

John J. Gallagher

Attorney at Law

711 Forrest Road, Harrisburg, PA 17112

Tel. (717) 599-5839

✉ jgallagher@jglawpa.com

February 9, 2018

VIA HAND DELIVERY

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

Re:

Docket No. C-2014-2435567

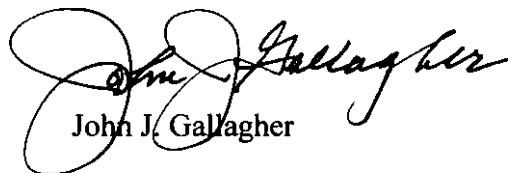
City of Lancaster—Answer to Motion to Compel

Dear Secretary Chiavetta:

Enclosed please find an original copy the City of Lancaster's Answer to Motion to Compel filed by the Complainant in the above captioned matter.

Should you have any questions concerning this correspondence please contact me at your convenience. Copies of this correspondence and the City of Lancaster's Motion have been served on the parties listed in the attached Certificate of Service.

Sincerely,



John J. Gallagher

Enclosures

cc: Certificate of Service

RECEIVED
2018 FEB -9 PM 3:53
PA PUC
SECRETARY'S BUREAU
FRONT DESK

334660

**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Frank D. Kitzmiller

v.

City of Lancaster - Water Department

Docket No. C-2014-249

RECEIVED
2018 FEB -9 PM 3:53
PA PUC
SECRETARY'S BUREAU
FRONT DESK

**ANSWER OF
THE CITY OF LANCASTER – WATER DEPARTMENT
TO THE MOTION TO COMPEL
RESPONSES TO DISCOVERY OF
FRANK D. KITZMILLER**

I. INTRODUCTION

Pursuant to Section 5.342(g)(1) of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (“PUC” or “Commission”), 52 Pa. Code § 5.342(g)(1), Respondent, the City of Lancaster – Water Department (“City” or “Lancaster”) hereby submits its Answer to the Motion to Compel of Frank D. Kitzmiller (“Complainant” or “Kitzmiller”). City of Lancaster respectfully requests that Judge Cheskis deny the Motion to Compel of the Complainant regarding responses to Complainant Interrogatories, Set I, In support of its Answer, City Of Lancaster sets forth the following:

II. BACKGROUND

Complainant propounded its first set of interrogatories on September 14, 2017. The City has filed formal responses to those interrogatories on November 6, 2017, December 17, 2017 and informal responses on January 25, 2018

III. ANSWERS TO COMPLAINANTS MOTION

Lancaster will respond to the specific paragraphs of the Motion to Compel as they are presented in *seriatim*:

1. Admitted
2. Denied in part and admitted in part. It is denied that no complete Responses have be forwarded to Mr. Kitzmiller. Mr. Kitzmiller has received complete responses to Set 1 Interrogatory Nos. 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, and 17. Respondent has agreed to make a reasonable search for additional information for Nos. 14, 15, 16, 17, 19, & 20.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted
8. Admitted.
9. Denied in part and admitted in part. As part of Complainants allegations in paragraph No. 9, Complainant states that he provided comments to Lancaster's Responses and submitted an Excel spreadsheet relating to the calculation of an alleged overbilling. Complainant states further that "he will use these amounts unless Respondent provides the actual amounts together with an explanation as to the source of the actual amounts". The Complainant can, if he so chooses, file a Request for Admissions pursuant to the guidelines set for in the Commission's Rules at 52 PA Code §350. The City denies that there has been overbilling of the Complainant and the Complainant has waived his right to raise these issues since he failed to prosecute these

issues in the Commission's 2014 rate proceeding in which the Complainant was a party. (R-2014-2418872) By way of further answer, the City does not waive any objection to the submission of exhibits by the Complainant at hearings. It is admitted that Complainant emailed Respondent on November 17, 2017.

