

Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 822 CD 2022

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June 9, 2023



CAPTION

Patrick M. Cicero,
Consumer Advocate,
Petitioner
v.
Public Utility Commission,
Respondent

CASE INFORMATION

Initiating Document: Petition for Review
Case Status: Closed
Case Processing Status: May 17, 2023 Completed
Journal Number: 1-06-2023
Case Category: Administrative Agency Case Type(s): Public Utility Commission

CONSOLIDATED CASES

RELATED CASES

Docket No / Reason	Type
838 CD 2022 Same Record Below	Related
910 CD 2022 Same Party	Related

COUNSEL INFORMATION

Petitioner Cicero, Patrick M.

Pro Se: No

IFP Status:

Attorney: Gannon, Erin Leigh
Law Firm: Pennsylvania Office of Attorney General, 16th Floor , Strawberry Square, Harrisburg, PA
Address: Pa Ofc Of Consumer Advocate
555 Walnut St 5th Fl
Harrisburg, PA 17101-1923
Phone No: (717) 780-4523 Fax No:

Attorney: Hoover, Christine Maloni
Law Firm: Pennsylvania Office of Attorney General, 16th Floor , Strawberry Square, Harrisburg, PA
Address: Pa Ofc Of Consumer Advocate
555 Walnut St 5th Fl
Harrisburg, PA 17101-1923
Phone No: (717) 783-5048 Fax No:

Attorney: Breitman, Harrison William
Law Firm: Pennsylvania Office of Attorney General, 16th Floor , Strawberry Square, Harrisburg, PA
Address: 555 Walnut St
5th Floor
Harrisburg, PA 17104
Phone No: (610) 209-0111 Fax No:

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COUNSEL INFORMATION

Petitioner Cicero, Patrick M.

Pro Se: No

IFP Status:

Attorney: Battle, Mackenzie
 Law Firm: Pennsylvania Office of Consumer Advocate
 Address: Pa Office Of Consumer Advocate
 555 Walnut St Fl 5
 Harrisburg, PA 17101
 Phone No: (518) 698-1490 Fax No:

Attorney: Zerby, Andrew Jon
 Law Firm: Pennsylvania Office of Consumer Advocate
 Address: 555 Walnut St Fl 5
 Harrisburg, PA 17101
 Phone No: (717) 580-1804 Fax No:

Amicus Curiae Yordan, Henry

Pro Se: Yes

IFP Status:

Pro Se: Henry Yordan
 Address: 152 Grubb Road
 Malvern, PA 19355

Amicus Curiae Swift, Robert A.

Pro Se: No

IFP Status:

Attorney: Swift, Robert Alan
 Address: Swift & Choi Development, LLC
 13 Devon Road
 Malvern, PA 19355
 Phone No: (215) 238-1700 Fax No:

Amicus Curiae Frissora, Julie

Pro Se: Yes

IFP Status:

Pro Se: Julie Frissora
 Address: 34 Chetwynd Road
 Paoli, PA 19301

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COUNSEL INFORMATION	
Intervenor	Willistown Township
Pro Se:	No
IFP Status:	
Attorney:	Wyatt, Thomas S.
Law Firm:	Obermayer Rebmann Maxwell & Hippel LLP
Address:	Obermayer Rebmman Maxwell & Hippel Llp 1500 Market St Ste 3400 West Philadelphia, PA 19102-2101
Phone No:	(215) 665-3200
Fax No:	
Attorney:	Olesh, Matthew Stephan
Address:	Obermayter Rebmman Maxwell Hippel, LLP 1500 Market Street Suite 3400 Philadelphia, PA 19102
Phone No:	(412) 209-0870
Fax No:	(412) 281-1530
Attorney:	Melillo, Sydney Nicole
Law Firm:	Obermayer Rebmann Maxwell & Hippel LLP
Address:	1500 Market St Ste 3400 Philadelphia, PA 19102
Phone No:	(215) 665-3286
Fax No:	

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COUNSEL INFORMATION

Intervenor **Aqua Pennsylvania Wastewater, Inc.**

Pro Se: No

IFP Status:

Attorney: Stahl, Alexander Roy

Law Firm: Aqua Services, Inc.

