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| Conyngham Township, v. Sanitary Sewer Authority of the Borough of Shickshinny, Evidentiary Hearing (s) | Docket No.: C-2021-3023624 |

Pages 153 - 342

Judge's Chambers
Piatt Place
301 5th Avenue
Pittsburgh, PA

Tuesday, October 4, 2022
Commencing at 10:03 a.m.

INDEX TO EXHIBITS

Docket No. C-2021-3023624
Hearing Date: October 4, 2022

INDEX TO EXHIBITS (cont.)

Docket No. C-2021-3023624
Hearing Date: October 4, 2022

INDEX TO EXHIBITS (cont.)

Docket No. C-2021-3023624
Hearing Date: October 4, 2022

## vjd@delucalawoffices.com_old

| | |
|---|---|
| **From:** | Vito J. DeLuca, Esq. <vjd@delucalawoffices.com> |
| **Sent:** | Wednesday, September 16, 2020 8:41 PM |
| **To:** | sean@karpowichlaw.com |
| **Subject:** | Cancellation of Sewage Treatment Agreementdated November 18, 1992 - CTSA/Shickshinny Sanitary Authority |

| **Tracking:** | **Recipient** | **Read** |
|---|---|---|
| | sean@karpowichlaw.com | |
| | Sean Logsdon | Read: 9/16/2020 8:51 PM |

| | |
|---|---|
| **TimeMattersID:** | MA2E2AC5369FE611 |
| **TM Contact:** | Conyngham Township Sewer Authority |
| **TM Matter No:** | 2005-0022 |
| **TM Matter Reference:** | CTSA - MEETINGS 2005 |

Attorney Logsdon:

My client forwarded to me a fax you sent directly to him on September 11, 2020 communicating your client's intention to cancel the Agreement that was executed by and between the parties dated November 18, 1992.

First, please consider this communication as the written demand of Conyngham Township and Conyngham Township Sewer Authority for dispute resolution pursuant to Section 7.07 of the agreement. Please contact me at your earliest convenience to discuss the appointment of an independent third person to review the matter.

Second, as I am sure you are aware, Conyngham Township's bills for the 4th quarter have already been mailed. I would caution restraint on the part of your client prior to sending out bills to Conyngham Township residents without adequate notice. Clearly your client would be billing for services already included in the Conyngham Township bill and could open itself up to litigation for double billing - among other possibilities.

Finally, I must say that it is clear to me that your client has not thought this through. I would suggest another, careful look at the matter before you recklessly cause hysteria among Conyhgnam Township residents during a pandemic merely to prove a point.

Vito J. DeLuca, Esquire
DeLuca Law
26 Pierce Street
Kingston, PA 18704
(570)288-8000
Fax:(570)288-0166

Exhibit 1

DONALD G. KARPOWICH ATTORNEY-AT-LAW, P.C.

85 Drasher Road
Drums, PA 18222

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

September 30, 2020

*Via Email [vjd@delucalawoffices.com] and First-Class Mail*
Vito J. DeLuca, Esquire
DeLuca Law Offices
26 Pierce Street
Kingston, PA 18704

RE: Shickshinny Sewer Authority -Termination of Agreement with Conyngham Township

Dear Atty DeLuca:

I am in receipt of your email correspondence dated September 16, 2020. Please allow this letter to serve as a response to the same. First, your demand for the dispute resolution pursuant to Section 7.07 of the November 18, 1992 Sewage Treatment Agreement is misplaced. My September 11, 2020 letter terminated the Agreement. Section 3.02 of the Agreement reveals that the Agreement was perpetual in duration, and based on the Commonwealth Court holding in *Wyeth Pharmaceuticals, Inc. v. Borough of West Chester*, 126 A.3d 1055 (Pa.Cmwlth. 2015), a contract that is perpetual in duration may be terminated by either party at will. The Shickshinny Sewer Authority has exercised that will pursuant to my September 11, 2020 notice. Notwithstanding the fact that the contract has been terminated, Section 7.07 also does not apply in this scenario as that section is not a blanket requirement for dispute resolution, it is only triggered when there is a dispute concerning a determination by the Authority's Consulting Engineers, which is not the case here.

Second, the Shickshinny Sewer Authority (SSABS) was not aware that the Conyngham Sewer Authority invoiced its customers for the final quarter of 2020 before my termination letter was sent. In an effort to avoid any confusion or inconvenience for the residents during the transition to direct billing, the SSABS will begin invoicing the customers in Conyngham Township beginning on January 1, 2021. The SSABS will invoice the Conyngham Sewer Authority directly for the upcoming quarter for wastewater treatment. This will be the final invoice sent to the Conyngham Sewer Authority, and in no way operates as a waiver of the September 11, 2020 Termination Notice. This arrangement should allow the Conyngham Sewer Authority adequate time to adjust its invoices so there will be no concerns regarding the residents being invoiced for the same service.

This should adequately convey the SSABS's position, provide additional notice to the Township concerning the termination of the Agreement, and relieve any concerns regarding the

Exhibit 2

residents being inaccurately billed for the final quart of 2020. If you have any additional questions or concerns, please do not hesitate to contact me. Thank you.

Sincerely,

Sean W. Logsdon, Esq.

SWL
Cc: Shickshinny Sewer authority

## vjd@delucalawoffices.com_old

| | |
|---|---|
| **From:** | Vito J. DeLuca, Esq. <vjd@delucalawoffices.com> |
| **Sent:** | Thursday, December 10, 2020 6:23 PM |
| **To:** | sean@karpowichlaw.com |
| **Subject:** | Shickshinny Sanitary Authority |

| **Tracking:** | **Recipient** | **Read** |
|---|---|---|
| | sean@karpowichlaw.com | |
| | Sean Logsdon | Read: 12/10/2020 6:32 PM |

| | |
|---|---|
| **TimeMattersID:** | M2D18ACA95ECA219 |
| **TM Contact:** | Conyngham Township |
| **TM Matter No:** | 2020-0133 |
| **TM Matter Reference:** | Conyngham Township v. Shickshinny Sanitary Authority |

Attorney Logsdon:

I am writing to you regarding your client's apparent continued intention to increase the sewage treatment rates of Conyngham Township residents to an amount greater than or equal to that of customers of SSA who receive both treatment and conveyance services. Please be advised that immediately upon receipt of bills that confirm this non-uniform fee structure, I am authorized to sue SSA. I know you are aware that neither of our clients can afford litigation. In the end, it is the ratepayers who will be on the hook for legal fees and litigation costs.

That being said, the law is clear on the legal standards to be followed relating to establishment of rates by a municipal authority. I am curious as to how your client feels it will be able to justify non-uniform billing in light of Pennsylvania law. If you have information to support the uniformity and reasonableness of the SSA proposed rate structure, perhaps we can save our clients litigation costs if you would advise me of same before my final recommendation to my client as to whether to move forward with the declaratory action.

Vito J. DeLuca, Esq.
DeLuca Law
26 Pierce Street
Kingston, PA 18704
Office: (570)288-8000
Fax: (570)288-0166

Exhibit 3

## vjd@delucalawoffices.com_old

**From:** Vito J. DeLuca, Esq. <vjd@delucalawoffices.com>
**Sent:** Monday, December 14, 2020 10:06 AM
**To:** 'Sean Logsdon'
**Subject:** RE: Shickshinny Sanitary Authority

**TimeMattersID:** M745CACACBB42136
**TM Contact:** Conyngham Township
**TM Matter No:** 2020-0133
**TM Matter Reference:** Conyngham Township v. Shickshinny Sanitary Authority

Ok. When is you executive session?
Also, did the bills go out yet? If they did, and Conyngham Township bills are greater than or equal to what is billed to Shickshinny Borough residents, I was directed to file as soon as it is confirmed. That is not to say a resolution cannot be worked out after it is filed, but it certainly would be better if it is resolved prior to that.
Although the reasonableness of the fee can be argued regardless of whether SSA fixes the fee structure, I do not see how SSA proves uniformity of its rates. I have had to defend rates on uniformity a number of times, including with Luzerne County's Flood Protection Authority and I am not aware of any argument SSA would have to support not charging Shickshinny residents the same amount as Conyngham Township for treatment and an additional amount to Shickshinny residents for conveyance.
Also, is the meeting still on for tomorrow night as an in-person meeting?
Thank you.
Vito

---

**From:** Sean Logsdon
**Sent:** Sunday, December 13, 2020 9:46 AM
**To:** vjd@delucalawoffices.com
**Subject:** RE: Shickshinny Sanitary Authority

Vito,
I appreciate your correspondence, I am having an executive session with the Board and I will convey this information to them. I agree that litigation is the last thing anyone needs especially during these times. And litigation is not something my Board wants. I will prepare a response to your email after I meet with them explaining the Board's position so you may advise your Board accordingly. Thank you.
Sean

Sean W. Logsdon, Esquire
Donald G. Karpowich, Attorney-at-Law, P.C.
85 Drasher Road
Drums, PA 18222
Direct Dial (570) 708-3127
Main Office (570) 788-6647
Fax (570) 788-0654
sean@karpowichlaw.com
www.karpowichlaw.com

Confidentiality Notice: Exhibit 4

recipient, you must not read, use, copy or distribute this message. If you received this transmission in error, please notify the sender by telephone (570.788.6647) or by reply e-mail and delete this message.

IRS Circular 230 requires that we inform you that if this communication (including any attachments) contains tax advice, it is not intended or written to be used, and cannot be used, for purposes of avoiding penalties under the Internal Revenue Code, or promoting marketing or recommending to another party any transaction or matter addressed herein.

---

**From:** Vito J. DeLuca, Esq. <vjd@delucalawoffices.com>
**Sent:** Thursday, December 10, 2020 6:23 PM
**To:** Sean Logsdon <sean@karpowichlaw.com>
**Subject:** Shickshinny Sanitary Authority

Attorney Logsdon:

I am writing to you regarding your client's apparent continued intention to increase the sewage treatment rates of Conyngham Township residents to an amount greater than or equal to that of customers of SSA who receive both treatment and conveyance services. Please be advised that immediately upon receipt of bills that confirm this non-uniform fee structure, I am authorized to sue SSA. I know you are aware that neither of our clients can afford litigation. In the end, it is the ratepayers who will be on the hook for legal fees and litigation costs.

That being said, the law is clear on the legal standards to be followed relating to establishment of rates by a municipal authority. I am curious as to how your client feels it will be able to justify non-uniform billing in light of Pennsylvania law. If you have information to support the uniformity and reasonableness of the SSA proposed rate structure, perhaps we can save our clients litigation costs if you would advise me of same before my final recommendation to my client as to whether to move forward with the declaratory action.

Vito J. DeLuca, Esq.
DeLuca Law
26 Pierce Street
Kingston, PA 18704
Office: (570)288-8000
Fax: (570)288-0166

## vjd@delucalawoffices.com_old

**From:** vjd@delucalawoffices.com
**Sent:** Monday, December 28, 2020 4:50 PM
**To:** 'Sean Logsdon'
**Subject:** RE: Conyngham Township Sewer Authority/Shickshinny Sanitary Authority

Ok.
You can call my cell at (570)574-2180.

---

**From:** Sean Logsdon <sean@karpowichlaw.com>
**Sent:** Monday, December 28, 2020 2:37 PM
**To:** vjd@delucalawoffices.com
**Subject:** RE: Conyngham Township Sewer Authority/Shickshinny Sanitary Authority

Vito
Please see the attached. The earliest I could set up a call with the Board was Wednesday early afternoon. I can contact you right afterwards. Thanks
Sean

Sean W. Logsdon, Esquire
Donald G. Karpowich, Attorney-at-Law, P.C.
85 Drasher Road
Drums, PA 18222
Direct Dial (570) 708-3127
Main Office (570) 788-6647
Fax (570) 788-0654
sean@karpowichlaw.com
www.karpowichlaw.com



---

**From:** Vito J. DeLuca, Esq. <vjd@delucalawoffices.com>
**Sent:** Monday, December 28, 2020 9:11 AM
**To:** Sean Logsdon <sean@karpowichlaw.com>
**Subject:** Conyngham Township Sewer Authority/Shickshinny Sanitary Authority

Please see attached.
Thank you.

Exhibit 5

*Vito J. DeLuca**

*Stephen J. Bachman*

**DeLUCA**

*Law Offices*

Attorneys at Law

26 Pierce Street
Kingston, Pennsylvania 18704
Office: (570) 288-8000
Fax: (570) 288-0166

December 28, 2020

Sean Logsdon, Esq.
Solicitor
Shickshinny Sanitary Authority

Dear Attorney Logsdon:

I am writing to you as Solicitor to the Shickshinny Sanitary Authority ("SSA") in my capacity as Solicitor to both Conyngham Township and the Conyngham Township Sewer Authority, and as legal counsel to several individual customers of Conyngham Township Sewer Authority.

Despite my attempts to resolve the arbitrary and capricious actions of your client in unilaterally terminating the sewage treatment agreement that existed between Conyngham Township and Shickshinny Sanitary Authority, your client has failed to remedy the matter. Instead, I understand it is the intention of SSA to immediately begin billing Conyngham Township customers directly for sewage treatment with a 67% rate increase.

Be advised that since Shickshinny Sanitary Authority terminated the agreement between the parties, it is no longer authorized to operate in the corporate limits of Conyngham Township without Pennsylvania Public Utility Commission ("PUC") approval. See 66 Pa.C.S. §1501, et. seq. Consequently, if your client bills Conyngham Township customers directly without PUC approval, we will pursue all remedies available to us through the PUC including sanctions against Shickshinny Sanitary Authority for its failure to comply with Pennsylvania law and PUC regulations.

In addition, Shickshinny Sanitary Authority's intended action of knowingly operating in Conyngham Township and billing Conyngham Township residents without required PUC approval would warrant a private action against SSA as a clear and serious violation of Pennsylvania's Unfair Trade Practices and Consumer Protection Law ("UTPCPL"), 73 Pa. Stat. Ann. § 201-2(4)(xxi). See 73 P.S. § 201-9.2. A successful action pursuant to UTPCPL authorizes recovery of "actual damages or one hundred dollars ($

Website: www.delucalawoffices.com
E-mail: vjd@delucalawoffices.com
* Licensed in Pennsylvania and New York

100), whichever is greater." The statute also authorizes the Court to award treble damages and costs and reasonable attorney fees. Id.

Adding insult to the injury of a such a large increase to Conyngham Township customers during a pandemic, SSA has inexplicably decided to charge Conyngham Township customers a higher rate for treatment than it charges its own residents for both treatment and conveyance. So, in effect, SSA plans to force Conyngham Township to pay for conveyance of Shickshinny sewage to the treatment plant. This is unacceptable. Thankfully, this is just this sort of conduct that is prohibited and strictly regulated by the PUC.

As we are billing our customers for the first quarter 2021 this week, you must contact me by the end of the day today if your client wishes to discuss temporary continuation of the former agreement between the parties while your client begins the process of securing Pennsylvania Public Utility Commission approval. Please know that despite SSA's refusal in the past to permit residents of Conyngham Township to be heard in any meaningful way relative to the actions of SSA, we will be participating in the regulatory process as permitted by law.

Sincerely,

Vito J. DeLuca, Esq.

VJD/jld

## vjd@delucalawoffices.com_old

| | |
|---|---|
| **From:** | vjd@delucalawoffices.com |
| **Sent:** | Wednesday, January 6, 2021 12:40 PM |
| **To:** | 'Sean Logsdon' |
| **Subject:** | PUC Filing |
| **Attachments:** | PUC - Formal Complaint v SSA.pdf |

| **Tracking:** | **Recipient** | **Read** |
|---|---|---|
| | 'Sean Logsdon' | |
| | Sean Logsdon | Read: 1/6/2021 12:41 PM |

Sean:
Attached please find a copy of the Formal Complaint filed with the PUC related to your client operating within the corporate limits of Conyngham Township without a Certificate of Public Convenience.
It has come to my attention that your client has billed a number of Conyngham Township businesses for multiple EDUs without providing any notice to those businesses. You should know that this conduct, during a pandemic, will be used as additional evidence to justify SSA's flagrant violations of Pennsylvania's Public Utility law and the Pennsylvania Consumer Protection Act.
Also, I requested pursuant to the Right to Know Law and was provided with what SSA purports to be its Rates, Rules, and Regulations. First, I noted that SSA appears to have approved an incomplete document in that it contains references to information that does not exist. More important to my residents, it seems apparent that SSA has not billed Conyngham Township residents in conformity with its own rules.
Please provide me with a copy of the current Rates, Rules, and Regulations of the Sanitary Sewer Authority of the Borough of Shickshinny with all attachments and amendments thereto and all resolutions enacting, amending, and/or modifying said Rates, Rules, and Regulations. If you will not provide me with the information let me know and I will file another request under the Right to Know Law.
Thank you.
Vito

Exhibit 6

## vjd@delucalawoffices.com_old

**From:** vjd@delucalawoffices.com
**Sent:** Wednesday, September 29, 2021 4:46 PM
**To:** 'Sean Logsdon'
**Cc:** 'df5fef928+matter1327781119@maildrop.clio.com'
**Subject:** RE: Conyngham Township v. Sanitary Sewer Authority of the Borough of Shickshinny

Sean
First, I will say that I do appreciate your client's renewed interest in resolving this.
That being said, without a certificate of public convenience or a bulk services agreement, Shickshinny Authority has no legal right to bill any customers in Conyngham Township. That would include Conyngham Township and the Conyngham Township Sewer Authority. If either of those entities or any other Conyngham Township customer for that matter receives so much as a gum wrapper from your client purporting to be a bill, I will immediately forward it to the PUC Attorney and suggest she use it to further support an award for damages against SSA, including fines.
Your Board should be advised that they have zero chance at winning the pending case. Zero. They should know that their continued attempt at operating in the limits of Conyngham Township without the agreement or the certificate is exposing them to potential damages including fines. I suggest that the actions of SSA to date already support imposition of fines for your client's reckless disregard for Pennsylvania law and PUC regulations - despite being warned in advance.
Finally, you should know that our previous offer of $14,000 per quarter flat rate is revoked. However, in the interest of resolving the matter we would offer $60/EDU on a bulk services agreement with Conyngham Township. Of course, Shickshinny residents would be responsible for paying a rate of $60/EDU plus a treatment premium commensurate with the cost of conveyance. Let me know if that is acceptable. If so, we can discuss the rates for additional years and then request approval from Attorney Wimer since she represents the collective interest of all Conyngham Township residents.
To be honest, I see no benefit in getting our two Boards in the same space, whether in-person or virtual. Whatever genius from your Board recommended that your last counteroffer be a rate that was 20% higher than what you have already illegally billed our residents could take credit for our position on "negotiations" with your group.
Thank you.
Vito

---

**From:** Sean Logsdon <sean@karpowichlaw.com>
**Sent:** Wednesday, September 29, 2021 4:02 PM
**To:** vjd@delucalawoffices.com
**Subject:** Conyngham Township v. Sanitary Sewer Authority of the Borough of Shickshinny

Vito,
I was able to meet with the Board to discuss everything in detail.
As a first step towards resolving these issues, the Shickshinny Authority will not be sending any invoices directly to the Conyngham Township residents for this upcoming quarter. Please let the Conynagham Authority know so they can adjust their billing/invoices accordingly.
The Shickshinny authority will send an invoice directly to the Conyngham Authority. I will also have them send a breakdown of delinquents and any other related info to the Conyngham Authority.
The next step, and I hope you would agree, is to establish a new bulk services agreement. I know the rate issue has been the major road block for us, so even if we can work out a shorter term one I think we should just get it done. I can



Exhibit 7

set up a conference call or we can set up a meeting (executive session or even two members of each board, whatever works) and maybe we can hammer out even some of the preliminary terms just to get things started.
Please let me know your thoughts when you have a minute. I certainly understand there are a lot of things to discuss and work out, but I wanted to get the ball rolling with this first. Thanks
Sean

Sean W. Logsdon, Esquire
Donald G. Karpowich, Attorney-at-Law, P.C.
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Drums, PA 18222
Direct Dial (570) 708-3127
Main Office (570) 788-6647
Fax (570) 788-0654
sean@karpowichlaw.com
www.karpowichlaw.com

## Vito DeLuca

**From:** Sean Logsdon <sean@karpowichlaw.com>
**Sent:** Wednesday, October 13, 2021 10:05 AM
**To:** Vito DeLuca
**Cc:** df5fef928+matter1327781119@maildrop.clio.com
**Subject:** RE: Conyngham Township v. Sanitary Sewer Authority of the Borough of Shickshinny

Shickshinny customer quarterly billing went out on 10/1, they were billed 75 an EDU.

Sean W. Logsdon, Esquire
Donald G. Karpowich, Attorney-at-Law, P.C.
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Fax (570) 788-0654
sean@karpowichlaw.com
www.karpowichlaw.com



**From:** Vito J. DeLuca, Esq. <vjd@delucalawoffices.com>
**Sent:** Wednesday, October 13, 2021 9:46 AM
**To:** Sean Logsdon <sean@karpowichlaw.com>
**Cc:** df5fef928+matter1327781119@maildrop.clio.com
**Subject:** Re: Conyngham Township v. Sanitary Sewer Authority of the Borough of Shickshinny

How much are you proposing that Shickshinny residents pay?

Sent from my iPhone

On Oct 12, 2021, at 2:18 PM, Sean Logsdon <sean@karpowichlaw.com> wrote:

Vito,

Exhibit 8

I was able to speak with the Board again. Obviously no invoices were sent to Conyngham residents or the Conyngham Authority for this quarter. But of course the sewage is flowing from the township so my goal is to reach a very temporary agreement while we work on putting together a formal agreement.
I have attached the EDU report we have indicating 259 EDUs in the Township. Please review this and see if it is inaccurate.
I have been authorized to present an offer of $16,835 for two quarters (October 1st through December 31st 2021, and January 1st through March 31st 2022). That would break down to 65/EDU at 259 EDUs. If this is acceptable, the Conyngham Authority can remit that amount for this quarter and next quarter while we work out a more formal long (or short) term agreement with all the various rates, terms and conditions, etc. Please let me know at your earliest convenience. Thank you.
Sean

Sean W. Logsdon, Esquire
Donald G. Karpowich, Attorney-at-Law, P.C.
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Main Office (570) 788-6647
Fax (570) 788-0654
sean@karpowichlaw.com
www.karpowichlaw.com



**From:** vjd@delucalawoffices.com <vjd@delucalawoffices.com>
**Sent:** Thursday, September 30, 2021 1:23 PM
**To:** Sean Logsdon <sean@karpowichlaw.com>
**Cc:** df5fef928+matter1327781119@maildrop.clio.com
**Subject:** RE: Conyngham Township v. Sanitary Sewer Authority of the Borough of Shickshinny

We have 229 EDUs. At $60/EDU that would be $13,740/quarter.
As far as the additional amount that non-Conyngham Township residents should pay for conveyance, I expect it would be at least another $60 or more per EDU. Do not quote me on that. I believe Attorney Wimmer may be engaging an expert to do the calculation.
Vito

**From:** Sean Logsdon <sean@karpowichlaw.com>
**Sent:** Thursday, September 30, 2021 9:41 AM

**To:** vjd@delucalawoffices.com
**Cc:** df5fef928+matter1327781119@maildrop.clio.com
**Subject:** RE: Conyngham Township v. Sanitary Sewer Authority of the Borough of Shickshinny

Vito,
Just to clarify, we have Conyngham Twp at 282 EDUs, so at 60/EDU it would be 15,720 per quarter. Is this what you mean?
As for Shickshinny, you didn't say what you consider a treatment premium commensurate with the cost of conveyance in Shickshinny would be. If you can clarify what you mean by this it would be helpful. Right now the rate in Shickshinny is 70/EDU per quarter. Thanks.
Sean

Sean W. Logsdon, Esquire
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---

**From:** vjd@delucalawoffices.com <vjd@delucalawoffices.com>
**Sent:** Wednesday, September 29, 2021 4:46 PM
**To:** Sean Logsdon <sean@karpowichlaw.com>
**Cc:** df5fef928+matter1327781119@maildrop.clio.com
**Subject:** RE: Conyngham Township v. Sanitary Sewer Authority of the Borough of Shickshinny

Sean
First, I will say that I do appreciate your client's renewed interest in resolving this.
That being said, without a certificate of public convenience or a bulk services agreement, Shickshinny Authority has no legal right to bill any customers in Conyngham Township. That would include Conyngham Township and the Conyngham Township Sewer Authority. If either of those entities or any other Conyngham Township customer for that matter receives so much as a gum wrapper from your client purporting to be a bill, I will immediately forward it to the PUC Attorney and suggest she use it to further support an award for damages against SSA, including fines.



EXHIBIT 9

Your Board should be advised that they have zero chance at winning the pending case. Zero. They should know that their continued attempt at operating in the limits of Conyngham Township without the agreement or the certificate is exposing them to potential damages including fines. I suggest that the actions of SSA to date already support imposition of fines for your client's reckless disregard for Pennsylvania law and PUC regulations - despite being warned in advance.
Finally, you should know that our previous offer of $14,000 per quarter flat rate is revoked. However, in the interest of resolving the matter we would offer $60/EDU on a bulk services agreement with Conyngham Township. Of course, Shickshinny residents would be responsible for paying a rate of $60/EDU plus a treatment premium commensurate with the cost of conveyance. Let me know if that is acceptable. If so, we can discuss the rates for additional years and then request approval from Attorney Wimer since she represents the collective interest of all Conyngham Township residents.
To be honest, I see no benefit in getting our two Boards in the same space, whether in-person or virtual. Whatever genius from your Board recommended that your last counteroffer be a rate that was 20% higher than what you have already illegally billed our residents could take credit for our position on "negotiations" with your group.
Thank you.
Vito

---

**From:** Sean Logsdon <sean@karpowichlaw.com>
**Sent:** Wednesday, September 29, 2021 4:02 PM
**To:** vjd@delucalawoffices.com
**Subject:** Conyngham Township v. Sanitary Sewer Authority of the Borough of Shickshinny

Vito,
I was able to meet with the Board to discuss everything in detail.
As a first step towards resolving these issues, the Shickshinny Authority will not be sending any invoices directly to the Conyngham Township residents for this upcoming quarter. Please let the Conynagham Authority know so they can adjust their billing/invoices accordingly.
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The next step, and I hope you would agree, is to establish a new bulk services agreement. I know the rate issue has been the major road block for us, so even if we can work out a shorter term one I think we should just get it done. I can set up a conference call or we can set up a meeting (executive session or even two members of each board, whatever works) and maybe we can hammer out even some of the preliminary terms just to get things started.
Please let me know your thoughts when you have a minute. I certainly understand there are a lot of things to discuss and work out, but I wanted to get the ball rolling with this first. Thanks
Sean

Sean W. Logsdon, Esquire
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Main Office (570) 788-6647
Fax (570) 788-0654
sean@karpowichlaw.com
www.karpowichlaw.com

VERIFICATION

I, Eric Kubasek, do hereby verify that the answers in the foregoing PRE-SERVED DIRECT TESTIMONY are true and correct to the best of my knowledge, information and belief. I understand that this verification is subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

10/18/2021

Date

Eric Kubasek
Conyngham Township Sewer Authority Chairman

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---|
| Conyngham Township | : | |
| | : | |
| v. | : | C-2021-3023624 |
| | : | |
| Sanitary Sewer Authority | : | |
| of the Borough of Shickshinny | : | |

**PRE-SERVED DIRECT TESTIMONY OF**
**"ERIC KUBASEK"**

Testimony of: Name: Eric Kubasek
Individually and as Chairman of the Conyngham Township Sewer Authority Board

**Q: Please state your name for the record.**

A: Eric Kubasek

**Q: Are you currently employed?**

A: Yes

**Q: By whom are you employed and in what capacity?**

A: Greater Nanticoke Area School District as systems administrator.

**Q: What is your home address?**

A: 5 Jeannette Street, Mocanaqua, PA 18655.

**Q: What is the municipality you live in?**

A: Conyngham Township

**Q: Is your residence serviced by the Conyngham Township Sewer Authority?**

A: Yes.

**Q: Are all residences in Conyngham Township services by the Conyngham Township Sewer Authority?**

A: No. Only the Mocanaqua section is serviced by the Conyngham Township Sewer Authority. The rest of the township still has on lot systems for sewage. I live in the Mocanaqua section, so I am a customer of the Conyngham Township Sewer Authority.

**Q: Do you also hold a position in government for your municipality?**

A: Yes.

**Q: What position?**

A: I am Chairman of the Board of the Conyngham Township Sewer Authority.

**Q: How long have you held that position?**

A: Four years as Chairman and six years overall as a Board member.

**Q: By virtue of holding that position are you generally familiar with the activities of the Conyngham Township Sewer Authority?**

A: Yes.

**Q: What is the scope of authority of the Conyngham Township Sewer Authority?**

A: We handle installation, regulation, and maintenance of the Conyngham Township wastewater system. The system consists of main sewer lines and pumps. Basically, we handle the "conveyance" portion of wastewater disposal. The "treatment" component had been handled by the Shickshinny Sanitary Authority ("SSA") since about 1993 when the Conyngham Township sewer system was installed. So our pipes connect to SSA's treatment facility.

**Q: How are Conyngham Township customers billed for the "treatment" portion of the wastewater disposal?**

A: There was a bulk services agreement in effect between Conyngham Township and the Shickshinny Sanitary Authority from the time Conyngham Township installed its sewer system until SSA unilaterally terminated it in 2020. The agreement provided that SSA would bill CTSA each quarter a gross amount that reflected the number of Equivalent Dwelling Units (EDUs) services by CTSA times a rate per EDU. We would then bill the Conyngham Township customers a per EDU share of what we paid SSA plus our own EDU charge for conveyance. After SSA

terminated the agreement and started illegally billing our customers we reduced our bill to just include the conveyance charge so as not to cause a panic among our customers.

**Q: As a customer and resident of Conyngham Township did you receive bills from SSA after they terminated the bulk services agreement with Conyngham Township?**

A: Yes. I received three bills during 2021.

**Q: Did you pay them?**

A: Yes.

**Q: What amounts did you pay?**

A: Seventy-five dollars each.

**Q: Did you also pay amounts to the Conyngham Township Sewer Authority during 2021?**

A: Yes. The amounts I paid to CTSA were just the conveyance portion.

**Q: Did you hold the position of Chairman of the Conyngham Township Sewer Authority Board in September of 2020?**

A: Yes.

**Q: When did you become aware that SSA was terminating the bulk services agreement between it and Conyngham Township?**

A: In September, 2020. A letter was faxed to Ed Whitebread, the Chairman of the Conyngham Township Board of Supervisors. The letter said that Shickshinny Sanitary Authority was terminating the bulk services agreement they had with

Conyngham Township for wastewater treatment and would be billing Conyngham Township residents directly.

**Q: And SSA did bill Conyngham Township customers directly?**

A: Yes.

**Q: At any time after SSA terminated the original bulk services agreement, did the Township or CTSA enter into a successor agreement with SSA?**

A: No.

**Q: Does the Township have any representation on the SSA Board?**

A: No.

**Q: Other than the bulk services agreement that was unilaterally terminated by SSA in September, 2020, are there any other agreements between SSA and/or the Borough Shickshinny and either Conyngham Township or the Conyngham Township Sewer Authority that would permit SSA to bill Conyngham Township customers directly for wastewater treatment?**

A: No.

**Q: As far as you know, does SSA have a "Certificate of Public Convenience" to operate within the territorial limits of Conyngham Township?**

A: No.

**Q: After SSA terminated the bulk services agreement with Conyngham Township in September 2020, what actions did CTSA take?**

A: First, we wanted to make sure that we reduced what we were billing our residents to an amount that was net of the new billing amount that SSA said they were

billing them. That amount was almost 70% higher than the amount we were being billed for treatment under the bulk services agreement. We figured that we would reduce our conveyance fee so the total bill was not greater than what they were paying until everything got sorted out.

The CTSA Board also directed you, our Solicitor, to research any legal action we could take against SSA to stop what they were doing. You sent them a number of letters warning them that if they billed Conyngham Township residents directly legal action would be taken against them.

**Q: I am going to show you what is marked Exhibit 1. Do you recognize this?**

A: Yes. That is an email dated September 16, 2020 from you as our Solicitor to the Solicitor for SSA. It was our response to the SSA letter terminating the bulk services agreement and raising rates for Conyngham Township customers. In that email we advised SSA that we had already sent a total bill to our residents for the fourth quarter that included treatment and conveyance and warned them that if they also billed it would cause confusion and residents would be being asked to pay double for treatment. We also requested mediation under the bulk services agreement.

**Q: Now I am going to show you what is marked Exhibit 2. Do you recognize this?**

A: Yes. That is the response from the SSA attorney. SSA refused the mediation and advised that since CTSA already billed for the fourth quarter, they would begin billing in the first quarter 2021.

**Q: I am going to show you what is marked Exhibit 3. Do you recognize this?**

A: Yes. That is an email dated December 10, 2020 from you as our Solicitor to the Solicitor for SSA. In that email you threatened litigation against SSA where you brought up that the fees they were charging to our residents versus their own residents were not uniform and reasonable under Pennsylvania law.

**Q: I am going to show you what is marked Exhibit 4. Do you recognize this?**

A: Yes. That is an email chain with emails from December 10, 13 and 14. The December 10 email is the one from Exhibit 3. The December 13 email is from the SSA attorney saying he was going to have a meeting with his Board to discuss your December 10 email. The December 14 email is your response. In that email you advised again that billing our residents for treatment only in an amount greater than their residents for treatment and conveyance was a violation of Pennsylvania law.

**Q: I am going to show you what is marked Exhibit 5. Do you recognize this?**

A: Yes. That is an email chain with three emails between you and the SSA attorney from December 28. It also has a copy of the letter dated December 28, 2020 that you sent to the attorney. In that letter you advised him that SSA was not permitted to operate in Conyngham Township without either a bulk services agreement or a Certificate of Public Convenience. You told them that if they did, we would file a complaint with the PUC and ask for fines. You also other violations of Pennsylvania law.

**Q: I am going to show you what is marked Exhibit 6. Do you recognize this?**

A: Yes. That is an email dated January 6, 2021 from you as our Solicitor to the Solicitor for SSA. It mentions that you filed a complaint with the PUC for SSA billing Conyngham Township residents without a Certificate of Public Convenience.

**Q: I am going to show you what is marked Exhibit 7. Do you recognize this?**

A: Yes. That is an email chain with emails between you and the SSA attorney. In the first email in the chain the SSA attorney says that SSA is going to bill CTSA in a bulk amount for the next quarter. The second email is your reply where you advise him that SSA has no authority to bill anyone in Conyngham Township for sewer treatment without the Certificate of Public Convenience. You also advised that if they did, you would ask that the Judge use it as further evidence in support of an award for fines.

**Q: I am going to show you what is marked Exhibit 8. Do you recognize this?**

A: Yes. That is an email chain with emails between you and the SSA attorney. The first two emails in the chain are in the other exhibits. The other emails are questions from you and answers by the SSA attorney related to the charges they are proposing to Shickshinny residents versus Conyngham Township residents. The SSA attorney also stated that they would not send out bills to Conyngham Township or its residents as was indicated in his previous correspondence.

DONALD G. KARPOWICH ATTORNEY-AT-LAW, P.C.

85 Drasher Road
Drums, PA 18222

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

January 12, 2022

**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 Joint Stipulation of Facts 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)

Joint Exhibit
A

**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 Joint Stipulations of Fact upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

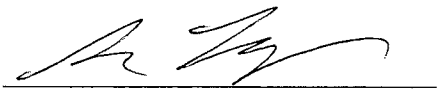
Via Email Only to:

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: January 12, 2022



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

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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## JOINT STIPULTATION OF FACTS

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Pursuant to the Fourth Interim Order for Litigation Schedule and Prehearing Matters dated October 15, 2021 of presiding Administrative Law Judge ("ALJ") Conrad A. Johnson, the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E"), Conyngham Township ("Township") and the Sanitary Sewer Authority of the Borough of Shickshinny ("Authority"), by their undersigned attorneys, agree and stipulate to the following facts regarding the above-captioned matter.

**STIPULATION OF FACTS**

1. The Department of Environmental Resources, now the Pennsylvania Department of Environmental Protection ("DEP"), ordered the Township to join with the Borough of Shickshinny to undergo a project of preservation and improvement of the purity of the waters of the Commonwealth pursuant to the provisions of the Clean Streams Law ("Preservation Project").

2. The Township, on May 7, 1973, passed a joint resolution with the Borough of Shickshinny to undertake the Preservation Project.

3. The Township employed an engineering firm to undertake and recommend a

site for the processing plant and incorporated the Conyngham Township Sewer Authority ("CTSA") to undertake the Preservation Project.

4. The Township passed a resolution finding the site recommended in its feasibility study acceptable for the erection of a processing plant for the purpose as ordered by the Commonwealth of Pennsylvania.

5. The Authority was formed on September 25, 1973 as a municipal authority for the purpose of constructing, improving, furnishing and equipping a sanitary sewage system and treatment works, to acquire land necessary to effectuate this purpose and to perform any necessary items incidental to this purpose.

6. The general scope of the Authority's activities includes, but is not limited to, providing treatment of domestic wastewater and discharging the treated wastewater to the Susquehanna River in accordance with a permit issue by DEP.

7. The sole municipality that joined the Authority is the municipality that formed it, which is the Borough of Shickshinny.

8. The sewer lines located in the Township are owned and maintained by the CTSA, and those lines convey sewage to the Authority's processing plant located on property owned by the Authority located in the Township.

