

To complete this form, please type or print legibly in ink.

Application Docket Number: A- ~~2002-3031711~~ ~~A-2002-3031712~~

Protestant Information

Provide your name, mailing address, county, and telephone numbers.

Name JAMES S. TOLBERT, JR

Street/P.O. Box 21986 RUSSET DR. Apt # _____

City MEADVILLE State PA Zip 16330

County CRAWFORD

Telephone Number(s) Where We Can Contact You During the Day:

(814) 337-2315 (home) (____) _____ (mobile)

E-mail Address (optional):

jtolbert@zoominternet.net

52 Pa. Code Section 5.52 (a)(1)(2)(3)(c) sets forth the content that must be included in the Protest.

(a)(1) What is your alleged right or interest in filing this Protest?

HOMEOWNER AT 12573 COMSTOCK ST, CONNEAUT LAKE
PA

(a)(2) State your grounds for filing this Protest.

proposed transfer not in public's best interest
or interest of the local homeowners served
by current water system see attached

(a)(3) Set forth facts that you – as the Protestant – have standing to file a Protest. (This means that you must state facts showing that you are affected by this Application).

HOMEOWNER SERVED BY CURRENT WATER
SYSTEM

(c) You must file your Protest by the deadline stated in the publication of the Application; file your Protest timely with the Secretary of the Commission; serve (mail by first class) a copy of your Protest (at the time you file it) to the Applicant or Counsel for the Applicant.

Legal Representation (52 Pa. Code Section 1.21)

If you are filing a protest to an Application as an individual, you are not required to have a lawyer. You may represent yourself during the proceedings. However, all others are required to be represented by a lawyer during the proceedings.

If you are represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and email address, if known.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

Email Address (if known) _____

Verification: (52 Pa. Code Section 1.36(b))

I swear that the facts I am presenting in this Protest are true and correct to the best of my knowledge, information, and belief. I understand that the statements I am making in this Protest are made subject to the penalties of 18 Pa.C.S. Section 4904 (relating to unsworn falsification to authorities).


(Original Signature)

4/29/22
(Date)

Certificate of Service: (52 Pa. Code Section 1.58)

I certify that I have this day served a true copy of my Protest on the following: (list names and addresses of those served by first class mail)

MR MARK SHAW
MCDONALD ELLIOTT Attorneys 100 State St #700 Erie, PA 16507

Date: This day 29 of April, 2022



(Original Signature of Protestor)

HOW TO FILE

To file your Protest with the PUC, mail the completed form (along with any attachments) to the addresses listed below:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Commonwealth Keystone Building
Harrisburg, Pennsylvania 17120

We recommend using overnight delivery service to ensure timely filing.

You may also eFile your Protest by going to the Commission's website at www.puc.pa.gov and visiting our eFiling page. You must open an eFiling account (free of charge) and follow instructions.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of this filing for your records.

To Whom it May Concern

My name is James Tolbert Jr. and I own a cottage at 12573 Comstock St, Conneaut Lake PA, in a subdivision of Conneaut Lake Park, served by water system A-210096. I am writing today to file in formal protest regarding A-2022-3031711/A-2022-3031712.

My family built this cottage in 1954 and has been served ever since by Conneaut Lake Park water or one of its subsequent owners. We were cautiously optimistic when we first received the letter (1727196, attached) in the fall of 2021, which detailed the proposed transfer of the existing water system *“to a private water company that currently is a PUC approved owner/operator of numerous private waters systems throughout the Commonwealth, holding a Certificate of Public Convenience for those systems”*. Those hopes were dashed however when we learned that Aqua declined said purchase on the basis that one of Mr. Todd Joseph’s conditions of sale was that he and his different operating companies be provided water free of charge. This contemptible demand for free water as a condition of sale is only one of my several objections to the proposed transfer.

From 1954 until sometime in the mid-1990s, our community had a stable water system. People paid their bills and the park operated and maintained the water system. Unfortunately, things changed as a result of the many bankruptcies and failed trustee agreements. One thing that remained constant, however, was that every new group of owners/trustees has attempted to subsidize the water to the commercial interests in the park proper, with the residents outside footing the bill. There were at least two formal hearings, C-20029158 and C-20026976, that ruled the commercial interests in the park shall pay their bills (no free water) in addition to the residents, and the tariffs were set as such.

