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~~VIA HAND DELIVERY~~

March 1, 2019

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ROSEMARY CHIAVETTA, SECRETARY
PA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING, 2ND FLOOR
400 NORTH ST.
HARRISBURG, PA 17120

RE: FRANK D. KITZMILLER (COMPLAINANT) v. CITY OF LANCASTER WATER DEPARTMENT

DOCKET NO. C-2014-2435567: FILING OF PETITION TO RE-OPEN THE RECORD AND FOR ADMISSION OF LATE-FILED EXHIBITS AT 12/19/18 HEARING

DEAR SECRETARY CHIAVETTA:

ENCLOSED ON BEHALF OF COMPLAINANT, FRANK D. KITZMILLER, IS A COPY OF FRANK D. KITZMILLER'S PETITION TO RE-OPEN THE RECORD AND FOR THE ADMISSION OF LATE-FILED EXHIBITS IN THE ABOVE REFERENCED MATTER.

IF YOU HAVE ANY QUESTIONS PLEASE CONTACT ME AT MY ABOVE ADDRESS INFORMATION. COPIES OF THIS CORRESPONDENCE HAVE BEEN SERVED ON THE PARTICIPANTS LISTED IN THE ATTACHED CERTIFICATE OF SERVICE.

VERY TRULY YOURS,

Frank D. Kitzmiller

FRANK D. KITZMILLER, COMPLAINANT

✓ C: As per Certificate of Service

VERIFICATION

I, Frank D. Kitzmiller, Complainant in the Case Docket No. C-2014-2435567, Frank D. Kitzmiller v. City of Lancaster Water Department, hereby state that the facts set forth in the foregoing Petition to Re-Open the Record and for the Admission of Late-Filed Exhibit H thereto are true and correct to the best of my knowledge, information and belief.

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

Date: March 1, 2019

Frank D. Kitzmiller

Frank D. Kitzmiller

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

FRANK D. KITZMILLER)

COMPLAINANT)

v.)

) DOCKET NO. C-2014-2435567

CITY OF LANCASTER, WATER DEPARTMENT)

)

RESPONDENT)

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FRANK D. KITZMILLER'S PETITION TO RE-OPEN THE RECORD AND
FOR ADMISSION OF LATE-FILED EXHIBITS

Frank D. Kitzmiller (Complainant) hereby submits this Petition to reopen the record, and for the admission of 1 late filed exhibit which have been pre-marked as Exhibit H.

In support of this Petition, Complainant states as follows:

1. On December 19, 2018, a hearing was held in this matter.
2. On January 23, 2019, Complainant inspected the transcript file of the hearing which became available for inspection on January 17, 2019, at the Office of the Public Utility Commission in Harrisburg PA.
3. Certain evidence was missing which consisted of an "Appendix to Addendum to Hearing Testimony for Present and Additional Exhibits" and 11 exhibits (EXH FDK 3.1, 4.1, 5.1, 9.1; 11, 12, 13, 14, 15, 16 and 17).
4. A review of Complainant's notes on the January 23, 2019 inspection of the transcript file ~~and an additional inspection of the transcript file on March 1, 2019~~ resulted in the discovery that a file named "Addendum to Testimony at Hearing" and a file named "Information on Addendum" was not included in the case record.
5. The documents mentioned in Item 3 were served upon the parties of this case, consisting of ALJ Joel Cheskis and John J. Gallagher representing the Respondent, on September 13, 2018, together with the documents identified in item 4 "Information on Addendum" and the document "Addendum to Testimony at Hearing".
6. In addition, the documents mentioned in items 3 and 4 (not including the actual 11 exhibits) were Emailed in Word PDF to the parties of this case on September 7, 2018.
7. On February 5, 2019, Complainant respectfully requested that ALJ Joel Cheskis reopen the record to accept Complainant's late-filed Exhibit which consisted of the documents identified in item 3 above and had been pre-marked as Exhibit E and 2 other documents pre-marked as

UNABLE TO PERFORM THE 3/1/19 TRANSCRIPT INSPECTION DUE TO POOR WEATHER CONDITIONS
Frank D. Kitzmiller
3/1/19

Exhibits F and G. Complainant was not aware that the documents "Information on Addendum" and "Addendum to Testimony at Hearing" were not included in the record.

8. The document "Addendum to Testimony at Hearing" is necessary to update the Hearing testimony provided at the April 18, 2018, Hearing for corrections, omissions and updates for events occurring between April 18, 2018, and the Hearing originally scheduled on September 20, 2018, which was eventually held on December 19, 2018. This document includes 19 specific changes made to the April 18, 2018, written testimony and provides the cross referencing between the hearing testimony and the additional exhibits included on the Appendix for present and additional exhibits mentioned in item 3 above. If the Complainant was requested to provide testimony at the December 19, 2018, Hearing, Complainant would have woven in these changes into the revised testimony. The document "Information on Addendum" provides further background on the Addendum.
9. On February 22, 2019, ALJ Joel Cheskis granted the Petition to reopen the record.
10. COMPLAINANT RESPECTFULLY REQUESTS THAT ALJ JOEL CHESKIS REOPEN THE RECORD TO ACCEPT COMPLAINANT'S LATE-FILED EXHIBIT IDENTIFIED IN ITEM 4 ABOVE AND HAS BEEN PRE-MARKED AS EXHIBIT H.
11. 52 Pa. Code Section 5.431 states that after the record has closed, additional evidence may be relied upon for good cause shown.
12. 52 Pa. Code Section 5.571 provides that, "at any time after the record is closed but before a final decision is issued, a party may file a petition to reopen the proceeding for the purpose of taking additional evidence."
13. 52 Pa Code Section 5.40(a) states that all relevant and material evidence is admissible, subject to objection.
14. The ALJ and this Commission, and any reviewing court should have a full and complete record in order to make a fully informed decision on the issues in this case.