9. The Authority provides sewage treatment service to the Borough of Shickshinny and a portion of the Township, among other areas.

10. The Authority and the Township entered into a Sewage Treatment Agreement on November 18, 1992 wherein the Authority agreed to provide sewage treatment and

disposal services to the Township as a single bulk customer ("Sewage Treatment Agreement"). A copy of the Sewage Treatment Agreement will be entered as Joint Exhibit A.

11. By letter dated September 11, 2020, the Authority notified the Township that it was cancelling the Sewage Treatment Agreement. A copy of the September 11, 2020 letter will be entered as Joint Exhibit B.

~~12. Prior to the termination of the bulk services agreement, CTSA was charging its ratepayers/customers located in the Township a rate of $134.00 per EDU per quarter.~~

13. On January 1, 2021, April 1, 2021, and July 1, 2021, the Authority sent a quarterly invoice directly to ratepayers/customers located in the Township a rate of $75.00 per quarter.

14. There are approximately 220 residential customers and eight commercial customers located in the Township.

15. From January 1, 2021 to September 23, 2021, the Authority collected an approximate total of $54,684.68 from ratepayers located in the Township.

16. From January 1, 2021 to the first calendar year quarter of 2022, CTSA has been billing its ratepayers/customers located in the Township at the reduced rate of $59.00 per EDU per quarter.

17. Because of the PUC intervention, the Authority did not invoice customers located in the Township for the fourth calendar year quarter of 2021.

18. The Authority did not invoice customers located in the Township for the first calendar year quarter of 2022.

19. The Authority has continually provided sewage processing and disposal service to Township residents and customers from the onset of the agreement to the present.

20. Neither the CTSA nor any individual ratepayer or customer has paid for the sewage processing or disposal service provided by the Authority since September 1, 2021.

21. The Authority has no control over who sells or leases properties in the Township.

As agreed on this 12th day of January 2022:

Vito Deluca

Stephanie M. Wimer, Esq.
Senior Prosecutor
Bureau of Investigation and Enforcement

Vito J. DeLuca, Esq.
*Counsel for*
*Conyngham Township*

Sean W. Logsdon, Esq.
*Counsel for the Sanitary Sewer*
*Authority of the Borough of Shickshinny*

DONALD G. KARPOWICH ATTORNEY-AT-LAW, P.C.

85 Drasher Road
Drums, PA 18222

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

September 11, 2020

**Via Facsimile (570) 542-2412 and First Class & Certified Mail**
Conyngham Township Supervisors
10 Pond Hill Road
Shickshinny, PA 18655

**RE: Cancellation of Sewage Treatment Agreement dated November 18, 1992 by and between Sanitary Sewer Authority of the Borough of Shickshinny and the Township of Conyngham**

Dear Chairperson:

As you may be aware, my office serves as the Solicitor for the Sanitary Sewer Authority for the Borough of Shickshinny (SSABS). Please allow this letter to serve as notice that the SSABS is cancelling the Sewage Treatment Agreement, referenced above, dated November 18, 1992, between SSABS and the Township of Conyngham (Township).

Please note that for quite some time now, the SSABS has been contacting the Township regarding operations at the plant and the large amount of Influx and Infiltration coming from the Township into the treatment system. I most recently corresponded with the Township Solicitor, Vito J. DeLuca, Esquire, on July 21, 2020, regarding setting up a meeting between the SSABS and the Township's Sewer Authority. In an effort to keep maintain the relationship, the SSABS has also proposed the possibility of amending the Sewage Treatment Agreement without success. I also requested on behalf of the SSABS an Influx and Infiltration Reduction Plan from the Township in order to address the increased infiltration from the Township entering the Shickshinny Sewer treatment facility. To date, no plan has been provided.

As such, it is simply unfeasible for the SSABS to continue to operate under this agreement while the Township has continued to breach its duties under the same. This notice of cancellation takes effect immediately. The residents and rate payers in the Township will be invoiced directly for the treatment service provided by the SSABS.

If you have any questions or concerns, please do not hesitate to contact the undersigned.

Sincerely,

Sean W. Logsdon, Esquire,
Shickshinny Sewer Authority Solicitor

SWL
cc: Shickshinny Sewer Authority

# Send Result Report

MFP

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DONALD G. KARPOWICH ATTORNEY-AT-LAW, P.C.

85 Drasher Road
Drums, PA 18222

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Fax: (570) 788-0654
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If you have any questions or concerns, please do not hesitate to contact the undersigned.

Sincerely,

Sean W. Logsdon, Esquire,
Shickshinny Sewer Authority Solicitor

SWL
cc: Shickshinny Sewer Authority

| No. | Date/Time | Destination | Times | Type | Result | Resolution/ECM |
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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 | : | |
| | : | |

PRE-SERVED DIRECT TESTIMONY OF
BARRY NOSS

1 Q. Please state your full name for the record.

2 A. Barry Noss

3 Q. And how are you affiliated with the Sanitary Sewer Authority of the Borough of

4 Shickshinny or SSABS?

5 A. I am the chairperson of the Board.

6 Q. How many Board members are there?

7 A. 5

8 Q. How long have you served on the Board?

9 A. I have been on Borough Council or the Sewer Authority at various times for around 20

10 years.

11 Q. When was SSABS created as a municipal authority

12 A. September 25, 1973.

13 Q. When was CTSA created as a municipal authority

14 A. April 26, 1974.

15 Q. Was a joint sewer authority ever established?

16 A. No.

17 Q. Was a Resolution ever passed regarding the plant in Conyngham, please see the attached

18 I'll mark as SSABS Exhibit 1.

19 A. That's the Resolution Conyngham passed accepting the site that the plant was constructed

20 that SSABS owns.

21 Q. What about the sewage plant after that?

1 A. The plant was constructed, however, the only sewer lines connected to and utilizing the
2 plant from its establishment to 1992 were those of Shickshinny. The Township still used onsite
3 systems until they were mandated by DEP to stop.
4 Q. So, when did the Township mandate sewer connections?
5 A. It was in the 90s, right when the agreement was signed.
6 Q. Did the Township build its own plant?
7 A. No, they connected to our plant.
8 Q. I'll show you what I'll mark as SSABS Exhibit 2, what is it?
9 A. The November 18, 1992, sewage treatment agreement.
10 Q. Now in 2020 what was the relationship between SSABS and Conyhgham Township?
11 A. Well it was governed by the agreement, but basically the Conyngham Township Sewer
12 Authority, or CTSA, would pay a quarterly invoice to SSABS for the processing of the sewage
13 coming from the Township.
14 Q. Is the SSABS using Conygham Sewer Authority lines to transport sewage to the SSABS
15 plant?
16 A. No, we're not using their lines, they use our plant to process their sewage.
17 Q. What does the agreement say about charges?
18 A. On page 11 it says the Township agrees to pay us quarterly for each EDU served by
19 Conyngham.
20 Q. Does the agreement say who invoices what customers?
21 A. No, but in 2019 and 2020 the CTSA invoiced the residents in the Township for sewage
22 service and SSABS invoiced the ratepayers in Shickshinny.
23 Q: Is this the only agreement between the Authority and Township?

1 A: Yes.

2 Q. Now in 2018, 2019 and 2020, was there an issue regarding influx and infiltration coming
3 from the Township?

4 A. Yes, on several occasions our engineer was reporting that there was large amounts of
5 water coming into the system at times from the Township.

6 Q. And what is this document marked as SSABS Exhibit 3?

7 A. This is a flow report showing all the times Conyngham flows were extremely excessive
8 in 2018, 2019 and 2020.

9 Q. Was there a provision in the agreement for water infiltration?

10 A: No, but a corrective action plan was formally adopted in 2014 by all parties as a revision
11 to their Act 537 Official Sewage Plans.

12 Q. Is this a copy of it attached as SSABS Exhibit 4?

13 A. Yes. The plan deals with influx and infiltration and requires action by the Township to
14 address what became a problem.

15 Q: Did the SSABS Board ask to meet with the Township's sewer authority to discuss this?

16 A: Yes they did, they even went over to meet with them but it was actually just a
17 Conyngham Sewer Authority public meeting.

18 Q. What about the Chapter 94 reports, were they being submitted to SSABS by the
19 Township, I've marked one that was signed on February 10, 2021 as SSABS Exhibit 5?

1 A. Yes, after multiple requests from our engineer they would give us the Chapter 94 reports,
2 but as you can see, this seems to have been prepared by their secretary, and it has no information.
3 This was typical of what they would give us.

4 Q. Now in 2020, how much did SSABS charge its ratepayers per quarter?

5 A. $60.00 per quarter.

6 Q. What did the Township's authority charge?

7 A. Ratepayers were charged a quarterly rate of $134.00 per quarter, but I do not know if they
8 set that rate by resolution or how they came up with that number.

9 Q. Was that amount broken down on their invoices as X amount for conveyance and X
10 amount for sewage processing?

11 A. To my knowledge it was not broken down, but we believe that $45.00 of the amount
12 collected by CTSA was paid to SSABS, and CTSA kept the remaining $89.00.

13 Q. Did SSABS have any input on the $89.00 that Conyngham Township charged to the
14 ratepayers in the Township?

15 A. No.

16 Q. What quarterly amount did the CTSA pay to the SSABS?

17 A. In 2020, the quarterly amount paid by CTSA to SSABS was approximately $11,565.00.

18 Q. Did SSABS send a proposed amended agreement to CTSA to address the influx of water,
19 and I attached a letter sent to the township Solicitor on June 17, 2019 as SSABS Exhibit 6, can
20 you identify that?

1 A. Yes, that was the letter we sent with the amendment, and it was rejected.

2 Q. Can SSABS shut off its sewage service to the Township?

3 A. No, not without something from the Township and DEP indicating they are building their

4 own plant or sending the sewage to another plant.

5 Q. Did SSABS attempt to terminate the agreement thinking this would at least make the

6 Township talk to SSABS regarding these issues?

7 A. A letter was sent, at least in relation to the payment issues on September 11, 2020, but

8 SSABS cannot terminate the agreement unilaterally. On page 8 of Exhibit 2 it says that the

9 agreement is in effect while SSABS is providing service to Conyngham Township, or until

10 terminated by mutual written agreement of the parties.

11 Q. Is SSABS providing service to Conyngham Township?

12 A. Yes, since they are connected right through today's date.

13 Q. Was the agreement terminated by mutual written consent of the parties?

14 A. No, they just filed the Complaint with the PUC and stopped paying for service.

15 Q. Was any sewage processing service to Conyngham Township ever discontinued or

16 interrupted?

17 A. No.

18 Q. Was a letter sent to the ratepayers of the Township regarding invoices coming from the

19 SSABS in January of 2021?

20 A. Yes, notice that it would be sending invoices directly to the ratepayers of the Township in

21 the amount of $75.00 per quarter. It was 5 dollars more than what was charged in Shickshinny.

22 This was because of the infiltration issue and so we could conduct a study to remediate the issue

23 since the CTSA would not.

1 Q. Now what were the fees for ratepayers in Shickshinny?

2 A. As of January 2, 2021, SSABS increased the rate for Shickshinny Borough customers by

3 $10.00, making the Shickshinny rate $70.00 and the Conyngham Township rate $75.00. The

4 five-dollar difference being due to the infiltration issues.

5 Q. What did the Conyngham Authority do about the invoices they sent to the Township

6 ratepayers?

7 A. CTSA sent its own invoices in the amount of $59.00, starting on January 1, 2021.

8 Q. So the ratepayers in the Township paid $134.00 prior to January 1, 2021?

9 A. Yes.

10 Q. And did the ratepayers in the Township pay $134.00 after January 1, 2021?

11 A. Yes, $75.00 to SSABS, and $59.00 to the Conyngham Authority.

12 Q. So no ratepayer in the Township has ever paid more than $134.00 before or after January

13 1, 2021?

14 A. No.

15 Q. How long this this go on for?

16 A. We invoiced the ratepayers directly in Conyngham Township for the first, second, and

17 third quarters of 2021. So January through March, April through June, July through September.

18 Q. What about the fourth quarter?

19 A. After the Investigation and Enforcement bureau intervened in this matter, we stopped

20 invoicing any ratepayer in Conyngham and did not invoice for the fourth quarter of 2021. We

21 notified the Township Authority that we were no longer sending invoices to anyone in

22 Conyngham and requested that they adjust their invoices accordingly so they could collect the

23 money due for sewage treatment.

1 Q. Did the Conyngham Authority adjust its invoices?

2 A. No, they've continued to invoice the Township ratepayers $59.00 to this day.

3 Q. So no ratepayer in the Township and the Township Authority has paid any money for

4 sewage processing since July of 2021?

5 A. Correct.

6 Q. What would the quarterly amounts be that have not been paid?

7 A. $11,565.00 per quarter based on 2020 payments, or $52.50 per quarter per EDU pursuant

8 to the agreement, meaning not to exceed 75% of the $70.00 Shickshinny rate.

9 Q. And despite the lack of payment for quite some time, has SSABS ever interrupted any

10 plant processing service to any Township ratepayer?

11 A. No, we continue to provide service to this day.

12 Q. Based on the language of the agreement, Exhibit 2, was the intent of SSABS and the

13 Township to continue with the agreement so long as SSABS provided sewage service to the

14 Township?

15 A. Yes.

16 Q. Why were the ratepayers in the Township invoiced for service directly?

17 A. Conyngham Township would not address the influx and infiltration issues, or at least

18 would not tell us what they did or were doing. They would not amend the agreement. They

19 would not give us adequate Chapter 94 reports. And the agreement is silent on who invoices

20 ratepayers for the service.

21 Q. Did SSABS in any way intend to violate any provision of the PUC code?

1 A. No never. This is a situation where a joint authority was not formed, and communication
2 between the boards has broken down. In fact, we immediately stopped any invoicing to the
3 Township ratepayers as soon as we thought there might be an issue.

4 Q. When the Investigation and Enforcement bureau requested information from the SSABS
5 as part of their investigation, did SSABS provide what was asked for and respond to the
6 requests?

7 A. Yes we did.

8 Q. So why did the SSABS not apply for a certificate of public convenience, assuming it does
9 not have one?

10 A. We have an agreement in place with the Township. We are a small local authority and we
11 keep our rates very low as it is a low-income community in Shickshinny. A certificate like this
12 from our understanding costs a lot of money, and we operate on a small budget just to cover our
13 costs. We have no intention of expanding. It appears that the Conyngham Authority wants
14 SSABS to get a certificate of public convenience because they charge so much more than we do
15 for service for some reason and they want the PUC to increase our rates out of animosity. Our
16 rate does not include capital improvements and major repairs.

17 Q. Has the SSABS filed an action in the county court of Common Pleas of Luzerne County?

18 A. Yes, we filed seeking a declaration that the September 11, 2020 letter was of no legal
19 effect because as the agreement cannot be unilaterally terminated, we are still providing sewage
20 service to the township, and we did not arbitrate the dispute pursuant to page 15 section 7.07 of
21 the agreement.

1 Q. Did the Township request arbitration?

2 A. Yes, we originally refused, but they did not file to compel arbitration, but we requested it
3 in the action we filed at the county court at docket 2022-05829, and we are willing to arbitrate.

4 Q. Since the Township has refused to pay for sewage treatment service, is the SSABS in a
5 bad financial situation?

6 A. Yes, they have not paid in over a year, and we have to pay the plant operators and the
7 costs of operating the plant. We are barely making enough financially to cover our bills.

8 Q. To your knowledge, has Conyngham Township made any effort to contact DEP to seek
9 alternative treatment of its sewage like, sending its sewage to Wyoming Valley Sanitary
10 Authority, building its own treatment plant, or for temporarily collection and conveyance of its
11 sewage?

12 A. None that I am aware of.

13 Q. Has Conyngham Township made effort to revise its Act 537 Plan?

14 A. None that I am aware of, both Shickshinny Borough's and Conyngham Township's Act
15 537 Plans indicate that the SSABS plant is their processing center.

16 Q. Could the SSABS unilaterally terminate the Sewage Treatment Agreement?

17 A. No, each municipality would have had to revise its Act 537 Plan, and those official plan
18 revisions would have to go through a process of public input, advertisement, DEP review and
19 approval, and require approval of the Municipal governing bodies. None of that happened here.

20 Q. Has the SSABS been attempting to settle this dispute?

1 A. Yes, we have made extensive efforts to settle with both parties but have not been

2 successful.

SSABS Exhibit 1

RESOLUTION

WHEREAS, the Department of Environmental Resources in compliance with Section 4, 5, 201 and 202 of the Clean Streams Law and Section 91.31 of the Department of Environmental Resources Rules and Regulations promulgated thereunder has ordered Conyngham Township to join with the Borough of Shickshinny, Luzerne County, Pennsylvania, to undergo the project of preservation and improvement of the purity of the waters of the Commonwealth pursuant to the provisions of the Clean Streams Law as amended.

WHEREAS, on May 7, 1973 the Township of Conyngham passed a joint resolution with the Borough of Shickshinny to undertake the said project.

WHEREAS, the Township of Conyngham has employed an engineering firm to undertake and recommend a site for said processing plant and also has incorporated the Conyngham Township Sewer Authority to undertake the said project.

WHEREAS, based upon the recommendation of the engineer, Site 6 which is located approximately 300 feet more or less north of the Mocanaqua bridge is hereby approved unanimously by the Supervisors of Conyngham Township for said site there shall be erected a processing plant and any other buildings attached thereto for the purpose as ordered by the Commonwealth of Pennsylvania.

WHEREAS, the above said site is acceptable under the feasibility study that Conyngham Township undertook.

Samuel Davis
Secretary

CONYNGHAM TOWNSHIP

By Joseph K. Kulowski
Supervisor

Frank Cerreta
Supervisor

SSABS Exhibit 2

SEWAGE TREATMENT AGREEMENT

THIS SEWAGE TREATMENT AGREEMENT, dated this 18th day of November, 1992, by and between the SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY, Luzerne County, Pennsylvania, on the one hand, and the TOWNSHIP OF CONYNGHAM, Luzerne County, Pennsylvania, on the other hand.

WITNESSETH:

WHEREAS, the Authority presently owns, operates and maintains the Authority Sewage Collection System and the Treatment Plant, for rendering Sewage collection, transportation, treatment and disposal service in and for, inter alia, the Borough of Shickshinny, Pennsylvania; and

WHEREAS, Conyngham is presently contemplating the acquisition and construction of the Conyngham Sewage Collection System, for rendering Sewage collection and transportation, but not treatment or disposal service, in and for portions of Conyngham Township; and

WHEREAS, the Authority heretofore undertook the acquisition and construction of the Treatment Plant and incurred Costs of Construction and expenses related thereto; and

WHEREAS, Conyngham has requested certain Treatment Plant Capacity in the Treatment Plant; and

WHEREAS, Conyngham desires to acquire and reserve Treatment Plant Capacity for its present and future use, and to provide for the terms under which additional Treatment Plant Capacity may be acquired from the Authority hereafter, and to share in the costs and expenses of operating and maintaining the Treatment Plant; and

WHEREAS, Conyngham desires to contract, under the terms hereof, for Sewage treatment and disposal services by the Authority in the Treatment Plant; and

WHEREAS, the Authority, pursuant to the request of Conyngham, agrees under the terms hereof to provide Conyngham, as a single, bulk customer, with Sewage treatment and disposal services in the Treatment Plant, under the terms and conditions set forth herein.

ARTICLE I

Definitions

SECTION 1.01. Defined Terms. The terms defined in this Section 1.01, whenever used or referred to in this Service Agreement, shall have the respective meanings indicated unless a different meaning clearly appears from the context.

"Authority" shall mean the Sanitary Sewer Authority of the Borough of Shickshinny of Luzerne County, Pennsylvania, a municipal authority of the Commonwealth, acting by and through its members, including any Person duly authorized acting in behalf of such Authority;

"Authority Sewage Collection System" shall mean the Sewage collection and transportation system facilities presently existing or hereafter to be acquired and/or constructed by the Authority, for use and operation by the Authority, and to the extent permitted hereunder, for use by Conyngham for the transportation of Sewage from the Conyngham Sewage Collection System, together with all appurtenant facilities and properties which have been acquired or hereafter shall be acquired in connection therewith;

"BOD" shall mean biological oxygen demand or the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20) Centigrade expressed in milligrams per liter (mg/l). The procedure shall include thiourea or other suitable inhibitors to prevent nitrification from simultaneously occurring and affecting BOD results;

"Bonds" shall mean the notes, bonds or other debt obligations authorized and issued by the Authority the proceeds of which have been or will be applied for the purposes of financing Costs of acquisition or construction of the Treatment Plant and/or the Authority Sewage Collection System, or to refund the same;

"Certified Public Accountant" shall mean a person, who shall be Independent, appointed the governing body of a Municipality, actively engaged in the business of public accounting and duly certified as a Certified Public Accountant under the authority of laws of the Commonwealth;

"Charge" shall mean the charge payable by Conyngham to the Authority calculated pursuant to Article V hereof;

"Commonwealth" shall mean the Commonwealth of Pennsylvania;

"Completion Date" shall mean the date of substantial completion of the Conyngham Sewage Collection System as certified by Conyngham's Consulting Engineers;

"Consulting Engineer" or "Consulting Engineers" shall mean a Person who shall be Independent, appointed, by the governing body of a Municipality, as applicable and appropriate, qualified to pass upon engineering questions relating to Sewage collection, transportation, treatment and/or disposal systems and having a favorable reputation for skill and experience in supervising construction and operation of such systems. He shall be a professional engineer duly registered under laws of the Commonwealth. If such person shall be a partnership, corporation or association, it shall have a partner, officer, employee or member who is a professional engineer duly registered under laws of the Commonwealth;

"Consulting Engineer's Certificate" shall mean a certificate executed by the Consulting Engineers;

"Conyngham" shall mean the Township of Conyngham, Luzerne County, Pennsylvania, a political subdivision of the Commonwealth acting by and through its Board of Supervisors;

"Conyngham Sewage Collection System" shall mean the Sewage collection and transportation system facilities presently existing or hereafter to be acquired and/or constructed by Conyngham and/or located in Conyngham Township, as contemplated by the Project, together with any and all appurtenant facilities and properties which have been acquired or hereafter shall be acquired in connection therewith;

"Costs", "Costs of Acquisition" or "Costs of Construction", without intending to limit any proper definition thereof under sound accounting or engineering practice, shall mean and include, solely with respect to the Treatment Plant:

A. Obligations incurred and payments made or required to be made by the Authority to workmen and laborers or to contractors, builders, suppliers and materialmen;

B. Interest on Bonds during the acquisition or construction period with respect to any particular series of Bonds;

C. Reasonable administrative expenses of the Authority during the period of any acquisition or construction, including the financing thereof;

D. Costs of acquiring by purchase or condemnation, including amounts of any award or final judgment in or of

settlement or comprised of any condemnation proceedings of lands, rights of way, rights, licenses, easements and any other interests in real property as may be deemed necessary or convenient in connection with the Treatment Plant; amounts of any damages incident to or consequent upon acquisition or construction; and payments for restoration of property damaged or destroyed in connection with construction;

E. Costs of acquiring property, real, personal and mixed, tangible or intangible, or any interest therein, deemed necessary or desirable for carrying out purposes of the Authority relating to the Treatment Plant, including, without intending to limit the generality of the foregoing, costs of acquiring any sewer system or other properties in place, or any undivided interest therein, which can be operated as part of the Treatment Plant and all fees and expenses incidental thereto, including without intending to limit the generality of the foregoing, engineering fees, legal fees, costs of abstracts of title, title insurance, title opinions, surveys and reports;

F. Costs of performance, payment or other contractor's bonds and premiums on insurance of any type deemed necessary during construction and costs of inspection and performance, maintenance or other type bonds required by any governmental regulatory authority related to construction of any part of the Treatment Plant, to the extent that any of the foregoing shall not be required to be paid by contractors or otherwise provided for;

G. Fees and expenses of engineers or architects for studies, tests, surveys, reports, maps, estimates of costs, revenues and other facts, preparation of plans and specifications and making preliminary investigations therefor, supervision of acquisition or construction, inspections and performance of all other duties of engineers or architects in connection with any acquisition or construction and the financing thereof;

H. Expenses of audits; initial compensation of the Trustee or Paying Agent with respect to Bonds of any series; fees and expenses, if any, of the Trustee, or Paying Agent relating to a construction fund; if any; financing costs, fees and expenses, including compensation and expenses of a financial advisor, if any; costs of preparing, printing and issuing Bonds; legal costs, fees and expenses; advertising expenses; premiums for insurance or contracts of suretyships insuring bondholders against the risk of nonpayment of the

principal of, interest on or premium with respect to any particular Bond or Bonds; and all other costs incurred by the Authority in connection with financing acquisition or construction and issuing Bonds;

I. Other costs, charges and expenses incident to completion of any improvements, alterations, extensions or additions to the Treatment Plant which properly are chargeable to the cost of acquisition or construction under sound accounting or engineering practice;

J. Reimbursement to the Authority for advances made by it or them for any of the above items, including any interest paid or required to be paid by the Authority with respect to any such advances, or for any other costs incurred by the Authority or for work done by the Authority with the Treatment Plant which properly are chargeable as costs related to financing acquisition or construction;

K. Amounts, if any, required to be repaid to any governmental agency upon completion of any construction on account of any overpayment of or adjustment of any grant extended in aid of such construction;

L. Any sums required to reimburse the Authority or to pay any indebtedness incurred by the Authority, including payment of obligations of the Authority, for expenditures made for any of the above items or for any other costs properly chargeable as costs of acquisition or construction; and

M. Interest on and issuing costs of any Bonds issued by the Authority in anticipation of receipt of federal or state grants applied to pay such costs, less any interest income earned thereon;

Whenever any "Costs", "Costs of Acquisition" or "Costs of Construction" are incurred in connection with the Treatment Plant, the same shall be equitably apportioned on the basis of sound and acceptable engineering and/or accounting principles;

"DER" shall mean the Department of Environmental Resources of the Commonwealth;

"Discharge" shall mean the volume of Sewage discharged into the Treatment Plant, at any particular point in time, measured in accordance with Section 4.03;

"EDU" shall mean equivalent dwelling unit;

"Fiscal Year" shall mean the fiscal year of the applicable Authority or Municipality as provided by laws of the Commonwealth which, unless otherwise stated, shall be a calendar year;

"GPD" shall mean gallons per day of Discharge;

"Independent" shall mean, with respect to the Certified Public Accountant and Consulting Engineers, a Person who is independent in fact and who is not a member of the Board, officer or employee of any Municipality, or any elected or appointed official or employee of any Municipality, or which is not a partnership, corporation or association having a partner, director, officer, member or substantial stockholder who is a member of the Board, officer or employee of any Municipality, or an elected or appointed official or employee of any Municipality; Provided however, that the fact that such person is retained regularly by any Municipality shall not make such person an employee within the meaning of this definition;

"MGD" shall mean millions of gallons per day of Discharge;

"Municipality" or "Municipalities" shall mean, individually or collectively, as applicable and appropriate, the Authority and/or Conyngham;

"Operating and Maintenance Costs" shall have the meaning described in Section 5.01 hereof;

"Person" or "Persons" shall mean an individual, a partnership, an association, a corporation, a joint stock company, a trust, an unincorporated association, a governmental body, a political subdivision, a municipality, a municipality authority or any other group or legal entity;

"Project" shall mean the planning, designing, financing, acquisition and construction of the Conyngham Sewage Collection System, by Conyngham, or by any Person located in Conyngham Township, and other related and necessary appurtenant facilities;

"Service Agreement" shall mean this document and all modifications, alterations, amendments and supplements hereto made and part hereof, which term sometimes is referred to in this document by use of such words as "hereto", "hereby", "herein", "hereof", "hereunder" or other descriptive words or phrases having similar import;

"Sewage" shall mean domestic sewage and/or industrial wastes as such terms usually and customarily are used by sanitary engineers;

"Treatment Plant" shall mean the Sewage treatment and disposal facilities constructed by the Authority as of the date hereof,

together with all appurtenant facilities and properties, and together with any additions, improvements, enlargements and/or modifications thereto from time to time acquired or constructed.

"Treatment Plant Capacity" shall mean the contractual right to discharge Sewage into the Treatment Plant, in an amount which may be amended, from time to time, under the terms hereof, calculated to be the higher of:

A. Average daily Discharge during the entire Fiscal Year in question; or

B. Average daily Discharge during the three consecutive months in which the greatest Discharge has been measured within the Fiscal Year in question; or

C. Otherwise may be prescribed by applicable laws; provided, however, that such contractual right shall not be deemed to vest any legal ownership or title to the Treatment Plant in Conyngham, which legal ownership or title shall remain exclusively in the Authority throughout the term hereof and thereafter;

"TS" shall mean total solids;

"United States" shall mean the United States of America; and

ARTICLE II

Construction and Operation of Sewage Collection Systems; Connection to Authority Sewage Collection System by Conyngham

SECTION 2.01. Construction and Operation of Sewage Collection Systems. Conyngham shall pay all Costs and expenses related to the acquisition, construction, operation and maintenance of the Conyngham Sewage Collection System.

SECTION 2.02. Connection to Authority Sewage Collection System. Conyngham shall pay all costs and expenses of making and maintaining continuously during the term hereof connection of the Conyngham Sewage Collection System to the Treatment Plant, at such point or points of connection as shall be mutually agreed upon by both the Authority and Conyngham.

SECTION 2.03. Cooperation; Sharing of Information. Conyngham agrees to the extent possible and economically practicable, to cooperate and share pertinent information with the Authority in facilitating the construction, maintenance and/or operation of the Sewage Collection Systems. Provided, however, that the Authority shall not be financially or otherwise responsible for the Conyngham

Sewage Collection System and Conyngham shall not be financially or otherwise responsible for the Treatment Plant or the Authority Sewage Collection System except to the extent required hereunder.

## ARTICLE III

### Conyngham to Constitute Bulk Customer of Authority; Term of Agreement

SECTION 3.01. Conyngham to Constitute Bulk Customer of Authority. The Authority agrees to operate and maintain continuously the Treatment Plant, and any enlargements, additions, improvements and modifications thereto and to provide Conyngham, as a single, bulk customer, Sewage treatment and disposal services in the Treatment Plant throughout the term hereof, as provided for herein.

SECTION 3.02. Term of Agreement. Subject to the covenants and conditions set forth herein, the term of this Service Agreement shall be for such period of time as the Authority shall provide Conyngham with Sewage treatment and disposal service in the Treatment Plant, or until terminated by mutual written agreement of the Parties.

## ARTICLE IV

### Right to Discharge; Treatment Plant Capacity

SECTION 4.01. Right to Discharge. In consideration of the payment by Conyngham of the charges herein provided, and in further consideration of the performance by Conyngham of the covenants and agreements herein provided, Conyngham shall have the right to discharge Sewage into the Treatment Plant as herein set forth.

SECTION 4.02. Treatment Plant Capacity. It is agreed that during the term of this Sewage Treatment Agreement, Conyngham shall have a Treatment Plant Capacity which shall not exceed 435 EDUs without the Authority's express written approval. The number of EDUs served by Conyngham shall initially be determined on the basis of the annual statements required by Conyngham under Section 6.01.

It is further covenanted and agreed that the daily discharge by each EDU served by Conyngham shall not exceed 230 GPD without the Authority's express written approval. Such discharge shall be determined in accordance with Section 4.03.

In order to assure the financial feasibility and financial integrity of the Treatment Plant, Conyngham covenants and agrees that it will not discharge into the Treatment Plant, Sewage in

excess of 230 GPD for each of such EDU, and that it shall not exceed a maximum of 435 EDUs, except as may be permitted hereunder. The Authority covenants and agrees that it will not discharge, or permit the discharge, of Sewage into the Treatment Plant which will jeopardize or compromise Conyngham's Treatment Plant Capacity.

In the event that the discharge shall exceed 230 GPD for each EDU served by Conyngham, then, in the sole discretion of the Authority, Conyngham shall be deemed to have received from the Authority an additional amount of Treatment Plant Capacity in increments of 1 EDU for each increment of discharge of 230 GPD or less. Payment of appropriate additional charges under Article V shall thereupon be due and shall be paid in full at the time payment is due for the first quarterly billing period after such additional Treatment Plant Capacity is received or deemed to have been received by Conyngham.

Nothing in this Section or elsewhere in this Service Agreement shall be interpreted to prevent the Authority from allocating to any Person, including Conyngham, Treatment Plant Capacity in excess of that set aside for Conyngham hereunder, provided that any such allocation shall not cause a violation of any requirements of a governmental agency and the terms of such allocation shall be set forth in writing and incorporated herein.

SECTION 4.03. Measurement of Flow. The volume of Discharge by Conyngham shall be determined by inspection at least monthly by the Authority of a Sewage flow meter, which will be located at the point or points of connection of the Conyngham Sewage Collection System to the Authority Sewage Collection System. Such Sewage flow meter shall be selected by the Authority, but shall be purchased and installed by the Authority as part of the Project; and shall be maintained by the Authority, the cost of which maintenance shall be reimbursed to the Authority as a separate charge hereunder. The Authority shall notify Conyngham prior to undertaking any major repairs or replacements with respect to such flow meter. At the request of the Authority, the meter shall be of a type that provides for telemetering of Discharge information to the Treatment Plant. The volume of Discharge attributable to Conyngham into the Treatment Plant shall be the total flow measured at the meter.

Metered flow shall be inspected and recorded by the Authority daily commencing upon the Completion Date, a monthly summary of which information shall be forwarded to Conyngham within ten (10) days thereafter. Conyngham may, at its option, have a representative present when such inspection and recording is conducted by the Authority. The readings set forth in said flow meter shall constitute conclusive evidence of the amount of Discharge by Conyngham into the Treatment Plant.

SECTION 4.04. Completion. Upon substantial completion of the construction of the Project, Conyngham shall deliver to the Authority a Consulting Engineers' Certificate which shall recite the fact of such substantial completion. Upon completion, payment of the charges hereunder shall begin to accrue.

SECTION 4.05. Financing Amounts Payable Hereunder. In the event that Conyngham fails to pay any amount hereunder when such amount is due, the Authority may finance such amount in any reasonable manner and upon any reasonable terms as the Authority may approve. The Authority shall be entitled to reimbursement from Conyngham for any amount borrowed, together with any interest, penalties, charges and financing costs paid in connection therewith.

SECTION 4.06. Further Upgrading of Treatment Plant. If, pursuant to any case law, statutes, regulations, rules, guidelines, permits, approvals and/or other standard or requirement of any local, state or federal agencies who have a right to control the treatment and/or disposal of Sewage, the Authority is required to further upgrade or modify the method of Sewage treatment provided by the Treatment Plant, which requirement results in Costs of acquisition or construction to be incurred by the Authority, then Conyngham shall pay a pro rata share of such reasonable Costs arising directly from such upgrading as its then total Treatment Plant Capacity bears to the total capacity of the Treatment Plant so upgraded. Conyngham shall not be required to pay Costs associated with expanding (but not upgrading) the Treatment Plant which will not result in additional Treatment Plant Capacity to Conyngham unless agreed to by it in writing, which writing shall include the terms upon which it will participate in such expansion.

SECTION 4.07. Additions to Treatment Plant.

(a) If Conyngham desires to discharge Sewage into the Treatment Plant, in excess of the Treatment Plant Capacity available to it hereunder by acquisition or otherwise, Conyngham shall notify the Authority in writing that it requests construction of additional Treatment Plant Capacity in the Treatment Plant. Within ninety (90) days of receipt of such notification, the Authority shall notify Conyngham, in writing, of its decision regarding the means and schedule of construction of additional Treatment Plant Capacity, which decision shall be in the Authority's sole discretion.

(b) If the Authority agrees to the construction of such additional Treatment Plant Capacity, it shall use its best efforts to obtain reasonable financing, if necessary, and construct the enlargements, additions, improvements or modifications to the Treatment Plant necessary to provide the total additional Treatment Plant Capacity requested. No such enlargement of the Treatment Plant shall provide additional Treatment Plant Capacity in an

amount less than that which is recommended by the Authority's Consulting Engineers as being appropriate for and consistent with the treatment configuration then existing in the Treatment Plant and site limitations. Conyngham will pay for all of the Costs and expenses associated with additional Treatment Plant Capacity received by it. Any other Person including the Authority, participating in such expansion shall share on a pro rata basis in the Costs thereof with Conyngham. Payment of such Costs shall be made in accordance with this Article.

SECTION 4.08. Additions and Upgrading. If, concurrently, a project is required to be undertaken pursuant to Section 4.06 and Section 4.07 and it becomes impossible to directly relate the Costs to either the upgrading requirement or to expansion, such Costs shall be allocated or equitably apportioned on the basis of sound and acceptable engineering and/or accounting principals.

## ARTICLE V

## Charges

SECTION 5.01. Charges. Conyngham agrees to pay to the Authority quarterly, beginning on the Completion Date, and continuing thereafter for as long as this Service Agreement is in effect, subject to the other provisions hereof, a Charge as its share of the costs for Sewage treatment services rendered by the Authority in the Treatment Plant. Said Charge shall be determined in the following manner: Conyngham shall be charged for each EDU served by Conyngham. The Charge per EDU shall be a sum equal to seventy-five (75%) percent of the EDU Charge at any given time made by the Authority to its users within the Borough of Shickshinny. On the date of execution of this agreement, the EDU Charge to Shickshinny Borough users is Two Hundred Forty ($240.00) Dollars per annum [Sixty ($60.00) Dollars per quarter]. Consequently, on the date of this agreement, the Charge to Conyngham for the discharge of Sewage into the Treatment Plant shall be One Hundred Eighty ($180.00) Dollars per annum [Forty-Five ($45.00) Dollars per quarter] for each EDU served by Conyngham.

