



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

August 2, 2021

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-
I&E Formal Complaint

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Formal Complaint** on behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-referenced matter. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Stephanie M. Wimer', is written over a light blue horizontal line.

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

Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

SMW/ac
Enclosures

cc: 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-
	:	
East Dunkard Water Authority	:	
Respondent	:	

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. Pursuant to *Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements*, Docket No. M-2020-3019262 (Emergency Order ratified on March 26, 2020 and modified by Order entered July 15, 2021), you must eFile your Answer using the Commission’s website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage.

Additionally, please electronically serve a copy on:

Stephanie M. Wimer, Senior Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
stwimer@pa.gov

B. If you fail to answer this Complaint within twenty (20) days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the civil penalty and other requested relief.

C. You may elect not to contest this Complaint by paying the civil penalty and performing the additional remedies set forth in the requested relief within twenty (20) days. A certified check, cashier’s check or money order containing the civil penalty should be made payable to the “Commonwealth of Pennsylvania” and mailed to:

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

Your payment is an admission that you committed the alleged violations and an agreement to cease and desist from committing further violations. Upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer, which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the civil penalty and granting the requested relief as set forth in the Complaint.

E. If you file an Answer which contests the Complaint, the matter will proceed before the assigned presiding Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at (717) 787-8714.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

FORMAL COMPLAINT

NOW COMES the Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorneys, pursuant to Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, and files this Formal Complaint against the East Dunkard Water Authority (“Authority” or “Respondent”) alleging violations of the Public Utility Code in conjunction with the Authority’s provision of water service to the public for compensation in Greene County, Pennsylvania beyond its corporate limits. In support of its Formal Complaint, I&E avers as follows:

I. Commission Jurisdiction and Authority

1. The Pennsylvania Public Utility Commission (“Commission” or “PUC”), with a mailing address of 400 North Street, Harrisburg, PA 17120, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate entities engaged in diverting, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation, pursuant to 66 Pa.C.S. § 102(1)(ii), as well as municipal

corporations furnishing public utility service to the public beyond corporate limits, pursuant to 66 Pa.C.S. § 1102(a)(5).

2. Complainant is the Commission's Bureau of Investigation and Enforcement, which 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).

3. Complainant's prosecuting attorneys are as follows:

Stephanie M. Wimer
Senior Prosecutor
stwimer@pa.gov

Michael L. Swindler
Deputy Chief Prosecutor
mwindler@pa.gov

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

4. Respondent East Dunkard Water Authority maintains a principal business address of 2790 South Eighty Eight Road, Dilliner, PA 15327.

5. Respondent 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." Respondent furnishes water service to the public for

compensation in various Townships in Greene County, Pennsylvania.

6. Respondent does not hold a Certificate of Public Convenience issued by this Commission that would authorize it to provide water service to the public for compensation beyond the Authority's corporate limits.

7. Section 501(a) of the Public Utility Code, 66 Pa.C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Public Utility Code.

8. Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, authorizes the Commission to, *inter alia*, hear and determine complaints against persons and corporations for a violation of any law or regulation that the Commission has jurisdiction to administer.

9. Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility, or any other person or corporation subject to the Commission's authority, for violation(s) of the Public Utility Code and/or Commission regulations. Section 3301 further allows for the imposition of a separate penalty of up to \$1,000 for each violation and for each day's continuance of such violation.

10. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter of this Complaint and the actions of Respondent related thereto.

II. Background

A. Origin and Initiation of I&E's Investigation

11. In December 2019 and January 2020, the Commission's Office of Legislative Affairs ("Legislative Affairs") referred to I&E complaints from the Authority's customers alleging poor water quality, *i.e.*, discolored water and inadequate maintenance at a water treatment plant. Such complaints were initially raised with State Representatives, who, in turn, discussed the complaints with Legislative Affairs.

12. On June 2, 2020, I&E initiated an informal investigation of the East Dunkard Water Association ("Association"), as the Association was the entity that had been the focus of the complaints received by Legislative Affairs. On that same date, I&E sent I&E Data Requests – Set I directed to the Association, to which the Association responded on June 22, 2020.

13. The Association's responses indicated, in pertinent part, that it formed in 1969 and operated as a *bona fide* cooperative association furnishing water service to the Bobtown, Davistown, Garards Fort, Headlee Heights, Dilliner, Moffitt, Rocky Hollow, Poland, Bald Hill, Taylortown, Sugar Grove, Alicia and Carmichaels areas, as well as Dunkard Township, Greene Township, Monongahela Township, Cumberland Township, Perry Township and Whiteley Township, all in Greene County, Pennsylvania.

14. The Association's responses further indicated that it ceased operating as a water company in 2011 at which time it transferred assets, such as the water plant, storage tanks and booster stations, *via* deed to the Authority. In October of 2011, the

Association began leasing its water conveyance system consisting of water lines to the Authority.

15. The Association presently operates exclusively as the lessor of water distribution lines and owns approximately 207 miles of water pipeline, which it leases to the Authority.

16. Based on the Association's responses, I&E initiated an investigation of the Authority and sent I&E Data Requests – Set I directed to the Authority by letter dated September 16, 2020. On October 6, 2020, the Authority responded to I&E Data Requests – Set I.

17. Subsequently, on November 16, 2020, the Commonwealth Court of Pennsylvania issued an unreported Opinion in *East Dunkard Water Auth. v. Southwestern Pa.*, No. 116 C.D. 2020, 2020 Pa. Commw. Unpub. LEXIS 547* (Pa. Cmwlth. 2020), finding, *inter alia*, that the Authority impermissibly circumvented the Commission by providing water service beyond Dunkard Township without demonstrating a right to do so *via* a Certificate of Public Convenience. In the Opinion, the Commonwealth Court noted that counsel for the Authority represented during oral argument on October 13, 2020 that the Authority is in the process of attempting to obtain a Certificate of Public Convenience from the Commission. *Id.* at *22, FN 10. A copy of the Commonwealth Court's Opinion has been attached as I&E Exhibit 1.

18. The Authority has not applied for a Certificate of Public Convenience.

19. Commonwealth Court's decision prompted the Law Bureau, with the concurrence of the Bureau of Technical Utility Services ("TUS"), to refer the Authority's

potential operation as an uncertificated public utility to I&E.

20. I&E incorporated the Law Bureau's referral into its existing investigation of the Authority.

21. On February 25, 2021, I&E sent I&E Data Requests – Set II to the Authority, to which the Authority provided responses on March 16, 2021, and supplemental responses on April 19, 2021.

22. The allegations set forth below are the results of I&E's investigation of the Authority.

B. Findings of I&E's Investigation of the Authority

23. The Authority was created and organized under the former Municipal Authorities Act of 1945¹ by virtue of Ordinance No. 2-2010, which was enacted by the Dunkard Township Board of Supervisors on November 22, 2010, for the purpose of owning and maintaining a water treatment and conveyance system or otherwise providing the facilities necessary to furnish water treatment for a section of Dunkard Township and adjoining political subdivisions and areas. The Authority filed Articles of Incorporation with the Pennsylvania Department of State on December 6, 2010 and was issued a Certificate of Incorporation on that same day. The Authority's Bylaws were adopted during a public meeting held by the Authority on January 9, 2011. The aforementioned organizational documents of the Authority have been attached as I&E Exhibit 2.

24. The Authority's activities consist of acquiring, holding, constructing, financing, improving, maintaining and operating, owning or leasing projects for

¹ Formerly 53 P.S. §§ 301-322, repealed by Section 3 of the Act of June 19, 2001, P.L. 287, and continued in the current Municipality Authorities Act, 53 Pa.C.S. §§ 5601-5623.

waterworks, water supply works and/or water distribution systems.

25. The Authority operates and maintains eight (8) storage tanks, six (6) pump stations, twenty-seven (27) miles of water lines, and a water plant in Greene County, Pennsylvania. Additionally, pursuant to the lease agreement between the Association and the Authority, the Authority is responsible for making repairs to the approximately 207 miles of water lines it leases from the Association at its own cost and expense. The Authority is also able to make alterations, additions and improvements to the water lines provided that the Association supplies prior written consent.

26. The Authority furnishes water service for compensation to approximately 1,591 residential customers and 61 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.

27. No municipality other than Dunkard Township has joined the Authority.

28. The Authority sends customers invoices on a monthly basis and bills as follows: a base rate of \$23.57, a rate of \$1.13 per thousand gallons, a \$10.00 debt service charge and a \$5.00 meter charge.

29. The charges are calculated in the same manner for all customers despite whether a customer is located in Dunkard Township or another municipality that has not joined the Authority.

30. From January 1, 2018, to December 31, 2018, the Authority received \$506,479.13 in revenue collected through rates charged to and paid by customers located in Greene, Monongahela, Cumberland, Perry and Whiteley Townships.

31. From January 1, 2019 to December 31, 2019, the Authority received \$535,757.88 in revenue collected through rates charged to and paid by customers located in Greene, Monongahela, Cumberland, Perry and Whiteley Townships.

32. From January 1, 2020 to December 31, 2020, the Authority received \$479,520.98 in revenue collected through rates charged to and paid by customers located in Greene, Monongahela, Cumberland, Perry and Whiteley Townships.