For all of the above reasons, Complainant respectfully requests that ALJ Joel Cheskis reopen the record for the sole purpose of accepting Complainant's late-filed exhibit which has been pre-marked as Exhibit H into the record.

Respectfully submitted,

Frank D. Kitzmiller

March 1, 2019

Frank D. Kitzmiller, Complainant, Pro Se

1041 Preston Rd Lancaster, PA 17601

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

FRANK D. KITZMILLER, | DOCKET NO. C-2014-2435567
COMPLAINANT, | ADDENDUM TO TESTIMONY AT HEARING
v. |
CITY OF LANCASTER WATER DEPARTMENT, | SEPTEMBER 20, 2018
RESPONDENT. | JUDGE: JOEL H. CHESKIS

FRANK D. KITZMILLER
1041 PRESTON ROAD
LANCASTER, PA 17601
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The following items represent changes which have occurred from 4/18/18 to the present hearing date of 9/20/18 and other changes. Each numbered item will include a reference to the location in the original written testimony where changes will apply.

1. BACKGROUND INFORMATION, Page 2, Paragraph 3: Add at end "(Exhibit EXH FDK 4.1 and EXH FDK 5.1 from the 2014 rate request)".
2. BACKGROUND INFORMATION, Page 2, Paragraph 4, first sentence: Change certain wording within parentheses to read "See EXH FDK 4 and 4.1 and EXH FDK 5 and 5.1 for 2010 and 2014 rate increase requests".
3. BACKGROUND INFORMATION, Page 2, Paragraph 4: Add a new final sentence "To avoid confusion, the reference to a 5/8" water meter should be for either a 5/8" or 3/4" water meter as both sizes are charged the same customer charge".
4. BACKGROUND INFORMATION, Page 2, Paragraph 4: Add another new final sentence "It was noted that the "Dear Water Service Customer" letter for the 2014 rate increase request (EXH FDK 4.1) was not provided to the PA PUC for review. This letter provides information for only the consumption charge portion of the water bill for which a 30% rate increase was requested and omitted any mention of the customer charge portion of the water bill for which a 100% rate increase was requested."
5. BACKGROUND INFORMATION, Page 2, Paragraph 5: Insert the following words after confusing "by having a reference to a minimum charge and".
6. BACKGROUND INFORMATION, Page 2, Paragraph 5: Insert the following information at end of the wording in parentheses "or by not using language shown on EXH FDK 12".
7. BACKGROUND INFORMATION, Page 3, Between the second and third full paragraphs insert a new paragraph: "Frequently Asked Questions (FAQ) information located on the Lancaster City Water Department website provides comparable rates charged to customers in Lancaster

- County not served by Lancaster City but does not mention the rates charged to customers being charged for using a 1" size residential water meter, which, if shown, would be the highest rate for Lancaster County. See EXH FDK 11 for this information".
8. BACKGROUND INFORMATION, Page 3, In the third full paragraph at the end, add a sentence "No address or phone number was provided for the location of the Lancaster City Clerk's office".
 9. BACKGROUND INFORMATION, Page 5, In the first full paragraph add the following sentences after the third sentence (which ends in "Overbilling Formal Complaint") "This unaccounted-for-water issue was noted in my detailed review of the miscoded document files which were required to be provided in the information needed for the rate request and was provided but was not properly identified. It was noted on an EXH DXI-5 and the answer was indicated as being located on EXH D-II-6 (Misc Water Revenue), but it was not actually located there. Rather, it was located on DIX-6 (Water Conservation). It is not known whether this miscoding was accidental or deliberate on the part of the Respondent".
 10. BACKGROUND INFORMATION, Page 6, In the fourth full paragraph, first sentence should be "...to either satisfy the complaint 'or' admit or deny the allegations...".
 11. ARGUMENT, page 9, first paragraph, last sentence, change the word "Petition" to "Certificate"
 12. ARGUMENT, page 9, first paragraph, add the following at the end: " The Certificate of Satisfaction also stated that Manheim Township requires (and has since the mid-1980s) that all residential connections, such as Mr. Kitzmillers, be made with a 1" service line. A review of Municipal Connector's Agreements and discussion with Manheim Township officials indicates that it was the Lancaster City Water Department that required the 1" service lines to be used. See EXH FDK 18 for more information on this matter.
 13. ARGUMENT, Page 10, last paragraph, item 2 at end, change "(EXH FDK 9)" to "(EXH FDK 9.1 and EXH FDK 13)".
 14. ARGUMENT, Page 13, fifth paragraph, last sentence, add "or require an adjustment to the financial statements."
 15. ARGUMENT, Page 13, seventh paragraph, add "or on the internet."
 16. ARGUMENT, Page 14, first full paragraph at end, change 150 days to 382 days.
 17. ARGUMENT, Page 14, in space above "CONCLUSION" add a paragraph: "In addition, Complainant located a reference to Respondent's system maps and records which would have been useful in obtaining the information requested in Set 1, Items 3 and 4 and Set 2, Items 2, 3 and 4. This information would have been relevant to determining whether Respondent utilized rates in violation of 66 CS Section 1304-Discrimination of Rates."(See EXH FDK 17)
 18. ARGUMENT, Page 14, in space directly above "CONCLUSION" add a paragraph "On 6/15/18, Judge Cheskis denied Complainant's Motion to Compel responses for Set 2, item 5 on the grounds that this interrogatory sought information regarding services provided by Lancaster City Water Department to other customers and not to Mr. Kitzmiller (and not on the grounds of estoppel used by Respondent in denying Complainant's discovery request. Set 2, item 5 interrogatory was made to determine if any other residential customers being billed for a 1" size water meter had ever made a complaint against Respondent. Complainant considered this interrogatory to be relevant to his formal complaint.
 19. CONCLUSION, Page 14: No adjustments have been made to update amounts from 4/18/18.

