

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #5

Do Not Mark In This Box

FILE

2011 MAR -9 PM 3: 57

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Public Service Commission TITLE NUMBER: 150

CITE AUTHORITY: W.Va. Code §24-2-2

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE \_\_\_\_\_ X \_\_\_\_\_

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W.Va. Code §29A-1-3

AMENDMENT TO AN EXISTING RULE: YES X NO \_\_\_\_\_

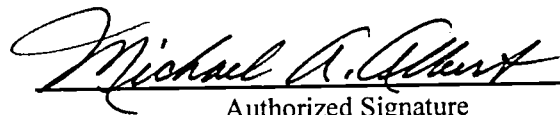
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: Rules For The Government Of Water Utilities

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS May 8, 2011

  
Authorized Signature

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 9<sup>th</sup> day of March 2011.

**GENERAL ORDER NO. 186.22**

In the matter of a rulemaking to amend the  
Commission's Rules and Regulations for the  
Government of Sewer Utilities.

**GENERAL ORDER NO. 188.28**

In the matter of a rulemaking to amend the  
Commission's Rules and Regulations for the  
Government of Water Utilities.

**COMMISSION ORDER**

The Commission promulgates final rule amendments to its water and sewer rules.

**BACKGROUND**

By Order issued August 15, 2008, the Commission promulgated proposed amendments to the *Rules for the Government of Sewer Utilities*, 150 C.S.R. 5 (*Sewer Rules*) and *Rules for the Government of Water Utilities*, 150 C.S.R. 7 (*Water Rules*). The Order required the Executive Secretary to publish notice of the proceeding in specified cities in West Virginia and to provide individual notice of the proceeding to all water and sewer utilities in West Virginia. The notice instructed interested persons to file comments by October 31, 2008. The notice further instructed that requests for hearing should be made by the same date.

The Order advised that the purpose of the proposed rulemakings were to bring the *Sewer Rules* and *Water Rules* into compliance with statutory changes including: (i) effective June 6, 2003, the West Virginia Legislature amended W.Va. Code §16-13A-9(a)(2) pertaining to security deposits for new applicants for service of a public service district; (ii) effective June 10, 2004, the West Virginia Legislature amended W.Va. Code §§8-19-12a (water), 16-13-16 (sewer), and 8-20-10 (combined water and sewer) pertaining to security deposits for new applicants for service of sewer utilities, water utilities, or combined water and sewer utilities; (iii) effective July 8, 2005, the West Virginia Legislature created W.Va. Code §22-28-1 *et seq.* eliminating the requirement for a certificate of convenience and

necessity for certain water and sewer projects pursuant to "community infrastructure agreements;" (iv) effective July 8, 2005, the West Virginia Legislature amended W.Va. Code §16-13A-2 changing from mandatory to permissive the responsibility of the Commission to provide a hearing, in the affected county or counties, on its review of a proposed public service district modification; (v) effective June 6, 2008, the West Virginia Legislature amended W.Va. Code §§16-13-16 and 16-13A-9, adding storm water utilities as entities that may have water service terminated for non-payment of storm water fees; and (vi) effective June 11, 2010, the West Virginia Legislature amended W.Va. Code §§16-13-16, 16-13A-9, 8-19-12A, 8-20-10, and 24-3-10 clarifying that utilities are not required to accept payment at the customer's premises in lieu of disconnecting service for a delinquent bill. Other proposed changes were made as noted in the August 15, 2008 Order.

The case file contains affidavits of publication from newspapers of circulation in Taylor, Ohio, Greenbrier, Mineral, Mingo, Mason, Monongalia, Marshall, Harrison, Raleigh, Marion, Hancock, Logan, Cabell, Kanawha, Mineral, Wood, McDowell, Mercer, Berkeley, and Randolph counties.

Eighteen entities filed comments pertaining to the proposed *Sewer Rules* including (i) the Harrison County Commission; (ii) Berkeley County Public Service Sewer District; (iii) Greenbrier County Public Service District No. 1; (iv) the West Virginia Municipal Water Quality Association; (v) James Kelsh, Esquire, on behalf of Greenbrier County Public Service District No. 2, Gilmer County Public Service District, Jane Lew Public Service District, Jefferson County Public Service District, Jefferson Utilities, Inc., Mason County Public Service District, Moundsville Water Board, and Summit Park Public Service District; (vi) Commission Staff; (vii) Timothy P. Stranko, Esquire, on behalf of the Morgantown Utility Board and the Putnam County Public Service District; (viii) West Virginia American Water Company (WVAWC); (ix) Parkersburg Utility Board; and (x) the Lubeck Public Service District (Lubeck PSD).

