



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

January 18, 2022

**Via Electronic Filing**

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

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
East Dunkard Water Authority  
Docket No. C-2021-3027615  
**I&E Motion for Summary Judgment**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's **Motion for Summary Judgment** in the above-referenced proceeding. Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Stephanie M. Wimer'.

Stephanie M. Wimer  
Senior Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 207522  
(717) 772-8839  
[stwimer@pa.gov](mailto:stwimer@pa.gov)

SMW/ac  
Enclosures

cc: Honorable Marta J. Guhl (*via email only*)  
Athena DelVillar, Legal Assistant (*via email only*)  
Michael L. Swindler, Deputy Chief Prosecutor (*via email only*)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2021-3027615
	:	
East Dunkard Water Authority	:	
Respondent	:	

**NOTICE TO PLEAD**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) has filed a Motion for Summary Judgment in the above-captioned matter. Pursuant to 52 Pa. Code § 5.102(b), you are hereby notified to file a written response within **twenty (20)** days of service of the Motion. If no response denying the enclosed Motion for Summary Judgment is timely filed, the facts set forth in the Motion may be deemed to be true, requiring no other proof. Any Answer to the Motion must be filed with the Commission, with a copy served to the I&E prosecutor.

*Pursuant to Waiver of Regulations Regarding Service Requirements*, Docket No. M-2021-3028321 (Order entered September 15, 2021), parties are encouraged to open and use an e-filing account through the Commission’s website at [www.puc.com](http://www.puc.com) or, to ensure timely arrival, submit the filing by overnight delivery to: Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, Pennsylvania 17120. Emailed or faxed submissions are not acceptable. If a filing contains confidential or proprietary material, the filing should be submitted by overnight delivery to ensure arrival. Large filings containing confidential or proprietary material may also be submitted through the Commission’s Share Point File system. These filings should be followed by a hard copy with a flash drive or CD for the Commission’s file. Filers should contact the Secretary’s Bureau in advance to set up a Share Point File before submitting the filing.



Stephanie M. Wimer  
Senior Prosecutor  
PA Attorney ID No. 207522

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
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400 North Street  
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Dated: January 18, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2021-3027615
	:	
East Dunkard Water Authority	:	
Respondent	:	

**MOTION FOR SUMMARY JUDGMENT**

The Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorneys, files this Motion for Summary Judgment pursuant to Section 5.102(a) of the Commission’s regulations, 52 Pa. Code § 5.102(a), as there is no dispute as to material facts and I&E is entitled to judgment as a matter of law. In support thereof, I&E respectfully represents as follows:

**I. INTRODUCTION AND BACKGROUND**

1. I&E is the bureau established to take enforcement actions against public utilities and other entities subject to the Commission’s jurisdiction pursuant to 66 Pa.C.S. § 308.2(a)(11); *see also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E).

2. The East Dunkard Water Authority (“Authority”) is a “municipal corporation” as that term is defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, in that it is an “authority . . . created or organized under any law of this Commonwealth for the purpose of rendering any service similar to that of a public utility.” The Authority furnishes water service to the public for compensation to residential and commercial customers who are located in Dunkard Township and Greene Township, as well as portions of Monongahela,

Cumberland, Perry, and Whiteley Townships in Greene County, Pennsylvania.

3. I&E commenced this action on August 2, 2021 by filing a Complaint alleging that since 2011, the Authority has impermissibly furnished water service to the public for compensation without holding a Certificate of Public Convenience issued by the Commission to customers located in Greene, Monongahela, Cumberland, Perry, and Whiteley Townships, which are municipalities beyond the Authority's corporate limits. I&E alleges that such action violates 66 Pa.C.S. § 1102(a)(5), which prohibits municipal corporations from acquiring, constructing, or beginning to operate any plant, equipment, or other facilities for the rendering or furnishing to the public of any public utility service beyond its corporate limits.

4. I&E's Complaint further alleges that the Authority failed to furnish and maintain adequate, efficient, safe, and reasonable service and facilities to customers located beyond its corporate limits in that it provided discolored or dirty water, no water or low water pressure, and facilities that leaked. I&E alleges that such action violates 66 Pa.C.S. § 1501.