In 2021, after Mr. Joseph bought the park, our water system became even more of a hit or miss affair. There have been numerous leaks (many more than the five that Mr. Joseph acknowledges), some leaking for weeks at a time, as well as multiple outages. These comprise only some of the more severe problems. As an example of one such outage, the contractors hired by Mr. Joseph to fix some of the leaks were not aware of the shut-off valves in the main line used to isolate different areas of the park. As they began repairs on a leak at the south end of

the park, the entire system was taken down without notice, leaving most of us in the north end without water for hours at a time. The water treatment plant is not designed to be stopped and started at will – the quality and safety of our water is at risk when that occurs. This should be a function of the water plant operator, not a general contractor, and may also violate the conditions of the DEP operating permit.

This raises the question of who's responsible to repair the individual customer service lines. A few residents endured leaks for several weeks because Mr. Joseph refused to fix the leaks on said service line, even though they occurred on the water company side of the shut off valve. It is understood that if a leak occurs on a resident's side of the shut-off valve, it is their responsibility to fix it. However, due to the width of the right of way on many of the streets, there may be 20 feet or more of service line between the main line and their valve; the residents cannot and should not be responsible for leaks in these areas. Going forward, it is crucial that the community within and around the park property have a reliable operator of the water system who will maintain the main and service lines in a safe and timely manner.

Regarding item #71, it should come as no surprise that the transfer isn't even approved yet and Mr. Joseph is already asking for a rate increase. He attempts to justify this as a result of operating costs, though it is clear that he is simply shifting expenses from one entity to another. It's laughable to believe that between March and December 2021, Mr. Joseph has incurred costs totaling \$103,500 for water company personnel (Exhibit B-12); if one were to look at Exhibit A-3, they would see the water company actually generated \$10,827 in profit the previous year.

Another point of concern regards our recent water bills. These have been sent from, and payable to, the Conneaut Lake Park Water Corporation. While Mr. Joseph contends it's a new, wholly owned subsidiary of his parent company, Keldon Holdings, a quick review of the PA Dept of State website (attached) finds that the Conneaut Lake Park Water Corporation has been in existence since 2008, with Mr. Jack Moyers as President. Mr. Moyers was a previous trustee and long since removed by the State Attorney General office. As such, it is puzzling to see his name still attached to the entity currently overseeing the water

system. Before any approval is given, I believe it imperative that due diligence is performed to ensure this is not just another one of Mr. Joseph's shell corporations.

Of further concern are fair market practices. Mr. Joseph is a developer and appears intent on building several multi-tenant dwellings on former park property. He has already denied another developer connection to the water system even though it was previously approved by the Trustees and the Summit Township board of supervisors. How long before long needed maintenance of existing water lines takes a backseat to developing new lines for his new construction? Who will foot that bill? Will that be rolled into operating costs, to further justify a rate increase for existing residents?

When one person (though technically different entities), is both the provider and the consumer of a service, it should raise the concerns of all related parties and be subject to increased scrutiny. Bearing that in mind, these items – the objectionable request for free water, the untimely maintenance of the water lines, the manipulative accounting practices, the questionable status of the CLP Water Corp, and the potentially unfair market practices – are particularly alarming. In summary, I am opposed to the proposed transfer and to the abandonment by the current Trustees. To the contrary, I believe it would be in the best interests of all concerned if the Trustees would continue to operate and manage the water system. The majority of Trustees are also board members of the Economic Progress Alliance of Crawford County. The EPACC is the official economic development agency for Crawford County and has all the resources needed to handle billing and managerial oversight. They also have the staff and expertise to pursue grant writing to upgrade the aging infrastructure. They have the accounting professionals on hand to ensure proper billing between the various entities and GAAP are followed. For all of the reasons outlined above, it is my firm belief that it would be in the public's best interest, as well as the interest of the 100+ homes served by the water system, to deny the proposed transfer.

Thank you for your time and consideration in this matter,

James S Tolbert Jr

**MACDONALD
ILLIG ATTORNEYS**

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MARK J. SHAW, ESQ.
ADMITTED IN PA AND OH
DIRECT DIAL 814-870-7607
E-MAIL MSHAW@MIJB.COM

November 1, 2021

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: 10/6/21 PUC Letter
A-210096

Dear Secretary Chiavetta:

I am submitting this letter in response to the letter dated October 6, 2021 from Paul T. Diskin, Director of the Bureau of Technical Utility Services ("Bureau") of the Pennsylvania Public Utility Commission ("PUC") directed to the Trustees Of Conneaut Lake Park, Inc. ("Trustees") and the Conneaut Lake Park Water Corporation, Inc. ("Water Corporation"). I am responding on behalf both the Trustees and the Water Corporation. I was advised by the Bureau to submit this letter to your attention.