Nineteen entities filed comments pertaining to the proposed *Water Rules* including (i) Berkeley County Public Service Sewer District; (ii) James Kelsh, Esquire, on behalf of Greenbrier County Public Service District No. 2, Gilmer County Public Service District, Jane Lew Public Service District, Jefferson County Public Service District, Jefferson Utilities, Inc., Mason County Public Service District, Moundsville Water Board, and Summit Park Public Service District; (iii) Staff; (iv) Timothy P. Stranko, Esquire on behalf of the Morgantown Utility Board and the Putnam County Public Service District; (v) WVAWC; (vi) Parkersburg Utility Board; (vii) West Virginia Rural Water Association; (viii) Lubeck PSD; (ix) Berkeley County Public Service Water District (Berkeley County PSWD); (x) Grant Public Service District; and (xi) Tomlinson Public Service District.

## DISCUSSION

Based on the filed comments and continued review of the Rules, the Commission reconsidered several of the proposed rule amendments and made further revisions, both substantive and editorial, to the *Sewer Rules* and *Water Rules*. Lubeck PSD was the only commentor to request a hearing on the proposed rulemakings. The Commission finds that Lubeck PSD's concerns have been addressed in these comments and revisions to the rulemakings and a hearing is not necessary.

### *Sewer Rules*

#### **A. Commission Response to the Comments Received**

Rule 1.7.b.3. The Commission considered the comments of Mr. Kelsh, on behalf of multiple clients, and WVAWC requesting that the delinquent bill date be the same twenty days for all utilities. Historically, the Commission has used thirty days for this date. The twenty day delinquent date for public service districts and municipal systems was legislatively set and cannot be changed by the Commission. The Commission believes, at this time, that it is prudent to maintain the historic date of thirty days for a delinquent bill for private systems.

Rule 2.4. Staff noted an inconsistency in the dates provided in the proposed rule and the Commission Order entered on August 15, 2008. Staff requested that electronic filing requirements go into effect two years after the effective date of the rule. Because all parties have had sufficient notice of proposed electronic filing requirements and many utilities currently are filing reports electronically, the Commission will require mandatory electronic reporting to begin on July 1, 2011. Additionally, the Commission has left open the possibility that the annual report may be filed in hard copy as well.

Rule 2.5. Mr. Kelsh, on behalf of several clients, recommended that utilities should be required to maintain their accounts in compliance with the 1996 Uniform System of Accounts beginning with a utility's first full fiscal year commencing after adoption of the rules. The Commission agrees with this comment and changed the proposed rule accordingly.

Rule 4.1.f.4. Berkeley County Public Service Sewer District requested relief from the implementation of the proposed change or, at least, granting a grace period for implementation of the rule. The proposed change merely clarifies what is already required by the rule and the Commission declines to act on the comment.

Rule 4.2.a.5. Although many comments supported the two percent interest proposed in this section, the Commission changed the interest rate to one percent in consideration of current interest rates and comments filed.



Rule 4.8.b.4.<sup>1</sup> Based on multiple comments received, the Commission removed proposed language requiring that the telephone calls include contact “with a responsible adult member of the household.” As the subsection now reads, the attempts at telephone calls could include speaking with a person, leaving a message on the customer’s voice answering device or dialing the telephone number and receiving a busy signal or no answer. The Commission notes that a utility is only required to make two attempts at personal contact, as defined in the rule. Additionally, the Commission clarified that the attempts at personal contact must be made on separate business days. Although the Commission received some comments indicating that two attempts to contact were excessive and redundant, we believe that customers should continue to receive two attempts at contact to allow an opportunity to rectify non-payment and possibly prevent disconnection of service.

WVAWC requested that language be added to this section placing on the utility seeking termination the responsibility of contacting the delinquent customer. The Commission modified this section to allow either the sewer utility or the water utility to attempt to contact the customer before disconnecting the service.

