

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

OFFICE PARTNERS XXIII BLOCK GI LLC,  
Complainant,

Docket Nos. C-2022-3033251  
C-2022-3033266

Vs.

THE PITTSBURGH WATER AND SEWER  
AUTHORITY,

Respondent,

**MOTION FOR SUMMARY  
JUDGMENT AND BRIEF IN  
SUPPORT**

Filed on behalf of: Plaintiff

Counsel of Record for This Party:

David M. Nernberg  
Pa. I.D. No. 205631

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Firm No. 331

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

OFFICE PARTNERS XXIII BLOCK G1 LLC,  
Complainant,

Docket Nos. C-2022-3033251  
C-2022-3033266

Vs.

THE PITTSBURGH WATER AND SEWER  
AUTHORITY,

Respondent,

**MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT**

AND NOW comes the Complainant, Office Partners XXIII Block G1, LLC, by and through its undersigned counsel and presents this Motion for Summary Judgment in the above-captioned matter as follows:

1. Complainant Office Partners XXIII Block G1, LLC (“Office Partners”) initiated these consolidated actions before the Pennsylvania Utility Commission (“PUC”) against the Pittsburgh Water and Sewer Authority (“PWSA”). The action was originally initiated in the Court of Common Pleas of Allegheny County, but after PWSA objected, Office Partners, by consent agreement with PWSA, re-filed before the PUC.
2. The dispute involves whether Office Partners is required to pay the 2021 or 2022 tap-in permit fees to tap into PWSA infrastructure as well as the higher rates imposed after the permit tap-in fees were reduced. Office Partners contends that the 2022 tap-in rates apply and that payment of the 2021 rates plus the increased sewage fees would constitute a penalty for Office Partners and a windfall for PWSA.
3. The PWSA filed an answer and new matter to the consolidated actions as well as Preliminary Objections. Office Partners responded to all of the foregoing.
4. The Preliminary Objections were denied on August 23, 2022.

5. The pleadings are closed.
6. Discovery is now closed.
7. Pursuant to 52 Pa. Code § 5.102, based upon the pleadings and depositions, answers to interrogatories, and admissions, there is no genuine issue as to a material fact, and Office Partners is entitled to a judgment as a matter of law as set forth in the Brief in support hereof pursuant to 52 Pa. Code § 5.501.
8. Office Partners Brief in Support of this Motion for Summary Judgment is incorporated herein as if fully set forth herewith.

WHEREFORE, it is Prayed that the Honorable Emily I. DeVoe grants Summary Judgment for Office Partners and against the PWSA and declares that Office Partners is responsible for tap- in fees pursuant to the 2022 rate structure.

Respectfully submitted,

MAURICE A. NERNBERG & ASSOCIATES

Date: \_\_\_\_\_

5/26/23

By \_\_\_\_\_

David M. Nernberg  
Pa.I.D. No. 205631

*Counsel for Complainant, Office Partners  
XXIII Block G1 LLC*

**CERTIFICATE OF COMPLIANCE**

I certify this filing complies with the provisions of the *Public Access Policy of the United Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: David M. Nernberg, Esq.

Signature:  \_\_\_\_\_

Name: David M. Nernberg

Attorney No. (if applicable) 205631

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**CERTIFICATE OF SERVICE**

I, David M. Nernberg, hereby certify that a true and correct copy of the within **Motion for Summary and Brief in Support** was served via email upon following:

Honorable Emily I. DeVoe  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Piatt Place, Suite 220 301 5th Avenue  
Pittsburgh, PA 15222  
[edevoe@pa.gov](mailto:edevoe@pa.gov)

Samuel A. Hornak, Esq.  
Ashley L. Buck, Esq.  
CLARK HILL PLC  
One Oxford Centre  
301 Grant Street, 14<sup>th</sup> Floor  
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Date: May 26, 2023

  
\_\_\_\_\_  
David M. Nernberg

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

OFFICE PARTNERS XXIII BLOCK GI LLC,  
Complainant,

Docket Nos. C-2022-3033251  
C-2022-3033266

Vs.  
THE PITTSBURGH WATER AND SEWER  
AUTHORITY,

Respondent,

**ORDER OF COURT**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2023, it is hereby ORDERED  
that Summary Judgment for Office Partners is GRANTED and against the PWSA and  
declare that Office Partners is responsible for tap-in fees pursuant to the 2022 rate structure.

BY THE COURT:

\_\_\_\_\_ J.

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