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August 13, 2021

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:

The Commission's Order entered May 18, 2017, at the above-referenced docket number, directed the City of DuBois to file a Compliance Filing regarding the provision of water service initiated between the City of DuBois – Bureau of Water and Falls Creek Borough. As the City did not submit the Compliance Filing immediately upon commencement of service to Falls Creek, the City respectfully requests that the Commission accept the filing and grant any waivers necessary to accommodate this request pursuant to 52 Pa. Code § 5.43. As requested by the Order, this report includes the date service began, the annual gallons to be sold, the rate to be charged per thousand gallons, the expected annual customer charge revenue and a copy of the contract. As set forth in paragraph 1 of the contract, the service point for water sales to Falls Creek is within the City's municipal boundaries.

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)

INTERGOVERNMENTAL COOPERATION AGREEMENT
FOR THE SALE OF WATER

THIS AGREEMENT, made this 2nd day of March, 2017, by and between the **CITY OF DUBOIS**, a municipal corporation existing under and by virtue of the laws of the Commonwealth of Pennsylvania establishing and regulating cities of the Third Class, having its chief place of business in the DuBois City Municipal Building, 16 West Scribner Avenue, DuBois, Clearfield County, Pennsylvania, Party of the First Part, hereinafter referred to as the "City";

A
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D

THE FALLS CREEK BOROUGH MUNICIPAL AUTHORITY, a municipal authority duly organized by the Borough of Falls Creek and existing under and by virtue of the laws of the Commonwealth of Pennsylvania establishing and regulating municipal authorities, with its principal offices at the Falls Creek Borough Building, 117 Taylor Avenue, Falls Creek, Pennsylvania 15840, Party of the Second Part, hereinafter referred to as the "Authority";

A
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D

THE BOROUGH OF FALLS CREEK, a municipal corporation existing under and by virtue of the laws of the Commonwealth of Pennsylvania establishing and regulating boroughs, having its chief place of business at the Falls Creek Borough Building, 117 Taylor Avenue, Falls Creek, Jefferson County, Pennsylvania, Party of the Third Part, hereinafter referred to as the "Borough".

WITNESSETH THAT:

WHEREAS, the Department of Environmental Protection has mandated to the Falls Creek Municipal Authority that it secure a viable long-term water source for its customers; and

WHEREAS, the Department of Environmental Protection has directed the Authority to devise a plan whereby the Authority will provide water to its customers that will meet with approval by the Department of Environmental Protection; and

WHEREAS, the Authority has requested and the City has agreed to supply water from the City's system to the Authority on the terms and under the conditions set forth herein; and

WHEREAS, the City, the Authority and the Borough, in and for the considerations, covenants, conditions and agreements hereinafter set forth, to be paid, kept and performed by each of the parties hereto, and do agree, and by these presents do agree, that the City shall sell to the Authority water for public and domestic use and for such other purposes for which the Authority is empowered to furnish water, and the Authority shall continue to buy the same, to be used by the Authority for said public and domestic use and such other purposes for which the Authority is empowered to furnish water.

NOW, THEREFORE, in consideration of the mutual promises herein contained, it is hereby agreed that:

1. The City agrees to sell and deliver all the water, subject to the limitations in Paragraph 4 hereof, that the Authority desires to purchase at a point within the corporate limits of the City of DuBois at the Patterson Avenue water tank property, where the Authority will connect to an existing eight inch (8") water line. A six inch (6") meter pit is also to be installed at the location of the connection by the Authority at its sole cost.

2. The Authority shall construct and maintain at its sole cost a line from the Borough of Falls Creek to the meter pit which shall be the sole property of the Authority and it shall provide and maintain

at its sole cost a proper concrete chamber to house the meter and shall make needed modifications to said chamber as may become necessary from time to time as its sole costs.

The Authority has determined that it is unnecessary to construct a by-pass valve along with the meter. The City of DuBois defers to this decision by the Authority. However, in the event that the Authority performs any maintenance on the meter that causes a shut off of water, the Authority will hold the City of DuBois harmless from any liability resulting from that action.

3. The Authority shall provide a proper gate or valve on both sides of said meter and shall keep and maintain the same at its own expense.

4. The City shall sell and deliver water to the Authority, up to a maximum of 150,000 gallons per day upon a monthly average, at said meter for a period of thirty-three (33) years, under all of the terms, conditions and agreements herein set forth. The City may sell and deliver water to the Authority in excess of the 150,000 gallons per day based on a monthly average, only upon a written request from the Authority. Approval of the written request from the Authority is at the sole discretion of the City and approval by the PA DEP of an increase of a water allocation permit.

