

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**JOHN MUSGRAVE IV**

**DOCKET NUMBER C-2020-3020714**

**Complainant**

**REPLY BRIEF**

**vs.**

**THE PITTSBURGH WATER AND SEWER AUTHORITY**

**Counsel of Record for this Party:**

**Respondent**

**John K. Musgrave IV  
6059 Bunkerhill Street  
Pittsburgh, PA 15206  
(412)853-1666  
[jmusky@earthlink.net](mailto:jmusky@earthlink.net)**

1) A party line does not have to be private. Jeff Czochara, Allegheny County Assistant Plumbing Program Manager, said that a party line can sometimes be public (CT 311-9 through 15).

**2) The Authority will furnish, install, and maintain all service lines from the main to and including the curb stop and box (Tariff Water P.U.C. No. 1, page 33, section 11).**

When the party line break occurred in July of 2020, it was PWSA's responsibility to fix this break, but instead, they made the homeowners hire their own plumber to try to make the repair. The private plumber from Beverly Services said the party line needed to be abandoned and could not be fixed due to its deteriorated condition. At this time the curb stop for 6059 Bunkerhill was about 9 feet away from the house. It was PWSA's responsibility to furnish a new service line from this curb stop which was 9 feet from the house to the main. Instead, PWSA moved the curb stop 200 feet up the street in another neighbor's property before installing a new service line (Complainant Exhibit 9– Joint Stipulations).

**3) If the Owner of a Single Family Residential Development installs or wishes to have installed a Water Service Line greater than 1-inch in diameter, the ownership and maintenance responsibility for the entire Water Service Line, from the Premises being served with Authority water up to and including the connection of the Water Service Line to the Authority Water Main, including the Curb Stop and Curb Box, and the Corporate Stop or mechanical joint tee, lies with the property Owner. This Section 506.2 shall apply to installation of Water Service Lines to Single Family Residential Developments following the effective date of the Revised Rules and Regulations.**

The effective date of these Revised Rules and Regulations was March 30, 2018; therefore, this rule does not apply to the party line at the end of Bunkerhill which was installed prior to this effective date. This Section 506.2 also appears to be talking about individual service lines of greater than 1-inch in diameter, not party lines which are addressed in Section 504.1.

**4) Within 6 months of receiving a directive from the Authority to do so, Residential Property Owners whose properties are served by a Party Water Service Line, whether metered or flat, and other Residential Property Owners whose properties are provided with water under a flat rate are required to have an individual Water Service Line installed, and to obtain and have installed an individual Meter of a size, type, and setting approved by the Authority. Installation and the cost of installation of the Water Service Line from the residence to the Curb Stop is the responsibility of the Property Owner. Installation and the cost of installation of the Water Service Line from the Water Main to and including the Curb Stop is the responsibility of the Authority. No tap fee will be imposed under these circumstances, and the property Owner may apply to the Authority for the supply of a Meter without charge. All plans for installation of the Water Service Lines and the scheduling of such work is subject to the permitting process and prior approval of the Authority (Prior Tariff Section 504.1).**

The owner of 6059 Bunkerhill never received a written directive from PWSA saying that she needed to have an individual Water Service Line installed until Judith Musgrave signed the Lead

Service Line Replacement Agreement on November 10, 2020. Judith Musgrave was presented with the LSLRA less than 6 months before she signed it, so she did not violate the Official Prior Tariff. Installing a new water line to 6059 Bunkerhill was much more involved and required much more planning than installing a new water line to 6041, 6045, and 6049 Bunkerhill which were close to the main for connection. Installing a new water line for 6059 Bunkerhill involved running a new line some 200 feet through the properties of 5 neighbors as well as through a rock garden which has a delicate, antique, stone retaining wall.

5) Section 102.38 of the Prior Tariff defines a “Party Water Service Line” as a single Water Service Line that connects to the Authority’s Water Main and delivers water from the Water Main to more than one building. There is no mention that “The start of the Party Water Service Line is the terminal point for the Authority’s responsibility for the service connection.” This language does not appear as part of the definition of “Party Line” until Tariff Water – Pa. P.U.C., No.1, page 23, section 29. Therefore, when the 2 party line breaks occurred in 2018, PWSA had responsibility for them.

