

FRANK D. KITZMILLER

1041 PRESTON RD

LANCASTER, PA 17601

April 1, 2022

Rosemary Chiavetta, Secretary

Pennsylvania Public Utility Commission

Commonwealth Keystone Building

400 North Street

Harrisburg, PA 17120

RE: Pa Public Utility Commission v. City of Lancaster – Water Department

DOCKET NO. R-2021-3026682

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Dear Secretary Chiavetta:

Please be advised that consistent with 52 Pa. Code Section 5.412a Frank D. Kitzmiller has filed the Surrebuttal Testimony of Frank D. Kitzmiller and the related Verification Statement in the above captioned proceeding.

As evidenced by the enclosed Certificate of Service, all known parties will be served, as indicated.

If you have any questions, please contact me at (717) 569-0132 or email [dkitz@comcast.net](mailto:dkitz@comcast.net).

Sincerely,

Frank D. Kitzmiller, Complainant

/s/ Frank D. Kitzmiller

Cc: Certificate of Service

PA PUC Secretary Rosemary Chiavetta (Cover Letter and COS only)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Frank D. Kitzmiller, Complainant

v.

Docket No. R-2021-3026682

City of Lancaster, PA Water Bureau

Surrebuttal Testimony of Frank D. Kitzmiller

January 28, 2022 (Actual date was January 20, 2022)

## Table of Contents

### List of Exhibits

No Exhibits are being filed due to the inability of Frank D. Kitzmiller to file documents from various websites on which the documents are normally readily accessible.

In lieu of filing the actual Exhibit, information is provided below and in the text of the Testimony referring to this access to information which includes the steps to access such documents.

1. Municipal Connector's Agreement between City of Lancaster and Manheim Township dated 9/30/85 mentioned on page 1 of the Testimony.  
Access: Google search for "Lancaster County Pa prothonotary"  
Case CI-14-07663 (Your Towne Builders)  
10/2/14 Complaint Filing Document  
Exhibit B, Page 35 of file, pages 35 to 44
2. Manheim Township Ordinance 2004-8 mentioned on page 1 of Testimony  
Access: Google search for "Manheim Township, Pa"  
Code Compliance Department  
Building Code Enforcement Ordinances  
Ordinance 2004-8
3. City of Lancaster Pa Construction Codes mentioned on page 2 of Testimony  
Access: Google search for "City of Lancaster, Pa"

Website search for “Construction Codes, Uniform”  
Chapter 116 (adopted 6/22/2004)  
Chapter 116-4.2 Item O (re: Section P2903.7)  
Chapter 116-4.7 Item G (re: Section 603.1)

Frank D. Kitzmiller’s Surrebuttal Testimony will respond to the Rebuttal Testimony of Patrick S. Hopkins, Business Administrator of the City of Lancaster, which was provided on 1/13/22 and related, among other items, to the Recommended Tariff Changes and Rate Considerations which began on page 13 of such testimony.

Item 12 – Do you agree with Mr. Mierzwa’s position as it relates to the customer charge for Frank D. Kitzmiller?

Mr. Hopkins did not agree with Mr. Mierzwa’s position almost solely on account of ALJ Cheskis’ Initial Decision and Order in Docket No. C-2014-2435567 rendered on 3/18/19. Frank D. Kitzmiller filed exceptions to the Initial Decision on 4/4/19 and the City of Lancaster Water Bureau (City) filed reply to the Exceptions on 4/18/19. Since that date there has been no final decision rendered by the PUC Commissioners in this case.

Frank D. Kitzmiller agrees with expert Mr. Mierzwa’s position and believes now as he believed after the exceptions were filed, that the present City Water Tariff is very clear that the Customer charge portion of the water bill should be based on the “required size of the meter to render adequate service”. There are no alternate methods of computing the Residential

customer charge in the tariff. In addition, there is no mention of the use of the customer service line to calculate the customer charge. The customer service line, to my knowledge, was not mentioned in the 2,678 page initial filing of the rate case R-2021-3026682. All information and calculations provided by the City were based on the water meter size and not the customer service line size and no mention was made about the fact that there are no residential 1" size water meters in service in the City's water system. The City's substitution of a 1' size meter for a customer's ¾" size meter for determining the fixed customer charge is not allowable.

Mr. Hopkins states on Page 14 that the City does not require a 1" service line for customers in Manheim Township or any other municipality and that the 1" service line is required under the Manheim Township residential Building and Plumbing Code.

Frank D. Kitzmiller was required to have the 1" service line when he connected with the City Water System on 3/15/88 because that is what the City's specifications required pursuant to the Municipal Connectors Agreement between the City and Manheim Township effective 9/30/85. (For access to document: See List of Exhibits). Item 2 of this agreement stated that Manheim Township "will lay said water line in accordance with the plans and specifications of the City". One of the specifications was that a 1" Type K copper tubing shall be used from the water main to the proposed curb stop where it would be connected to the customer's service line at the time of the actual connection.

