



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Adeolu A. Bakare  
Direct Dial: 717.237.5290  
Direct fax: 717.260.1744  
abakare@mcneeslaw.com

September 7, 2016

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**RE: Pennsylvania Public Utility Commission, *et al.* v. City of DuBois – Bureau of Water;  
Docket No. R-2016-2554150**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Prehearing Memorandum on behalf of the City of DuBois – Bureau of Water, in the above-referenced docket.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By

  
Adeolu A. Bakare

Counsel to the City of DuBois – Bureau of Water

/leh

Enclosures

c: Deputy Chief Administrative Law Judge Mark A. Hoyer (via E-Mail and First-Class Mail)  
Certificate of Service

5324300

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA E-MAIL AND FIRST CLASS MAIL**

Steven C. Gray, Esq.  
Office of Small Business Advocate  
Suite 202, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101  
[sgray@pa.gov](mailto:sgray@pa.gov)

Phillip C. Kirchner, Esq.  
Pennsylvania Public Utility Commission  
Bureau of Investigation & Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[phikirchne@pa.gov](mailto:phikirchne@pa.gov)

Christine M. Hoover, Esq.  
Harrison W. Breitman, Esq.  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place – 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1921  
[choover@paoca.org](mailto:choover@paoca.org)  
[HBreitman@paoca.org](mailto:HBreitman@paoca.org)

Thomas T. Niesen, Esq.  
Charles Thomas, III, Esq.  
Thomas, Niesen & Thomas, LLC  
212 Locust Street, Suite 600  
Harrisburg, PA 17101  
[tniesen@tntlawfirm.com](mailto:tniesen@tntlawfirm.com)  
[cet3@tntlawfirm.com](mailto:cet3@tntlawfirm.com)



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Adeolu A. Bakare

Counsel to the City of DuBois – Bureau of Water

Dated this 7th day of September, 2016, at Harrisburg, Pennsylvania.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
v.	:	Docket No. R-2016-2554150
	:	
City of DuBois – Bureau of Water	:	

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**CITY OF DUBOIS – BUREAU OF WATER  
PREHEARING MEMORANDUM**

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The City of DuBois – Bureau of Water ("City") hereby submits this Prehearing Memorandum in anticipation of the Prehearing Conference scheduled for September 9, 2016.

**I. HISTORY OF THE PROCEEDING**

On June 30, 2016, the City filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") Supplement No. 22 to Tariff Water Pa. P.U.C. No. 4 ("Supplement No. 22") proposing to increase jurisdictional revenues by \$257,604.

On July 14, 2016, the Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA") each filed a Complaint in this proceeding. A formal Complaint was also filed by Sandy Township on July 20, 2016. Finally, the Bureau of Investigation and Enforcement ("I&E") filed a Notice of Appearance on July 25, 2016. Pursuant to 52 Pa. Code § 5.61(d), the City elected not to file answers to OCA, OSBA and Sandy Township's Complaints.

On August 11, 2016, the Commission suspended Supplement No. 22 for investigation. The filing was referred to the Office of Administrative Law Judge for Alternative Dispute Resolution or hearings before Deputy Chief Administrative Law Judge ("ALJ") Mark A. Hoyer.

On August 24, 2016, the Commission issued a Prehearing Conference Notice to the City and to all parties scheduling the Prehearing Conference for September 8, 2016. Pursuant to a second

Prehearing Conference Notice issued on that same day, the Commission rescheduled the Prehearing Conference for September 9, 2016, before ALJ Hoyer.

## **II. ANTICIPATED ISSUES AND SUB-ISSUES**

In general, the City will address the proposed changes to its base rates as necessary to affirm that Supplement No. 22 sets forth just and reasonable modifications that will provide the City with an opportunity to earn a fair rate of return on the utility dedicated to the service of its jurisdictional customers. The City will present evidence establishing its need for the requested rate increase.

To support the requested rate increase, the City anticipates addressing the following sub-issues:

1. Revenue Requirement – The City will demonstrate that the proposed rates appropriately reflect sales and revenues in the Historic and Future Test Years.
2. Expenses – The City will demonstrate that it appropriately reflected and accounted for known and measurable expenses in the Historic and Future Test Years.
3. Rate of Return – The City will show that the proposed rate of return reflects an appropriate capital structure, cost of debt and cost of equity, and will provide the City with the minimum revenues necessary to allow an opportunity to earn a fair return on utility property.
4. Rate Base – The City will confirm that its developed rate base appropriately reflects the original cost of utility plant in the Historic and Future Test Years, depreciation reserve, cash working capital, and materials and supplies.
5. Rate Structure – The City will support its proposed rate allocation.

## **III. PROPOSED WITNESSES**

If necessary, the City proposes to submit the testimony of the following witnesses, who will testify on the issues as reflected below:

**John Suplizio, City Manager, City of DuBois** – will provide an overview of the City's operations, review the City's rate case history and obligations pursuant to the 2013 base rate case settlement, and discuss the City's financial condition.

