

**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

**SECOND PREHEARING CONFERENCE MEMORANDUM OF CONYNGHAM
TOWNSHIP**

COMPLAINANT CONYNGHAM TOWNSHIP, by and through its attorneys, DeLUCA LAW OFFICES, Vito J. DeLuca, Esquire, as and for the foregoing SECOND PREHEARING CONFERENCE MEMORANDUM, provides the following:

I. PROCEDURAL BACKGROUND

Conyngham Township initiated the instant action against Respondent Sanitary Authority of the Borough of Shickshinny (“SSABS”) by Formal Complaint filed on or about January 6, 2021. The Formal Complaint alleges that Respondent began operating in Conyngham Township without a certificate of convenience as required by the PUC Code.

On or about January 26, 2021, SSABS filed an answer and new matter as well as preliminary objections to the Formal Complaint of Complainant. Complainant timely filed an answer to respondent’s new matter and preliminary objections. On or about March 5, 2021, Judge Johnson issued an order denying all preliminary objections of Respondent except for its objection related to Conyngham Township’s ability to proceed as a representative of all Township residents.

Respondent's request to dismiss Complainant's complaint was denied.

The parties unsuccessfully participated in mediation and Complainant requested the Mediator to notify the Court so a hearing could be schedule in the matter. The hearing was scheduled by the Court for September 15, 2021.

On or about September 3, 2021, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission filed a Notice of Intervention and Request for Continuance of the September 15 Hearing on behalf of the public interest. By Order, the September 15 hearing was converted to a second prehearing telephone conference.

II. DOCUMENT SERVICE

Complainant agrees to receive service of documents electronically in this proceeding.

Service of documents for Complainant may be served on:

Vito J. DeLuca, Esq.
DeLuca Law Offices
26 Pierce Street
Kingston, PA 18704
(570)288-8000
Cell: (570)574-2180
Email: vjd@delucalawoffices.com

III. DISCOVERY

Complainant expects no issues related to discovery and will comply with all discovery rules.

IV. ISSUES PRESENTED

A. Whether Respondent is operating in Conyngham Township, Luzerne County, Pennsylvania without a Certificate of Public Convenience as required by the Pennsylvania Public Utilities Code.

a. If so, what is the proper remedy?

V. PROPOSED SCHEDULE

Complainant will comply with the scheduling order issued by the Judge in this matter.

VI. WITNESSES

Complainant expects to call the following witnesses:

1. Eddie Whitebread, Conyngham Township Supervisor
10 Pond Hill Road
Shickshinny, PA 18655

Summary: Mr. Whitebread will testify as to his receipt of the notice of termination of the bulk services agreement that had existed between the parties on September 11, 2020. He will also testify that no new agreement was entered into between the parties and, further, that the Township received bills for sewer treatment as a sewer treatment customer from Respondent after termination of the bulk services agreement by Respondent.

2. Erik Kubasek, Conyngham Township Sewer Authority Member
10 Pond Hill Road
Shickshinny, PA 18655

Summary: Mr. Kubasek will also confirm that he received the notice of termination of the bulk services agreement that had existed between the parties on September 11, 2020. He will also testify that no new agreement was entered into between the parties and, further, that he, as an individual ratepayer in the Township, received bills for sewer treatment as a sewer treatment customer from Respondent after termination of the bulk services agreement by Respondent.

VII. EVIDENCE

Complainant expects to present the following documentary evidence:

1. Bulk services agreement dated November 18, 1992.
2. September 11, 2020 Letter from Respondent terminating bulk services agreement.
3. Bills for sanitary sewer treatment sent directly to customers.

VIII. SETTLEMENT

The parties participated in settlement negotiations in an attempt to secure a successor bulk services agreement. Negotiations were unsuccessful.

A handwritten signature in black ink, appearing to read 'Vito J. DeLuca', written in a cursive style.

BY: _____

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

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that this day I served a copy of the foregoing
PREHEARING CONFERENCE MEMORANDUM 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

Stephanie M. Wimer, Esquire
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17120
stwimer@pa.gov

DATED: September 13, 2021

BY: _____


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