

**COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

CONYNGHAM TOWNSHIP

Complainant

- against -

SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY

Respondent

COMPLAINT DOCKET

No. C-2021-3023624

REPLY TO NEW MATTER

COMPLAINANT CONYNGHAM TOWNSHIP, by and through its attorneys, DeLUCA LAW OFFICES, Vito J. DeLuca, Esquire, as and for the foregoing REPLY TO NEW MATTER, alleges as follows:

11. Denied as a conclusion of law to which no response is required.
12. Denied as a conclusion of law to which no response is required. By way of further answer, Complainant's complaint complies with the requirements of 52 Pa.Code Section 5.22, "Content of formal complaint" and the formal complaint process outlined in Title 52, PA.Code, Chapter 5. In addition, the Commission has jurisdiction pursuant to the Pennsylvania Public Utilities Code, 66 Pa. Code Section 101, et seq.
13. Denied as a conclusion of law to which no response is required. Complainant is unaware of the "prior orders and determinations of Commonwealth Entities" referred to by Respondent in this averment. Strict proof is demanded. By way of further answer, properly securing a Certificate of Public Convenience as required by Pennsylvania law to operate as a "public utility" in

Conyngham Township is in no way “an improper collateral attack on prior orders and determinations of Commonwealth Entities” to which Complainant is or was a party.

14. Denied as a conclusion of law to which no response is required. By way of further answer, Conyngham Township has standing in that it was itself unlawfully billed by Respondent for billing period January 1, 2021 to March 31, 2021 for sewage treatment at the Township Municipal Building located at 10 Pond Hill Road, Mocanaqua, Pennsylvania, as “Customer Number 5390” and as referenced at the end of paragraph 1 of the formal complaint.¹ See Copy of bill attached hereto, incorporated herein and marked Exhibit A.

15. Denied as a conclusion of law to which no response is required. By way of further answer, Complainant’s complaint complies with the requirements of 52 Pa.Code Section 5.22, “Content of formal complaint” and the formal complaint process outlined in Title 52, PA.Code, Chapter 5. The complaint filed in this action clearly states that Respondent is operating in Conyngham Township without a Certificate of Public Convenience.

16. Denied as a conclusion of law to which no response is required.²

¹ Although Conyngham Township is not seeking “class action status” as averred by Respondent’s Counsel in Respondent’s Preliminary Objections, the Commission does have explicit authority to grant refunds “with interest” and “on behalf of all patrons subject to the same rate of the public utility.” See 66 Pa.C.S. Section 1312 (entitled “Refunds”).

² 66 Pa.C.S. Sections 1101 and 1102 provide, in pertinent part:

“§ 1101. Organization of public utilities and beginning of service.

Upon the application of any proposed public utility and the approval of such application by the commission evidenced by its certificate of public convenience first had and obtained, it shall be lawful for any such proposed public utility to begin to offer, render, furnish, or supply service within this Commonwealth. The commission’s certificate of public convenience granted under the authority of this section shall include a description of the nature of the service and of the territory in which it may be offered, rendered, furnished or supplied.

....

§ 1102. Enumeration of acts requiring certificate.

(a) General rule. — Upon the application of any public utility and the approval of such application by the commission, evidenced by its certificate of public convenience first had and obtained, and upon compliance with existing laws, it shall be lawful:

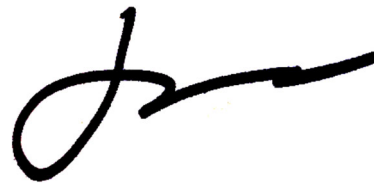
...

(5) For any municipal corporation to acquire, construct, or begin to operate, any plant, equipment, or other facilities for the rendering or furnishing to the public of any public utility service beyond its corporate limits.” [Emphasis added.]

17. Denied as a conclusion of law to which no response is required. By way of further answer, the physical location of Respondent's plant is irrelevant to the claim of Complainant. Respondent is in violation of the Pennsylvania Public Utilities Code, specifically 66 Pa.C.S. Sections 1101 and 1102, in that it is furnishing to the public a utility service beyond its corporate limits.