**Constance Heppenstall, Project Manager, Rate Studies, Valuation and Rate Division, Gannett Fleming, Inc.** – will testify regarding the City's Revenue Requirement, based on Historic and Future Test Year data.

**John Spanos, Senior Vice President, Valuation and Rate Division, Gannett Fleming, Inc.** – will testify on depreciation studies with regard to plant in service as of the end of 2015 and 2016.

**Harold Walker, III, Manager, Financial Studies, Valuation and Rate Division, Gannett Fleming, Inc.** – will testify regarding the appropriate and reasonable return on equity ("ROE") for the City, including the fair and reasonable rate of return ("ROR") for the City's operations.

**IV. PROPOSED SCHEDULE AND DISCOVERY RULES**

The City proposes the following procedural schedule for this proceeding:

<b>Date</b>	<b>Event</b>
September 9, 2016	Prehearing Conference
September 23, 2016	Settlement Conference
October 3, 2016	Service of Written Direct Testimony of All Other Parties Due
October 21, 2016	Service of Written Rebuttal Testimony Due
November 3, 2016	Service of Written Surrebuttal Testimony Due
November 8, 2016	Service of Written Rejoinder Testimony and/or Outline of Rejoinder Testimony Due
November 9-10, 2016	Technical Evidentiary Hearings in Harrisburg
November 29, 2016	Filing and Service of Main Briefs with Common Issues Due
December 12, 2016	Filing and Service of Reply Briefs with Common Issues or Submission of Joint Settlement Petition Executed by Representatives of All Parties, Together with All Parties' Statements in Support of Settlement

The City has not reached agreement on a schedule with the parties to this proceeding, but will continue discussions up to the Prehearing Conference in hopes of confirming a mutually agreeable schedule.

Discovery has commenced for the proceeding, with the City already responding to approximately 275 data requests and interrogatories, not including the numerous sub-questions. Due to the relatively small size of the City's staff, and the City's demonstrated responsiveness to discovery requests from parties, the City suggests that, in lieu of any acceleration of the discovery deadlines, all parties commit in good faith to respond to each request as quickly as possible.

The City proposes that service via electronic mail with a hard copy to follow by First-Class Mail shall constitute sufficient service to satisfy any "in hand" dates. In addition, any discovery served after Noon on Friday or holiday should be considered to have been served on the following business day for purposes of calculating any responsive deadlines. The City also requests entry of the Protective Order attached hereto as Exhibit A.

**V. POSSIBILITY OF SETTLEMENT**

The City is willing to pursue settlement discussions with the other parties to amicably resolve the issues in this proceeding. In addition, the City is willing to schedule informal settlement conferences as appropriate. The City anticipates productive discussions with the parties and will undertake reasonable efforts to fully or partially resolve the proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By  \_\_\_\_\_

James P. Dougherty (Pa. I.D. 59454)  
Adeolu A. Bakare (Pa. I.D. 208541)  
Alessandra L. Hylander (Pa. I.D. 320967)  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: 717.232.8000  
Fax: 717.237.5300  
jdougherty@mcneeslaw.com  
abakare@mcneeslaw.com  
ahylander@mcneeslaw.com

Counsel to The City of DuBois – Bureau of Water

Dated: September 7, 2016

**Exhibit A**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2016-2554150
Office Of Consumer Advocate	:	C-2016-2556376
Office Of Small Business Advocate	:	C-2016-2556342
Sandy Township	:	C-2016-2557459
	:	
vs.	:	
	:	
City Of Dubois – Bureau Of Water	:	

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**PROTECTIVE ORDER**

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Upon consideration of the Petition for Protective Order filed by the City of DuBois – Water Bureau ("City").

**IT IS ORDERED THAT:**

1. The Petition is hereby granted with respect to all materials and information identified in Paragraph 2 below, which are or will be filed with the Commission, produced in discovery, or otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The materials subject to this Protective Order are all correspondence, documents, data, information, studies, methodologies and other materials which a party or an affiliate of a party furnishes in this proceeding pursuant to Commission rules and regulations, discovery procedures, testimony or oral examination, or provided as a courtesy to a party to this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated

"PROPRIETARY INFORMATION" or "CONFIDENTIAL AND PROPRIETARY" or "PRIVILEGED AND CONFIDENTIAL" (hereinafter collectively referred to as "Proprietary Information").

3. In addition, the parties may designate extremely sensitive Proprietary Information as "HIGHLY CONFIDENTIAL INFORMATION" or "HIGHLY CONFIDENTIAL MATTER" (hereinafter referred to as "Highly Confidential Information") and thus secure the additional protections set forth in this Protective Order pertaining to such material.