Rule 4.11.c. The Commission reviewed the numerous comments received in response to the proposed rule. In consideration of the comments, the Commission modified and clarified this rule. By this rule, the Commission allows the sewer utility to determine when notification is necessary. The notice requirements are not unnecessarily burdensome. Utilities are allowed to choose from the listed methods of public notification as appropriate, and are not necessarily required to use all of the methods. Furthermore, the Commission removed two of the items previously included in this list: (i) 4.11.c.D. (renumbered Rule 4.11.d. in the final rule) requires actual notice to certain facilities; and (ii) 4.11.c.G. (renumbered Rule 4.11.e. in the final rule) requires coordination with certain emergency management agencies. These two requirements are not compatible with the remainder of the list as they require specific action in consultation with governmental agencies rather than being a part of a list of acceptable public/customer notification methods.

Rule 5.4. The Commission has considered the comments received on the proposed rule and deleted the proposed rule because it was vague. The Commission notes that the issue of long service lines is covered elsewhere in these rules.

Rule 5.5.g.5. The Commission deletes this proposed subsection as unnecessary. The Commission, however, is concerned by comments received from the West Virginia Municipal Water Quality Association and the Berkeley County Public Service Sewer District suggesting that disputes over the terms of a main line extension agreement are not within the jurisdiction of the Commission. Commission jurisdiction over disputes between a utility and a customer or potential customer is clearly set forth in W.Va. Code §24-2-7.

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<sup>1</sup>The comments and discussion pertain to Rule 4.8.b.4. as proposed on August 15, 2008. Because of editing and renumbering, this rule is located in the final rules at Rule 4.8.b.3.

Rule 5.5.h.11. The Berkeley County Public Service Sewer District requested that the Commission delete the term “impact” from the rule because use of the term may be legally problematic for the Commission or the utility. The Commission has used this term in many orders, clearly using the term as a fee or charge intended to be used for utility improvements. The Commission, however, will remove the term “impact” from the rule and replace it with the term “improvement.”

Rule 5.5.i. The Greenbrier County Public Service District No. 1 commented that W.Va. Code §§22-28-1 et seq., in its entirety, should be repeated in this rule. It is not necessary to repeat a statute in its entirety in these rules. Any utility seeking to find the statute may easily find it by its reference in these rules. The Commission, however, did revise the proposed rule for clarity, adding more of the statutory language.

Rule 7.3. a. Mr. Kelsh, on behalf of several clients, recommended that a portion of this rule be eliminated as redundant and the section merely reference Form No. 8. The Commission has decided to retain the explanatory language in this rule to clearly state what is required for publication of the notice of a proceeding under this section.

## **B. Commission Edits and Clarifying Changes**

Rule 4.2.a.3. The Commission changed the proposed language to make this section clearer and consistent with 4.2.a.4.

Rule 4.2.a.7. The Commission eliminated this section because it duplicates the modified 4.2.a.5.

Rule 4.2.a.10.<sup>2</sup> This section is deleted because it merely restates statutory language.

Rule 4.8.b.1. This section is modified for clarity and to consolidate 4.8.b.1. and 4.8.b.3.

Rule 4.8.b.3. The language in this section was combined with 4.8.b.1. and this section is deleted.

Rule 4.8.b.7.<sup>3</sup> Although the Commission did not propose any changes to this subsection, the Commission notes that the West Virginia Legislature modified statutes at W.Va. Code §§16-13-16, 16-13A-9, 8-19-12A, 8-20-10, and 24-3-10, all for the purpose of clarifying that utilities are not required to accept payment at the customer’s premises in lieu

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<sup>2</sup>The rule number reflects the proposed rule as proposed on August 15, 2008.

<sup>3</sup>The rule number reflects the proposed rule as proposed on August 15, 2008. The final rule is found at 4.8.b.6.

of disconnecting service for a delinquent bill. *See*, S.B. 465, effective June 11, 2010. The Commission modified the rule to be in compliance with the statutory change.

Rule 4.8.b.8.<sup>4</sup> The Commission modified this section to clarify that the utility, if it elects to contact the customer by telephone or in person, must make actual contact.