33. From January 1, 2021 to March 31, 2021, the Authority received \$121,012.19 in revenue collected through rates charged to and paid by customers located in Greene, Monongahela, Cumberland, Perry and Whiteley Townships.

34. Between June 1, 2019 and March 16, 2021, the Authority received approximately 116 complaints from residential customers and three complaints from commercial customers. The complaints alleged that the customers experienced water that is either yellow, orange or brown in color or dirty, leaking water or little to no water pressure.

35. The Pennsylvania Department of Environmental Protection (“DEP”) issued the Authority a Notice of Violation dated July 9, 2019, finding that the Authority failed to monitor or report sample results for free chlorine residual on a weekly basis, in violation of Chapter 109, Subchapter C of DEP’s regulations pertaining to monitoring requirements for drinking water, 25 Pa. Code §§ 109.301-109.305. A copy of DEP’s July 9, 2019 Notice of Violation has been attached as I&E Exhibit 3.

36. DEP issued the Authority another Notice of Violation dated December 4, 2020, alleging that the Authority failed to monitor or report the required number of

turbidity or disinfectant residual measurements, in violation of Chapter 109 of DEP's regulations pertaining to monitoring requirements for drinking water, 25 Pa. Code § 109.301. A copy of DEP's December 4, 2020 Notice of Violation has been attached as I&E Exhibit 4.

III. Violations

37. Paragraphs 1-36 above are incorporated herein as if stated in their entirety.

I&E has reviewed the actions of Respondent and alleges as follows:

a. Since 2011, Respondent has impermissibly furnished water service to the public for compensation without holding a Certificate of Public Convenience issued by the Commission to customers in Greene, Monongahela, Cumberland, Perry and Whiteley Townships in that these municipalities are beyond the Authority's corporate limits and never joined the Authority.

This is a continuing violation of 66 Pa.C.S. 1102(a)(5) (multiple counts).²

b. Respondent failed to furnish and maintain adequate, efficient, safe and reasonable service and facilities to customers beyond its corporate limits in that the Authority provided discolored or dirty water, no water or low water pressure, and facilities that leaked.

This is a violation of 66 Pa.C.S. § 1501 (119 counts).

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that:

a. After consideration of the record, the Office of Administrative Law Judge and the Commission find Respondent in violation of each and every violation as set forth herein, and that Respondent be assessed a total civil penalty in the amount of Five Hundred Thousand Dollars (\$500,000).³ Said

² Pursuant to 66 Pa.C.S. §§ 3301(a)-(b) and 3314(a), I&E is authorized to seek a civil penalty of up to \$1,000 per day for each and every day over the past three years.

³ I&E's requested civil penalty is much lower than the statutory maximum and was arrived at after consideration of the Commission's Policy Statement concerning Factors and Standards for Evaluating Litigated and Settled Proceedings, 52 Pa. Code § 69.1201.

payment shall be made by certified check payable to the Commonwealth of Pennsylvania and filed with the Commission's Secretary's Bureau within twenty (20) days of the date of the Commission's Order sustaining this Complaint;

b. Respondent be directed to refund customers located in Greene, Monongahela, Cumberland, Perry and Whiteley Townships, pursuant to 66 Pa.C.S. § 1312(a), in the total amount paid by customers over the previous four years, which approximately totals Two Million Dollars (\$2,000,000). Said refunds shall be made within twenty (20) days of the date of the Commission's Order sustaining this Complaint and the Authority shall subsequently file a report of compliance with the Commission pursuant to 52 Pa. Code § 5.591;

c. Respondent be directed to submit an Application for a Certificate of Public Convenience to lawfully serve customers located beyond its corporate limits within twenty (20) days of the date of the Commission's Order sustaining this Complaint; and

d. The Commission grant such further relief as is just and reasonable.

Respectfully submitted,



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

Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Dated: August 2, 2021

I&E Exhibit 1

No Shepard's Signal™
As of: November 19, 2020 3:13 PM Z

East Dunkard Water Auth. v. Southwestern Pa.

Commonwealth Court of Pennsylvania

October 13, 2020, Argued; November 16, 2020, Decided; November 16, 2020, Filed

No. 116 C.D. 2020

Reporter

2020 Pa. Commw. Unpub. LEXIS 547 *

East Dunkard Water Authority, Appellant v.
Southwestern Pennsylvania, Water Authority

Notice: An unreported opinion of the Commonwealth Court may be cited and relied upon when it is relevant under the doctrine of law of the case, res judicata or collateral estoppel. Parties may also cite an unreported panel decision of the Commonwealth Court issued after January 15, 2008 for its persuasive value, but not as binding precedent. A single-judge opinion of the Commonwealth Court, even if reported, shall be cited only for its persuasive value, not as a binding precedent.

Core Terms

Township, public utility, preliminary objection, asserts, municipal authority, municipal corporation, municipality, argues, water distribution system, provide water, facilities, nonprofit, ownership, cooperative association, water authority, invited, entity, deed, distribution system, utility services, contends, enabling, Borough, leased, avers

Judges: [*1] BEFORE: HONORABLE RENÉE COHN JUBELIRER, Judge, HONORABLE ELLEN CEISLER, Judge, HONORABLE J. ANDREW CROMPTON, Judge.

Opinion by: J. ANDREW CROMPTON

Opinion

MEMORANDUM OPINION BY JUDGE CROMPTON

Before this Court is the appeal of the East Dunkard Water Authority (EDWA) from the order (Order) of the Greene County Court of Common Pleas (Trial Court), dated January 16, 2020, sustaining one of the preliminary objections (Preliminary Objections) filed by the Southwestern Pennsylvania Water Authority (SPWA) and dismissing EDWA's Complaint for Declaratory Judgment and Equitable Relief (Complaint).

I. Background

On May 28, 2019, EDWA filed a Complaint seeking to enjoin SPWA from "1) continuing an expansion project; 2) running pipelines parallel to and/or close in proximity to [EDWA's] pipelines within [EDWA's] service territory; 3) providing water to Hatfield's Ferry power station; 4) providing water to an anticipated industrial park; and 5) providing water to any of [EDWA's] existing customers or anyone in its territory." EDWA's Br. at 19; Reproduced Record (R.R.) at 10.¹ On June 26, 2019, SPWA filed Preliminary Objections. R.R. at 42. On July 15, 2019, EDWA filed a Response to SPWA's Preliminary Objections. R.R. at 55. [*2] After oral argument, the Trial Court, by Order dated January 16, 2020, granted SPWA's third Preliminary Objection and dismissed the Complaint.

SPWA's third Preliminary Objection was titled "Failure to State a Claim." The Trial Court's explanation of SPWA's objection and EDWA's opposition to it, as well as the Trial Court's determination, are captured in the narrative from the Trial Court's Order below.

[SPWA] avers that if [EDWA], "claims it somehow obtained the distribution system of the East Dunkard Water Association [Association], a Public Utility pursuant to 66 Pa.C.S. §102² . . .[,] [EDWA] has failed to allege in the Complaint any such allegation to sustain [its] claims and have further failed to attach deeds therewith showing such a

transfer." *See* [R.R. at 42-49]. [SPWA] further avers that if "[EDWA] believes it obtained the [*3] distribution system by contract and/or by deed from the Association; it would only be a valid contract if approved by the [Public Utility Commission] (PUC). No such approval has been attached to the Complaint or even alleged in the Complaint." *Id.* [SPWA] seeks a dismissal of the Complaint.

[EDWA] avers in its response that the Association is not, by definition, a public utility as it is a cooperative association which furnishes services only to its stockholders or members on a nonprofit basis and that the Municipality Authorities Act³ does not require PUC approval. [EDWA] seeks dismissal of [SPWA's] [third] Preliminary Objection.

[EDWA] avers that it maintains and operates the water distribution system throughout Dunkard and Greene Townships, and parts of Monongahela, Cumberland, Perry, and Whitely Townships, [EDWA] further avers that the Association is a cooperative association which furnishes services only to its stockholders or members on a nonprofit basis, and 66 [Pa. C.S.] §102 specifically excludes such an association from the definition of a Public Utility. However, no such averments are made of [EDWA]. Accordingly, given [EDWA's] status as an authority and its maintenance and operation [*4] of the water distribution system owned by a third party, the

small b, thus 1b, 2b, 3b, *etc.*

We note that the reproduced record and supplemental reproduced record, herein, do not follow the rule as stated above.

¹ [Pa.R.A.P. 2173](#) states, in pertinent part, as follows:

[e]xcept as provided in [Rule 2174](#) (tables of contents and citations), the pages of briefs, the reproduced record and any supplemental reproduced record shall be numbered separately in Arabic figures and not in Roman numerals: thus 1, 2, 3, *etc.*, followed in the reproduced record by a small a, thus 1a, 2a, 3a, *etc.*, and followed in any supplemental reproduced record by a

² [Public Utility Code, 66 Pa.C.S. §§101-3316](#).

³ [53 Pa.C.S. §§5601-5623](#).

Association, PUC approval is required of the contract and/or deed from the Association.

AND NOW THEREFORE, [SPWA's] [third] Preliminary Objection titled FAILURE TO STATE A CLAIM is GRANTED.

