

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
- - -

ORIGINAL

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4 IN RE:
ANDREW KAUFFMANN and EDWIN BANKERT

5 - V -
6 THE YORK WATER COMPANY

NO. C-2020-3021066

~~C-2020-3021479~~
- - -

RECEIVED

JAN 13 2020 2021

6-29-2021 ALW
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

7
8 DATE: Wednesday, November 4, 2020
9 TIME: 10:10 A.M.
BEFORE: Administrative Law Judge
10 Elizabeth Barnes
(Via telephone)
11 REPORTER: Donna O'Connor - (Via telephone)

12 ALSO PRESENT:
13 Devin T. Ryan, Esquire
Post And Schell, P.C.
14 17 North 2nd Street, 12th Floor
Harrisburg, PA 17101
15 (717) 612-6052
For: The York Water Company
16 (Via telephone)

17
18 Andrew Kauffmann - Complainant
(Via telephone)

19 Edwin Bankert - Complainant
(Via telephone)
20

21
22 US LEGAL SUPPORT
1818 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
23 (877) 467-2484
24

1 * * *

2 PROCEEDINGS

3 * * *

4 JUDGE BARNES: It is 10:05
5 a.m. on November 4, 2020. This is the
6 time and date set aside for a
7 prehearing conference in the
8 consolidated case of Andrew Kauffmann
9 and Edwin M. Bankert versus The York
10 Water Company at docket number
11 C-2020-3021066 and C-2020-3021479.

12 My name is Elizabeth Barnes.

13 I'm the administrative law judge
14 assigned by the commission to preside
15 in this matter.

16 I did issue an order
17 granting a motion to consolidate these
18 two proceedings recently, as both of
19 the complaints filed by complainants
20 involve water quality and other
21 reasonable services being performed by
22 The York Water Company regarding the
23 same distribution service line. It
24 appears that the complainants are

1 neighbors.

2 Before we start, I should
3 let you know that my office
4 contacted -- I did not directly speak
5 to the lady, and I don't even know who
6 it is. But there is a woman who
7 called in about this case who claims
8 to be another neighbor. I don't know
9 if she's going to file a formal
10 complaint or not. She wanted to be
11 present at today's proceeding, but I
12 guess she's not here.

13 All right. So basically the
14 purpose of today's conference is to
15 establish a litigation schedule. And
16 I don't know if there needs to be any
17 kind of discovery deadlines or
18 exchange of statements or reports or
19 exhibits in advance of the hearing.
20 And we need to pick a hearing date and
21 address any other questions that
22 anybody might have.

23 So, Mr. Ryan, do you have
24 any special request?

1 MR. RYAN: Thank you, your
2 Honor. Nothing special for this case,
3 your Honor. We did submit a
4 prehearing memo, trying to touch upon
5 the typical procedural matters that
6 are addressed at the prehearing
7 conferences. I think perhaps that the
8 one major item that we need to discuss
9 today is a hearing date for the
10 matter. And we tried to provide the
11 company's availability for next month,
12 December 2020, and the following
13 month, January 2021. I'm not sure
14 which of those dates, if any, work for
15 your Honor or Mr. Kauffmann or
16 Mr. Bankert. That's one major thing
17 that we need to address here today.

18 JUDGE BARNES: Okay. I did
19 not see an email with your prehearing
20 conference memorandum, so I have to go
21 pull that up. Give me a second. And
22 what were the dates again? Let me
23 check my calendar here.

24 MR. RYAN: Sure. It's

1 pretty wide open. In December the
2 company is available for a telephonic
3 on any date except for December 2nd,
4 9th, 10th and 21st through 31st. And
5 then in January the only dates that do
6 not work for the company are January
7 1st through the 4th.

8 JUDGE BARNES: Okay. Let me
9 just look at my calendar. I am
10 available December 1st, 3rd, 4th, 7th,
11 9th. December 14th and 15th are okay.

12 And then January, let's see
13 here. January 4th through the 8th I'm
14 okay. You said 1st through the 4th is
15 not good, so forget that. January
16 11th through the 14th I'm available,
17 19th through 21st and the 25th.

18 Okay. Mr. Kauffmann and
19 Mr. Bankert, given those dates do you
20 have any dates that you aren't
21 available or any dates that you're
22 requesting?

23 MR. KAUFFMANN: This is.
24 Mr. Kauffmann. I am good for all

1 dates except December 16th. I would
2 prefer as soon as possible a hearing
3 day, preferably in December, if
4 possible.

5 JUDGE BARNES: Okay.
6 Mr. Bankert?

7 MR. BANKERT: I prefer any
8 days other than a Tuesday or Friday.
9 December 3rd would really work good.
10 I prefer to get it done early and get
11 this over with. This matter has been
12 going on long enough with them.

13 JUDGE BARNES: Okay. So
14 everyone is okay December 3rd?

15 MR. KAUFFMANN: Eric
16 Kauffmann, yes.

17 MR. RYAN: This is Devin
18 Ryan. That works for York Water.

19 JUDGE BARNES: All right.
20 We'll schedule it for 10:00 a.m. That
21 is a public meeting. So Thursday,
22 December 3rd at 10:00 a.m. we'll have
23 a hearing.