6) Tariff Water – Pa. P.U.C., No.1, page 34, section 12.a. under Ownership and Maintenance of Water Service Lines states that **All residential service lines larger than 1-inch diameter are the responsibility of the property owner, including the section from the Curb Stop, the Curb Box, and that portion of the Water Service Line running from the Curb Stop to the Water Main.**

This rule, however, does not apply to a party line which is different from residential service. Residential service is water service supplied to an individual single-family residential dwelling unit (Tariff Water – Pa. P.U.C., No. 1, page 34, Part II (38)). A Party Water Service Line is a single Water Service Line that connects to the Authority’s Water Main and that delivers water from the Authority’s Water Main to more than one building (Tariff Water – Pa. P.U.C., No. 1, page 23, Part II (29)).

7) Tariff Water – Pa.P.U.C., No. 1, page 20, Part II, section 3 makes clear that PWSA is only responsible to maintain some of the water mains in the City, but this is irrelevant to this case because the pipe in question is a party line. **The Authority has the duty to operate, maintain, inspect, repair, replace or abandon only those Water Mains that are part of or connected to the public water distribution system and fall into one of the following classifications: (1) Water Mains leased to the Authority by the City under the Capital Lease Agreement effective July 27, 1995, as amended; (2) Water Mains constructed by the City or the Authority for public use since July 27, 1995; and (3) Water Mains dedicated to public use and accepted by the Authority on or after July 27, 1995.**

The party line at the end Bunkerhill which is in question concerning maintenance is not considered a water main so Tariff Water- Pa. P.U.C., No. 1, page 20, Part II (3) does not apply to it. A main is a water distribution pipe, excluding connections and Service Lines, located in a public highway, street, alley or private right-of-way which pipe is used in transporting water (Tariff Water- Pa. P.U.C. No. 1, page 23, Part II (24)). A party line, on the other hand, is a type of

Service Line or Water Service Line. Service Lines or Water Service Lines are water lines that connect the water service of a residential or non-residential property to the Authority's Mains and that deliver water from the Mains to one or more buildings, premises, or facilities. Service Lines may be Authority Service Lines, Customer Service Lines, or Party Service Lines (Tariff Water – Pa. P.U.C., No. 1. Page 25, Part II (40)).

8) When John Musgrave requested evidence from PWSA concerning the public versus private nature of the party line, he was provided with an "Application and Contract for Water Supply" and an "Order for Drills / Report of Driller" which were inconclusive in answering this question (Complainant Exhibit 7). There is an inconsistency of information between these two documents. These documents appear to go hand-in-hand because both are stamped with the same date (January 7, 1929), both have the same owner (Thomas Ward), both have the same plumber (W.W. Jones), both are for a 1.25 inch service line to be run from Sheridan to a location between North Highland and Heberton, both are for a private line, both are indexed to the same ward (11-R-6), both have the same document number (27), both are signed by the same clerk (Knox), and both indicate that the water is to be used for the same number of plugs (3). One difference in information between the two documents is the addresses of the properties to which the water lines are to be run. In the "Application and Contract for Water Supply" the addresses on Bunkerhill are 6041 and 6045 through 5059 which is a total of 6 addresses. In the "Order for Drills / Report of Driller" the addresses on Bunkerhill are 6041, 6045, and 6049 which is a total of 3 addresses. The addresses on the "Application and Contract for Water Supply" may be incorrect because it appears that the original addresses were erased (faint markings still apparent) and new, possibly incorrect addresses, written in (above and improperly spaced to the side). In addition, the "Application and Contract for Water Supply" states that the private line was temporary. Just because PWSA has evidence of a temporary private line being run from Sheridan to several houses on Bunkerhill in 1929 does not prove that his line became a permanent private line. This line may have been replaced by a permanent public line at a later date for which we have no record, or the temporary private line may have been dedicated to public use. This evidence of a temporary private line from Sheridan to Bunkerhill is also largely irrelevant because the end of Bunkerhill now gets part of its water from another line besides this original line from Sheridan, that being a 6 -inch public main running down the center of Bunkerhill. For the above-mentioned reasons, the historical evidence presented to John Musgrave from PWSA was inconclusive in determining whether the party line at the end of Bunkerhill was public or private.

9) City of Pittsburgh Ordinance No. 339 enacted in 1952 is irrelevant to this case because the area that was vacated did not contain any water lines. The part of present day Bunkerhill Street that was vacated by Ordinance No. 339 from Heberton to Sheridan is the steep sloping bank that extends from the curb edge of Bunkerhill to a walking path at the bottom of the hill. This plot of land which is depicted in a map that accompanies Ordinance No. 339 does not contain any water lines. The original plan for Bunkerhill was for it to run from Highland Avenue to Heberton. This plan never materialized, however. Instead, a small private road call Highland

Drive which ran from 6041 Bunkerhill to the 6055 Bunkerhill was constructed (Complainant Exhibit 6).

