

DONALD G. *K*ARPOWICH ATTORNEY-AT-LAW, P.C.

85 Drasher Road
Drums, PA 18222

Phone: (570) 788-6647
Fax: (570) 788-0654
www.karpowichlaw.com

September 14, 2021

Via Electronic Filing

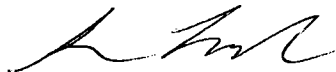
Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Conyngham Township v. Sanitary Sewer Authority of the Borough of
Shickshinny
Docket No. C-2021-3023624

Dear Secretary Chiavetta:

Enclosed for filing is the Prehearing Conference Memorandum of The Sanitary Sewer Authority of the Borough of Shickshinny in the above-referenced proceedings. Copies will be provided as indicated on the Certificate of Service.

Very Truly Yours,



Sean W. Logsdon, Esquire

SWL:

Cc: Sanitary Sewer Authority of the Borough of Shickshinny
Vito J. DeLuca, Esquire (Via Electronic means)
Stephanie M. Wimer, Esquire (Via Electronic means)

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In the Matter of:

CONYNGHAM TOWNSHIP,	:	
	:	
Complainant	:	
	:	
v.	:	COMPLAINT DOCKET
	:	NO. C-2021-3023624
SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY,	:	
	:	
Respondent	:	
	:	

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.

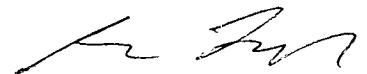
Via Email Only to:

Vito J. DeLuca, Esquire
DeLuca Law Offices
26 Pierce Street
Kingston, PA 18704
vjd@delucalawoffices.com

Via Email Only to:

Stephanie M. Wimer, Esquire
PA Public Utility Commission
Bureau of Investigation & Enforcement
P.O. Box 3265
Harrisburg, PA 17120
stwimer@pa.gov

Date: September 14, 2021



Sean W. Logsdon, Esquire
Attorney for Sanitary Sewer
Authority of the Borough of
Shickshinny

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY,	:	
	:	
Respondent	:	
	:	

**PREHEARING CONFERENCE MEMORANDUM OF THE SANITARY SEWER
AUTHORITY OF THE BOROUGH OF SHICKSHINNY**

TO ADMINISTRATIVE LAW JUDGE CONRAD A. JOHNSON:

Pursuant to 52 Pa. Code § 5.224(c), the Sanitary Sewer Authority of the Borough of Shickshinny (“SSABS” or “Authority”) hereby submit this Prehearing Conference Memorandum in the above-captioned matter, and states as follows:

I. BACKGROUND

On January 6, 2021, SSABS was served with the Formal Complaint filed by Conyngham Township (the “Township”) against SSABS at Docket No. C-2021-3023624, alleging that SSABS is operating in the Township of Conyngham without a Certificate of Public Convenience. On January 26, 2021, SSABS filed an Answer and New Matter to the Formal Complaint. Also, on January 26, 2021, SSABS file Preliminary Objections to the Formal Complaint. On March 5, 2021, Judge Johnson issued an Interim Order on the Preliminary

Objections sustaining the objections in part and denying in part. SSABS's Preliminary Objections were sustained to the extent that the Township lacks standing to represent the residents of Conyngham Township. The Preliminary Objections were denied in all other respects including the request to dismiss the Complaint.

The Matter was referred for mediation, however, the process was unsuccessful. SSABS believes that the form of mediation utilized, which was essentially the parties continuing to negotiate independently, was unsuccessful because the mediator was unable to offer opinions or guidance to the parties. No members of either Board were able to communicate with the mediator. SSABS would suggest an active mediation if the parties are agreeable.

SSABS hereby files this Prehearing Memorandum pursuant to 52 Pa. Code § 5.224(c) to assist with the procedural issues that may be discussed at the prehearing conference.

