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November 29, 2016

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

In re: Docket No. R-2016-2554150, *et al.*
Pa. P.U.C., *et al.* v. The City of DuBois – Bureau of Water

Dear Secretary Chiavetta:

We are counsel to Sandy Township, a Complainant in the above matter, and are submitting, with this letter, its Main Brief, via electronic filing. Copies of the Main Brief are being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By 

Thomas T. Niesen

Encl.

cc: Certificate of Service (w/encl.)
David Monella (via email, w/encl.)

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Deputy Chief Administrative Law Judge
Mark A. Hoyer, Presiding**

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

**MAIN BRIEF
OF
SANDY TOWNSHIP**

Thomas T. Niesen, Esquire
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212 Locust Street, Suite 600
Harrisburg, PA 17101

Attorney for Sandy Township

DATED: November 29, 2016

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I. INTRODUCTION

A. History of Proceeding

On June 30, 2016, the City of DuBois – Bureau of Water (“City Water Bureau” or “City”) filed Supplement No. 22 to its Tariff Water Pa. P.U.C. No. 4 to become effective August 29, 2016. Through Supplement No. 22, the City Water Bureau seeks Pennsylvania Public Utility Commission (“Commission”) approval of rates and rate changes that would recover an estimated \$257,604, or approximately 32%, in additional annual revenue from customers that reside outside the City’s limits. The proposed rate increase follows a 57.1% increase in rates that became effective on January 1, 2014 at the conclusion of the proceeding at Docket No. R-2013-2350509.

Sandy Township (“Township”) is both a sale for resale customer and a commercial customer of the City Water Bureau. Supplement No. 22 seeks to increase the purchase water charges for sale for resale service to Township by 34%, at average usage. Supplement No. 22 seeks to increase the bill of a typical residential customer served by the City by 33.6%, and the bills for the typical commercial and industrial customer served by the City by 37.5% and 35.8%, respectively.

Township filed a Complaint in opposition to the rate increase on July 20, 2016, which was assigned Docket No. C-2016-2557459. Complaints were also filed by the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate. The Bureau of Investigation and Enforcement (“I&E”) entered its appearance in the matter.

By Order entered August 11, 2016, the Commission instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules and regulations contained in Supplement No. 22. The proposed effective date of the Supplement was suspended by operation

of law until March 29, 2017. An Initial Call-In Telephone Pre-Hearing Conference was held on September 9, 2016, with Deputy Chief Administrative Law Judge Mark A. Hoyer presiding.

An evidentiary hearing was held before Judge Hoyer in Harrisburg on November 10, 2016. Township actively participated in the evidentiary hearing.

This Main Brief is submitted in accordance with the Prehearing Order, dated September 14, 2016, and the First Interim Order Requiring Briefs, dated November 16, 2016.

B. Burden of Proof

Section 1301 of the Public Utility Code, 66 Pa. C.S. § 1301, provides that "every rate made, demanded, or received by any public utility...shall be just and reasonable, and in conformity with regulations or orders of the commission." The burden of proof to establish the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility. 66 Pa. C.S. § 315(a). The evidence adduced by a utility to meet this burden must be substantial. *Lower Frederick Twp. v. Pa. P.U.C.*, 48 Pa. Cmwlth. 222, 227, 409 A.2d 505, 507 (1980). *See also Brockway Glass Co. v. Pa. P.U.C.*, 63 Pa. Cmwlth. 238, 437 A.2d 1067 (1981).

II. SUMMARY OF ARGUMENT

The City Water Bureau is proposing to increase its rates for water service outside the City by \$257,604 on an annual basis. The City's purchased water charges to Sandy Township, a sale for resale customer, would increase by 34%. The bill for a typical Township residential customer served by the City would increase by approximately 33.6%, and the bills for a typical Township commercial and industrial customer served by the City would increase by approximately 37.5% and 35.8%, respectively.

The City proposes these significant rate increases following a 57.1% increase in City rates that became effective January 1, 2014 at the conclusion of the proceeding at Docket No. R-2013-2350509. Township is concerned with the proposed increases to it as a sale for resale customer of the City and as a commercial sales customer of the City. It is also concerned with the proposed increases to Township residents.