Any change in the EDU Charge for the operation and maintenance of the Treatment Plant, made by the Authority to its users within the Borough of Shickshinny shall result in an equivalent proportionate increase or decrease in the Charge made to Conyngham by the Authority, based upon the same ratio. The Authority agrees to notify Conyngham of any change in its charges to users within the Borough of Shickshinny within thirty (30) days after such change becomes effective. Any resulting change in the Charge to Conyngham resulting therefrom will take effect with the first quarterly payment due after such notice to Conyngham.

Any change in the number of EDUs served by Conyngham shall result in an equivalent increase or decrease in the Charge per EDU made by the Authority to Conyngham, based upon the foregoing formula. Each party agrees to notify the other of any such change within thirty (30) days after such change occurs. Any resulting change in the Charge to Conyngham resulting therefrom will take effect with the first quarterly payment due after such notice.

Written records and accounts of all EDUs served by Conyngham shall be prepared and maintained by Conyngham and shall be available to the Authority upon its request.

Any major or extraordinary replacements or repairs, as certified by the Authority's Consulting Engineers, shall be shared by the Authority and Conyngham on the basis of the Treatment Plant Capacity of each at the time. If such repairs or replacements require financing by the Authority, the debt service thereon shall be shared on a pro rata basis in accordance with the Treatment Plant Capacity of each Party.

## ARTICLE VI

### Estimates and Payment of Charges

SECTION 6.01. Estimates of Charges. Within 60 days after being required in writing by the Authority prior to the completion of the Project and on or before November 1 of each Fiscal Year after the commencement of services hereunder, to assist the Authority in determining its budget and rate setting, Conyngham will prepare and submit to the Authority a Statement approved by Conyngham's Consulting Engineers showing, in reasonable detail, the number of EDUs then being served by Conyngham, which statement shall include the number of EDUs and the property addresses of each EDU. Within thirty (30) days from receipt of such statement, the Authority shall prepare and submit to Conyngham, a statement approved by the Authority's Consulting Engineers showing in reasonable detail for the next Fiscal Year: (1) the estimated amounts to be paid by Conyngham during the next Fiscal Year as its estimated charges, determined in accordance with the provisions hereof; (2) the amount, if any, to be credited against the estimated charges for the next Fiscal Year as the result of any overpayments or adjustments of payments during the current or any preceding year; (3) any additional Charge as provided for in Sections 7.05 and 7.06; and (4) the amount of any prior bill not paid, plus interest and costs pursuant to this agreement. Provided, however, for the first Fiscal Year or part thereof following commencement of services hereunder such charges shall be estimated by the Authority's Consulting Engineers.

SECTION 6.02. Payment of Charges. Conyngham agrees to pay its charges quarterly in advance on or before the fifteen day of January, April, July and October of each year, in accordance with a statement prepared by the Authority and forwarded to Conyngham.

SECTION 6.03. Reports. The Authority shall cause to be prepared and certified by an officer of the Authority, commencing after the commencement of services hereunder, an itemized report setting forth, in reasonable detail: (a) the actual EDU Charge made to Shickshinny Borough users for the preceding year; and (b) the charges paid by Conyngham for such year determined in accordance with Article 5. Such report shall be forwarded to Conyngham within thirty (30) days of receipt of annual audited financial statements of the Authority's accounts prepared by a Certified Public Accountant and required to be filed with the Department of Community Affairs under laws of the Commonwealth, together with a copy of such audited financial statements.

SECTION 6.04. Interest on Late Payments. If Conyngham does not make full payment of any Charge due on or before the specified payment date, there shall be added to the amount thereof interest at a rate equal to ten (10%) percent per annum, commencing on the first day of the month following due date.

## ARTICLE VII

### Effluent Quality Restrictions

SECTION 7.01. Uniform Standards. The Authority has adopted or will adopt uniform Sewage quality standards which will comply with the requirements of all regulatory authorities. Conyngham will refrain from discharging or permitting the discharge of Sewage from the Conyngham Sewage Collection System into the Treatment Plant that would violate any of such standards. The Authority will make no changes in said standards except upon reasonable prior written notice to Conyngham and all such standards will apply equally to both Conyngham and the Authority.

SECTION 7.02. Compelling Compliance with Standards. Conyngham shall enact and keep in full force and effect at all times during the term hereof, an ordinance, satisfactory to the Authority, prohibiting, and providing adequate penalties for, the discharge into the Conyngham Sewage Collection System of anything violating the above-mentioned Sewage quality restrictions of the Authority, and Conyngham covenants to enforce the provisions thereof when brought to its attention. Such ordinance shall also prohibit and/or regulate the discharge into Conyngham's Sewage Collection System by industries of industrial waste, as defined in the applicable industrial pretreatment regulations of the Authority. Conyngham shall not permit any discharge into the

Conyngham Sewage Collection System except in the manner and in accordance with the provisions of said ordinance, as applicable.

SECTION 7.03. Sampling Facilities. The Authority may install, maintain and operate, sampling equipment or facilities at or near the point or points that the Conyngham Sewage Collection System discharges into the Authority Sewage Collection System, and Conyngham hereby consents to collection of Sewage samples by the Authority therefrom. Additionally, the Authority may install, maintain and operate sampling, equipment or facilities at such points of discharge in the Conyngham Sewage Collection System from any user thereof whose discharge of Sewage, in the opinion of the Authority's Consulting Engineers, may be detrimental to the operation of the Treatment Plant, and to obtain samples therefrom.

SECTION 7.04. Reports of Samples. In the event that any report received by the Authority analyzing any sample, shall state, in substance, that Sewage discharged from the Conyngham Sewage Collection System or from a particular user thereof violates the quality standards and restrictions as established for the Treatment Plant by the Authority, it shall have the right to appeal such determination by requesting verification of same by future sampling. Such future samples, as herein referred to, shall be submitted both to an independent water quality lab acceptable to the Authority and to the laboratory making the original evaluation that Sewage being discharged was in violation of such standards and restrictions. If the results of analyzing the split sample or samples of the two laboratories are consistent within normal tolerances of testing procedures, then these results shall be considered final; provided, however, that no such right of appeal shall operate to stay remedial action taken by the Authority. The expense of such additional laboratory determinations shall be borne by the Authority should the determination be made that such Sewage is not in violation of the applicable quality standards, or by Conyngham if such final determination supports the findings of a violation of the above-mentioned standards and restrictions.

SECTION 7.05. Treatment of Harmful Wastes. If any Sewage discharge by Conyngham into the Treatment Plant is in violation of the Authority's standards as determined by this Article and requires special treatment or would be harmful to the Treatment Plant, then Conyngham will pay the entire Costs of providing any special treatment as a separate charge, and Conyngham on written notice of violation from the Authority shall immediately act to enforce or have enforced those quality standard ordinances or resolutions by providing or requiring pretreatment of such waste in such manner as is provided by said ordinances or resolutions, or compel disconnection from Conyngham Sewage Collection System of the property from which harmful waste is being discharged.

SECTION 7.06. Reimbursement for Damages from Improper Discharge. Conyngham shall pay the cost of any damage to the

Treatment Plant or the Authority Sewage Collection System resulting from discharge of improper Sewage from the Conyngham Sewage Collection system and all fines and penalties, if any, imposed upon the Authority due to a violation of the above-mentioned quality standards and restrictions, within 90 days after notice by the Authority accompanied by the itemized certificate of the Authority's Consulting Engineers, and shall indemnify and hold harmless the Authority with respect thereto.

SECTION 7.07. Dispute Resolution. If a dispute arises concerning a determination by the Authority's Consulting Engineers hereunder, both parties to such dispute shall appoint an Independent third Person to review the dispute within thirty (30) days of a written demand for dispute resolution issued by either party. Such third Person selected shall render a decision on the dispute within thirty (30) days of the submission of the dispute, unless otherwise extended by agreement of the parties. The decision shall be binding upon all parties. All costs and expenses of retaining such Independent third Person and any other costs incurred in presiding over any disputes arising hereunder shall be borne by the Authority, in the event the decision of the Authority's Consulting Engineers is determined to have been erroneous, or otherwise by Conyngham. If it is determined that neither party was correct in its position giving rise to the dispute, then both parties shall share in such costs equally.

## ARTICLE VIII

## Governmental Grants and Subsidies; Permits

SECTION 8.01. Applications. The Authority may, in its discretion, make applications to the Commonwealth and to the United States and their appropriate agencies, for available grants, subsidies or other payments and for all permits and approvals in respect of the construction, operation and/or maintenance of the Treatment Plant and the Authority Sewage Collection System, which amounts (if appropriate) may be applied to reduce the amounts payable by Conyngham hereunder, on an equitable and proportional basis, in accordance with the terms hereof.

SECTION 8.02. Compliance with Law and Conditions for Grants. Each party will take all such action, within its legal powers, as may be required to comply with all applicable laws, regulations and permits applicable to their respective sewage collection systems and with agreements relating to applicable Federal and Commonwealth grants and subsidies.

## ARTICLE IX

### Connections to each Sewage Collection System; Sewer Rentals or Charges Imposed by Conyngham

SECTION 9.01. Mandatory Connection Ordinance. Conyngham covenants that it will enact an ordinance satisfactory to the Authority, requiring all owners of improved property located within Conyngham which legally can be required to be connected to the Conyngham Sewage Collection System to connect therewith and providing for enforcement of such ordinance as permitted by law. Conyngham also covenants that it will keep such ordinance or a subsequent ordinance or ordinances requiring such connections in full force and effect continuously during the term hereof and to enforce the same as may be permitted by law.

SECTION 9.02. Rate Ordinance. Conyngham covenants that it will enact an ordinance or adopt a resolution imposing sewer rentals or charges upon owners of improved property which shall be connected to the Conyngham Sewage Collection System for use thereof. Conyngham also covenants to thereafter keep such resolution or ordinance or a subsequent resolution or ordinance, imposing such sewer rentals or charges in full force and effect continuously during the term hereof.

SECTION 9.03. Enforcement of Rate Ordinance. Conyngham covenants to continue to enforce any such ordinance or resolution, in effect at any particular time under Section 9.02 and to collect or cause to be collected all amounts becoming due thereunder. If any amounts becoming due thereunder shall not be paid, in accordance with provisions of such resolution or ordinance at the time in effect, Conyngham covenants to take or cause to be taken all necessary action to reduce the same to liens and to enforce or cause to be enforced payment of the liens and/or to enforce or cause to be enforced payment of such sewer rentals or charges in any other manner permitted by law.

SECTION 9.04. Sewer Rates Sufficient to Pay All Charges. Conyngham covenants that sewer rentals or charges imposed by it pursuant to Section 9.02, together with any fees, fines and/or penalties resulting from enforcement of the resolution or ordinance in effect at the time under Section 9.01, and together with any other amounts available for the purpose, shall be at least such that amounts which reasonably may be collected therefrom in each Fiscal Year following the completion Date, together with: (1) any sums received periodically by it from any Person pursuant to any agreement between it and such Person whereby Sewage of such Person shall be accepted by it for collection in the Conyngham Sewage Collection System; (2) any other sums received by it on account of operation of the Conyngham Sewage Collection System; and (3) any other money required to be deposited in its sewer revenue account

or other fund or account pursuant to provisions of an applicable agreement of lease, trust indenture, loan agreement or borrowing documents enforceable against Conyngham will be sufficient to provide funds for the following purposes:

A. Payment by Conyngham in such Fiscal Year of debt service, coverage requirements, if any, operating and maintenance expenses and other costs and expenses relating to the Conyngham Sewage Collection System; and

B. Payment by Conyngham in each Fiscal Year of all other charges payable for services rendered in connection herewith under the terms hereof.

If such collections, receipts, appropriations and deposits in any such Fiscal Year for Conyngham shall be less than the sum of requirements of subparagraphs A and B above, Conyngham covenants that it promptly will adjust or cause to be adjusted, in the manner permitted by law, the sewer rentals or charges so that amounts thereafter to be collected therefrom, together with the other collections, receipts, appropriations and deposits, as aforesaid, shall enable it to comply with requirements of this Section and to eliminate deficiencies of any prior Fiscal Year.

## ARTICLE X

### Miscellaneous

SECTION 10.01. Insurance; Repairs and Reconstruction. The Authority will insure, or cause to be insured, the Treatment Plant and the Authority Sewage Collection System with a responsible company or companies authorized and qualified to do business under laws of the Commonwealth of Pennsylvania, against loss or damage by fire and such other risks (including public liability) and casualties and in such amounts as are usually carried on like properties in said Commonwealth and as shall be reviewed and approved, at least annually, by the Authority's Consulting Engineers or other insurance advisor. Such insurance policies shall be nonassessable. Immediately upon the occurrence of any loss or damage to any part of said Treatment Plant or the Authority Sewage Collection System which is covered by insurance, the Authority will commence and promptly complete, or cause to be so commenced and promptly completed, the repairing, replacement or reconstruction of the damaged or destroyed property according to plans and specification prepared by the Authority's Consulting Engineers and shall collect and apply, or cause to be applied, the proceeds of such insurance to the cost of such repair, replacement or reconstruction.

SECTION 10.02. Inspection. Each party shall provide the other, from time to time, all information relevant to the proper administration of their responsibilities under this Service Agreement, or in respect to the interpretation hereof, as, and in such form and detail as, may be reasonably requested and each shall, at all reasonable times and from time to time, permit their representatives to examine and inspect their respective records and physical facilities relevant to the subject matter of this Service Agreement.

SECTION 10.03. Force Majeure. Notwithstanding any other provision of this Service Agreement, no party hereto shall be responsible in damages to the other for any failure to comply with this Service Agreement resulting from an act of God or riot, sabotage, public calamity, flood, strike, breakdown of the Treatment Plant or any Sewage Collection System, or other event beyond its reasonable control. The party having the responsibility for the facilities so affected, however, shall proceed promptly to remedy the consequences of such event, with Costs thereof to be shared, if applicable, to the extent provided elsewhere herein.

SECTION 10.04. Indemnity. Each party agrees to indemnify and save harmless the other party against all costs, losses or damage on account of any injury to persons or property occurring in the performance of this Service Agreement due to the negligence of such party or its agents or employees.

SECTION 10.05. Severability. Should any provision hereof for any reason be held illegal or invalid, no other provision of this Service Agreement shall be affected; and this Service Agreement shall then be construed and enforced as if such illegal or invalid provision had not been contained herein.

SECTION 10.06. Headings. The headings in this Service Agreement are solely for convenience and shall have no effect in the legal interpretation of any provision hereof.

SECTION 10.07. Effective Date. This Service Agreement shall become effective as of the date hereof.

SECTION 10.08. Waiver. The failure of a party hereto to insist upon strict performance of this Service Agreement or of any of the terms or conditions hereof shall not be construed as a waiver of any of its rights hereunder.

SECTION 10.09. Counterparts. This Service Agreement may be executed in any number of counterparts, each of which shall be regarded for all purposes as an original, but such counterparts shall together constitute but one and the same instrument.

SECTION 10.10. Successors and Assigns. Conyngham shall not voluntarily assign this Service Agreement without the consent of

the Authority, except that Conyngham may assign its rights hereunder to any Person, inter alia, for purposes of undertaking the Project. Subject to the foregoing this Service Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

SECTION 10.11. Supersedes Prior Agreements. This Service Agreement supersedes and repeals any prior agreement, contracts, and understanding, written or oral, by or among the parties hereto with respect to the subject matter contained herein. This Service Agreement contains the entire agreement among the parties hereto, and no oral statements or representations or prior written matter not contained in this instrument shall have any force and effect.

SECTION 10.12. Modification. This Service Agreement may not be modified or amended except in a writing signed by the parties hereto.

SECTION 10.13. Pennsylvania Law. This Service Agreement shall be construed according to, be subject to and be governed by the laws of the Commonwealth.

IN WITNESS WHEREOF, the parties hereto have caused this Service Agreement to be executed by their respective duly authorized officers and their respective seals to be hereunto affixed.

SANITARY SEWER AUTHORITY OF THE
BOROUGH OF SHICKSHINNY,
Luzerne County, Pennsylvania

BY: James Back
Chairman

(CORPORATE SEAL)

ATTEST:

Kreann McLaughlin
Secretary

TOWNSHIP OF CONYNGHAM,
Luzerne County, Pennsylvania

BY: _____
Chairman

(CORPORATE SEAL)

ATTEST:

_____
Secretary

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

October 21, 2021

***Via Electronic Mail***
Honorable Conrad A. Johnson
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Piatt Place
301 5th Avenue, Suite 220
Pittsburgh, PA 15222
cojohnson@pa.gov

Re: Conyngham Township v.
Sanitary Sewer Authority of the Borough of Shickshinny
Docket No. C-2021-3023624
**I&E Direct Testimony**

Dear Judge Johnson:

In accordance with the Fourth Interim Order for Litigation Schedule and Prehearing Matters dated October 15, 2021, enclosed please find a copy of the written **Direct Testimony** and accompanying exhibits of the Bureau of Investigation and Enforcement's witness:

Matthew T. Lamb, P.E. I&E Statement No. 1

Copies have been served on the parties of record in accordance with the attached Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Stephanie M. Wimer
Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 207522
(717) 772-8839
stwimer@pa.gov

Enclosures

cc: Rosemary Chiavetta, Secretary *(Cover Letter and Certificate of Service – via e-file)*
Nicholas Miskanic, OALJ Legal Assistant *(via email only)*
Michael L. Swindler, I&E Deputy Chief Prosecutor *(via email only)*
As per Certificate of Service

**I&E Statement No. 1**
**Witness: Matthew T. Lamb, P.E.**

**CONYNGHAM TOWNSHIP**

**v.**

**SANITARY SEWER AUTHORITY**
**OF THE BOROUGH OF SHICKSHINNY**

**Docket No. C-2021-3023624**

**Direct Testimony**

**of**

**Matthew T. Lamb, P.E.**

**Concerning:**
**Bureau of Investigation & Enforcement**

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## INTRODUCTION

**Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.**

A. My name is Matthew T. Lamb, P.E. I am a Fixed Utility Valuation Engineer II in the Pennsylvania Public Utility Commission's ("Commission") Bureau of Technical Utility Services ("TUS"). My business address is Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120.

**Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND EMPLOYMENT EXPERIENCE?**

A. I attended the University of Colorado at Boulder and earned a Bachelor of Science Degree in Civil Engineering in 1990. I joined TUS in March 2019. My educational and professional background is set forth in Appendix A, which is attached.

**Q. DO YOU MAINTAIN A PROFESSIONAL LICENSE OR CERTIFICATE?**

A. Yes. I am a registered Professional Engineer in the Commonwealth of Pennsylvania with a license identification number of PE091604. Additionally, I maintain Professional Engineer licenses in California and Colorado.

**Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

A. No.

**Q. WHAT ARE YOUR JOB DUTIES AS A FIXED UTILITY VALUATION ENGINEER II IN TUS?**

A. As a Fixed Utility Valuation Engineer II, it is my responsibility to review applications filed by prospective and certificated water and wastewater public utilities for the issuance of Certificates of Public Convenience by the Commission. In this position, I have received extensive training that enables me to classify water and wastewater systems, make determinations as to whether a system falls under the Commission's jurisdiction, and evaluate claims made by a utility to determine their propriety and reasonableness. The training I received includes various industry trainings, such as attending rate school and cybersecurity training that were hosted by the National Association of Regulatory Utility Commissioners ("NARUC"). A complete list of these trainings can be found in Appendix A. Furthermore, my job duties include performing analysis from an engineering perspective for valuation and rate structure of filings submitted by fixed utilities including depreciation, original cost studies for rate base inclusion, and related functions.

**Q. AS PART OF YOUR DUTIES AND RESPONSIBILITIES AS A FIXED UTILITY VALUATION ENGINEER II IN TUS, DO YOU PROVIDE TECHNICAL ASSISTANCE TO OTHER BUREAUS WITHIN THE COMMISSION, INCLUDING THE BUREAU OF INVESTIGATION AND ENFORCEMENT ("I&E")?**

A. Yes.

**Q. ARE YOU THE PROSECUTORIAL LIAISON BETWEEN TUS AND I&E IN THIS PROCEEDING?**

A. Yes.

**Q. PLEASE DEFINE WHAT IT MEANS TO BE A PROSECUTORIAL LIAISION BETWEEN TUS AND I&E.**

A. I&E is the only bureau within the Commission that fulfills the prosecutory function in proceedings before the Commission. However, other bureaus may provide assistance to I&E upon request. I am the prosecutorial liaison between TUS and I&E in this proceeding. Since I am assisting I&E with this case, I do not advise the Commission on matters pertaining to this contested proceeding and I do not communicate with other staff members who provide assistance and advice to the Commission on matters related to this proceeding.

**Q. HOW DID YOU BECOME AWARE OF THE SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY ("AUTHORITY")?**

A. Management in TUS received a request from I&E for technical assistance in the instant complaint matter between Conyngham Township ("Township") and the Authority. My supervisor in TUS assigned me with the responsibility of serving as I&E's prosecutorial liaison in this proceeding, at which time I severed communications regarding this case from any Commission employee acting in an advisory capacity. Prior to being assigned with this duty, I was not aware of the Authority.

**Q. WHAT SPECIFIC TASKS DID YOU PERFORM AFTER RECEIVING THE ASSIGNMENT TO SERVE AS I&E'S PROSECUTORIAL LIASION IN THIS PROCEEDING?**

A. I reviewed all documentation related to this matter, including all pleadings, notices, orders and discovery. Additionally, I reviewed all materials related to I&E's informal investigation of the Authority.

**Q. YOU MENTIONED THAT I&E CONDUCTED AN INFORMAL INVESTIGATION OF THE AUTHORITY. PLEASE DESCRIBE WHAT THE INVESTIGATION ENTAILED.**

A. Before intervening in this proceeding on September 3, 2021, I&E initiated an informal investigation of the Authority on February 1, 2021 that focused on the Authority's alleged provision of wastewater service to Pennsylvania consumers for compensation without holding a Certificate of Public Convenience issued by the Commission. I&E's informal investigation was given the assignment number of Bp8CaseIDNo. 3023904 within the Commission's internal records. I&E sent I&E Data Requests – Set I to the Authority on February 1, 2021 to which the Authority responded on March 24, 2021 and provided supplemental responses on March 25, 2021. I&E sent I&E Data Requests – Set II to the Authority on June 30, 2021 to which the Authority responded on August 19, 2021. It is my understanding that in lieu of pursuing a separate enforcement proceeding following the conclusion of I&E's informal investigation that I&E decided to intervene in this matter since it had already been initiated.

**Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

A. The purpose of my direct testimony is to illustrate how the Authority is a public utility subject to the jurisdiction of the Commission in its provision of sewage treatment service to the citizens of the Township for compensation. Additionally, I will testify about refunds that the Authority should be directed to pay to Township customers as well as the civil penalty that should be imposed on the Authority.

## BACKGROUND OF THE AUTHORITY'S OPERATIONS

**Q. PLEASE DESCRIBE HOW, WHY AND WHEN THE AUTHORITY WAS FORMED.**

A. The Authority was formed on September 25, 1973 as a municipal authority for the purpose of constructing, improving, furnishing and equipping a sanitary sewage system and treatment works, to acquire land necessary to effectuate this purpose and to perform any necessary items incidental to this purpose.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 1.**

A. I&E Exhibit 1 is the Authority's response to I&E Data Requests – Set I, No. 5(b), of I&E's informal investigation of the Authority, in which the Authority provided a copy of the ordinance enacted by the Borough of Shickshinny on August 8, 1973 to create the Authority. The purpose of the Authority is described in this ordinance.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 2.**

A. I&E Exhibit 2 is the Authority's response to I&E Data Requests – Set I, No. 5(d), in which the Authority provided a copy of its Articles of Incorporation.

**Q. DO YOU KNOW WHETHER THE AUTHORITY'S ARTICLES OF INCORPORATION, WHICH ARE DATED AUGUST 8, 1973 AND HAVE BEEN IDENTIFIED AS I&E EXHIBIT 2, ARE CURRENTLY EFFECTIVE?**

A. The Authority responded to I&E Data Requests – Set I, No. 5(e) that the Authority does not know if any amendments to the Articles of Incorporation were enacted. If any amendments were located and obtained by the Authority, the Authority indicated that it would provide them to I&E.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 3.**

A. This is the Authority's response to I&E Data Requests – Set I, No. 5(e), which I described above.

**Q. HAVE ANY AMENDMENTS TO THE AUTHORITY'S AUGUST 8, 1973 ARTICLES OF INCORPORATION BEEN PROVIDED TO I&E?**

A. No.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 4.**

A. I&E Exhibit 4 is the Authority's response to I&E Data Requests – Set I, No. 5(f), in which the Authority provided its Certificate of Incorporation.

**Q. HAVE ANY MUNICIPALITIES JOINED THE AUTHORITY OTHER THAN THE BOROUGH OF SHICKSHINNY?**

A. In its response to I&E Data Requests – Set I, No. 5(h), the Authority admits that the only municipality that formed and/or joined the Authority is the Borough of Shickshinny.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 5.**

A. This is the Authority's response to I&E Data Requests – Set I, No. 5(h), which I described above.

**Q. WHAT IS THE SCOPE OF THE AUTHORITY'S ACTIVITIES?**

A. In response to I&E Data Requests – Set I, No. 5(j), the Authority indicated that the scope of its activities consists of providing treatment of domestic wastewater and discharging the treated wastewater to the Susquehanna River in accordance with a permit issue by the Pennsylvania Department of Environmental Protection ("DEP").

1 **Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION**
2 **AS I&E EXHIBIT 6.**
3 A. This is the Authority's response to I&E Data Requests – Set I, No. 5(j), which
4 describes the scope of the Authority's sewage treatment activities.
5
6 **Q. PLEASE DESCRIBE THE FACILITIES THAT THE AUTHORITY**
7 **OPERATES.**
8 A. In response to I&E Data Requests – Set I, No. 1, the Authority indicated that it owns,
9 operates and maintains a sewage treatment plant in Conyngham Township
10 (Moncanaqua), Luzerne County, Pennsylvania.
11
12 **Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION**
13 **AS I&E EXHIBIT 7.**
14 A. This is the Authority's response to I&E Data Requests – Set I, No. 1, which describes
15 the facilities that the Authority owns and operates.
16
17 **Q. FOR WHAT AREAS DOES THE AUTHORITY PROVIDE SEWAGE**
18 **TREATMENT SERVICE?**
19 A. In response to I&E Data Requests – Set I, No. 2, the Authority indicated that it
20 provides sewage treatment service to the Borough of Shickshinny, a portion of Salem
21 Township, a portion of Conyngham Township and to the Pennsylvania State
22 Correctional Institute – Retreat ("SCI – Retreat").

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 8.**

A. This is the Authority's response to I&E Data Requests – Set I, No. 2, which details the areas in which the Authority currently provides sewage treatment service.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 9.**

A. The Authority supplemented its response to I&E Data Requests – Set I, No. 2 by providing two versions of a map depicting the Authority's service area. One version presents a rough sketch of the service area on Google Maps. The other version presents a more complete map of the Authority's service area that appears to have been drafted by an engineering firm. As you can see from the maps, the Authority provides sewage treatment service to four distinct areas: the Borough of Shickshinny, the West Butler Street area of Salem Township, SCI – Retreat and the Village of Mocanaqua, which I understand to be a community within Conyngham Township. As I explain in greater detail further along in my testimony, not all of these areas are within the Authority's proper jurisdictional limits for sewage treatment services.

**Q. FROM YOUR EXPERIENCE AS A FIXED UTILITY VALUATION ENGINEER IN TUS, PLEASE DESCRIBE THE COMMISSION'S JURISDICTION OVER WASTEWATER PUBLIC UTILITIES.**

A. The Commission maintains jurisdiction over wastewater public utilities, which are defined as persons or corporations that own or operate equipment and facilities for

wastewater collection, treatment or disposal to the public for compensation. However, municipal corporations that provide wastewater service, which include authorities created or organized for the purpose of providing a service similar to that of a public utility, are generally not considered public utilities.

**Q. WHAT DO YOU MEAN WHEN YOU SAY THAT MUNICIPAL CORPORATIONS ARE GENERALLY NOT CONSIDERED TO BE PUBLIC UTILITIES?**

A. Residents of a municipality have the power to vote for elected officials who decide and implement the actions of the municipality. If a municipality creates or organizes a municipal corporation or authority, the residents, in theory, have a voice with respect to the rates and service of the municipal corporation or authority. Regulation by the Commission in this instance is not necessary.

**Q. ARE THERE OCCASIONS WHEN A MUNICIPAL CORPORATION FITS WITHIN THE DEFINITION OF A "PUBLIC UTILITY" AND, THEREFORE, IS SUBJECT TO THE COMMISSION'S JURISDICTION?**

A. Yes. If a municipal corporation or authority provides service to extraterritorial customers, meaning customers with property located outside of the municipal corporation's or authority's corporate limits, the Commission would maintain jurisdiction over the service since the extraterritorial customers would not otherwise receive proper protections concerning rates or service. In essence, extraterritorial

customers lack the power to vote for the officials who govern the rates and service of the municipal corporation or authority.

**Q. ARE THERE INSTANCES WHEN A MUNICIPAL CORPORATION CAN PROVIDE SERVICE TO EXTRATERRITORIAL CUSTOMERS WITHOUT REQUIRING COMMISSION JURISDICTION?**

A. Yes. First, a municipality may join a municipal corporation or authority that was originally formed by another municipality. This would render the municipality to be within the corporate limits of the municipal corporation or authority. Secondly, a municipality may enter into an inter-governmental agreement with the municipal corporation or authority agreeing to be served by the municipal corporation or authority, without officially joining the municipal corporation or authority. In that instance, the municipal corporation or authority would typically bill the non-joining municipality for bulk public utility-type service.

**Q. YOU PREVIOUSLY TESTIFIED THAT NO MUNICIPALITY OTHER THAN THE BOROUGH OF SHICKSHINNY FORMED OR JOINED THE AUTHORITY. IS IT FAIR TO SAY THAT THE TOWNSHIP DID NOT JOIN THE AUTHORITY?**

A. Yes, that is correct.

**Q. DOES THE AUTHORITY CURRENTLY HAVE AN INTER-GOVERNMENTAL AGREEMENT WITH THE TOWNSHIP?**

A. Presently, the Authority does not maintain an inter-governmental agreement with the Township despite providing the Township with sewage treatment service.

**Q. DID THE AUTHORITY EVER HAVE AN AGREEMENT WITH CONYNGHAM TOWNSHIP TO PROVIDE SEWAGE TREATMENT SERVICES?**

A. Yes.

**Q. PLEASE EXPLAIN.**

A. The Authority and the Township entered into a Sewage Treatment Agreement on November 18, 1992 wherein the Authority agreed to provide sewage treatment and disposal services to the Township as a single bulk customer.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 10.**

A. This is the Authority's response to I&E Data Requests – Set I, No. 7(a), which provides a copy of the Sewage Treatment Agreement between the Authority and the Township.

**Q. IS THE SEWAGE TREATMENT AGREEMENT BETWEEN THE AUTHORITY AND THE TOWNSHIP CURRENTLY EFFECTIVE?**

A. No. By letter dated September 11, 2020, the Authority notified the Township that it was immediately cancelling the Sewage Treatment Agreement. The Authority also indicated that it would begin to directly invoice the residents and rate payers in the Township for the sewage treatment service provided by the Authority.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 11.**

A. This is the Authority's response to I&E Data Requests – Set I, No. 7(b), which provides a copy of the Authority's letter cancelling the Sewage Treatment Agreement with the Township.

**Q. AFTER THE AUTHORITY TERMINATED THE SEWAGE TREATMENT AGREEMENT WITH THE TOWNSHIP, DID THE AUTHORITY STOP SERVING CUSTOMERS LOCATED IN THE TOWNSHIP?**

A. No.

**Q. PLEASE EXPLAIN.**

A. The Authority continued serving customers located in the Township despite the absence of an inter-governmental agreement between the Authority and the Township or any action wherein the Township would have officially joined the Authority. Simply stated, upon the termination of the Sewage Treatment Agreement between the

Authority and the Township, the Authority ceased its ability to bill for wastewater treatment and disposal services to the Township. The decision by the Authority to directly bill customers located in the Township outside of its jurisdictional boundaries has made the Authority subject to Commission as a public utility.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 12.**

A. This is the Authority's response to I&E Data Requests – Set II, No. 2(a), wherein the Authority admits that it began directly invoicing customers located in the Township on January 1, 2021.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 13.**

A. This is the Authority's response to I&E Data Requests – Set I, No. 8, in which the Authority provides a copy of a sample invoice that the Authority directly sends to customers in the Township.

**Q. DO YOU KNOW HOW THE AUTHORITY CALCULATES ITS CHARGES TO CUSTOMERS LOCATED IN THE TOWNSHIP?**

A. Yes. The Authority charges customers located in the Township a rate of $75.00 per calendar year quarter.

**Q. IS THE RATE OF $75.00 PER CALENDAR YEAR QUARTER THE SAME AMOUNT THAT THE AUTHORITY BILLS TO CUSTOMERS LOCATED IN OTHER MUNICIPALITIES IN WHICH THE AUTHORITY SERVES, SPECIFICALLY SALEM TOWNSHIP AND THE BOROUGH OF SHICKSHINNY?**

A. No. The Authority charges customers located in Conyngham Township $5.00 more per calendar year quarter than customers located in Salem Township and the Borough of Shickshinny based on the Authority's unverified claim that there is an ongoing issue with the Township concerning influx and infiltration. Further, the Authority has stated that it has not conducted a rate study in the past 5 years which appears to establish its rates are arbitrary and may not be apportioned properly or reasonable based upon usage of the Authority's system.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 14.**

A. This is the Authority's response to I&E Data Requests – Set II, No. 2(c), which describes the Authority's quarterly charges.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 15.**

A. This is the Authority's response to I&E Interrogatories and Requests for Production of Documents – Set II, No. 10, which admits that no rate study has been performed in the past 5 years and provides a rate calculation sheet utilized by the Authority.

1 **Q. IS THERE ANYTHING OF SIGNIFICANCE THAT YOU WOULD LIKE TO**
2 **DISCUSS WITH REGARD TO THE AUTHORITY'S RATE CALCULATION**
3 **SHEET?**
4 A. Yes. In addition to being arbitrarily charged $5.00 more per calendar year quarter,
5 the Authority also charges Township customers $4.61 for conveyance, which is a
6 service that the Authority does not provide to Township customers. The Authority
7 admitted to I&E that the Conyngham Township Sewer Authority transmits the
8 wastewater directly to a flowmeter within the boundaries of Authority's sewage
9 treatment plant.
10
11 **Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION**
12 **AS I&E EXHIBIT 16.**
13 A. This is the Authority's response to I&E Interrogatories and Requests for Production
14 of Documents – Set I, No. 4 wherein the Authority acknowledges that wastewater is
15 conveyed to the Authority's sewage treatment plant by the Conyngham Township
16 Sewer Authority's facilities. This response is also significant because the Authority
17 inherently recognizes the jurisdictional boundaries of the Conyngham Township
18 Sewer Authority.
19
20 **Q. HOW MANY CUSTOMERS LOCATED IN THE TOWNSHIP ARE SERVED**
21 **BY THE AUTHORITY?**
22 A. There are approximately 220 residential customers and eight commercial customers
23 located in the Township that receive and pay for the Authority's wastewater services.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 17.**

A. This is the Authority's response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 2, which illustrates the total number of Township customers billed by the Authority.

**Q. DO YOU KNOW THE TOTAL AMOUNT THAT THE AUTHORITY HAS COLLECTED THROUGH RATES CHARGED TO AND RECEIVED FROM CUSTOMERS LOCATED IN THE TOWNSHIP SINCE THE AUTHORITY BEGAN DIRECTLY BILLING THOSE CUSTOMERS?**

A. Yes. From January 1, 2021 to September 23, 2021, the Authority collected $54,684.68 from ratepayers located in the Township.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 18.**

A. This is the Authority's response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 3, which provides the total amount collected by the Authority from Township customers since the Authority began directly billing the customers. This amount is only going to increase with time as the Authority continues to send quarterly bills to Township customers.

**Q. HAVE YOU DRAWN ANY CONCLUSIONS CONCERNING THE AUTHORITY'S PROVISION OF SEWAGE TREATMENT SERVICES TO TOWNSHIP RESIDENTS?**

A. Yes. Since January 1, 2021, the Authority has been acting beyond its corporate limits by providing sewage treatment wastewater service to individual residential and commercial customers located in the Township and directly billing those customers. Such action subjects the Authority to Commission regulation and control. Additionally, the Authority only provides sewage treatment service. It does not collect or convey the wastewater that is generated from residences or commercial buildings located in the Township. In this regard, the Authority appears to be using the Conyngham Township Sewer Authority's facilities to transport the wastewater to its sewage treatment plant absent any currently effective agreement to do so, all while arbitrarily charging Township customers for conveyance.