R.R. at 114-16 (capitalization in original).

EDWA now appeals to this Court.⁴

II. Arguments

A. EDWA's Argument

At the outset, EDWA asserts that the Municipality Authorities Act (Act) prohibits municipal authorities from duplicating services or competing with existing enterprises. The Act states, in pertinent part:

The purpose and intent of this chapter being to benefit the people of the Commonwealth by, among other things, increasing their commerce, health, safety and prosperity and not to unnecessarily burden or interfere with existing business by the establishment of competitive enterprises; **none of the powers granted by this chapter shall be exercised in the construction, financing, improvement, maintenance, extension or**

operation of any project or projects or providing financing for insurance reserves which in whole or in part shall duplicate or compete with existing enterprises serving substantially the same purposes.

53 Pa.C.S. §5607(b)(2) (emphasis added).

EDWA maintains that it is a duly authorized authority. It services Dunkard and Greene Townships and parts of Monongahela, Cumberland, Perry, and Whiteley Townships. EDWA's Br. at 22; R.R. at 4. EDWA contends that SPWA is also an authority and that its proposed [*6] new facilities will be duplicative of existing facilities operated by EDWA. Thus, EDWA asserts it is entitled to the protections of the Act. 53 Pa.C.S. §5607(b)(2); R.R. at 4-8; see also Dominion Prods. & Servs., Inc. v. Pittsburgh Water & Sewer Auth., 44 A.3d 697 (Pa. Cmwlth. 2011) (overruling preliminary objections where a municipal authority's proposed project would compete with existing enterprises).

EDWA states that SPWA, in its second Preliminary Objection, described EDWA's predecessor, the Association, as a private, non-profit corporation and made the legal conclusion that it is a public utility pursuant to 66 Pa.C.S. §102.⁵ R.R. at 45. EDWA asserts that this

⁴This Court's scope of review on appeal from a trial court's order granting preliminary objections and dismissing a complaint is limited to determining whether the trial court committed legal error or abused its discretion. Bell v. Township of Spring Brook, 30 A.3d 554 (Pa. Cmwlth. 2011).

[O]ur standard of review of an order of the trial court overruling or [sustaining] preliminary objections is to determine whether the trial court committed an error of law. When considering the appropriateness of a ruling on preliminary objections, the appellate court must apply the same standard as the trial court.

Preliminary objections in the nature of a demurrer test the legal sufficiency of the complaint. When considering preliminary

objections, all material facts set forth in the challenged pleadings are admitted as true, as well as all inferences reasonably deducible therefrom. Preliminary objections which seek the dismissal of a cause of action should be sustained only in cases in which it is clear and free from doubt that the pleader will be unable to prove facts legally sufficient to establish the right to relief. If any doubt exists as to whether a demurrer should be [*5] sustained, it should be resolved in favor of overruling the preliminary objections.

P.J.A. v. H.C.N., 2017 PA Super 34, 156 A.3d 284, 287 (Pa. Super. 2017).

⁵ 66 Pa.C.S. §102 defines a "public utility," in pertinent part, as follows:

assertion, in turn, formed the basis of SPWA's third Preliminary Objection, which EDWA characterizes as follows: "that if [EDWA] obtained the water distribution system by contract, such a contract would not be valid since it was not approved by the PUC, and therefore [EDWA] is not afforded the protections of the Act because it is not the owner of the system" EDWA's Br. at 23; R.R. at 47.

However, EDWA argues that "this Court has unequivocally set forth that ownership is not a requirement for the Act to apply." EDWA's Br. at 23. Quoting Bristol Township Water Authority v. Lower Bucks County Joint Municipal Authority, 130 Pa. Commw. 240, 567 A.2d 1110, 1112 (Pa. Cmwlth. 1989), EDWA argues that this Court has concluded that "nothing in the Act requires that the authority own the water lines in order for the Act to apply Clearly, the Act applies to authorities which maintain and operate water distribution systems as well as those authorities which own their own waterworks." EDWA's Br. at 24. In Bristol Township Water Authority, this Court specifically determined that "Lower Bucks has maintained and operated the water distribution system in the disputed area since 1961. This is sufficient to render the Act applicable." 567 A.2d at 1112. EDWA argues that, "[i]n this case, [it] has pled that it already services some of the areas in which [SPWA] intends to expand (R.R. [at] 4-8) . . . thus the Act should protect [EDWA] from competition where it is already providing services with existing facilities regardless of

ownership of the lines." EDWA's Br. at 24.

Quoting Lower Bucks County Joint Municipal Authority v. Bristol Township Water Authority, 137 Pa. Commw. 415, 586 A.2d 512, 515-516 (Pa. Cmwlth. 1991), EDWA asserts that this Court determined that [*8] "ownership of a water system is not in and of itself dispositive of the right to furnish water. And where, as here, water was actually being supplied by an entity in compliance with its enabling legislation that separate right to furnish will be protected by the Act." EDWA's Br. at 25.

EDWA states that "[n]otwithstanding that ownership is not a prerequisite to the protection of the Act, the Trial Court granted [SPWA's] [third] Preliminary Objection on the basis that any contract between [EDWA] and the Association requires PUC approval because 'no such averments are made that [EDWA]' is excluded from the definition of a public utility." EDWA's Br. at 25; R.R. at 115. EDWA argues, however, that

this constitutes two errors of law: first, because ownership is not required for the Act to apply, whether any contract for ownership of the water system is enforceable is not relevant; and second, the Public Utility Code does not require PUC approval of a contract between a public utility (like [EDWA]) and a cooperative association (like the Association).

EDWA's Br. at 25-26.

EDWA states that the Trial Court recognized that the Association is a cooperative association.

(1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:

(ii) Diverting, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation.

(2) The term does not include:

(ii) Any bona [*7] fide cooperative association which furnishes service only to its stockholders or members on a nonprofit basis.

Thus, EDWA argues that the Association [*9] is not subject to the PUC's jurisdiction. "[B]ecause [it] only furnished services to its stockholders or members on a nonprofit basis[,] it is not a [p]ublic [u]tility." EDWA's Br. at 26 (citing R.R. at 115 and 66 Pa.C.S. §102). EDWA adds that [Section 507](#) of the Public Utility Code, [66 Pa.C.S. §507](#), sets forth when a contract must be approved by the PUC, and states, in pertinent part, as follows: "[e]xcept for a contract between a public utility and a municipal corporation to furnish service at the regularly filed and published tariff rates, no contract or agreement between any public utility and any municipal corporation shall be valid unless filed with the commission at least 30 days prior to its effective date" EDWA's Br. at 26. Further, EDWA notes that "[a] 'municipal corporation' is defined in the [Public Utility Code] as '[a]ll cities, boroughs, towns, townships, or counties of this Commonwealth, and also any public corporation, authority, or body whatsoever created or organized under any law of this Commonwealth for the purpose of rendering any service similar to that of a public utility.'" EDWA's Br. at 26 (quoting 66 Pa.C.S. §102).

Relying on [Philadelphia Association of Wholesale Opticians v. Pennsylvania Public Utility Commission, 152 Pa. Super. 89, 30 A.2d 712, 717 \(Pa. Super. 1943\)](#) ("A[n] association that operates on behalf of its members exclusively is [a] cooperative.") [*10] and [Mellon v. Morea Citizens Water Company \(Pa.P.U.C., No. C-902997, filed May 20, 1991\), 1991 Pa. PUC LEXIS 91, 1991 WL 476351](#) (the PUC has no jurisdiction over a bona fide cooperative association), EDWA contends that "[s]ince the Association is neither a public utility nor a municipal corporation[,], [Section 507](#) [of the Public Utility Code] does not require a contract between it and [EDWA] be approved by

the PUC." EDWA's Br. at 26-27. Additionally, EDWA argues that, "[e]ven if a contract between [it] and the Association did require approval, it would not matter if it was unenforceable because ownership is not a requirement for protection under the Act." EDWA's Br. at 27.

Based on the preceding argument, EDWA asserts that SPWA's third Preliminary Objection should have been overruled, and that its Complaint should be reinstated for trial on the merits. *Id.*

B. SPWA's Argument

SPWA provides the following useful historical background relative to the matter before us:

On or about April 7, 1969, the [Trial Court] . . . approved . . . the formation of a private, non-stock corporation called the [Association] (*see* [Supplemental Record (S.R.) at] la[-5a]) to construct, maintain and operate a private water system for the supplying of water for [*11] domestic, livestock, garden, industrial and commercial purposes from the extraction of water from the Monongahela River for the association members on a non-profit basis (*see* S[.]R[.] [at] 3a). The Association was a corporate, private entity, an association . . . not [a] municipal authority. Over [time], the Association began to expand its pipeline distribution system beyond Dunkard Township, Greene County, and into small geographical portions of Monongahela Township, Greene County, and . . . into Cumberland Township, Greene County. Notably, the Association purchased the Bobtown Distribution System (including all real estate and equipment contained therein) from the Shannopin Water Company (a

public utility) in November 1969 (*See* R[.]R[.] [at] 76).
SPWA's Br. at 1.

