

# John J. Gallagher

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## VIA HAND DELIVERY

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

Re:

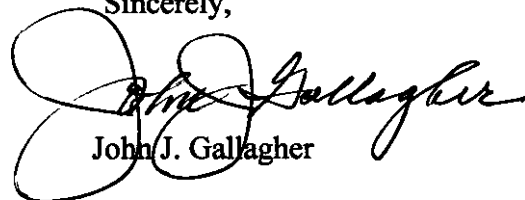
**Docket No. C-2014-2435567**  
**City of Lancaster—Amended Answer to Motion to Compel**  
**Kitzmilller Interrogatories Set 1**

Dear Secretary Chiavetta:

Enclosed please find an original copy the City of Lancaster's Amended 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 Amended Answer have been served on the parties listed in the attached Certificate of Service.

Sincerely,



John J. Gallagher

Enclosures

cc: Certificate of Service

**BEFORE THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION**

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Frank D. Kitzmiller

Docket No. C-2014-2435567

v.

City of Lancaster - Water Department

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

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**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) and in accordance with Your Honor’s direction at the hearing in this matter on April 18, 2018. Respondent, the City of Lancaster – Water Department (“City” or “Lancaster” ) hereby submits its Amended 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 specific paragraphs of the Complainant's Status of Discovery dated April 18, 2018 as they are presented in the status report;

1. Complainant alleges in paragraph No. 5. that the following interrogatories in Set I have not been forthcoming; Nos., 1, 2, 3, 4, 10, 11, 18, 21, & 22.

2. Mr. Kitzmiller has received complete responses to Set 1 Interrogatory Nos. 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, and 17. The City has again reviewed Nos. 18, 19, & 20 and concluded that the requested responses are not relevant to the issues presented in this proceeding and therefore should be excluded.

3. Complainant also provided Respondent with comments on the responses and provided was an Excel schedule relating to the calculation of the alleged overbilling which was based on the incomplete responses to interrogatories 6 and 7 and additional information Complainant recovered from the PUC Case Summary files of the City of Lancaster, PA Water Department. Complainant will use these amounts unless Respondent provides the actual amounts together with an explanation as to the source of the actual amounts. Complainant also stressed that items 12 and 14-20 of the written interrogatories could be inspected by Complainant at the present time, if available. 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.

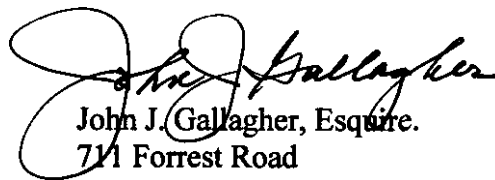
4. The responses to Interrogatory Nos 1, 2, 21, & 22 were provided by way of Respondent's Motion to Provide an Answer Nunc Pro Tunc which was filed on February 8, 2018 with the Commission and mailed to the Complainant with a hard copy, hand delivered to Judge Cheskis.

5. Admitted in part and denied in part. Complainant has stated 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.

**III. CONCLUSION**

Based on the foregoing, Respondent the City of Lancaster – Water Department respectfully requests that your Honor deny Complainants Motion to Compel Responses to Set No.1.

Respectfully submitted,



John J. Gallagher, Esquire.  
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Date: April 27, 2018

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**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**

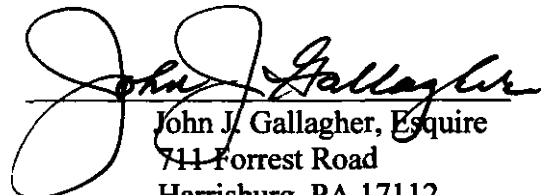
Mr. Frank D. Kitzmiller  
1041 Preston Rd.  
Lancaster, PA

**HAND DELIVERY**

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

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Dated: April 27, 2018

  
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Counsel for City of Lancaster