**<u>NEED FOR A CERTIFICATE OF PUBLIC CONVENIENCE</u>**

**Q. YOU MENTIONED THAT THE AUTHORITY'S PROVISION OF SERVICE TO CUSTOMERS LOCATED IN THE TOWNSHIP IS BEYOND THE SCOPE OF ITS CORPORATE LIMITS. WHAT IS THE NEXT STEP OF YOUR ANALYSIS?**

A. Public utility service that is being furnished by a municipal corporation beyond its corporate limits is subject to regulation by the Commission with the same force and in like manner as if the service were rendered by a public utility. I have explained that with the termination of the Sewage Treatment Agreement between the Authority and

1 the Township, the Authority is now providing service beyond its corporate limits.
2 Next, I will examine whether that service is "public utility service."
3
4 **Q. PLEASE CONTINUE.**
5 A. The Commission considers the status of a utility service based on the specific facts of
6 the service, including: (1) whether the service is merely incidental to nonutility
7 business with the customers; (2) whether the facility is designed and constructed only
8 to serve a specific group of individuals and others cannot feasibly be served without a
9 significant revision to the project; and (3) whether the service is provided to a single
10 customer or to a defined, privileged and limited group when the provider reserves its
11 right to select its customers by contractual arrangement so that no one among the
12 public outside of the selected group can demand service. These factors can be found
13 at 52 Pa. Code § 69.1401.
14
15 **Q. IS THE SEWAGE TREATMENT SERVICE PROVIDED BY THE**
16 **AUTHORITY TO TOWNSHIP CUSTOMERS INCIDENTAL TO ANY**
17 **NONUTILITY BUSINESS WITH CUSTOMERS IN THE TOWNSHIP?**
18 A. No. In response to I&E Interrogatories and Requests for Production of Documents –
19 Set I, No. 1, the Authority stated that it only engages in the collection, treatment and
20 disposal of sewage. The Authority has no other relationship with customers in the
21 Township other than to treat the customers' wastewater for compensation.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 19.**

A. This is the Authority's response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 1, which I described above.

**Q. IS THE AUTHORITY CAPABLE OF EXPANDING ITS SEWAGE TREATMENT SERVICE TO ADDITIONAL CUSTOMERS IN THE TOWNSHIP?**

A. Yes. The Authority stated in response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 4, which is set forth in I&E Exhibit 16, that the Authority is able to provide sewage treatment service to additional customers in the Township if the Conyngham Township Sewer Authority also expands its collection and conveyance of the wastewater to the Authority's sewage treatment plant.

**Q. DOES THE AUTHORITY PROVIDE SEWAGE TREATMENT SERVICE IN THE TOWNSHIP TO A DEFINED, PRIVILEGED AND LIMITED GROUP OF CUSTOMERS WITH WHOM THE AUTHORITY ENTERS INTO CONTRACTS?**

A. No. In response to I&E Interrogatories and Requests for Production of Documents – Set I, the Authority admitted that it does not serve customers in the Township pursuant to a contract, has no control over the selection of its customers, has no "say" over the sale or leasing of customer properties in the Township, and has never denied a request for sewage treatment service from a customer located in the Township.

**Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION AS I&E EXHIBIT 20.**

A. These are the Authority's responses to I&E Interrogatories and Requests for Production of Documents – Set I, Nos. 5, 7, 8 and 9, which cover the points that I discuss, above.

**Q. WHAT IS YOUR POSITION AS TO WHETHER THE AUTHORITY NEEDS A CERTIFICATE OF PUBLIC CONVENIENCE?**

A. Following the termination of the bulk Sewage Treatment Agreement between the Authority and the Township, the Authority has been acting as a *de facto* public utility with respect to its action of providing sewage treatment service to Township customers for compensation. The Authority provides this service to the indefinite public in the Township; as long as an individual or business buys or leases a property within the Authority's service territory, that individual or business must pay for sewage treatment service from the Authority. Accordingly, the Authority's service to Township customers requires a Certificate of Public Convenience issued by the Commission.

**Q. HAS THE AUTHORITY EVER APPLIED FOR A CERTIFICATE OF PUBLIC CONVENIENCE FROM THE COMMISSION?**

A. No.

1 **Q. WHAT IS YOUR RECOMMENDATION IN THIS PROCEEDING WITH**
2 **RESPECT TO A CERTIFICATE OF PUBLIC CONVENIENCE?**
3 A. I recommend that the Authority be directed to apply for a Certificate of Public
4 Convenience as it concerns the service that it provides to Township customers for
5 compensation. Such service is beyond the Authority's corporate limits and should be
6 regulated with the same force and like manner as that of a public utility.
7
8 **<u>OTHER RELIEF SOUGHT – REFUNDS AND CIVIL PENALTIES</u>**
9 **Q. BESIDES A DIRECTIVE THAT REQUIRES THE AUTHORITY TO APPLY**
10 **FOR A CERTIFICATE OF PUBLIC CONVENIENCE, WHAT OTHER**
11 **REMEDIES IS THE BUREAU OF INVESTIGATION AND ENFORCEMENT**
12 **SEEKING?**
13 A. I&E requests that the Authority refund Township customers the amount that the
14 Authority unlawfully collected from them along with the legal rate of interest. I&E
15 also requests that the Commission impose a civil penalty in the amount of $100,000
16 on the Authority for providing unauthorized sewage treatment service for
17 compensation to Township customers.
18
19 **Q. HOW MUCH IS I&E REQUESTING THAT THE AUTHORITY REFUND TO**
20 **CUSTOMERS?**
21 A. The Authority is not permitted by the Commission to charge Township customers for
22 sewage treatment service. As I testified earlier, the Authority began directly
23 invoicing customers located in the Township on January 1, 2021. Therefore, all rates

collected by the Authority from Township customers from January 1, 2021, continuing to the present time and until the Authority ceases such practice are subject to being refunded back to Township customers. As of September 23, 2021, this amount totaled $54,684.68. Additionally, the total amount collected by the Authority from Township customers is subject to interest at the legal rate, which is six percent per annum. The legal rate of interest can be found at 41 P.S. § 202.

**Q. WHAT CIVIL PENALTY IS BEING SOUGHT BY I&E FOR THE AUTHORITY'S UNLAWFUL SEWAGE TREATMENT SERVICE TO TOWNSHIP CUSTOMERS?**

A. I&E proposes that the Authority pay a civil penalty of $100,000.

**Q. DO YOU KNOW WHERE THE LEGAL AUTHORITY CAN BE FOUND TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS?**

A. Yes. Such authority can be found in Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, which allows a civil penalty of up to $1,000 per violation and for each and every day's continuance in the violation.

**Q. BASED ON THAT EXPLANATION, COULD I&E HAVE PROPOSED A CIVIL PENALTY OF $1,000 PER DAY STARTING FROM JANUARY 1, 2021 AND CONTINUING UNTIL THE AUTHORITY CEASES PROVIDING SEWAGE TREATMENT SERVICE FOR COMPENSATION TO TOWNSHIP CUSTOMERS?**

A. Yes.

**Q. NOW I WOULD LIKE TO ASK YOU ABOUT SOME FACTORS AND STANDARDS THAT THE COMMISSION CONSIDERS WHEN EVALUATING CIVIL PENALTIES IN MATTERS INVOLVING VIOLATIONS OF THE PUBLIC UTILITY CODE AND COMMISSION REGULATIONS. THESE FACTORS AND STANDARDS CAN BE FOUND AT 52 Pa. Code § 69.1201. CAN YOU PLEASE DESCRIBE THE CONDUCT AT ISSUE IN THIS PROCEEDING AND INDICATE WHETHER IT IS SERIOUS?**

A. Yes. The conduct in this proceeding relates to a municipal corporation, the Authority, providing sewage treatment service for compensation to the public located outside of its corporate limits without first obtaining a Certificate of Public Convenience issued by the Commission. Such conduct is serious as the Township customers lack any mechanism to protect themselves from unreasonable service, facilities and rates since the Authority has not subjected itself to Commission jurisdiction and regulation.

**Q. WERE THE RESULTING CONSEQUENCES OF THE AUTHORITY'S MISCONDUCT SERIOUS?**

A. The consequences of the Authority's misconduct resulted in Township customers being charged $5.00 more per calendar year quarter than other customers served by the Authority. Such consequences should be deemed serious as they result in financial ramifications to Township customers and disparately treat Township customers from other Authority ratepayers.

1 **Q. WOULD YOU CHARACTERIZE THE AUTHORITY'S CONDUCT AS**
2 **INTENTIONAL OR NEGLIGENT?**
3 A. Intentional. The Authority took the deliberate action of terminating the Sewage
4 Treatment Agreement with the Township and began directly billing Township
5 customers a more expensive rate than the rate that other Authority customers pay.
6 The Authority is or should be fully aware of the requirement to obtain a Certificate of
7 Public Convenience given its participation in the instant Complaint proceeding as
8 well as I&E's informal investigation. Moreover, the Authority has not yet applied for
9 a Certificate of Public Convenience. Additionally, the Authority did not in good faith
10 commence serving Township residents for compensation. It failed to seek an opinion
11 from the Chief Counsel of the Commission nor did it voluntarily notify and disclose
12 the nature of its operations to the Commission.
13
14 **Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION**
15 **AS I&E EXHIBIT 21.**
16 A. This is the Authority's response to I&E Interrogatories and Requests for Production
17 of Documents – Set I, No. 10, indicating that the Authority did not request informal
18 advice from the Chief Counsel of the Commission concerning the jurisdictional status
19 of its service.
20
21 **Q. PLEASE DESCRIBE WHAT HAS BEEN MARKED FOR IDENTIFICATION**
22 **AS I&E EXHIBIT 22.**
23 A. This is the Authority's response to I&E Interrogatories and Requests for Production

of Documents – Set I, No. 11, indicating that the Authority did not voluntarily file a notice and disclosure statement with the Commission describing the nature and scope of its utility service such that would enable the Commission to make a determination as to the jurisdictional status of the service.

**Q. HAS THE AUTHORITY MADE EFFORTS TO MODIFY ITS INTERNAL PRACTICES AND PROCEDURES TO ADDRESS THE CONDUCT AT ISSUE AND PREVENT SIMILAR CONDUCT IN THE FUTURE?**

A. No. The Authority has not made any modification to its current practice of providing Township customers with sewage treatment service for compensation; such unlawful service continues. Additionally, the Authority has not yet made any attempt to apply for a Certificate of Public Convenience.

**Q. HOW MANY CUSTOMERS HAVE BEEN AFFECTED BY THE AUTHORITY'S UNLAWFUL SEWAGE TREATMENT SERVICE?**

A. Approximately 228 customers have been impacted by the Authority's conduct, which includes approximately 220 residential customers and eight commercial customers.

**Q. HOW LONG HAS THE AUTHORITY BEEN PROVIDING SEWAGE TREATMENT SERVICE TO TOWNSHIP CUSTOMERS FOR COMPENSATION?**

A. Since January 1, 2021 and such service continues.

**Q. ARE YOU AWARE OF ANY PRIOR COMMISSION ACTION THAT RESULTED IN A FINDING THAT DETERMINED THAT THE AUTHORITY WAS NON-COMPLIANT WITH THE PUBLIC UTILITY CODE OR COMMISSION REGULATIONS?**

A. No. However, the Authority likely would not have been subject to the Commission's oversight until it terminated the Sewage Treatment Agreement with the Township and began directly invoicing Township customers, which occurred on January 1, 2021.

**Q. DO YOU KNOW WHETHER THE AUTHORITY COOPERATED WITH I&E'S INFORMAL INVESTIGATION?**

A. It is my understanding that the Authority cooperated with I&E's informal investigation, including answering I&E's Data Requests. However, it is I&E's position that such cooperation does not mitigate the Authority's decision to continue unlawfully serving and charging customers in the Township.

**Q. DO YOU KNOW THE SIZE OF THE AUTHORITY?**

A. I am aware that the Authority serves the entire Borough of Shickshinny, a portion of Salem Township and SCI – Retreat. The Authority claims that it also serves approximately 228 customers located in Moncanaqua, which is a portion of Conyngham Township in which the Authority previously provided bulk customer sewage treatment service to the Township. I do not know the precise number of customers served by the Authority or the amount of rates collected by the Authority from all of its ratepayers. However, the Authority's service territory demonstrates

that it is not microscopic in size. Additionally, the Authority's proposed budget income for 2021 is $311,850 as reflected in I&E Exhibit 15.

**Q. IN YOUR OPINION, WOULD A CIVIL PENALTY OF $100,000 BE SUFFICIENT TO DETER THE AUTHORITY FROM PROVIDING UNAUTHORIZED PUBLIC UTILTIY WASTEWATER SERVICE IN THE FUTURE?**

A. Yes. A civil penalty of $100,000 should be an adequate civil penalty and sufficient in deterring the Authority from committing future violations. I&E could have sought a much larger civil penalty, specifically, $1,000 per day starting on January 1, 2021 and continuing until the Authority ceases providing sewage treatment service outside of its jurisdictional limits.

**Q. ARE YOU AWARE OF PREVIOUS COMMISSION DECISIONS INVOLVING SIMILAR SITUATIONS?**

A. No.

**Q. ARE THERE ANY OTHER FACTORS RELEVANT TO THE EVALUATION OF THE CIVIL PENALTY AMOUNT IN THE INSTANT MATTER?**

A. Yes. The fact that the Authority continues to litigate this matter and expend the time and resources of all parties involved when the Authority's continued unlawful service clearly violates the Public Utility Code should be considered by the Commission in its evaluation of an appropriate civil penalty amount.

**Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

A. Yes.

# MATTHEW T. LAMB, P.E.

## PROFESSIONAL EXPERIENCE AND EDUCATION

### EDUCATION & CERTIFICATIONS

| | |
|---|---|
| Bachelor of Science, Civil Engineering | University of Colorado, Boulder |
| Registered Professional Engineer | |
| State of California | C 52474 |
| State of Colorado | PE 58150 |
| Commonwealth of Pennsylvania | PE091604 |
| Qualified Stormwater Pollution Prevention Plan (SWPPP) Developer | State of California |
| Total Quality Management Leadership & Training Certifications | Los Angeles, CA |
| Senn-Delaney Leadership & Teambuilding Certifications | Los Angeles, CA |
| Certified Welding Inspector (SoCalGas) | Pico Rivera, CA |
| 48th Annual Eastern Rate School (2020) | NARUC |
| Cybersecurity Training for State Regulatory Commissions (2021) | NARUC |
| Flood Resilience Training for Water & Wastewater Utilities (2019) | EPA |
| Water Planning & Hazard Mitigation Planning Course (2020) | EPA/PEMA |
| Pennsylvania Groundwater Symposium (2019 & 2021) | PennState |
| Water System Depreciation – Capital Planning Tool (2020) | NRWA |

### CURRENT EMPLOYMENT (2019 – Present)

**Fixed Utility Valuation Engineer | PA Public Utility Commission** | Harrisburg, PA

- Perform analysis from an engineering perspective for valuation and rate structure filings submitted by fixed utilities including depreciation, original cost studies for rate base inclusion, and related functions.
- Review water/wastewater applications for new service, transfers of ownership, additional service territory and abandonment of service, examining the adequacy and cost effectiveness of operations.
- Prepare analytical studies and reports relating to water/wastewater federal and state regulatory policy analysis and environmental issues.

### PREVIOUS EMPLOYMENT HIGHLIGHTS

- Oversaw the review and processing of the permit to retool 450 megawatts at the AES Huntington Beach Power Station in front of the California Energy Commission (CEC) on an accelerated 180-day schedule due to the 2001 energy crisis for the affected municipality. Worked with CEC staff, AES representatives and community stakeholders to successfully negotiate the incorporation of many permit conditions important to the community.
- Managed the review of the Application to permit the transfer of the Southern California Edison fuel oil pipeline and terminal assets sale in front of the California Public Utilities Commission (CPUC) representing the intervening municipality.

- Directed a department of 16 project managers, planners, engineers, inspectors and technical support staff responsible for a Capital Improvement Program (CIP) of $65 million annually comprising of 40+ different natural gas pipeline and compressor station projects throughout Southern California with an operating budget of $2 million.
- Supervised four planning engineers to provide field engineering support to operations and maintenance personnel working on a complex natural gas well and pipeline system in Los Angeles, Orange and Riverside counties. Responsible for troubleshooting day-to-day operations, directing capital replacement programs, and implementing major maintenance overhauls. Major projects included: new wastewater treatment facility, new private firewater and hydrant system, and an extensive well head automation and SCADA system implementation.

**PREVIOUS EMPLOYMENT (1990 – 2019)**

**Vice President** | **Net Media Assets, Inc.** | Huntington Beach, CA
**Community Development Director** | **City of Baldwin Park** | Baldwin Park, CA
**Executive Director** | **Santa Ana Business Association** | Santa Ana, CA
**Downtown Development Manager** | **City of Santa Ana** | Santa Ana, CA
**Real Estate Services Manager** | **City of Huntington Beach** | Huntington Beach, CA
**Planning & Construction Manager** | **Southern California Gas Company** | Los Angeles, CA
**Transmission Planning & Construction Supr** | **Southern California Gas Company** | Los Angeles, CA
**Region Operations Engineer** | **Southern California Gas Company** | Los Angeles, CA
**Project Manager** | **Southern California Gas Company** | Los Angeles, CA
**Staff Engineer** | **Southern California Gas Company** | Los Angeles, CA
**Associate Engineer** | **Southern California Gas Company** | Los Angeles, CA

# I&E
# EXHIBIT 1

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 1**

Authority Response to I&E Data Requests – Set I, No. 5(b):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

a. Identify the municipality or municipalities that originally organized the Authority and provide the applicable resolution or ordinance that formed the Authority;

***

**Answer:** It is believed and therefore averred that SSABS was created on or around September 25, 1973, by the Borough of Shickshinny. SSABS will attempt to obtain a copy of the applicable resolution or ordinance, but the document(s) should be in the possession of the Borough of Shickshinny.

NOTICE IS HEREBY GIVEN that the following ordinance was adopted by the Council of the Borough of Shickshinny, Luzerne County, Pennsylvania, on August 8, 1973, which expressed the desire of the Borough to organize an Authority under the Act of May 2, 1945, P.L. 382, as amended, and set forth the proposed articles of incorporation in full, which ordinance is as follows:

A resolution of the Borough of Shickshinny, Luzerne County, Pennsylvania, signifying the desire and intention of the Borough to organize an Authority under the Municipality Authorities Act of One thousand nine hundred and forty five, setting forth the proposed Articles of Incorporation of the Authority to be known as the Sanitary Sewer Authority of the Borough of Shickshinny, Pennsylvania, authorizing the proper officers of the Borough of Shickshinny to execute Articles of Incorporation for and onbehalf of the Borough and repealing all Resolutions or parts of resolutions inconsistent therewith.

Be it ordained and enacted by the Borough of Shickshinny, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, as follows:

1. That it is the desire of the Council of the Borough to organize an authority under the Municipality Authorities Act of May 2, 1945, P.L. 382, as amended.

2. That in purtuance of the said desire and intention, and in conformity with the terms and provisions of the Municipality Authorities Act and its amendments, the proposed Articles of Incorporation are hereby set forth in full as follows:

Articles of Incorporation of the
Sanitary Sewer Authority of the
Borough of Shickshinny, Luzerne
County, Pennsylvania

TO the Secretary of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania:

In compliance with the requirement of the Municipality Authorities Act of 1945, P.L. 382, as amended and pursuant to resolution adopted by the Municipal Authorities of the Borough of Shickshinny, Luzerne County, Pennsylvania, that a Municipal Authority be established under the provisions of the aforementioned law, the Borough of Shickshinny, Luzerne County, Pennsylvania, desiring that a Municipal Authority be established and that a certificate of incorporation be issued to said authority, does hereby certify:

(a) The name of the authority shall be - Sanitary Sewer Authority of the Borough of Shickshinny.

(b) That the Authority is formed under the Act ofMay 2, 1945, P.L. 382, as amended, known as the Municipality Authorities Act of 1945.

(c) No other Authority has been organized under the provisions of this Act or the Act approved June 28th, 1935, P.L. 463, and is in existence within said Borough.

(d) The name of the incorporating municipality is the Borough of Shickshinny, Luzerne County, Pennsylvania.

The names and addresses of the Mayor and the Borough Council, the municipal authorities of the Borough of Shickshinny, Luzerne County, Pennsylvania, are as follows:

Gustave Bach, Mayor, 122 Susquehanna Avenue, Shickshinny

Members of Council:

Raymond C. Mills, President, 59 W. Butler St., Shickshinny
Alexander J. Stepanski, 140 Susquehanna Ave., Shickshinny
Clement Wido, 53 N. Main St., Shickshinny
Frederick C. Post, 47 N. Main St., Shickshinny
Jack McClure, 16 Susquehanna Ave., Shickshinny
Michael Kokora, 47 S. Main St., Shickshinny
Robert A. McLaughlin, 37 N. Main St., Shickshinny
Wilbur M. Beaver, 15 W. Butler St., Shickshinny

(e) The members of the Board shall be five (5) in number.

The names, addresses and terms of office of the first members of the Board of said Authority are as follows:

Wilson Reider, 19 W. Butler St., Shickshinny - 1 year
John G. Thomas, 31 Furnace St., Shickshinny - 2 years
Margaret Caverly, 66 W. Union St., Shickshinny - 3 years
James Bach, 150 Rockview Avenue, Shickshinny - 4 years
William B. Curwood, 51 N. Main St., Shickshinny - 5 years

2. The proposed Articles of Incorporation of the Authority shall be executed by and on behalf of the Borough by the Mayor, President and Members of Council of the Borough, attested by the Secretary, and filed with the Secretary of the Commonwealth. The Solicitor is hereby authorized and directed to publish notice of this Ordinance and Resolution and of the day upon which the Articles of Incorporation will be filed with the Secretary of the Commonwealth of Pennsylvania; to file the Articles of Incorporation, together with the Ordinance and Resolution authorizing the incorporation of the Authority and necessary proofs of publication and to do all other things necessary or appropriate to effect the incorporation of the

Sanitary Sewer Authority of the Borough of Shickshinny.

4. That the projects which shall be undertaken by the Sanitary Sewer Authority of the Borough of Shickshinny, Luzerne County, Pennsylvania, shall be to construct, improve, furnish and equip a sanitary sewage system and treatment works and to acquire necessary land for such purposes and to do and perform all necessary things incident thereto.

5. That all other Ordinances or parts of Ordinances, Resolutions or parts of Resolutions inconsistent herewith be and the same are hereby expressly repealed.

6. That this Ordinance and/or Resolution shall be effective from and after its passage and advertisement.

Enacted and ordained this 8th day of August, 1973

BOROUGH OF SHICKSHINNY

JOHN G. THOMAS, SECRETARY

---

Notice is therefore given by the Borough of Shickshinny that the Act of Incorporation of the proposed Authority will be filed with the Secretary of the Commonwealth of Pennsylvania on Tuesday, September 25, 1973.

THOMAS C. MOORE, SOLICITOR

# I&E
# EXHIBIT 2

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 2**

Authority Response to I&E Data Requests – Set I, No. 5(d):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

d. Provide a copy of the Authority's articles of incorporation;

***

**Answer:** It is believed and therefore averred that the requested information may be in the possession of the Borough of Shickshinny. SSABS will attempt to request and obtain or locate the requested document(s), but it does not currently have them in its possession.

# ARTICLES OF INCORPORATION OF THE SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY, LUZERNE COUNTY, PENNSYLVANIA

TO: THE SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA, HARRISBURG, PENNSYLVANIA:

In compliance with the requirements of the Municipality Authorities Act of 1945, P.L. 382, as amended, and pursuant to resolution adopted by the Municipal Authorities of the Borough of Shickshinny, Luzerne County, Pennsylvania, that a Municipal Authority be established under the provisions of the aforementioned law, the Borough of Shickshinny, Luzerne County, Pennsylvania, desiring that a Municipal Authority be established and that a certificate of incorporation be issued to said Authority, does hereby certify:

(a) The name of the Authority shall be - Sanitary Sewer Authority of the Borough of Shickshinny.

(b) That the Authority is formed under the Act of May 2, 1945, P.L. 382, as amended, known as the "Municipality Authorities Act of 1945".

3-1-73.44

(c) No other Authority has been organized under the provisions of this Act or the Act approved June 28th, 1935, P.L. 463, and is in existence within said Borough.

(d) The name of the incorporating municipality is the Borough of Shickshinny, Luzerne County, Pennsylvania.

The names and addresses of the Mayor and the Borough Council, the municipal authorities of the Borough of Shickshinny, Luzerne County, Pennsylvania, are as follows:

Gustave Bach, Mayor, 122 Susquehanna Avenue, Shickshinny

Members of Council:

Raymond C. Mills, President, 59 W. Butler St., Shickshinny
Alexander J. Stepanski, 140 Susquehanna Ave., Shickshinny
Clement Mido, 53 N. Main St., Shickshinny
Frederick C. Post, 47 N. Main St., Shickshinny
Jack McClure, 16 Susquehanna Ave., Shickshinny
Michael Kokora, 47 S. Main St., Shickshinny
Robert A. McLaughlin, 37 N. Main St., Shickshinny
Wilbur N. Beaver, 15 W. Butler St., Shickshinny

(e) The members of the Board shall be five (5) in number.

The names, addresses and terms of office of the first members of the Board of said Authority are as follows:

Wilson Reider, 19 W. Butler St., Shickshinny - 1 year
John G. Thomas, 31 Furnace St., Shickshinny - 2 years
Margaret Caverly, 66 W. Union St., Shickshinny - 3 years
James Bach, 150 Rockview Avenue, Shickshinny - 4 years
William B. Curwood, 51 N. Main St., Shickshinny - 5 years

3. The proposed Articles of Incorporation of the Authority shall be executed by and on behalf of the Borough by the Mayor, President and Members of Council of the Borough, attested by the Secretary, and filed with the Secretary of the Commonwealth. The Solicitor is hereby authorized and directed to publish notice of this Ordinance and Resolution and of the day upon which the Articles of Incorporation will be filed with the Secretary of the Commonwealth of Pennsylvania; to file the Articles of Incorporation, together with this Ordinance and Resolution authorizing the incorporation of the Authority and necessary proofs of publication and to do all other things necessary or appropriate to effect the incorporation of the

Sanitary Sewer Authority of the Borough of Chickshinny.

4. That the projects which shall be undertaken by the Sanitary Sewer Authority of the Borough of Chickshinny, Luzerne County, Pennsylvania, shall be to construct, improve, furnish and acquire a sanitary sewage system and treatment works and to acquire necessary land for such purposes and to do and perform all necessary things incident thereto.

5. That all other Ordinances or parts of Ordinances, Resolutions or parts of Resolutions inconsistent herewith be and the same are hereby expressly repealed.

6. That this Ordinance and/or Resolution shall be effective from and after its passage and advertisement.

Enacted and ordained this 6th day of August, 1973.

Attest:

John G. Thomas
Secretary

BOROUGH OF CHICKSHINNY

Gustave Bach (Seal)
Gustave Bach, Mayor

Raymond Miller (Seal)
Raymond C. Miller, President of Council

Alexander J. Stepanski (Seal)
Alexander J. Stepanski

Clement Wido (Seal)
Clement Wido

Frederick C. Port (Seal)
Frederick C. Port

Jack McClure (Seal)
Jack McClure

Michael Kobera (Seal)
Michael Kobera

Robert A. McLaughlin (Seal)
Robert A. McLaughlin

Wilbur M. Beaver (Seal)
Wilbur M. Beaver

3-1-73.44

Approved and filed in the Department of State on the 25th day of September, A. D. 1973.

C. DeLeon Tinsley

Secretary of the Commonwealth

jmw

# I&E
# EXHIBIT 3

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 3**

Authority Response to I&E Data Requests – Set I, No. 5(e):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

e. Provide a copy of all amendments to the Authority's articles of incorporation;

***

**Answer:** It is unknown if there are any amendments to said documents. But it is believed and therefore averred that the requested information may be in the possession of the Borough of Shickshinny. SSABS will attempt to request and obtain or locate the requested document(s), but it does not currently have them in its possession.

# I&E
# EXHIBIT 4

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 4**

Authority Response to I&E Data Requests – Set I, No. 5(f):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

f. Provide a copy of the Authority's certificate of incorporation;

***

**Answer:** It is believed and therefore averred that the requested information/document may be in the possession of the Borough of Shickshinny. SSABS will attempt to request and obtain or locate the requested document(s), but it does not currently have them in its possession.

DSCB-50 (Rev. 5-61)

3-1-73.442 31

# Commonwealth of Pennsylvania

## Department of State

## Office of The
# Secretary of the Commonwealth

**To all to whom these Presents shall come, Greeting:**

WHEREAS, In and by the provisions of the Municipality Authorities Act approved May 2, 1945, P. L. 382, as amended, the Secretary of the Commonwealth is authorized and required to issue a

CERTIFICATE OF INCORPORATION

evidencing the incorporation of an authority under the provisions of said Act.

AND WHEREAS, The stipulations and conditions of said Act have been fully complied with by the Municipal Authorities of the Borough of Shickshinny, Luzerne County,

Commonwealth of Pennsylvania desiring the organization of
SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY

THEREFORE, KNOW YE, That subject to the Constitution of this Commonwealth, and under the authority of Act No. 164, approved the second day of May, Anno Domini one thousand nine hundred and forty-five, P. L. 382, as amended, I DO BY THESE PRESENTS, which I have caused to be sealed with the Great Seal of the Commonwealth, declare and certify the creation, erection and incorporation of
SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY

into a body politic and corporate in deed and in law by the name chosen hereinbefore specified, now to become operative with authority to transact business, and which shall exist for a term of fifty years unless sooner dissolved according to law.

Such corporation shall have and enjoy and shall be the subject to all the powers, duties, requirements, and restrictions, specified and enjoined in and by the above Act of Assembly and all other applicable laws of this Commonwealth.

GIVEN under my Hand and the Great Seal of the Commonwealth, at the City of Harrisburg, this 25th day of September, in the year of our Lord one thousand nine hundred and seventy-three and of the Commonwealth the one hundred and ninety-eighth.

Secretary of the Commonwealth

jmw

# I&E
# EXHIBIT 5

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 5**

Authority Response to I&E Data Requests – Set I, No. 5(h):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

h. Identify all municipalities that joined the Authority and provide the date(s) in which they joined;

***

**Answer:** It is believed an[sic] therefore averred that the only municipality that formed and/or joined the Authority is the Borough of Shickshinny.

# I&E
# EXHIBIT 6

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 6**

Authority Response to I&E Data Requests – Set I, No. 5(j):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

j. Indicate whether the scope of the Authority's activities consists of waterworks, water supply works and water distribution systems pursuant to 53 Pa.C.S. § 5607(a)(10) and, if not, identify the scope of the Authority's project pursuant to 53 Pa.C.S. § 5607(a);

***

**Answer:** The scope of the SSABS activities does not consist of the water treatment, supply or distribution as listed above. The scope of the SSABS's activities consists of providing treatment of domestic wastewater and discharging the treated wastewater to the Susquehanna River in accordance with PA NPDES Permit No. PA0060135.

# I&E
# EXHIBIT 7

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 7**

Authority Response to I&E Data Requests – Set I, No. 1:

1. Provide a description of the Authority's water facilities in Pennsylvania.

**Answer:** The Sanitary Sewer Authority of the Borough of Shickshinny (SSABS) does not operate water facilities in Pennsylvania. SSABS owns and operates a sewage treatment plant located in Conyngham Township, Luzerne County, Pennsylvania. The treatment plant process includes comminutor, flow equalization, biological treatment with nitrification, denitrification and alum addition for nutrient removal, wastewater disinfection and discharge. Sludge from the treatment process is further process in reed beds for dewatering and stabilization.

# I&E
# EXHIBIT 8

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

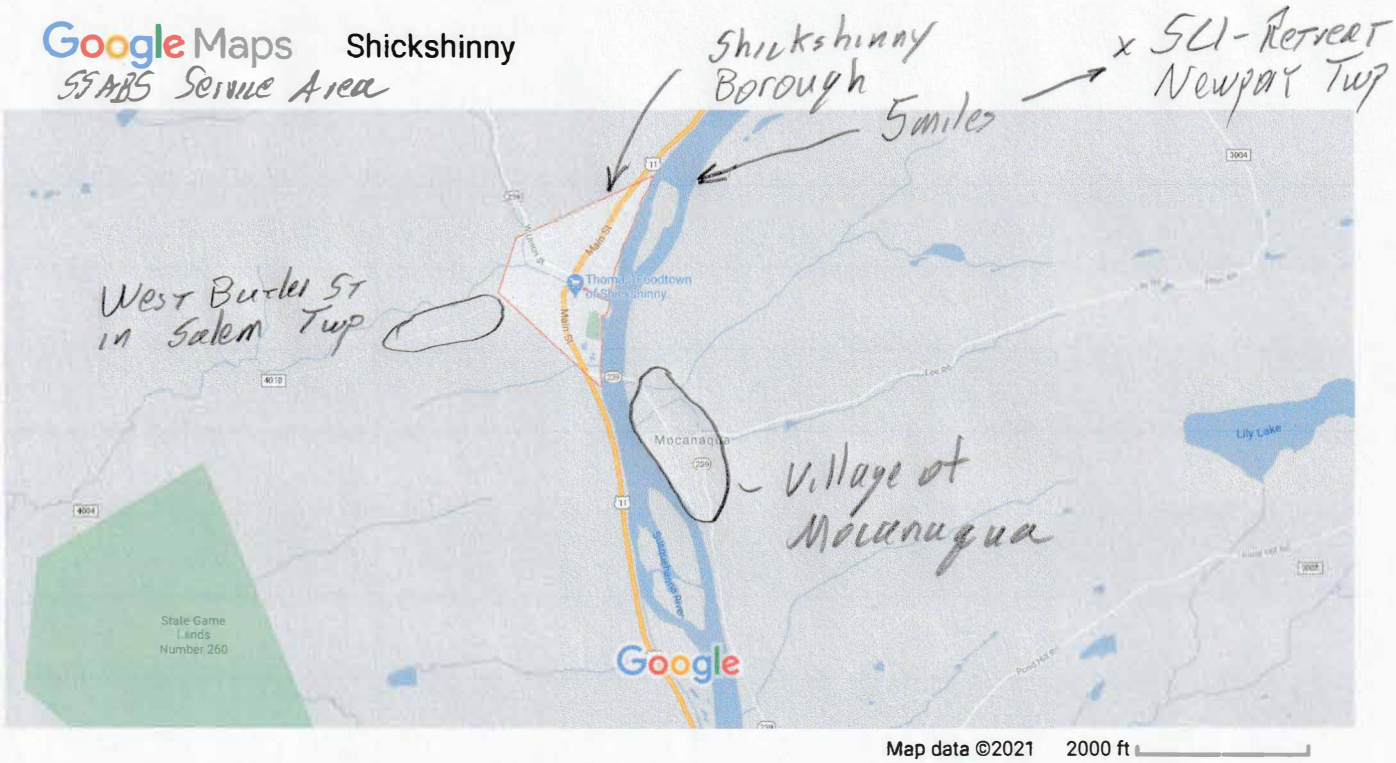
**I&E Exhibit 8**

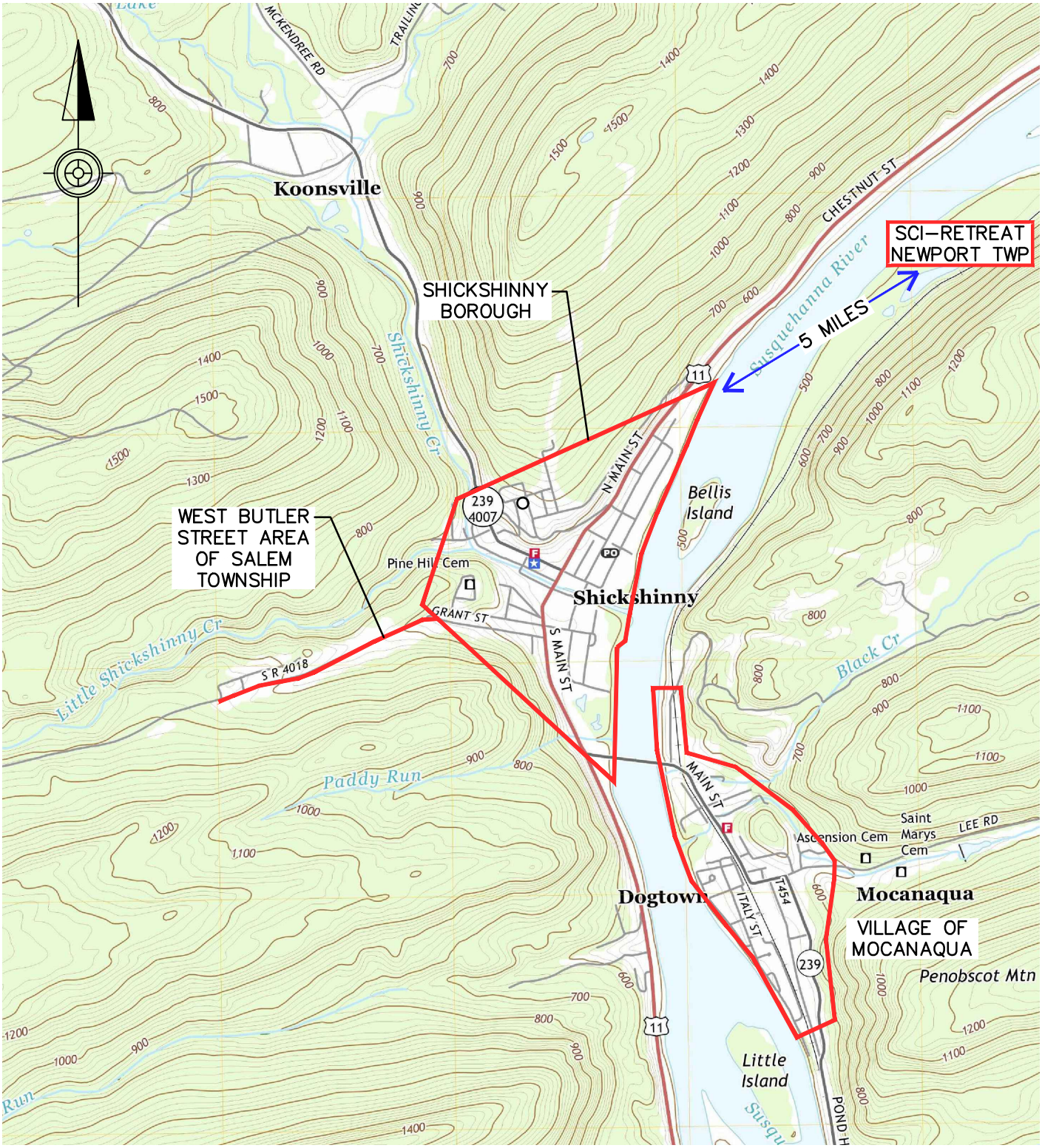
Authority Response to I&E Data Requests – Set I, No. 2:

2. Provide a map of the Authority's service area and indicate the names of the municipalities in which the Authority provides water service.