5. The Authority agrees to accept delivery of the water after it has passed through the said six inch (6") Onmi meter, equipped with a remote radio transmitter, and to provide an eight inch (8") line at said point to take and transport the water after delivery to the Borough of Falls Creek, upon the terms and conditions hereinafter provided. The water shall be of the same kind and character as flows from the reservoir of the City situate in Anderson Creek in Union Township or from the City's wells in Union and Sandy Townships, Clearfield County, Pennsylvania, and as carried therefrom through the pipelines and mains now belonging to the City, and as shall hereinafter be constructed to the point of delivery. It is understood and agreed that the said water is transported by gravity with occasional pumping, from the reservoir on Anderson Creek or from the City's wells as aforesaid, through the pipes or mains maintained by the City.

In the event of prolonged and unusual periods of drought, causing reduction of supply within the existing system of the City, the City shall have the right to curtail and reduce the supply of water at the said meter and the City agrees to a commensurate reduction and curtailment of the supply of water in the City of DuBois. The Authority agrees to cooperate with the City in such event, with the Authority's consumers and itself to conserve the supply of water and to economize in the use thereof by its consumers.

6. The Authority agrees to pay the City the sum of \$4.05 per 1,000 gallons for all water flowing through the six inch (6") meter pit, with no increase in the price per 1,000 gallons of water, during the first five (5) years after the valve is open and the system is operational. Beginning with the sixth (6th) year and continuing each year through year thirty-three (33), the base price of \$4.05 per 1,000 gallons of water shall be increased from the price charged for the year before by the amount of two percent (2%).

7. The City shall render a monthly statement to the Authority by depositing the same in the United States Post Office at DuBois, Pennsylvania, with postage prepaid, addressed to the Authority at its address at 117 Taylor Avenue, P. O. Box 418, Falls Creek, PA 15840, or delivered by electronic mail, showing the amount of water consumed by the Authority during the immediately preceding month and the Authority shall make payment thereon within thirty (30) days after the date of mailing of said notice. An additional penalty of 5% shall be due on rental payments unpaid in excess of forty-five (45) days. On failure of the Authority to make such monthly payment within ninety (90) days after the date of the mailing of such notice or the forwarding of the same by electronic mail, the City shall have the right to shut off the said water and refuse to restore the same until the unpaid rental is paid in full.

8. The Authority further agrees to pay a monthly surcharge of \$225.00 per six inch meter each and every month in addition to the aforesaid rate.

9. The Authority will not sell water to any person or persons residing outside of the current service area of the Authority, except upon written consent of the City and upon such terms as the City

may require. For the purposes of this Agreement, the service area of the Authority shall include the Falls Creek Borough and Washington Township.

10. The Authority shall have control of said meter and make all meter readings and shall pay for the water passing through said meter as shown by said meter readings. It is further agreed that the Authority will have the meter inspected and calibrated annually to insure the continued proper operation of said meter. However, the City shall have the right at any reasonable time, through its authorized representatives, to inspect the said meter and to see and examine all meter readings and reports thereof kept and maintained by the Authority.

11. It is further agreed that if, at any time during the term of this contract, the City should be required to make capital improvements or major repairs to the existing water system to insure an adequate flow of water, or to make an improvement of security to the water system which directly benefits the quantity or quality of water service to the Authority, the Authority and the City shall negotiate a rate or surcharge to be added to the monthly charges previously agreed to in the above sections of this Agreement.

12. As further consideration for the City of DuBois agreeing to maintain the price at \$4.05 per 1,000 gallons for all water flowing through the six inch (6") meter pit for five (5) years from the date the valve is open and the Authority's line becomes operational with no increase in the price per 1,000 gallons of water, the Authority and the Borough agree that the City shall be given the first opportunity to purchase the water and sewer system of the Authority and the Borough or any part thereof, from the Authority and/or the Borough as the ownership of said system may be titled, under the same terms and conditions as offered by any third party in an arm's length offer to purchase. The Authority and/or the Borough, or their or its successors and assigns, shall provide to the City, notice in writing of the offer setting forth the name and address of the proposed purchaser, the amount of the proposed purchase price, and all other terms and conditions of such offer and the City shall have the first option to purchase

the water and/or sewer system which are/is the subject of the offer by giving written notice to the Authority and the Borough, their respective successors and assigns, of the City's intention to do so, it being specifically understood that in the event the system set forth in the offer is not sold for any reason, the City shall have, upon the same conditions and notice, the continuing first option to purchase the subject water and/or sewer system or any part of such system, upon the terms of any subsequent offer or offers to purchase.

In the event no third party makes such an offer, but the Authority and/or the Borough, its successors or assigns, nevertheless desire to sell the subject water and/or sewer system or any part thereof, then the City of DuBois shall have the first right to purchase the water and/or sewer system at its then market value to be determined by a qualified appraiser chosen by the City of DuBois.