SPWA argues that the Association fits the description of a public utility pursuant to 66 Pa.C.S. §102, because it was involved in "[d]iverting, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation." SPWA's Br. at 1-2.

SPWA asserts that, in December 2010, "Dunkard Township created [EDWA] and enabled it to operate in Dunkard Township (*see* S.R. at 22a) and 'the area adjacent thereto and any other property [*12] which can be incorporated into said area for the purposes hereinafter set forth.'" SPWA's Br. at 2 (citing S.R. at 23a, ¶7). Further, some, although not all, of the property and facilities for the water distribution system owned by the Association were transferred to the Authority. SPWA's Br. at 2 (citing R.R. at 50, 80, 85, and 90).

SPWA states that EDWA pays rent to the Association and that EDWA is now the billing entity for the Association's former customers. SPWA's Br. at 3. SPWA asserts that none of the deeds in EDWA's reproduced record reflect any conveyance of the water pipes and other water delivery components from the Association to EDWA in Monongahela Township and that none contain any reference to PUC approval of the transactions between the Association and EDWA, which is required for any contract or conveyance between a municipal authority and a public utility in order to be valid. *Id.* SPWA further asserts that "[t]he only municipal authority that was enabled to operate in Monongahela Township, Greene County, on June 5, 2019, was the Dunkard Valley Joint Municipal Authority (DVJMA) that was created in conjunction with Monongahela Township and the Borough of Greensboro (R.R. at 25, 39),

which is the authority [*13] acquired by SPWA. SPWA's Br. at 4 (citing R.R. at 4). Further, SPWA contends that it was invited to provide water to the residents of Monongahela Township by that township's supervisors on or about April 15, 2019, as a precursor to the acquisition of DVJMA (R.R. at 24). SPWA's Br. at 4. SPWA argues that "[EDWA] has never been invited by Monongahela Township to provide water to any resident of said township as Monongahela Township was never 'desiring service' from EDWA or its lessor, the Association." *Id.*

SPWA states that EDWA

references its "enabling legislation," passed by the Dunkard Township supervisors, as [a] guarantor of exclusive access to Monongahela Township and its citizens. [However,] [t]here is no "enabling legislation" of record, nor is there any filed in the Greene County Courthouse with the approved Dunkard Township ordinances. The Articles of Incorporation included in the Supplemental Record do not involve Monongahela Township as one of the municipalities that created [EDWA] even though it is the very township that [EDWA] seeks to exclude [SPWA] from selling water within. [EDWA's] Articles of Incorporation define the service area as Dunkard Township and "other areas desiring service." [*14]

SPWA's Br. at 7.

SPWA argues that "the supervisors of Dunkard Township do not have the ability to create a municipal authority and grant it binding and 'exclusive' access to areas outside of their jurisdiction. There is no special grant of authority to one municipality to create an authority binding another municipality." SPWA's Br. at 7 (citing [53 Pa.C.S. §5603](#)).

Prior to Dunkard Township creating its municipal authority, [EDWA], all that existed in Dunkard Township was a privately incorporated, nonprofit association created by various individuals, the . . . Association. It is the private contracts between the Association and its customers in Dunkard, Greene, Monongahela, Perry, Whitely and Cumberland Townships (*see* R[.]R[.] [at] 4; S[.]R[.] [at] 18a) that were in some manner leased or assigned to [EDWA] and that [EDWA] wishes to use to assert . . . exclusivity in a municipality (Monongahela Township) that previously never invited the [EDWA] to enter said township or borough. This original association, named the East Dunkard Water Association, *i.e.*, the Association, leased its pipes and delivery system to [EDWA]. From this lease agreement . . . [EDWA] is claiming the creation of "a(n exclusive) service [*15] area."

SPWA's Br. at 8-9 (citing S.R. at 18a).

Referencing [53 Pa.C.S. §5613\(b\)\(1\)](#),⁶ SPWA contends that, "as a municipal authority obtaining water works facilities, EDWA had a duty to notify the non-enabling municipalities of its acquisition of water systems." SPWA's Br. at 9.

Noting that a public utility and a municipal authority are distinct types of entities, SPWA asserts that EDWA, itself, acknowledges it is a public utility even while seeking protection under the Act. SPWA's Br. at 9 (citing EDWA's Br. at 25-26). Further, SPWA asserts that there is no proof of the enabling municipality, *i.e.*,

Dunkard Township, approving the transfers from the Association to EDWA as required by [53 Pa.C.S. §5613\(b\)\(1\)](#), or that Monongahela Township received notice of EDWA's [*16] acquisition of access to the Association's water distribution system. SPWA's Br. at 10.

SPWA acknowledges that a municipal authority has a right to exclusivity within its enabling jurisdiction and such other areas which it is legitimately operating under its service area designation or by invitation. SPWA explains that in [Beaver Falls Municipal Authority v. Municipal Authority of Borough of Conway, 689 A.2d 379 \(Pa. Cmwlth. 1997\)](#), the Beaver Falls authority was providing water to the Borough of Conway which sought to enter a new contract with another water authority to provide its water. However, in that case, this Court "made it clear that contracts outside the service area for which the Beaver Falls Authority was created . . . were not guaranteed by the exclusivity provisions of [53 Pa.C.S. §5607\(d\)\(9\)](#) but rather were subject to [53 Pa.C.S. §5607\(d\)\(19\)](#)," which does not grant exclusive rights. SPWA's Br. at 11. In *Beaver Falls Municipal Authority*, we determined that the Ambridge Authority could supply water to the Borough of Conway under a new contract, and Beaver Falls could not block it. *Id.* SPWA asserts that, similarly, in the present matter, EDWA's provision of water to the Association's waterlines and distribution system does not give EDWA exclusivity outside of Dunkard Township. SPWA's Br. at 11. SPWA contends that the Trial Court [*17] "correctly pointed out that [EDWA] was acting as a public utility in its

⁶ [53 Pa.C.S. §5613\(b\)\(1\)](#) states, in pertinent part:

An authority may not acquire by any device or means, including a consolidation, merger, purchase or lease . . . title to or possession or use of all or a substantial portion of any existing

facilities constituting a project as defined under this chapter if the project is subject to the jurisdiction of the [PUC] without first reporting to and advising the municipality which created or which are members of the authority of the agreement to acquire, including all its terms and conditions.

operation of a third-party water system outside of its enabling municipality." SPWA's Br. at 12-13 (citing R.R. at 115-16).

Further, SPWA argues that the Association is a private company that had been engaged in the distribution of water beyond just its members and shareholders, bringing it within the definition of a public utility, and PUC approval is required for any transfer of property or a contract to which a public utility is a party. SPWA's Br. at 13 (citing *66 Pa.C.S. §102*). SPWA argues that "a contract with a third party, particularly a public utility corporation[,] is not covered by the protections of the [Act]. In this case, the contracts selling or leasing any property from the Association to the [EDWA] are unenforceable as they lack PUC approval and therefore are illegal." SPWA's Br. at 14.

SPWA maintains that EDWA's "entire action is premised upon the fact that it leases an Association's facilities in a township, that never invited either entity to provide water, and is now the township which is the location for SPWA's planned expansion . . . by (1) invitation from Monongahela Township; and (2) acquisition of [DVJMA]." SPWA's [*18] Br. at 15. Further, "it was illegal for [EDWA] to begin 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," and EDWA has "never alleged that it possesses a certificate of public convenience or that [the Association] possesses one." SPWA's Br. at 16 (citing *66 Pa.C.S. §1102(a)(5)*). SPWA asserts that EDWA entered Monongahela Township illegally and, thus, cannot attempt to keep out other lawfully operating municipal authorities without first seeking and receiving PUC approval. SPWA's Br. at 16-17.

Upon review, we first address the status of the EDWA and of the Association and the Trial Court's determination that any contract between the two entities required PUC approval.

There is no question that EDWA is a municipal corporation as defined in *66 Pa.C.S. §102*. However, the section of the Public Utility Code that creates the requirement of PUC contract approval in the present matter is [Section 507](#), which requires approval when there is a contract between a municipal corporation and a "public utility." See *66 Pa.C.S. §102* and [§507](#). Although the Association does, or did, provide services that meet the definition of a public utility, [*19] per *66 Pa.C.S. §102*, *i.e.*, "diverting, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation," the Association also meets the definition of an exception to same, as it was never established by the Trial Court that the Association was *not* a "bona fide cooperative association which furnishes service only to its stockholders or members on a nonprofit basis." *66 Pa.C.S. §102*. While the Association has expanded over the years, at no point did the Trial Court reject the notion that the Association is still just that, *i.e.*, an "association," per the definition in *66 Pa.C.S. §102*, and, thus, exempt from the requirement of PUC contract approval in the present matter. The Trial Court asserts that "given [EDWA's] status as an authority and its maintenance and operation of the water distribution system owned by a third party, the Association, PUC approval is required of the contract and/or deed from the Association." R.R. 115-16. However, the plain language of *Sections 102* and [507](#) of the Public Utility Code exempts a bona fide association from the definition of public utility, and there is no requirement for a municipal corporation to seek approval for a

III. Discussion

contract between it and an association.⁷ Nonetheless, [*20] we concur with the Trial Court that SPWA's third Preliminary Objection was properly sustained, albeit for a different reason.⁸

While we diverge from the Trial Court's reasoning, we agree that EDWA failed to obtain the requisite PUC approval. The more persuasive argument in support of SPWA's position, and, hence, the Trial Court's determination sustaining SPWA's third Preliminary Objection and dismissing EDWA's Complaint, is that EDWA needed PUC approval to operate outside the bounds of Dunkard Township.