**Answer:** SSABS does not currently have a map to provide at this time, but if the same exists and can be procured, this response will be supplemented. By way of further answer, SSABS provides sewage treatment service to the Borough of Shickshinny, a portion of Salem Township, a portion of Conyngham Township and to the Pennsylvania State Correctional Institute – Retreat.

# I&E
# EXHIBIT 9


Google Maps
Shickshinny
SSABS Service Area
Shickshinny Borough
5 miles
x SCI-Retreat Newport Twp
West Butler St in Salem Twp
Village of Mocanaqua
Thomas Foodtown of Shickshinny
Mocanaqua
Lily Lake
State Game Lands Number 260
Google
Map data ©2021
2000 ft




LEGEND

— SSABS SERVICE AREA

Reilly ASSOCIATES SINCE 1930
ENGINEERING / ENVIRONMENTAL / SURVEYING

49 South Main Street
Suite 200
Pittston, PA 18640
tel: 570.654.2473
fax: 570.654.6880
www.reillyengineering.com

# SSABS SERVICE AREA

SHICKSHINNY
SEWER AUTHORITY

SHICKSHINNY BOROUGH
LUZERNE COUNTY, PENNSYLVANIA

| Date: | Project No. |
|---|---|
| 03–24–21 | 21007.00 |
| Scale: | Sheet No. |
| 1"=2000' | 1 OF 1 |

L:\RA LIBRARY\Location Maps\Luzerne County\Shickshinny SSABS MAP.dwg, 3/24/2021 5:07:53 PM

# I&E
# EXHIBIT 10

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 10**

Authority Response to I&E Data Requests – Set I, No. 7(a):

7. Reference Paragraph 19 of the Authority's Preliminary Objections dated January 26, 2021 in the Commission proceeding at Docket No. C-2021-3023624. Provide the following:

a. a copy of the service contract between the Authority and Conyngham Township, which terminated in November of 2020; and

***

**Answer:** A copy is attached.

# SEWAGE TREATMENT AGREEMENT

THIS SEWAGE TREATMENT AGREEMENT, dated this 18th day of November, 1992, by and between the SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY, Luzerne County, Pennsylvania, on the one hand, and the TOWNSHIP OF CONYNGHAM, Luzerne County, Pennsylvania, on the other hand.

WITNESSETH:

WHEREAS, the Authority presently owns, operates and maintains the Authority Sewage Collection System and the Treatment Plant, for rendering Sewage collection, transportation, treatment and disposal service in and for, inter alia, the Borough of Shickshinny, Pennsylvania; and

WHEREAS, Conyngham is presently contemplating the acquisition and construction of the Conyngham Sewage Collection System, for rendering Sewage collection and transportation, but not treatment or disposal service, in and for portions of Conyngham Township; and

WHEREAS, the Authority heretofore undertook the acquisition and construction of the Treatment Plant and incurred Costs of Construction and expenses related thereto; and

WHEREAS, Conyngham has requested certain Treatment Plant Capacity in the Treatment Plant; and

WHEREAS, Conyngham desires to acquire and reserve Treatment Plant Capacity for its present and future use, and to provide for the terms under which additional Treatment Plant Capacity may be acquired from the Authority hereafter, and to share in the costs and expenses of operating and maintaining the Treatment Plant; and

WHEREAS, Conyngham desires to contract, under the terms hereof, for Sewage treatment and disposal services by the Authority in the Treatment Plant; and

WHEREAS, the Authority, pursuant to the request of Conyngham, agrees under the terms hereof to provide Conyngham, as a single, bulk customer, with Sewage treatment and disposal services in the Treatment Plant, under the terms and conditions set forth herein.

# ARTICLE I

## Definitions

SECTION 1.01. Defined Terms. The terms defined in this Section 1.01, whenever used or referred to in this Service Agreement, shall have the respective meanings indicated unless a different meaning clearly appears from the context.

"Authority" shall mean the Sanitary Sewer Authority of the Borough of Shickshinny of Luzerne County, Pennsylvania, a municipal authority of the Commonwealth, acting by and through its members, including any Person duly authorized acting in behalf of such Authority;

"Authority Sewage Collection System" shall mean the Sewage collection and transportation system facilities presently existing or hereafter to be acquired and/or constructed by the Authority, for use and operation by the Authority, and to the extent permitted hereunder, for use by Conyngham for the transportation of Sewage from the Conyngham Sewage Collection System, together with all appurtenant facilities and properties which have been acquired or hereafter shall be acquired in connection therewith;

"BOD" shall mean biological oxygen demand or the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20) Centigrade expressed in milligrams per liter (mg/l). The procedure shall include thiourea or other suitable inhibitors to prevent nitrification from simultaneously occurring and affecting BOD results;

"Bonds" shall mean the notes, bonds or other debt obligations authorized and issued by the Authority the proceeds of which have been or will be applied for the purposes of financing Costs of acquisition or construction of the Treatment Plant and/or the Authority Sewage Collection System, or to refund the same;

"Certified Public Accountant" shall mean a person, who shall be Independent, appointed the governing body of a Municipality, actively engaged in the business of public accounting and duly certified as a Certified Public Accountant under the authority of laws of the Commonwealth;

"Charge" shall mean the charge payable by Conyngham to the Authority calculated pursuant to Article V hereof;

"Commonwealth" shall mean the Commonwealth of Pennsylvania;

"Completion Date" shall mean the date of substantial completion of the Conyngham Sewage Collection System as certified by Conyngham's Consulting Engineers;

"Consulting Engineer" or "Consulting Engineers" shall mean a Person who shall be Independent, appointed, by the governing body of a Municipality, as applicable and appropriate, qualified to pass upon engineering questions relating to Sewage collection, transportation, treatment and/or disposal systems and having a favorable reputation for skill and experience in supervising construction and operation of such systems. He shall be a professional engineer duly registered under laws of the Commonwealth. If such person shall be a partnership, corporation or association, it shall have a partner, officer, employee or member who is a professional engineer duly registered under laws of the Commonwealth;

"Consulting Engineer's Certificate" shall mean a certificate executed by the Consulting Engineers;

"Conyngham" shall mean the Township of Conyngham, Luzerne County, Pennsylvania, a political subdivision of the Commonwealth acting by and through its Board of Supervisors;

"Conyngham Sewage Collection System" shall mean the Sewage collection and transportation system facilities presently existing or hereafter to be acquired and/or constructed by Conyngham and/or located in Conyngham Township, as contemplated by the Project, together with any and all appurtenant facilities and properties which have been acquired or hereafter shall be acquired in connection therewith;

"Costs", "Costs of Acquisition" or "Costs of Construction", without intending to limit any proper definition thereof under sound accounting or engineering practice, shall mean and include, solely with respect to the Treatment Plant:

A. Obligations incurred and payments made or required to be made by the Authority to workmen and laborers or to contractors, builders, suppliers and materialmen;

B. Interest on Bonds during the acquisition or construction period with respect to any particular series of Bonds;

C. Reasonable administrative expenses of the Authority during the period of any acquisition or construction, including the financing thereof;

D. Costs of acquiring by purchase or condemnation, including amounts of any award or final judgment in or of

settlement or comprised of any condemnation proceedings of lands, rights of way, rights, licenses, easements and any other interests in real property as may be deemed necessary or convenient in connection with the Treatment Plant; amounts of any damages incident to or consequent upon acquisition or construction; and payments for restoration of property damaged or destroyed in connection with construction;

E. Costs of acquiring property, real, personal and mixed, tangible or intangible, or any interest therein, deemed necessary or desirable for carrying out purposes of the Authority relating to the Treatment Plant, including, without intending to limit the generality of the foregoing, costs of acquiring any sewer system or other properties in place, or any undivided interest therein, which can be operated as part of the Treatment Plant and all fees and expenses incidental thereto, including without intending to limit the generality of the foregoing, engineering fees, legal fees, costs of abstracts of title, title insurance, title opinions, surveys and reports;

F. Costs of performance, payment or other contractor's bonds and premiums on insurance of any type deemed necessary during construction and costs of inspection and performance, maintenance or other type bonds required by any governmental regulatory authority related to construction of any part of the Treatment Plant, to the extent that any of the foregoing shall not be required to be paid by contractors or otherwise provided for;

G. Fees and expenses of engineers or architects for studies, tests, surveys, reports, maps, estimates of costs, revenues and other facts, preparation of plans and specifications and making preliminary investigations therefor, supervision of acquisition or construction, inspections and performance of all other duties of engineers or architects in connection with any acquisition or construction and the financing thereof;

H. Expenses of audits; initial compensation of the Trustee or Paying Agent with respect to Bonds of any series; fees and expenses, if any, of the Trustee, or Paying Agent relating to a construction fund; if any; financing costs, fees and expenses, including compensation and expenses of a financial advisor, if any; costs of preparing, printing and issuing Bonds; legal costs, fees and expenses; advertising expenses; premiums for insurance or contracts of suretyships insuring bondholders against the risk of nonpayment of the

principal of, interest on or premium with respect to any particular Bond or Bonds; and all other costs incurred by the Authority in connection with financing acquisition or construction and issuing Bonds;

I. Other costs, charges and expenses incident to completion of any improvements, alterations, extensions or additions to the Treatment Plant which properly are chargeable to the cost of acquisition or construction under sound accounting or engineering practice;

J. Reimbursement to the Authority for advances made by it or them for any of the above items, including any interest paid or required to be paid by the Authority with respect to any such advances, or for any other costs incurred by the Authority or for work done by the Authority with the Treatment Plant which properly are chargeable as costs related to financing acquisition or construction;

K. Amounts, if any, required to be repaid to any governmental agency upon completion of any construction on account of any overpayment of or adjustment of any grant extended in aid of such construction;

L. Any sums required to reimburse the Authority or to pay any indebtedness incurred by the Authority, including payment of obligations of the Authority, for expenditures made for any of the above items or for any other costs properly chargeable as costs of acquisition or construction; and

M. Interest on and issuing costs of any Bonds issued by the Authority in anticipation of receipt of federal or state grants applied to pay such costs, less any interest income earned thereon;

Whenever any "Costs", "Costs of Acquisition" or "Costs of Construction" are incurred in connection with the Treatment Plant, the same shall be equitably apportioned on the basis of sound and acceptable engineering and/or accounting principles;

"DER" shall mean the Department of Environmental Resources of the Commonwealth;

"Discharge" shall mean the volume of Sewage discharged into the Treatment Plant, at any particular point in time, measured in accordance with Section 4.03;

"EDU" shall mean equivalent dwelling unit;

"Fiscal Year" shall mean the fiscal year of the applicable Authority or Municipality as provided by laws of the Commonwealth which, unless otherwise stated, shall be a calendar year;

"GPD" shall mean gallons per day of Discharge;

"Independent" shall mean, with respect to the Certified Public Accountant and Consulting Engineers, a Person who is independent in fact and who is not a member of the Board, officer or employee of any Municipality, or any elected or appointed official or employee of any Municipality, or which is not a partnership, corporation or association having a partner, director, officer, member or substantial stockholder who is a member of the Board, officer or employee of any Municipality, or an elected or appointed official or employee of any Municipality; Provided however, that the fact that such person is retained regularly by any Municipality shall not make such person an employee within the meaning of this definition;

"MGD" shall mean millions of gallons per day of Discharge;

"Municipality" or "Municipalities" shall mean, individually or collectively, as applicable and appropriate, the Authority and/or Conyngham;

"Operating and Maintenance Costs" shall have the meaning described in Section 5.01 hereof;

"Person" or "Persons" shall mean an individual, a partnership, an association, a corporation, a joint stock company, a trust, an unincorporated association, a governmental body, a political subdivision, a municipality, a municipality authority or any other group or legal entity;

"Project" shall mean the planning, designing, financing, acquisition and construction of the Conyngham Sewage Collection System, by Conyngham, or by any Person located in Conyngham Township, and other related and necessary appurtenant facilities;

"Service Agreement" shall mean this document and all modifications, alterations, amendments and supplements hereto made and part hereof, which term sometimes is referred to in this document by use of such words as "hereto", "hereby", "herein", "hereof", "hereunder" or other descriptive words or phrases having similar import;

"Sewage" shall mean domestic sewage and/or industrial wastes as such terms usually and customarily are used by sanitary engineers;

"Treatment Plant" shall mean the Sewage treatment and disposal facilities constructed by the Authority as of the date hereof,

together with all appurtenant facilities and properties, and together with any additions, improvements, enlargements and/or modifications thereto from time to time acquired or constructed.

"Treatment Plant Capacity" shall mean the contractual right to discharge Sewage into the Treatment Plant, in an amount which may be amended, from time to time, under the terms hereof, calculated to be the higher of:

A. Average daily Discharge during the entire Fiscal Year in question; or

B. Average daily Discharge during the three consecutive months in which the greatest Discharge has been measured within the Fiscal Year in question; or

C. Otherwise may be prescribed by applicable laws; provided, however, that such contractual right shall not be deemed to vest any legal ownership or title to the Treatment Plant in Conyngham, which legal ownership or title shall remain exclusively in the Authority throughout the term hereof and thereafter;

"TS" shall mean total solids;

"United States" shall mean the United States of America; and

## ARTICLE II

## Construction and Operation of Sewage Collection Systems; Connection to Authority Sewage Collection System by Conyngham

SECTION 2.01. Construction and Operation of Sewage Collection Systems. Conyngham shall pay all Costs and expenses related to the acquisition, construction, operation and maintenance of the Conyngham Sewage Collection System.

SECTION 2.02. Connection to Authority Sewage Collection System. Conyngham shall pay all costs and expenses of making and maintaining continuously during the term hereof connection of the Conyngham Sewage Collection System to the Treatment Plant, at such point or points of connection as shall be mutually agreed upon by both the Authority and Conyngham.

SECTION 2.03. Cooperation; Sharing of Information. Conyngham agrees to the extent possible and economically practicable, to cooperate and share pertinent information with the Authority in facilitating the construction, maintenance and/or operation of the Sewage Collection Systems. Provided, however, that the Authority shall not be financially or otherwise responsible for the Conyngham

Sewage Collection System and Conyngham shall not be financially or otherwise responsible for the Treatment Plant or the Authority Sewage Collection System except to the extent required hereunder.

## ARTICLE III

### Conyngham to Constitute Bulk Customer of Authority; Term of Agreement

SECTION 3.01. Conyngham to Constitute Bulk Customer of Authority. The Authority agrees to operate and maintain continuously the Treatment Plant, and any enlargements, additions, improvements and modifications thereto and to provide Conyngham, as a single, bulk customer, Sewage treatment and disposal services in the Treatment Plant throughout the term hereof, as provided for herein.

SECTION 3.02. Term of Agreement. Subject to the covenants and conditions set forth herein, the term of this Service Agreement shall be for such period of time as the Authority shall provide Conyngham with Sewage treatment and disposal service in the Treatment Plant, or until terminated by mutual written agreement of the Parties.

## ARTICLE IV

### Right to Discharge; Treatment Plant Capacity

SECTION 4.01. Right to Discharge. In consideration of the payment by Conyngham of the charges herein provided, and in further consideration of the performance by Conyngham of the covenants and agreements herein provided, Conyngham shall have the right to discharge Sewage into the Treatment Plant as herein set forth.

SECTION 4.02. Treatment Plant Capacity. It is agreed that during the term of this Sewage Treatment Agreement, Conyngham shall have a Treatment Plant Capacity which shall not exceed 435 EDUs without the Authority's express written approval. The number of EDUs served by Conyngham shall initially be determined on the basis of the annual statements required by Conyngham under Section 6.01.

It is further covenanted and agreed that the daily discharge by each EDU served by Conyngham shall not exceed 230 GPD without the Authority's express written approval. Such discharge shall be determined in accordance with Section 4.03.

In order to assure the financial feasibility and financial integrity of the Treatment Plant, Conyngham covenants and agrees that it will not discharge into the Treatment Plant, Sewage in

excess of 230 GPD for each of such EDU, and that it shall not exceed a maximum of 435 EDUs, except as may be permitted hereunder. The Authority covenants and agrees that it will not discharge, or permit the discharge, of Sewage into the Treatment Plant which will jeopardize or compromise Conyngham's Treatment Plant Capacity.

In the event that the discharge shall exceed 230 GPD for each EDU served by Conyngham, then, in the sole discretion of the Authority, Conyngham shall be deemed to have received from the Authority an additional amount of Treatment Plant Capacity in increments of 1 EDU for each increment of discharge of 230 GPD or less. Payment of appropriate additional charges under Article V shall thereupon be due and shall be paid in full at the time payment is due for the first quarterly billing period after such additional Treatment Plant Capacity is received or deemed to have been received by Conyngham.

Nothing in this Section or elsewhere in this Service Agreement shall be interpreted to prevent the Authority from allocating to any Person, including Conyngham, Treatment Plant Capacity in excess of that set aside for Conyngham hereunder, provided that any such allocation shall not cause a violation of any requirements of a governmental agency and the terms of such allocation shall be set forth in writing and incorporated herein.

SECTION 4.03. Measurement of Flow. The volume of Discharge by Conyngham shall be determined by inspection at least monthly by the Authority of a Sewage flow meter, which will be located at the point or points of connection of the Conyngham Sewage Collection System to the Authority Sewage Collection System. **Such Sewage flow meter shall be selected by the Authority, but shall be purchased and installed by the Authority as part of the Project; and shall be maintained by the Authority, the cost of which maintenance shall be reimbursed to the Authority as a separate charge hereunder.** The Authority shall notify Conyngham prior to undertaking any major repairs or replacements with respect to such flow meter. At the request of the Authority, the meter shall be of a type that provides for telemetering of Discharge information to the Treatment Plant. The volume of Discharge attributable to Conyngham into the Treatment Plant shall be the total flow measured at the meter.

Metered flow shall be inspected and recorded by the Authority daily commencing upon the Completion Date, a monthly summary of which information shall be forwarded to Conyngham within ten (10) days thereafter. Conyngham may, at its option, have a representative present when such inspection and recording is conducted by the Authority. The readings set forth in said flow meter shall constitute conclusive evidence of the amount of Discharge by Conyngham into the Treatment Plant.

SECTION 4.04. Completion. Upon substantial completion of the construction of the Project, Conyngham shall deliver to the Authority a Consulting Engineers' Certificate which shall recite the fact of such substantial completion. Upon completion, payment of the charges hereunder shall begin to accrue.

SECTION 4.05. Financing Amounts Payable Hereunder. In the event that Conyngham fails to pay any amount hereunder when such amount is due, the Authority may finance such amount in any reasonable manner and upon any reasonable terms as the Authority may approve. The Authority shall be entitled to reimbursement from Conyngham for any amount borrowed, together with any interest, penalties, charges and financing costs paid in connection therewith.

SECTION 4.06. Further Upgrading of Treatment Plant. If, pursuant to any case law, statutes, regulations, rules, guidelines, permits, approvals and/or other standard or requirement of any local, state or federal agencies who have a right to control the treatment and/or disposal of Sewage, the Authority is required to further upgrade or modify the method of Sewage treatment provided by the Treatment Plant, which requirement results in Costs of acquisition or construction to be incurred by the Authority, then Conyngham shall pay a pro rata share of such reasonable Costs arising directly from such upgrading as its then total Treatment Plant Capacity bears to the total capacity of the Treatment Plant so upgraded. Conyngham shall not be required to pay Costs associated with expanding (but not upgrading) the Treatment Plant which will not result in additional Treatment Plant Capacity to Conyngham unless agreed to by it in writing, which writing shall include the terms upon which it will participate in such expansion.

SECTION 4.07. Additions to Treatment Plant.

(a) If Conyngham desires to discharge Sewage into the Treatment Plant, in excess of the Treatment Plant Capacity available to it hereunder by acquisition or otherwise, Conyngham shall notify the Authority in writing that it requests construction of additional Treatment Plant Capacity in the Treatment Plant. Within ninety (90) days of receipt of such notification, the Authority shall notify Conyngham, in writing, of its decision regarding the means and schedule of construction of additional Treatment Plant Capacity, which decision shall be in the Authority's sole discretion.

(b) If the Authority agrees to the construction of such additional Treatment Plant Capacity, it shall use its best efforts to obtain reasonable financing, if necessary, and construct the enlargements, additions, improvements or modifications to the Treatment Plant necessary to provide the total additional Treatment Plant Capacity requested. No such enlargement of the Treatment Plant shall provide additional Treatment Plant Capacity in an

amount less than that which is recommended by the Authority's Consulting Engineers as being appropriate for and consistent with the treatment configuration then existing in the Treatment Plant and site limitations. Conyngham will pay for all of the Costs and expenses associated with additional Treatment Plant Capacity received by it. Any other Person including the Authority, participating in such expansion shall share on a pro rata basis in the Costs thereof with Conyngham. Payment of such Costs shall be made in accordance with this Article.

SECTION 4.08. Additions and Upgrading. If, concurrently, a project is required to be undertaken pursuant to Section 4.06 and Section 4.07 and it becomes impossible to directly relate the Costs to either the upgrading requirement or to expansion, such Costs shall be allocated or equitably apportioned on the basis of sound and acceptable engineering and/or accounting principals.

## ARTICLE V

## Charges

SECTION 5.01. Charges. Conyngham agrees to pay to the Authority quarterly, beginning on the Completion Date, and continuing thereafter for as long as this Service Agreement is in effect, subject to the other provisions hereof, a Charge as its share of the costs for Sewage treatment services rendered by the Authority in the Treatment Plant. Said Charge shall be determined in the following manner: Conyngham shall be charged for each EDU served by Conyngham. The Charge per EDU shall be a sum equal to seventy-five (75%) percent of the EDU Charge at any given time made by the Authority to its users within the Borough of Shickshinny. On the date of execution of this agreement, the EDU Charge to Shickshinny Borough users is Two Hundred Forty ($240.00) Dollars per annum [Sixty ($60.00) Dollars per quarter]. Consequently, on the date of this agreement, the Charge to Conyngham for the discharge of Sewage into the Treatment Plant shall be One Hundred Eighty ($180.00) Dollars per annum [Forty-Five ($45.00) Dollars per quarter] for each EDU served by Conyngham.

Any change in the EDU Charge for the operation and maintenance of the Treatment Plant, made by the Authority to its users within the Borough of Shickshinny shall result in an equivalent proportionate increase or decrease in the Charge made to Conyngham by the Authority, based upon the same ratio. The Authority agrees to notify Conyngham of any change in its charges to users within the Borough of Shickshinny within thirty (30) days after such change becomes effective. Any resulting change in the Charge to Conyngham resulting therefrom will take effect with the first quarterly payment due after such notice to Conyngham.

Any change in the number of EDUs served by Conyngham shall result in an equivalent increase or decrease in the Charge per EDU made by the Authority to Conyngham, based upon the foregoing formula. Each party agrees to notify the other of any such change within thirty (30) days after such change occurs. Any resulting change in the Charge to Conyngham resulting therefrom will take effect with the first quarterly payment due after such notice.

Written records and accounts of all EDUs served by Conyngham shall be prepared and maintained by Conyngham and shall be available to the Authority upon its request.

Any major or extraordinary replacements or repairs, as certified by the Authority's Consulting Engineers, shall be shared by the Authority and Conyngham on the basis of the Treatment Plant Capacity of each at the time. If such repairs or replacements require financing by the Authority, the debt service thereon shall be shared on a pro rata basis in accordance with the Treatment Plant Capacity of each Party.

## ARTICLE VI

### Estimates and Payment of Charges

SECTION 6.01. Estimates of Charges. Within 60 days after being required in writing by the Authority prior to the completion of the Project and on or before November 1 of each Fiscal Year after the commencement of services hereunder, to assist the Authority in determining its budget and rate setting, Conyngham will prepare and submit to the Authority a Statement approved by Conyngham's Consulting Engineers showing, in reasonable detail, the number of EDUs then being served by Conyngham, which statement shall include the number of EDUs and the property addresses of each EDU. Within thirty (30) days from receipt of such statement, the Authority shall prepare and submit to Conyngham, a statement approved by the Authority's Consulting Engineers showing in reasonable detail for the next Fiscal Year: (1) the estimated amounts to be paid by Conyngham during the next Fiscal Year as its estimated charges, determined in accordance with the provisions hereof; (2) the amount, if any, to be credited against the estimated charges for the next Fiscal Year as the result of any overpayments or adjustments of payments during the current or any preceding year; (3) any additional Charge as provided for in Sections 7.05 and 7.06; and (4) the amount of any prior bill not paid, plus interest and costs pursuant to this agreement. Provided, however, for the first Fiscal Year or part thereof following commencement of services hereunder such charges shall be estimated by the Authority's Consulting Engineers.

SECTION 6.02. Payment of Charges. Conyngham agrees to pay its charges quarterly in advance on or before the fifteen day of January, April, July and October of each year, in accordance with a statement prepared by the Authority and forwarded to Conyngham.

SECTION 6.03. Reports. The Authority shall cause to be prepared and certified by an officer of the Authority, commencing after the commencement of services hereunder, an itemized report setting forth, in reasonable detail: (a) the actual EDU Charge made to Shickshinny Borough users for the preceding year; and (b) the charges paid by Conyngham for such year determined in accordance with Article 5. Such report shall be forwarded to Conyngham within thirty (30) days of receipt of annual audited financial statements of the Authority's accounts prepared by a Certified Public Accountant and required to be filed with the Department of Community Affairs under laws of the Commonwealth, together with a copy of such audited financial statements.

SECTION 6.04. Interest on Late Payments. If Conyngham does not make full payment of any Charge due on or before the specified payment date, there shall be added to the amount thereof interest at a rate equal to ten (10%) percent per annum, commencing on the first day of the month following due date.

## ARTICLE VII

## Effluent Quality Restrictions

SECTION 7.01. Uniform Standards. The Authority has adopted or will adopt uniform Sewage quality standards which will comply with the requirements of all regulatory authorities. Conyngham will refrain from discharging or permitting the discharge of Sewage from the Conyngham Sewage Collection System into the Treatment Plant that would violate any of such standards. The Authority will make no changes in said standards except upon reasonable prior written notice to Conyngham and all such standards will apply equally to both Conyngham and the Authority.

SECTION 7.02. Compelling Compliance with Standards. Conyngham shall enact and keep in full force and effect at all times during the term hereof, an ordinance, satisfactory to the Authority, prohibiting, and providing adequate penalties for, the discharge into the Conyngham Sewage Collection System of anything violating the above-mentioned Sewage quality restrictions of the Authority, and Conyngham covenants to enforce the provisions thereof when brought to its attention. Such ordinance shall also prohibit and/or regulate the discharge into Conyngham's Sewage Collection System by industries of industrial waste, as defined in the applicable industrial pretreatment regulations of the Authority. Conyngham shall not permit any discharge into the

Conyngham Sewage Collection System except in the manner and in accordance with the provisions of said ordinance, as applicable.

SECTION 7.03. Sampling Facilities. The Authority may install, maintain and operate, sampling equipment or facilities at or near the point or points that the Conyngham Sewage Collection System discharges into the Authority Sewage Collection System, and Conyngham hereby consents to collection of Sewage samples by the Authority therefrom. Additionally, the Authority may install, maintain and operate sampling, equipment or facilities at such points of discharge in the Conyngham Sewage Collection System from any user thereof whose discharge of Sewage, in the opinion of the Authority's Consulting Engineers, may be detrimental to the operation of the Treatment Plant, and to obtain samples therefrom.

SECTION 7.04. Reports of Samples. In the event that any report received by the Authority analyzing any sample, shall state, in substance, that Sewage discharged from the Conyngham Sewage Collection System or from a particular user thereof violates the quality standards and restrictions as established for the Treatment Plant by the Authority, it shall have the right to appeal such determination by requesting verification of same by future sampling. Such future samples, as herein referred to, shall be submitted both to an independent water quality lab acceptable to the Authority and to the laboratory making the original evaluation that Sewage being discharged was in violation of such standards and restrictions. If the results of analyzing the split sample or samples of the two laboratories are consistent within normal tolerances of testing procedures, then these results shall be considered final; provided, however, that no such right of appeal shall operate to stay remedial action taken by the Authority. The expense of such additional laboratory determinations shall be borne by the Authority should the determination be made that such Sewage is not in violation of the applicable quality standards, or by Conyngham if such final determination supports the findings of a violation of the above-mentioned standards and restrictions.

SECTION 7.05. Treatment of Harmful Wastes. If any Sewage discharge by Conyngham into the Treatment Plant is in violation of the Authority's standards as determined by this Article and requires special treatment or would be harmful to the Treatment Plant, then Conyngham will pay the entire Costs of providing any special treatment as a separate charge, and Conyngham on written notice of violation from the Authority shall immediately act to enforce or have enforced those quality standard ordinances or resolutions by providing or requiring pretreatment of such waste in such manner as is provided by said ordinances or resolutions, or compel disconnection from Conyngham Sewage Collection System of the property from which harmful waste is being discharged.

SECTION 7.06. Reimbursement for Damages from Improper Discharge. Conyngham shall pay the cost of any damage to the

Treatment Plant or the Authority Sewage Collection System resulting from discharge of improper Sewage from the Conyngham Sewage Collection system and all fines and penalties, if any, imposed upon the Authority due to a violation of the above-mentioned quality standards and restrictions, within 90 days after notice by the Authority accompanied by the itemized certificate of the Authority's Consulting Engineers, and shall indemnify and hold harmless the Authority with respect thereto.

SECTION 7.07. Dispute Resolution. If a dispute arises concerning a determination by the Authority's Consulting Engineers hereunder, both parties to such dispute shall appoint an Independent third Person to review the dispute within thirty (30) days of a written demand for dispute resolution issued by either party. Such third Person selected shall render a decision on the dispute within thirty (30) days of the submission of the dispute, unless otherwise extended by agreement of the parties. The decision shall be binding upon all parties. All costs and expenses of retaining such Independent third Person and any other costs incurred in presiding over any disputes arising hereunder shall be borne by the Authority, in the event the decision of the Authority's Consulting Engineers is determined to have been erroneous, or otherwise by Conyngham. If it is determined that neither party was correct in its position giving rise to the dispute, then both parties shall share in such costs equally.

## ARTICLE VIII

## Governmental Grants and Subsidies; Permits

SECTION 8.01. Applications. The Authority may, in its discretion, make applications to the Commonwealth and to the United States and their appropriate agencies, for available grants, subsidies or other payments and for all permits and approvals in respect of the construction, operation and/or maintenance of the Treatment Plant and the Authority Sewage Collection System, which amounts (if appropriate) may be applied to reduce the amounts payable by Conyngham hereunder, on an equitable and proportional basis, in accordance with the terms hereof.

SECTION 8.02. Compliance with Law and Conditions for Grants. Each party will take all such action, within its legal powers, as may be required to comply with all applicable laws, regulations and permits applicable to their respective sewage collection systems and with agreements relating to applicable Federal and Commonwealth grants and subsidies.

# ARTICLE IX

## Connections to each Sewage Collection System; Sewer Rentals or Charges Imposed by Conyngham

SECTION 9.01. Mandatory Connection Ordinance. Conyngham covenants that it will enact an ordinance satisfactory to the Authority, requiring all owners of improved property located within Conyngham which legally can be required to be connected to the Conyngham Sewage Collection System to connect therewith and providing for enforcement of such ordinance as permitted by law. Conyngham also covenants that it will keep such ordinance or a subsequent ordinance or ordinances requiring such connections in full force and effect continuously during the term hereof and to enforce the same as may be permitted by law.

SECTION 9.02. Rate Ordinance. Conyngham covenants that it will enact an ordinance or adopt a resolution imposing sewer rentals or charges upon owners of improved property which shall be connected to the Conyngham Sewage Collection System for use thereof. Conyngham also covenants to thereafter keep such resolution or ordinance or a subsequent resolution or ordinance, imposing such sewer rentals or charges in full force and effect continuously during the term hereof.

SECTION 9.03. Enforcement of Rate Ordinance. Conyngham covenants to continue to enforce any such ordinance or resolution, in effect at any particular time under Section 9.02 and to collect or cause to be collected all amounts becoming due thereunder. If any amounts becoming due thereunder shall not be paid, in accordance with provisions of such resolution or ordinance at the time in effect, Conyngham covenants to take or cause to be taken all necessary action to reduce the same to liens and to enforce or cause to be enforced payment of the liens and/or to enforce or cause to be enforced payment of such sewer rentals or charges in any other manner permitted by law.

SECTION 9.04. Sewer Rates Sufficient to Pay All Charges. Conyngham covenants that sewer rentals or charges imposed by it pursuant to Section 9.02, together with any fees, fines and/or penalties resulting from enforcement of the resolution or ordinance in effect at the time under Section 9.01, and together with any other amounts available for the purpose, shall be at least such that amounts which reasonably may be collected therefrom in each Fiscal Year following the completion Date, together with: (1) any sums received periodically by it from any Person pursuant to any agreement between it and such Person whereby Sewage of such Person shall be accepted by it for collection in the Conyngham Sewage Collection System; (2) any other sums received by it on account of operation of the Conyngham Sewage Collection System; and (3) any other money required to be deposited in its sewer revenue account

or other fund or account pursuant to provisions of an applicable agreement of lease, trust indenture, loan agreement or borrowing documents enforceable against Conyngham will be sufficient to provide funds for the following purposes:

A. Payment by Conyngham in such Fiscal Year of debt service, coverage requirements, if any, operating and maintenance expenses and other costs and expenses relating to the Conyngham Sewage Collection System; and

B. Payment by Conyngham in each Fiscal Year of all other charges payable for services rendered in connection herewith under the terms hereof.

If such collections, receipts, appropriations and deposits in any such Fiscal Year for Conyngham shall be less than the sum of requirements of subparagraphs A and B above, Conyngham covenants that it promptly will adjust or cause to be adjusted, in the manner permitted by law, the sewer rentals or charges so that amounts thereafter to be collected therefrom, together with the other collections, receipts, appropriations and deposits, as aforesaid, shall enable it to comply with requirements of this Section and to eliminate deficiencies of any prior Fiscal Year.

## ARTICLE X

## Miscellaneous

SECTION 10.01. Insurance; Repairs and Reconstruction. The Authority will insure, or cause to be insured, the Treatment Plant and the Authority Sewage Collection System with a responsible company or companies authorized and qualified to do business under laws of the Commonwealth of Pennsylvania, against loss or damage by fire and such other risks (including public liability) and casualties and in such amounts as are usually carried on like properties in said Commonwealth and as shall be reviewed and approved, at least annually, by the Authority's Consulting Engineers or other insurance advisor. Such insurance policies shall be nonassessable. Immediately upon the occurrence of any loss or damage to any part of said Treatment Plant or the Authority Sewage Collection System which is covered by insurance, the Authority will commence and promptly complete, or cause to be so commenced and promptly completed, the repairing, replacement or reconstruction of the damaged or destroyed property according to plans and specification prepared by the Authority's Consulting Engineers and shall collect and apply, or cause to be applied, the proceeds of such insurance to the cost of such repair, replacement or reconstruction.

SECTION 10.02. Inspection. Each party shall provide the other, from time to time, all information relevant to the proper administration of their responsibilities under this Service Agreement, or in respect to the interpretation hereof, as, and in such form and detail as, may be reasonably requested and each shall, at all reasonable times and from time to time, permit their representatives to examine and inspect their respective records and physical facilities relevant to the subject matter of this Service Agreement.

SECTION 10.03. Force Majeure. Notwithstanding any other provision of this Service Agreement, no party hereto shall be responsible in damages to the other for any failure to comply with this Service Agreement resulting from an act of God or riot, sabotage, public calamity, flood, strike, breakdown of the Treatment Plant or any Sewage Collection System, or other event beyond its reasonable control. The party having the responsibility for the facilities so affected, however, shall proceed promptly to remedy the consequences of such event, with Costs thereof to be shared, if applicable, to the extent provided elsewhere herein.

SECTION 10.04. Indemnity. Each party agrees to indemnify and save harmless the other party against all costs, losses or damage on account of any injury to persons or property occurring in the performance of this Service Agreement due to the negligence of such party or its agents or employees.

SECTION 10.05. Severability. Should any provision hereof for any reason be held illegal or invalid, no other provision of this Service Agreement shall be affected; and this Service Agreement shall then be construed and enforced as if such illegal or invalid provision had not been contained herein.