5. In response to I&E's Complaint, the Authority admits that it operates and maintains eight (8) storage tanks, six (6) pump stations, twenty-seven (27) miles of water lines, and a water plant in Green County, Pennsylvania. *See* ¶ 25 of the Authority's Answer to I&E's Complaint. The Authority also admits that it is responsible for making repairs to approximately 207 miles of water lines that it leases from the East Dunkard Water Association ("Association"), and is able to make alterations, additions, and improvements to those water lines provided that the Association consents. *Id.*

6. The Authority admits that East Dunkard is the only municipality that joined the Authority. *See* ¶ 27 of the Authority’s Answer to I&E’s Complaint.

7. The Authority admits furnishing water service for compensation to approximately 1,591 residential customers and 61 commercial customers who are located in Greene, Monongahela, Cumberland, Perry, and Whiteley Townships. *See* ¶ 26 of the Authority’s Answer to I&E’s Complaint.

8. The Authority further admits that it invoices these customers on a monthly basis. *See* ¶ 28 of the Authority’s Answer to I&E’s Complaint.

9. The Authority also admits that it does not hold a Certificate of Public Convenience issued by the Commission and has not applied for a Certificate of Public Convenience. *See* ¶¶ 6 and 18 of the Authority’s Answer to I&E’s Complaint.

10. Moreover, the Authority admits receiving approximately 116 complaints from residential customers and three (3) complaints from commercial customers between June 1, 2019 and March 16, 2021, who alleged that they experienced water that was dirty, yellow, orange or brown in color, leaking water, and little to no water pressure. *See* ¶ 34 of the Authority’s Answer to I&E’s Complaint.

11. The Authority further admits receiving notices of violations from the Pennsylvania Department of Environmental Protection (“DEP”) on July 9, 2019 and December 4, 2020, concerning the Authority’s failure to adhere to regulations pertaining to monitoring requirements for drinking water. *See* ¶¶ 35 and 36 of the Authority’s Answer to I&E’s Complaint.

12. The Authority's admissions demonstrate that no genuine issue of material fact exists and when the defenses raised by the Authority are accepted as true, I&E's Complaint must be sustained as a matter of law.

## **II. PROCEDURAL BACKGROUND**

13. On August 2, 2021, I&E filed the aforementioned Complaint against the Authority. I&E's Complaint was served by Secretarial Letter dated August 3, 2021.

14. On August 27, 2021, the Authority filed an untimely Answer to I&E's Complaint.

15. On September 13, 2021, I&E filed a Motion to Strike the Authority's untimely filed Answer.

16. On October 12, 2021, the Authority filed an untimely Reply to I&E's Motion to Strike.

17. On October 20, 2021, I&E filed a Motion to Strike the Untimely Filed Reply of the Authority.

18. On November 9, 2021, the Authority filed a Reply to I&E's Motion to Strike its Untimely Filed Reply.

19. By Interim Order dated December 9, 2021 regarding Motion to Strike Answer and Motion to Strike Reply, Administrative Law Judge ("ALJ") Marta Guhl denied I&E's Motions to Strike, directed the parties to strictly adhere to future deadlines and due dates, and advised that the matter will be scheduled for a prehearing conference.

20. By Notice dated December 10, 2021, an initial telephonic prehearing conference is scheduled for February 2, 2022 at 10:00 a.m. and a prehearing order was served on December 16, 2021.

### III. ARGUMENT

#### A. Summary Judgment Standard

21. The Commission's Rules of Administrative Practice and Procedure permit parties to file preliminary motions. 52 Pa. Code §§ 5.101-103. Specifically, the Commission's regulations at 52 Pa. Code § 5.102(a) permit any party to move for summary judgment after the pleadings are closed, but within such time as not to delay a hearing. A motion for summary judgment must be based on the pleadings, depositions, answers to interrogatories, admissions, and supporting affidavits. 52 Pa. Code § 5.102(c). "Documents not already filed with the Commission shall be filed with the motion." *Id.* The presiding officer must grant a motion for summary judgment if the pleadings, depositions, answers to interrogatories, admissions, and affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1).

22. Summary judgment is properly granted where the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. *Pennsylvania State Univ. v. County of Centre*, 615 A.2d 303, 304 (Pa. 1992).