The exercise of any right of first refusal or option to purchase set forth herein shall occur within sixty (60) days of notice being delivered by the Falls Creek Borough Municipal Authority and/or the Falls Creek Borough, their or its successors or assigns to the City of DuBois, its successors or assigns.

13. It is further understood and agreed that all of the parties hereto have the power, under the laws of the Commonwealth of Pennsylvania, to enter into and make this contract for the sale and delivery of water by the City to the Authority and for the Authority to purchase the same, and this Agreement is made under and subject to the laws of the Commonwealth of Pennsylvania in respect to municipal authorities and cities of the Third Class, and any supplements or amendments that may be hereinafter enacted. It is further agreed that the beginning date of this Agreement shall be the date upon which all parties sign the same.

14. This Agreement shall be considered the sole contract of all parties and shall not be altered or changed in any manner without the consent of the said parties first had by action of the City Council of the City of DuBois on behalf of the City and by the Board of the Authority on behalf of the Authority

assembled for that purpose, with proper ordinances or resolutions passed and exchanged between the parties with the written consent of the proper officials of all parties thereto.

15. It is further agreed that this contract has been presented before the Council of the City of DuBois and duly adopted by resolution and before the Board of the Authority and duly adopted by resolution and the proper authorities of both the City and the Authority duly authorized to make and execute five copies of the foregoing Agreement for and on behalf of the respective parties and that the corporate seals of the City, the Authority and the Borough entering into this Agreement have been hereunto affixed this 2nd day of March, 2017; on the 3RD day of March, 2017, and on the 3RD day of March, 2017, respectively.

IN WITNESS WHEREOF, the parties herein have hereunto caused this Agreement to be properly executed by their proper officials and have attached their respective official seals this 2nd day of March, 2017, for the CITY OF DUBOIS; on the 3RD day of March, 2017, for the FALLS CREEK BOROUGH MUNICIPAL AUTHORITY and on the 3RD day of March, 2017, for THE BOROUGH OF FALLS CREEK.

ATTEST:

John Suplicy
City Manager

CITY OF DUBOIS:

By *Lang Gilbert*
Mayor

ATTEST:

Cindy Fritz - manager

FALLS CREEK BOROUGH MUNICIPAL AUTHORITY:

By *Chad Smith*

ATTEST:

Cindy Fritz - manager

THE BOROUGH OF FALLS CREEK:

By *Kevin Reynolds*

Falls Creek Water Sales

Month	2018	Per Calculated Rate	2019	Per Calculated Rate	2020	Per Calculated Rate	2021	Per Calculated Rate
January	0		2,122,630	\$ 8,596.65	2,221,030	\$ 8,995.17	2,100,600	\$ 8,507.43
February	0		2,047,030	\$ 8,290.47	1,913,200	\$ 7,748.46	2,172,520	\$ 8,798.71
March	0		2,056,000	\$ 8,326.80	2,150,340	\$ 8,708.88	2,243,330	\$ 9,085.49
April	0		2,426,800	\$ 9,828.54	2,139,750	\$ 8,665.99	2,502,660	\$ 10,135.77
May	2,162,000	\$ 8,756.10	2,369,980	\$ 9,598.42	2,173,690	\$ 8,803.44	2,427,160	\$ 9,830.00
June	2,404,000	\$ 9,736.20	2,006,730	\$ 8,127.26	2,253,450	\$ 9,126.47	2,375,980	\$ 9,622.72
July	2,547,020	\$ 10,315.43	2,281,690	\$ 9,240.84	2,531,600	\$ 10,252.98		\$ -
August	2,484,220	\$ 10,061.09	2,455,330	\$ 9,944.09	2,357,000	\$ 9,545.85		\$ -
September	2,136,800	\$ 8,654.04	2,248,210	\$ 9,105.25	2,105,470	\$ 8,527.15		\$ -
October	1,986,460	\$ 8,045.16	2,245,080	\$ 9,092.57	2,462,290	\$ 9,972.27		\$ -
November	2,219,880	\$ 8,990.51	2,207,570	\$ 8,940.66	2,186,220	\$ 8,854.19		\$ -
December	2,213,220	\$ 8,963.54	2,176,550	\$ 8,815.03	2,222,170	\$ 8,999.79		\$ -
	18,153,600		26,643,600		26,716,210		13,822,250	

Notes:

Falls Creek Report

Date service began	May 10, 2018
Annual gallons to be sold	54,000,000 gallons
Rate to be charged per thousand gallons	\$4.05 per thousand gallon
Expected annual customer charge revenue	\$2,700