

# John J. Gallagher

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February 2, 2018

## HAND DELIVERY

Honorable Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: City of Lancaster Objections to Kitzmiller Interrogatories Set 2**

**C-2014-2435567**

Dear Secretary Chiavetta:

Please find enclosed 1 copy of the City of Lancaster's Objections to the Kitzmiller Interrogatories Set 2, Item Nos. 6, 7, & 8.

Please contact me at your convenience should you have any questions concerning these objections.

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Sincerely,

  
John J. Gallagher

C: Certificate of Service

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Frank D. Kitzmiller  
V.  
City of Lancaster Department of Water

Docket No.: C-2014-2435567

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**OBJECTIONS OF  
CITY OF LANCASTER  
TO THE INTERROGATORIES OF FRANK  
KITZMILLER SET 2**

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Pursuant to Section 5.342 of the Public Utility Commission's Formal Proceeding regulations, 52 Pa. Code § 5.342, the City of Lancaster, Department of Water ("City" or "Lancaster") hereby objects to the Interrogatories of the Complainant, Set 2. In support of its Objections, the City avers as follows:

**General Objections**

The City objects to Complainant Interrogatories Set 2: Items: 6, 7, & 8 and the grounds are stated in the response therein. Moreover, the objections and responses to the aforementioned Interrogatories are not intended to waive or prejudice any objections that the City may assert now or in the future, including, without limitation, objections as to the relevance of the subject matter of any interrogatory, or of the admissibility of any response or document or category of information or documents, at any hearing in this matter, or at any other time. The City expressly reserves any and all rights and privileges under the Commission's Rules of Practice and Procedure, applicable evidentiary rules, and any other law, rule or regulation. The failure to assert such rights and privileges or the inadvertent disclosure by the City of information protected by such rights or privileges shall not constitute a waiver thereof, either with respect to these responses or with respect to any future discovery responses or objections.

**(1) Interrogatory Set 2 Item 6:**

**Set 2: Item 6:** Prior to the filing of Complainant's Formal Complaint on July 11, 2014, and the Formal Complaint Notice to Respondent on August 4, 2014, based on Respondent's knowledge, were any of the employees or paid consultants of the following participants in the 2014 Rate Increase Request proceedings aware of the alleged overbilling of the Customer Charge based on a 1 inch water meter size rather than the ¾ inch water meter used by the customer and required to be used to render adequate service?

1. Office of Consumer Advocate
2. Bureau of PUC Investigation and Enforcement
3. Office of Small Business Advocate
4. PA PUC employees or Commissioners other than above
5. City of Lancaster Bureau of Water (Water Department) or other City of Lancaster Departments

Please provide this information to the Complainant to inspect and copy at a location in the City of Lancaster, PA.

**OBJECTION:**

Complainant is requesting the City to confirm the knowledge of the listed parties as to the particulars of the Kitzmiller complaints docketed at R-2014-2435567 and incorporating C-2014-2435567. The City does not have such information. Even if the City had such information, such a request is unverifiable hearsay. Complainant had every opportunity to raise the issues in the rate proceeding such as these and chose not to do so. As such, complainant has waived his right to raise such issues nearly three and a half years following the termination of the rate proceeding.

**(2) Interrogatory Set 2 Item 7:** The most recent City of Lancaster, PA Water Department water rate increase (Supplement 45 to Tariff No. 6) was made effective March 5, 2015, and included quarterly Customer Charges based on the required size of water meter to render adequate service as follows:

5/8 inch or ¾ inch	\$ 16.65
1 inch	\$ 41.10
Difference	\$ 27.45

The difference on an annual basis would be \$109.80 (4 X \$27.45). Complainant is alleging that 3,071 residential customers located outside of Lancaster City in Manheim Township, Lancaster, PA (including Complainant) have been over billed at the 1 inch billing rate rather than the ¾ inch billing rate applicable to the customer's actual water meter size of ¾ inch. The total annual alleged overbilling for the Complainant would amount to \$109.80 and for all 3,071 residential customers would amount to

\$ 337,196 (3,071 X \$109.80).

For the period March 5, 2015, to December 31, 2017, a period of approximately 2 years and 10 months, the total alleged overbilling would amount to \$311.06 (\$109.80 x 2 10/12 years) for Complainant and

\$ 955,276 (\$337,196 X 2 10/12 years) for all 3,071 customers. These amounts do not include any amounts related to periods ended prior to March 5, 2015 during which the alleged overbilling occurred.

Please indicate whether or not the Respondent is in agreement with the METHOD OF CALCULATION of alleged overbillings for this period March 5, 2015, to December 31, 2017. Please provide this information to the Complainant to inspect and copy at a location in the City of Lancaster, PA.

**OBJECTION:**

The City objects to interrogatory Item 7 on the grounds raised in its previous response; any issue involving the tariff and the rates contained therein, which should have been raised in the rate proceeding, have been waived by the Complainant. Complainant had every opportunity to engage with the parties in the rate proceeding concerning his issues and chose to remain silent, thereby losing any opportunity to have his issues addressed in an appropriate rate proceeding. The Complainant posits a speculative thesis and requests the City to verify his math.

**(3) Interrogatory Set 2, Item 8.** If, in the future, Respondent were to adjust its billings downward for the 3,071 customers located outside of the City of Lancaster, PA in Manheim Township, Lancaster County, PA to reflect a Customer Charge based on the actual ¾ inch meter used by these customers rather than an amount based on a 1 inch meter, would such reduction require the review or approval of the PA Public Utility Commission before being implemented? Please provide this information to the Complainant to inspect and copy at a location in the City of Lancaster, PA.

**OBJECTION:**

The City objects to this interrogatory Item 8 on the grounds that it calls for a legal opinion regarding the approval of rates charged for a specific size meter in the future by the Commission. The City would refer the Complainant to Chapter 13 of the Pennsylvania Public Utility Code for such a response.

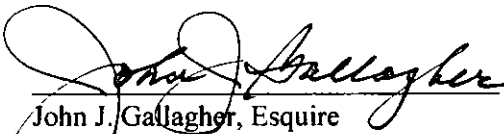
WHEREFORE, based on the foregoing, Respondent, City of Lancaster – Department of Water respectfully requests that the Commission prohibit the production of responses to the objectionable interrogatories and request as more fully set forth above and to grant any such other relief as it deems appropriate.

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Respectfully submitted,



John J. Gallagher, Esquire

Counsel for Respondent, City of Lancaster –  
Water Department

Date: February 2, 2018

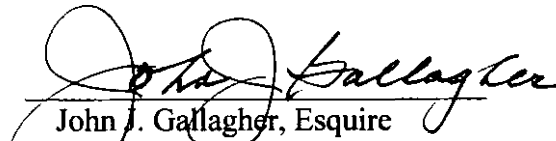
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing documents upon the participants, listed below, in the manner indicated below, and in accordance with the requirements of § 1.54 (relating to service by a party).

**VIA EMAIL & FIRST CLASS MAIL**

Mr. Frank D.Kitzmilller  
1041 Preston Road  
Lancaster PA 17601

Dated: February 2, 2018

  
John J. Gallagher, Esquire  
711 Forrest Road  
Harrisburg, PA 17112

Counsel for City of Lancaster

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