Address: Aqua Services Inc
762 W Lancaster Ave
Bryn Mawr, PA 19010

Phone No: (610) 645-1130

Fax No:

Attorney: Joyce, Kimberly Ann

Law Firm: Aqua America

Address: 762 W Lancaster Ave
Bryn Mawr, PA 19010

Phone No: (610) 883-3894

Fax No:

Attorney: Seltzer, Alan Michael

Law Firm: Buchanan, Ingersoll & Rooney, P.C.

Address: Buchanan Ingersoll & Rooney Pc
409 N 2ND St Ste 500
Harrisburg, PA 17101-1357

Phone No: (717) 237-4862

Fax No:

Attorney: Niesen, Thomas T.

Law Firm: Thomas, Niesen & Thomas, LLC

Address: Thomas Niesen & Thomas LLC
212 Locust St Ste 302
Harrisburg, PA 17101

Phone No: (717) 255-7600

Fax No:

Attorney: Povilaitis, John F.

Law Firm: Buchanan, Ingersoll & Rooney, P.C.

Address: Buchanan Ingersoll & Rooney
409 N 2ND St Ste 500
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Phone No: (717) 237-4825

Fax No:

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COUNSEL INFORMATION

Respondent Public Utility Commission

Pro Se: No

IFP Status:

Attorney: Wiedt, Patricia Timmerman
 Address: Pa Public Utility Comm Law Bur
 Po Box 3265
 Harrisburg, PA 17120
 Phone No: (717) 787-5755 Fax No:

Attorney: Tate, Erin Nicole
 Law Firm: Pennsylvania Public Utility Commission
 Address: P.o. Box 3265
 Harrisburg, PA 17105-3265
 Phone No: (717) 214-1956 Fax No:

Attorney: Wilson, Stephanie
 Law Firm: Pennsylvania Public Utility Commission
 Address: Pa Public Utility Commission
 P.o. Box 3265
 Harrisburg, PA 17105-3265
 Phone No: (717) 787-1859 Fax No:

Attorney: Hinken, Hayley Eileen
 Law Firm: Pennsylvania Public Utility Commission
 Address: Pa Public Utility Commission
 P.o. Box 3265
 Harrisburg, PA 17105-3265
 Phone No: (717) 214-9594 Fax No:

FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
08/05/2022	Petition for Review - Appellate	90.25	08/05/2022	2022-CMW-H-001496	90.25
12/14/2022	Copy Work (Per Page)	432.50	01/18/2023	2023-CMW-H-000089	432.50
01/05/2023	Copy Work (Per Page)	15.00	02/06/2023	2023-CMW-H-000222	15.00

AGENCY/TRIAL COURT INFORMATION

Order Appealed From: July 8, 2022 Notice of Appeal Filed:
 Order Type: Order Entered
 Documents Received: August 5, 2022

Court Below: Public Utility Commission
 County: Division: Public Utility Commission
 Judge: OTN:
 Docket Number: A-2021-3027268 Judicial District:

ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content Description
Agency Record	September 26, 2022	

Date of Remand of Record:

BRIEFING SCHEDULE

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BRIEFING SCHEDULE

Amicus Curiae
Swift, Robert A.
Brief

Due: Filed: November 8, 2022

Intervenor
Aqua Pennsylvania Wastewater, Inc.
Brief

Due: Filed: December 7, 2022

Petitioner
Cicero, Patrick M.
Brief

Due: November 7, 2022 Filed: November 7, 2022

Respondent
Public Utility Commission
Brief

Due: December 12, 2022 Filed: December 7, 2022

Reply Brief

Due: Filed: December 21, 2022

Reproduced Record

Due: Filed: November 7, 2022

DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
August 5, 2022	Petition for Review Filed Cicero, Patrick M.		Petitioner	
August 15, 2022	Notice Exited Commonwealth Court Filing Office			
August 16, 2022	Entry of Appearance Wilson, Stephanie Hinken, Hayley Eileen Document Name: of Attys Wilson, Dunn, and Weidt for Respondent	Public Utility Commission Public Utility Commission	Respondent Respondent	
August 16, 2022	Notice of Intervention Povilaitis, John F. Document Name: of Aqua Pennsylvania Wastewater, Inc.	Aqua Pennsylvania Wastewater, Inc.	Intervenor	
August 26, 2022	Docketing Statement Filed Gannon, Erin Leigh	Cicero, Patrick M.	Petitioner	
September 2, 2022	Notice of Intervention Melillo, Sydney Nicole Document Name: of Willistown Township	Willistown Township	Intervenor	
September 6, 2022	Notice of Intervention Frissora, Julie Document Name: of Julie Frissora		Amicus Curiae	
September 6, 2022	Notice of Intervention Yordan, Henry Document Name: of Henry Yordan		Amicus Curiae	
September 26, 2022	Agency Record Received Wilson, Stephanie	Public Utility Commission	Respondent	

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Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
September 26, 2022	Briefing Schedule Issued Commonwealth Court Filing Office			
October 5, 2022	Designation of Contents of Reproduced Record Gannon, Erin Leigh	Cicero, Patrick M.	Petitioner	
October 6, 2022	Application for Consolidation Wilson, Stephanie Document Name: PUC's Application to Consolidate 822 & 838 CD 2022	Public Utility Commission	Respondent	
October 13, 2022	Designation of Contents of Reproduced Record Povilaitis, John F. Document Name: Counter-Designatioin of Aqua PA Wastewater, Inc.	Aqua Pennsylvania Wastewater, Inc.	Intervenor	
October 14, 2022	Answer to Application for Consolidation Gannon, Erin Leigh	Cicero, Patrick M.	Petitioner	
October 27, 2022	Order Denying Application for Consolidation Per Curiam Document Name: The above cases shall proceed ad seriatim. Comment: NOW, October 27, 2022, upon consideration of the Public Utility Commission's (PUC) Application to Consolidate Appeals (Application), wherein the PUC seeks to consolidate the matter at No. 838 C.D. 2022 with the Office of Consumer Advocate's appeal at No. 822 C.D. 2022, which Application is supported by Petitioner Robert Swift and Intervenor Aqua Pennsylvania Wastewater, Inc., and which is opposed by the Office of Consumer Advocate, the Application is DENIED. The above cases shall proceed ad seriatim.			10/27/2022
November 7, 2022	Petitioner's Brief Filed Cicero, Patrick M.		Petitioner	
November 7, 2022	Petitioner's Reproduced Record Filed Gannon, Erin Leigh	Cicero, Patrick M.	Petitioner	
November 8, 2022	Amicus Curiae Brief Swift, Robert Alan	Swift, Robert A.	Amicus Curiae	
November 15, 2022	Entry of Appearance Zerby, Andrew Jon Document Name: Atty. Andrew J. Zerby for Petitioner	Cicero, Patrick M.	Petitioner	
December 7, 2022	Respondent's Brief Filed Public Utility Commission		Respondent	
December 7, 2022	Intervenor's Brief Aqua Pennsylvania Wastewater, Inc.		Intervenor	
December 21, 2022	Petitioner's Reply Brief Filed Cicero, Patrick M.		Petitioner	
January 19, 2023	Tentative Session Date Krimmel, Michael Document Name: April 2023 (Harrisburg)			