10) Although the Lead Service Line Replacement Agreement is a contract, this contract was silent when it came to restoring private streets. Therefore, PWSA's responsibility to pave the street and fix the curb is not a contractual issue.

11) Outside of contracts, PWSA informed the household of 6059 Bunkerhill Street in writing on two occasions that the service line running from the main to their curb stop was public. The curb stop for 6059 Bunkerhill at this time was about 9 feet to the side of the house. These two notifications were not contracts. The first was a letter entitled "Results of Water Line Inspection on Your Property " dated February 21, 2019 (Complainant Exhibit 2). The second was a placard placed on the doorknob of the rear entrance door to 6059 Bunkerhill on October 30, 2020 which was entitled "Important Health Notice: Work to Occur on Your Water Service Line" (Complainant Exhibits 4A and 4C). Because these notifications are not contracts, they are within the Commission's jurisdiction.

12) There appears to be confusion on the part of PWSA as to whether the end of Bunkerhill is private or public. William McFaddin, Director of Operations for PWSA, stated that when PWSA replaced the service line (to 6059 Bunkerhill in November of 2020), the curb box (for 6059 Bunkerhill) had to be moved into the public right-of-way because public lines can not be run across private property (RT 381-17 through 28). The new curb box for 6059 Bunkerhill, however, was installed at the borderline of the properties of 6041 and 6045 Bunkerhill which is private property (Complainant Exhibit 9 – Joint Stipulations). PWSA treated the end of Bunkerhill like a public street with regards to their most recent curb box installations. If PWSA knew that the end of Bunkerhill was private, the fact that curb stops were installed near each individual home many years ago is a contradiction to their policy of not running public lines across private property (Complainant Exhibit 9 – Joint Stipulations). Perhaps PWSA, historically, was treating the end of Bunkerhill as if it were a public street. Mr. McFaddin seems perplexed with the end of Bunkerhill when he states "This Bunker Hill presents a unique situation such that you are saying these property lines cross over the roadway" (RT 396-13 through 15; Complainant Exhibit 13). Mr. McFaddin has an understanding that the location of the new curb stop for 6059 Bunkerhill is maintained by the City so it is considered public (RT 396-21) when in fact the location is private (Complainant Exhibit 9 – Joint Stipulations). Perhaps PWSA's repair policy for the party line was unpredictable because they are not sure if the end of Bunkerhill is public or private in terms of the water line or the street itself.

Respectfully submitted,

*John Kerr Musgrave IV*

John Kerr Musgrave IV

6059 Bunkerhill Street

Pittsburgh, PA 15206

(412)853-1666

[jmusky@earthlink.net](mailto:jmusky@earthlink.net)

Date: April 19, 2023

Pro Se Complainant

## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon the persons and in the manner indicated below, which service satisfies the requirements of 52 Pa. Code Section 1.54.

Dated this 19<sup>th</sup> day of April, 2023

John K. Musgrave IV

John K. Musgrave IV

Pro Se Complainant John K. Musgrave IV agrees to serve as Pro Se counsel for himself:

John K. Musgrave IV  
6059 Bunkerhill Street  
Pittsburgh, PA 15206  
(412)853-1666  
[jmusky@earthlink.net](mailto:jmusky@earthlink.net)

Pittsburgh Water and Sewer Authority  
Karen O. Moury, Esquire  
Eckert Seamans Cherin & Mellot, LLC  
213 Market Street  
Harrisburg, PA 17101  
(717)237-6036  
[kmoury@eckertseamans.com](mailto:kmoury@eckertseamans.com)  
Accepts eService

Pittsburgh Water and Sewer Authority  
Lauren M. Burge, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412)566-2146  
[lburge@eckertseamans.com](mailto:lburge@eckertseamans.com)  
Accepts eService

Hon. Emily I. DeVoe  
Administrative Law Judge  
PA Public Utility Commission  
Piatt Place, Suite 220  
301 5<sup>th</sup> Avenue  
Pittsburgh, PA 15222  
[edevoe@pa.gov](mailto:edevoe@pa.gov)  
Accepts eService

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Pittsburgh, PA 15206  
Accepts eService