Although we recognize that, in and of itself, a municipal corporation is not included in the definition of public utility in the Public Utility Code,⁹ once a municipal corporation wishes to provide utility services beyond its boundaries, it is treated as a public utility, subject to the jurisdiction of the PUC. [Section 1102\(a\)\(5\)](#) of the Public Utility Code, [66 Pa.C.S. §1102\(a\)\(5\)](#), states, in pertinent part:

[u]pon the application of any public utility **and the approval of such application by the commission, evidenced by its certificate of public convenience** first had and obtained, and upon compliance with existing laws, it shall be lawful: . . . (5) [f]or **any municipal corporation to acquire, construct, or begin to operate** [*21], any

plant, equipment, or other facilities for the rendering or furnishing to the public of **any public utility service beyond its corporate limits.**

(Emphasis added.)

In addition, [Section 1501](#) of the Public Utility Code, [66 Pa.C.S. §1501](#), states, in pertinent part: "[a]ny public utility service being furnished or rendered by a municipal corporation beyond its corporate limits shall be subject to regulation and control by the commission as to service and extensions, **with the same force and in like manner as if such service were rendered by a public utility.**" (Emphasis added).

As this Court noted in [Borough of Ridgway v. Pennsylvania Public Utility Commission, 83 Pa. Commw. 379, 480 A.2d 1253 \(Pa. Cmwlth. 1984\)](#), a case in which a municipality was providing sewer service to the public beyond the municipality's boundaries: "the answer to the question of whether the [b]orough is subject to the jurisdiction of the PUC in this matter, inasmuch as it is controlled by the conclusion that the [b]orough is a direct provider of extraterritorial sewer service to the public, must be yes. Such being the case, a certificate of public convenience is necessary." Further in [In re Acquisition of Water System in White Oak Borough, 372 Pa. 424, 93 A.2d 437, 439 \(Pa. 1953\)](#), our Supreme Court stated: "[t]he City of McKeesport in operating a water distribution system beyond its corporate limits is subject,

⁷We note, here, that we agree with EDWA's argument that the "ownership" of the water system is not required for EDWA to have exclusivity protections under the Act. However, this issue is not dispositive to the outcome in the current matter.

⁸See [Borden v. Baldwin, 444 Pa. 577, 281 A.2d 892 \(Pa. 1971\)](#) (appellate court may sustain preliminary objections but for different reasons than the lower court).

⁹See [In re Condemnation of Springboro Area Water Auth., 898 A.2d](#)

[6 \(Pa. Cmwlth. 2006\)](#), in which this Court stated: "we conclude that the [a]uthority is not a person because it is not an individual, partnership, or association other than a corporation. Further, the [a]uthority is not a corporation because the [Public Utility] Code specifically excludes 'municipal corporations,' a term that encompasses municipal authorities, from the definition of 'corporation.' Thus, utilizing the [Public Utility] Code's definition of public utility, we conclude that the [a]uthority is not a public utility." [Id., 898 A.2d at 11.](#)

as we have seen, to the jurisdiction [*22] of the [PUC] and consequently this [a]uthority cannot acquire by any device or means whatsoever all or any part of the City's water [d]istribution system without first obtaining the approval of the [PUC]." (Emphasis added.) The same is true in the matter *sub judice*. EDWA, as a creature of Dunkard Township, cannot circumvent PUC approval by simply assuming the Association's private water distribution system and providing water service beyond Dunkard Township, where it has not demonstrated a right to do so via a certificate of public convenience.¹⁰

Objection of the Southwestern Pennsylvania Water Authority and dismissing the Complaint filed by the East Dunkard Water Authority is **AFFIRMED**.

J. ANDREW CROMPTON, Judge

End of Document

IV. Conclusion

Although we reach our result for a different reason, we affirm the Trial Court's order sustaining the SPWA's third Preliminary Objection and dismissing the Complaint filed by EDWA. Where the Trial Court sustained SPWA's third Preliminary Objection for failure to state a claim because EDWA and the Association did not seek PUC approval of the contract between them and/or approval of the deed from the Association, we instead sustain SPWA's third Preliminary Objection due to EDWA's failure to produce evidence of the PUC's approval of its provision of public utility services beyond the boundaries of Dunkard Township.

J. ANDREW CROMPTON, [*23] Judge

ORDER

AND NOW, this 16th day of November 2020, the Order of the Greene County Court of Common Pleas sustaining the third Preliminary

¹⁰During oral argument before this Court on October 13, 2020, the attorney for EDWA acknowledged that EDWA does not have a

certificate of public convenience from the PUC, when he stated that EDWA is currently in the process of attempting to obtain one.

I&E Exhibit 2

ORDINANCE NO. 2 - 2010

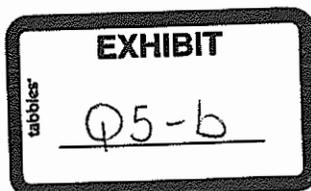
TOWNSHIP OF DUNKARD
GREENE COUNTY, PENNSYLVANIA

AN ORDINANCE SIGNIFYING THE DESIRE AND INTENTION OF THE TOWNSHIP OF DUNKARD, GREENE COUNTY, PENNSYLVANIA, TO ORGANIZE A MUNICIPAL AUTHORITY, UNDER THE MUNICIPALITY AUTHORITIES ACT OF 1945, DESIGNATED AS ACT NO. 164, APPROVED MAY 2, 1945, THEREOF, AND AMENDED THERETO, FOR THE PURPOSE OF OWNING AND MAINTAINING A WATER TREATMENT AND CONVEYANCE SYSTEM OR OTHERWISE PROVIDING THE FACILITIES NECESSARY TO FURNISH WATER TREATMENT FOR A SECTION OF DUNKARD TOWNSHIP AND SUCH ADJOINING POLITICAL SUBDIVISIONS AND AREAS AS MAY BE RECEIVING OR SHALL BE RECEIVING SUCH SERVICES; SETTING FORTH THE PROPOSED ARTICLES OF INCORPORATION IN FULL; DEFINING THE PURPOSES AND POWERS OF SAID AUTHORITY; AND AUTHORIZING THE PROPER OFFICERS OF THE SAID TOWNSHIP TO DO ALL THINGS REQUISITE FOR THE ORGANIZATION OF AN AUTHORITY UNDER THE SAID ACT.

WHEREAS, it is the desire of the Township of Dunkard, Greene County, Pennsylvania, to organize a Water Authority under the provisions of an Act of Assembly, May 2, 1945, P.L. 382, as amended; and

WHEREAS, it is now deemed necessary for the protection of the health, cleanliness, comfort and safety of the citizens of the Township of Dunkard to enact this ordinance; and

NOW, THEREFORE, pursuant to the authority conferred upon it by the Pennsylvania Second Class Township Code and the Municipality Authorities Act of 1945, it is hereby ordained and enacted by the Board of Supervisors of Dunkard Township, Greene County, Pennsylvania, as follows:



SECTION 1. SHORT TITLE.

This Ordinance shall be known and cited as the "EAST DUNKARD WATER AUTHORITY INCORPORATION ORDINANCE".

SECTION 2. INTENTION TO ORGANIZE AUTHORITY.

It is the desire and intention of the Township of Dunkard, a Second Class Township of the Commonwealth of Pennsylvania, and situated in Greene County, to organize an Authority under the "Municipality Authorities Act of 1945", designated as Act No. 164, approved May 2, 1945, together with all supplements thereof, and amendments thereto, for the purpose of exercising and enjoying all the powers of the Act or as Amended.

SECTION 3. NAME OF AUTHORITY.

The name of the proposed Authority is East Dunkard Water Authority.

SECTION 4. ARTICLES OF INCORPORATION.

The proposed articles of incorporation of the Authority in full are as follows:

MUNICIPAL AUTHORITY
ARTICLES OF INCORPORATION
TO THE
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA

In compliance with the Municipality Authorities Act of 1945, its supplements and amendment, the Township of Dunkard, situated in Greene County, Commonwealth of Pennsylvania, pursuant to this ordinance duly adopted by the Township signifying its desire and intention to form an Authority, hereby certify:

1. The name of the Authority shall be "East Dunkard Water Authority".

2. This Authority is formed under the Act of General Assembly of the Commonwealth, which was approved the 2nd day of May 1945, P.L. 382, as amended.
3. No other Authority organized under the Act or under the Act approved the 28th day of June 1935, P.L. 463, is in existence or for the said incorporating municipality except the following: Dunkard-Bobtown Municipal Authority.
4. The purpose of the Authority is to construct or otherwise provide the facilities necessary to furnish water for the incorporating municipality and to such adjoining political subdivisions or areas as desire the service.
5. The respective name of the incorporating municipality is the Township of Dunkard.
6. The names and addresses of the Board of Supervisors of the Township of Dunkard are:

<u>Name</u>	<u>Address</u>
Terry W. Barzanti Chairman	P.O. Box 369 Bobtown, PA 15315
David L. Pritchard, Jr. Vice Chairman	P.O. Box 369 Bobtown, PA 15315
Robert G. Huggins 3 rd Member	P.O. Box 369 Bobtown, PA 15315

7. This Authority is created to cover Dunkard Township, the area adjacent thereto and any other property which can be incorporated into said area for the purposes hereinafter set forth.
8. The name of the incorporating municipality is Dunkard Township and its address is P. O. Box 369, 370 N. Moreland Street, Bobtown, PA 15315. The names and addresses of its municipal authorities are as follows:
 - (a) Dunkard-Bobtown Municipal Authority, Plant Road, Bobtown, PA 15315, engaged in providing sewage disposal for the village of Bobtown and adjacent areas.