23. In the case of a motion for summary judgment, the moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to a judgment as a matter of law. The Commission must view the record in the light most favorable to the non-moving party, giving that party the benefit of all reasonable inferences. *First Mortgage Co. of Pennsylvania v. McCall*, 459 A.2d 406 (Pa. Super. 1983). All doubts

as to the existence of a genuine issue of material fact must be resolved against the moving party. *Thomson Coal Company v. Pike Coal Company*, 412 A.2d 466, 469 (Pa. 1979).

Summary judgment will be granted only where the right is clear and free from doubt. *Id.* at 468.

24. The non-moving party in a motion for summary judgment must allege facts showing that an issue for trial exists. *Stover v. The United Telephone Company of Pennsylvania*, Docket No. C-00923833 (Order entered July 21, 1992 adopting Initial Decision issued June 1, 1992). The Commission has interpreted 52 Pa. Code § 5.102(c) in conformity with Rule 1035 (now Rule 1035.1) of the Pennsylvania Rules of Civil Procedure. *South River Power Partners, L.P. v. West Penn Power Company*, Docket No. C-00935287 (Order entered November 6, 1996) at 13. In civil practice, a non-moving party may not rely solely upon denials in its pleadings, but must submit some materials to establish that a genuine issue of material facts exists. *Nicastro v. Cuyler*, 467 A.2d 1218 (Pa. Cmwlth. 1983); *Pennsylvania Gas & Water Co. v. Nenna & Frain, Inc.*, 467 A.2d 330 (Pa. Super. 1983); *Geriot v. Council of Borough of Darby*, 457 A.2d 202 (Pa. Cmwlth. 1983); *see also*, Pa. R.C.P. 1035.3(d), providing that “[s]ummary judgment may be entered against the non-moving party who does not respond.”

25. The provision at 52 Pa. Code § 5.102(c) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. *Lehigh Valley Power Committee v. Pa. Pub. Util. Comm’n*, 563 A.2d 557 (Pa. Cmwlth. 1989); *S.M.E. Bessemer Cement, Inc. v. Pa. Pub. Util. Comm’n*, 540 A.2d 1006 (Pa. Cmwlth. 1988); *White Oak Borough Authority v. Pa. Pub. Util. Comm’n*, 103 A.2d 502 (Pa. Super. 1954).

**B. The Authority Admits Furnishing Water Service for Compensation Outside of Its Corporate Boundaries**

26. A review of the pleadings, the Authority's data request responses that were submitted to I&E during the course of I&E's investigation, as well as the accompanying affidavit attached hereto as Attachment A, demonstrate that no genuine issue of material fact exists and that when the defenses presented by the Authority are accepted as true, I&E must prevail as a matter of law.

27. Dunkard Township is the sole municipality that formed and joined the Authority. *See* I&E Exhibit 2 of I&E's Complaint, which appends Dunkard Township's Ordinance No. 2-2010, the Authority's Articles of Incorporation, and the Authority's Certificate of Incorporation. *See also* I&E Exhibit 1 of the instant Motion, which is the Authority's response to I&E Data Requests – Set I, No. 5.

28. The Authority provides water service for compensation to customers located in various municipalities outside of Dunkard Township. *See* I&E Exhibit 2, which is the Authority's response to I&E Data Requests – Set I, No. 2 that provides a description and map of the Authority's service area. *See also* ¶ 26 of the Authority's Answer to I&E's Complaint.

29. The Authority directly invoices customers located in municipalities outside of Dunkard Township. *See* I&E Exhibit 3, which is the Authority's response to I&E Data Requests – Set II, No. 4 that provides a sample monthly invoice that is sent to the Authority's 1,591 residential customers and 61 commercial customers. *See also* ¶¶ 26 and 28 of the Authority's Answer to I&E's Complaint.

30. The Authority's claim that its Articles of Incorporation provide the basis for it to furnish water service to Dunkard Township as well as to adjoining political subdivisions is legally erroneous. *See* ¶ 6 of the Authority's Answer to I&E's Complaint. Section 5603(a)

of the Municipality Authorities Act requires municipalities that desire to organize an authority to adopt a resolution or ordinance signifying their intent to do so. Section 5603(a) provides as follows:

**(a) Resolution of intent.**-- Whenever the municipal authorities of any municipality singly or of two or more municipalities jointly desire to organize an authority under this chapter, they shall adopt a resolution or ordinance signifying their intention to do so. No such resolution or ordinance shall be adopted until after a public hearing has been held, the notice of which shall be given at least 30 days before the hearing and in the same manner as provided in subsection (b) for the giving of notice of the adoption of the resolution or ordinance.