As the PUC is aware, we have a unique situation here as the water assets were transferred as part of a bankruptcy case involving not only the water assets of Conneaut Lake Park, but many other assets of the Park. It is my understanding that the PUC was notified of the pending transfer in the Bankruptcy Court of the assets of the Park, including the water system, but did not appear in the Bankruptcy proceeding to object to the transfer or raise an issue regarding needing PUC approval for any transfer. Consequently, the Bankruptcy Court approved the transfer, the assets were transferred and the funds received have been distributed to the secured creditors.

Shortly after receiving the letter, I spoke to Paul Zander of the Bureau as directed by the October 6, 2021 letter. I advised Mr. Zander that the Trustees and the Water Corporation were working together to explore transferring the assets of the Park's water system to a private water company that currently is a PUC approved owner/operator of numerous private waters systems throughout the Commonwealth, holding a Certificate of Public Convenience for those systems. Those discussions at that time were just beginning. Mr. Zander explained that the process to approve the transfer and issue a new Certificate can take anywhere from 6-9 months or more

November 1, 2021

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depending on how complicated it may be. Given the timing and the possible transfer to a third party, I suggested that the parties maybe hold off on submitting an application for the Water Corporation, but instead focus on the possible transfer to a third party and then submit only one application for the third party. Based on our conversation, it was my understanding that so long as the parties were heading down that path of transferring to a third party, the parties could hold off on submitting the necessary applications for the Water Corporation to obtain a Certificate of Public Convenience, presuming that the parties committed to continuing to operate the system during that time frame. I indicated that I would submit the parties intentions in writing.

Subsequent to my conversation with Mr. Zander, the parties also began discussion with a local joint authority, which may be interested in taking over the water system. We currently are trying to engage the authority in those discussions. Meanwhile, we have been providing information to the private water company as well.

As a result of that development, I spoke to Mr. Zander again to give him an update on where things stood. He advised that I should send this letter to you advising of the actions the parties have taken and are proposing to take to resolve the issues raised in the October 6, 2021 letter.

Based on the current circumstances, the Trustees and the Water Corporation would like to hold off on submitting the applications requested by the October 6, 2021 letter and instead continue to pursue the option transferring the Conneaut Lake Park water system to a third party, whether it be an experienced private water company or a joint municipal authority. The parties would like an extension of six months while the negotiations proceed. Meanwhile, the parties intend to enter into a Management Agreement between them that is intended to ensure that the parties are complying with PUC rules and regulations. The parties currently are working on a draft of that Agreement. The basic parameters of the agreement ensure that the operation of the water system will continue and be provided by the Water Corporation while the Trustees will handle the billing matters.

Lastly, we propose to submit reports on a 45 day basis to keep the PUC apprised of the status of the negotiations.

Please confirm that the steps proposed by the Trustees and the Water Corporation will satisfy the direction given by Director Diskin in his letter dated October 6, 2021.

November 1, 2021

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Thank you for your consideration. Please let me know if you have any questions or concerns.

Very truly yours,

MacDONALD, ILLIG, JONES & BRITTON LLP

By


Mark J. Shaw

MJS/ssk/1722478

cc: Paul Zander (via email)
Michael Swindler, Esquire (via email)
Office of Consumer Advocate (via U.S. Mail)
Office of Small Business Advocate (via U.S. Mail)
Department of Environmental Protection, Central Office (via U.S. Mail)
Department of Environmental Protection, Northwest Regional Office (via U.S. Mail)
Bureau of Investigation and Enforcement (via U.S. Mail)
Bureau of Technical Utility Services (via U.S. Mail)
Trustees of Conneaut Lake Park, Inc. (via email)
Keldron Holdings, LLC (via email)
Conneaut Lake Park Water Corporation, Inc. (via email)

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Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

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Date: 04/25/2022

Business Name History

Name	Name Type
Conneaut Lake Park Water Corporation, Inc.	Current Name

Business Entity Details Officers

Name	Conneaut Lake Park Water Corporation, Inc.
Entity Number	3825047
Entity Type	Business Corporation
Status	Active
Citizenship	Domestic
Entity Creation Date	07/24/2008
Effective Date	07/24/2008
State Of Inc	PA
Address	12382 Center Street Conneaut Lake PA 16316 Crawford

Name	JACK MOYERS
Title	PRESIDENT
Address	12382 CENTER STREET CONNEAUT LAKE PA 16316-20

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