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June 3, 2019

Via Electronic Filing

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

Re: Provident Charter School v. Pittsburgh Water and Sewer Authority
Docket No. C-2019-3009812 and C-2019-3009814

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Pittsburgh Water and Sewer Authority's Motion to Consolidate with regard to the above-referenced matters. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Karen O. Moury

KOM/lww
Enclosure

cc: Cert. of Service w/enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Provident Charter School,	:	
Complainant	:	
	:	
v.	:	C-2019-3009812
	:	
Pittsburgh Water and Sewer Authority	:	
Respondent	:	
	:	
Provident Charter School	:	
	:	
v.	:	C-2019-3009814
	:	
Pittsburgh Water and Sewer Authority,	:	
Respondent	:	

NOTICE TO PLEAD

To: Alan T. Shuckrow, Esq.
Kathryn L. Clark, Esq.
Matthew N. Korenoski, Esq.
Strassburger McKenna Gutnick & Gefsky
Four Gateway Center, Suite 2200
444 Liberty Avenue
Pittsburgh, PA 15222

You are hereby notified that an Answer to the enclosed **Motion to Consolidate** of Pittsburgh Water and Sewer Authority ("PWSA") must be filed within 20 days of the date of service. All pleadings, such as an Answer, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for PWSA and Office of Administrative Law Judge.

File with:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

With a copy to:

Karen O. Moury, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101

Date: June 3, 2019



Karen O. Moury, Esquire
Attorney for PWSA

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Provident Charter School,	:	
Complainant	:	
	:	
v.	:	C-2019-3009812
	:	
Pittsburgh Water and Sewer Authority	:	
Respondent	:	
Provident Charter School	:	
	:	
v.	:	C-2019-3009814
	:	
Pittsburgh Water and Sewer Authority,	:	
Respondent	:	

PITTSBURGH WATER AND SEWER AUTHORITY’S MOTION TO CONSOLIDATE

TO CHIEF ADMINISTRATIVE LAW JUDGE CHARLES E. RAINEY, JR.:

Pursuant to Section 5.81 of the regulations of the Pennsylvania Public Utility Commission (“Commission”), 52 Pa. Code §5.81(a), the Pittsburgh Water and Sewer Authority (“Authority” or “PWSA”) hereby files this Motion to Consolidate the above-captioned matters on the basis that they involve the same issues of facts and law. Specifically, the dispute between Provident Charter School (“Complainant”) and PWSA relates to the accuracy of the bill rendered by PWSA on February 7, 2019 (“February 2019 bill”), which was comprised of \$10,132.04 for water consumption, \$6,893.49 for sewer system maintenance (or wastewater conveyance) and \$8,930.12 for Allegheny County Sanitary Authority (“ALCOSAN”) sewage treatment charges. In support thereof, PWSA represents the following:

1. On May 13, 2019, the Commission’s Secretary served Formal Complaints filed by Provident Charter School on PWSA. The Complaint docketed at C-2019-3009812 pertains to

charges on the February 2019 bill for water consumption. The Complaint docketed at C-2019-3009814 relates to the wastewater conveyance and ALCOSAN charges on the same bill, which are based on the amount of water that is consumed. Timely Answers were filed by PWSA on June 3, 2019.

2. The dispute raised by both Complaints involves the accuracy of all PWSA charges on the February 2019 bill, which were based on an actual meter reading obtained in January 2019.

3. Section 5.81(a) of the Commission's regulations states that "[t]he Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer [also] may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay." 52 Pa. Code §5.81(a).

4. Among the other considerations are: (a) whether additional issues exist that could cloud the determination of common issues; (b) whether consolidation will reduce litigation costs and decision-making for the parties and the Commission; (c) whether the issues in one proceeding go to the heart of an issue in the other proceeding; (d) whether consolidation will unduly protect a hearing or produce a disorderly or unwieldy record; (e) whether different statutory and legal issues are involved; (f) whether the party with the burden of proof differs in the proceedings; (7) whether consolidation will unduly delay the resolution of one of the proceedings; and (8) whether supporting data in both proceedings will be repetitive. *See Pa. Pub. Util. Comm'n v. City of Lancaster Sewer Fund*, Docket No. R-2012-2310366, at p. 3-4 (Second Prehearing Order Nov. 26, 2012) ("*Lancaster Sewer Fund Prehearing Order*"). As stated in that order, no single consideration, nor group of these considerations, is dispositive of consolidation. Rather, all factors

must be evaluated, and a balancing of those favoring and disfavoring consolidation is required. *Id.* at 3.

5. Both Complaints involve the same set of facts, including: (a) the provision of water and wastewater service by PWSA to the property at 1400 Troy Hill Road, Pittsburgh, Pennsylvania, 15212 (the “subject property”); (b) the accuracy of charges in the February 2019 bill rendered by PWSA; and (c) the use of an actual meter reading obtained in January 2019 after several consecutive invoices based on estimated meter readings.

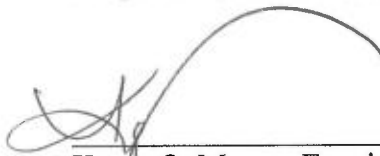
6. Both Complaints involve the same legal issue concerning the responsibility of Complainant to pay for water and wastewater services rendered by PWSA and ALCOSAN charges billed by PWSA.

7. In addition to involving not only common, but exactly the same, questions or law and fact, a balancing of the other considerations referenced in the *Lancaster Sewer Fund Prehearing Order* support consolidation of these proceedings. Specifically, consolidation will reduce litigation costs and decision-making for the parties and the Commission; the issues in one proceeding go to the heart of the issues in the other proceeding; consolidation will produce an orderly record that can be used to adjudicate both complaints; the Complainant carries the burden of proof in both proceedings; consolidation will not unduly delay the resolution of either proceeding; and the supporting data in both proceedings will be identical.

8. In summary, consolidating these proceedings for hearing and decision would promote judicial economy and conserve valuable resources of the parties and the Commission. Since the proceedings involve precisely the same issues of fact and law, no reason exists to have them litigated on separate paths.

WHEREFORE, on the basis of the foregoing, PWSA respectfully requests that the Office of Administrative Law Judge consolidate the Complaints at Docket Nos. C-2019-3009812 and C-2019-3009814.

Respectfully submitted,



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Dated: June 3, 2019

Attorneys for Pittsburgh Water and Sewer Authority

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing **Motion to Consolidate** upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

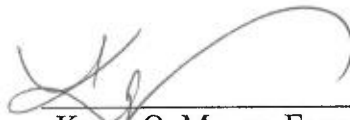
Via First Class Mail and E-mail

Alan T. Shuckrow, Esq.
Kathryn L. Clark, Esq.
Matthew N. Korenoski, Esq.
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444 Liberty Avenue
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kclark@smgglaw.com
mkorenoski@smgglaw.com

Via First Class Mail

Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

Date: June 3, 2019



Karen O. Moury, Esquire
Attorney for
The Pittsburgh Water and Sewer Authority