53 Pa.C.S. § 5603(a).

31. Moreover, municipalities that desire to join an existing authority may do so if they adopt a resolution or ordinance. Section 5604(b)-(c) of the Municipality Authorities Act provides, in pertinent part, as follows:

**(b) Power to join.**--When an authority has been incorporated by one or more municipalities, a municipality not having joined in the original incorporation may subsequently join in the authority.

**(c) Procedure.**--Any municipality wishing to withdraw from or to become a member of an existing authority shall signify its desire by resolution or ordinance . . . .

53 Pa.C.S. § 5604(b)-(c).

32. The Authority admits that it is unaware of a written resolution, ordinance or any other legal authority that became effective subsequent to Dunkard Township's Ordinance No. 2-2010 that would authorize the provision of water service for compensation to customers in Greene, Monongahela, Cumberland, Perry, and Whiteley Townships. *See* I&E Exhibit 4, which is the Authority's response to I&E Data Requests – Set II, No. 1(a).

33. Indeed, in determining a dispute between the Authority and the Southwestern Pennsylvania Water Authority concerning, *inter alia*, the Authority's impermissible provision of water service to residents in Monongahela Township, Commonwealth Court recently found in an unreported opinion<sup>1</sup> that the Authority circumvented the Commission by assuming a private water distribution system and providing water service beyond Dunkard Township. *East Dunkard Water Auth. v. Southwestern Pa.*, No. 116 C.D. 2020, 2020 Pa. Commw. Unpub. LEXIS 547\* (Pa. Cmwlth. 2020). I&E Exhibit 1 of I&E's Complaint appends Commonwealth Court's unreported opinion.

34. The purpose of subjecting a municipally operated public utility which renders service beyond its corporate limits to the Commission's jurisdiction is to protect users of the service who are not residents of the municipality. *County of Dauphin v. Pa. Pub. Util. Comm'n*, 634 A.2d 281, 283 (Pa. Cmwlth. 1993). Commonwealth Court has stated as follows:

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.

*Id.* citing *State College Borough Authority v. Pa. Pub. Util. Comm'n*, 31 A.2d 557, 562 (Pa. Super. 1943).

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<sup>1</sup> Commonwealth Court's unreported opinion has been cited for its persuasive value.

35. Therefore, as a matter of law, I&E is entitled to summary judgment as to the Authority's violation of 66 Pa.C.S. § 1102(a)(5).

**C. The Authority Admits Receiving Notices of Violations from DEP**

36. DEP's Notice of Violation dated July 9, 2019 found that the Authority failed to monitor or report sample results for coliform and free chlorine residual within the distribution system on a weekly basis during May 2019. *See* I&E Exhibit 3 of I&E's Complaint. The Authority was required to post a notice to publicly advise that in May of 2019, it did not complete all required monitoring and testing, and therefore was unable to ensure the quality of drinking water at that time. *Id.*

37. DEP's Notice of Violation dated December 4, 2020 found that the Authority failed to monitor or report the required number of turbidity or disinfectant residual measurements. *See* I&E Exhibit 4 of I&E's Complaint.

38. The Notices of Violation that the Authority received from DEP constitute *prima facie* evidence of the Authority's failure to "furnish and maintain adequate, efficient, safe and reasonable service and facilities, and ... make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public," pursuant to 66 Pa.C.S. § 1501.

39. The 119 customer complaints that the Authority received between June 1, 2019 and March 16, 2021, which alleged that they experienced water that was dirty, yellow, orange or brown in color, leaking water, and little to no water pressure, are corroborated by DEP's Notices of Violation.

40. Therefore, as a matter of law, I&E is entitled to summary judgment as to the Authority's violation of 66 Pa.C.S. § 1501.

#### **IV. CONCLUSION**

WHEREFORE, for the foregoing reasons, the Bureau of Investigation and Enforcement respectfully requests that Your Honor grant its Motion for Summary Judgment and sustain its Complaint, including all of the relief requested therein.

