

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.

**EXCEPTIONS TO THE INITIAL
DECISION OF THE OFFICE OF
ADMINISTRATIVE LAW
JUDGE ISSUED MAY 2, 2025**

Filed on behalf of: Plaintiff

Counsel of Record for This Party:

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

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ADMINISTRATIVE LAW JUDGE ISSUED MAY 2, 2025**

AND NOW, comes David Nernberg of Nernberg & Associates and presents herein these Exceptions to the Initial Decision of the Honorable Emily I. DeVoe issued on May 2, 2025 on behalf of Office Partners XXIII Block GI, LLC as follows:

1. Office Partners XXIII Block GI, LLC ("Office Partners") initiated this action before the Pennsylvania Utility Commission on June 17, 2022.
2. Prior to initiating this Action before the Pennsylvania Utility Commission ("PUC") Office Partners deposited \$506,647.18 with the Court of Common Pleas of Allegheny County pursuant to a consent agreement between Office Partners and The Pittsburgh Water and Sewer Authority ("PWSA") whereby the parties submitted to the jurisdiction of the PUC. See Stipulation of Facts 18-20 (Pages 12-13) of the Initial Decision of the Judge DeVoe.
3. Office Partners does not object or take exception to Judge DeVoe's Findings of Facts, Conclusions of Law or Order only that Judge DeVoe's Order be modified so that it may have its intended result.

4. It is requested that the Order require the funds held in escrow with the Court of Common Pleas of Allegheny County (\$506,647.18) be released to Office Partners. These are the very funds that are in dispute in which Judge DeVoe held were improperly charged and must be released to Office Partners.

5. In addition, Office Partners requests the order be modified to require PWSA to pay as damages the difference between the rate of interest paid by the Allegheny County Court of Common Pleas on the escrowed funds and the legal interest rate which would be due pursuant to 66 Pa.C.S. § 1312.

6. The Department of Court Records pays interest on funds held pursuant to Allegheny County Civil and Family Local Court Rule 3. That amount is a fluctuating rate and is \$20,344.81 as of May 7, 2025, significantly lower than the 6% legal interest rate pursuant to rule 1312.

7. Pursuant to rule 1312, the interest on the \$506,647.18 to Office Partners would be due from the date of deposit determined by Judge DeVoe, March 15, 2022, until Office Partners is paid. As of the date of Judge DeVoe's order that additional amount would be \$95,145.46 (6% interest for 3 years, 1 month and 17 days) plus \$83.28 per day from May 2, 2025.

8. *Christo v. Tuscan, Inc.*, 533 A.2d 461, (Pa. Super, 1987) deals with damages due on bonds required to be paid for injunctive relief and concluded that the damages are not limited to the bonds but also consist of interest rates that could have been earned on the funds had they been paid over.

9. In this case, PWSA refused to issue a permit unless Office Partners paid the amount determined to be improper by Judge DeVoe into Court until such a time as a final ruling.

10. As in *Christo, supra* equity would demand that Office Partners be paid interest as it was improperly denied use of the funds at issue.

11. It is prayed that the Commission award the amounts noted in Paragraph 7 of these exceptions.

Respectfully submitted,

MAURICE A. NERNBERG & ASSOCIATES

Date: 05/16/25

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

CERTIFICATE OF SERVICE

I, David M. Nernberg, 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 § 1.54 (relating to service by a party):

Via email:

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

Ashley L. Buck, Esq.
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Dated this 16 day of May, 2025



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

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

This document was filed electronically on the Commission's electronic filing system.