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Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
January 24, 2023	Tentative Session Date Krimmel, Michael Document Name: June 2023 (Philadelphia)			
February 8, 2023	Order Filed Per Curiam Document Name: Striking the Notice of Intervention filed by Robert Swift Comment: NOW, February 7, 2023, upon review of the Notice of Intervention filed by Robert Swift (Swift), pro se, wherein he attempts to intervene as a party petitioner, the Notice of Intervention is hereby STRICKEN as unauthorized. "Courts disapprove of filing notices to intervene in lieu of a petition for review, and the practice of intervening as a party petitioner is not permitted." UnitedHealthcare of Pennsylvania, Inc., v. Baron, 171 A.3d 943, 951 (Pa. Cmwlth. 2017), citing "G. DARLINGTON, ET AL., PA. APPELLATE PRACTICE, § 1531:3 (2011-12 ed. 2011)." See G. DARLINGTON, ET AL., PA. APPELLATE PRACTICE, § 1531:3 (2022-23 ed. 2022) (Intervention may not be used as an alternative to filing a petition for review to attain judicial review of a governmental determination.). In addition, the Brief of Intervenor, filed by Swift as a non-party during merits briefing on November 8, 2022, will be treated as an amicus curiae brief. See Pa.R.A.P. 531(a) and (b)(1).			02/08/2023
February 8, 2023	Order Filed Per Curiam Document Name: Henry Yordan's Notice of Intervention stricken as unauthorized / amicus curiae due March 10, 2023 Comment: NOW, February 8, 2023, upon review of the Notice of Intervention filed by Henry Yordan, pro se, wherein Yordan avers that he "intervenes in this matter as a party Petitioner," the Notice of Intervention is hereby STRICKEN as unauthorized. "Courts disapprove of filing notices to intervene in lieu of a petition for review, and the practice of intervening as a party petitioner is not permitted." UnitedHealthcare of Pennsylvania, Inc., v. Baron, 171 A.3d 943, 951 (Pa. Cmwlth. 2017), citing "G. DARLINGTON, ET AL., PA. APPELLATE PRACTICE, § 1531:3 (2011-12 ed. 2011)." See G. DARLINGTON, ET AL., PA. APPELLATE PRACTICE, § 1531:3 (2022-23 ed. 2022) (Intervention may not be used as an alternative to filing a petition for review to attain judicial review of a governmental determination.). As a non-party, Yordan is GRANTED leave to file (4 copies) and serve (1 copy) an amicus curiae brief on or before March 10, 2023. See Pa.R.A.P. 531			02/08/2023
February 8, 2023	Order Filed Per Curiam Document Name: Julie Frissora's Notice of Intervention stricken as unauthorized / amicus curiae due March 10, 2023 Comment: NOW, February 8, 2023, upon review of the Notice of Intervention filed by Julie Frissora, pro se, wherein Frissora avers that she "intervenes in this matter as a party Petitioner," the Notice of Intervention is hereby STRICKEN as unauthorized. "Courts disapprove of filing notices to intervene in lieu of a petition for review, and the practice of intervening as a party petitioner is not permitted." UnitedHealthcare of Pennsylvania, Inc., v. Baron, 171 A.3d 943, 951 (Pa. Cmwlth. 2017), citing "G. DARLINGTON, ET AL., PA. APPELLATE PRACTICE, § 1531:3 (2011-12 ed. 2011)." See G. DARLINGTON, ET AL., PA. APPELLATE PRACTICE, § 1531:3 (2022-23 ed. 2022) (Intervention may not be used as an alternative to filing a petition for review to attain judicial review of a governmental determination.). As a non-party, Frissora is GRANTED leave to file (4 copies) and serve (1 copy) an amicus curiae brief on or before March 10, 2023. See Pa.R.A.P. 531.			02/08/2023
February 28, 2023	Entry of Appearance Tate, Erin Nicole Document Name: of Erin Tate, esq. for PUC	Public Utility Commission	Respondent	