9. The membership of the Board of the Authority shall be chosen by the Board of Supervisors of Dunkard Township.
10. The names, addresses and terms of office of the members of the board of said Authority are:

<u>Name</u>	<u>Address</u>	<u>Term of</u>
Shirl Vernon	443 Dilliner Hill Road Dilliner, PA 15327	Jan. 1, 2011
Erwin Wilson	132 Pump Station Road Greensboro, PA 15338	Jan. 1, 2012
William Frank Craig, Jr.	P.O. Box 56 Bobtown, PA 15315	Jan. 1, 2013
Sam Cossick	P.O. Box 193 Bobtown, PA 15315	Jan. 1, 2014
John Yesenosky	P.O. Box 7 Garards Fort, PA 15334	Jan. 1, 2015

11. Dunkard Township retains the right under the Municipal Authorities Act of 1945, as amended, when necessary to approval any plan of the East Dunkard Water Authority.

SECTION 5. EXECUTION OF ARTICLES OF INCORPORATION.

The Articles of Incorporation of the Authority, in substantially the form set forth in Section 3 of this Ordinance, shall be executed on behalf of the Township of Dunkard, and under its municipal seal, attested by Secretary/Treasurer of Dunkard Township, and on behalf of Dunkard Township by the Chairman of the Board of Supervisors, and under its municipal seal, attested by the Secretary/Treasurer of Dunkard Township, and such officers are hereby authorized, empowered and directed to do all things necessary and appropriate to effect and

establish the said Authority, in conformity with the "Municipal Authorities Act of 1945", its supplements and amendments.

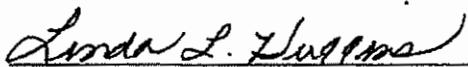
SECTION 6. SEVERABILITY.

Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected. It is hereby declared that the intent of the Township of Dunkard is that this Ordinance would have been adopted at such unconstitutional illegal or invalid sentence, clause, section or part thereof not been included herein.

ORDAINED BY AND ENACTED INTO LAW by the Board of Supervisors of the Township of Dunkard in lawful session assembled this 22nd day of November, 2010.

ATTEST:

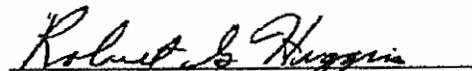
DUNKARD TOWNSHIP


Linda L. Huggins, Secretary/Treasurer


Terry W. Barzanti, Chairman

(SEAL)


David L. Pritchard, Jr., Vice Chairman


Robert G. Huggins, 3rd Member

Entity #: 3996368
Date Filed: 12/06/2010
Basil L Merenda
Secretary of the Commonwealth



T1034147073

MUNICIPAL AUTHORITY
ARTICLES OF INCORPORATION

TO THE SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA

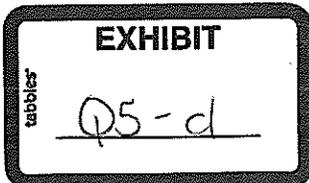
In compliance with the Municipality Authorities Act of 1945, its supplements and amendment, the Township of Dunkard, situated in Greene County, Commonwealth of Pennsylvania, pursuant to this ordinance duly adopted by the Township signifying its desire and intention to form an Authority, hereby certify:

1. The name of the Authority shall be "East Dunkard Water Authority".
2. This Authority is formed under the Act of General Assembly of the Commonwealth, which was approved the 2nd day of May 1945, P.L. 382, as amended.
3. No other Authority organized under the Act or under the Act approved the 28th day of June 1935, P.L. 463, is in existence or for the said incorporating municipality except the following: Dunkard-Boytown Municipal Authority.
4. The purpose of the Authority is to construct or otherwise provide the facilities necessary to furnish water for the incorporating municipality and to such adjoining political subdivisions or areas as desire the service.
5. The respective name of the incorporating municipality is the Township of Dunkard.
6. The names and addresses of the Board of Supervisors of the Township of Dunkard are:

<u>Name</u>	<u>Address</u>
Terry W. Barzanti Chairman	P.O. Box 369 Boytown, PA 15315
David L. Pritchard, Jr. Vice Chairman	P.O. Box 369 Boytown, PA 15315
Robert G. Huggins 3 rd Member	P.O. Box 369 Boytown, PA 15315

PA DEPT. OF STATE

DEC 06 2010



7. This Authority is created to cover Dunkard Township, the area adjacent thereto and any other property which can be incorporated into said area for the purposes hereinafter set forth.
8. The name of the incorporating municipality is Dunkard Township and its address is P. O. Box 369, 370 N. Moreland Street, Bobtown, PA 15315. The names and addresses of its municipal authorities are as follows:
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9. The membership of the Board of the Authority shall be chosen by the Board of Supervisors of Dunkard Township.
10. The names, addresses and terms of office of the members of the board of said Authority are:

<u>Name</u>	<u>Address</u>	<u>Term of</u>
Shirl Vernon	443 Dilliner Hill Road Dilliner, PA 15327	Jan. 1, 2011
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John Yesenosky	P.O. Box 7 Garards Fort, PA 15334	Jan. 1, 2015
11. Dunkard Township retains the right under the Municipal Authorities Act of 1945, as amended, when necessary to approval any plan of the East Dunkard Water Authority.

IN WITNESS WHEREOF, the incorporating municipality has executed these articles, each of its proper officers thereunto duly, authorized, and under its seal this 22nd day of November, 2010.

ATTEST:

DUNKARD TOWNSHIP



Linda L. Huggins, Secretary/Treasurer

(SEAL)



Terry W. Barzanti, Chairman



David L. Pritchard, Jr., Vice Chairman


Robert G. Huggins, 3rd Member

COMMONWEALTH OF PENNSYLVANIA

Department of State

TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

BE IT KNOWN THAT,

CERTIFICATE OF INCORPORATION

has been granted to the Township of Dunkard evidencing the incorporation of

East Dunkard Water Authority

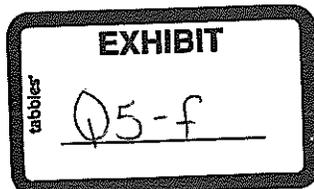
under the authority of Act 22 of 2001, known as the Municipal Authority Act

Filed this 6th day
of December, 2010



Basil L. Merenda

Secretary of the Commonwealth



CCNY

EAST DUNKARD WATER AUTHORITY

BYLAWS

ARTICLE I – THE AUTHORITY

SECTION 1. NAME OF AUTHORITY

The name of the Authority shall be that specified in its amended Articles of Incorporation, to wit: East Dunkard Water Authority.

SECTION 2. SEAL OF AUTHORITY

The seal of the Authority shall contain the name of the Authority and the year of its incorporation, and shall be in the form of the seal impressed in the margin hereof, opposite this section.

(SEAL)

SECTION 3. OFFICE OF AUTHORITY

The office of the Authority shall be at 2790 South Eighty Eight Road, Dilliner, Dunkard Township, Greene County, Pennsylvania 15327-0241.

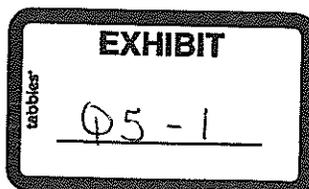
ARTICLE II – OFFICERS

SECTION 4. OFFICERS

The officers of the Authority shall be a President, Vice President and Secretary/Treasurer. All other offices shall be members of the Board of the Authority.

SECTION 5. PRESIDENT

The President shall preside at all meetings of the Board of the Authority. The President may submit such recommendations and information as he shall consider proper concerning the business, affairs and policies of the EDWA (Authority), and make motions for the same.



SECTION 6. VICE PRESIDENT

The Vice President shall perform the duties of the President in the absence or incapacity of the President; and in the case of the resignation or death of the President the Vice President shall perform such duties as are imposed on the President until such time as the Board of the Authority shall appoint a new President.

SECTION 7. SECRETARY/TREASURER

The Secretary of the Authority shall insure that the records of the Authority are kept, shall act as Secretary of the meetings of the Board of the Authority, shall insure that a record of all votes and proceedings of the Board of the Authority, which are to be housed in a journal of proceedings for this purpose, are kept for the Authority at its offices and by the Authority Office Manager. The Secretary shall perform all duties incident to their office. The Secretary shall keep in safe custody the Seal of the Authority, and shall affix the seal to all records of the Authority proceedings, resolutions of the Board of the Authority, and to all contracts and instruments authorized to be executed by the Authority upon proper authorization in the form of a motion or resolution by a majority of the Board of the Authority.