II. SERVICE OF DOCUMENTS

SSABS requests that Sean W. Logsdon, Esquire, be listed on the service list on behalf of SSABS. His contact information is provided below:

Sean W. Logsdon (ID # 93096)
Donald G. Karpowich, Attorney at Law, P.C.
85 Drasher Road
Drums, PA 18222
Phone: 570-788-6647
Fax: 570-788-0654
Email: sean@karpowichlaw.com

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

III. DISCOVERY

SSABS proposes no modifications to the Commission's discovery rules. SSABS proposes that discovery conclude prior to the date of the evidentiary hearing.

IV. ISSUES PRESENTED

SSABS believes the presently identified issue is whether SSABS is required to obtain a Certificate of Public Convenience to operate its sewage plant in Conyngham Township? The Authority was formed by the Borough of Shickshinny as a Municipal Authority and has operated as the same since its establishment. The location of the processing plant in Conyngham Township was selected and approved by Conyngham Township’s Supervisors. SSABS owns the property on which the plant is located. SSABS operates on land owned by the Authority, not Conyngham Township. SSABS provided bulk customer service to Conyngham Township pursuant to an Agreement which was terminated by SSABS on September 11, 2020. The agreement was terminated due to a failure by the Conyngham Township Sewer Authority to address influx and infiltration issues. SSABS invoiced rate payers directly for the quarterly charges beginning in January of 2021.

V. PROPOSED SCHEDULE

SSABS is generally available for a telephonic or in-person evidentiary hearing, at the Judge’s discretion. The parties have also agreed to a litigation schedule which will be presented to the court.

VI. WITNESSES

Witness

Barry Noss
President – SSABS Board of Directors
One Main Road
Shickshinny, PA 18655

Subject Matter of Testimony

Current operations and rate structure and service to Conyngham Township

Michael Steeber
Board Member – SSABS Board of Directors
One Main Road
Shickshinny, PA 18655

Current and historical operations at plant and service to Conyngham Township

Gilbert Gleco (or alternate former Board Member)
Former Board Member – SSABS Board of Directors
One Main Road
Shickshinny, PA 18655

Historical operations at plant and service to Conyngham Township

Joseph Durkin
SSABS Engineer
49 South Main St.
Pittston, PA 18640

Operations and engineering issues regarding the plant

SSABS reserves the right to call additional witnesses to testify on its behalf based on other issues that may arise during the course of this proceeding.

VII. EVIDENCE

SSABS plans to present testimony and exhibits through the witnesses outlined in Section VI, *supra*, and will present other evidence as necessary to substantiate its claims and Arguments, including but not limited to:

1. August 8, 1973 Ordinance establishing SSABS
2. SSABS Article of Incorporation
3. SSABS Certificate of Incorporation
4. SSABS Service Map
5. Conyngham Township Resolution approving site of plant
6. November 18, 1992 Sewage Treatment Agreement
7. September 11, 2020 Termination Letter
8. Deed to the sewer plant property

SSABS reserves the right to present additional evidence or exhibits and/or to modify this list as necessary.

VIII. SETTLEMENT

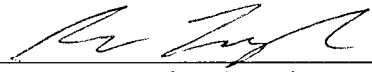
To date, settlement discussions have been held between the parties and an unsuccessful mediation was held. As noted above, SSABS believes that a more hands-on mediation with a mediator able to give opinions and insight would be beneficial. SSABS is willing to work with the Complainant in an effort to fully resolve the matter through settlement, to reach a partial settlement, or to reduce the facts at issue in this case through stipulation. Conyngham Township Sewer Authority is in no way obligated to utilize the SSABS plant. SSABS is not seeking out customers in Conyngham Township. SSABS would be willing to work out a timeframe for Conyngham Township to utilize an alternative source for processing its waste. SSABS reserves the right to update its responses contained in this Prehearing Conference Memorandum.

DATE: 9/14/2021

Respectfully submitted,

Donald G. Karpowich, Attorney-at-Law, P.C.

By:


Sean W. Logsdon, Esquire
ID # 93096
sean@karpowichlaw.com
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