The Manheim Township provisions of the Residential Building and Plumbing Code were adopted on 6/14/04 in connection with its adoption of the 2003 Uniform Construction Code of PA which is administered by the PA Dept of Labor and Industry. This was adopted by Manheim Township Ordinance 2004-8 and amended 2 sections, section P2903.7 and section 603.1 to replace ¾" with 1". (For access to document: See List of Exhibits). Frank D. Kitzmiller was required to connect to the City water lines on 3/15/88 and use a 1" service line required by the City and not by Manheim Township as Manheim Township first required this on 6/14/04.

Mr. Hopkins states that the City does not require a 1' service line for customers in Manheim Township or any other municipality. However the City similarly adopted the PA Construction Code in 2004 and appears to have continuously adopted to the present date with the same 2 amendments mentioned above for Manheim Township. Such provisions are included in the City's Construction Code, Uniform, Chapter 116 specifically at sections 116-4.2 and 116-4.7. (For access to documents: See

List of Exhibits). It appears that this applies only to the City, but possibly it applies to all customers of the City's water system. This possibility was noted when discovery interrogatory requesting the location of customers having a ¾ " water meter with a 1" service line indicated that City "outside of city" water customers in addition to Manheim Township customers also appear to be overbilled. The largest group was in Manor Township (242 customers) followed by East Lampeter Township (177) with smaller amounts for East Hempfield, Lancaster Twp, Millersville and West Lampeter. This information was provided for approximately only 4,608 customers and not for the estimated 5,971 customers considered to be overbilled. Some of these municipalities may not have any amendments to their Building codes requiring customers to have 1" service lines.

At the top of page 15 of Mr. Hopkins testimony, he indicates that it is the size of the water line that dictates the charges when rates are designed. This comment differs from the City's PUC approved tariff which states the charges are "dictated" by the required size of the water meter to render adequate service. The customers having the 1" service lines should not be charged more than other customers with ¾ " meters just because the City chose and required the customers to have 1' service lines rather than the normal ¾ " service lines. This overcharge is in addition to the need to acquire pressure reducing valves to protect their appliances in the home, mainly the water heater which cannot tolerate water pressure levels above 80 psi. Frank D. Kitzmiller thinks that the high water pressure situation is the result of being connected to the main that carries water to the City's second largest customer which is the West Earl Water Authority located about 1.5 miles north of the most northern Manheim Township customers and requires the City to maintain sufficient water pressure to satisfy the needs of this customer

Also, at the top of page 15, Mr. Hopkins attempts to explain how the overbilling of customers required to have a 1" service line originated and why it has to continue either as an undisclosed adjustment to the water tariff (which is the present situation) or as a disclosed adjustment which still may not be understandable to the affected customers (see top of page 16.). The City should just accept the fact that it has overbilled such customers and begin charging customers based on the tariff provisions.

The absurd alternative solution suggested by Mr. Hopkins for the City to simply install a 1" size water meter to those customers having a 1" service line would make the excess water pressure situation worse for most

customers. The simpler solution would be for the City to replace the 1” service line with a ¾” service line which should provide such customers with the adequate service and qualify for the ¾” water meter rate on the PUC approved tariff.

When the City realizes that it has been overbilling the affected customers described above, it can notify the affected customers of their rights to obtain refunds of their overpayments based on the provisions of the statute of limitations and Pa Statutes Title 66 Pa. C.S.A. Public Utilities Section 1303 (Adherence to Tariffs), 1304 (Discrimination of Rates), 1308 (Voluntary Changes in Rates) and 1312 (Refunds).

Respectfully submitted,

/s/ Frank D. Kitzmiller

January 20, 2022

Frank D. Kitzmiller, Complainant, Pro Se

1041 Preston Rd Lancaster, PA 17601

717-569-0132 / [dkitz@comcast.net](mailto:dkitz@comcast.net)

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2021-3026682
	:	
City of Lancaster - Water Department	:	

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email upon the following persons, in accordance with the requirements of 52 Pa Code P 1.54 (relating to service by a participant).



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Dated: April 1, 2022

VERIFICATION

I, Frank D. Kitzmiller, Complainant in the Case Docket No. R-2021-3026682, Public Utility Commission v. City of Lancaster (Water), hereby state that the facts set forth in the foregoing filing of surrebuttal testimony of Frank D. Kitzmiller, Complainant, dated January 20, 2022 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. Section 4904 (relating to unsworn falsification to authorities).

Date: January 20, 2022

Frank D. Kitzmiller, Complainant, Pro se

/s/ Frank D. Kitzmiller

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