

# John J. Gallagher

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February 21, 2019

**VIA HAND DELIVERY**

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

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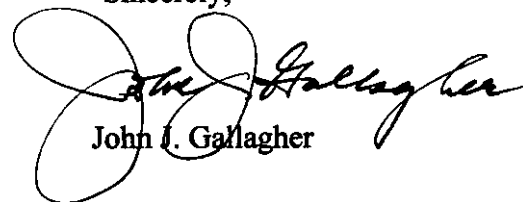
**Re:**  
**Docket No. C-2014-2435567**  
**City of Lancaster— Answer to Petition to Reopen the Record**

Dear Secretary Chiavetta:

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

Sincerely,

  
John J. Gallagher

Enclosures

cc: 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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**ANSWER OF  
CITY OF LANCASTER  
TO THE PETITION OF COMPLAINANT  
TO REOPEN THE RECORD**

Pursuant to Section 5.61 of the Public Utility Commission's Formal Proceeding regulations, 52 Pa. Code § 5.61, the City of Lancaster, Department of Water ("City" or "Lancaster") hereby files this Answer to the Complainants Petition to Re-Open the Record for the Admission of Late-Filed Exhibits. In support of its Objections, the City avers as follows:

**General Objections**

The City objects to Complainant's Petition to Reopen the Record for the admission of the following:

1. Appendix to Addendum to Hearing Testimony for Present and Additional Exhibits (EXH FDK 3.1, 4.1, 5.1, 9.1, 11,12, 13, 14, 15, 16 and 17
2. Late marked Exhibit E
3. EXH FDK 18
4. Pre-Marked Exhibit F
5. Pre-Marked Exhibit G, Footnote to EXH FDK 18.

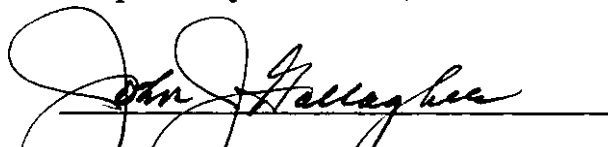
Section 5.431 of the Commission's Regulations (52 PA Code § 5.431), clearly provides that "after the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding Officer or the Commission upon motion." The Complainant's sole rationale to justify "good cause shown" is that the Complainant was not able to provide these documents due to having to focus all of attention to keeping up with the fast pace of the hearing. Such a rationale strains credulity given that the Complainant has had over four (4) years to assemble and present his case. As has been stated previously by Lancaster in other filings, the Complainant had previously squandered other opportunities to present his issues in Lancaster's 2014 rate filing docketed at R-2014-2435567 and incorporating C-2014-2435567. In addition to filing numerous interrogatories and discovery motions, and presenting oral testimony in this matter, Complainant has failed to present a case upon which the ALJ can find that Lancaster has failed to provide service in compliance with the provisions of the PA Public Utility Code or its duly filed tariff.

**1. COMPLAINANT HAS FAILED TO SHOW THE RELEVANCY OF THE REQUESTED DOCUMENTS**

Complainant failed to authenticate any of the requested documents through his testimony or in the body of his Petition. In addition, and most glaring is that the Complainant failed to show the relevancy of the requested documents to the issues in this matter.

**WHEREFORE**, based on the foregoing, Respondent, City of Lancaster – Department of Water respectfully requests that the Your Honor deny the Complainant's Petition in its entirety as failing to show good cause as more fully set forth above and to grant any such other relief as Your Honor deems appropriate.

Respectfully submitted,



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John J. Gallagher, Esquire

Counsel for Respondent, City of  
Lancaster – Water Department

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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**

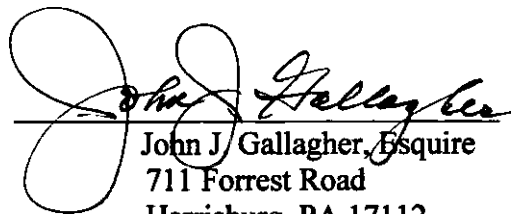
Mr. Frank D. Kitzmiller  
1041 Preston Rd.  
Lancaster, PA

**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: February 21, 2019

  
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Counsel for City of Lancaster