Inflation has been relatively modest since January 2014 and interest rates are low. Township asks that the Public Utility Commission take a very close look at this filing. In contrast with the \$257,604 increase proposed by the City, I&E and the OCA find cost support to increase rates by \$51,429 and \$52,568, respectively, which, in each case, is just one-fifth of the City's proposed increase. I&E St. No. 2-SR at 37 and OCA St. No. 1S at 29.

Specific adjustments proposed by the Township are addressed below. Township also supports the adjustments proposed by I&E and the OCA,¹ reducing the City's proposed rate increase. Considering the many adjustments proposed by opposition parties and the evidence of record, Township submits that the City failed to submit substantial evidence in support of any increase in rates and that the Commission should reject Supplement No. 22 to Tariff Water Pa. P.U.C. No. 4.

¹ I&E and the OCA are sometimes referred to herein, together, as the "Statutory Advocates."

III. RATE BASE

The City Water Bureau presents a jurisdictional – Outside City – rate base claim of \$4,318,104. OCA Exhibit AEE-1S and I&E St. No. 2-SR, page 38, Table I. Township supports the rate base adjustments of the Statutory Advocates reducing the City Water Bureau’s rate base claim.

A. Plant in Service

Township supports the plant in service adjustments proposed by the Statutory Advocates.

B. Additions to Rate Base

Township supports the adjustments to rate base additions proposed by the Statutory Advocates.

C. Deductions from Rate Base

Township supports rate base deductions proposed by the Statutory Advocates.

D. Conclusion

Township supports the rate base adjustments proposed by the Statutory Advocates reducing the City Water Bureau’s rate base claim.

IV. REVENUE

The City Water Bureau presents a jurisdictional – Outside City – revenue claim of \$800,242. I&E St. No. 2-SR, page 38, Table I; City of DuBois St. No. 2-R, Exhibit (CEH-1R) at 2, line 19. Township presents the following adjustments to the City’s revenue claim. Township also supports the revenue adjustments proposed by the Statutory Advocates.

A. Revenue Adjustment for Service to Falls Creek Borough

Falls Creek Borough (“Falls Creek”) is a neighboring municipality to the City of DuBois. Sandy Township St. No. 1 at 3. Falls Creek is operating under a Consent Order and Agreement with the Department of Environmental Protection to do something about its water supply. N.T. 56. It is a matter of public and common knowledge in the area that Falls Creek is abandoning its surface water source and connecting a water supply line to the City of DuBois. Sandy Township St. No. 1 at 4.

Newspaper articles of May 4, 2016, September 7, 2016, September 8, 2016 and October 7, 2016 included as Attachment 1 to Sandy Township Statement No. 1 and as Attachment 1 to Sandy Township Statement No. 1SR address the anticipated purchase of water by Falls Creek from the City. The headline of the article dated May 4, 2016 reports that “Falls Creek residents will be using DuBois water” and goes on to report that Falls Creek Borough Council unanimously voted to give their blessing to an Intergovernmental Cooperation Agreement for the purchase of water from DuBois and that the cost of water from DuBois will be \$4.05 per 1,000 gallons. This, significantly, is the very same rate charged by the City to the Borough of Sykesville, another of the City’s bulk water customers. *See* City of DuBois St. No. 2-R at 24.

The headline of a more recent newspaper article of November 21, 2016, a copy of which

is marked as Sandy Township Exhibit No. 1 and attached to this Main Brief as Attachment 1,² announces that “Falls Creek project to start May 15.” This article reports that Falls Creek had some difficulties negotiating an agreement with DuBois for the sale of water and that, although an agreement has not been signed, “[t]he (borough) engineers have talked with them (the city engineers), there aren’t any differences now.” The article further reports that a modification to the DEP Consent Order and Agreement provides that construction is to begin by May 15, 2017, and be completed by December 31, 2017.

Although the Falls Creek project is moving forward, the City did not include any revenue for water service to Falls Creek in its rate filing. Sandy Township St. No. 1 at 4 and Attachment 2. The revenue impact of adding Falls Creek as a new City customer, however, will be significant and it should be considered in determining the just and reasonable rates and charges allowed by the Commission.

The expectation is that the sales level will be approximately 80,000 gallons per day. At existing rates, the City stands to achieve additional annual revenue of approximately \$110,000 by selling water to Falls Creek. At proposed rates, the additional annual revenue would be approximately \$150,000.³ At the rate of \$4.05 per 1,000 gallons cited in the May 7, 2016 newspaper article, which is the same rate charged by the City to the Borough of Sykesville, the

² Township filed a Motion on November 28, 2016, asking that the newspaper article dated November 21, 2016 be accepted into the record as Sandy Township Exhibit No. 1.

