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March 29, 2021

**Via Electronic Filing**

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

Re: Constance Jean Pukanic-Smail v. Pittsburgh Water and Sewer Authority  
Docket Nos. C-2021-3024468 and C-2021-3024214

Dear Secretary Chiavetta:

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

Sincerely,

*/s/ Karen O. Moury*

Karen O. Moury

KOM/lww  
Enclosure

cc: Cert. of Service w/enc.

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of PWSA's Answer with 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**

Constance Jean Pukanic-Smail  
1134 Yetta Ave.  
Pittsburgh, PA 15212  
conmedia@comcast.net

Hon. Charles E. Rainey, Jr.  
Chief Administrative Law Judge  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
bobbwillia@pa.gov

Dated: March 29, 2021

/s/ *Karen O. Moury*  
Karen O. Moury, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Constance Jean Pukanic-Smail,	:	
Complainant,	:	
v.	:	Docket No. C-2021-3024468 (water)
The Pittsburgh Water and Sewer Authority,	:	
Respondent.	:	
	:	
	:	
	:	
	:	
	:	
Constance Jean Pukanic-Smail,	:	
Complainant,	:	Docket No. C-2021-3024214 (wastewater)
v.	:	
The Pittsburgh Water and Sewer Authority,	:	
Respondent.	:	

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**NOTICE TO PLEAD**

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**TO:**

Constance Jean Pukanic-Smail  
1134 Yetta Avenue  
Pittsburgh, PA 15212

You are hereby notified that an Answer to the enclosed **Motion to Consolidate** of The Pittsburgh Water and Sewer Authority (“Authority”) must be filed within 20 days of the date of service. All pleadings, such as an Answer to Motion to Consolidate, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for the Authority and the 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  
Kristine E. Marsilio  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17101  
kmoury@eckertseamans.com  
kmarsilio@eckertseamans.com

*/s/ Karen O. Moury*

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Karen O. Moury

Date: March 29, 2021

Counsel for The Pittsburgh Water and Sewer  
Authority



4. PWSA provides both water and wastewater conveyance service to Complainant's property and issues a single bill to Complainant for both public utility services.

5. The Formal Complaints object to PWSA's bills which contain charges for both water and wastewater conveyance services.

6. Notwithstanding that the same Formal Complaint has been assigned two separate docket numbers by the Commission, the Formal Complaints are identical and involve the same issues of facts and law related to PWSA's water and wastewater conveyance public utility services.

7. 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).

8. Other considerations in ruling on a consolidation include the following: (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.<sup>1</sup> As stated in that order, no single consideration, nor group of these considerations, is dispositive of

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<sup>1</sup> See *PUC v. City of Lancaster Sewer Fund*, Docket No. R-2012-2310366, Second Prehearing Order at 3-4 (Nov. 26, 2012) ("*Lancaster Sewer Fund Prehearing Order*").

consolidation. Rather, all factors must be evaluated, and a balancing of those favoring and disfavoring consolidation is required.<sup>2</sup>

9. As discussed above, though two separate dockets have been assigned by the Commission, the Formal Complaints involve the same set of facts and legal issues, including: (a) the provision of water and/or wastewater conveyance service by PWSA to the same service address; (b) the accuracy of charges on the bills rendered to Complainant for water/wastewater conveyance services; and, (c) the ability of PWSA to issue make-up bills.

10. Additionally, 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 are the same notwithstanding the assignment of two separate docket numbers; consolidation will produce an orderly record; 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.

11. Consolidating these proceedings 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 at two separate dockets. As such, PWSA respectfully requests that the Office of Administrative Law Judge consolidate the Formal Complaints docketed at C-2021-3024468 and C-2021-3024214 into one proceeding.

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<sup>2</sup> *Id.* at 3.

**WHEREFORE,** The Pittsburgh Water and Sewer Authority respectfully requests that the Office of Administrative Law Judge consolidate the Formal Complaints docketed at C-2021-3024468 and C-2021-3024214 into one proceeding.

Respectfully submitted,

*/s/ Karen O. Moury*

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Karen O. Moury  
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March 29, 2021

Counsel for The Pittsburgh Water and Sewer  
Authority

## Verification

I, Karen O. Moury, state that I am an Attorney of Record for The Pittsburgh Water and Sewer Authority and that as such I am authorized to make this verification on its behalf. I hereby state that the facts contained in the foregoing Motion are true and correct (or 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. § 4904, relating to unsworn falsification to authorities.

March 29, 2021

*Karen O. Moury*

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Karen O. Moury, Esquire