SECTION 10.06. Headings. The headings in this Service Agreement are solely for convenience and shall have no effect in the legal interpretation of any provision hereof.

SECTION 10.07. Effective Date. This Service Agreement shall become effective as of the date hereof.

SECTION 10.08. Waiver. The failure of a party hereto to insist upon strict performance of this Service Agreement or of any of the terms or conditions hereof shall not be construed as a waiver of any of its rights hereunder.

SECTION 10.09. Counterparts. This Service Agreement may be executed in any number of counterparts, each of which shall be regarded for all purposes as an original, but such counterparts shall together constitute but one and the same instrument.

SECTION 10.10. Successors and Assigns. Conyngham shall not voluntarily assign this Service Agreement without the consent of

the Authority, except that Conyngham may assign its rights hereunder to any Person, inter alia, for purposes of undertaking the Project. Subject to the foregoing this Service Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

SECTION 10.11. Supersedes Prior Agreements. This Service Agreement supersedes and repeals any prior agreement, contracts, and understanding, written or oral, by or among the parties hereto with respect to the subject matter contained herein. This Service Agreement contains the entire agreement among the parties hereto, and no oral statements or representations or prior written matter not contained in this instrument shall have any force and effect.

SECTION 10.12. Modification. This Service Agreement may not be modified or amended except in a writing signed by the parties hereto.

SECTION 10.13. Pennsylvania Law. This Service Agreement shall be construed according to, be subject to and be governed by the laws of the Commonwealth.

IN WITNESS WHEREOF, the parties hereto have caused this Service Agreement to be executed by their respective duly authorized officers and their respective seals to be hereunto affixed.

SANITARY SEWER AUTHORITY OF THE
BOROUGH OF SHICKSHINNY,
Luzerne County, Pennsylvania

BY: James Back
Chairman

(CORPORATE SEAL)

ATTEST:

Roreann McLaughlin
Secretary

TOWNSHIP OF CONYNGHAM,
Luzerne County, Pennsylvania

BY: _____
Chairman

(CORPORATE SEAL)

ATTEST:

_____
Secretary

# I&E
# EXHIBIT 11

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 11**

Authority Response to I&E Data Requests – Set I, No. 7(b):

7. Reference Paragraph 19 of the Authority's Preliminary Objections dated January 26, 2021 in the Commission proceeding at Docket No. C-2021-3023624. Provide the following:

***

b. Document(s) that formally terminated the service contract.

**Answer:** A copy is attached.

DONALD G. KARPOWICH ATTORNEY-AT-LAW, P.C.

85 Drasher Road
Drums, PA 18222

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

September 11, 2020

**Via Facsimile (570) 542-2412 and First Class & Certified Mail**
Conyngham Township Supervisors
10 Pond Hill Road
Shickshinny, PA 18655

**RE: Cancellation of Sewage Treatment Agreement dated November 18, 1992 by and between Sanitary Sewer Authority of the Borough of Shickshinny and the Township of Conyngham**

Dear Chairperson:

As you may be aware, my office serves as the Solicitor for the Sanitary Sewer Authority for the Borough of Shickshinny (SSABS). Please allow this letter to serve as notice that the SSABS is cancelling the Sewage Treatment Agreement, referenced above, dated November 18, 1992, between SSABS and the Township of Conyngham (Township).

Please note that for quite some time now, the SSABS has been contacting the Township regarding operations at the plant and the large amount of Influx and Infiltration coming from the Township into the treatment system. I most recently corresponded with the Township Solicitor, Vito J. DeLuca, Esquire, on July 21, 2020, regarding setting up a meeting between the SSABS and the Township's Sewer Authority. In an effort to keep maintain the relationship, the SSABS has also proposed the possibility of amending the Sewage Treatment Agreement without success. I also requested on behalf of the SSABS an Influx and Infiltration Reduction Plan from the Township in order to address the increased infiltration from the Township entering the Shickshinny Sewer treatment facility. To date, no plan has been provided.

As such, it is simply unfeasible for the SSABS to continue to operate under this agreement while the Township has continued to breach its duties under the same. This notice of cancellation takes effect immediately. The residents and rate payers in the Township will be invoiced directly for the treatment service provided by the SSABS.

If you have any questions or concerns, please do not hesitate to contact the undersigned.

Sincerely,

Sean W. Logsdon, Esquire,
Shickshinny Sewer Authority Solicitor

SWL
cc: Shickshinny Sewer Authority

# Send Result Report

MFP

TASKalfa 6003i

Firmware Version 2VK_S000.001.319 2019.08.23

RFQ9601656
09/11/2020 14:56
[2VK_1000.001.102] [2ND_1100.001.007]

Job No.: 012925 Total Time: 0°00'36" Page: 001

# Complete

Document: doc01292520200911145523

DONALD G. KARPOWICH ATTORNEY-AT-LAW, P.C.

85 Drasher Road
Drums, PA 18222

Phone: (570) 788-5647
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If you have any questions or concerns, please do not hesitate to contact the undersigned.

Sincerely,

Sean W. Logsdon, Esquire,
Shickshinny Sewer Authority Solicitor

SWL
cc: Shickshinny Sewer Authority

| No. | Date/Time | Destination | Times | Type | Result | Resolution/ECM |
|---|---|---|---|---|---|---|
| 001 | 09/11/20 14:56 | 15705422412 | 0°00'36" | FAX | OK | 200x100 Normal/Off |

# I&E
# EXHIBIT 12

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 12**

Authority Response to I&E Data Requests – Set II, No. 2(a):

2. Reference the Authority's response to I&E Data Requests – Set I, No. 9. Indicate:

a. The date in which the Authority began directly invoicing customers located in Conyngham Township.

**Answer:** January 1, 2021.

# I&E
# EXHIBIT 13

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 13**

Authority Response to I&E Data Requests – Set I, No. 8:

8. Provide a copy of a sample invoice that the Authority directly sends to rate payers in Conyngham Township.

**Answer:** A copy is attached.

# INVOICE

1

**Sanitary Sewer Authority**
**of the Shickshinny Borough**
**PO BOX 266**
**Berwick PA, 18603**

**Billing Office (877) 330-1699**
**Authority Office (570) 542-2601**

Bills are due and payable on or before the indicated due date. Non-receipt of an invoice is not an excuse to not pay the amount due. Please refer to the Customer Number on all inquiries.

WHEN PAYING BY MAIL, SEND CHECK OR MONEY ORDER TO:
SHICKSHINNY SEWER AUTHORITY
PO BOX 266
BERWICK, PA 18603

Payments may also be made at the First Keystone Bank.
NO CASH PAYMENTS will be accepted at the Sewer Authority Office, located in Mocanaqua. Office Hours are
Tues thru Thurs, from 9AM to 3PM.

PENALTY: 10% of current charge after due date.
INTEREST: 1.5% will be applied quarterly.

DFTDDTTFTAFTTDTFTTDFTADADDDDDTDTDTTFDDFTFFTDAAAFTTFDAADDAFDFADFTDA

**JOHN [redacted]**
**[redacted] STREET**
**MOCANAQUA, PA 18655**

**NOTICE: State law prohibits the connection of Sump Pumps or Down Spouts into the public sewer system. Shickshinny Sewer Board has passed Resolution #007-2018 to enforce this state law.**

| Customer Information |
|---|
| Customer Number: [redacted] |
| Name: John [redacted] |
| Service Address: |
| [redacted] Street |

| DESCRIPTION | AMOUNT |
|---|---|
| Sewer Charge | 75.00 |
| Previous Balance | 0.00 |
| Payments | 0.00 |
| Total Due | 75.00 |

| BILLING PERIOD |
|---|
| January 01, 2021 to March 31, 2021 |

| DUE DATE | PAY BY DUE DATE |
|---|---|
| 01/31/2021 | 75.00 |

| IF PAID AFTER | PAY THIS AMOUNT |
|---|---|
| 01/31/2021 | 82.50 |

**Return this portion with your payment**

| Bill To: |
|---|
| JOHN [redacted] |
| [redacted] STREET |
| MOCANAQUA, PA 18655 |

| Customer # | Billing Period |
|---|---|
| [redacted] | January 01, 2021 to March 31, 2021 |

Service @ [redacted] STREET

| Pay By Due Date | Due Date | After Due Date |
|---|---|---|
| 75.00 | 01/31/2021 | 82.50 |

Make checks payable to:
**Shickshinny Sewer Authority**
**PO BOX 266**
**Berwick PA, 18603**

SSA

⑈5003⑈ ⑆031307125⑆ 5000575848⑈103

# I&E
# EXHIBIT 14

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 14**

Authority Response to I&E Data Requests – Set II, No. 2(c):

2. Reference the Authority's response to I&E Data Requests – Set I, No. 9. Indicate:

***

c. How the Authority calculates charges to customers in Conyngham Township and whether the calculation of charges differs for customers located in the Borough of Shickshinny, Salem Township and the Pennsylvania State Correctional Institute – Retreat; and

***

**Answer:** The customers in Conyngham Township are charged five dollars more per quarter ($75.00) than the customers in Shickshinny ($70.00) due to an ongoing issue with influx and infiltration. Salem Township customers are charged the same rate as Shickshinny customers as Salem Township transferred the collection system along Shickshinny Valley Road to the SSABS. Due to its closure, SCI Retreat is serviced based on what we have been told is a promise made by the state to continue to provide a quarterly rate believed to be $15,000 for 5 years from the date of SCI Retreat's closure. After the 5 years, SSABS is unaware as to how the state facility will function or how sewage will be paid.

# I&E
# EXHIBIT 15

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 15**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set II, No. 10:

10. Provide copies, if any, of the most recent cost of service and/or rate studies completed by or for the Authority within the previous five (5) years.

**Answer:** The Authority has not conducted a rate study in the past 5 years. Mr. James Ridolfi, previous Authority Engineer, provided a calculation sheet to the Authority Solicitor around July of 2021 with calculations on treatment costs and collection costs. The sheet in being provided via email in an attached zip file.

| | 2021 PROPOSED Budget | | | |
|---|---|---|---|---|
| | INCOME | EXPENSES | | CONVEYANCE COSTS |
| SHICKSHINNY SEWER FEES | $ 109,200.00 | | 390 EDU'S X $70/QTR | |
| Conyngham Twp | $ 78,000.00 | | 260 EDU'S X $75/QTR | |
| Less Doubtful Receipts | $ (5,170.00) | | | |
| SCI-Retreat Qtrly | $ 128,000.00 | | $32,000/QTR | |
| SCI-Retreat Upgrde Pmt | $ - | | | |
| Sale of Nitrogen/Phosphorus Credits | $ 1,000.00 | | | |
| Interest on Checking Accounts | $ 820.00 | | | |
| | $ 311,850.00 | | | |
| 6000 Administrative Expenses:6010 Office Expenses | | $ 3,000.00 | 6.8% of Admin Total = | $ 6,231.52 |
| 6000 Administrative Expenses:6015 Telephone/Internet | | $ 4,560.00 | | |
| 6000 Administrative Expenses:6020 Dues & Subscriptions | | $ 450.00 | | |
| 6000 Administrative Expenses:6025 Permits & Licenses | | $ 1,400.00 | | |
| 6000 Administrative Expenses:6030 Board Member Pay | | $ 3,000.00 | | |
| 6000 Administrative Expenses:6035 ADMIN SECRETARY | | $ 17,000.00 | | |
| 6000 Administrative Expenses:6040 Insurance | | $ 22,000.00 | | |
| 6000 Administrative Expenses:6040 Ins & Bonds:PUBLIC OFFICIAL BOND | | $ 1,000.00 | | |
| 6000 Administrative Expenses:6040 Insurance & Bonds:WORKERS COMP | | $ 600.00 | | |
| 6000 Administrative Expenses:6045 Professional Fees:AUDIT SERVICES | | $ 6,000.00 | | |
| 6000 Administrative Expenses:6045 Professional Fees: Engineering | | $ 10,000.00 | | |
| 6000 Administrative Expenses:6045 Professional Fees:LEGAL SERVICES | | $ 16,000.00 | | |
| 6000 Administrative Expenses:6050 Contracted Services:DIVERSIFIED (VUB) | | $ 6,630.00 | | |
| 6100 WWTP Expenses:6110 Electricity | | $ 32,500.00 | | |
| 6100 WWTP Expenses:6115 Water | | $ 500.00 | | |
| 6100 WWTP Expenses:6120 Heat | | $ 2,500.00 | | |
| 6100 WWTP Expenses:6125 Supplies | | $ 1,000.00 | | |
| 6100 WWTP Expenses:6130 Maintenance | | $ 10,000.00 | | |
| Generator Load Test | | $ 800.00 | | |
| 6100 WWTP Expenses:6135 Chemicals | | $ 8,551.00 | | |
| 6100 WWTP Expenses:6140 Contracted Services | | $ 12,000.00 | | |
| Myers Environmental | | $ 87,888.00 | MYERS at 6.8% = | $ 5,976.38 |
| 6100 WWTP Expenses:6140 Contracted Services:REED BED MAINTENANCE | | $ - | Myers Personnel | |
| 6100 WWTP Expenses:6150 Lab Supplies & Equipment | | $ 800.00 | | |
| 6100 WWTP Expenses:6155 Vehicle | | $ 900.00 | | |
| 6100 WWTP Expenses:6180 WWTP REFUSE REMOVAL | | $ 456.00 | | |
| 6200 Pump Station Expenses:6210 Electricity | | $ 3,000.00 | Pump Station Total = | $ 8,350.00 |
| 6200 Pump Station Expenses:6215 Maintenance | | $ 2,000.00 | | |
| 6200 Pump Station Expenses:6220 Supplies | | $ 50.00 | | |
| 6200 Pump Station Expenses:6230 Contracted Services | | $ 500.00 | | |
| 6200 Pump Station Expenses:6230 Contracted PUMP STATION CLEANING | | $ 2,000.00 | | |
| Generator Load Test | | $ 800.00 | | |
| 6300 SCI Direct Expenses | | $ - | | |
| 6300 SCI Direct Expenses:6310 Maintenance | | $ - | | |
| 6300 SCI Direct Expenses:6325 Chemicals | | $ - | | |
| PENNIAN Bank Upgrade Loan PRINCIPAL | | $ 26,730.00 | Total is $35,659. | |
| 9010 Interest Expense:PENNIAN BANK | | $ 8,929.00 | | |
| PENNVEST LOAN PRINCIPAL | | $ 9,867.00 | Total is $10,734. | |
| 9010 Interest Expense:PENNVEST LOAN INT EXPENSE | | $ 867.00 | | |
| Payroll Expenses:MED ER EXPENSE | | $ 247.00 | | |
| Payroll Expenses:PMAA ER UC EXPENSE | | $ 270.00 | | |
| Payroll Expenses:SS ER EXPENSE | | $ 1,055.00 | | |
| BAD DEBT EXPENSE | | $ 1,000.00 | | |
| PURCHASE NEW EQUIPMENT | | $ 5,000.00 | | |
| | $ 311,850.00 | $ 311,850.00 | | |

| Operators: | hours: |
|---|---|
| 52 Weeks at 40 hr/wk = | 2080 |
| Daily PS Check at 15 min = | 91 |
| PA One Calls at 30min/wk= | 26 |
| Sewer Work at 1/mo of 2 hrs= | 24 |
| Annual Conveyance Hours = | 141 |
| Annual Percent of total = | 6.8 % |

Conveyance Cost Total
$ 20,557.90

% of Total Expense
6.59

| | | | |
|---|---|---|---|
| SSABS Rate: | $ | 70.00 | per Qtr/EDU |
| Conveyance: | $ | 4.61 | per Qtr/EDU |
| Treatment: | $ | 65.39 | per Qtr/EDU |

# I&E
# EXHIBIT 16

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 16**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 4:

4. Indicate whether the Authority has the capability to expand its sewage collection, treatment or disposal service to service additional customers in Conyngham Township.

**Answer:** Yes. However, Conyngham Township Sewer Authority transmits the wastewater to the SSABS plant, so any expansion would have to be through the Conyngham Sewer Authority.

# I&E
# EXHIBIT 17

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 17**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 2:

2. Indicate the total number of customers located in Conyngham Township that are served by the Authority and break-down the total number by customer class, i.e. residential and commercial.

**Answer:** The numbers are believed to be as follows: 220 residential, 8 businesses.

# I&E
# EXHIBIT 18

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 18**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 3:

3. Between January 1, 2021 and the present time, quantify the total revenue the Authority collected through rates charged to and received from customers located in Conyngham Township.

**Answer:** The total amount dollar amount collected from ratepayers located in Conyngham Township is $54,684.68. Whether this amount constitutes "revenue" is unknown as the Authority has not calculated its overhead and expenses related to servicing and collecting rates in Conyngham Township.

# I&E
# EXHIBIT 19

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 19**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 1:

1. Indicate whether the Authority engages in a nonutility business that is incidental to its provision of sewage collection, treatment or disposal service in Pennsylvania. If answered affirmatively, describe the nonutility business and explain its connection to the provision of sewage collection, treatment or disposal service. Indicate the overall percentage of time and resources that the Authority dedicates to the nonutility business.

**Answer:** It is unclear as to what the interrogatory refers to as "nonutility business." However, the Authority only engages in collection, treatment, and disposal of sewage.

# I&E
# EXHIBIT 20

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 20**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, Nos. 5, 7, 8 and 9:

5. Since January 1, 2021, indicate whether the Authority ever denied a request for sewage collection, treatment or disposal service from a prospective customer in Conyngham Township. If answered affirmatively, provide the date of inquiry and the reason(s) for the Authority's denial of service.

**Answer:** No request for sewage service has been turned down by the SSABS. SSABS does not transport waste in Conyngham Township, the Conyngham Township Sewer Authority transports waste in the Township.

7. Indicate whether the Authority has any control over the selection of its customers in Conyngham Township. If answered affirmatively, explain.

**Answer:** No.

8. Indicate whether the Authority's customers in Conyngham Township are able to sell or lease the properties and/or structures that are connected to the Authority's sewage collection, treatment or disposal service without the Authority's approval.

**Answer:** Yes, SSABS has no say over sale or leasing of properties.

9. Indicate whether the Authority serves customers in Conyngham Township pursuant to a contractual arrangement. If answered affirmatively, provide a sample of a written contract that is given to customers in Conyngham Township.

**Answer:** No. The previous contractual agreement was with the Conyngham Township Sewer Authority.

# I&E
# EXHIBIT 21

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 21**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 10:

10. Indicate whether the Authority requested informal advice from the Chief Counsel of the Commission regarding the jurisdictional status of its services, pursuant to 52 Pa. Code § 69.1401(f). If answered affirmatively, provide a copy of the Authority's inquiry and the opinion of Counsel.

**Answer:** Not that SSABS is aware of.

# I&E
# EXHIBIT 22

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 22**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 11:

11. Indicate whether the Authority filed with the Commission a notice and disclosure statement describing the nature and scope of the operation of its service pursuant to 52 Pa. Code § 69.1401(g). If answered affirmatively, provide a copy of the notice and disclosure statement.

**Answer:** Not that SSABS is aware of.

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

## VERIFICATION

I, Matthew T. Lamb, on behalf of the Bureau of Investigation and Enforcement, hereby verify that **I&E Statement No. 1** and **I&E Exhibit Nos. 1-22** were prepared by me or under my direct supervision and control.

Furthermore, I hereby state that the facts contained therein are true and correct to the best of my knowledge, information and belief, and I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Matthew T. Lamb
Fixed Utility Valuation Engineer
Pennsylvania Public Utility Commission
Bureau of Technical Utility Services
400 North Street
Harrisburg, PA 17120
mlamb@pa.gov
(717) 783-1001

Dated: October 21, 2021

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Notification by Electronic Mail[1] as indicated:**

Vito J. DeLuca, Esq.
DeLuca Law Offices
26 Pierce Street
Kingston, PA 18704
vjd@delucalawoffices.com
*Counsel for Conyngham Township*

Sean W. Logsdon, Esq.
Donald G. Karpowich Attorney-At-Law, P.C.
85 Drasher Road
Drums, PA 18222
sean@karpowichlaw.com
*Counsel for the Sanitary Sewer Authority of the Borough of Shickshinny*

Sanitary Sewer Authority of the Borough of Shickshinny
1 Main Road
Shickshinny, PA 18655
shickauth@frontier.com

Stephanie M. Wimer
Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 207522
(717) 772-8839
stwimer@pa.gov

Dated: October 21, 2021

[1] *See Waiver of Regulations Regarding Service Requirements*, Docket No. M-2021-3028321 (Order entered September 15, 2021) (permitting electronic service by Commission staff on parties).

# MATTHEW T. LAMB, P.E.

## PROFESSIONAL EXPERIENCE AND EDUCATION

### EDUCATION & CERTIFICATIONS

| | |
|---|---|
| Bachelor of Science, Civil Engineering | University of Colorado, Boulder |
| Registered Professional Engineer | |
| State of California | C 52474 |
| State of Colorado | PE 58150 |
| Commonwealth of Pennsylvania | PE091604 |
| Qualified Stormwater Pollution Prevention Plan (SWPPP) Developer | State of California |
| Total Quality Management Leadership & Training Certifications | Los Angeles, CA |
| Senn-Delaney Leadership & Teambuilding Certifications | Los Angeles, CA |
| Certified Welding Inspector (SoCalGas) | Pico Rivera, CA |
| 48th Annual Eastern Rate School (2020) | NARUC |
| Cybersecurity Training for State Regulatory Commissions (2021) | NARUC |
| Flood Resilience Training for Water & Wastewater Utilities (2019) | EPA |
| Water Planning & Hazard Mitigation Planning Course (2020) | EPA/PEMA |
| Pennsylvania Groundwater Symposium (2019 & 2021) | PennState |
| Water System Depreciation – Capital Planning Tool (2020) | NRWA |

### CURRENT EMPLOYMENT (2019 – Present)

**Fixed Utility Valuation Engineer | PA Public Utility Commission |** Harrisburg, PA

- Perform analysis from an engineering perspective for valuation and rate structure filings submitted by fixed utilities including depreciation, original cost studies for rate base inclusion, and related functions.
- Review water/wastewater applications for new service, transfers of ownership, additional service territory and abandonment of service, examining the adequacy and cost effectiveness of operations.
- Prepare analytical studies and reports relating to water/wastewater federal and state regulatory policy analysis and environmental issues.

### PREVIOUS EMPLOYMENT HIGHLIGHTS

- Oversaw the review and processing of the permit to retool 450 megawatts at the AES Huntington Beach Power Station in front of the California Energy Commission (CEC) on an accelerated 180-day schedule due to the 2001 energy crisis for the affected municipality. Worked with CEC staff, AES representatives and community stakeholders to successfully negotiate the incorporation of many permit conditions important to the community.
- Managed the review of the Application to permit the transfer of the Southern California Edison fuel oil pipeline and terminal assets sale in front of the California Public Utilities Commission (CPUC) representing the intervening municipality.

- Directed a department of 16 project managers, planners, engineers, inspectors and technical support staff responsible for a Capital Improvement Program (CIP) of $65 million annually comprising of 40+ different natural gas pipeline and compressor station projects throughout Southern California with an operating budget of $2 million.
- Supervised four planning engineers to provide field engineering support to operations and maintenance personnel working on a complex natural gas well and pipeline system in Los Angeles, Orange and Riverside counties. Responsible for troubleshooting day-to-day operations, directing capital replacement programs, and implementing major maintenance overhauls. Major projects included: new wastewater treatment facility, new private firewater and hydrant system, and an extensive well head automation and SCADA system implementation.

**PREVIOUS EMPLOYMENT (1990 – 2019)**

**Vice President | Net Media Assets, Inc.** | Huntington Beach, CA
**Community Development Director | City of Baldwin Park** | Baldwin Park, CA
**Executive Director | Santa Ana Business Association** | Santa Ana, CA
**Downtown Development Manager | City of Santa Ana** | Santa Ana, CA
**Real Estate Services Manager | City of Huntington Beach** | Huntington Beach, CA
**Planning & Construction Manager | Southern California Gas Company** | Los Angeles, CA
**Transmission Planning & Construction Supr | Southern California Gas Company** | Los Angeles, CA
**Region Operations Engineer | Southern California Gas Company** | Los Angeles, CA
**Project Manager | Southern California Gas Company** | Los Angeles, CA
**Staff Engineer | Southern California Gas Company** | Los Angeles, CA
**Associate Engineer | Southern California Gas Company** | Los Angeles, CA

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

September 16, 2022

***Via Electronic Mail***
Honorable Conrad A. Johnson
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Piatt Place
301 5th Avenue, Suite 220
Pittsburgh, PA 15222
cojohnson@pa.gov

Re: Conyngham Township v.
Sanitary Sewer Authority of the Borough of Shickshinny
Docket No. C-2021-3023624
**I&E Rebuttal Testimony**

Dear Judge Johnson:

In accordance with the Eighth Interim Order Reestablishing Litigation Schedule dated August 25, 2022, enclosed please find a copy of the written **Rebuttal Testimony** of the Bureau of Investigation and Enforcement's witness:

Matthew T. Lamb I&E Statement No. 1-R

Copies have been served on the parties of record in accordance with the attached Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Stephanie M. Wimer
Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 207522
(717) 772-8839
stwimer@pa.gov

Enclosures

cc: Rosemary Chiavetta, Secretary *(Cover Letter and Certificate of Service – via e-file)*
Nicholas Miskanic, OALJ Legal Assistant *(via email only)*
Michael L. Swindler, I&E Deputy Chief Prosecutor *(via email only)*
As per Certificate of Service

**I&E Statement No. 1-R**
**Witness: Matthew T. Lamb**

**CONYNGHAM TOWNSHIP**

**v.**

**SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY**

**Docket No. C-2021-3023624**

# Rebuttal Testimony

**of**

**Matthew T. Lamb**

**on behalf of the**

**Bureau of Investigation and Enforcement**

**Concerning:**
**The Direct Testimony of Barry Noss,**
**Sanitary Sewer Authority of the Borough of Shickshinny**

**Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.**

A. My name is Matthew T. Lamb and I am a Fixed Utility Valuation Engineer II in the Pennsylvania Public Utility Commission's ("Commission") Bureau of Technical Utility Services ("TUS"). My business address is Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120.

**Q. ARE YOU THE SAME MATTHEW T. LAMB WHO PREVIOUSLY SUBMITTED WRITTEN DIRECT TESTIMONY ON BEHALF OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT IN THIS PROCEEDING?**

A. Yes.

**Q. PLEASE EXPLAIN THE PURPOSE OF YOUR REBUTTAL TESTIMONY.**

A. The purpose of my rebuttal testimony is to respond to the recently submitted Direct Testimony of Barry Noss, chairperson of the Board for the Sanitary Sewer Authority of the Borough of Shickshinny ("Authority"). Upon review of the Authority's Direct Testimony, I continue to conclude that the Authority impermissibly operated beyond its corporate limits by providing wastewater treatment service for compensation to customers located in Conyngham Township ("Township") from January 1, 2021 through September 30, 2021.

**Q. PLEASE RESPOND TO THE CLAIM SET FORTH IN BARRY NOSS' TESTIMONY THAT THE CONYNGHAM TOWNSHIP SEWER AUTHORITY ("CTSA") USES ITS OWN LINES TO TRANSPORT SEWAGE TO THE AUTHORITY'S PLANT.**

A. The fact that customers located in the Township use the CTSA's lines to transport wastewater to the Authority's plant does not alter my conclusion that the Authority is engaged in a public utility activity. The Authority is engaged in wastewater treatment for Township customers, and this constitutes an activity that fits within the meaning of "public utility."

**Q. PLEASE RESPOND TO THE CLAIM THAT THE AUTHORITY'S PERCEIVED INFLUX AND INFILTRATION ISSUES CAUSED THE AUTHORITY TO DIRECTLY INVOICE TOWNSHIP CUSTOMERS AT A RATE OF $5.00 PER QUARTER MORE THAN IT CHARGES CUSTOMERS LOCATED IN THE BOROUGH OF SHICKSHINNY.**

A. The Authority's decision to directly invoice Township customers any amount, let alone a greater amount than it charges its own municipal customers, required the Authority to first obtain a Certificate of Public Convenience issued by the Commission. When the Authority invoiced Township customers, it was providing a public utility service for compensation.

A municipal authority that provides public utility service for compensation beyond its corporate limits requires Commission oversight to protect customers who are not

residents of the incorporating municipality. These "outside customers" lack the ability to vote for the officials who manage the municipal authority, and the officials who manage the municipal authority are not beholden to "outside customers" for their power.

**Q. PLEASE RESPOND TO THE CLAIM THAT EVEN THOUGH THE AUTHORITY SENT THE TOWNSHIP A LETTER ON SEPTEMBER 11, 2020 TERMINATING THE SEWAGE TREATMENT AGREEMENT, THAT AGREEMENT WAS NOT ACTUALLY TERMINATED.**

A. The September 11, 2020 letter that is referenced is included in my Direct Testimony as I&E Exhibit 11 and the letter speaks for itself. I am not an attorney and so I cannot testify about the legal effect of the September 11, 2020 letter. However, following the Authority's issuance of that letter, the Authority took overt steps to furnish wastewater treatment service to Township customers who are outside of the Authority's corporate limits and charge those same customers for that service. The Authority became a *de facto* public utility subject to the Commission's jurisdiction at that time.

**Q. PLEASE RESPOND TO THE CLAIM THAT THE AUTHORITY STOPPED DIRECTLY INVOICING TOWNSHIP CUSTOMERS BEGINNING WITH THE FOURTH QUARTER OF 2021.**

A. First, the Authority is capable of resuming charging Township customers for wastewater treatment service at any time. This is evidenced by the invoices that the

Authority sent to Township customers for the first three calendar year quarters of 2021. Secondly, the Authority's decision to temporarily cease charging Township customers does not alleviate it from being subject to Commission jurisdiction. Commission approval is required for public utilities to abandon public utility service. In other words, from the moment the Authority's actions necessitated the issuance of a certificate of public convenience by the Commission, the Authority became fully subject to the Commission's oversight and was required, pursuant to 66 Pa.C.S. §1102(a)(2), to seek a certificate of public convenience to abandon, in whole or in part, any service in order to remove itself from Commission jurisdiction.

**Q. PLEASE RESPOND TO THE CLAIM THAT THE AUTHORITY DID NOT INTEND TO VIOLATE THE PUBLIC UTILITY CODE.**

A. Violations occurred. Moreover, the Authority continues to provide a public utility service beyond its corporate limits, and while it is currently not charging for this service, the testimony of Barry Noss illustrates that current arrangement of providing this service to Township customers for free is temporary and not financially feasible in the long-term. Again, the Authority can resume charging Township customers for wastewater treatment service at any time. To this day, the Authority still has not applied for a Certificate of Public Convenience.

**Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

A. Yes.

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---|
| Conyngham Township<br>Complainant | :<br>:<br>: | |
| v. | : | Docket No. C-2021-3023624 |
| | : | |
| Sanitary Sewer Authority of the Borough of Shickshinny<br>Respondent | :<br>:<br>: | |

## VERIFICATION

I, Matthew T. Lamb, on behalf of the Bureau of Investigation and Enforcement, hereby verify that **I&E Statement No. 1-R** were prepared by me or under my direct supervision and control.

Furthermore, I hereby state that the facts contained therein are true and correct to the best of my knowledge, information and belief, and I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Matthew T. Lamb
Fixed Utility Valuation Engineer
Pennsylvania Public Utility Commission
Bureau of Technical Utility Services
400 North Street
Harrisburg, PA 17120
mlamb@pa.gov
(717) 783-1001

Dated: September 16, 2022

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---|
| Conyngham Township<br>Complainant | : | |
| v. | : | Docket No. C-2021-3023624 |
| Sanitary Sewer Authority of the Borough of Shickshinny<br>Respondent | : | |

## CERTIFICATE OF SERVICE

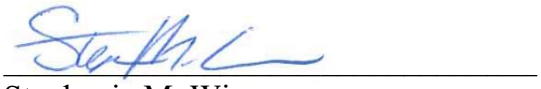
I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Notification by Electronic Mail as indicated:**

Vito J. DeLuca, Esq.
DeLuca Law Offices
26 Pierce Street
Kingston, PA 18704
vjd@delucalawoffices.com
*Counsel for Conyngham Township*

Sean W. Logsdon, Esq.
Donald G. Karpowich Attorney-At-Law, P.C.
85 Drasher Road
Drums, PA 18222
sean@karpowichlaw.com
*Counsel for the Sanitary Sewer Authority of the Borough of Shickshinny*

Sanitary Sewer Authority of the Borough of Shickshinny
1 Main Road
Shickshinny, PA 18655
shickauth@frontier.com



Stephanie M. Wimer
Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 207522
(717) 772-8839
stwimer@pa.gov

Dated: September 16, 2022

| Date Created | Filing Number |
|---|---|
| 9/16/2022 | 2435270 |

Commonwealth of Pennsylvania
**Pennsylvania Public Utility Commission**
Harrisburg, PA 17105-3265
**EFILING - FILING DETAIL**

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

**Docket Number:** C-2021-3023624
**Case Description:**
**Transmission Date:** 9/16/2022 3:30 PM
**Filed On:** 9/16/2022 3:30 PM
**eFiling Confirmation Number:** 2435270

| File Name | Document Type | Upload Date |
|---|---|---|
| C-2021-3023624 (Borough of Shickshinny) I&E Rebuttal Testimony CL&COS FINAL.pdf | Certificate of Service | 9/16/2022 3:29:39 PM |

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg PA 17120 a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

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# I&E
# EXHIBIT 1

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 1**

Authority Response to I&E Data Requests – Set I, No. 5(b):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

a. Identify the municipality or municipalities that originally organized the Authority and provide the applicable resolution or ordinance that formed the Authority;

***

**Answer:** It is believed and therefore averred that SSABS was created on or around September 25, 1973, by the Borough of Shickshinny. SSABS will attempt to obtain a copy of the applicable resolution or ordinance, but the document(s) should be in the possession of the Borough of Shickshinny.

NOTICE IS HEREBY GIVEN that the following ordinance was adopted by the Council of the Borough of Shickshinny, Luzerne County, Pennsylvania, on August 8, 1973, which expressed the desire of the Borough to organize an Authority under the Act of May 2, 1945, P.L. 382, as amended, and set forth the proposed articles of incorporation in full, which ordinance is as follows:

A resolution of the Borough of Shickshinny, Luzerne County, Pennsylvania, signifying the desire and intention of the Borough to organize an Authority under the Municipality Authorities Act of One thousand nine hundred and forty five, setting forth the proposed Articles of Incorporation of the Authority to be known as the Sanitary Sewer Authority of the Borough of Shickshinny, Pennsylvania, authorizing the proper officers of the Borough of Shickshinny to execute Articles of Incorporation for and onbehalf of the Borough and repealing all Resolutions or parts of resolutions inconsistent therewith.

Be it ordained and enacted by the Borough of Shickshinny, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, as follows:

1. That it is the desire of the Council of the Borough to organize an authority under the Municipality Authorities Act of May 2, 1945, P.L. 382, as amended.

2. That in purtuance of the said desire and intention, and in conformity with the terms and provisions of the Municipality Authorities Act and its amendments, the proposed Articles of Incorporation are hereby set forth in full as follows:

Articles of Incorporation of the
Sanitary Sewer Authority of the
Borough of Shickshinny, Luzerne
County, Pennsylvania

TO the Secretary of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania:

In compliance with the requirement of the Municipality Authorities Act of 1945, P.L. 382, as amended and pursuant to resolution adopted by the Municipal Authorities of the Borough of Shickshinny, Luzerne County, Pennsylvania, that a Municipal Authority be established under the provisions of the aforementioned law, the Borough of Shickshinny, Luzerne County, Pennsylvania, desiring that a Municipal Authority be established and that a certificate of incorporation be issued to said authority, does hereby certify:

(a) The name of the authority shall be - Sanitary Sewer Authority of the Borough of Shickshinny.

(b) That the Authority is formed under the Act ofMay 2, 1945, P.L. 382, as amended, known as the Municipality Authorities Act of 1945.

(c) No other Authority has been organized under the provisions of this Act or the Act approved June 28th, 1935, P.L. 463, and is in existence within said Borough.

(d) The name of the incorporating municipality is the Borough of Shickshinny, Luzerne County, Pennsylvania.

The names and addresses of the Mayor and the Borough Council, the municipal authorities of the Borough of Shickshinny, Luzerne County, Pennsylvania, are as follows:

Gustave Bach, Mayor, 122 Susquehanna Avenue, Shickshinny

Members of Council:

Raymond C. Mills, President, 59 W. Butler St., Shickshinny
Alexander J. Stepanski, 140 Susquehanna Ave., Shickshinny
Clement Wido, 53 N. Main St., Shickshinny
Frederick C. Post, 47 N. Main St., Shickshinny
Jack McClure, 16 Susquehanna Ave., Shickshinny
Michael Kokora, 47 S. Main St., Shickshinny
Robert A. McLaughlin, 37 N. Main St., Shickshinny
Wilbur M. Beaver, 15 W. Butler St., Shickshinny

(e) The members of the Board shall be five (5) in number.