Rule 5.5.g.1.C. The Commission made changes to this subsection to clarify the documentation required by the rule.

Form 8 Changes were made to make the form consistent with statutory language.

### *Water Rules*

#### **A. Commission Response to the Comments Received**

Rule 1.7.b.3. The Commission considered the comments of Mr. Kelsh, on behalf of multiple clients, and WVAWC requesting that the delinquent bill date be the same twenty days for all utilities. Historically, the Commission has used thirty days for this date. The twenty day delinquent date for public service districts and municipal systems was legislatively set and cannot be changed by the Commission. The Commission believes, at this time, that it is prudent to maintain the historic date of thirty days for a delinquent bill for private systems.

Rule 2.4. Staff noted an inconsistency in the dates provided in the proposed rule and the Commission Order entered on August 15, 2008. Staff requested that electronic filing requirements go into effect two years after the effective date of the rule. Because all parties have had sufficient notice of proposed electronic filing requirements and many utilities currently are filing reports electronically, the Commission will require mandatory electronic reporting to begin on July 1, 2011. Additionally, the Commission has left open the possibility that the annual report may be filed in hard copy as well.

Rule 2.5. Mr. Kelsh, on behalf of several clients, recommended that utilities should be required to maintain their accounts in compliance with the 1996 Uniform System of Accounts beginning with a utility's first full fiscal year commencing after adoption of the rules. The Commission agrees with this comment and changed the proposed rule accordingly.

Rule 3.3.2. The Commission thanks the Berkeley County PSWD for its comments pertaining to master metering for mobile home parks and similar facilities, but finds that these comments raise concerns and issues that go beyond the scope of the proposed rule making, and, therefore, will not address the comments at this time.

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<sup>4</sup>The rule number reflects the proposed rule as proposed on August 15, 2008. The final rule is found at Rule 4.8.b.7.

Rule 4.1.g.1. Comments were received from the Berkeley County PSWD even though the Commission did not propose any changes to this rule. The Commission finds that these comments go beyond the scope of the proposed rule making and will not be addressed at this time.

Rule 4.1.g.2. In response to comments from Mr. Stranko and Staff, the Commission clarified that the applicant is responsible for the cost of the testing. The Commission disagrees with the remaining comments made by Mr. Stranko and declines to act on those comments.

Rule 4.1.g.7. Mr. Kelsh recommended deletion of some language pertaining to service line cost allocation because it duplicated other language found in the rule. The Commission agrees that the changes make the rule clearer and eliminates duplication from other sections while not substantially changing the rule. The Commission disagrees with comments received from Staff, Berkeley County PSWD, Parkersburg Utility Board, and Mr. Stranko that the rule unfairly shifts costs away from those generating the costs.

Rule 4.2.a.4. Pursuant to comments received by the Lubeck PSD, the Commission changed the proposed language to make this section consistent with 4.2.a.4 of the *Sewer Rules*.

Rule 4.2.a.5. Although some comments supported the two percent interest proposed in this section, the Commission changed the interest rate to one percent in consideration of current interest rates and comments received from Lubeck PSD.

Rule 4.8.a.4.<sup>5</sup> Based on multiple comments received, the Commission removed proposed language requiring that the telephone calls include contact "with a responsible adult member of the household." As the subsection now reads, the attempts at telephone calls could include speaking with a person, leaving a message on the customer's voice answering device or dialing the telephone number and receiving a busy signal or no answer. The Commission notes that a utility is only required to make two attempts at personal contact, as defined in the rule. Additionally, the Commission clarified that the attempts at personal contact must be made on separate business days. Although the Commission received some comments indicating that two attempts to contact were excessive and redundant, we believe that customers should continue to receive two attempts at contact to allow an opportunity to rectify non-payment and possibly prevent disconnection of service.