Respectfully submitted,



Stephanie M. Wimer  
Senior Prosecutor  
PA Attorney ID No. 207522

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 772-8839  
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Date: January 18, 2022

# **ATTACHMENT A**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2021-3027615
	:	
East Dunkard Water Authority	:	
Respondent	:	

**AFFIDAVIT OF CLINTON MCKINLEY IN SUPPORT OF  
THE BUREAU OF INVESTIGATION AND ENFORCEMENT'S  
MOTION FOR SUMMARY JUDGMENT**

I, Clinton McKinley, being duly sworn according to law, depose and say the following:

1. My name is Clinton McKinley and my business address is 400 North Street, Harrisburg, PA 17120.
2. I am a Fixed Utility Valuation Engineer III in the Pennsylvania Public Utility Commission's ("Commission") Bureau of Technical Utility Services ("TUS") and serve as the Bureau of Investigation and Enforcement's ("I&E") prosecutorial liaison in this proceeding.
3. As part of my job responsibilities, I review and recommend approval of applications filed by prospective and certificated water and wastewater public utilities for the issuance of Certificates of Public Convenience by the Commission. In this position, I have obtained training and experience that enables me to classify water and wastewater systems, and make determinations as to whether a system falls under the Commission's jurisdiction.
4. My job duties also include performing analysis, from an engineering perspective, of valuations and proposed rate structures submitted by fixed utilities. This

includes the review of depreciation calculations original cost studies, and other related information useful in determining a utility's rate base.

5. The East Dunkard Water Authority ("Authority") does not maintain a Certificate of Public Convenience issued by the Commission.

6. The Authority furnishes water service to residential and commercial customers for compensation in the following municipalities, which are located outside of the Authority's corporate limits: Greene, Monongahela, Cumberland, Perry, and Whiteley Townships.

7. The Authority furnishes this water service absent a bulk water agreement with Greene, Monongahela, Cumberland, Perry, and Whiteley Townships. In other words, the Authority furnishes water service directly to residential and commercial customers located in Greene, Monongahela, Cumberland, Perry, and Whiteley Townships, without an inter-governmental agreement, and consequently, those customers have no ability or power to vote on matters concerning the Authority's provision of water service to them.

8. The Pennsylvania Department of Environmental Protection ("DEP") issued two notices of violation to the Authority.

9. DEP's Notice of Violation dated July 9, 2019 found that the Authority failed to monitor or report sample results for coliform bacteria and free chlorine residual within the distribution system on a weekly basis in May 2019. Water systems are required to sample for coliform bacteria as its presence is an indicator that other disease-causing organisms are also present in the water. Since coliform bacteria usually persist longer than most disease-causing organisms, the absence of coliform bacteria indicates the water supply is microbiologically safe to drink. Free chlorine is the chlorine available to provide

disinfection after some of the chlorine added during the treatment process has reacted with organic and inorganic materials, metals, and other compounds in the water. Monitoring free chlorine residuals in drinking water is necessary to ensure that a certain level of chlorine remains available to provide protection against disease-causing organisms which may enter the distribution system after initial disinfection. Without testing for coliform bacteria and measuring free chlorine residual, a water system would not be able to detect possible contamination or ensure that adequate chlorine remains available in the water to protect the system from recontamination. In this manner, the Authority failed to maintain adequate, safe, and reasonable service and facilities.

10. DEP's Notice of Violation dated December 4, 2020 found that the Authority failed to monitor or report the required number of turbidity or disinfectant residual measurements. Monitoring turbidity and disinfectant residual measurements in drinking water is necessary to ensure that water, delivered to and circulating within the distribution system or being stored in tanks for future distribution, maintains its potability and is safe for consumption. Turbidity is a reduction in water clarity because of the presence of suspended matter, which absorbs and scatters light. Turbidity is measured before and after the treatment. Water with high turbidity contains a higher number of suspended solids which may include silt, clay, organic and inorganic mater, and other microscopic organisms. These suspended solids can provide an environment conducive to the proliferation of disease-causing organisms and reduce the effectiveness of the water treatment process. If a water system does not monitor turbidity, it could be pumping water into the distribution system that has a higher potential to regrow harmful pathogens. The effects of not maintaining a rigorous disinfectant residual testing protocol throughout the distribution system are the same

as discussed above for the effects of not monitoring the free chlorine residual By failing to monitor turbidity and disinfectant residual measurements, the Authority failed to maintain adequate, safe, and reasonable service and facilities.