³ At 80,000 gallons per day, monthly sales will be approximately 2,400,000 gallons (30 days x 80,000 gallons per day). At the existing monthly consumption charge of \$5.15 per 1,000 gallons for the first 100,000 gallons (\$515.00) and \$3.77 per 1,000 gallons for usage above 100,000 gallons (\$8,671.00), Falls Creek will pay the City Water Bureau approximately \$9,200 per month or approximately \$110,000 per year (12 months x \$9,200 per month) in water consumption charges. Customer charges at the current level will add approximately \$2,000 to the yearly payment (assuming an 8 inch meter). At the higher monthly rate levels of \$7.15 per 1,000 gallons for the first 100,000 gallons and \$5.10 per 1,000 gallons for usage above 100,000 gallons proposed by the City Water Bureau in Supplement No. 22, Falls Creek, annual payments to the City for water service would be even higher – approximately \$150,000 ((\$715.00 + \$11,730) per month x 12 months). Sandy Township St. No. 1 at 5.

City stands to achieve additional annual revenue of approximately \$116,640 by selling water to Falls Creek.⁴

Sandy Township believes that the Commission should reflect revenue from the anticipated sale of water to Falls Creek to reduce the City Water Bureau's rate increase. Construction on the Falls Creek project is now to begin by May 15, 2017, which is just six weeks after the end of the suspension period in this case. To fail to account for the revenue from Falls Creek would create a potential windfall for the City to the detriment of Sandy Township and its residents.

The Commission should assume the existence of Falls Creek purchased water revenue for the purposes of determining the City Water Bureau's need for additional annual revenue from outside City customers. The revenue adjustment at existing rates, as presented in Sandy Township Statement No. 1, is \$110,000.⁵

B. Revenue Adjustment for Water Sales to Union Township

Union Township is a water customer of the City Water Bureau. The City Water Bureau's contract with Union Township is included in the record as Attachment 6 to Sandy Township Statement No. 1. Union Township pays a rate of \$2.00 per 1,000 gallons for its water service, which is significantly less than the City Water Bureau's tariff rate. Sandy Township St. No. 1 at 9 and Attachment 7.

Section 507 of the Public Utility Code, 66 Pa. C.S. § 507, addresses contracts between public utilities and municipalities and provides that, except for contracts to furnish service at the regularly filed and published tariff rates, no contract or agreement between any public utility and

⁴ \$4.05 per 1,000 gallons multiplied by 2,400,000 gallons per month multiplied by 12 months.

⁵ Township recognizes that its adjustment does not include incremental expenses for City sale of water to Falls Creek. Sandy Township St. No. 1 at 5.

any municipal corporation shall be valid unless filed with the Commission at least 30 days prior to its effective date. There is no evidence of record that the City Water Bureau's agreement with Union Township was ever filed with the Commission. Sandy Township St. No. 1SR at 5; N.T. 28. The City states that it would have no objection to separately filing a copy of the agreement with the Commission. N.T. 29.

The agreement between the City Water Bureau and Union Township to provide water at below tariff rates is not valid under the Public Utility Code. *See* 66 Pa. C.S. § 507. With the Commission not having approved the below tariff rate, Sandy Township submits that it is appropriate under the circumstances to reflect revenue from Union Township at the full tariff level for ratemaking purposes and to assume the higher revenue level for the purpose of determining any rate increase that the Commission might allow for the City Water Bureau. Sandy Township calculates the revenue adjustment to be \$21,241.⁶

⁶ The City projects 2016 sales of 11,065,000 gallons to Union Township with total annual revenue of \$22,130, assuming a rate of \$2.00 per thousand gallons. Sandy Township St. No. 1, Attachment 7. The charge to Union Township at existing rates would be \$43,371 (i.e., (100,000 gallons per month multiplied by \$5.15 per thousand gallons multiplied by 12 months) plus (9,865,000 gallons multiplied by \$3.77 per thousand gallons)). The difference between the below tariff charge of \$22,130 and full tariff charge of \$43,371 is \$21,241.

V. EXPENSES

The City Water Bureau presents a jurisdictional – Outside City – operation and maintenance expense claim of \$646,323. I&E St. No. 2-SR, page 38, Table I; City of DuBois St. No. 2-R, Exhibit (CEH-1R) at 5, line 5. Statutory Advocates propose several adjustments reducing the City Water Bureau's expense claim. Township supports the expense adjustments proposed by the Statutory Advocates.