Rule 4.12.d The Commission reviewed the numerous comments received and notes that, by this rule, the Commission intends to require notification as a customer service issue and not a health issue, which would be addressed by the Bureau for Public Health; therefore,

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<sup>5</sup>The comments and discussion pertain to Rule 4.8.a.4. as proposed on August 15, 2008. Because of editing and renumbering, this rule is located in the final rules at Rule 4.8.a.3.

the Commission has the authority to impose notice requirements for the utilities regulated by it. Furthermore, the notice requirements are not unnecessarily burdensome. Utilities are allowed to choose from the listed methods of public notification as appropriate and are not necessarily required to use all of the methods. The Commission notes that two of the methods previously included in this list were made separate items in the final version of the rules: (i) 4.12.d.D. requires actual notice to certain facilities (renumbered 4.12.e. in the final rule); and (ii) 4.12.d.G. requires coordination with certain emergency management agencies (renumbered 4.12.f. in the final rule). These two requirements are not compatible with the remainder of the list as they require specific action in consultation with governmental agencies rather than being a part of a list of acceptable public/customer notification methods.

Rule 5.5.g.5. The Commission deletes this proposed subsection as unnecessary. Commission jurisdiction over disputes between a utility and a customer or potential customer is clearly set forth in W.Va. Code §24-2-7.

Rule 5.7. Modifications to the proposed changes in the heading and subsection 5.7.a. were made to clarify the rule and correct typographical errors. The Commission reviewed the comments received from Tomlinson Public Service District, Berkeley County PSWD, West Virginia Rural Water Association, Staff, Grant Public Service District, and clients represented by Mr. Kelsh and pertaining to proposed subsection 5.7.b. The Commission has decided to delete this section because it is unnecessary to add this language to the rules. In proposing 5.7.b., our main concern was that utilities not unnecessarily require individuals to install expensive backflow prevention equipment when it was not necessary to do so. However, the Commission notes that any utility practice concerns covered in proposed subsection 5.7.b. duplicate protections afforded by W.Va. Code §24-2-7 as well as other statutes and case law governing utility regulation.

Rule 8.3. Mr. Kelsh, on behalf of several clients, recommended that a portion of this rule be eliminated as redundant and the section merely reference Form No. 8. The Commission has decided to retain the explanatory language in this rule to clearly state what is required for publication of the notice of a proceeding under this section.

## **B. Commission Edits and Clarifying Changes**

Rule 4.2.a.3. The Commission changed the proposed language to make this section clearer and consistent with 4.2.a.4.

Rule 4.2.a.7. The Commission eliminated this section because it duplicates the modified 4.2.a.5.

Rule 4.2.a.10.<sup>6</sup> This section is deleted because it merely restates statutory language.

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<sup>6</sup>The rule number reflects the proposed rule as filed on August 15, 2008.

Rule 4.4.c.1. This section is modified by correcting a misspelled word.

Rule 4.8.a.1. This section is modified for clarity and to consolidate 4.8.a.1. and 4.8.a.3.

Rule 4.8.a.3. The language in this section was combined with 4.8.a.1. and this section is deleted.

Rule 4.8.a.7.<sup>7</sup> Although the Commission did not propose any changes to this subsection, the Commission notes that the West Virginia Legislature modified statutes at W.Va. Code §§16-13-16, 16-13A-9, 8-19-12A, 8-20-10, and 24-3-10, all for the purpose of clarifying that utilities are not required to accept payment at the customer's premises in lieu of disconnecting service for a delinquent bill. *See*, S.B. 465, effective June 11, 2010. The Commission modified the rule to be in compliance with the statutory change.

Rule 4.8.a.8.<sup>8</sup> The Commission modified this section to clarify that the utility, if it elects to contact the customer by telephone or in person, must make actual contact.

Rule 5.5.g.1.C. The Commission made changes to this subsection to clarify the documentation required by the rule.

Rule 5.5.i. To make this section consistent with changes made to *Sewer Rule 5.5.i.* and for clarity, the Commission modified this section.

Form 8 Changes were made to make the form consistent with statutory language.

*Comments received on rules wherein no changes were proposed*

Rule 5.5.f. The Commission did not propose changes to this rule, but is concerned by comments received from Timothy P. Stranko, Esq. on behalf of the Morgantown Utility Board. In comments filed on October 31, 2008, the Morgantown Utility Board requested changes to these rules because the current rules result in refunds to developers far in excess of the actual short term net revenue realized by the utility. The Commission notes that the intent of the rule is, in fact, to require an investment by the utility in a line extension to serve new customers equal to five times the annual net revenue generated by new customers. This investment will not be recovered by the utility for five years. The Commission, however, has provided a cushion and cash source for associations, public service districts, and municipalities by further providing that the entities may use the new net revenue to provide

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<sup>7</sup>The rule number reflects the proposed rule as filed on August 15, 2008. The final rule is found at 4.8.a.6.

