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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Pennsylvania Public Utility Commission :  
Bureau of Investigation and Enforcement, :**

**Complainant, :  
v. :**

**East Dunkard Water Authority, :**

**Respondent. :**

**Docket No. C-2021-3027615**

**PREHEARING CONFERENCE  
MEMORANDUM**

**Filed on Behalf of Respondent:**

**EAST DUNKARD  
WATER AUTHORITY**

**Counsel of Record for Said Party:**

**Dennis M. Makel, Esquire  
PA I.D. #40520  
Christopher P. Furman, Esquire  
PA I.D. # 89822  
Megan L. Patrick, Esquire  
PA I.D. # 320066**

**MAKEL & ASSOCIATES, LLC  
98 East Maiden Street  
Washington, PA 15301  
Telephone: (724) 222-7639**

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Bureau of Investigation and Enforcement,	:	
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Complainant,	:	
	:	C-2021-3027615
v.	:	
	:	
East Dunkard Water Authority,	:	
	:	
Respondent.	:	

**PREHEARING CONFERENCE MEMORANDUM**

COMES NOW, the Respondent, East Dunkard Water Authority, by and through its undersigned counsel, Makel & Associates, LLC, and files this Prehearing Conference Memorandum and support thereof, avers as follows:

1. The presently identified issues are as follows:
  - a. Whether the Authority's failure to hold a certificate of public convenience prohibits the Authority from providing water service beyond the Authority's corporate limits.
  - b. What are the corporate limits of the Authority.
  - c. Whether the PUC has jurisdiction over the subject matter of the Complaint and the Authority.
  - d. Whether the Authority failed to furnish and maintain adequate, efficient, safe and reasonable service and facilities to customers.

2. The Authority's position on the aforementioned issues are:
- a. The Authority's Articles of Incorporation authorize the Authority to furnish water for Dunkard Township, as well as to such adjoining political subdivisions or areas as desire service, including Cumberland, Greene, Monongahela, Perry, and Whiteley Townships. At no point did the Townships of Cumberland, Greene, Monongahela, Perry, or Whiteley Township object to the provision of water by either the East Dunkard Water Association or the Authority. The Authority has not substantially expanded its service base since the Authority was created, and the service base remains substantially the same as the Association's service base.
  - b. The corporate limits of the Authority are Dunkard Township and those adjoining political subdivisions or areas that desired continued service, namely Cumberland Township, Greene Township, Monongahela Township, Perry Township, and Whiteley Township all of which desired continued water service.
  - c. The PUC does not have jurisdiction over the subject matter of the Complaint, as the Authority has operated within its corporate boundaries and/or has operated within the aforementioned Townships without objection, and prior to the Authority, the East Dunkard Water Association provided water service to customers in the same service base with their consent.
  - d. Any complaints received by customers of the Authority were timely addressed and the issues rectified, including the sampling and testing of water when and where appropriate.

3. The names, addresses, and phone numbers of anticipated witnesses on behalf of East Dunkard Water Authority are as follows:

- a. Michelle Popernack – P.O. Box 66, Bobtown, PA 15315, (724) 839-7536
- b. Frank Craig – P.O. Box 56, Bobtown, PA 15315, (724) 839-7263
- c. Larry Vincie – 340 Budapest Road, Dilliner, PA 15327, (724) 943-3658
- d. James Sokol – 681 Carmichael Street, Rices Landing, PA 15357, (724) 966-5805
- e. Kenneth Kiger – 128 Huggins Lane, Garards Fort, PA 15334, (724) 966-5765
- f. Frank Basile – 139 Creek Road, Mt. Morris, PA 15349 (724) 984-2667
- g. Jeffery Raddish – 419 Patterson Run Road, Waynesburg, PA 15370, (724) 833-0806
- h. William Monahan – 203 Beal Road, Dilliner, PA 15327, (724) 998-2051

4. The following is a brief summary of the area of testimony for each witness:

- a. Michelle Popernack – She is familiar with both East Dunkard Water Authority and East Dunkard Water Association, including any requests by customers for service, expansions, water leaks and/or complaints, water testing, overall service areas, transition from the Association to the Authority, and corporate limits.
- b. Frank Craig – He is familiar with the provision of water service to the entire service base, and he is familiar with both the East Dunkard Water Association and the East Dunkard Water Authority, including expansions, water leaks and/or complaints, water testing, the transition from the Association to the Authority, and corporate limits.

