

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petroleum Valley Regional Water Authority	:	C-2024-3051609
	:	
v.	:	
	:	
East Brady Borough	:	

**INTERIM ORDER EXTENDING DEADLINE TO FILE PREHEARING AND
DISPOSITIVE MOTIONS AND CANCELLING EVIDENTIARY HEARING**

Complainant is Petroleum Valley Regional Water Authority (Complainant, PVRWA or Authority). Respondent is East Brady Borough (Respondent, EBB or Borough). On October 10, 2024, the Authority filed a Formal Complaint (Complaint) against Borough regarding rates and terms of a water rate increase allegedly imposed by Borough against Authority April 22, 2024.¹

On October 28, 2024, the Borough filed preliminary Objections to the Complaint.

On November 5, 2024, the Authority filed an Answer to Preliminary Objections.

On December 31, 2024, an Interim Order was entered denying the preliminary objections, as, based on the averments in the complaint, it is not clear the complaint should be dismissed.

On January 16, 2025, the Borough filed an answer to the Formal Complaint filed by the Authority. The Borough denied that the Commission has any jurisdiction to hear rate claim challenges of bulk water customers. Borough avers it charges the Authority a bulk rate

¹ Complaint ¶ 5.

and the Authority in turn resells the water to its customers. The Borough further avers it does not charge rates to Authority customers directly.²

On March 28, 2025, an Interim Order was entered which, *inter alia*, directed that the Parties engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. The Order directed the Parties to conclude discovery by June 1, 2025; file dispositive motions together with and memoranda or briefs in support of such dispositive motions by July 10, 2025; file a status report by September 1, 2025; and to stipulate to any matters possible to expedite this proceeding, lessen the burden of time and expenses in litigation on all Parties and conserve administrative hearing resources.

On October 6, 2025, an Interim Order was entered Requiring Distribution Of Prehearing Memoranda, Proposed Exhibits And Other Requirements For The Evidentiary Hearings. The Interim Order, *inter alia*, scheduled in-person hearings on December 16, 17, and 18, 2025 in Pittsburgh, Pennsylvania. The Interim Order further requires each Party to file and serve a prehearing memorandum, a witness matrix, and exchange certain enumerated evidence, documentation, material and evidence, by December 9, 2025. Parties were also directed to file any and all appropriate motions, including dispositive motions and motions in limine, if any, on or before November 7, 2025, and any responses to any such motions, dispositive motions or motions in limine, if any, on or before November 17, 2025.

On November 6, 2025, the Authority filed a Motion in Limine To Preclude Evidence Regarding Kaylor Mine No. 4 (Mine Motion), a Motion in Limine To Preclude Evidence of Rate Increase Calculations or Justifications For Rate Increase (Rate Increase Motion), and a Motion in Limine To Preclude Evidence Regarding Any New Well (New Well Motion). On November 17, 2025, the Borough filed Answers to the three Motions in Limine filed by the Authority. On November 25, 2025, an Interim Order was entered denying the Motions in Limine filed by the Authority on November 6, 2025, without prejudice.

² Answer to Formal Complaint at ¶ 6.

In its Formal Complaint, the Authority avers that the Pennsylvania Public Utility Commission has the sole and limited jurisdiction to hear rate claim challenges in cases such as this, where the seller is a municipal corporation, such as a Borough, and the purchaser lies outside the Borough limits.³

PVRWA avers it has 60 miles of line reaching approximately 1,200 customers in Fairview Borough, Fairview Township, Petrolia Borough, Bruin Borough and Karns City Borough in Butler County, and in Parker Township, Perry Township and Bradys Bend Township in Armstrong County.⁴ The Authority further avers that it purchases its water from East Brady Borough, which has three (3) wells, pursuant to a Water Supply Agreement entered into between PVRWA and EBB on March 2, 2004. The Authority also avers the Water Supply Agreement was for a term of 20 years and expired on March 2, 2024, and since that time, the parties have been operating without an Agreement.⁵

The Authority also asserts that the approximate 118% rate increase was imposed upon the Authority by the Borough, even though the Borough did not review, analyze or consider any documentation of any sort, which would establish a reasonable basis to impose the 118% rate increase solely upon the Authority, a customer outside the boundary of the Borough.⁶ The Authority further avers that the rate increase, cost and revenue allocation by the Borough is unjust, unreasonable and unlawfully discriminatory in violation of 66 Pa. C.S. §§ 1301 and 1304 of the Public Utility Code, as well as being contrary to appropriate public policy and sound rate policy considerations, and not being supported by any investigation or documentation.⁷

In its Answer to the Formal Complaint filed by the Authority, the Borough

³ Complaint ¶ 6; *See East Hempfield Twp. v. Lancaster*, 273 A.2d (Pa. 1971).
⁴ Complaint ¶ 7.
⁵ Complaint ¶ 8.
⁶ Complaint ¶ 16.
⁷ Complaint ¶ 17.

denied that the Commission has any jurisdiction to hear rate claim challenges of bulk water customers. Borough avers it charges the Authority a bulk rate and the Authority in turn resells the water to its customers. The Borough avers it does not charge rates to Authority customers directly.⁸

The Interim Order entered on December 31, 2024 denied the preliminary objections, based on the averments in the complaint, as it was not clear the complaint should be dismissed at that stage of the proceeding. Although the alleged lack of jurisdiction may be raised by the Parties, it is not clear if the issues regarding jurisdiction have been resolved by the Parties or if jurisdiction of the Commission to adjudicate this matter is still contested by the Parties. Subsequently, the Parties have engaged in informal and formal discovery and the discovery period is now closed.

The October 3, 2025 Interim Order directed the Parties to attempt to resolve any issues or procedural matters well in advance of the hearing. There has been no indication by the Parties to date as to any proposed stipulation regarding the admission of evidence or agreement regarding any issues or sub issues outstanding in this proceeding.

There are also several issues, related to jurisdiction, that may or may not have been addressed or resolved by the Parties at this stage in the proceeding. These include the following:

- a. Whether the Parties agree or contest that the Authority and Borough are municipal corporations as defined by Section 102 of the Pennsylvania Public Utility Code⁹;
- b. Whether the Borough provides/provided any public utility service furnished or rendered by the Borough, a municipal corporation, beyond its corporate limits, and therefore subject to regulation and control by the [C]ommission as to service and extensions, with the same force and in like manner as if such

⁸ Answer to Formal Complaint at ¶ 6.

⁹ 66 Pa.C.S. § 102.

service were rendered by a public utility¹⁰:

c. Whether the increase in rates alleged in the Formal Complaint are subject to the following provision of the Pennsylvania Public Utility Code (Acts of May 28, 1937, P. L. 1053, art. III, § 301, and March 21, 1939, P. L. 10, § 2, 66 P. S. § 1141): "Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. Provided, that only public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits, shall be subject to regulation and control by the commission [Public Utility Commission] as to rates, with the same force, and in like manner, as if such service were rendered by a public utility."

d. Whether the Borough and/or Authority are subject to the provisions of Section 701 of the Public Utility Code (Code), 66 Pa.C.S. § 701, which provides in pertinent part that "any person, corporation, or municipal corporation having an interest in the subject matter" may complain, in writing, about any act or thing done or omitted to be done by a public utility in violation, or claimed violation, of any law which the Commission has the jurisdiction to administer, or of any regulation or order of the Commission.

In addition, at this stage of the proceeding, the Parties positions are unknown regarding the issues identified above and any other issues which remain contested.

Furthermore, in the prayer for relief in the Formal Complaint, the Authority has requested that the Commission:

- a. Suspend and investigate the operation of the March 3, 2024, rate increase;
- b. At the conclusion of such investigation, reject the new rates to the extent required to ensure that East Brady Borough's rates are lawful, just, reasonable and not unduly discriminatory to the Petroleum Valley Regional Water Authority; and

¹⁰ 66 Pa.C.S. § 1501.

- c. Grant such other relief as may be necessary or appropriate.

In the event the Parties do not contest that the Commission has jurisdiction to address the issues/requests for relief identified above, it is unclear whether the Parties intend to enter into a stipulation of facts and/or stipulation regarding the admission of evidence in order for a determination to be made relative to the request for relief in the Formal Complaint. In addition, it is unclear as to whether the Parties have filed or intend to file a Petition for declaratory order pursuant to 52 Pa. Code § 5.42. Obviously, the Parties should attempt to resolve any outstanding issues, enter into any appropriate stipulations, narrow any contested issues, where possible, and consider any remedies available under the Code to address the unresolved issues and to stipulate to any facts or matters to limit the expenditure of resources by the Parties, customers, taxpayers and Commission.

In order to provide the Parties sufficient time to address the issues identified herein and to address any other unresolved issues, the following Interim Order will be entered.

THEREFORE,

IT IS ORDERED:

1. That the evidentiary hearing scheduled for December 16, 2025, through December 18, 2025 is cancelled.
2. That the requirements set forth in the Interim Order entered on October 3, 2025 are suspended pending further Order of the undersigned presiding officer.
3. That the Parties shall promptly meet and confer in an effort to resolve any outstanding issues in dispute in this proceeding, consistent with the Commission's policy to encourage settlements as set forth in 52 Pa.Code § 5.231(a). The Parties are strongly urged to

consider this possibility. The Settlement Judge Procedure is also available upon consent and request of the Parties.

4. If settlement is not feasible, the Parties shall promptly meet and confer in an effort to stipulate to any matters they reasonably can, including the stipulation of facts or the stipulation to admit evidence into the evidentiary record, in order to expedite this proceeding, lessen the burden of time and expenses in litigation on all Parties and conserve administrative hearing resources, consistent with 52 Pa.Code §§ 5.232 and 5.234.

5. That all stipulations entered into by the Parties must be reduced to writing, signed by the Parties to be bound thereby, and accepted into the record prior to a hearing in this proceeding. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation may be permissible, if accepted and as directed by the undersigned Presiding Officer.

6. **ON OR BEFORE January 30, 2026,** the Parties shall file a status report or separate status reports addressing the status of settlement negotiations, proposed stipulations or agreements of the Parties and any other issues or requests of the Parties. The Parties shall serve the opposing Party and the undersigned Presiding Officer with a copy of the status report(s).

7. Any dispositive motions addressing any issues related to the issues in this proceeding and the issues identified herein, shall be filed **ON OR BEFORE February 27, 2026**. Any responses to any dispositive motion must be filed no later than twenty (20) days after service of that motion. All dispositive motions and reply motions shall be filed with the Commission Secretary and served upon opposing counsel and the undersigned presiding officer. In addition, a copy shall be served electronically upon the undersigned presiding officer in WORD format.

8. Upon consideration of any dispositive motions filed in this proceeding, prehearing memoranda will be required and a hearing date will be established in the event that an evidentiary hearing is necessary.

9. Any Proposed stipulations, Memoranda, Settlement Petitions, Briefs, and other pleadings or requests or relief shall be provided electronically in WORD format to the undersigned presiding officer, upon filing, at jeffwatson@pa.gov.

Date: December 3, 2025

_____/s/
Jeffrey A. Watson
Administrative Law Judge

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