

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

ANSWER OF COMPLAINANT CONYNGHAM TOWNSHIP
IN OPPOSITION TO THE MOTION TO ESTABLISH
A REESTABLISHED LITIGATION SCHEDULE
OF THE SANITARY SEWER AUTHORITY OF
THE BOROUGH OF SHICKSHINNY

COMPLAINANT CONYNGHAM TOWNSHIP, by and through its attorneys, DeLUCA LAW OFFICES, Vito J. DeLuca, Esquire, as and for the foregoing ANSWER OF COMPLAINANT CONYNGHAM TOWNSHIP IN OPPOSITION TO THE MOTION TO ESTABLISH A REESTABLISHED LITIGATION SCHEDULE OF THE SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY, answers as follows:

I. BACKGROUND

On or about July 1, 2022, the parties received an Order from presiding officer, Administrative Law Judge (“ALJ”) Conrad A. Johnson, directing the parties to confer and agree upon a reestablished litigation schedule that provides for a prehearing conference date, the submission of additional written testimony, and an evidentiary hearing date.

Pursuant to said Order, SSABS proposed the following reestablished litigation

schedule to the parties:

- 15 days for amendments to the pleadings
- 30 days for written testimony and/or rebuttal to previously submitted testimony
- 45 days for rebuttal to written testimony submitted by the Authority or rebuttal to additional written testimony submitted by any party
- 60 days for amended stipulations of facts
- 75 days 4th prehearing conference

Although no evidentiary hearing date was proposed, as required by the Order, the proposal submitted by SSABS suggests a complete re-do of litigation that Complainant and I&E have already diligently and timely completed. The extent of SSABS's participation in litigation pursuant to the original litigation schedule was an agreement to the filed Stipulation of Facts. No written testimony was presented by SSASB and no rebuttal was submitted to the testimony submitted by I&E or Complainant.

Complainant is in agreement with the schedule proposed by I&E.

II. Answer

A. Procedural History

1. Denied. The record speaks for itself.
2. Denied. The record speaks for itself.
3. Denied. The record speaks for itself.
4. Denied. The record speaks for itself.
5. Denied. The record speaks for itself.
6. Admitted in part, denied in part. It is admitted that mediation was ordered and it was

unsuccessful. It is denied that no mediation took place.

7. Denied. The record speaks for itself.

8. Denied. The record speaks for itself.

9. Denied. The record speaks for itself.

10. Denied. The record speaks for itself. No response required.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted. It is admitted upon information and belief that SSABS ‘wishes to allocate a time period to submit written testimony as indicated in the July 1, 2022 Order.’ By way of further answer, SSABS had an opportunity to present written testimony and rebuttal testimony pursuant to the Court’s original scheduling order but chose not to do so.

15. Admitted. It is admitted upon information and belief that SSABS ‘wishes to amend its answer to the complaint and amend the parties’ stipulations, based on the written testimony and any rebuttal testimony.’ By way of further answer, SSABS had an opportunity to amend pleadings and request amendment to the stipulation of fact as agreed to by the parties but chose not to do so.

16. Admitted.

III. Legal Standard

17. Denied as a conclusion of law to which no response is required. By way of further answer, SSABS has failed to show any grounds that could even arguably be considered ‘reasonable’ for its failure to act.

18. Denied as a conclusion of law to which no response is required.

19. Denied as a conclusion of law to which no response is required. By way of further answer,

SSABS chose not to submit evidence pursuant to the schedule set forth in the Fourth Interim Order.

IV. SSABS's Proposed Reestablished Litigation Schedule

20. Denied.

21. Denied. By way of further answer, SSABS

22. Admitted.

23. Admitted upon information and belief. By way of further answer, SSABS had ample opportunity as provided by the rules to amend pleadings and submit written testimony and rebuttal.

24. Admitted in part and denied in part. It is admitted that SSABS inexplicably seeks to amend pleadings over eighteen (18) months after commencement of this action. It is denied that the SSABS's request is reasonable.

25. Admitted in part and denied in part. It is admitted that SSABS also inexplicably seeks to amend the stipulation of facts filed by the parties. It is denied that the SSABS's request is reasonable.

26. Denied. In addition to the fact that SSABS is holding fees illegally collected from Complainant and other Township ratepayers, without Commission regulation SSABS may resume billing Township customers at any time.

27. Admitted in part, denied in part. It is admitted that Conyngham Township has not paid for sewage processing services since the third quarter of 2021. By way of further answer, SSABS has not billed the township since that time.

28. Admitted based upon information and belief.

29. Denied. By way of further answer, Complainant has not communicated to SSABS that it will not pay for services. In fact, Complainant did pay to SSABS all amounts illegally billed by SSABS to Complainant for service to the Township's municipal building. SSABS is illegally

retaining said amounts. It is believed and therefore averred that SSABS is also retaining amounts illegally billed to other Township ratepayers. SSABS chose to cease billing when I&E intervened in this action and Counsel for Complainant had again advised counsel for SSABS that its conduct in continuing to bill for services without having secured a Certificate of Public Convenience would be offered by Complainant as additional evidence to support a request for increased fines against SSABS.

30. Denied. In addition to the fact that SSABS is holding fees illegally collected from Complainant and other Township ratepayers, without Commission regulation SSABS may resume billing Township customers at any time.

31. Denied. Complainant is without information specific to form a belief as to the veracity of the averment.

32. Denied. By way of further answer, although the activity complained of has ceased since 2021, Respondent, at any time, can again bill Township residents in violation of the PUC Code and Township residents would have no recourse.

33. Denied. SSABS had an opportunity to participate in the litigation and offer evidence but chose not to do so.

34. Denied. The parties already had a right to provide rebuttal testimony to written testimony submitted by any other party. SSABS failed to submit any written testimony or rebuttal to the written testimony presented by Complainant and I&E.

35. Denied. In addition to the fact that SSABS is holding fees illegally collected from Complainant and other Township ratepayers, without Commission regulation SSABS may resume billing Township customers at any time.

36. Denied. It is specifically denied that the Court's Seventh Interim Order contemplates what

would amount to a re-litigation of the entire case which was commenced over eighteen (18) months ago with a final evidentiary hearing that had been rescheduled multiple times at the request of SSABS.

WHEREFORE, CONYNGHAM TOWNSHIP respectfully requests that the Commission deny the proposed schedule submitted by SSABS and, instead, adopt the schedule proposed by I&E.



DATED: July 21, 2022

BY: _____

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

VERIFICATION

I, Vito J. DeLuca, Esquire, Solicitor for Conyngham Township, have read the foregoing document and know the contents thereof. The contents of the document are true and correct to the best of my knowledge, except as to those matters alleged on information and belief, and as to those matters, I believe them to be true.

I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.

CONYNGHAM TOWNSHIP

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

BY: _____
Vito J. DeLuca, Solicitor

Dated: 07/21/2022

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that this day I served a copy of the foregoing document 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
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Stephanie Wimer, Esq.
PO Box 3265
Harrisburg, PA 17105-3265
stwimer@pa.gov



DATED: July 21, 2022

BY: _____

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