VI. RATE OF RETURN

The City Water Bureau presents an overall rate of return claim of 6.76% including a 10.50% cost of common equity. It presents an alternative recommended cost of common equity of 9.56% if the Commission decides to adjust the rate of return claim to reflect the income tax status of the investors of the City Water Bureau. City of DuBois St. No. 3 at 2. Statutory Advocates proposed adjustments reducing the rate of return claim. Township supports the rate of return adjustments proposed by the Statutory Advocates.

VII. MISCELLANEOUS

A. Water Sales to Shale Gas Well Drillers

As part of the settlement in its prior proceeding at R-2013-2350509, the City Water Bureau was required to include any and all revenues from water service contracts received from shale gas exploration or drilling companies (and volumes delivered thereto), during a given year, in future annual reports filed with the Commission. Township proposed that the City Water Bureau be required to continue to report the revenues received. Sandy Township St. No. 1 at 8-9. Similar proposals were submitted by I&E and OCA. The City Water Bureau has no objection to continuing to report sales of water to shale gas companies in its annual reports. N.T. 22-23 and 32. Township submits that recognition of the continued reporting requirement should be reflected in the Commission's final Order in this proceeding.

B. The Separation of Costs between the Water and Wastewater Service Provided by the City Water Bureau

The City Water Bureau also provides wastewater service to Sandy Township. The City's wastewater charges to the Township are significant and are increasing. Since May 2016, City Water Bureau *monthly* invoices for wastewater service to the Township have risen from approximately \$80,000 to \$130,000. The increases have occurred due to a change in billing procedure initiated by the City. Prior to the June invoice, sewer billing was determined by water meter reading totals from individual customers located in Sandy Township. Monthly invoices for wastewater services to the Township for May through August 2016 are included as Attachment 3 to Sandy Township Statement No. 1. Sandy Township St. No. 1 at 6-7.

Sandy Township is concerned with the potential for double recovery of costs by the City Water Bureau. The Township asked the City in discovery to explain the steps it took in its rate

filing and in its cost of service study to assure that there is no double recovery of costs. The City made no assurances. Instead, in response to the request for an explanation, the City, in its response to Sandy Township Interrogatory Set I, No. 14, first referred the Township to pages of its rate case supporting information and then, in an updated response, referred to pages of City of DuBois witness Heppenstall's testimony with modifications. The City Water Bureau responses to discovery are included as Attachment 4 to Sandy Township Statement No. 1. Sandy Township St. No. 1 at 7.

Sandy Township proposes that the Commission require the City Water Bureau, in its next rate filing, to present a cost of service study that includes a full explanation and allocation of plant and expenses to wastewater service. The Township's proposal does not ask the Commission to engage in regulation of the City's unregulated wastewater charges but instead seeks recognition and, ultimately, assurance that the City is not double recovering regulated costs. Township submits that double recovery of regulated costs is certainly of jurisdictional and regulatory interest to the Commission.

The Township also asks that the Commission look carefully at the costs claimed and allocated by the City Water Bureau in this proceeding to make sure that the City is not recovering costs in the first instance through its water charges and, in the second instance, through its wastewater charges. We point out, in this regard, that I&E and OCA have questioned the City's allocation of various operation and maintenance expenses and have proposed adjustments to the City's allocation results. *See* I&E St. No. 2-SR at 36; OCA St. No. 1S, Exhibit AEE-1S

C. Jurisdictional Water Sales to the Borough of Sykesville

The Borough of Sykesville is a water customer of the City Water Bureau. The City Water Bureau's contract with Sykesville is included in the record as Attachment 8 to Sandy Township

Statement No. 1. Sykesville presently pays a rate of \$4.05 per 1,000 gallons plus a monthly customer charge of \$168.00 for its water service. The City proposed rate for Sykesville is \$4.95 per 1,000 gallons plus a monthly customer charge of \$196.00. City of DuBois St. No. 2, Exhibit (CEH-1) at 31.⁷

Section 507 of the Public Utility Code, 66 Pa. C.S. § 507, addresses contracts between public utilities and municipalities and provides that, except for contracts to furnish service at the regularly filed and published tariff rates, no contract or agreement between any public utility and any municipal corporation shall be valid unless filed with the Commission at least 30 days prior to its effective date. There is no evidence of record that the City Water Bureau's agreement with the Borough of Sykesville was ever filed with the Commission. Sandy Township St. No. 1SR at 5.