4. Proprietary Information and Highly Confidential Information produced in this proceeding shall be made available to the Commission and its Staff, the Commission's Bureau of Investigation and Enforcement ("I&E"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), Sandy Township, and additional parties, solely for use in this proceeding. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information or Highly Confidential Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Proprietary Information and Highly Confidential Information shall be permitted only in accordance with this Protective Order.

5. Proprietary Information and Highly Confidential Information shall be made available to counsel of record in this proceeding pursuant to the following procedures:

a. Proprietary Information. To the extent required for participation in this proceeding, a party's counsel, upon execution of the attached Appendix A, may afford access to

Proprietary Information made available by another party ("the producing party") to the party's expert(s) and staff. Any information provided under this provision may be used only for and to the extent that it is necessary for participation in this proceeding. Any person obtaining information disclosed through this provision may not use that information to gain any commercial advantage and any person obtaining information may not forward it to any person to gain commercial advantage.

b. Highly Confidential Information. Where information is asserted to be Highly Confidential Information, it will be made available for inspection and review as provided for in this Protective Order and copying only as specified herein. The producing party shall permit counsel for I&E, OCA and OSBA (individually "public advocate" and collectively the "public advocates") and other counsel to take custody of a copy of such Highly Confidential Information, provided that it shall not be copied, except for counsel, and the public advocates' in-house staff, independent consultants, or non-lawyer representatives, in accordance with the protocols set forth below and shall be returned as provided for in this Protective Order. Such Highly Confidential Information may be provided by a public advocate to its eligible in-house staff without the need for execution of Appendix A. Additionally, such Highly Confidential Information may be provided by a public advocate or other counsel to its eligible independent consultants (as defined in 52 Pa. Code 5.365(d)) or other non-lawyer representatives who are assisting counsel with these proceedings, provided that such consultants and non-lawyer representatives execute and return the attached Appendix A to the producing party pursuant to Paragraph 6 of this Protective Order.

c. No other persons may have access to the Proprietary or Highly Confidential Information except as authorized by order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary

or Highly Confidential Information, shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

6. Prior to making Highly Confidential Information available to any independent consultant or non-lawyer representatives, counsel shall, except as specifically exempted under Paragraph 5(b) of this Protective Order, deliver a copy of this Protective Order to such person and shall receive a written acknowledgment from that person in the form attached to this Protective Order and designated as Appendix A. Counsel shall promptly deliver to the producing party a copy of the executed Appendix A.

7. A producing party shall designate data or documents as constituting or containing Proprietary or Highly Confidential Information by affixing an appropriate proprietary stamp or type-written designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Proprietary or Highly Confidential Information, the producing party shall designate only the specific data or pages of documents which constitute or contain Proprietary or Highly Confidential Information.

8. Any public reference to Proprietary or Highly Confidential Information by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary or Highly Confidential Information to fully understand the reference and not more. The Proprietary or Highly Confidential Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

9. Part of any record of this proceeding containing Proprietary or Highly Confidential Information, including but not limited to all exhibits, writings, testimony, cross examination,

argument and responses to discovery, and including reference thereto as mentioned in Ordering paragraph 8 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary or Highly Confidential Information is released from the restrictions of this Protective Order, either through the agreement of the parties or pursuant to Order of the Administrative Law Judge, the Commission or appellate court. Unresolved challenges arising under paragraph 10 shall be decided on petition by the presiding officer or the Commission as provided by 52 Pa. Code § 5.365(a). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

10. The parties affected by the terms of this Protective Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary or Highly Confidential Information; to question or challenge the admissibility of Proprietary or Highly Confidential Information; to refuse or object to the production of Proprietary or Highly Confidential Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; to seek an order permitting disclosure of Proprietary or Highly Confidential Information beyond that allowed in this Protective Order; and to seek additional measures of protection of Proprietary or Highly Confidential Information beyond those provided in this Protective Order. If a challenge is made to the designation of a document or information as Proprietary or Highly Confidential, the party claiming that the information is Proprietary or Highly Confidential retains the burden of demonstrating that the designation is necessary and appropriate.

11. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Proprietary or Highly Confidential Information, shall be immediately returned upon request to the

party furnishing such Proprietary or Highly Confidential Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary or Highly Confidential Information have been destroyed.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Mark A. Hoyer

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2016-2554150
Office Of Consumer Advocate	:	C-2016-2556376
Office Of Small Business Advocate	:	C-2016-2556342
Sandy Township	:	C-2016-2557459
	:	
vs.	:	
	:	
City Of Dubois – Bureau Of Water	:	

TO WHOM IT MAY CONCERN:

The undersigned is the \_\_\_\_\_ of \_\_\_\_\_ (the receiving party).

The undersigned has read and understands the Protective Order deals with the treatment of Proprietary and Highly Confidential Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order. In the case of an independent expert, the undersigned represents that he/she has complied with the provisions of paragraph 5 of the Protective Order prior to submitting this Acknowledgement.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
EMPLOYER

DATE: \_\_\_\_\_