

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Apexus Rosewell Owner LP,

Docket No. C-2025-3059515

Complainant,

v.

The Pittsburgh Water and Sewer Authority
d/b/a/ Pittsburgh Water,

Respondent.

**REPLY TO NEW MATTER IN THE
ANSWER OF THE PITTSBURGH
WATER AND SEWER AUTHORITY,
PURSUANT TO 52 Pa. Code § 5.63**

FILED ON BEHALF OF:

Apexus Rosewell Owner, LP

COUNSEL OF RECORD FOR THIS PARTY:

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AND NOW COMES the Complainant Apexus Rosewell Owner LP (“Apexus”), by and through its attorneys, JONATHAN M. KAMIN, ESQUIRE and MOHAMMED S. BURNY, ESQUIRE, and the law firm of GOLDBERG, KAMIN & GARVIN, LLP, and files this *Reply to New Matter in the Answer of the Pittsburgh Water and Sewer Authority, Pursuant to 52 Pa. Code § 5.63*, and in support thereof avers as follows:

I. GENERAL RESPONSE.

1. Pursuant to 52 Pa. Code § 5.63, Apexus responds to Respondent’s New Matter. Except as expressly admitted herein, Apexus denies each averment in Respondent’s New Matter.

2. To the extent Respondent’s New Matter characterizes the Formal Complaint, the Addendum thereto, or any pleading filed in this proceeding, such writings speak for themselves, and Apexus denies any inconsistent characterization of the same.

3. Apexus incorporates herein the allegations of its Formal Complaint and Addendum as though fully set forth.

II. RESPONSE TO NEW MATTER.

Paragraph numbers 12 through 21 below are numbered in exact correspondence to Respondent's New Matter.

12. Paragraph 12 purports to incorporate Respondent's responses to Paragraphs 1 through 11 of its Answer. To the extent a response is required, such averments are denied.

Alleged Lack of Commission Jurisdiction

13. Paragraph 13 is admitted only insofar as the Pennsylvania Public Utility Commission ("Commission") is a statutory agency whose authority arises from the Public Utility Code. The remaining averments are denied. By way of further reply, the Commission possesses regulatory and adjudicatory authority over public utility rates, tariffs, service classifications, and credit methodologies, including authority to determine whether a utility has imposed charges that are unlawful, unreasonable, discriminatory, or beyond tariff or statutory authorization.

14. Paragraph 14 is denied. The Commission possesses jurisdiction over Apexus's claims and requests for relief. Apexus further responds to Respondent's jurisdictional averments in Paragraphs 14(a), 14(b), and 14(c), below:

- a. Paragraph 14(a) is denied. The Formal Complaint and Addendum do not ask the Commission to interpret or enforce municipal code provisions. Rather, Apexus challenges Respondent's imposition of stormwater charges and denial of credit eligibility as inconsistent with the Commission-approved tariff and statutory authority. Whether Respondent may impose stormwater charges where runoff does not utilize or affect its infrastructure is within the Commission's jurisdiction and authority to interpret tariffs and determine the lawfulness of utility service charges.

- b. Paragraph 14(b) is denied. Determining whether a charge imposed under a Commission-regulated tariff constitutes a lawful service charge or exceeds statutory authority is integral to the Commission's duties. Apexus does not concede that the Commission lacks authority to determine whether Respondent's stormwater charge constitutes a lawful rate or an unlawful tax where that determination affects tariff validity and statutory compliance.
- c. Paragraph 14(c) is denied. The Commission evaluates whether rate design, classifications, and credit methodologies are applied uniformly and lawfully. Apexus's Uniformity Clause allegations arise from Respondent's rate structure and tariff application and fall within the Commission's jurisdiction to determine whether the tariff is being applied lawfully, reasonably, and without discrimination.

15. Paragraph 15 is denied. The Commission has jurisdiction over claims raised in the Formal Complaint and Addendum. The General Assembly has granted the Commission authority to regulate public utility rates and charges and to remedy rates found to be unjust, unreasonable, discriminatory, or otherwise unlawful. 66 Pa. C.S. §§ 1301, 1304 and 1309. Jurisdiction in matters concerning the relationship between public utilities and customers lies with the Commission.