The names, addresses and terms of office of the first members of the Board of said Authority are as follows:

Wilson Reider, 19 W. Butler St., Shickshinny - 1 year
John G. Thomas, 31 Furnace St., Shickshinny - 2 years
Margaret Caverly, 66 W. Union St., Shickshinny - 3 years
James Bach, 150 Rockview Avenue, Shickshinny - 4 years
William B. Curwood, 51 N. Main St., Shickshinny - 5 years

2. The proposed Articles of Incorporation of the Authority shall be executed by and on behalf of the Borough by the Mayor, President and Members of Council of the Borough, attested by the Secretary, and filed with the Secretary of the Commonwealth. The Solicitor is hereby authorized and directed to publish notice of this Ordinance and Resolution and of the day upon which the Articles of Incorporation will be filed with the Secretary of the Commonwealth of Pennsylvania; to file the Articles of Incorporation, together with the Ordinance and Resolution authorizing the incorporation of the Authority and necessary proofs of publication and to do all other things necessary or appropriate to effect the incorporation of the

Sanitary Sewer Authority of the Borough of Shickshinny.

4. That the projects which shall be undertaken by the Sanitary Sewer Authority of the Borough of Shickshinny, Luzerne County, Pennsylvania, shall be to construct, improve, furnish and equip a sanitary sewage system and treatment works and to acquire necessary land for such purposes and to do and perform all necessary things incident thereto.

5. That all other Ordinances or parts of Ordinances, Resolutions or parts of Resolutions inconsistent herewith be and the same are hereby expressly repealed.

6. That this Ordinance and/or Resolution shall be effective from and after its passage and advertisement.

Enacted and ordained this 8th day of August, 1973

BOROUGH OF SHICKSHINNY

JOHN G. THOMAS, SECRETARY

---

Notice is therefore given by the Borough of Shickshinny that the Act of Incorporation of the proposed Authority will be filed with the Secretary of the Commonwealth of Pennsylvania on Tuesday, September 25, 1973.

THOMAS C. MOORE, SOLICITOR

# I&E
# EXHIBIT 2

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 2**

Authority Response to I&E Data Requests – Set I, No. 5(d):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

d. Provide a copy of the Authority's articles of incorporation;

***

**Answer:** It is believed and therefore averred that the requested information may be in the possession of the Borough of Shickshinny. SSABS will attempt to request and obtain or locate the requested document(s), but it does not currently have them in its possession.

# ARTICLES OF INCORPORATION OF THE SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY, LUZERNE COUNTY, PENNSYLVANIA

TO: THE SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA, HARRISBURG, PENNSYLVANIA:

In compliance with the requirements of the Municipality Authorities Act of 1945, P.L. 382, as amended, and pursuant to resolution adopted by the Municipal Authorities of the Borough of Shickshinny, Luzerne County, Pennsylvania, that a Municipal Authority be established under the provisions of the aforementioned law, the Borough of Shickshinny, Luzerne County, Pennsylvania, desiring that a Municipal Authority be established and that a certificate of incorporation be issued to said Authority, does hereby certify:

(a) The name of the Authority shall be - Sanitary Sewer Authority of the Borough of Shickshinny.

(b) That the Authority is formed under the Act of May 2, 1945, P.L. 382, as amended, known as the "Municipality Authorities Act of 1945".

3-1-73.44

(c) No other Authority has been organized under the provisions of this Act or the Act approved June 28th, 1935, P.L. 463, and is in existence within said Borough.

(d) The name of the incorporating municipality is the Borough of Shickshinny, Luzerne County, Pennsylvania.

The names and addresses of the Mayor and the Borough Council, the municipal authorities of the Borough of Shickshinny, Luzerne County, Pennsylvania, are as follows:

Gustave Bach, Mayor, 122 Susquehanna Avenue, Shickshinny

Members of Council:

Raymond C. Mills, President, 59 W. Butler St., Shickshinny
Alexander J. Stepanski, 140 Susquehanna Ave., Shickshinny
Clement Mido, 53 N. Main St., Shickshinny
Frederick C. Post, 47 N. Main St., Shickshinny
Jack McClure, 16 Susquehanna Ave., Shickshinny
Michael Kokora, 47 S. Main St., Shickshinny
Robert A. McLaughlin, 37 N. Main St., Shickshinny
Wilbur N. Beaver, 15 W. Butler St., Shickshinny

(e) The members of the Board shall be five (5) in number.

The names, addresses and terms of office of the first members of the Board of said Authority are as follows:

Wilson Reider, 19 W. Butler St., Shickshinny - 1 year
John G. Thomas, 31 Furnace St., Shickshinny - 2 years
Margaret Caverly, 66 W. Union St., Shickshinny - 3 years
James Bach, 150 Rockview Avenue, Shickshinny - 4 years
William B. Curwood, 51 N. Main St., Shickshinny - 5 years

3. The proposed Articles of Incorporation of the Authority shall be executed by and on behalf of the Borough by the Mayor, President and Members of Council of the Borough, attested by the Secretary, and filed with the Secretary of the Commonwealth. The Solicitor is hereby authorized and directed to publish notice of this Ordinance and Resolution and of the day upon which the Articles of Incorporation will be filed with the Secretary of the Commonwealth of Pennsylvania; to file the Articles of Incorporation, together with this Ordinance and Resolution authorizing the incorporation of the Authority and necessary proofs of publication and to do all other things necessary or appropriate to effect the incorporation of the

Sanitary Sewer Authority of the Borough of Chickshinny.

4. That the projects which shall be undertaken by the Sanitary Sewer Authority of the Borough of Chickshinny, Luzerne County, Pennsylvania, shall be to construct, improve, furnish and acquire a sanitary sewage system and treatment works and to acquire necessary land for such purposes and to do and perform all necessary things incident thereto.

5. That all other Ordinances or parts of Ordinances, Resolutions or parts of Resolutions inconsistent herewith be and the same are hereby expressly repealed.

6. That this Ordinance and/or Resolution shall be effective from and after its passage and advertisement.

Enacted and ordained this 6th day of August, 1973.

Attest:

John G. Thomas
Secretary

BOROUGH OF CHICKSHINNY

Gustave Bach (Seal)
Gustave Bach, Mayor

Raymond Miller (Seal)
Raymond C. Miller, President of Council

Alexander J. Stepanski (Seal)
Alexander J. Stepanski

Clement Wido (Seal)
Clement Wido

Frederick C. Port (Seal)
Frederick C. Port

Jack McClure (Seal)
Jack McClure

Michael Kobera (Seal)
Michael Kobera

Robert A. McLaughlin (Seal)
Robert A. McLaughlin

Wilbur M. Beaver (Seal)
Wilbur M. Beaver

3-1-73.44

Approved and filed in the Department of State on the 25th day of September, A. D. 1973.

C. DeLeon Tinsley

Secretary of the Commonwealth

jmw

# I&E
# EXHIBIT 3

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 3**

Authority Response to I&E Data Requests – Set I, No. 5(e):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

e. Provide a copy of all amendments to the Authority's articles of incorporation;

***

**Answer:** It is unknown if there are any amendments to said documents. But it is believed and therefore averred that the requested information may be in the possession of the Borough of Shickshinny. SSABS will attempt to request and obtain or locate the requested document(s), but it does not currently have them in its possession.

# I&E
# EXHIBIT 4

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 4**

Authority Response to I&E Data Requests – Set I, No. 5(f):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

f. Provide a copy of the Authority's certificate of incorporation;

***

**Answer:** It is believed and therefore averred that the requested information/document may be in the possession of the Borough of Shickshinny. SSABS will attempt to request and obtain or locate the requested document(s), but it does not currently have them in its possession.

DSCB-50 (Rev. 5-61)

3-1-73.442 31

# Commonwealth of Pennsylvania

## Department of State

## Office of The
# Secretary of the Commonwealth

**To all to whom these Presents shall come, Greeting:**

WHEREAS, In and by the provisions of the Municipality Authorities Act approved May 2, 1945, P. L. 382, as amended, the Secretary of the Commonwealth is authorized and required to issue a

CERTIFICATE OF INCORPORATION

evidencing the incorporation of an authority under the provisions of said Act.

AND WHEREAS, The stipulations and conditions of said Act have been fully complied with by the Municipal Authorities of the Borough of Shickshinny, Luzerne County,

Commonwealth of Pennsylvania desiring the organization of
SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY

THEREFORE, KNOW YE, That subject to the Constitution of this Commonwealth, and under the authority of Act No. 164, approved the second day of May, Anno Domini one thousand nine hundred and forty-five, P. L. 382, as amended, I DO BY THESE PRESENTS, which I have caused to be sealed with the Great Seal of the Commonwealth, declare and certify the creation, erection and incorporation of
SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY

into a body politic and corporate in deed and in law by the name chosen hereinbefore specified, now to become operative with authority to transact business, and which shall exist for a term of fifty years unless sooner dissolved according to law.

Such corporation shall have and enjoy and shall be the subject to all the powers, duties, requirements, and restrictions, specified and enjoined in and by the above Act of Assembly and all other applicable laws of this Commonwealth.

GIVEN under my Hand and the Great Seal of the Commonwealth, at the City of Harrisburg, this 25th day of September, in the year of our Lord one thousand nine hundred and seventy-three and of the Commonwealth the one hundred and ninety-eighth.

Secretary of the Commonwealth

jmw

# I&E
# EXHIBIT 5

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 5**

Authority Response to I&E Data Requests – Set I, No. 5(h):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

h. Identify all municipalities that joined the Authority and provide the date(s) in which they joined;

***

**Answer:** It is believed an[sic] therefore averred that the only municipality that formed and/or joined the Authority is the Borough of Shickshinny.

# I&E
# EXHIBIT 6

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 6**

Authority Response to I&E Data Requests – Set I, No. 5(j):

5. Indicate whether the Authority is a "municipal corporation" as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. If answered affirmatively:

***

j. Indicate whether the scope of the Authority's activities consists of waterworks, water supply works and water distribution systems pursuant to 53 Pa.C.S. § 5607(a)(10) and, if not, identify the scope of the Authority's project pursuant to 53 Pa.C.S. § 5607(a);

***

**Answer:** The scope of the SSABS activities does not consist of the water treatment, supply or distribution as listed above. The scope of the SSABS's activities consists of providing treatment of domestic wastewater and discharging the treated wastewater to the Susquehanna River in accordance with PA NPDES Permit No. PA0060135.

# I&E
# EXHIBIT 7

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 7**

Authority Response to I&E Data Requests – Set I, No. 1:

1. Provide a description of the Authority's water facilities in Pennsylvania.

**Answer:** The Sanitary Sewer Authority of the Borough of Shickshinny (SSABS) does not operate water facilities in Pennsylvania. SSABS owns and operates a sewage treatment plant located in Conyngham Township, Luzerne County, Pennsylvania. The treatment plant process includes comminutor, flow equalization, biological treatment with nitrification, denitrification and alum addition for nutrient removal, wastewater disinfection and discharge. Sludge from the treatment process is further process in reed beds for dewatering and stabilization.

# I&E
# EXHIBIT 8

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

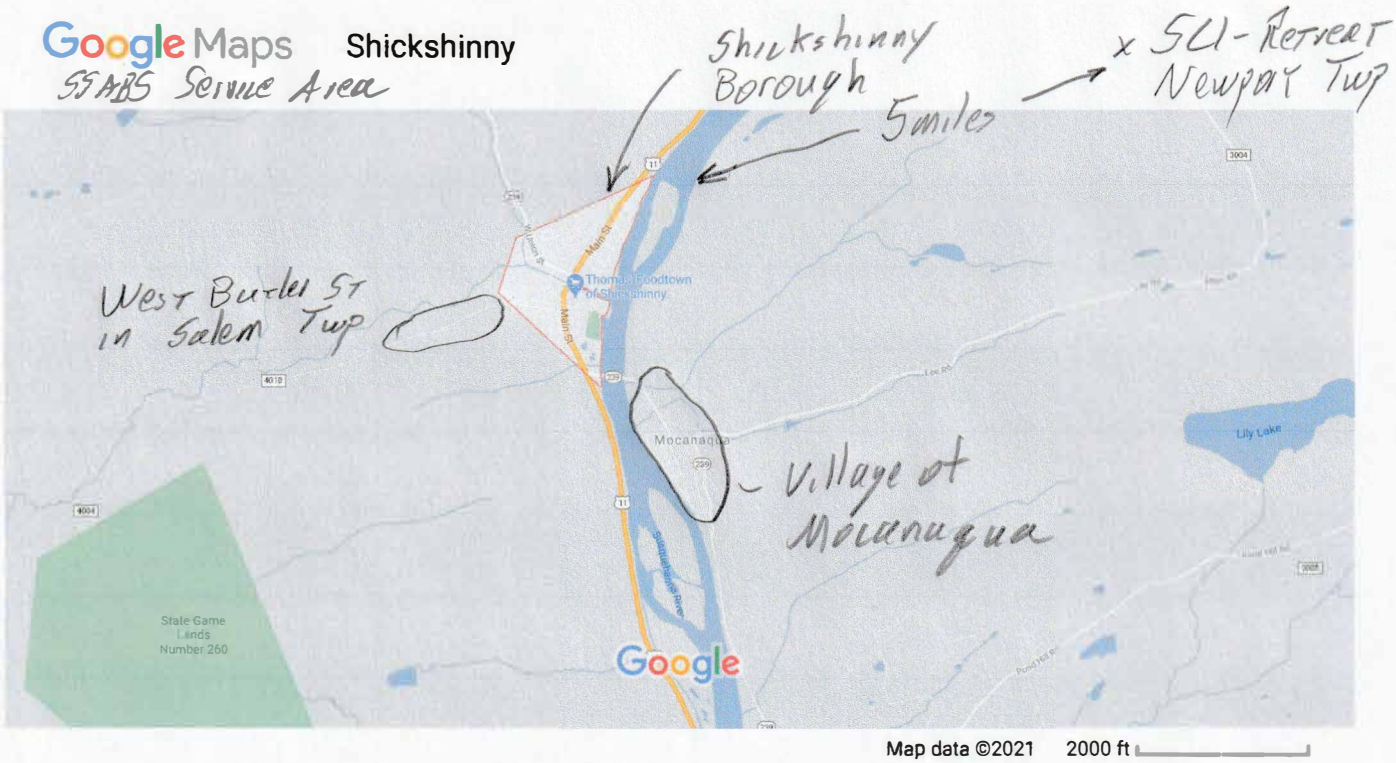
**I&E Exhibit 8**

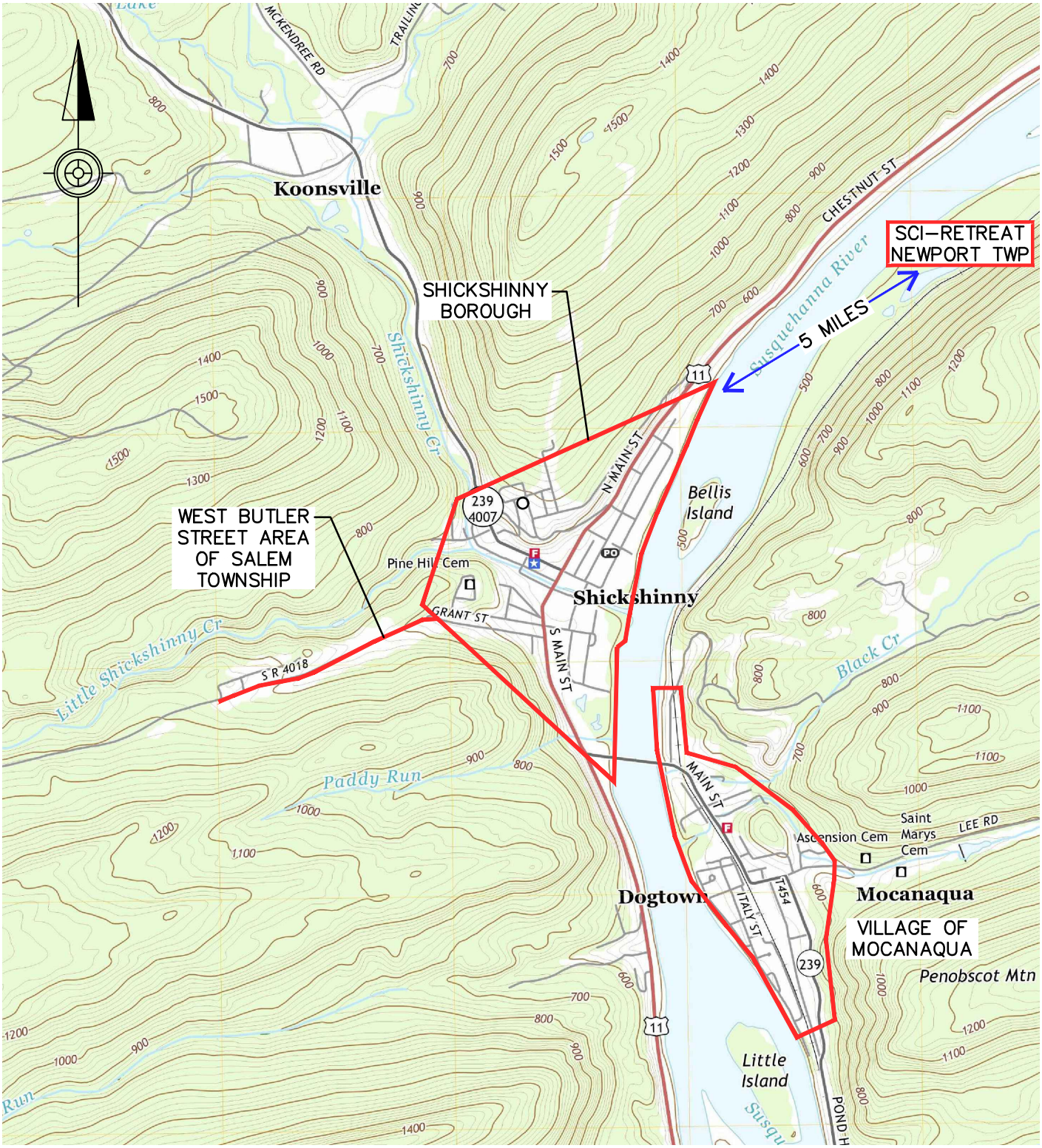
Authority Response to I&E Data Requests – Set I, No. 2:

2. Provide a map of the Authority's service area and indicate the names of the municipalities in which the Authority provides water service.

**Answer:** SSABS does not currently have a map to provide at this time, but if the same exists and can be procured, this response will be supplemented. By way of further answer, SSABS provides sewage treatment service to the Borough of Shickshinny, a portion of Salem Township, a portion of Conyngham Township and to the Pennsylvania State Correctional Institute – Retreat.

# I&E
# EXHIBIT 9


Google Maps
Shickshinny
SSABS Service Area
Shickshinny Borough
5 miles
x SCI-Retreat Newport Twp
West Butler St in Salem Twp
Village of Mocanaqua
Thomas Foodtown of Shickshinny
Mocanaqua
Lily Lake
State Game Lands Number 260
Google
Map data ©2021
2000 ft




LEGEND

— SSABS SERVICE AREA

Reilly ASSOCIATES SINCE 1930
ENGINEERING / ENVIRONMENTAL / SURVEYING

49 South Main Street
Suite 200
Pittston, PA 18640
tel: 570.654.2473
fax: 570.654.6880
www.reillyengineering.com

# SSABS SERVICE AREA

SHICKSHINNY
SEWER AUTHORITY

SHICKSHINNY BOROUGH
LUZERNE COUNTY, PENNSYLVANIA

| Date: | Project No. |
|---|---|
| 03–24–21 | 21007.00 |
| Scale: | Sheet No. |
| 1"=2000' | 1 OF 1 |

L:\RA LIBRARY\Location Maps\Luzerne County\Shickshinny SSABS MAP.dwg, 3/24/2021 5:07:53 PM

# I&E
# EXHIBIT 10

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 10**

Authority Response to I&E Data Requests – Set I, No. 7(a):

7. Reference Paragraph 19 of the Authority's Preliminary Objections dated January 26, 2021 in the Commission proceeding at Docket No. C-2021-3023624. Provide the following:

a. a copy of the service contract between the Authority and Conyngham Township, which terminated in November of 2020; and

***

**Answer:** A copy is attached.

# SEWAGE TREATMENT AGREEMENT

THIS SEWAGE TREATMENT AGREEMENT, dated this 18th day of November, 1992, by and between the SANITARY SEWER AUTHORITY OF THE BOROUGH OF SHICKSHINNY, Luzerne County, Pennsylvania, on the one hand, and the TOWNSHIP OF CONYNGHAM, Luzerne County, Pennsylvania, on the other hand.

WITNESSETH:

WHEREAS, the Authority presently owns, operates and maintains the Authority Sewage Collection System and the Treatment Plant, for rendering Sewage collection, transportation, treatment and disposal service in and for, inter alia, the Borough of Shickshinny, Pennsylvania; and

WHEREAS, Conyngham is presently contemplating the acquisition and construction of the Conyngham Sewage Collection System, for rendering Sewage collection and transportation, but not treatment or disposal service, in and for portions of Conyngham Township; and

WHEREAS, the Authority heretofore undertook the acquisition and construction of the Treatment Plant and incurred Costs of Construction and expenses related thereto; and

WHEREAS, Conyngham has requested certain Treatment Plant Capacity in the Treatment Plant; and

WHEREAS, Conyngham desires to acquire and reserve Treatment Plant Capacity for its present and future use, and to provide for the terms under which additional Treatment Plant Capacity may be acquired from the Authority hereafter, and to share in the costs and expenses of operating and maintaining the Treatment Plant; and

WHEREAS, Conyngham desires to contract, under the terms hereof, for Sewage treatment and disposal services by the Authority in the Treatment Plant; and

WHEREAS, the Authority, pursuant to the request of Conyngham, agrees under the terms hereof to provide Conyngham, as a single, bulk customer, with Sewage treatment and disposal services in the Treatment Plant, under the terms and conditions set forth herein.

# ARTICLE I

## Definitions

SECTION 1.01. Defined Terms. The terms defined in this Section 1.01, whenever used or referred to in this Service Agreement, shall have the respective meanings indicated unless a different meaning clearly appears from the context.

"Authority" shall mean the Sanitary Sewer Authority of the Borough of Shickshinny of Luzerne County, Pennsylvania, a municipal authority of the Commonwealth, acting by and through its members, including any Person duly authorized acting in behalf of such Authority;

"Authority Sewage Collection System" shall mean the Sewage collection and transportation system facilities presently existing or hereafter to be acquired and/or constructed by the Authority, for use and operation by the Authority, and to the extent permitted hereunder, for use by Conyngham for the transportation of Sewage from the Conyngham Sewage Collection System, together with all appurtenant facilities and properties which have been acquired or hereafter shall be acquired in connection therewith;

"BOD" shall mean biological oxygen demand or the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20) Centigrade expressed in milligrams per liter (mg/l). The procedure shall include thiourea or other suitable inhibitors to prevent nitrification from simultaneously occurring and affecting BOD results;

"Bonds" shall mean the notes, bonds or other debt obligations authorized and issued by the Authority the proceeds of which have been or will be applied for the purposes of financing Costs of acquisition or construction of the Treatment Plant and/or the Authority Sewage Collection System, or to refund the same;

"Certified Public Accountant" shall mean a person, who shall be Independent, appointed the governing body of a Municipality, actively engaged in the business of public accounting and duly certified as a Certified Public Accountant under the authority of laws of the Commonwealth;

"Charge" shall mean the charge payable by Conyngham to the Authority calculated pursuant to Article V hereof;

"Commonwealth" shall mean the Commonwealth of Pennsylvania;

"Completion Date" shall mean the date of substantial completion of the Conyngham Sewage Collection System as certified by Conyngham's Consulting Engineers;

"Consulting Engineer" or "Consulting Engineers" shall mean a Person who shall be Independent, appointed, by the governing body of a Municipality, as applicable and appropriate, qualified to pass upon engineering questions relating to Sewage collection, transportation, treatment and/or disposal systems and having a favorable reputation for skill and experience in supervising construction and operation of such systems. He shall be a professional engineer duly registered under laws of the Commonwealth. If such person shall be a partnership, corporation or association, it shall have a partner, officer, employee or member who is a professional engineer duly registered under laws of the Commonwealth;

"Consulting Engineer's Certificate" shall mean a certificate executed by the Consulting Engineers;

"Conyngham" shall mean the Township of Conyngham, Luzerne County, Pennsylvania, a political subdivision of the Commonwealth acting by and through its Board of Supervisors;

"Conyngham Sewage Collection System" shall mean the Sewage collection and transportation system facilities presently existing or hereafter to be acquired and/or constructed by Conyngham and/or located in Conyngham Township, as contemplated by the Project, together with any and all appurtenant facilities and properties which have been acquired or hereafter shall be acquired in connection therewith;

"Costs", "Costs of Acquisition" or "Costs of Construction", without intending to limit any proper definition thereof under sound accounting or engineering practice, shall mean and include, solely with respect to the Treatment Plant:

A. Obligations incurred and payments made or required to be made by the Authority to workmen and laborers or to contractors, builders, suppliers and materialmen;

B. Interest on Bonds during the acquisition or construction period with respect to any particular series of Bonds;

C. Reasonable administrative expenses of the Authority during the period of any acquisition or construction, including the financing thereof;

D. Costs of acquiring by purchase or condemnation, including amounts of any award or final judgment in or of

settlement or comprised of any condemnation proceedings of lands, rights of way, rights, licenses, easements and any other interests in real property as may be deemed necessary or convenient in connection with the Treatment Plant; amounts of any damages incident to or consequent upon acquisition or construction; and payments for restoration of property damaged or destroyed in connection with construction;

E. Costs of acquiring property, real, personal and mixed, tangible or intangible, or any interest therein, deemed necessary or desirable for carrying out purposes of the Authority relating to the Treatment Plant, including, without intending to limit the generality of the foregoing, costs of acquiring any sewer system or other properties in place, or any undivided interest therein, which can be operated as part of the Treatment Plant and all fees and expenses incidental thereto, including without intending to limit the generality of the foregoing, engineering fees, legal fees, costs of abstracts of title, title insurance, title opinions, surveys and reports;

F. Costs of performance, payment or other contractor's bonds and premiums on insurance of any type deemed necessary during construction and costs of inspection and performance, maintenance or other type bonds required by any governmental regulatory authority related to construction of any part of the Treatment Plant, to the extent that any of the foregoing shall not be required to be paid by contractors or otherwise provided for;

G. Fees and expenses of engineers or architects for studies, tests, surveys, reports, maps, estimates of costs, revenues and other facts, preparation of plans and specifications and making preliminary investigations therefor, supervision of acquisition or construction, inspections and performance of all other duties of engineers or architects in connection with any acquisition or construction and the financing thereof;

H. Expenses of audits; initial compensation of the Trustee or Paying Agent with respect to Bonds of any series; fees and expenses, if any, of the Trustee, or Paying Agent relating to a construction fund; if any; financing costs, fees and expenses, including compensation and expenses of a financial advisor, if any; costs of preparing, printing and issuing Bonds; legal costs, fees and expenses; advertising expenses; premiums for insurance or contracts of suretyships insuring bondholders against the risk of nonpayment of the

principal of, interest on or premium with respect to any particular Bond or Bonds; and all other costs incurred by the Authority in connection with financing acquisition or construction and issuing Bonds;

I. Other costs, charges and expenses incident to completion of any improvements, alterations, extensions or additions to the Treatment Plant which properly are chargeable to the cost of acquisition or construction under sound accounting or engineering practice;

J. Reimbursement to the Authority for advances made by it or them for any of the above items, including any interest paid or required to be paid by the Authority with respect to any such advances, or for any other costs incurred by the Authority or for work done by the Authority with the Treatment Plant which properly are chargeable as costs related to financing acquisition or construction;

K. Amounts, if any, required to be repaid to any governmental agency upon completion of any construction on account of any overpayment of or adjustment of any grant extended in aid of such construction;

L. Any sums required to reimburse the Authority or to pay any indebtedness incurred by the Authority, including payment of obligations of the Authority, for expenditures made for any of the above items or for any other costs properly chargeable as costs of acquisition or construction; and

M. Interest on and issuing costs of any Bonds issued by the Authority in anticipation of receipt of federal or state grants applied to pay such costs, less any interest income earned thereon;

Whenever any "Costs", "Costs of Acquisition" or "Costs of Construction" are incurred in connection with the Treatment Plant, the same shall be equitably apportioned on the basis of sound and acceptable engineering and/or accounting principles;

"DER" shall mean the Department of Environmental Resources of the Commonwealth;

"Discharge" shall mean the volume of Sewage discharged into the Treatment Plant, at any particular point in time, measured in accordance with Section 4.03;

"EDU" shall mean equivalent dwelling unit;

"Fiscal Year" shall mean the fiscal year of the applicable Authority or Municipality as provided by laws of the Commonwealth which, unless otherwise stated, shall be a calendar year;

"GPD" shall mean gallons per day of Discharge;

"Independent" shall mean, with respect to the Certified Public Accountant and Consulting Engineers, a Person who is independent in fact and who is not a member of the Board, officer or employee of any Municipality, or any elected or appointed official or employee of any Municipality, or which is not a partnership, corporation or association having a partner, director, officer, member or substantial stockholder who is a member of the Board, officer or employee of any Municipality, or an elected or appointed official or employee of any Municipality; Provided however, that the fact that such person is retained regularly by any Municipality shall not make such person an employee within the meaning of this definition;

"MGD" shall mean millions of gallons per day of Discharge;

"Municipality" or "Municipalities" shall mean, individually or collectively, as applicable and appropriate, the Authority and/or Conyngham;

"Operating and Maintenance Costs" shall have the meaning described in Section 5.01 hereof;

"Person" or "Persons" shall mean an individual, a partnership, an association, a corporation, a joint stock company, a trust, an unincorporated association, a governmental body, a political subdivision, a municipality, a municipality authority or any other group or legal entity;

"Project" shall mean the planning, designing, financing, acquisition and construction of the Conyngham Sewage Collection System, by Conyngham, or by any Person located in Conyngham Township, and other related and necessary appurtenant facilities;

"Service Agreement" shall mean this document and all modifications, alterations, amendments and supplements hereto made and part hereof, which term sometimes is referred to in this document by use of such words as "hereto", "hereby", "herein", "hereof", "hereunder" or other descriptive words or phrases having similar import;

"Sewage" shall mean domestic sewage and/or industrial wastes as such terms usually and customarily are used by sanitary engineers;

"Treatment Plant" shall mean the Sewage treatment and disposal facilities constructed by the Authority as of the date hereof,

together with all appurtenant facilities and properties, and together with any additions, improvements, enlargements and/or modifications thereto from time to time acquired or constructed.

"Treatment Plant Capacity" shall mean the contractual right to discharge Sewage into the Treatment Plant, in an amount which may be amended, from time to time, under the terms hereof, calculated to be the higher of:

A. Average daily Discharge during the entire Fiscal Year in question; or

B. Average daily Discharge during the three consecutive months in which the greatest Discharge has been measured within the Fiscal Year in question; or

C. Otherwise may be prescribed by applicable laws; provided, however, that such contractual right shall not be deemed to vest any legal ownership or title to the Treatment Plant in Conyngham, which legal ownership or title shall remain exclusively in the Authority throughout the term hereof and thereafter;

"TS" shall mean total solids;

"United States" shall mean the United States of America; and

## ARTICLE II

## Construction and Operation of Sewage Collection Systems; Connection to Authority Sewage Collection System by Conyngham

SECTION 2.01. Construction and Operation of Sewage Collection Systems. Conyngham shall pay all Costs and expenses related to the acquisition, construction, operation and maintenance of the Conyngham Sewage Collection System.

SECTION 2.02. Connection to Authority Sewage Collection System. Conyngham shall pay all costs and expenses of making and maintaining continuously during the term hereof connection of the Conyngham Sewage Collection System to the Treatment Plant, at such point or points of connection as shall be mutually agreed upon by both the Authority and Conyngham.

SECTION 2.03. Cooperation; Sharing of Information. Conyngham agrees to the extent possible and economically practicable, to cooperate and share pertinent information with the Authority in facilitating the construction, maintenance and/or operation of the Sewage Collection Systems. Provided, however, that the Authority shall not be financially or otherwise responsible for the Conyngham

Sewage Collection System and Conyngham shall not be financially or otherwise responsible for the Treatment Plant or the Authority Sewage Collection System except to the extent required hereunder.

## ARTICLE III

### Conyngham to Constitute Bulk Customer of Authority; Term of Agreement

SECTION 3.01. Conyngham to Constitute Bulk Customer of Authority. The Authority agrees to operate and maintain continuously the Treatment Plant, and any enlargements, additions, improvements and modifications thereto and to provide Conyngham, as a single, bulk customer, Sewage treatment and disposal services in the Treatment Plant throughout the term hereof, as provided for herein.

SECTION 3.02. Term of Agreement. Subject to the covenants and conditions set forth herein, the term of this Service Agreement shall be for such period of time as the Authority shall provide Conyngham with Sewage treatment and disposal service in the Treatment Plant, or until terminated by mutual written agreement of the Parties.

## ARTICLE IV

### Right to Discharge; Treatment Plant Capacity

SECTION 4.01. Right to Discharge. In consideration of the payment by Conyngham of the charges herein provided, and in further consideration of the performance by Conyngham of the covenants and agreements herein provided, Conyngham shall have the right to discharge Sewage into the Treatment Plant as herein set forth.

SECTION 4.02. Treatment Plant Capacity. It is agreed that during the term of this Sewage Treatment Agreement, Conyngham shall have a Treatment Plant Capacity which shall not exceed 435 EDUs without the Authority's express written approval. The number of EDUs served by Conyngham shall initially be determined on the basis of the annual statements required by Conyngham under Section 6.01.

It is further covenanted and agreed that the daily discharge by each EDU served by Conyngham shall not exceed 230 GPD without the Authority's express written approval. Such discharge shall be determined in accordance with Section 4.03.

In order to assure the financial feasibility and financial integrity of the Treatment Plant, Conyngham covenants and agrees that it will not discharge into the Treatment Plant, Sewage in

excess of 230 GPD for each of such EDU, and that it shall not exceed a maximum of 435 EDUs, except as may be permitted hereunder. The Authority covenants and agrees that it will not discharge, or permit the discharge, of Sewage into the Treatment Plant which will jeopardize or compromise Conyngham's Treatment Plant Capacity.

In the event that the discharge shall exceed 230 GPD for each EDU served by Conyngham, then, in the sole discretion of the Authority, Conyngham shall be deemed to have received from the Authority an additional amount of Treatment Plant Capacity in increments of 1 EDU for each increment of discharge of 230 GPD or less. Payment of appropriate additional charges under Article V shall thereupon be due and shall be paid in full at the time payment is due for the first quarterly billing period after such additional Treatment Plant Capacity is received or deemed to have been received by Conyngham.

Nothing in this Section or elsewhere in this Service Agreement shall be interpreted to prevent the Authority from allocating to any Person, including Conyngham, Treatment Plant Capacity in excess of that set aside for Conyngham hereunder, provided that any such allocation shall not cause a violation of any requirements of a governmental agency and the terms of such allocation shall be set forth in writing and incorporated herein.

SECTION 4.03. Measurement of Flow. The volume of Discharge by Conyngham shall be determined by inspection at least monthly by the Authority of a Sewage flow meter, which will be located at the point or points of connection of the Conyngham Sewage Collection System to the Authority Sewage Collection System. **Such Sewage flow meter shall be selected by the Authority, but shall be purchased and installed by the Authority as part of the Project; and shall be maintained by the Authority, the cost of which maintenance shall be reimbursed to the Authority as a separate charge hereunder.** The Authority shall notify Conyngham prior to undertaking any major repairs or replacements with respect to such flow meter. At the request of the Authority, the meter shall be of a type that provides for telemetering of Discharge information to the Treatment Plant. The volume of Discharge attributable to Conyngham into the Treatment Plant shall be the total flow measured at the meter.

Metered flow shall be inspected and recorded by the Authority daily commencing upon the Completion Date, a monthly summary of which information shall be forwarded to Conyngham within ten (10) days thereafter. Conyngham may, at its option, have a representative present when such inspection and recording is conducted by the Authority. The readings set forth in said flow meter shall constitute conclusive evidence of the amount of Discharge by Conyngham into the Treatment Plant.

SECTION 4.04. Completion. Upon substantial completion of the construction of the Project, Conyngham shall deliver to the Authority a Consulting Engineers' Certificate which shall recite the fact of such substantial completion. Upon completion, payment of the charges hereunder shall begin to accrue.

SECTION 4.05. Financing Amounts Payable Hereunder. In the event that Conyngham fails to pay any amount hereunder when such amount is due, the Authority may finance such amount in any reasonable manner and upon any reasonable terms as the Authority may approve. The Authority shall be entitled to reimbursement from Conyngham for any amount borrowed, together with any interest, penalties, charges and financing costs paid in connection therewith.

SECTION 4.06. Further Upgrading of Treatment Plant. If, pursuant to any case law, statutes, regulations, rules, guidelines, permits, approvals and/or other standard or requirement of any local, state or federal agencies who have a right to control the treatment and/or disposal of Sewage, the Authority is required to further upgrade or modify the method of Sewage treatment provided by the Treatment Plant, which requirement results in Costs of acquisition or construction to be incurred by the Authority, then Conyngham shall pay a pro rata share of such reasonable Costs arising directly from such upgrading as its then total Treatment Plant Capacity bears to the total capacity of the Treatment Plant so upgraded. Conyngham shall not be required to pay Costs associated with expanding (but not upgrading) the Treatment Plant which will not result in additional Treatment Plant Capacity to Conyngham unless agreed to by it in writing, which writing shall include the terms upon which it will participate in such expansion.

SECTION 4.07. Additions to Treatment Plant.

