

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17120**

Public Meeting held July 24, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Application of City of DuBois for approval of the right to: (1) transfer its water system assets to a new municipal corporation formed by the consolidation of Sandy Township and the City of DuBois; and (2) abandon water service to the public outside of the corporate limits of the City of DuBois, Clearfield County, Pennsylvania

Docket Nos.
A-2024-3052728

Petition of City of DuBois for an extension of time to file a lead service line replacement program

P-2024-3050267

ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) is the Application filed on December 30, 2024, by the City of DuBois (DuBois), Utility Code 220750, seeks certificates of public convenience pursuant to Sections 1102(a)(2) and (3) of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 1102(a)(2) and (3), evidencing Commission approval of DuBois's right to: (1) transfer its water system assets to a new municipal corporation formed by the consolidation of Sandy Township and DuBois; and (2) abandon water service to the public outside of the corporate limits of DuBois, Clearfield County, Pennsylvania (Application). Also, before the Commission for consideration and disposition is the petition of DuBois filed on October 16, 2024,

(October 2024 Petition), for a time extension to file a lead service line replacement program (LSLR Program).

Upon closing on the consolidation under the Agreement, DuBois and Sandy Township will become a single municipal corporation (New City) that will keep the name of the “City of DuBois.” New City will own the Water System and will provide water service to customers entirely within its municipal limits. DuBois submitted proofs of publication and service to the appropriate entities.¹ Notice of the Application was published in the *Pennsylvania Bulletin*, 55 Pa.B. 428, on January 11, 2025. The protest period ended January 27, 2025. No protests were filed, and no hearings were held.

For the reasons outlined herein, we will conditionally approve DuBois’ Application and grant DuBois a further extension of time to file its LSLR conditioned on the completion of the municipal consolidation between DuBois and Sandy Township.

I. AFFECTED ENTITIES AND BACKGROUND

DuBois is a Third-Class city and a municipal corporation², duly organized and existing under the laws of the Commonwealth with a mailing address of 16 West Scribner Avenue, P.O. Box 408, DuBois, Pennsylvania 15801. DuBois owns and operates a water supply, treatment, storage and distribution system (Water System) and provides water service to approximately 4,372 customers, including 3,688 customers inside of its corporate limits and approximately 684 customers residing in Sandy Township, Clearfield County, which is located outside of DuBois’s corporate limits. As early as 1907, DuBois began providing water service to customers in Sandy Township. Having begun service prior to state regulation of such service, which began in 1913, DuBois is understood to be “grandfathered” into its authority. The Pennsylvania Public Utility

¹ See, DuBois Certificate of Service filed with the Commission on January 13, 2025, at this docket.

² See, 66 Pa.C.S. § 102.

Code provides statutory authority for the preservation of prior rights in Section 103(a), 66 Pa.C.S. § 103(a).³

Sandy Township is a Second-Class Township, duly organized and existing under the laws of the Commonwealth with a mailing address of 1094 Chestnut Avenue, P.O. Box 267, DuBois, Pennsylvania 15801. Sandy Township has created the Sandy Township Municipal Authority (STMA), which is a municipal authority duly organized and existing under the Pennsylvania Municipality Authorities Act of 1945, as amended. Water and wastewater services in Sandy Township are generally provided to the residents of Sandy Township by STMA with the exception of the water service provided to the 684 Sandy Township jurisdictional customers receiving water service from DuBois.

II. LOCATION AND DESCRIPTION OF FACILITIES

DuBois and Sandy Township are situated in northwest Clearfield County. Sandy Township surrounds DuBois and borders Jefferson County, Elk County, and Huston, Union, and Brady Townships in Clearfield County. In the Application, DuBois indicated that it provides bulk water services to Falls Creek Borough (Falls Creek), Union Township (Union), and Sykesville Borough (Sykesville).⁴ DuBois averred that water sales to Union occur in Sandy Township, and in supplemental information filed with the Commission, DuBois confirmed that water services to Sykesville and Falls Creek will be provided at points of service within the New City's corporate limits.

According to its most recent annual report filed with the Commission for the 2023 calendar year, DuBois uses a reservoir as its primary source of supply, with water wells as secondary sources. Water is distributed throughout the system by gravity, with an average daily production of 2,163,909 gallons and an average daily demand of 1,739,326

³ See, Initial Decision of Administrative Law Judge Michael A. Nemec dated September 16, 2003, at Docket No. C-20029000, at Pages 2 and 4, and the Commission's Final Order entered December 29, 2003, at Docket No. C-20029000.

