requests) upon the parties and Judge, listed below, in accordance with the requirements of §1.54 (relating to service by a party) by first class mail and electronically:

Jill E. Nagy, Esquire
Summers Nagy Law Office
200 Spring Ridge Drive, Suite 202
Wyomissing, PA 19610
jnagy@summersnagy.com

Andrew M. Calvelli, Administrative Law Judge
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
acalvelli@pa.gov

Dated this 5th day of June, 2017.

KOZLOFF STOUTT
Professional Corporation



Joan E. London, Esquire