<sup>8</sup>The rule number reflects the proposed rule as filed on August 15, 2008. The final rule is found at 4.8.a.7

cash for the required refunds. Associations, public service districts, and municipalities are allowed, by the rule, to elect to make the refund over a period of five years. If the utility continues to be concerned about these rules, it should contact Staff or propose on its own motion changes for a future rulemaking.

Rule 5.5.h.7. The Commission notes that Staff filed comments concerning *Water Rule* and *Sewer Rule 5.5.h.7.* even though the Commission did not propose any changes to this rule. Staff recommended changes to this section that would have been outside of the scope of the proposed rules. Staff may consider raising these concerns in a future rulemaking or a request for a future rule making.

### **FINDINGS OF FACT**

1. On August 15, 2008, the Commission issued proposed rule amendments to its *Sewer Rules* and *Water Rules* and established a public comment period.
2. Comments were received.
3. Lubeck PSD requested a hearing.
4. The Commission has considered the filed comments and made revisions as needed.

### **CONCLUSIONS OF LAW**

1. It is appropriate to adopt final rules in this proceeding to bring the *Sewer Rules* and *Water Rules* into conformance with recent statutory changes codified at W.Va. Code §§8-19-12a, 8-20-10, 16-13-16, 16-13A-2, 16-13A-9, 22-28-1 *et seq.*, and 24-3-10.
2. Recent statutory changes (i) modified language pertaining to security deposits for new applicants for service in public service districts, sewer utilities, water utilities and combined water and sewer utilities; (ii) eliminated the requirement for a certificate of convenience and necessity for certain water and sewer projects pursuant to community infrastructure agreements; (iii) changed from mandatory to permissive the Commission's responsibility to provide a hearing in an affected county or counties when reviewing a proposed public service district modification; (iv) added storm water utilities as entities that may have water service terminated for non-payment of storm water fees; and (v) clarified that utilities are not required to accept payment at the customer premise in lieu of disconnecting service for a delinquent bill.
3. A hearing is not necessary in this case because the Commission addressed the comments of the only party that requested a hearing.

4. The final revised rules should be adopted because the revisions address the statutory changes and make other appropriate revisions to the *Sewer Rules* and *Water Rules*.

### **ORDER**

IT IS THEREFORE ORDERED that the Executive Secretary of the Commission shall submit the final *Rules for the Government of Sewer Utilities*, 150 C.S.R. 5 and the *Rules for the Government of Water Utilities*, 150 C.R.S. 7, attached hereto, to the Secretary of State.

IT IS FURTHER ORDERED that the final *Rules* shall be effective May 8, 2011.

IT IS FURTHER ORDERED that Attachment A hereto shows the modifications of the *Rules for the Government of Sewer Utilities* comparing the currently effective *Rules* to the final *Rules*.

IT IS FURTHER ORDERED that Attachment B hereto shows the modifications of the *Rules for the Government of Water Utilities* comparing the currently effective *Rules* to the final *Rules*.

IT IS FURTHER ORDERED that the Rules submitted to the Secretary of State shall be accompanied by the required Form No. 5 "Notice of Agency Adoption of a Procedural or Interpretive Rule or a Legislative Rule Exempt from Legislative Review."

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order with attachments A and B on the parties that filed comments in this proceeding, by United States mail and on Staff by hand delivery.

IT IS FURTHER ORDERED that the Executive Secretary provide copies of the final Rules to the interested parties who address inquires to Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, P. O. Box 812, Charleston, WV 25323.


IT IS FURTHER ORDERED that the Executive Secretary cause a true and accurate copy of the final Rules to be posted upon the Commission website.

IT IS FURTHER ORDERED that on entry of this Order this case shall be removed from the Commission docket of open cases.



IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order, including Attachments A and B, on all regulated water and sewer utilities in the State by electronic mail, or, if electronic mail is not available, by United States Mail, and on Staff by hand delivery.