Francis D. Kitzmiller, Complainant

4/13/18

WATER CASE C-2014-2435567 ADDENDUM

I hope to file an addendum to Complainant's written "Testimony at Hearing" which is now described by ALJ Cheskis as the "Brief" which will be discussed at the 9/20/18 Further In-Person Evidentiary Hearing to provide updated information on events occurring subsequent to the 4/18/18 Evidentiary Hearing and other matters.

The events occurring after the 4/18/18 Hearing consisted of:

1. The filing on 4/27/18 by Respondent, at the direction of ALJ Cheskis, to amend Respondent's answers to the Motion to Compel Respondent for both Set No.1 and Set No. 2 interrogatories. In its amended answer to the Motion to Compel, Respondent requested that ALJ Cheskis deny Complainant's Motions to Compel responses to both Set No. 1 and Set No. 2 interrogatories.
2. The filing on 5/4/18 by Complainant of an Objection to the amended answers of Respondent to Complainant's Motion to Compel responses to both Set No. 1 and set No. 2 interrogatories.
3. The filing on 6/15/18 by ALJ Cheskis which denied all of Complainant's Motions to Compel responses to Set No.1 and Set No. 2 interrogatories on the grounds that Complainant did not provide any argument regarding the relevance of the interrogatories or whether they are consistent with the Commission's regulations regarding Discovery and because the answers to 5 of the items (Set No. 1 items 1, 2, 21 and 22 and Set 2 item 9) would constitute an unreasonable annoyance, embarrassment, oppression, burden or expense that are prohibited by the Commission's regulations.
4. The receipt on 8/3/18 of documents from Manheim Township, Lancaster County, PA as a result of a Right-To-Know Request made by Complainant on 7/25/18 relating to Manheim Township Ordinance 1985-20, Municipal Connector's Agreement dated 6/28/04, Exhibit B to Municipal Connector's Agreement dated 9/30/85 and water customer service line pipe size required by Lancaster City Water Department (Respondent) for various locations in Manheim Township.
5. There will also be some additional Exhibits to the "Brief" as described on the listing of present and additional exhibits which are part of the Addendum. These additional Exhibits will be reviewed and photocopied and will be available to the parties and to ALJ Cheskis prior to the scheduled hearing on 9/20/18.

The Addendum will be a document separate from the "Brief" provided at the 4/18/18 In-Person Evidentiary Hearing with references to the areas (page numbers and paragraph numbers) within the "Brief" which are affected.

The goal of this Addendum is to provide the means to achieving a productive hearing on 9/20/18.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

FRANK D. KITZMILLER, !
COMPLAINANT, !
V. ! DOCKET NO. C-2014-2435567
CITY OF LANCASTER WATER DEPARTMENT, !
RESPONDENT. !

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing documents in the manner indicated below, upon the participants listed below, in accordance with the requirements of 52 Pa Code Section 1.54 (relating to service by a party).

~~HAND DELIVERED~~ FIRST CLASS MAIL

Honorable Joel Cheskis
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PA Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

FIRST CLASS MAIL

John J. Gallagher, Esquire
711 Forrest Road
Harrisburg, PA 17112
Counsel for the City of Lancaster

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Dated this 1st day of March , 2019

Frank D. Kitzmiller

Frank D Kitzmiller, Complainant

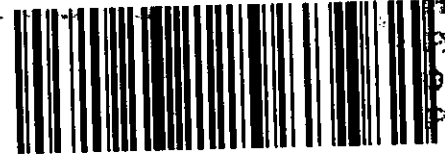
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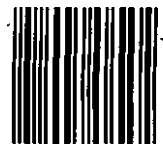
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