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April 24, 2017

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:

Attached for filing with the Pennsylvania Public Utility Commission is the Answer of City of DuBois to the Petition for Reconsideration of the Office of Small Business Advocate, in the above-referenced proceeding.

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

Enclosure

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

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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

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Adeolu A. Bakare

Counsel to the City of DuBois – Bureau of Water

Dated this 24th day of April, 2017, at Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**ANSWER OF CITY OF DUBOIS TO THE PETITION FOR
RECONSIDERATION OF THE OFFICE OF SMALL BUSINESS ADVOCATE**

Pursuant to Sections 703(g) of the Public Utility Code and Section 5.572 of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Regulations, the City of DuBois ("City"), hereby answers the Petition for Reconsideration filed by the Office of Small Business Advocate ("OSBA") on April 12, 2017. For the reasons described below, the City requests that the Commission deny the OSBA's Petition for Reconsideration.

1. On June 30, 2016, the City filed with the Commission Supplement No. 22 to Tariff Water Pa. P.U.C. No. 4 ("Supplement No. 22") proposing to increase jurisdictional revenues by \$257,604.¹ *City of Dubois – Bureau of Water Request for Approval to Increase Water Rates*; Docket No. R-2016-2554150 (June 30, 2016).

2. On July 14, 2016, the Office of Consumer Advocate ("OCA") and the OSBA filed Complaints in this proceeding. A formal Complaint was also filed by Sandy Township on July 20, 2016. The Bureau of Investigation and Enforcement ("I&E") filed a Notice of Appearance on July 15, 2016.

3. On August 11, 2016, the Commission suspended Supplement No. 22 for investigation. The filing was referred to the Office of Administrative Law Judge ("OALJ") for

¹ The City later reduced its requested revenue increase to \$229,551.

Alternative Dispute Resolution or hearings before ALJ Hoyer. A Prehearing Conference was held on September 9, 2016, before ALJ Hoyer, at which time the ALJ approved a procedural schedule establishing deadlines for testimony, hearings, and briefs.

4. An evidentiary hearing was held in this proceeding on November 10, 2016, for purposes of presenting oral rejoinder, admitting pre-served written testimony to the record, and performing cross-examination.² Subsequently, the parties proceeded to file Main Briefs and Reply Briefs pursuant to the litigation schedule.

5. On January 13, 2017, ALJ Hoyer issued a Recommended Decision ("R.D."), which incorporated various adjustments to the City's rate base, expenses, and rate of return claims, yielding a maximum revenue increase of \$97,534, instead of the requested \$229,551. R.D., p. 1.

6. On February 2, 2017, the City, OSBA, OCA, I&E, and Sandy Township each filed Exceptions to ALJ Hoyer's R.D.

7. On March 16, 2017, the Commission conducted a binding poll in which the Commission voted to increase the cost of common equity from the 8.62% recommendation in the R.D. to 9.3%. The Commission otherwise declined to modify the recommendations in the R.D.

8. On March 28, 2017, the Commission entered an Order ("March 28 Order"), which implemented additional modifications to the R.D. to correct inadvertent errors in the supporting calculations appended to the R.D. The March 28 Order directed the City to, *inter alia*, file a tariff supplement and supporting calculations consistent with the authorized revenue requirement.

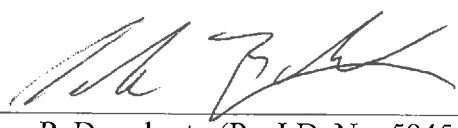
9. On March 12, 2017, the City and OSBA filed Petitions for Reconsideration. The OSBA's Petition for Reconsideration alleged that the City "could make a compliance filing that follows the March 28 Order to the letter, but is in total violation of *Lloyd*."³

² Upon request from the parties, the ALJ cancelled the November 9, 2016, evidentiary hearing.

³ See OSBA Petition for Reconsideration, p. 6 citing *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d

10. On April 17, 2017, the City made a Compliance Filing consisting of Supplement No. 24 to its Tariff Water Pa. P.U.C. No. 4 ("Supplement No. 24") and supporting calculations. Contrary to the allegations set forth in the OSBA Petition for Reconsideration, the supporting calculations filed by the City confirm that Supplement No. 24 complies with both the March 28 Order and the Commission's decision in *Lloyd*.⁴ Any deviations from the City's Cost of Service Study still reflect the City's reliance on its Cost of Service Study as the underlying basis for the rate design and therefore do not violate *Lloyd*.⁵ Accordingly, the concerns raised by OSBA are moot.

WHEREFORE, for the reasons discussed above, the City respectfully requests that the Petition for Reconsideration filed by the OSBA be denied.

Respectfully submitted,
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Dated: April 24, 2017

Counsel to City of DuBois – Bureau of Water

1010, 1020 (Pa. Cmwlth. 20006).
⁴ See Supplement No. 24, Supporting Calculations, at p. 2.
⁵ While *Lloyd* establishes cost of service rates as the polestar of ratemaking, it does not preclude consideration of other factors. See *Lloyd*, 904 A.2d 1010, 1020.