**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Conyngham Township :

:

 v. :C-2021-3023624

 :

Sanitary Sewer Authority :

of the Borough of Shickshinny :

**TENTH INTERIM ORDER**

**OPENING THE RECORD FOR THE DOCKETING OF THE PARTIES’**

**ADMITTED WRITTEN TESTIMONIES AND EXHIBITS**

**Background**

On January 6, 2021, Complainant Conyngham Township (the Township or Complainant) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against Respondent Sanitary Sewer Authority of the Borough of Shickshinny (SSABS, or Sewer Authority). The Township alleged the Sewer Authority is operating in the Township without a Certificate of Public Convenience. For relief, the Township requested that the Commission order the Sewer Authority to immediately stop billing residents of Conyngham Township and return all monies collected until after a valid Certificate of Public Convenience is obtained.

The SSABS filed an Answer and New Matter on January 26, 2021. The SSABS maintained the allegation of the Complaint is a conclusion of law. The SSABS asserted it was not acquiring or beginning to operate any plant, equipment, or other facility, or doing any other activity which would trigger the need for a Certificate of Public Convenience. For relief, SSABS requested that the Complaint be dismissed.

 The Commission’s Bureau of Investigation and Enforcement (I&E) intervened in this matter on September 3, 2021, by filing a Notice of Intervention.

 On October 21, 2021, the Township filed a Certificate of Service with the

Commission’s Secretary’s Bureau stating that copies of its witnesses’ 1) written Direct Testimony of Ed Whitebread and accompanying exhibits (Township Statement (St.) No. 1) and 2) written Direct Testimony of Eric Kubasek (Township St. No. 2) had been served on the parties. The Township also provided me copies of the written testimonies and exhibits. On the same date, I&E filed a Certificate of Service with the Secretary stating a copy of its witness’ written Direct Testimony of Matthew T. Lamb. P.E. and accompanying exhibits had been served on the parties. I&E also provided me a copy of the written testimony and exhibits.

 On September 1, 2022, SSABS filed a Certificate of Service with the Secretary stating a copy of its witness, Barry Noss’ written Direct Testimony and accompanying exhibits (SSABS St. No. 1) had been served on the parties. SSABS also provided me a copy of the written testimony and exhibits.

 The evidentiary hearing convened in this proceeding on October 4, 2022. Respective counsel, Attorney Vito J. DeLuca for the Township, Attorney Sean W. Logsdon for the SSABS and Attorney Stephanie M. Wimer for I&E, were present for the hearing together with their witnesses.

 On behalf of the Township, Attorney DeLuca called two witnesses: Eric Kubasek, Chairperson of the Conyngham Township Sewer Authority, and Edward Whitebread, the head of the Board of Supervisors for the Township. The Township’s Witness Whitebread sponsored Township St. No. 1, which was admitted into the record. The Township’s Witness Kubasek sponsored Township St. No. 2 and the Township’s accompanying Exhibits 1 through 9, which were admitted into the record.

 On behalf of the SSABS, Attorney Logsdon called one witness, Barry Noss, Chairperson of the SSABS Board, who sponsored the Sewer Authority’s SSABS St. No.1 and the Sewer Authority’s accompanying Exhibits 1 through 6, which were admitted into the record.

 On behalf of I&E, Attorney Wimer called one witness, Matthew T. Lamb, a Fixed Utility Valuation Engineer with I&E. Witness Lamb sponsored I&E’s Statement Nos. 1, and 1-R, I&E’s Appendix A, and I&E’s Exhibit 1 through 22, which were admitted into the record.

 On October 26, 2022, the Township and I&E electronically submitted their respective, admitted documents to the court reporter.

 On October 26, 2022, the transcript of the evidentiary hearing was filed with the Commission’s Secretary’s Bureau, thereby resulting in a 342-page transcript for this matter.

On October 27, 2022, the Sewer Authority electronically submitted its admitted documents to the court reporter.

 On October 27, 2022, I&E electronically submitted the parties’ Joint Exhibits A and B, which had been admitted into the record, to the court reporter. On October 28, 2022, I&E electronically submitted the parties’ Joint Stipulation of Facts to the court reporter, which had been admitted into the record with the exception of Finding of Fact No. 12.

 On November 18, 2022, the Township, SSABS and I&E filed their respective Main Briefs.

On November 21, 2022, Michael L. Swindler, Deputy Chief Prosecutor, filed a Withdrawal and Entry of Appearance, thereby withdrawing the appearance of Attorney Wimer and entering his appearance on behalf of I&E.

On November 23, 2022, I issued a *Ninth Interim Order Closing the Record.*

 On February 1, 2023, I reviewed the docket in this proceeding and noted that the parties’ admitted documents had not been docketed. Consequently, the court reporter for the October 4, 2023, evidentiary hearing will be directed to submit the parties’ admitted documents to the Commission’s Secretary’s Bureau for docketing. Accordingly, the record will be reopened in the ordering paragraphs below for the docketing of the parties’ admitted documents.

**Order**

THEREFORE,

 IT IS ORDERED:

1. That the record at Docket No. C-2021-3023624 is hereby reopened for the submission of the parties’ admitted documents to the Commission’s Secretary’s Bureau by the court reporter for the October 4, 2022, evidentiary hearing in this proceeding.

 2. That the record at Docket No. C-2021-3023624 will be reclosed upon the docketing of the parties’ documents admitted into the record during the October 4, 2022, evidentiary hearing in this proceeding.



Dated: February 1, 2023

**C-2021-3023624 – CONYNGHAM TOWNSHIP V. SHICKSHINNY SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY**

VITO J DELUCA ESQUIREDELUCA LAW OFFICES26 PIERCE STREETKINGSTON PA 18704**570-288-8000**vjd@delucalawoffices.com
Accepts eService*Representing Conyngham Township*

SEAN W LOGSDON ESQUIRE
85 DRASHER ROADDRUMS PA 18222**570-788-6647**sean@karpowichlaw.com
Accepts eService*Representing Sanitary Sewer Authority of The Borough of Shickshinny*

SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY1 MAIN ROADSHICKSHINNY PA 18655shickauth@frontier.com

MICHAEL L SWINDLER ESQUIRE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

BUREAU OF INVESTIGATION & ENFORCEMENT

400 NORTH STREET

HARRISBURG PA 17120

**717-783-6369**

mswindler@pa.gov
Accepts eService

*Representing* *Bureau of Investigation & Enforcement*