



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

May 2, 2022

Via Electronic Mail

Honorable Marta J. Guhl
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
801 Market Street, Suite 4063
Philadelphia, PA 19107
mguhl@pa.gov

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
East Dunkard Water Authority
Docket No. C-2021-3027615
I&E Letter Requesting Modification to Litigation Schedule

Dear Judge Guhl:

Pursuant to Your Honor's January 18, 2022 Prehearing Conference Order, the parties to the above-referenced matter were directed to file and serve prehearing memoranda that include, *inter alia*, the names, business addresses, and telephone numbers of witnesses that each party expects to call and the subject matter of each witness's testimony.

On April 27, 2022, the East Dunkard Water Authority ("Authority") submitted the written Rebuttal Testimony of Paul Bierer, an individual who did not present any written Direct Testimony on behalf of the Authority. The Authority did not identify Mr. Bierer as an expected witness in its February 1, 2022 Prehearing Memorandum, nor did the Authority revise its expected witness list at any time. The Authority's failure to identify Mr. Bierer as a witness, indicate the subject matter of his testimony, and submit written Direct Testimony from Mr. Bierer has prejudiced the Bureau of Investigation and Enforcement ("I&E") in the preparation of its case. Pursuant to the litigation schedule that was established in this proceeding, there is no remaining opportunity for I&E to respond to Mr. Bierer's testimony.

Accordingly, I&E respectfully requests that your Honor modify the litigation schedule to provide I&E with the opportunity to present oral Surrebuttal Testimony of its witness, Clinton T. McKinley, at the evidentiary hearing that is scheduled for June 30, 2022. I&E suggests that the presentation of oral surrebuttal testimony during the evidentiary hearing is an appropriate remedy to address Mr. Bierer's surprise testimony as it will not prejudice any party or cause any delay in the litigation of this matter.

Copies of this letter have been served on the parties of record in accordance with the attached Certificate of Service.

Respectfully,



Stephanie M. Wimer
Senior Prosecutor
Bureau of Investigation and Enforcement
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SMW/ac
Enclosure

cc: Rosemary Chiavetta, Secretary (*via e-file*)
Athena DelVillar, Legal Assistant (*via email only*)
Michael L. Swindler, I&E Deputy Chief Prosecutor (*via email only*)
As 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	:	

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 Mail¹ as indicated:

Megan L. Patrick, Esq.
Makel & Associates, LLC
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Counsel for East Dunkard Water Authority



Stephanie M. Wimer
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Dated: May 2, 2022

¹ See *Waiver of Regulations Regarding Service Requirements*, Docket No. M-2021-3028321 (Order entered March 10, 2022) (permitting electronic service by Commission staff on parties).