18. Denied. No response required,

WHEREFORE, CONYNGHAM TOWNSHIP respectfully requests a) the Formal Complaint be sustained and Respondent be ordered to secure a Certificate of Public Convenience as required by the Pennsylvania Public Utility Code; b) all moneys unlawfully collected by Respondent be refunded with interest as per 66 Pa.C.S. Section 1312; c) such other relief as deemed just and proper by the Commission.



BY: _____

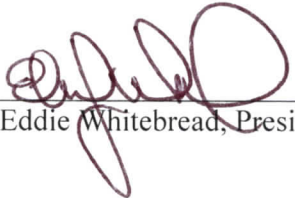
Vito J. DeLuca, Esquire
PA ID # 68932
Attorney for Complainant
Conyngham Township
26 Pierce Street
Kingston, PA 18704
(570)288-8000

VERIFICATION

I, Eddie Whitebread, have read the foregoing REPLY TO NEW MATTER and know the contents thereof. The contents of the document are true and correct to the best of my knowledge, except as to those matters alleged on information and belief, and as to those matters, I believe them to be true.

I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.

CONYNGHAM TOWNSHIP

BY:  _____
Eddie Whitebread, President

Dated: 01/29/2021

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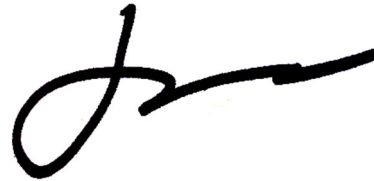
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that this day I served a copy of the foregoing REPLY TO NEW MATTER upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa.Code Section 1.54.

Via Email Only to:

Sean W. Logsdon, Esquire
85 Drasher Road
Drums, PA 18222
sean@karpowichlaw.com

DATED: January 29, 2021



BY: _____

Vito J. DeLuca, Esquire
PA ID # 68932
Attorney for Complainant
Conyngham Township

EXHIBIT A

INVOICE

1

**Sanitary Sewer Authority
of the Shickshinny Borough
PO BOX 266
Berwick PA, 18603**

**Billing Office (877) 330-1699
Authority Office (570) 542-2601**

Bills are due and payable on or before the indicated due date. Non-receipt of an invoice is not an excuse to not pay the amount due. Please refer to the Customer Number on all inquiries.

WHEN PAYING BY MAIL, SEND CHECK OR MONEY ORDER TO:
SHICKSHINNY SEWER AUTHORITY
PO BOX 266
BERWICK, PA 18603

Payments may also be made at the First Keystone Bank.
NO CASH PAYMENTS will be accepted at the Sewer Authority Office, located in Mocanaqua. Office Hours are
Tues thru Thurs, from 9AM to 3PM.

PENALTY: 10% of current charge after due date.
INTEREST: 1.5% will be applied quarterly.



MUNICIPAL TOWNSHIP BLDG.
10 POND HILL ROAD
MOCANAQUA, PA 18655

**NOTICE: State law prohibits the connection of Sump Pumps or
Down Spouts into the public sewer system. Shickshinny Sewer Board
has passed Resolution #007-2018 to enforce this state law.**

Customer Information

**Customer Number: 5390
Name: Municipal Township Bldg.
Service Address:
10 Pond Hill Road**

DESCRIPTION	AMOUNT
Sewer Charge	150.00
Previous Balance	0.00
Payments	0.00
Total Due	150.00

BILLING PERIOD	
January 01, 2021 to March 31, 2021	
DUE DATE	PAY BY DUE DATE
01/31/2021	150.00
IF PAID AFTER	PAY THIS AMOUNT
01/31/2021	165.00

Return this portion with your payment

Bill To:

MUNICIPAL TOWNSHIP BLDG.
10 POND HILL ROAD
MOCANAQUA, PA 18655

Customer #	Billing Period	
5390	January 01, 2021 to March 31, 2021	
Service @ 10 POND HILL ROAD		
Pay By Due Date	Due Date	After Due Date
150.00	01/31/2021	165.00

Make checks payable to:

**Shickshinny Sewer Authority
PO BOX 266
Berwick PA, 18603**



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