On cross examination at hearing, City witness Suplizio testified that the City would be willing to submit its contract with Sykesville to the Commission (N.T. 57). On redirect testimony, however, Mr. Suplizio testified that he is not the person who determines the City's regulatory and legal obligations. N.T. 57-58.

Irrespective of Mr. Suplizio's testimony, the City apparently views its service to the Borough of Sykesville as outside Commission jurisdiction ("non-jurisdictional") because its interconnection with Sykesville is inside City limits. City of DuBois St. No. 2-R at 24 and N.T. 77. This view of Commission jurisdiction is incorrect and contrary to established precedent. It is the residence of the consumer that determines Commission jurisdiction under the Public Utility

⁷ In Sandy Township Statement No. 1, Mr. Monella testified, based on a reading of the City's contract with the Borough of Sykesville, that the City's rate for bulk water service to Sykesville appeared to be \$0.50 cents per thousand gallons up to an average of 300,000 gallons per day and \$1.00 per thousand gallons for all water beyond the average of 300,000 gallons per day. Sandy Township St. No. 1 at 10. In rebuttal testimony, City witness Heppenstall cited Exhibit (CEH-1) and testified that the current rate charged to Sykesville is \$4.05 per 1,000 gallons.

Code, not the location of the interconnection.

Consumers outside the City's corporate limits need regulatory protection because they have no right to vote and participate in the election of the officials who manage the City Water Bureau. Citing *State College Borough Authority v. Pa. P.U.C.*, 152 Pa. Superior Ct. 363, 31 A.2d 557 (1943), the Commonwealth Court explained the legal principle in *County of Dauphin v. Pa. P.U.C.*, 159 Pa. Cmwlth. 649, 634 A.2d. 281 (1993):

“Prior to the Public Utility Law of 1937, the Public Service Commission had no jurisdiction over a municipally operated public utility whether or not it rendered service beyond its corporate limits.... A realistic appreciation of the temptation to discriminate against the outside users impelled the change. When a municipality limits its service to its own voters the power of the ballot is perhaps an adequate protection. The officials who manage the property are elected by and, therefore, beholden to the consumers for their power to manage. It is the consumer outside the corporate limits, who has no right to participate in the governmental affairs of the municipality and, therefore, in its selection of management, who needs protection against the natural inclination of management to favor its constituents at the expense of the outsider who has no voice.”

Consistent with established legal precedent, the City's water service to the Borough of Sykesville is an “outside the city” service subject to Commission jurisdiction and rate regulation in the same way that the City's water service to Sandy Township and Union Township is subject to Commission jurisdiction and rate regulation.

VIII. RATE STRUCTURE

A. Cost of Service

Township asks that the Commission look carefully at the costs claimed and allocated by the City for its water service to make sure that the City is not double recovering costs in the first instance through its water charges and, in the second instance, through its wastewater charges. Additionally, Township proposes that the Commission require the City, in its next rate filing, to present a cost of service study that includes a full explanation and allocation of plant and expenses to wastewater service. *See* Section VIII.B, *supra*.

B. Revenue Allocation

Sandy Township submits that the City Water Bureau failed to support an increase in rates that would require allocation.

C. Tariff Structure

Sandy Township submits that the City Water Bureau failed to support an increase in rates or a change in tariff structure.

D. Summary and Alternatives

Sandy Township submits that the City Water Bureau failed to support an increase in rates. It asks that the Commission look carefully at the costs claimed and allocated by the City to make sure that the City is not double recovering costs in the first instance through its water charges and, in the second instance, through its wastewater charges. Township also proposes that the Commission require the City, in its next rate filing, to present a cost of service study that includes a full explanation and allocation of plant and expenses to wastewater service. *See* Section VIII.B, *supra*.

IX. CONCLUSION

For the reasons set forth above, Sandy Township submits that Deputy Chief Administrative Law Judge Company Mark A. Hoyer should recommend and the Public Utility Commission should reject The City Water Bureau's Supplement No. 22 to its Tariff Water Pa. P.U.C. No. 4 and adopt the further proposals of Sandy Township set forth in this Main Brief.

