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PA P.U.S.
SECRETARY'S BUREAU

BEFORE THE PENNSYLVANIA PUBLIC UTILITIES COMMISSION

Natalie Leon, Jaime Wagner, Louise Sell,
Christopher Cratsley, James Rauber,
Patricia Schanck and Elwyn Family Trust
v.

Doc. No. C-2018-3000961

Pennsylvania Water and Sewer Authority
("PWSA")

MOTION TO STRIKE

On this ^{19th} day of March, 2019, the undersigned Complainants move to strike PWSA's Answer to Fourth Amended Complaint and New Matter because it is untimely filed and the doctrine of *res judicata* applies to this matter.

On September 21, 2018, Hon. Mark A. Hoyer issued an Order stating: "The Pittsburgh Water and Sewer Authority may file responsive pleadings to Complainants' Fourth Amended Complaint **within 20 days of the entry of a final order** by the Court of Common Pleas of Allegheny County, Pennsylvania in the matter at Docket No. SA-17-886." [Emphasis added] In response thereto, Carl Shultz, Esquire by letter dated October 12, 2018, replied: "PWSA will provide an update to this report...(b) when the Court enters a final order in the appeal...." Counsel for PWSA, members of a sophisticated law firm, knowing **PWSA lost their appeal in Common Pleas case No. SA-17-886 on January 15, 2019**, knowing the subject line was declared public, and knowing PWSA did not appeal the decision, waited almost two months, without requesting any extension of time, to file an Answer and New Matter in an untimely manner in total disregard of the Order of September 21, 2018. Nor did it notify Judge Hoyle when the Common Pleas decision of Judge Colville was rendered.

The "Subject Line" for which Complainants requested a service order from the Commission is public, and always has been public contrary to any of PWSA's claims. There is no reason to muddy the waters in trying to assess Mr. Rauber's ownership or interest in 252 Elwyn Ave. for the reason that PWSA itself declared 252 Elwyn Ave. as being part of the "Subject Line," and it is, therefore, public regardless of ownership. In addition, PWSA did not object to Mr. Rauber's standing in any other forum or in any other proceeding, including its appeals.

Any response by PWSA is now not just untimely, but is moot. There is no reason to waste the Commission's valuable time as the basis of the original Complaint was lack of service by PWSA. Complainant's sewer bills have about tripled in the past few years, and they are still being denied service they have been entitled to for the past five years. PWSA has actually no knowledge of the present condition of the "Subject Line," as they have not inspected it, and Columbia Gas recently was the entity that unclogged the line so they could proceed with the installation of a gas line.

WHEREFORE, Complainants respectfully request:

1. That the Commission order PWSA to fix the "Subject Line" within a reasonable period of time before the next health issue arises;¹
2. That PWSA's Answer to Fourth Amended Complaint and New Matter be dismissed as untimely;
3. That PWSA's Answer to Fourth Amended Complaint and New Matter be dismissed based on the doctrine of *res judicata* since PWSA now accepts responsibility for the "Subject Line."

¹ PWSA's own evaluation of what was required to fix the "Subject Line" that was presented to Administrative Law Judge Bailey is attached as Exhibit "A."

Respectfully submitted,

Natalie Leon

Natalie Leon

Louise Sell

Louise Sell

James Rauber

James Rauber

Elwyn Family Trust

By:

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Jai Wagner

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Christopher Cratsley

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QUANTITY ITEMIZATION SHEET



**THE
PITTSBURGH
WATER AND SEWER AUTHORITY**

CONTRACTOR:
INDEPENDENT ENTERPRISES, INC.
5020 THOMS RUN ROAD
OAKDALE, PENNSYLVANIA 15071

PROJECT NO.: DISC-424-157-0
PROJECT TITLE: EMERGENCY SEWER OPERATIONS REPAIR

ITEM NO.	DESCRIPTION	UNIT				QUANTITY	TOTAL COST			
C-3	Trench Excavation, 0-15' Deep	CY				26	\$ 1,508.00			
C-7	Aggregate Trench Backfill Above Pipe Zone	CY				16	\$ 960.00			
C-10	8" PVC Sewer Pipe, SDR-26	LF				30	\$ 300.00			
C-12	Crushed Stone Base	CY				4.5	\$ 337.50			
(1) (1)	Reinforced Concrete Street and Driveways	CY				6	\$ 2,100.00			
(1) (1)	Manhole Restoration	SY				12	\$ 180.00			
							\$ 5,385.50			

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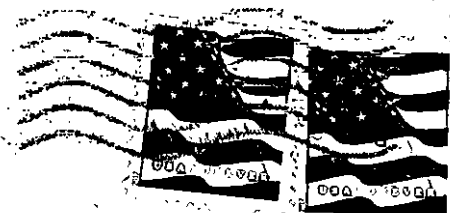
EXHIBIT

"A"

2805 Homehurst Ave
Pittsburgh, PA 15234

PITTSBURGH PA 150

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Rosemary Chianetta, Secretary
PA Public Utilities Commission
PO Box 3265
Harrisburg, PA 17105-3265

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