⁴ In supplemental information filed with the Commission, DuBois indicated that references to Sykesville "Township" in the Application should be corrected to Sykesville Borough.

gallons, and public fire protection service is provided for 82 fire hydrants in Sandy Township. DuBois reported a total investment in plant of \$25 million.

III. CONSOLIDATION AGREEMENT

In January 2022, the Sandy Township Board of Supervisors and the DuBois City Council (collectively, Governing Bodies) began the municipal consolidation process and formed a Joint Board consisting of elected officials from each Governing Body to develop the Agreement in conformity with the Consolidation Act. The Joint Board also engaged consolidation consultants to provide financial review and legal technical support to develop the Agreement.

DuBois and Sandy Township entered into a Consolidation Agreement dated as of November 7, 2022 (Agreement), pursuant to Sections 733(a)(2), 735, and 736 of the Municipal Consolidation or Merger Act (Consolidation Act), 53 Pa.C.S. §§ 733(a)(2), 735, and 736, which authorizes the consolidation or merger of two or more contiguous municipalities into a single municipal government. A copy of the executed Agreement was included as the Application's Exhibit. The Agreement outlines the process, timeline, and terms for the consolidation of DuBois and Sandy Township into one new municipality. According to the Agreement, the consolidation of Sandy Township and DuBois was approved by their electors by referendum, and the result of the referendum was certified on November 18, 2021, pursuant to Sections 733(a)(2), 735 and 736 of the Consolidation Act.

The territorial boundary of New City is defined in the Agreement as the combined outer border of Sandy Township and DuBois, which effectively makes the perimeter of Sandy Township the territorial boundary of New City. Although the Agreement's effective date is when the Governing Bodies approved it, the effective date of the municipal consolidation will occur upon the swearing-in of New City's elected officials on **January 5, 2026** (Consolidation Date). Upon the occurrence of the Consolidation

Date, New City shall begin to function, and the governments of DuBois and Sandy Township shall be abolished. The Agreement defines the “Transition Period” as the gap between the effective date and the Consolidation Date.

On the Consolidation Date, all existing assets of DuBois and Sandy Township, including any and all real and personal properties, and rights of any nature, tangible or intangible, shall become assets of New City. A detailed inventory of all assets, liabilities, property, and equipment shall be composed by May 2025, and DuBois and Sandy Township will work with professionals to assist with the transfer and assumption of assets, outstanding debt, contractual obligations, and liabilities.

Currently, DuBois owns and operates water and wastewater utilities to service its residents, although some residents in Sandy Township receive water service from DuBois. Water and wastewater services in Sandy Township are generally provided by STMA. The municipalities agreed that after the Consolidation Date, New City will provide water and wastewater service to all New City residents upon uniform terms, conditions, and rates. During the Transition Period, Sandy Township and DuBois committed to take steps to enable New City to offer uninterrupted municipal water and wastewater service to its residents, including preparation for the abandonment of DuBois’ Certificate of Public Convenience, updating agreements with DuBois bulk service customers, and entering transactions with STMA to continue providing service to its customers. The parties agreed to engage professionals, further defined in the Agreement, as necessary to review the steps needed to fulfill these commitments and to educate the Joint Board about them and will effectuate the necessary transactions to implement the Agreement’s terms, using grants and other funding where possible.

Except where defined in the Agreement, all ordinances, resolutions, rules and regulations, including planning, zoning, health, and other regulations, in effect in Sandy Township and DuBois on the day before the Consolidation Date shall continue in force

and effect and shall continue to apply within the territorial limits of Sandy Township and DuBois, respectively, until amended or repealed by the New City Council.

Considering that DuBois must continue to provide public utility water service to Sandy Township customers until the Consolidation Date, we will conditionally approve the Application subject to the requirement that within ten (10) days after closing of the consolidation of DuBois and Sandy Township, DuBois or its successor shall provide written notification to the Secretary's Bureau.⁵ Upon receipt of this notice, we will authorize DuBois to abandon public utility water service.⁶

IV. PROPOSED RATES

DuBois' current water rates for Commission-jurisdictional customers in Sandy Township are set forth in its effective water tariff. These rates include a customer charge that varies by meter size, and tiered consumption charges where the first 100,000 gallons of water usage per month is charged at \$5.50 per 1,000 gallons, and water usage over 100,000 gallons per month is charged at \$4.14 per 1,000 gallons.

In addition to the 3,688 customers in DuBois and 684 customers in Sandy Township, there are three municipalities, Union, Sykesville, and Falls Creek, served by DuBois as wholesale customers. DuBois contends that its services for Union are Commission-jurisdictional, while its services for Sykesville and Falls Creek are not jurisdictional. For Union, DuBois indicated in the Application that its services by contract to Union, which was filed with the Commission on June 20, 2017, at Docket No. R-2016-2554150, and included as the Application's Exhibit B, will not be Commission-jurisdictional post-consolidation, since Union's point of sale is located at a filtration plant in Sandy Township that will be inside the New City's municipal boundaries. For Sykesville, in supplemental information filed with the Commission, DuBois clarified that New City would continue to provide wholesale water service to Sykesville as a non-

⁵ See, Ordering Paragraph 4.

⁶ See, Ordering Paragraph 5.

jurisdictional customer, and to Falls Creek, which is provided by contract, at points within New City's corporate limits.⁷

In supplemental information filed with the Commission, DuBois indicated that the Joint Board is working with consultants to prepare a rate study to develop new uniform rates for New City customers, which is expected to be completed by June 1, 2025. However, DuBois confirmed that it would not modify the water rates charged to current Commission-jurisdictional customers until after the Consolidation Date.

V. PERMITS, EASEMENTS, AND RIGHTS-OF-WAY REQUIRED

In supplemental information filed with the Commission, DuBois provided a list of permits that it believes must be transferred to the New City. These permits include 14 public water supply operation and construction permits, a national pollutant discharge elimination system industrial waste permit, a water quality management construction permit, a water obstruction and encroachment permit, and Susquehanna River Basin Commission withdrawal and diversion authorization.

VI. LAND-USE PLANNING COMPLIANCE

In supplemental information filed with the Commission, DuBois indicated that it believes that the Application is consistent with adopted Sandy Township and Clearfield County comprehensive plans and Sandy Township zoning ordinances as water facilities are not being modified as part of the consolidation.

VII. LEAD SERVICE LINE REPLACEMENT PROGRAM

⁷ In the Commission's Opinion and Order entered March 28, 2017, at Docket Nos. R-2016-2554150, *et. al.*, for DuBois' most recent base rate case proceeding, the Commission adopted DuBois' position that sales to Sykesville were not within the Commission's jurisdiction. Also, on August 13, 2021, DuBois filed a copy of its sales agreement with Falls Creek and the Falls Creek Borough Municipal Authority at Docket No. R-2016-2554150, which provided for water sales within DuBois' municipal boundaries.

Because DuBois is providing jurisdictional extraterritorial water service under 66 Pa.C.S. § 1102(a)(5), it was required to file with the Commission an LSLR Program by July 23, 2024, pursuant to Section 65.55(a) of the Commission’s regulations, 52 Pa. Code § 65.55(a). On July 22, 2024, DuBois filed a petition (July 2024 Petition) that requested a time extension to file an LSLR Program with the Commission at Docket No. P-2024-3050267.

On August 6, 2024, the Office of Small Business Advocate (OSBA) filed a Notice of Appearance for the July 2024 Petition. On August 7, 2024, OSBA filed a Notice of Intervention for the July 2024 Petition. By Secretarial Letter dated September 30, 2024, the Commission granted a time extension of the deadline for DuBois to file an LSLR Program until December 23, 2024.

On October 16, 2024, DuBois filed a second petition (October 2024 Petition) at Docket No. P-2024-3050267 that requested that the Commission extend DuBois’ “current LSLR Program waiver” through January 31, 2026. To date, DuBois has not filed an LSLR Program with the Commission, nor was DuBois granted a further extension. DuBois submitted proof of service of both of its petitions to the appropriate entities. No answers or comments were filed, and no hearings were held.

In its October 2024 Petition, DuBois noted that New City would become subject to the Pennsylvania Department of Environmental Protection’s (DEP’s) jurisdiction and DEP’s enforcement of the Environmental Protection Agency’s Lead and Copper Rule Revisions. DuBois contended that because New City would no longer be subject to the Commission's LSLR regulations as of January 5, 2026, the Commission should refrain from committing resources to development of a 30-year LSLR plan it would be mostly prohibited from administering for most of the plan. According to DuBois, its proposed extension provides an opportunity for the Commission to avoid investing valuable public resources towards a regulatory initiative that would be rendered dormant within 12 months of its inception due to an intervening restructuring that will change DuBois status

as a regulated public utility. If for any reason the proposed consolidation fails, DuBois would remain responsible for compliance with the Commission's LSLR regulations.

In supplemental information filed with the Commission for the Application, DuBois specified that while it acknowledges its obligations to comply with Commission regulations, DuBois is committing substantial resources to the intensive process of completing a municipal consolidation and would respectfully ask the Commission to consider that the City was anticipating a ruling on the requested further extension prior to diverting additional resources towards the preparation of an LSLR Program.

Upon review and consideration of the unique facts and circumstances discussed herein, we believe that a further limited extension of time of Commission regulations is appropriate. With only several months until the expected Consolidation Date, it would be inefficient, unreasonable, and contrary to the public interest to direct DuBois to create and seek Commission approval of an LSLR Program, LSLR Plan, and *pro forma* tariff or tariff supplement at this time. As such, granting an extension of time for DuBois to make its LSLR Program filing as required by 52 Pa. Code § 65.55(a) (relating to LSLR program requirements) until is reasonable.⁸ Acknowledging that DuBois or its successor is required to provide notice to the Commission within ten (10) days after the Consolidation Date, which is the effective date of the municipal consolidation between DuBois and Sandy Township, we will grant DuBois an extension of time until no later than June 30, 2026 to notify the Commission that it is now subject to the DEP's jurisdiction and DEP's enforcement of the Environmental Protection Agency's Lead and Copper Rule Revisions. Alternatively, if DuBois determines that the consolidation will no longer occur, it will promptly file notice of such determination with the Secretary's Bureau at Docket No. A-2024-3052728, and file a LSLR Program Petition under 52 Pa.

⁸ See, Ordering Paragraph 7.

Code § 65.55 within 180 days of filing the notice with the Commission or June 30, 2026, whichever date is earlier.⁹

Notwithstanding that DuBois does not currently have an approved LSLR Program, we remind DuBois that while DuBois is still under Commission jurisdiction, DuBois' jurisdictional water services in Sandy Township must comply with our regulations under 52 Pa. Code § 65.62 (relating to Prohibition on partial LSLRs) that prohibit partial LSLRs. For example, where a customer or property owner elects to replace a customer-owned LSL, DuBois must replace the DuBois-owned LSL concurrent with the replacement of the customer-owned LSL. 52 Pa. Code § 65.62(a). Also, DuBois may not install, or cause to be installed, a partial LSLR and may not furnish water service using a partial LSLR that is installed after July 23, 2022, by a customer or property owner. 52 Pa. Code § 65.62(b). We encourage DuBois and New City to promptly develop and implement a plan to find and replace lead infrastructure throughout the consolidated Water System under the Third-Class City Code, if possible.

VIII. OTHER CONSIDERATIONS

According to DuBois, New City will continue to have staff to provide operations, maintenance, and administrative services, and will have the legal authority under the Third-Class City Code to provide water service and to collect such fees and charges as may be necessary to provide for the continued operation and maintenance of the facilities. As such, DuBois contends that its abandonment will not result in any diminution of service to its customers. We note that after the consolidation, all of DuBois's former customers, including those 684 jurisdictional customers in Sandy Township, will be residents of New City with ballot box power to address any concerns about water rates and services under the operation of New City's leadership. In addition, as noted in Section II above, bulk service to Falls Creek, Union, and Sykesville will occur within New City's corporate limits. Thus, Commission regulation and oversight over New

⁹ See, Ordering Paragraph 9.

City's customers under the Pennsylvania Public Utility Code would not be authorized or legally permissible because New City would be providing water service exclusively within its corporate boundaries.

In supplemental information filed with the Commission, DuBois averred that the consolidation would allow New City to simplify the administrative processes for rate setting and billing, and labor would similarly become more efficient for ratepayers as New City would consolidate salaries and benefits under New City water operations. Further, New City would benefit from streamlined facilities maintenance operations as main replacements, meter upgrades and other operational activities would be coordinated between a single water utility and a single municipal body. Additionally, all water customers would benefit from the consolidation reducing overhead expenses for other local government departments currently duplicated among the two municipalities, including police, fire, and public works departments.

DuBois has no outstanding fines due to the Commission and is current with Commission reporting requirements. In email correspondence from DEP's Northcentral Regional Office, DEP advised Commission staff that it did not have any open violations or enforcement actions with DuBois.

IX. CONCLUSION

Based upon the facts that after the Consolidation Date New City will providing water service to both former DuBois customers and STMA customers; that DuBois customers in Sandy Township will be residents of New City with ballot box power to address any concerns regarding water rates and services under the operation of the New City's leadership; that the consolidation is expected to result in administrative efficiency and reduced overhead costs; and that New City appears to be fit to serve both DuBois' and Sandy Township's existing customer base, the Commission finds that granting approval of DuBois' Application is necessary or proper for the service, accommodation,

convenience, or safety of the public and is in the public interest. Additionally, we find that it is in the public interest to grant Dubois a temporary extension of time to file its LSLR program with the Commission; **THEREFORE,**

IT IS ORDERED:

1. That the Application of the City of DuBois at Docket No. A-2024-3052728, is hereby conditionally approved, consistent with this Order.

2. That the Petition of the City of DuBois at Docket No. P-2024-3050267, is granted in part, consistent with this Order.

3. That within ten (10) days after closing of the consolidation of the City of DuBois and Sandy Township, the City of DuBois or its successor shall provide written notification to the Secretary's Bureau at Docket No. A-2024-3052728.

4. That a Certificate of Public Convenience may be issued pursuant to Section 1102(a)(3) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1102(a)(3), authorizing the City of DuBois to transfer its water system assets to a new municipal corporation formed by the consolidation of Sandy Township and the City of DuBois, within thirty (30) days of the Commission being notified of the completion of the merger consistent with this Order.

5. That following Commission receipt of the notice of closing as required in Ordering Paragraph 3, a Certificate of Public Convenience shall be issued pursuant to Section 1102(a)(2) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1102(a)(2), authorizing the City of DuBois to abandon water service to the public outside of the corporate limits of the City of DuBois, Clearfield County, Pennsylvania, consistent with this Order.

6. That upon the issuance of the Certificate of Public Convenience pursuant to Ordering Paragraph 5, the City of DuBois shall return all copies of previously issued

Certificates of Public Convenience to the Commission's Secretary's Bureau; be removed from all active utility lists maintained by the Commission's Secretary's Bureau and the Bureau of Administration; and the City of DuBois's tariff shall become null and void and will be removed from the Commission's active files.

7. That the City of DuBois is granted an extension of time relative to the Lead Service Line Replacement Program filing requirements under 52 Pa. Code § 65.55(a) until June 30, 2026.

8. That if the consolidation has not been completed by January 5, 2026, the City of DuBois shall file status reports with the Secretary's Bureau every thirty (30) days that describe the status of the consolidation and the anticipated date of closing of the consolidation.

9. That if the City of DuBois determines that the consolidation will not occur, it will promptly file notice of such determination with the Secretary's Bureau at Docket No. A-2024-3052728 and file a Lead Service Line Replacement Program Petition under 52 Pa. Code § 65.55 within 180 days of filing the notice with the Commission or June 30, 2026, whichever date is earlier.


10. That nothing herein shall be construed as an approval or determination of costs or expenses for the purposes of just or reasonable rates or to exempt the City of DuBois from obtaining all necessary permits, licenses, and approvals from other federal, state, and local government agencies having jurisdiction.

11. That a copy of this Order be served upon the City of DuBois, the Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Sandy Township Board of Supervisors, the Sandy Township Planning Commission, the Clearfield County Board of Commissioners, the Clearfield County Planning Commission, Aqua Pennsylvania, Inc.,

and the Department of Environmental Protection – Northcentral Regional Office and its Bureau of Regulatory Counsel.

12. That the proceeding at Docket No. A-2024-3052728 be closed after a Certificate of Public Convenience is issued in accordance with Ordering Paragraph 5.

BY THE COMMISSION,

A handwritten signature in black ink, reading "Matthew L. Homsher". The signature is written in a cursive style with a large initial "M".

Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: July 24, 2025

ORDER ENTERED: July 24, 2025