



Eckert Seamans Cherin & Mellott, LLC
213 Market Street
8th Floor
Harrisburg, PA 17101

TEL: 717 237 6000
FAX: 717 237 6019

Karen O. Moury, Esq.
717.237.6036
kmoury@eckertseamans.com

September 22, 2023

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
400 North Street
Harrisburg, PA 17120

RE: The Allegheny Cemetery, The Homewood Cemetery, and The Smithfield Cemetery v.
The Pittsburgh Water and Sewer Authority, Docket No. C-2022-3036595

Dear Secretary Chiavetta:

Enclosed for electronic filing please find a Joint Status Report with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Karen O. Moury
Karen O. Moury

KOM/lww
Enclosure

cc: Hon. Mark A. Hoyer w/enc.
Certificate of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the Joint Status Report upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

Jonathan M. Kamin, Esq.
David A. Wolf, Esq.
Deborah R. Erbstein, Esq.
Goldberg, Kamin & Garvin, LLP
437 Grant Street, Ste. 1806
Pittsburgh, PA 15219
jonathank@gkgattorneys.com
davidw@gkgattorneys.com
derbstein@gkgattorneys.com

Date: September 22, 2023

Karen O. Moury

Karen O. Moury, Esquire
Counsel for
The Pittsburgh Water and Sewer Authority

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Allegheny Cemetery, The Homewood Cemetery, : and The Smithfield Cemetery	:	C-2022-3036595
v.	:	
	:	
The Pittsburgh Water and Sewer Authority	:	

JOINT STATUS REPORT

This Joint Status Report is filed on behalf of The Allegheny Cemetery, The Homewood Cemetery and The Smithfield Cemetery (collectively, the “Cemeteries”) and The Pittsburgh Water and Sewer Authority (“PWSA”) pursuant to the Order Granting Joint Motion for Stay and Requiring Status Report issued by Deputy Chief Administrative Law Judge (“ALJ”) Mark A. Hoyer on March 22, 2023 (“March 22, 2023 Interim Order”). By the March 22, 2023 Interim Order, ALJ Hoyer granted the Joint Motion to Stay Proceedings filed by the Cemeteries and PWSA on March 16, 2023 and directed the filing of a Joint Status Report on or before September 22, 2023.

The ALJ’s March 22, 2023 Interim Order referred to an Opinion issued by the Pennsylvania Commonwealth Court on January 4, 2023 holding that stormwater charges assessed by the Borough of West Chester constitute a tax, which is currently on appeal before the Pennsylvania Supreme Court. *See The Borough of West Chester v., Pennsylvania State System of Higher Education and West Chester University of Pennsylvania of the State System of Higher Education*, 2019 WL 3069642 (Pa. Cmwlth. 2023), reported as of March 14, 2023 and on appeal at Docket No. 9 MAP 2023.

The ALJ's Order granted the Joint Motion for Stay until an order is issued lifting the stay and directed the parties to file a Joint Status Report by September 22, 2023. The ALJ's Order further noted the ability of either party to file a motion to lift the stay and proceed with the litigation of this Formal Complaint.

As of the filing of the within Joint Status Report, a final determination by a Pennsylvania court of competent jurisdiction, on the issue of the Stormwater Charges as a "tax" and how that determination applies to municipal authorities operating as public utilities, has not been issued.

Respectfully submitted,

GOLDBERG, KAMIN & GARVIN, LLP

/s/ David A. Wolf

Jonathan M. Kamin, Esquire
jonathank@gkgattorneys.com

David A. Wolf, Esquire
davidw@gkgattorneys.com

Deborah R. Erbstein, Esquire
derbstein@gkgattorneys.com

ATTORNEYS FOR COMPLAINANTS,
*THE ALLEGHENY CEMETERY, THE
HOMWOOD CEMETERY AND THE
SMITHFIELD CEMETERY*

ECKERT SEAMANS CHERIN & MELLOTT, LLC

/s/ Karen O. Moury

Karen O. Moury, Esquire
kmoury@eckertseamans.com

Lauren M. Burge, Esquire
lburge@eckertseamans.com

ATTORNEYS FOR RESPONDENT,
*PITTSBURGH WATER AND SEWER
AUTHORITY*

Dated: September 22, 2023