

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

Nos. 12 & 15 MAP 2023

RICK SIGER, IN HIS CAPACITY AS
ACTING SECRETARY OF THE DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT

v.

CITY OF CHESTER

*Appeal of: City of Chester, Mayor Thaddeus Kirkland and City Council of the City
of Chester*

BRIEF OF CHESTER WATER AUTHORITY AS AMICUS CURIAE

*Appeal from the January 31, 2023 and February 14, 2023
Orders of the Commonwealth Court, No. 336 MD 2020*

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I. STATEMENT OF INTEREST OF THE CHESTER WATER AUTHORITY

In its brief regarding the scope of the Receiver's Act 47 powers, the City of Chester refers to non-party Chester Water Authority no less than five times. *See* Appellant's Br. at 16, 38. The Authority respectfully submits this amicus brief to clarify that there are two separate and distinct matters pending before this Court, each involving different issues and different parties, both of which must maintain separate, distinct identities.

Notwithstanding the City's multiple references to the Authority, the specific question of whether the City has right to seize the assets of the Authority pursuant to Section 5622(a) of the Municipality Authorities Act, 53 Pa.C.S. § 5622(a), and sell those assets to address its own unrelated financial distress, while overriding the representational rights granted by Act 73 of 2012, 53 Pa.C.S. §§ 5610(a.1), 5612(a.1), to Delaware and Chester Counties, is before this Court in a different appeal, *In re Chester Water Authority Trust*, Nos. 46-53 MAP 2022, which this Court has stayed. By contrast, the issues in *this* case are strictly limited to the allocation of power between the City and its Court-appointed Receiver.¹ The Authority urges the Court to take care to avoid deciding extraneous issues alluded

¹ The Receiver and the Authority stipulated that, as used in the third amended recovery plan at issue in this case, the terms "authority" and "Authority" do not refer to the Chester Water Authority.

to by the City with its references to the Authority, including specifically those raised in *In re Chester Water Authority Trust*, where not only is the Authority a party, but there are also multiple other interested parties, including, among others, Chester County, the Susquehanna River Basin Commission, the Department of Environmental Protection, Authority ratepayers, and the trustee for the Authority's bonds.

If the Court were to delve even slightly in this case into the matters raised by *In re Chester Water Authority Trust*, it could have important and potentially devastating and harmful implications for critically important matters such as, among others, the Authority's environmental permits and bond covenants, and correspondingly on its provision of a reliable source of safe and affordable drinking water to the approximately 200,000 people that the Authority serves, twenty percent of whom are in the City of Chester, and eighty percent of whom are in other jurisdictions across Delaware County and Chester County. The Authority respectfully submits that this Court's King's Bench powers should not be used to intrude upon an appeal over which this Court has already assumed jurisdiction and in which other interested parties are already participating. *Cf., Bd. of Revision of*

Taxes, City of Philadelphia v. City of Philadelphia, 4 A.3d 610, 620 (Pa. 2010)

(“Plenary jurisdiction is invoked sparingly”).²

Respectfully submitted,

Dated: April 26, 2023

By:

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² In accordance with Pa.R.A.P. 531(b)(2), the Authority states that no person or entity other than Authority or its counsel paid for the preparation of this brief, in whole or in part, or authored this brief, in whole or in part.

CERTIFICATION OF COMPLIANCE

I hereby certify that the above brief complies with the word count limit of Pa.R.A.P. 2135(a)(1). Based on the word count feature of the word processing system used to prepare this brief, this document contains 496 words, exclusive of the cover page, tables of content and authorities, and the signature block.

Respectfully submitted,

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