The Treasurer shall oversee the care and custody of all funds of the Authority and shall oversee the deposit of the same in the name of the Authority in such bank(s) as the Board of the Authority may select. The Treasurer and another Board member of the Authority shall sign all orders and checks for the payment of money, and shall payout/disburse such monies under and only under the direction of the Board of Directors of the Authority. The Treasurer shall oversee and direct the Authority Office Manager in the keeping of all books of accounts, showing receipts and expenditures, and shall render to the Board of the Authority, at each regular

meeting, (and when otherwise requested) an account of the transactions and also the financial condition of the Authority.

SECTION 8. ADDITIONAL DUTIES

The officers of the Authority are required to perform any and all duties determined to be necessary, by an approved motion of the Board of the Authority, as may from time to time be required by the Board, its bylaws, or its rules and regulations.

SECTION 9. ELECTION OR APPOINTMENT

All officers of the Authority shall be elected at the annual meeting of the Board of the Authority and shall hold office for one (1) year or until their successors are elected and qualified.

SECTION 10. VACANCIES

Should any of the offices of the Authority become vacant, or be declared vacant by the Board of the Authority, the Board of the Authority may, elect a successor to fill the vacant office. The term of the office of the successor shall be for the unexpired term of the person who vacated the office.

The Board of the Authority shall have the right to declare an office vacant in the event that the officer has consistently absented himself from meetings for a period of not less than two (2) months or has, in the judgment of the Board, suffered such ill health as to be unlikely to serve the duties of his office for a period of at least two (2) months.

The Board of the Authority may, by an approved motion, remove a member of its Board from his office for the failure of a Board member of the Authority to perform their duties as either an officer or as a member of the Board of the Authority directed to perform a specified duty, or if that member fails to attend a total of four (4) regular, special or continued meetings.

SECTION 11. ADDITIONAL PERSONNEL

The Authority may from time to time employ such personnel as it deems necessary to exercise its powers, duties and functions, as prescribed by the Municipality Authorities Act of 1945, as amended, of Pennsylvania, and all other laws of the Commonwealth of Pennsylvania applicable thereto. The selection and compensation of such personnel shall be determined by the Board of the Authority, subject to the laws of the Commonwealth of Pennsylvania.

ARTICLE III – MEETINGS

SECTION 12. ANNUAL MEETINGS

The annual meeting of the Board of the Authority shall be held on the second Thursday of January of each year at 8:00 p.m. at the office of the Authority.

SECTION 13. REGULAR MEETINGS

Regular meetings of the Board of the Authority may be held at such times and places as may from time to time be determined by resolution of the Board of the Authority. In the absence of resolution to the contrary, regular meetings of the Board of the Authority shall be held in the office of the Authority. In the absence of resolution to the contrary regular meetings of the Board of the Authority shall occur on the second Thursday of each month, at the office of the Authority at 8:00 p.m.

SECTION 14. SPECIAL MEETINGS

The President of the Board of the Authority may, when deems it expedient, and shall, upon the written request of two (2) members of the Board of the Authority, call a special meeting of the Board of the Authority for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each member of the Board of Authority at least two (2) days prior to the date when the special meeting is to occur, or mailed to the business

or home address of each member at such time as to reach the member at least two (2) days prior to the date of such special meeting. No business shall be considered other than that designated in the call.

SECTION 15. NOTICE

Notice of all regular and special meetings of the Board of the Authority shall be given to the public in the manner required by the statutes of the Commonwealth of Pennsylvania. (i.e. Sunshine Act; Act of 1986, P.L. 388, No. 84 Section 9, Sub-Section b).

SECTION 16. QUORUM

At all meetings of the Board of the Authority three (3) of the five (5) members of the Board shall constitute a quorum for the purpose of transacting business; provided, however, that a smaller number may meet and adjourn to some other time or until a quorum is obtained.

SECTION 17. ORDER OF BUSINESS

At regular meetings of the Board of the Authority, the following shall be the order of business:

1. Roll call.
2. Reading and approval of the minutes of the previous meeting.
3. Bills and communications.
4. Report of the Secretary/Treasurer
5. Reports of committees.
6. Unfinished business.
7. New business.
8. Adjournment.

SECTION 18. MANNER OF VOTING

The voting on all questions coming before the Board of the Authority shall be by roll call, and the ayes and nays shall be entered upon the minutes of such meeting, unless the vote is unanimous of all members present and in that case the minutes shall so indicate.

SECTION 19. CONTRACTS

At least three (3) of the five (5) members of the Board of the Authority shall sign all contracts, deeds and other instruments made by the Authority, and only as authorized by resolution of the Board of the Authority made in the form of a motion.

ARTICLE V – AMENDMENTS

SECTION 20. AMENDMENTS TO BYLAWS

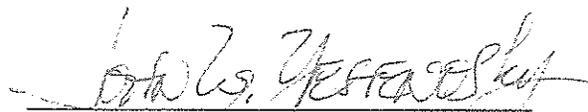
The bylaws of the Authority shall be amended only with the approval of at least three (3) of the members of the Board of the Authority at a regular or special meeting. No amendment of these bylaws shall be considered unless the person proposing the amendment has given written notice of intent to propose the amendment and the text of the proposed amendment to each member of the Board of the Authority at least ten (10) days prior to the meeting at which the amendment is considered.

EXAMINED AND APPROVED this 9th day of June, 2011 at a
public meeting of the East Dunkard Water Authority.

ATTEST:

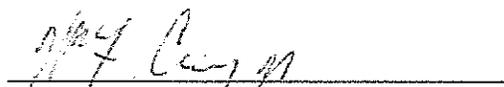
EAST DUNKARD WATER AUTHORITY
BOARD OF DIRECTORS


Michelle Popernack, Secretary


John Yesenosky, President


Erwin Wilson, Vice President


Sam Cossick


William F. Craig, Jr.


John Kuis

Amendments to by-laws of EDWA as follows:

Section 21.

- A. Any board member who willfully disregards, disobeys, or otherwise fails to adhere to or carry out a duly passed motion will be subject to censure and/or impeachment by a 2/3 majority of the board.
- B. Any board member or employee who discloses any information discussed in executive session to any person outside of the executive session will be subject to censure and/or impeachment (board member) or discipline and/or termination (employee) by a 2/3 majority of the board.
- C. Any employee who willfully disregards, disobeys, or otherwise fails to adhere to or carry out a duly passed motion will be subject to discipline and/or termination by a 2/3 majority of the board.

These amendments are presented under the provisions of section 20 of the EDWA by-laws.

I&E Exhibit 3

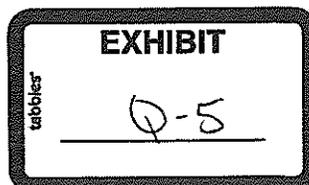
DEPARTMENT OF ENVIRONMENTAL PROTECTION

SAFE DRINKING WATER PROGRAM

DEP DISTRICT = UNIONTOWN

*** PWSID = 5300012 SYSTEM NAME = EAST DUNKARD
WATER AUTHORITY ***

FISCAL YEAR	VIOL BEGIN DATE	VIOLATION ID	LOCATION ID	CONTAMINANT NAME	VIOLATION REASON
2019		23793	803	CHLORINE	R3





July 9, 2019

NOTICE OF VIOLATION

CERTIFIED MAIL NO. 7018 1130 0001 1759 7979

Mr. James Holbert
East Dunkard Water Authority
P.O. Box 241
Dilliner, PA 15327

Re: Violation of the Pennsylvania Safe Drinking Water Act and Regulations
PWSID No. 5300012
East Dunkard Water Authority
Dunkard Township
Greene County

Dear Mr. Holbert:

The Rules and Regulations promulgated under the Pennsylvania Safe Drinking Water Act require any person that operates a public water system to test the water for certain contaminants on a routine basis and issue public notification to the consumers whenever they fail to monitor, or the water fails to meet Safe Drinking Water standards. A review of our records indicates East Dunkard Water Authority has failed to sample their water according to these requirements.

Chapter 109. Safe Drinking Water, Subchapter C. Monitoring Requirements, indicates that East Dunkard Water Authority is required to sample their drinking water for distribution disinfection residual every week. A review of our records indicates East Dunkard Water Authority failed to monitor or report sample results for free chlorine residual within the distribution system on a weekly basis.

Chapter 109, Subchapter D. Public Notification, requires any system to notify their customers whenever they fail to conduct monitoring of the system. Enclosed for your convenience is a Public Notification template that you may use to fulfill this requirement. This should be delivered to all of your customers within one year of the violation's occurrence and may be included in the system's next annual Consumer Confidence Report. Once you have issued the public notice accordingly, please submit a completed Certification Form and a copy of the completed Public Notice to our office at the address below. **Please be aware that copies of the Certification Form and Public Notice are required to be sent to the Department within ten days of issuance to the public, per Chapter 109.701(a)(4) and you are not in compliance with these regulations until these forms are received.**

East Dunkard Water Authority

-2-

July 9, 2019

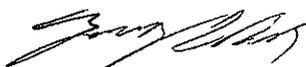
If these samples were appropriately collected, East Dunkard Water Authority should have the aforementioned sample results submitted within the next seven (7) days and Public Notification shall not be required; however, this would constitute a valid late reporting violation under Chapter 109.701(a)(1) of the Safe Drinking Water regulations.