Respectfully submitted,

By



Thomas T. Niesen, Esquire
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212 Locust Street, Suite 600
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Attorneys for Sandy Township

DATED: November 29, 2016

PROPOSED CONCLUSIONS OF LAW

PROPOSED CONCLUSIONS OF LAW

1. Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. 66 Pa.C.S. § 1301.

2. The burden of proving the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility. 66 Pa.C.S. § 315(a); *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n*, 409 A.2d 505 (Pa.Cmwlth. Ct. 1980).

3. The evidence adduced by a utility to meet this burden must be substantial. *Lower Frederick Twp. v. Pa. P.U.C.*, 48 Pa. Cmwlth. 222, 227, 409 A.2d 505, 507 (1980). *See also Brockway Glass Co. v. Pa. P.U.C.*, 63 Pa. Cmwlth. 238, 437 A.2d 1067 (1981).

4. The City Water Bureau failed to submit substantial evidence in support of the rates, rules and regulations proposed in its Supplement No. 22 to Tariff Water Pa. P.U.C. No. 4.

5. The City Water Bureau failed to submit substantial evidence in support of any increase in rates to outside City customers.

PROPOSED ORDERING
PARAGRAPHS

PROPOSED ORDERING PARAGRAPHS

THEREFORE

IT IS RECOMMENDED:

1. That the City of DuBois – Bureau of Water not place into effect the rates, rules and regulations contained in Supplement No. No. 22 to its Tariff Water Pa. P.U.C. No. 4.
2. That the Formal Complaint of Sandy Township at Docket No. C-2016-2557459 is sustained and shall be marked closed.
3. That the investigation of the Public Utility Commission at Docket No. R-2016-2554150 shall be marked closed.

SANDY TOWNSHIP

TABLE I

	CITY WATER BUREAU PRESENT RATES	TOWNSHIP REVENUE ADJUSTMENTS AT PRESENT RATES	TOWNSHIP TOTAL REVENUE AT PRESENT RATES	TOWNSHIP PROPOSED REVENUE INCREASE
	\$	\$	\$	\$
REVENUE	800,242			0
TOWNSHIP REVENUE ADJUSTMENTS				
Falls Creek		110,000		
Union Township		21,241		
TOTAL	800,242	131,241	931,483	0

ATTACHMENT 1

Falls Creek project to start May 15

By Eric Hrin

ehrin@thecourierexpress.com

FALLS CREEK - The borough's project to connect to the city of DuBois water system won't begin until May 15 next year.

Recently, borough council and the borough municipal authority passed resolutions for the construction start date as well as the completion date of Dec. 31, 2017.

The resolutions approve a second modification to the consent order and agreement with the state Department of Environmental Protection (DEP), dated June 27, 2014.

As previously reported in the Courier-Express, the municipal authority entered into a consent order with the DEP in 2014 in an attempt to address a number of operational issues and water sources at the infiltration plant and to address long-term liability of the system.

A decision was made to abandon the current surface water source and make connection to the City of DuBois' water system.

This information had been provided Sandy Township Planning Commission Director Jim Keck at a planning commission meeting in August.

According to a letter to the borough from the DEP, the modification was in response to the municipal authority's letter, dated Sept. 14, through its engineering consultant, requesting an extension of the deadlines in the agreement.

Borough manager Cindy Fritz said the original completion date was Dec. 31, 2016.

The extension for the second modification was requested because the borough had some difficulties negotiating an agreement with the city of DuBois for the sale of the water, she explained.

See Project, A7

Project Continued from A1

However, progress has been made.

Fritz said the agreement hasn't been signed yet, but she expects it to be signed by both the borough and the city in the near future.

"The (borough) engineers have talked with them (the city engineers), there aren't any differences now," she said. "We're waiting for the agreement to get sent back to us."

The DEP letter states, "Based upon this modification, the authority and Falls Creek Borough shall, by May

15, 2017, begin construction of the department-approved facilities and submit a copy of the published advertisement for bid package. Additionally, the authority and the borough shall, by Dec. 31, 2017, complete all construction associated with the department-approved public water supply, construction permit, submit a certificate of construction completion form, place all new or modified facilities into service, and achieve compliance with the Safe Drinking Water Act and its regulations."

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Deputy Chief Administrative Law Judge
Mark A. Hoyer, Presiding**

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

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of November, 2016, served a true and correct copy of the Main Brief of Sandy Township, upon the persons and in the manner set forth below:

EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

The Honorable Mark A. Hoyer
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