11. I am authorized to submit this affidavit for and on behalf of I&E and represent that the facts set forth herein are true and correct to the best of my knowledge, information, and belief.

  
Clinton McKinley

Sworn and subscribed before me  
this 18<sup>th</sup> day of January 2022.

  
Notary Public  
My Commission expires on:

**Commonwealth of Pennsylvania-Notary Seal  
Victoria R. Moore, Notary Public  
Dauphin County  
My Commission Expires September 3, 2022  
Commission Number 1115176**

**I&E**  
**Exhibit 1**

**I&E Data Requests – Set I**  
**Directed to East Dunkard Water Authority**

5. Indicate whether the Authority is a “municipal corporation” as defined in 66 Pa.C.S. § 102, including whether it is an authority created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility.

**Answer:** Yes, the Authority is a “*municipal corporation*” as defined in 66 Pa. C.S. §102 and authority and was formed under the Municipality Authorities Act of the General Assembly of the Commonwealth which was approved the 2<sup>nd</sup> day of May 1945, P.L. 382, No. 164, as amended and for the purpose of constructing or otherwise providing for the facilities necessary to furnish water for the incorporating municipality and to such adjoining political subdivisions or areas as desire the service.

If answered affirmatively:

- a. Explain the basis for any assertion that the Authority is a municipal corporation or authority;

**Answer:** The Authority was created and organized under the Municipal Authorities Act of 1945 and the Second-Class Township Code by virtue of an Ordinance duly enacted by the Dunkard Township, Greene County Board of Supervisors for the purpose of constructing or otherwise providing facilities necessary to furnish water for the incorporating municipality and to such adjoining political subdivisions or areas as desire the service. The Authority’s activities consist of financing working capital; acquiring, holding, constructing, financing, improving, maintaining and operating, owning or leasing, either in the capacity of lessor or lessee, projects for waterworks, water supply works, and or water distribution systems similar to that of a public utility. The Authority owns facilities as listed in the Answer to Question 1 above, filed Articles of Incorporation, received a Certificate of Incorporation, adopted Bylaws, and held an organizational meeting on January 13, 2011. The Authority continues to hold regular monthly meetings. *See Exhibit Q5-a* for November 22, 2010 Meeting Minutes from Dunkard Township whereby the Dunkard Township Board of Supervisors adopted Ordinance 2-2010. *See Exhibit Q5-a(2)* for the advertisement in the Observer-Reporter on December 29, 2010 relating to the Authority’s organizational meeting held on January 13, 2011.

- b. Identify the municipality or municipalities that originally organized the Authority and provide the applicable resolution or ordinance that formed the Authority;

**Answer:** Dunkard Township originally organized the Authority. Ordinance 2-2010 formed the Authority and the same is attached here to as **Exhibit Q5-b**.

- c. Provide a copy of the notice that published the resolution or ordinance that organized the Authority;

**Answer:** Notice was published in the Observer-Reporter on October 21, 2010. *See Exhibit Q5-c*. Notice was also published in the Greene Reports on October 22, 2010. *See Exhibit Q5-c(2)*

- d. Provide a copy of the Authority's articles of incorporation;

**Answer:** *See Exhibit Q5-d* attached hereto for the Authority's Articles of Incorporation.

- e. Provide a copy of all amendments to the Authority's articles of incorporation;

**Answer:** There have been no amendments to the Authority's Articles of Incorporation.

- f. Provide a copy of the Authority's certificate of incorporation;

**Answer:** *See Exhibit Q5-f* attached hereto for the Authority's Certificate of Incorporation.

- g. Provide any other document that is not expressly named above demonstrating that the Authority is a municipal authority or corporation;

**Answer:** There are no other documents not expressly named above demonstrating that the Authority is a municipal corporation.