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April 5, 2023	Praecipe for Withdrawal of Appearance Hicks, Renardo Lee	Public Utility Commission	Respondent	
	Document Name: of Renardo Hicks, esq.			
April 19, 2023	Argument Scheduled Krimmel, Michael			
	Document Name: MONDAY, June 5, 2023 @ 1:00 p.m. (Panel), Court Room 1, Ninth Floor, Widener Building, Comment: 1339 Chestnut Street, Philadelphia, PA No. 1 on the list.			
May 3, 2023	Order - Rule to Show Cause Per Curiam			05/03/2023
	Document Name: Rule to Show Cause as to why Petition Should Not be Dismissed as Moot / Returnable in 7 Days Comment: NOW, May 3, 2023, because the sale of the Willistown Township Sewer System to Aqua Pennsylvania Wastewater, Inc. that was authorized by the Pennsylvania Public Utility Commission's (Commission) July 8, 2022 Order has been terminated by the Willistown Township Board of Supervisors,1 and because the Commission's authorization of this now-terminated sale is the subject of Patrick M. Cicero, Consumer Advocate's (Petitioner) petition for review, a Rule to Show Cause why said petition for review should not be dismissed as moot is issued against Petitioner. The Rule is returnable within 7 days from the exit date of this Order. In responding to the Rule, Petitioner shall serve a copy of the response on the Commission and Intervenor and provide proof of service.			
May 3, 2023	Answer to Rule to Show Cause Why Action Should Not Be Dismissed For Failure to Prosecute Battle, Mackenzie	Cicero, Patrick M.	Petitioner	
	Document Name: and Request to Discontinue Appeal and Remand to Vacate			
May 5, 2023	Application for Relief Hinken, Hayley Eileen	Public Utility Commission	Respondent	
	Document Name: of the PUC for Leave to File a Reply to Petitioner's Answer to this Court's Order-Rule to Show Cause			
May 9, 2023	Order Granting Application for Relief Per Curiam			05/09/2023
	Document Name: PUC's Reply to Answer to Rule to Show Cause is Accepted Comment: NOW, May 9, 2023, upon consideration of the "Application for Relief of the Pennsylvania Public Utility Commission For Leave to File a Reply to Petitioner's Answer to this Court's Order - Rule to Show Cause" (Application) filed by Respondent Public Utility Commission, the Application is GRANTED. Respondent's Reply to Petitioner Patrick M. Cicero's Answer to this Court's May 3, 2023 Rule to Show Cause, set forth in pages 6 through 12 of the Application, is accepted, and the Prothonotary is directed to docket it as such.			
May 9, 2023	Answer Filed Hinken, Hayley Eileen	Public Utility Commission	Respondent	
	Document Name: Respondent's Reply to Answer to Rule to Show Cause			

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Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
May 17, 2023	Dismissal Per Curiam			05/17/2023

Document Name: Upon Consideration to Answer to Rule to Show Cause This matter is Dismissed as Moot

Comment: NOW, May 17, 2023, upon consideration of Petitioner Patrick M. Cicero's Answer (Answer) to this Court's May 3, 2023 Rule to Show Cause, and the Respondent Public Utility Commission's (Commission) reply (Reply) thereto, in which both parties agree Petitioner's petition for review is now moot, the Court agrees this matter is moot. As such, the Court lacks jurisdiction to consider the matter, see *Brown v. Liquor Control Board*, 673 A.2d 21 (Pa. Cmwlth. 1996) ("When [a] matter does not present a case or controversy, the courts have consistently held that they were without jurisdiction to hear the matter."), and Petitioner's petition for review is DISMISSED AS MOOT. The oral argument on this petition for review currently scheduled for June 5, 2023, is CANCELLED.

SESSION INFORMATION

Journal Number: 1-06-2023
 Consideration Type: Oral Argument - Panel
 Listed/Submitted Date: June 5, 2023

DISPOSITION INFORMATION

Final Disposition: Yes

Related Journal No: Judgment Date:

Category: Disposed Before Decision Disposition Author: Per Curiam

Disposition: Dismissal Disposition Date: May 17, 2023

Disposition Comment: NOW, May 17, 2023, upon consideration of Petitioner Patrick M. Cicero's Answer (Answer) to this Court's May 3, 2023 Rule to Show Cause, and the Respondent Public Utility Commission's (Commission) reply (Reply) thereto, in which both parties agree Petitioner's petition for review is now moot, the Court agrees this matter is moot. As such, the Court lacks jurisdiction to consider the matter, see *Brown v. Liquor Control Board*, 673 A.2d 21 (Pa. Cmwlth. 1996) ("When [a] matter does not present a case or controversy, the courts have consistently held that they were without jurisdiction to hear the matter."), and Petitioner's petition for review is DISMISSED AS MOOT. The oral argument on this petition for review currently scheduled for June 5, 2023, is CANCELLED.

Dispositional Filing: Filing Author:

Filed Date: