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February 27, 2026

***(Via electronic filing)***

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

***RE: Petroleum Valley Regional Water Authority v.  
East Brady Borough  
Docket No.: C-2024-3051609***

Dear Secretary Chiavetta:

Attached for electronic filing please find a copy of the Brief in Support of Motion for Summary Judgment or, in the Alternative, Motion for Partial Summary Judgment on behalf of Petroleum Valley Regional Water Authority regarding the above-captioned matter.

Copies have been served on the parties as indicated on the Certificate of Service.

Very truly yours,

*/s/ Michael D. Gallagher*

Michael D. Gallagher

MDG:mt  
Attachment

cc: Administrative Law Judge Jeffrey A. Watson (*Via email*)  
Amy R. Schrempf, Esquire (*Via email and Regular Mail*)  
Petroleum Valley Regional Water Authority  
Attn: Rayne Brothers, Secretary (*Via email*)

**COMMONWEALTH OF PENNSYLVANIA**  
**BEFORE THE**  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETROLEUM VALLEY  
REGIONAL WATER AUTHORITY

COMPLAINT DOCKET NO.:  
C-2024-3051609

Complainant,

v.

EAST BRADY BOROUGH,

Respondent.

**BRIEF IN SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT OR, IN THE  
ALTERNATIVE, MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

Filed on Behalf of Complainant:

**PETROLEUM VALLEY REGIONAL  
WATER AUTHORITY**

Counsel of Record for this Party:

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**COMMONWEALTH OF PENNSYLVANIA**  
**BEFORE THE**  
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PETROLEUM VALLEY	:	COMPLAINT DOCKET NO.:
REGIONAL WATER AUTHORITY,	:	C-2024-3051609
	:	
Complainant,	:	
	:	
v.	:	
	:	
EAST BRADY BOROUGH,	:	
	:	
Respondent.	:	

**BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, MOTION FOR PARTIAL SUMMARY JUDGMENT**

**I. INTRODUCTION**

Petroleum Valley Regional Water Authority (“PVRWA”) respectfully submits this Brief in Support of its Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment, against East Brady Borough (“EBB”). The undisputed facts, as established by the pleadings, discovery responses, affidavits, open records responses and public records, demonstrate that there is no genuine issue of material fact and that PVRWA is entitled to judgment as a matter of law on the following grounds: the Pennsylvania Public Utility Commission (“PUC”) has jurisdiction over this rate challenge; EBB’s 118% rate increase is unjust, unreasonable, and discriminatory in violation of the Public Utility Code; and PVRWA is entitled to a refund of excess payments. In the alternative, EBB’s imposition of a 10% per month interest rate is unlawful

**II. STANDARD OF REVIEW**

*The PUC must view the record in the light most favorable to the non-moving party, giving that party the benefit of reasonable inferences. Mertz v. Lakatos, 33 Pa. Commw. 230, 381 A.2d 497 (Pa. Cmwlth. 1978). All doubts as to existence of a genuine issue of material fact must be resolved against the moving party. Thompson Coal Co. v. Pike*

*Coal Co.*, 488 Pa. 198, 412 A.2d 466 (1970). However, to preclude summary judgment, the non-moving party must establish that a genuine issue of material fact exists. *Nicastro v. Cuyler*, 78 Pa. Commw. 539, 467 A.2d 1218 (Pa. Cmwltth. 1983).

United Transp. Union v. PUC, 68 A.3d 1026 (Pa. Cmwltth. 2013).

It is the position of PVRWA that its Summary Judgment Motion sets forth both indisputable facts and law that would make trial of this matter an unnecessary use of the valuable time of the PUC. PVRWA asserts that, based on the facts and law set forth in its Motion for Summary Judgment, EBB cannot assert genuine issues of fact or law based on its discovery responses and open records responses.

### III. ARGUMENT

#### A. The PUC Has Jurisdiction Over This Rate Challenge

The PUC has jurisdiction to review rates charged by a municipal corporation for utility service rendered beyond its corporate limits. In the 1971 Supreme Court case, East Hempfield Twp. v. Lancaster, 273 A.2d 333 (Pa. 1971), the Supreme Court quoted Section 301 of the PUC law (66 P.S. § 1141<sup>1</sup>): "...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." Both EBB and PVRWA are municipal corporations as defined by 66 Pa. C.S. § 102, and EBB provides water service to PVRWA outside EBB's boundaries. See also, the 1962 case of Municipal Auth. of Blythe v. PUC, 185 A.2d 628 (628 Pa. Super. 1962).

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<sup>1</sup> Now 66 Pa. C.S.A. § 1301(a).

## **B. EBB's 118% Rate Increase Is Unjust, Unreasonable, and Discriminatory**

### **Lack of Justification for Rate Increase**

A public utility may only impose rates that are "just and reasonable." 66 Pa. C.S. § 1301 The utility bears the burden of proving the justness and reasonableness of a proposed rate increase. 66 Pa. C.S. § 315(a). EBB has produced no cost study, analysis, or documentation to support the 118% increase imposed on PVRWA. As set forth in PVRWA's Motion for Summary Judgment, PVRWA requested copies of all documents, including without limitation, engineering studies or reports, cost estimates and/or construction estimates upon which East Brady imposed a surcharge on PVRWA to which EBB responded, "No records exist". In the same Open Records Request, PVRWA requested copies of all emails by and between the members of the East Brady Borough Council pertaining to the increase in rates for the period October 1, 2023, and April 9, 2024. EBB once again responded, "No records exist". The only explanation offered is that PVRWA is no longer under contract, which is not a rational basis for such a dramatic rate increase.

### **Discriminatory Rate Structure**

66 Pa. C.S. § 1304 prohibits unreasonable preferences or disadvantages in rates. EBB's new rate structure singles out PVRWA for a surcharge rate of \$7.15 per thousand gallons, while Rimersburg Borough Municipal Authority, another bulk customer which resells water to the public, pays \$3.95 per thousand gallons. The only difference between the two is that Rimersburg Borough Municipal Authority continues under contract with EBB, while PVRWA operates without a contract. From an operation or use of water perspective, nothing else has changed. EBB specifically states and therefore admits that the only reason for the change is that PVRWA is no longer under contract. Such action bears no relation to the difference in cost of providing services to the two entities. Instead, such action is unjustly arbitrary. There is no evidence that the cost of providing service to PVRWA differs from Rimersburg Borough

Municipal Authority. Such arbitrary discrimination is unlawful. Lloyd v. Pa. PUC, 904 A.2d 1010 (Pa. Cmwlth. 2006).

**EBB has the Burden of Proof to Establish that its Rate Increase is Just and Reasonable**

Pursuant to § 315 (66 Pa. C.S. § 315(a)), in a rate challenge matter, the public utility bears the burden of proving the justness and reasonableness of the rate increase. See also, Sabree v. Pa. PUC, 2023 Pa. Commw. LEXIS 188 (the utility bears the burden of proving the justness and reasonableness of the requested rate increase). Because this matter involves the limited jurisdiction of the PUC to determine rate challenges by a Borough selling water outside of its boundaries, for purposes of the rate challenge, EBB is a “public utility”.

Alternatively, even if the ALJ takes the position that PVRWA has met its burden of proof, PVRWA has more than done so as set forth at length in its Motion for Summary Judgment, coupled with the inability of EBB to provide any reasonable basis for its egregious 118% rate increase.

**PVRWA is Entitled to a Refund of Excess Payments**

Where a public utility has collected unjust or unreasonable rates, the PUC is empowered to order a refund of excess payments made within four years prior to the filing of the complaint, together with interest at the legal rate. 66 Pa. C.S. § 1312(a). PVRWA is entitled to a refund of all amounts paid in excess of the just and reasonable rate, with interest. § 1312 states:

“If, in any proceeding involving rates, the commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the commission...public utility, the commission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, within four

years prior to the date of the filing of the complaint, together with interest at the legal rate from the date of each such excessive pay.”

**In the Alternative, EBB’s Imposition of a 10% Per Month Interest Rate is Unlawful**

EBB did not provide PVRWA with advance notice of the rate increase. PVRWA only learned of the new rate upon receipt of the invoice. This lack of notice prevented PVRWA from timely adjusting its own rates and collecting sufficient revenue to pay EBB, resulting in delayed payments. At the same time, EBB is asserting it is entitled to interest in the amount of 10% per month. As set forth in 41 P.S. § 202, when there is no agreed upon interest rate between the parties, the interest rate adjusts to 6% simple interest per annum. The imposition of an interest rate equivalent to usury is further evidence that the rate increase of 118% is unjust.

**IV. CONCLUSION**

For the foregoing reasons, PVRWA respectfully requests that the Commission grant summary judgment, or in the alternative, partial summary judgment, in its favor, finding that: (1) the PUC has jurisdiction; (2) EBB’s rate increase is unjust, unreasonable, and discriminatory; (3) the burden of proof is on EBB to show that its 118% rate increase is just and reasonable; and (4) PVRWA is entitled to a refund of excess payments with interest with a set off for the unpaid balance due EBB for the amount now due

and owing. In the alternative, summary judgment is warranted against EBB's imposition of 10% interest per month.

Respectfully submitted,

GALLAGHER LAW GROUP

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Respondent.	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the following persons, in the manner indicated below on February 27, 2026:

Amy R. Schrempf, Esquire  
Solicitor for East Brady Borough  
Andrews & Price LLC  
1500 Ardmore Boulevard, Suite 506  
Pittsburgh, PA 15221  
*(Via email [aschrempf@andrewsandprice.com](mailto:aschrempf@andrewsandprice.com)  
and Regular Mail)*

*/s/ Michael D. Gallagher*  
Michael D. Gallagher, Esquire  
Sean M. Gallagher, Esquire