- h. Identify all municipalities that joined the Authority and provide the date(s) in which they joined;

**Answer:** No municipalities have joined the Authority.

- i. Indicate whether any municipalities have withdrawn from the Authority and provide names of the same;

**Answer:** No municipalities have withdrawn from the Authority.

- j. Indicate whether the scope of the Authority's activities consists of waterworks, water supply works and water distribution systems pursuant to 53 Pa.C.S. § 5607(a)(10) and, if not, identify the scope of the Authority's project pursuant to 53 Pa.C.S. § 5607(a);

**Answer:** Yes, the scope of the Authority's activities consist of financing working capital; acquiring, holding, constructing, financing, improving, maintaining and operating, owning or leasing, either in the capacity of lessor or lessee, projects for waterworks, water supply works, and or water distribution systems.

- k. Identify the members of the board and indicate the names of the municipality or municipalities, or county or counties, that they represent; and

**Answer:** Members of the Board of the Authority are as follows: (1) Samual Cossick; (2) Larry J. Vincie; (3) William Craig, Jr.; (4) Paul Bierer; (5) Jerry Dorsey.

- l. Provide the rules and regulations that were adopted by the Authority.

**Answer:** See **Exhibit Q5-1** attached hereto for the Authority's By-Laws and an amendment thereto.

**I&E**  
**Exhibit 2**

**I&E Data Requests – Set I**  
**Directed to East Dunkard Water Authority**

2. Provide a map of the Authority's service area and indicate the names of the municipalities in which the Authority provides water service.

**Answer:** *See Exhibit Q2* for map. The Authority provides water service to Dunkard Township, Greene Township, and parts of Monongahela, Cumberland, Perry, and Whitely Townships.



**EXHIBIT**  
tabbles  
Q2

**I&E**  
**Exhibit 3**

**I&E Data Requests – Set II**  
**Directed to East Dunkard Water Authority**

4. Indicate whether the Authority sends invoices to its Pennsylvania customers. If so, provide the frequency that the invoices are sent, *i.e.* monthly, quarterly. Provide a sample invoice.

**ANSWER:** Yes, monthly invoices. Sample invoice is attached hereto as **Exhibit Q-4**.

East Dunkard Water Authority  
PO Box 241  
Dilliner, Pa 15327  
(724) 943-3713

RETURN SERVICE  
REQUESTED  
www.eastdunkardwater.com

Read Date:  
Bill Date:

Acct#:

Presorted  
First Class Mail  
U.S. Postage Paid  
Dilliner, Pa. 15327  
Permit No. 1

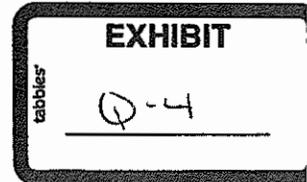
Description	Amount
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**Net Amount Due Now:**

After	a penalty of	will be applied
and a gross payment of		is due

**BILLS NOT RECEIVED BY THE 25th WILL BE SHUT OFF**

Acct#:



Due Now:  
After:  
Gross Due:

RETURN THIS STUB WITH PAYMENT

**I&E**  
**Exhibit 4**

**I&E Data Requests – Set II**  
**Directed to East Dunkard Water Authority**

1. Reference the Authority's response to I&E Data Request – Set I, No. 2 wherein the Authority indicates that it provides water service to Greene Township, and portions of Monongahela, Cumberland, Perry and Whiteley Townships. For each of the above-referenced Townships, indicate the following:
  - A. Whether there is a written resolution, ordinance and/or other legal authority that became effective subsequent to Ordinance No. 2-2010 of the Township of Dunkard which would authorize the provision of water service to each of the aforementioned Townships. If answered affirmatively, provide a copy(ies) of the written resolution, ordinance and/or other legal authority. If answered negatively, explain and provide the bases for the Authority's ability to provide water service to customers for compensation in each of the aforementioned Townships;

**ANSWER:** Not that the Authority is aware of. Any and all customers have approached the Authority for water service. Petitions and Board minutes can be furnished showing the customers attending Board meetings asking for waterline extension to their homes.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2021-3027615
	:	
East Dunkard Water Authority	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

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

**Notification by Electronic Mail:**<sup>2</sup>

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*Counsel for East Dunkard Water Authority*

  
Stephanie M. Wimer  
Senior Prosecutor  
PA Attorney ID No. 207522

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 772-8839  
[stwimer@pa.gov](mailto:stwimer@pa.gov)

Dated: January 18, 2022

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<sup>2</sup> See *Waiver of Regulations Regarding Service Requirements*, Docket No. M-2021-3028321 (Order entered September 15, 2021) (permitting electronic service by Commission staff on parties).