Alleged Insufficiency of Complaint

16. Paragraph 16 is denied. The Formal Complaint and Addendum adequately plead material facts demonstrating Respondent's imposition of stormwater charges beyond the scope of services provided and beyond Respondent's tariff and statutory authority. Respondent's attempt to challenge the sufficiency of the Complaint and Addendum through New Matter improperly seeks dismissal of claims that are factually and legally supported by detailed allegations.

17. Paragraph 17 is denied. By way of further reply, Apexus alleged the following legally sufficient claims for relief in its Formal Complaint and Addendum:

- a. Respondent unlawfully charges Apexus for managing stormwater that does not utilize or affect the Respondent's system;
- b. Stormwater discharged directly from Apexus's property into Chartiers Creek is outside Respondent's jurisdiction and beyond its tariff authority;
- c. Respondent's stormwater charge constitutes an unlawful tax; and,
- d. Respondent's stormwater charge and credit structure violates the Uniformity Clause of the Pennsylvania Constitution.

18. Paragraph 18 is denied. The Formal Complaint and Addendum allege violations of Commission-administered statutes and tariff requirements sufficient to state claims for relief.

19. Paragraph 19 is denied. The Formal Complaint and Addendum are legally sufficient and were properly filed pursuant to applicable Commission regulations.

Alleged Lack of Proper Verification

20. Paragraph 20 references statutes and the form of the Formal Complaint, both of which speak for themselves. Any mischaracterization of either is denied.

21. Paragraph 21 is denied. By way of further reply, Apexus states that, on January 30, 2026, it electronically filed a Verification of Formal Complaint signed by Jeff Possin, Senior Vice President of Asset Management for Apexus. This Verification confirms that the facts in the Formal Complaint are true and correct to the best of Mr. Possin's knowledge, information, and belief, and was signed by him in his capacity as an authorized officer of Apexus. This filing satisfies the verification requirements set forth at 52 Pa. Code §§ 1.36(a) and 5.22(b). Following filing of this Verification, Respondent's request to dismiss the Formal Complaint on this basis is now moot.

III. RESERVATION OF RIGHTS.

Apexus reserves all rights, claims, defenses, and arguments, whether legal, statutory, regulatory, or constitutional, arising from or related to this proceeding. Nothing in this Reply to New Matter shall be deemed an admission of fact, a concession of law, or a waiver of any position asserted in Apexus's Formal Complaint or Addendum thereto. Apexus expressly denies that any matter raised herein lies outside the jurisdiction or authority of the Commission and reserves all rights to seek further relief, including judicial review, should the Commission determine it lacks authority to grant any portion of the requested relief.

IV. CONCLUSION.

WHEREFORE, Complainant Apexus Rosewell Owner LP respectfully requests that the Public Utilities Commission deny Respondent's New Matter in its entirety, permit all claims in this matter to proceed on the merits, and grant all and such other relief in favor of Apexus as the Commission deems just and proper.

Respectfully submitted,

By:



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VERIFICATION

I, JONATHAN M. KAMIN, Attorney-at-Law, counsel of record for the Complainant Apexus Rosewell Owner LP in the within matter, hereby certify that the averments set forth in the foregoing REPLY TO NEW MATTER IN THE ANSWER OF THE PITTSBURGH WATER AND SEWER AUTHORITY, PURSUANT TO 52 Pa. Code § 5.63, are true and correct to the best of my knowledge, information, and belief. I am authorized to make this verification on behalf of the Complainant by virtue of my position as counsel of record. I understand that this Verification is made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn fabrication to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.



JONATHAN M. KAMIN, ESQUIRE

Date: February 10, 2026

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Complainant's REPLY TO NEW MATTER IN THE ANSWER OF THE PITTSBURGH WATER AND SEWER AUTHORITY, PURSUANT TO 52 Pa. Code § 5.63 upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Via Email Only

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