Please note that if future samples are not taken or reported within the required timeframes or if public notification is not issued accordingly, East Dunkard Water Authority will incur additional violations. Any violation of the PA Safe Drinking Water Act and regulations could result in further enforcement action, including the assessment of civil penalties.

This Notice of Violation is neither an order nor any other final action of the Department of Environmental Protection. It neither imposes nor waives any enforcement action available to the Department under any of its statutes. If the Department determines that an enforcement action is appropriate, you will be notified of the action.

If you have any questions regarding this information, please contact me at the telephone number or address listed on the bottom of this Notice, or via email at zacbell@pa.gov.

Sincerely,



Zach Bell
Sanitarian

Enclosures: Public Notification Template
Public Notification Certification Form

cc: New Stanton District Office
Southwest Regional Office



PUBLIC NOTIFICATION (PN) CERTIFICATION FORM

Public Water System Name: East Dunkard Water Authority PWSID Number: 5300012

Date of Violation/Situation: July 9, 2019

Description of Violation/Situation: Failure to monitor and report required Coliform Bacteria and Distribution Chlorine Residuals for the monitoring period of May 2019

Notified DEP (or CHD) within 1 hour Date or NA: NA

Consulted with DEP within 24 hours Date or NA: NA

PN Level: Tier 1 Tier 2 Tier 3

Type of notice addressed by this certification: Initial Repeat

Methods and date of public notice deliveries to customers:

Method: Notices mailed to each customer Date: 5/21/20

Method: Noticed posted in public entrance to office Date: 5/21/20

Method: _____ Date: _____

Method: _____ Date: _____

The public notice included the required elements: a description of the violation/situation; potential health effects; the population at risk; if alternate water supplies need to be used; when the violation/situation occurred; when the system will resolve the violation/situation; what is being done to correct the problem; actions consumers can take; water system contact information; and language encouraging broader distribution of the notice.

A copy of each type of notice that was distributed is attached to this certification form

Certified by:

As a representative of the Public Water System (PWS) indicated above, I certify that public notification addressing the above violation/situation was distributed to all customers in accordance with the prescribed content, format, deadlines and delivery requirements outlined in Chapter 25 Pa. Code Chapter 109 Subchapter D of the Department of Environmental Protection (DEP)'s regulations.

Signature: James Holbert Date: _____

Print Name and Title: James Holbert, Plant Manager

Phone Number: 724-943-3713

Complete and submit this form to your local DEP office **within 10 days** of issuing the public notification described above. DEP District Office and County Health Department contact information can be found within DEP document number 3930-FM-BSDW0560, which can be located by searching for document number 3930-FM-BSDW0560 in DEP's eLibrary at the following link: <http://www.depgreenport.state.pa.us/elibrary/Search> .

For DEP use only. Checked by: _____ **Date:** _____

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER FAILURE TO MONITOR

ESTE INFORME CONTIENE INFORMACIÓN IMPORTANTE ACERCA DE SU AGUA POTABLE. HAGA QUE ALGUIEN LO TRADUZCA PARA USTED, O HABLE CON ALGUIEN QUE LO ENTIENDA.

Monitoring Requirements Not Met for East Dunkard Water Authority

Our water system received a monitoring violation in the past year, which occurs when the correct number of samples is not taken. Even though these were not emergencies, as our customers, you have a right to know what happened and what we did to correct these situations.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During May 2019 we did not complete all monitoring and testing and therefore cannot be sure of the quality of our drinking water during that time.

The table below lists the contaminant(s) we did not properly test for during the last year, how often we are supposed to sample for Coliform Bacteria and Distribution Chlorine Residuals and how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required sampling frequency	Number of samples taken	When all samples should have been taken	When samples were or will be taken
Coliform	1/week	4	May 2019	July 15 2019
Distribution Chlorine Residuals	1/week	4	May 2019	July 15 2019

What happened? What was done?

In May 2019, a 5th sample should have been taken for the month. Please note, resampling was done and those resamples showed we are meeting regulated standards put in place by The Department of Environmental Protection.

Do I need to do anything regarding water in my home?

You do not need to take any actions with your water. This violation occurred due to the QUANTITY OF SAMPLES TAKEN, NOT THE QUALITY OF WATER. Once EDWA was notified in July 2019, resampling was immediately done and submitted.

For more information, please contact James Holbert, Plant Manager at 724-943-3713.

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by East Dunkard Water Authority.

PWS ID#: 5300012

Date distributed: 05/21/20

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PWS ID#: 5300012

Date distributed: 05/21/20

* Customer entrance to office

CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Certified Mail Fee \$ 3.55

Extra Services & Fees (check box, add fee appropriate)
 Return Receipt (hardcopy)
 Return Receipt (electronic)
 Certified Mail Restricted Delivery
 Adult Signature Required
 Adult Signature Restricted Delivery

Postmark Here
MAY 27 2020

Postage \$ 1.60
Total Postage and Fees \$ 1.50

Sent To PA Dept. of Environmental Res.
Street and Apt. No. or Post Box No. PO Box 133
City, State, ZIP+4® New Stanton PA

PS Form 3811, April 2015 PSN 7530-02-000-9053 See Reverse for Instructions

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
B. Receiver (Printed Name) [Signature] Addressee
C. Date of Delivery 5/29/20

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Adult Signature Restricted Delivery
 Certified Mail®
 Certified Mail Restricted Delivery
 Collect on Delivery
 Every Restricted Delivery
 Registered Mail™
 Registered Mail Restricted Delivery
 Return Receipt for Merchandise
 Signature Confirmation™
 Signature Confirmation Restricted Delivery

7016 0910 0002 0729 4101 (over \$500)

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3.
Print your name and address on the reverse so that we can return the card to you.
Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:
Pennsylvania Dept. of Environmental
Patricia Miller
Box 133, 131 Broadview Rd.
New Stanton PA, 15672



9590 9402 5167 9122 1506 07

7016 0910 0002 0729 4101

PS Form 3811, July 2015 PSN 7530-02-000-9053

I&E Exhibit 4

Violation Details for Inspection ID: 3154816

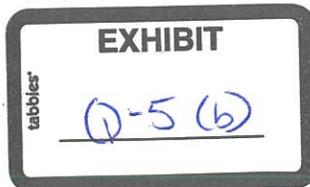
POTENTIAL

Program: Safe Drinking Water

Disclaimer: The dollar amounts listed below are for the entire related enforcement, and may encompass many sites/facilities. The Total Amount Collected may or may not be related to the Penalty Amount Assessed, depending on how your program or regional office records payments in eFACTS. Questions regarding payments or penalties should be directed to the eFACTS Help Desk at:

(717) 705-3768 or <mailto:ep-efacts@dep.state.pa.gov>

Violation ID	Date	Violation Description
908993	12/04/2020	<p>FAILED TO MONITOR OR REPORT THE REQUIRED NUMBER OF TURBIDITY OR DISINFECTANT RESIDUAL MEASUREMENTS FOR A FILTERED, SURFACE PUBLIC WATER SYSTEM</p> <p>Resolution:</p> <p>PA Code Legal Citation: 25 PA Code, Chapter 109, 109.301 : PA Code Website</p> <p>Violation Type: Administrative</p>
Related Enforcements		
<p>Please note: the following related enforcement data is accumulated from possibly many different sites/facilities that may be unrelated to the facility for this inspection.</p> <p>Enforcement ID: 392597 Penalty Final Date:</p> <p>Enforcement Type: Notice of Violation Penalty Amount Assessed:</p> <p>Date Executed: 12/04/2020 Total Amount Due:</p> <p>Taken Against: EAST DUNKARD WATER ASSN Total Amount Collected:</p> <p>On Appeal? N Penalty Status:</p> <p>Enforcement Status:</p> <p># of Violations Addressed by this Enforcement and Penalty Action (possibly from many facilities): 1</p>		



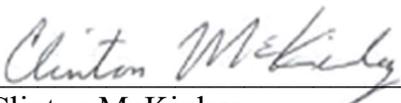
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

VERIFICATION

I, Clinton McKinley, Fixed Utility Valuation Engineer – 3, in the Bureau of Technical Utility Services, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: August 2, 2021



Clinton McKinley
Fixed Utility Valuation Engineer – 3
Bureau of Technical Utility Services
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2021-
	:	
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).

Service by Electronic Mail:¹

Megan L. Patrick, Esq.
Makel & Associates, LLC
98 E. Maiden Street
Washington, PA 15301
megan@makelandassociates.com
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

Date: August 2, 2021

¹ Service by Commission staff shall be performed electronically only, given the Commission's inability to maintain normal mailing operations due to COVID-19. *See Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements*, Docket No. M-2020-3019262 (Emergency Order ratified on March 26, 2020).