24 The normal my schedule is at

1 least five days before the hearing you
2 are to exchange any written
3 statements, testimony and exhibits.
4 That should be premarked. If you're a
5 complainant, you could mark your
6 exhibits, like, with your last name,
7 Bankert Exhibit-1 or Kauffmann
8 Exhibit-1, 2, 3. Number them
9 consecutively. And make sure each
10 exhibit has page numbers on it. You
11 don't file the exhibits with the
12 Commission, but you should provide at
13 least an electronic copy to opposing
14 counsel, as well as the presiding
15 officer. I would like electronic
16 copies of all exhibits.

17 I have to let you know that
18 I cannot access Google Share
19 documents. The Commission's firewall
20 does not allow us to open certain
21 share sites. But anything that's in a
22 PDF format is fine or Docs. That's
23 all fine.

24 You'll receive a prehearing

1 order with the dates in it, as well as
2 a notice of the hearing.

3 Are there any questions? I
4 am here if possibly there could be a
5 settlement. I would encourage the
6 parties to discuss settlement. It
7 appears the company has some plans to,
8 maybe, address and maybe remediate a
9 situation on your street.

10 If a settlement can be
11 reached, the utility can file a
12 certificate of satisfaction. And
13 after a certain period of time if
14 there are no objections to it, the
15 cases can be closed by operation of
16 law.

17 Anything that anyone would
18 like to discuss?

19 MR. KAUFFMANN: Yes.
20 Mr. Kauffmann here. What email
21 address should this testimony or
22 written testimony be sent? I have the
23 contact information for Devin Ryan,
24 but for the court where would that be

1 sent?

2 JUDGE BARNES: Well, you
3 should send it to the other
4 complainant, pbankert63@aol.com, and
5 then to me, ebarnes@pa.gov. That will
6 be in writing probably in the
7 prehearing order or the notice.

8 MR. KAUFFMANN: Okay. I
9 understand that. And also to your
10 point about reaching a settlement with
11 York Water Company over this, I have
12 not had any contact with York Water
13 Company, or I should say they have not
14 contacted me at all about any proposed
15 settlement or plan to rectify this
16 situation. Absolutely zero written
17 contact with them.

18 I've spoken to their
19 representative, Mr. Deluca, on the
20 York Water Company telephone number.
21 And his only comments to me about this
22 matter were there were no plans to do
23 anything to rectify this situation in
24 2020, and that maybe something will be

1 done in 2021, and that's it.

2 JUDGE BARNES: Okay.

3 Well --

4 MR. RYAN: Your Honor, this
5 is Devin Ryan. If I may comment. I
6 can affirm to your Honor that we will
7 be reaching out to
8 Mr. Kauffmann and Mr. Bankert to talk
9 about settlement in advance of the
10 hearing. So that is something that we
11 are going to do. We're still in the
12 process of formulating that settlement
13 offer, which is the reason for the
14 delay. So I just wanted to --

15 JUDGE BARNES: I appreciate
16 that. And, again, I encourage that
17 the parties try and come up with a
18 resolution prior to the hearing in
19 December. But if there is no
20 resolution be prepared to put on your
21 cases. And basically the burden of
22 proof is normally on a complainant to
23 prove that a company is violating a
24 regulation or an order, statute. And

1 the burden is by a preponderance of
2 evidence.

3 And there are instructions
4 if you need to subpoena anyone. You
5 have to apply for a subpoena here with
6 me, and it has to be done in enough
7 days in advance of the hearing for
8 there to be a period for objections,
9 things like that.

10 All right. I can't think of
11 anything else to discuss. But due to
12 the pandemic and the fact that we're
13 operating -- we're teleworking, I
14 guess you could call it. Our office
15 building is closed to the public. I'm
16 asking that you send all exhibits and
17 any kind of motion that you might file
18 prior to the hearing. Make sure you
19 send me email copies. And if you
20 haven't already done so, please sign
21 up for e-service with the commission.
22 And I believe instructions were
23 emailed to both complainants.

24 Is there anything else

1 anyone else would like to discuss or
2 any questions before we adjourn?

3 MR. KAUFFMANN: This is
4 Mr. Kauffmann. I really don't have
5 anything else to add to this. I was
6 prepared to present my case today.
7 Originally this was a scheduled day
8 for the telephonic hearing, and then
9 it was changed to this prehearing
10 conference, apparently on the request
11 of the York Water Company. So this is
12 all delayed until the hearing date of
13 December 3rd. And I am willing to
14 listen to anything that York Water
15 Company would propose to rectify the
16 situation. But as my neighbor,
17 Mr. Bankert, said, this has been going
18 on for years now. And the York Water
19 Company has admitted to us that they
20 know there is a problem. They know
21 they have a fix for the problem. We
22 were told that they were going to fix
23 this problem in 2020. And apparently
24 they changed their mind now. And this

1 is very frustrating for us. And, you
2 know, we've been forced to go this
3 route, and here we are today.

4 JUDGE BARNES: Okay,
5 Mr. Kauffmann. Thank you. Your
6 comments are noted. You will be given
7 an opportunity to testify on December
8 3rd. And I will speak to all of you
9 then. Have a nice day everyone.
10 Thank you for calling in and
11 participating in this conference. And
12 we are adjourned.

13 (Whereupon, the hearing was
14 adjourned at 10:20 a.m.)
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C E R T I F I C A T I O N

I, DONNA O'CONNOR, hereby
certify that the foregoing is a true
and correct transcript of the
proceedings held in this matter, as
transcribed from the stenographic
notes taken by me on Thursday,
January 7, 2021.



DONNA O'CONNOR

(This certification does not
apply to any reproduction of this
transcript, unless under the direct
supervision of the certifying
reporter.)

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