(a) If Conyngham desires to discharge Sewage into the Treatment Plant, in excess of the Treatment Plant Capacity available to it hereunder by acquisition or otherwise, Conyngham shall notify the Authority in writing that it requests construction of additional Treatment Plant Capacity in the Treatment Plant. Within ninety (90) days of receipt of such notification, the Authority shall notify Conyngham, in writing, of its decision regarding the means and schedule of construction of additional Treatment Plant Capacity, which decision shall be in the Authority's sole discretion.

(b) If the Authority agrees to the construction of such additional Treatment Plant Capacity, it shall use its best efforts to obtain reasonable financing, if necessary, and construct the enlargements, additions, improvements or modifications to the Treatment Plant necessary to provide the total additional Treatment Plant Capacity requested. No such enlargement of the Treatment Plant shall provide additional Treatment Plant Capacity in an

amount less than that which is recommended by the Authority's Consulting Engineers as being appropriate for and consistent with the treatment configuration then existing in the Treatment Plant and site limitations. Conyngham will pay for all of the Costs and expenses associated with additional Treatment Plant Capacity received by it. Any other Person including the Authority, participating in such expansion shall share on a pro rata basis in the Costs thereof with Conyngham. Payment of such Costs shall be made in accordance with this Article.

SECTION 4.08. Additions and Upgrading. If, concurrently, a project is required to be undertaken pursuant to Section 4.06 and Section 4.07 and it becomes impossible to directly relate the Costs to either the upgrading requirement or to expansion, such Costs shall be allocated or equitably apportioned on the basis of sound and acceptable engineering and/or accounting principals.

## ARTICLE V

## Charges

SECTION 5.01. Charges. Conyngham agrees to pay to the Authority quarterly, beginning on the Completion Date, and continuing thereafter for as long as this Service Agreement is in effect, subject to the other provisions hereof, a Charge as its share of the costs for Sewage treatment services rendered by the Authority in the Treatment Plant. Said Charge shall be determined in the following manner: Conyngham shall be charged for each EDU served by Conyngham. The Charge per EDU shall be a sum equal to seventy-five (75%) percent of the EDU Charge at any given time made by the Authority to its users within the Borough of Shickshinny. On the date of execution of this agreement, the EDU Charge to Shickshinny Borough users is Two Hundred Forty ($240.00) Dollars per annum [Sixty ($60.00) Dollars per quarter]. Consequently, on the date of this agreement, the Charge to Conyngham for the discharge of Sewage into the Treatment Plant shall be One Hundred Eighty ($180.00) Dollars per annum [Forty-Five ($45.00) Dollars per quarter] for each EDU served by Conyngham.

Any change in the EDU Charge for the operation and maintenance of the Treatment Plant, made by the Authority to its users within the Borough of Shickshinny shall result in an equivalent proportionate increase or decrease in the Charge made to Conyngham by the Authority, based upon the same ratio. The Authority agrees to notify Conyngham of any change in its charges to users within the Borough of Shickshinny within thirty (30) days after such change becomes effective. Any resulting change in the Charge to Conyngham resulting therefrom will take effect with the first quarterly payment due after such notice to Conyngham.

Any change in the number of EDUs served by Conyngham shall result in an equivalent increase or decrease in the Charge per EDU made by the Authority to Conyngham, based upon the foregoing formula. Each party agrees to notify the other of any such change within thirty (30) days after such change occurs. Any resulting change in the Charge to Conyngham resulting therefrom will take effect with the first quarterly payment due after such notice.

Written records and accounts of all EDUs served by Conyngham shall be prepared and maintained by Conyngham and shall be available to the Authority upon its request.

Any major or extraordinary replacements or repairs, as certified by the Authority's Consulting Engineers, shall be shared by the Authority and Conyngham on the basis of the Treatment Plant Capacity of each at the time. If such repairs or replacements require financing by the Authority, the debt service thereon shall be shared on a pro rata basis in accordance with the Treatment Plant Capacity of each Party.

## ARTICLE VI

### Estimates and Payment of Charges

SECTION 6.01. Estimates of Charges. Within 60 days after being required in writing by the Authority prior to the completion of the Project and on or before November 1 of each Fiscal Year after the commencement of services hereunder, to assist the Authority in determining its budget and rate setting, Conyngham will prepare and submit to the Authority a Statement approved by Conyngham's Consulting Engineers showing, in reasonable detail, the number of EDUs then being served by Conyngham, which statement shall include the number of EDUs and the property addresses of each EDU. Within thirty (30) days from receipt of such statement, the Authority shall prepare and submit to Conyngham, a statement approved by the Authority's Consulting Engineers showing in reasonable detail for the next Fiscal Year: (1) the estimated amounts to be paid by Conyngham during the next Fiscal Year as its estimated charges, determined in accordance with the provisions hereof; (2) the amount, if any, to be credited against the estimated charges for the next Fiscal Year as the result of any overpayments or adjustments of payments during the current or any preceding year; (3) any additional Charge as provided for in Sections 7.05 and 7.06; and (4) the amount of any prior bill not paid, plus interest and costs pursuant to this agreement. Provided, however, for the first Fiscal Year or part thereof following commencement of services hereunder such charges shall be estimated by the Authority's Consulting Engineers.

SECTION 6.02. Payment of Charges. Conyngham agrees to pay its charges quarterly in advance on or before the fifteen day of January, April, July and October of each year, in accordance with a statement prepared by the Authority and forwarded to Conyngham.

SECTION 6.03. Reports. The Authority shall cause to be prepared and certified by an officer of the Authority, commencing after the commencement of services hereunder, an itemized report setting forth, in reasonable detail: (a) the actual EDU Charge made to Shickshinny Borough users for the preceding year; and (b) the charges paid by Conyngham for such year determined in accordance with Article 5. Such report shall be forwarded to Conyngham within thirty (30) days of receipt of annual audited financial statements of the Authority's accounts prepared by a Certified Public Accountant and required to be filed with the Department of Community Affairs under laws of the Commonwealth, together with a copy of such audited financial statements.

SECTION 6.04. Interest on Late Payments. If Conyngham does not make full payment of any Charge due on or before the specified payment date, there shall be added to the amount thereof interest at a rate equal to ten (10%) percent per annum, commencing on the first day of the month following due date.

## ARTICLE VII

## Effluent Quality Restrictions

SECTION 7.01. Uniform Standards. The Authority has adopted or will adopt uniform Sewage quality standards which will comply with the requirements of all regulatory authorities. Conyngham will refrain from discharging or permitting the discharge of Sewage from the Conyngham Sewage Collection System into the Treatment Plant that would violate any of such standards. The Authority will make no changes in said standards except upon reasonable prior written notice to Conyngham and all such standards will apply equally to both Conyngham and the Authority.

SECTION 7.02. Compelling Compliance with Standards. Conyngham shall enact and keep in full force and effect at all times during the term hereof, an ordinance, satisfactory to the Authority, prohibiting, and providing adequate penalties for, the discharge into the Conyngham Sewage Collection System of anything violating the above-mentioned Sewage quality restrictions of the Authority, and Conyngham covenants to enforce the provisions thereof when brought to its attention. Such ordinance shall also prohibit and/or regulate the discharge into Conyngham's Sewage Collection System by industries of industrial waste, as defined in the applicable industrial pretreatment regulations of the Authority. Conyngham shall not permit any discharge into the

Conyngham Sewage Collection System except in the manner and in accordance with the provisions of said ordinance, as applicable.

SECTION 7.03. Sampling Facilities. The Authority may install, maintain and operate, sampling equipment or facilities at or near the point or points that the Conyngham Sewage Collection System discharges into the Authority Sewage Collection System, and Conyngham hereby consents to collection of Sewage samples by the Authority therefrom. Additionally, the Authority may install, maintain and operate sampling, equipment or facilities at such points of discharge in the Conyngham Sewage Collection System from any user thereof whose discharge of Sewage, in the opinion of the Authority's Consulting Engineers, may be detrimental to the operation of the Treatment Plant, and to obtain samples therefrom.

SECTION 7.04. Reports of Samples. In the event that any report received by the Authority analyzing any sample, shall state, in substance, that Sewage discharged from the Conyngham Sewage Collection System or from a particular user thereof violates the quality standards and restrictions as established for the Treatment Plant by the Authority, it shall have the right to appeal such determination by requesting verification of same by future sampling. Such future samples, as herein referred to, shall be submitted both to an independent water quality lab acceptable to the Authority and to the laboratory making the original evaluation that Sewage being discharged was in violation of such standards and restrictions. If the results of analyzing the split sample or samples of the two laboratories are consistent within normal tolerances of testing procedures, then these results shall be considered final; provided, however, that no such right of appeal shall operate to stay remedial action taken by the Authority. The expense of such additional laboratory determinations shall be borne by the Authority should the determination be made that such Sewage is not in violation of the applicable quality standards, or by Conyngham if such final determination supports the findings of a violation of the above-mentioned standards and restrictions.

SECTION 7.05. Treatment of Harmful Wastes. If any Sewage discharge by Conyngham into the Treatment Plant is in violation of the Authority's standards as determined by this Article and requires special treatment or would be harmful to the Treatment Plant, then Conyngham will pay the entire Costs of providing any special treatment as a separate charge, and Conyngham on written notice of violation from the Authority shall immediately act to enforce or have enforced those quality standard ordinances or resolutions by providing or requiring pretreatment of such waste in such manner as is provided by said ordinances or resolutions, or compel disconnection from Conyngham Sewage Collection System of the property from which harmful waste is being discharged.

SECTION 7.06. Reimbursement for Damages from Improper Discharge. Conyngham shall pay the cost of any damage to the

Treatment Plant or the Authority Sewage Collection System resulting from discharge of improper Sewage from the Conyngham Sewage Collection system and all fines and penalties, if any, imposed upon the Authority due to a violation of the above-mentioned quality standards and restrictions, within 90 days after notice by the Authority accompanied by the itemized certificate of the Authority's Consulting Engineers, and shall indemnify and hold harmless the Authority with respect thereto.

SECTION 7.07. Dispute Resolution. If a dispute arises concerning a determination by the Authority's Consulting Engineers hereunder, both parties to such dispute shall appoint an Independent third Person to review the dispute within thirty (30) days of a written demand for dispute resolution issued by either party. Such third Person selected shall render a decision on the dispute within thirty (30) days of the submission of the dispute, unless otherwise extended by agreement of the parties. The decision shall be binding upon all parties. All costs and expenses of retaining such Independent third Person and any other costs incurred in presiding over any disputes arising hereunder shall be borne by the Authority, in the event the decision of the Authority's Consulting Engineers is determined to have been erroneous, or otherwise by Conyngham. If it is determined that neither party was correct in its position giving rise to the dispute, then both parties shall share in such costs equally.

## ARTICLE VIII

## Governmental Grants and Subsidies; Permits

SECTION 8.01. Applications. The Authority may, in its discretion, make applications to the Commonwealth and to the United States and their appropriate agencies, for available grants, subsidies or other payments and for all permits and approvals in respect of the construction, operation and/or maintenance of the Treatment Plant and the Authority Sewage Collection System, which amounts (if appropriate) may be applied to reduce the amounts payable by Conyngham hereunder, on an equitable and proportional basis, in accordance with the terms hereof.

SECTION 8.02. Compliance with Law and Conditions for Grants. Each party will take all such action, within its legal powers, as may be required to comply with all applicable laws, regulations and permits applicable to their respective sewage collection systems and with agreements relating to applicable Federal and Commonwealth grants and subsidies.

# ARTICLE IX

## Connections to each Sewage Collection System; Sewer Rentals or Charges Imposed by Conyngham

SECTION 9.01. Mandatory Connection Ordinance. Conyngham covenants that it will enact an ordinance satisfactory to the Authority, requiring all owners of improved property located within Conyngham which legally can be required to be connected to the Conyngham Sewage Collection System to connect therewith and providing for enforcement of such ordinance as permitted by law. Conyngham also covenants that it will keep such ordinance or a subsequent ordinance or ordinances requiring such connections in full force and effect continuously during the term hereof and to enforce the same as may be permitted by law.

SECTION 9.02. Rate Ordinance. Conyngham covenants that it will enact an ordinance or adopt a resolution imposing sewer rentals or charges upon owners of improved property which shall be connected to the Conyngham Sewage Collection System for use thereof. Conyngham also covenants to thereafter keep such resolution or ordinance or a subsequent resolution or ordinance, imposing such sewer rentals or charges in full force and effect continuously during the term hereof.

SECTION 9.03. Enforcement of Rate Ordinance. Conyngham covenants to continue to enforce any such ordinance or resolution, in effect at any particular time under Section 9.02 and to collect or cause to be collected all amounts becoming due thereunder. If any amounts becoming due thereunder shall not be paid, in accordance with provisions of such resolution or ordinance at the time in effect, Conyngham covenants to take or cause to be taken all necessary action to reduce the same to liens and to enforce or cause to be enforced payment of the liens and/or to enforce or cause to be enforced payment of such sewer rentals or charges in any other manner permitted by law.

SECTION 9.04. Sewer Rates Sufficient to Pay All Charges. Conyngham covenants that sewer rentals or charges imposed by it pursuant to Section 9.02, together with any fees, fines and/or penalties resulting from enforcement of the resolution or ordinance in effect at the time under Section 9.01, and together with any other amounts available for the purpose, shall be at least such that amounts which reasonably may be collected therefrom in each Fiscal Year following the completion Date, together with: (1) any sums received periodically by it from any Person pursuant to any agreement between it and such Person whereby Sewage of such Person shall be accepted by it for collection in the Conyngham Sewage Collection System; (2) any other sums received by it on account of operation of the Conyngham Sewage Collection System; and (3) any other money required to be deposited in its sewer revenue account

or other fund or account pursuant to provisions of an applicable agreement of lease, trust indenture, loan agreement or borrowing documents enforceable against Conyngham will be sufficient to provide funds for the following purposes:

A. Payment by Conyngham in such Fiscal Year of debt service, coverage requirements, if any, operating and maintenance expenses and other costs and expenses relating to the Conyngham Sewage Collection System; and

B. Payment by Conyngham in each Fiscal Year of all other charges payable for services rendered in connection herewith under the terms hereof.

If such collections, receipts, appropriations and deposits in any such Fiscal Year for Conyngham shall be less than the sum of requirements of subparagraphs A and B above, Conyngham covenants that it promptly will adjust or cause to be adjusted, in the manner permitted by law, the sewer rentals or charges so that amounts thereafter to be collected therefrom, together with the other collections, receipts, appropriations and deposits, as aforesaid, shall enable it to comply with requirements of this Section and to eliminate deficiencies of any prior Fiscal Year.

## ARTICLE X

## Miscellaneous

SECTION 10.01. Insurance; Repairs and Reconstruction. The Authority will insure, or cause to be insured, the Treatment Plant and the Authority Sewage Collection System with a responsible company or companies authorized and qualified to do business under laws of the Commonwealth of Pennsylvania, against loss or damage by fire and such other risks (including public liability) and casualties and in such amounts as are usually carried on like properties in said Commonwealth and as shall be reviewed and approved, at least annually, by the Authority's Consulting Engineers or other insurance advisor. Such insurance policies shall be nonassessable. Immediately upon the occurrence of any loss or damage to any part of said Treatment Plant or the Authority Sewage Collection System which is covered by insurance, the Authority will commence and promptly complete, or cause to be so commenced and promptly completed, the repairing, replacement or reconstruction of the damaged or destroyed property according to plans and specification prepared by the Authority's Consulting Engineers and shall collect and apply, or cause to be applied, the proceeds of such insurance to the cost of such repair, replacement or reconstruction.

SECTION 10.02. Inspection. Each party shall provide the other, from time to time, all information relevant to the proper administration of their responsibilities under this Service Agreement, or in respect to the interpretation hereof, as, and in such form and detail as, may be reasonably requested and each shall, at all reasonable times and from time to time, permit their representatives to examine and inspect their respective records and physical facilities relevant to the subject matter of this Service Agreement.

SECTION 10.03. Force Majeure. Notwithstanding any other provision of this Service Agreement, no party hereto shall be responsible in damages to the other for any failure to comply with this Service Agreement resulting from an act of God or riot, sabotage, public calamity, flood, strike, breakdown of the Treatment Plant or any Sewage Collection System, or other event beyond its reasonable control. The party having the responsibility for the facilities so affected, however, shall proceed promptly to remedy the consequences of such event, with Costs thereof to be shared, if applicable, to the extent provided elsewhere herein.

SECTION 10.04. Indemnity. Each party agrees to indemnify and save harmless the other party against all costs, losses or damage on account of any injury to persons or property occurring in the performance of this Service Agreement due to the negligence of such party or its agents or employees.

SECTION 10.05. Severability. Should any provision hereof for any reason be held illegal or invalid, no other provision of this Service Agreement shall be affected; and this Service Agreement shall then be construed and enforced as if such illegal or invalid provision had not been contained herein.

SECTION 10.06. Headings. The headings in this Service Agreement are solely for convenience and shall have no effect in the legal interpretation of any provision hereof.

SECTION 10.07. Effective Date. This Service Agreement shall become effective as of the date hereof.

SECTION 10.08. Waiver. The failure of a party hereto to insist upon strict performance of this Service Agreement or of any of the terms or conditions hereof shall not be construed as a waiver of any of its rights hereunder.

SECTION 10.09. Counterparts. This Service Agreement may be executed in any number of counterparts, each of which shall be regarded for all purposes as an original, but such counterparts shall together constitute but one and the same instrument.

SECTION 10.10. Successors and Assigns. Conyngham shall not voluntarily assign this Service Agreement without the consent of

the Authority, except that Conyngham may assign its rights hereunder to any Person, inter alia, for purposes of undertaking the Project. Subject to the foregoing this Service Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

SECTION 10.11. Supersedes Prior Agreements. This Service Agreement supersedes and repeals any prior agreement, contracts, and understanding, written or oral, by or among the parties hereto with respect to the subject matter contained herein. This Service Agreement contains the entire agreement among the parties hereto, and no oral statements or representations or prior written matter not contained in this instrument shall have any force and effect.

SECTION 10.12. Modification. This Service Agreement may not be modified or amended except in a writing signed by the parties hereto.

SECTION 10.13. Pennsylvania Law. This Service Agreement shall be construed according to, be subject to and be governed by the laws of the Commonwealth.

IN WITNESS WHEREOF, the parties hereto have caused this Service Agreement to be executed by their respective duly authorized officers and their respective seals to be hereunto affixed.

SANITARY SEWER AUTHORITY OF THE
BOROUGH OF SHICKSHINNY,
Luzerne County, Pennsylvania

BY: James Back
Chairman

(CORPORATE SEAL)

ATTEST:

Roreann McLaughlin
Secretary

TOWNSHIP OF CONYNGHAM,
Luzerne County, Pennsylvania

BY: _____
Chairman

(CORPORATE SEAL)

ATTEST:

_____
Secretary

# I&E
# EXHIBIT 11

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 11**

Authority Response to I&E Data Requests – Set I, No. 7(b):

7. Reference Paragraph 19 of the Authority's Preliminary Objections dated January 26, 2021 in the Commission proceeding at Docket No. C-2021-3023624. Provide the following:

***

b. Document(s) that formally terminated the service contract.

**Answer:** A copy is attached.

DONALD G. KARPOWICH ATTORNEY-AT-LAW, P.C.

85 Drasher Road
Drums, PA 18222

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

September 11, 2020

**Via Facsimile (570) 542-2412 and First Class & Certified Mail**
Conyngham Township Supervisors
10 Pond Hill Road
Shickshinny, PA 18655

**RE: Cancellation of Sewage Treatment Agreement dated November 18, 1992 by and between Sanitary Sewer Authority of the Borough of Shickshinny and the Township of Conyngham**

Dear Chairperson:

As you may be aware, my office serves as the Solicitor for the Sanitary Sewer Authority for the Borough of Shickshinny (SSABS). Please allow this letter to serve as notice that the SSABS is cancelling the Sewage Treatment Agreement, referenced above, dated November 18, 1992, between SSABS and the Township of Conyngham (Township).

Please note that for quite some time now, the SSABS has been contacting the Township regarding operations at the plant and the large amount of Influx and Infiltration coming from the Township into the treatment system. I most recently corresponded with the Township Solicitor, Vito J. DeLuca, Esquire, on July 21, 2020, regarding setting up a meeting between the SSABS and the Township's Sewer Authority. In an effort to keep maintain the relationship, the SSABS has also proposed the possibility of amending the Sewage Treatment Agreement without success. I also requested on behalf of the SSABS an Influx and Infiltration Reduction Plan from the Township in order to address the increased infiltration from the Township entering the Shickshinny Sewer treatment facility. To date, no plan has been provided.

As such, it is simply unfeasible for the SSABS to continue to operate under this agreement while the Township has continued to breach its duties under the same. This notice of cancellation takes effect immediately. The residents and rate payers in the Township will be invoiced directly for the treatment service provided by the SSABS.

If you have any questions or concerns, please do not hesitate to contact the undersigned.

Sincerely,

Sean W. Logsdon, Esquire,
Shickshinny Sewer Authority Solicitor

SWL
cc: Shickshinny Sewer Authority

# Send Result Report

MFP

TASKalfa 6003i

Firmware Version 2VK_S000.001.319 2019.08.23

RFQ9601656
09/11/2020 14:56
[2VK_1000.001.102] [2ND_1100.001.007]

Job No.: 012925 Total Time: 0°00'36" Page: 001

# Complete

Document: doc01292520200911145523

DONALD G. KARPOWICH ATTORNEY-AT-LAW, P.C.

85 Drasher Road
Drums, PA 18222

Phone: (570) 788-5647
Fax: (570) 788-0654
www.karpowichlaw.com

September 11, 2020

**Via Facsimile (570) 542-2412 and First Class & Certified Mail**
Conyngham Township Supervisors
10 Pond Hill Road
Shickshinny, PA 18655

**RE: Cancellation of Sewage Treatment Agreement dated November 18, 1992 by and between Sanitary Sewer Authority of the Borough of Shickshinny and the Township of Conyngham**

Dear Chairperson:

As you may be aware, my office serves as the Solicitor for the Sanitary Sewer Authority for the Borough of Shickshinny (SSABS). Please allow this letter to serve as notice that the SSABS is cancelling the Sewage Treatment Agreement, referenced above, dated November 18, 1992, between SSABS and the Township of Conyngham (Township).

Please note that for quite some time now, the SSABS has been contacting the Township regarding operations at the plant and the large amount of Influx and Infiltration coming from the Township into the treatment system. I most recently corresponded with the Township Solicitor, Vito J. DeLuca, Esquire, on July 21, 2020, regarding setting up a meeting between the SSABS and the Township's Sewer Authority. In an effort to keep maintain the relationship, the SSABS has also proposed the possibility of amending the Sewage Treatment Agreement without success. I also requested on behalf of the SSABS an Influx and Infiltration Reduction Plan from the Township in order to address the increased infiltration from the Township entering the Shickshinny Sewer treatment facility. To date, no plan has been provided.

As such, it is simply unfeasible for the SSABS to continue to operate under this agreement while the Township has continued to breach its duties under the same. This notice of cancellation takes effect immediately. The residents and rate payers in the Township will be invoiced directly for the treatment service provided by the SSABS.

If you have any questions or concerns, please do not hesitate to contact the undersigned.

Sincerely,

Sean W. Logsdon, Esquire,
Shickshinny Sewer Authority Solicitor

SWL
cc: Shickshinny Sewer Authority

| No. | Date/Time | Destination | Times | Type | Result | Resolution/ECM |
|---|---|---|---|---|---|---|
| 001 | 09/11/20 14:56 | 15705422412 | 0°00'36" | FAX | OK | 200x100 Normal/Off |

# I&E
# EXHIBIT 12

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 12**

Authority Response to I&E Data Requests – Set II, No. 2(a):

2. Reference the Authority's response to I&E Data Requests – Set I, No. 9. Indicate:

a. The date in which the Authority began directly invoicing customers located in Conyngham Township.

**Answer:** January 1, 2021.

# I&E
# EXHIBIT 13

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 13**

Authority Response to I&E Data Requests – Set I, No. 8:

8. Provide a copy of a sample invoice that the Authority directly sends to rate payers in Conyngham Township.

**Answer:** A copy is attached.

# INVOICE

1

**Sanitary Sewer Authority**
**of the Shickshinny Borough**
**PO BOX 266**
**Berwick PA, 18603**

**Billing Office (877) 330-1699**
**Authority Office (570) 542-2601**

Bills are due and payable on or before the indicated due date. Non-receipt of an invoice is not an excuse to not pay the amount due. Please refer to the Customer Number on all inquiries.

WHEN PAYING BY MAIL, SEND CHECK OR MONEY ORDER TO:
SHICKSHINNY SEWER AUTHORITY
PO BOX 266
BERWICK, PA 18603

Payments may also be made at the First Keystone Bank.
NO CASH PAYMENTS will be accepted at the Sewer Authority Office, located in Mocanaqua. Office Hours are
Tues thru Thurs, from 9AM to 3PM.

PENALTY: 10% of current charge after due date.
INTEREST: 1.5% will be applied quarterly.

DFTDDTTFTAFTTDTFTTDFTADADDDDDTDTDTTFDDFTFFTDAAAFTTFDAADDAFDFADFTDA

**JOHN [redacted]**
**[redacted] STREET**
**MOCANAQUA, PA 18655**

**NOTICE: State law prohibits the connection of Sump Pumps or Down Spouts into the public sewer system. Shickshinny Sewer Board has passed Resolution #007-2018 to enforce this state law.**

| Customer Information |
|---|
| Customer Number: [redacted] |
| Name: John [redacted] |
| Service Address: |
| [redacted] Street |

| DESCRIPTION | AMOUNT |
|---|---|
| Sewer Charge | 75.00 |
| Previous Balance | 0.00 |
| Payments | 0.00 |
| Total Due | 75.00 |

| BILLING PERIOD |
|---|
| January 01, 2021 to March 31, 2021 |

| DUE DATE | PAY BY DUE DATE |
|---|---|
| 01/31/2021 | 75.00 |

| IF PAID AFTER | PAY THIS AMOUNT |
|---|---|
| 01/31/2021 | 82.50 |

**Return this portion with your payment**

| Bill To: |
|---|
| JOHN [redacted] |
| [redacted] STREET |
| MOCANAQUA, PA 18655 |

| Customer # | Billing Period |
|---|---|
| [redacted] | January 01, 2021 to March 31, 2021 |

Service @ [redacted] STREET

| Pay By Due Date | Due Date | After Due Date |
|---|---|---|
| 75.00 | 01/31/2021 | 82.50 |

Make checks payable to:
**Shickshinny Sewer Authority**
**PO BOX 266**
**Berwick PA, 18603**

SSA

⑈5003⑈ ⑆031307125⑆ 5000575848⑈103

# I&E
# EXHIBIT 14

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 14**

Authority Response to I&E Data Requests – Set II, No. 2(c):

2. Reference the Authority's response to I&E Data Requests – Set I, No. 9. Indicate:

***

c. How the Authority calculates charges to customers in Conyngham Township and whether the calculation of charges differs for customers located in the Borough of Shickshinny, Salem Township and the Pennsylvania State Correctional Institute – Retreat; and

***

**Answer:** The customers in Conyngham Township are charged five dollars more per quarter ($75.00) than the customers in Shickshinny ($70.00) due to an ongoing issue with influx and infiltration. Salem Township customers are charged the same rate as Shickshinny customers as Salem Township transferred the collection system along Shickshinny Valley Road to the SSABS. Due to its closure, SCI Retreat is serviced based on what we have been told is a promise made by the state to continue to provide a quarterly rate believed to be $15,000 for 5 years from the date of SCI Retreat's closure. After the 5 years, SSABS is unaware as to how the state facility will function or how sewage will be paid.

# I&E
# EXHIBIT 15

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 15**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set II, No. 10:

10. Provide copies, if any, of the most recent cost of service and/or rate studies completed by or for the Authority within the previous five (5) years.

**Answer:** The Authority has not conducted a rate study in the past 5 years. Mr. James Ridolfi, previous Authority Engineer, provided a calculation sheet to the Authority Solicitor around July of 2021 with calculations on treatment costs and collection costs. The sheet in being provided via email in an attached zip file.

| | 2021 PROPOSED Budget | | | |
|---|---|---|---|---|
| | INCOME | EXPENSES | | CONVEYANCE COSTS |
| SHICKSHINNY SEWER FEES | $ 109,200.00 | | 390 EDU'S X $70/QTR | |
| Conyngham Twp | $ 78,000.00 | | 260 EDU'S X $75/QTR | |
| Less Doubtful Receipts | $ (5,170.00) | | | |
| SCI-Retreat Qtrly | $ 128,000.00 | | $32,000/QTR | |
| SCI-Retreat Upgrde Pmt | $ - | | | |
| Sale of Nitrogen/Phosphorus Credits | $ 1,000.00 | | | |
| Interest on Checking Accounts | $ 820.00 | | | |
| | $ 311,850.00 | | | |
| 6000 Administrative Expenses:6010 Office Expenses | | $ 3,000.00 | 6.8% of Admin Total = | $ 6,231.52 |
| 6000 Administrative Expenses:6015 Telephone/Internet | | $ 4,560.00 | | |
| 6000 Administrative Expenses:6020 Dues & Subscriptions | | $ 450.00 | | |
| 6000 Administrative Expenses:6025 Permits & Licenses | | $ 1,400.00 | | |
| 6000 Administrative Expenses:6030 Board Member Pay | | $ 3,000.00 | | |
| 6000 Administrative Expenses:6035 ADMIN SECRETARY | | $ 17,000.00 | | |
| 6000 Administrative Expenses:6040 Insurance | | $ 22,000.00 | | |
| 6000 Administrative Expenses:6040 Ins & Bonds:PUBLIC OFFICIAL BOND | | $ 1,000.00 | | |
| 6000 Administrative Expenses:6040 Insurance & Bonds:WORKERS COMP | | $ 600.00 | | |
| 6000 Administrative Expenses:6045 Professional Fees:AUDIT SERVICES | | $ 6,000.00 | | |
| 6000 Administrative Expenses:6045 Professional Fees: Engineering | | $ 10,000.00 | | |
| 6000 Administrative Expenses:6045 Professional Fees:LEGAL SERVICES | | $ 16,000.00 | | |
| 6000 Administrative Expenses:6050 Contracted Services:DIVERSIFIED (VUB) | | $ 6,630.00 | | |
| 6100 WWTP Expenses:6110 Electricity | | $ 32,500.00 | | |
| 6100 WWTP Expenses:6115 Water | | $ 500.00 | | |
| 6100 WWTP Expenses:6120 Heat | | $ 2,500.00 | | |
| 6100 WWTP Expenses:6125 Supplies | | $ 1,000.00 | | |
| 6100 WWTP Expenses:6130 Maintenance | | $ 10,000.00 | | |
| Generator Load Test | | $ 800.00 | | |
| 6100 WWTP Expenses:6135 Chemicals | | $ 8,551.00 | | |
| 6100 WWTP Expenses:6140 Contracted Services | | $ 12,000.00 | | |
| Myers Environmental | | $ 87,888.00 | MYERS at 6.8% = | $ 5,976.38 |
| 6100 WWTP Expenses:6140 Contracted Services:REED BED MAINTENANCE | | $ - | Myers Personnel | |
| 6100 WWTP Expenses:6150 Lab Supplies & Equipment | | $ 800.00 | | |
| 6100 WWTP Expenses:6155 Vehicle | | $ 900.00 | | |
| 6100 WWTP Expenses:6180 WWTP REFUSE REMOVAL | | $ 456.00 | | |
| 6200 Pump Station Expenses:6210 Electricity | | $ 3,000.00 | Pump Station Total = | $ 8,350.00 |
| 6200 Pump Station Expenses:6215 Maintenance | | $ 2,000.00 | | |
| 6200 Pump Station Expenses:6220 Supplies | | $ 50.00 | | |
| 6200 Pump Station Expenses:6230 Contracted Services | | $ 500.00 | | |
| 6200 Pump Station Expenses:6230 Contracted PUMP STATION CLEANING | | $ 2,000.00 | | |
| Generator Load Test | | $ 800.00 | | |
| 6300 SCI Direct Expenses | | $ - | | |
| 6300 SCI Direct Expenses:6310 Maintenance | | $ - | | |
| 6300 SCI Direct Expenses:6325 Chemicals | | $ - | | |
| PENNIAN Bank Upgrade Loan PRINCIPAL | | $ 26,730.00 | Total is $35,659. | |
| 9010 Interest Expense:PENNIAN BANK | | $ 8,929.00 | | |
| PENNVEST LOAN PRINCIPAL | | $ 9,867.00 | Total is $10,734. | |
| 9010 Interest Expense:PENNVEST LOAN INT EXPENSE | | $ 867.00 | | |
| Payroll Expenses:MED ER EXPENSE | | $ 247.00 | | |
| Payroll Expenses:PMAA ER UC EXPENSE | | $ 270.00 | | |
| Payroll Expenses:SS ER EXPENSE | | $ 1,055.00 | | |
| BAD DEBT EXPENSE | | $ 1,000.00 | | |
| PURCHASE NEW EQUIPMENT | | $ 5,000.00 | | |
| | $ 311,850.00 | $ 311,850.00 | | |

| Operators: | hours: |
|---|---|
| 52 Weeks at 40 hr/wk = | 2080 |
| Daily PS Check at 15 min = | 91 |
| PA One Calls at 30min/wk= | 26 |
| Sewer Work at 1/mo of 2 hrs= | 24 |
| Annual Conveyance Hours = | 141 |
| Annual Percent of total = | 6.8 % |

Conveyance Cost Total
$ 20,557.90

% of Total Expense
6.59

| | | | |
|---|---|---|---|
| SSABS Rate: | $ | 70.00 | per Qtr/EDU |
| Conveyance: | $ | 4.61 | per Qtr/EDU |
| Treatment: | $ | 65.39 | per Qtr/EDU |

# I&E
# EXHIBIT 16

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 16**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 4:

4. Indicate whether the Authority has the capability to expand its sewage collection, treatment or disposal service to service additional customers in Conyngham Township.

**Answer:** Yes. However, Conyngham Township Sewer Authority transmits the wastewater to the SSABS plant, so any expansion would have to be through the Conyngham Sewer Authority.

# I&E
# EXHIBIT 17

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 17**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 2:

2. Indicate the total number of customers located in Conyngham Township that are served by the Authority and break-down the total number by customer class, i.e. residential and commercial.

**Answer:** The numbers are believed to be as follows: 220 residential, 8 businesses.

# I&E
# EXHIBIT 18

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 18**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 3:

3. Between January 1, 2021 and the present time, quantify the total revenue the Authority collected through rates charged to and received from customers located in Conyngham Township.

**Answer:** The total amount dollar amount collected from ratepayers located in Conyngham Township is $54,684.68. Whether this amount constitutes "revenue" is unknown as the Authority has not calculated its overhead and expenses related to servicing and collecting rates in Conyngham Township.

# I&E
# EXHIBIT 19

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 19**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 1:

1. Indicate whether the Authority engages in a nonutility business that is incidental to its provision of sewage collection, treatment or disposal service in Pennsylvania. If answered affirmatively, describe the nonutility business and explain its connection to the provision of sewage collection, treatment or disposal service. Indicate the overall percentage of time and resources that the Authority dedicates to the nonutility business.

**Answer:** It is unclear as to what the interrogatory refers to as "nonutility business." However, the Authority only engages in collection, treatment, and disposal of sewage.

# I&E
# EXHIBIT 20

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 20**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, Nos. 5, 7, 8 and 9:

5. Since January 1, 2021, indicate whether the Authority ever denied a request for sewage collection, treatment or disposal service from a prospective customer in Conyngham Township. If answered affirmatively, provide the date of inquiry and the reason(s) for the Authority's denial of service.

**Answer:** No request for sewage service has been turned down by the SSABS. SSABS does not transport waste in Conyngham Township, the Conyngham Township Sewer Authority transports waste in the Township.

7. Indicate whether the Authority has any control over the selection of its customers in Conyngham Township. If answered affirmatively, explain.

**Answer:** No.

8. Indicate whether the Authority's customers in Conyngham Township are able to sell or lease the properties and/or structures that are connected to the Authority's sewage collection, treatment or disposal service without the Authority's approval.

**Answer:** Yes, SSABS has no say over sale or leasing of properties.

9. Indicate whether the Authority serves customers in Conyngham Township pursuant to a contractual arrangement. If answered affirmatively, provide a sample of a written contract that is given to customers in Conyngham Township.

**Answer:** No. The previous contractual agreement was with the Conyngham Township Sewer Authority.

# I&E
# EXHIBIT 21

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 21**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 10:

10. Indicate whether the Authority requested informal advice from the Chief Counsel of the Commission regarding the jurisdictional status of its services, pursuant to 52 Pa. Code § 69.1401(f). If answered affirmatively, provide a copy of the Authority's inquiry and the opinion of Counsel.

**Answer:** Not that SSABS is aware of.

# I&E
# EXHIBIT 22

CONYNGHAM TOWNSHIP
v.
SANITARY SEWER AUTHORITY
OF THE BOROUGH OF SHICKSHINNY
Docket No. C-2021-3023624

Direct Testimony of Matthew L. Lamb, P.E.

**I&E Exhibit 22**

Authority Response to I&E Interrogatories and Requests for Production of Documents – Set I, No. 11:

11. Indicate whether the Authority filed with the Commission a notice and disclosure statement describing the nature and scope of the operation of its service pursuant to 52 Pa. Code § 69.1401(g). If answered affirmatively, provide a copy of the notice and disclosure statement.

**Answer:** Not that SSABS is aware of.