- c. Larry Vincie – He is familiar with the provision of water service to the entire service base, and he is familiar with both the East Dunkard Water Association and the East Dunkard Water Authority, including expansions, water leaks and/or complaints, water testing, the transition from the Association to the Authority, corporate limits, water testing, and plant operations.
- d. James Sokol – He can provide testimony regarding Cumberland Township’s willingness to allow both the Association and the Authority to operate within Cumberland Township without objection. Cumberland Township did not specifically join in the creation of the Authority as it did not want to pledge the full faith and credit of the Township on behalf of the Authority.
- e. Kenneth Kiger – He can provide testimony regarding Greene Township’s willingness to allow both the Association and the Authority to operate within Greene Township without objection. Greene Township did not specifically join in the creation of the Authority as it did not want to pledge the full faith and credit of the Township on behalf of the Authority.
- f. Frank Basile – He can provide testimony regarding Perry Township’s willingness to allow both the Association and the Authority to operate within Perry Township without objection. Perry Township did not specifically join in the creation of the Authority as it did not want to pledge the full faith and credit of the Township on behalf of the Authority.
- g. Jeffery Raddish – He can provide testimony regarding Whiteley Township’s willingness to allow both the Association and the Authority to operate within Whiteley Township without objection. Whiteley Township did not

specifically join in the creation of the Authority as it did not want to pledge the full faith and credit of the Township on behalf of the Authority.

h. William Monahan – He can provide testimony regarding Monongahela Township’s willingness to allow both the Association and the Authority to operate within Monongahela Township without objection. Monongahela Township did not specifically join in the creation of the Authority as it did not want to pledge the full faith and credit of the Township on behalf of the Authority.

5. Upon coordination with counsel for the B I&E, the following is a proposed plan and schedule of discovery:

- a. Written Direct Testimony Due (all parties) – March 30, 2022
- b. Written Rebuttal Testimony Due (all parties) – April 27, 2022
- c. Discovery Ends – May 27, 2022
- d. Stipulations Due – June 8, 2022
- e. Evidentiary Hearing – June 30, 2022

6. The expected amount of time for the hearing is: 3-4 hours

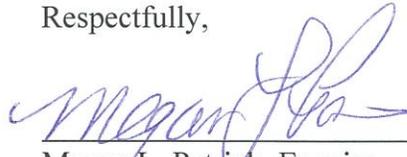
7. The possibility of settlement exists, and the Authority is open and willing to discuss the same with counsel for the B I&E.

8. Service List Entry for the Authority shall be:

Megan L. Patrick, Esquire  
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[megan@makelandassociates.com](mailto:megan@makelandassociates.com)

[SIGNATURE PAGE TO FOLLOW]

Respectfully,



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Megan L. Patriek, Esquire

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98 E. Maiden Street

Washington, PA 15301

Telephone: (724) 222-7639

*Attorney for East Dunkard Water Authority*

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**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully Submitted,

MAKEL & ASSOCIATES, LLC

02/01/22

Date



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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the within Prehearing Conference Memorandum was served on the following counsel, this 1<sup>st</sup> day of February, 2022, via email as addressed below.

Stephanie M. Wimer, Esquire  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
[stwimer@pa.gov](mailto:stwimer@pa.gov)

Michael L. Swindler, Esquire  
Pennsylvania Public Utility Commission  
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The Honorable Marta Guhl  
Administrative Law Judge  
[mguhl@pa.gov](mailto:mguhl@pa.gov)

Athena Delvillar  
Legal Assistant to the Honorable Marta Guhl  
[sdelvillar@pa.gov](mailto:sdelvillar@pa.gov)



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Megan L. Patrick, Esquire