10. Admitted

11. Admitted

12. Admitted

13. Admitted

14. Admitted in part and denied in part. It is admitted that Respondent emailed Complainant and provided informal responses to Interrogatory Nos 3, 4, 10, 11, 12, 14, 15, & 19. Interrogatory No. 12 had been formally provided to the Complainant and in addition the Complainant was requested to provide available dates to review the City's Bond closing binders at City Hall. Complainant reviewed the documents at City Hall on January 18, 2018 and requested copies of certain pages of those binders. These additional responses were forwarded to the Complainant on January 25, 2018. The responses to Interrogatory Nos 1, 2, 21, & 22 were provided by way of Respondent's Motion to Provide an Answer Nunc Pro Tunc which was filed on February 8, 2018 with the Commission and mailed to the Complainant with a hard copy hand delivered to Judge Cheskis. Respondent will reply to the Complainant if any further information is found regarding Nos. 14 (Exhibit "B") 15, 16 ("Plans"), 17, 19, & 20 as the Complainant has requested third party information from Respondent that is not in its possession.

15. Admitted.

16. Admitted

17. Admitted in part and denied in part. Complainant states that selected copies of respondent's Bond issuance documents were provided 126 days past the September 14, 2017 request. Complainant is being disingenuous since the Respondent did not know what copies of thousands of pages of bond documents that Complainant desired until January 18, 2018. Complainant's original request (Interrogatory No. 12) was for copies of thousands of pages of 8 years of Bond documents. Complainant's request was best presented during the pendency of the City's rate proceeding in 2014 in which he was given party status. Complainant obviously failed to avail himself of the services of the Office of Consumer Advocate or the Commission staff at the Bureau of Investigation and Enforcement to champion his issues. Complainant had every opportunity to present his issues at that time and failed to do so.

18. Admitted

19. Denied. Respondent will respond within 15 days after a reasonable search for further information regarding Interrogatory Nos. 14, 15, 16, 17, 19, & 20. Respondent will formally respond to interrogatory Nos. 3, 4, 10, 11, 17, 18, 19 & 20.

III. CONCLUSION

Based on the foregoing, Respondent the City of Lancaster – Water Department respectfully requests that your Honor permit the Respondent to formally reply within 15 days to the Complainants presently unanswered Written Interrogatories items 3, 4, 10, 11, 17, 18, 19, & 20 and make a reasonable search for any additional information for interrogatory Nos. 14 (Exhibit

B) 15, 16 (plot plan), 17(the Authority water system plans as described in Response in Paragraph C of 12/4/08 extension agreement) 18, and 19.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John J. Gallagher". The signature is fluid and cursive, with the first name "John" being particularly prominent.

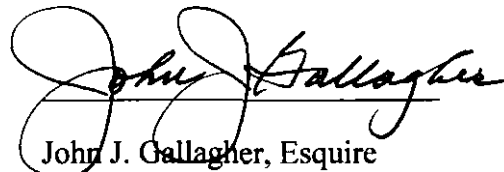
John J. Gallagher, Esquire.
711 Forrest Road
Harrisburg, PA 17112
jgallagher@jglawpa.com

Date: February 9, 2018

VERIFICATION

I, John J. Gallagher, Counsel to the City of Lancaster, hereby state that the facts set forth in the foregoing Answer to Motion to Compel are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter.

I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



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

Date: February 9, 2018

RECEIVED
2018 FEB -9 PM 3:53
PA PUC
SECRETARY'S BUREAU
FRONT DESK

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document 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).

FIRST CLASS MAIL

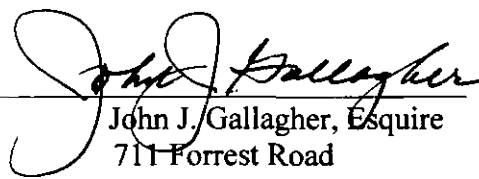
Mr. Frank D. Kitzmiller
1041 Preston Rd.
Lancaster, PA

HAND DELIVERY

Honorable Joel Cheskis
Office of Administrative Law Judge
Pa Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17101-3265

RECEIVED
2018 FEB - 9 PM 3:53
PA PUC
SECRETARY'S BUREAU
FRONT DESK

Dated: February 9, 2018


John J. Gallagher, Esquire
711 Forrest Road
Harrisburg, PA 17112
jgallagher@jglawpa.com

Counsel for City of Lancaster