A True Copy, Teste:

  
Sandra Squire  
Executive Secretary

SMS/slc  
GO18622ca.wpd

150CSR7

TITLE 150  
LEGISLATIVE RULE  
PUBLIC SERVICE COMMISSION

SERIES 7  
RULES FOR  
THE GOVERNMENT OF  
WATER UTILITIES

FILED  
2011 MAR -9 PM 3: 58OFFICE OF THE VIRGINIA  
SECRETARY OF STATE

§150-7-1. General.

1.1. Scope -- These rules govern the operation and service of water utilities subject to the jurisdiction of the Public Service Commission pursuant to W.Va. Code §24-2-1.

1.2. Authority -- W.Va. Code §§24-1-1, 24-1-7, 24-2-1, and 24-2-2 ~~24-2-5, 24-2-7, 24-2-8, 24-2-9, 24-3-2, 24-3-5, 16-13A-2, 16-13A-9, 8-18-23~~

1.3. Filing Date -- ~~August 25, 2003~~: March 9, 2011.

1.4. Effective Date -- ~~October 24, 2003~~: May 8, 2011.

1.5. General.

1.5.a. This rulemaking repeals the Commission's current Rules and Regulations for the Government of Public Service Districts, 150 CSR 17, and incorporates portions of those rules within these Water Rules. Portions of Series 17 will be incorporated into the Commission's Rules for the Government of Sewer Utilities, 150 CSR 5, by separate proceeding. This rulemaking addresses legislative changes, makes changes for stylistic and clarification purposes and adds provisions for private fire protection. These rules replace rules that went into effect on October 24, 2003.

1.5.b. These rules are intended to insure adequate service to the public, to provide standards for uniform and fair charges and requirements by the utilities and their customers, and to establish the rights and responsibilities of both utilities and customers.

1.5.c. The adoption of these rules in no way precludes the Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard either upon complaint or upon its own motion, or upon the application of any utility.

1.5.d. These rules shall not relieve in any way a utility from any of its duties under the laws of this State.

1.6. Application of rules.

1.6.a. These rules apply to all public utilities as defined in Rule 1.7.

1.6.b. If hardship results from the application of any Water Rule or if unusual difficulty is involved in immediately complying with any rule, application may be made to the Commission for the modification of the rule or for temporary or permanent exemption from its provisions: Provided, that no application for

modification or exemption will be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

#### 1.7. Definitions.

1.7.a. "Applicant" -- A person, firm, corporation, municipality, public service district or any other entity that applies for water service.

#### 1.7.b. Billing Related Dates --

1.7.b.1. "Bill due date" -- The date when the utility mails the bill.

1.7.b.2. "Latest pay date" -- The last date, which shall be no sooner than the 20<sup>th</sup> day following the date the utility mails the bill, that the bill may be paid without incurring a late payment penalty. Such date must be stated on the face of the bill.

1.7.b.3. "Delinquent bill" -- Any bill issued by a public service district or a municipal system that has not been paid within twenty (20) days of the bill due date; or any bill issued by a water utility that is not a public service district or a municipal system within thirty (30) days of the bill due date. Such date must be stated on the face of the bill.

1.7.c. "Commercial Service" -- Means service to each separate business enterprise, occupation or institution occupying for its exclusive use any unit or units of space as an entire building, entire floor, suite of rooms or a single room, and using water for such incidental use as the schedule of rates applicable to the particular installation may permit. Commercial service shall apply to all stores, offices, hotels, wholesale houses, garages, display windows, signs, theaters, barber and beauty shops, churches, opera houses, auditoriums, lodge halls, school houses, banks, bakeries and any other space occupied for commercial purposes. Any rooming house, lodging house, resort, inn or tavern renting more than four (4) rooms to strangers or transients without any previous agreement for accommodation or as to the duration of stay shall be classed as a hotel and as such it comes under the commercial classification.

1.7.d. "Commission" -- Whenever in these rules the words "Commission" or "Public Service Commission" occur, such word or words shall, unless a different intent clearly appears from the context, be taken to mean the Public Service Commission of West Virginia.

1.7.e. "Customer" -- Shall mean and include any such person, firm, corporation, municipality, public service district or any other entity who purchases a product or services of any utility and shall include any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or product for resale.

1.7.f. "Customer's Service Pipe" -- Shall be that portion of the service pipe from the point of service to the structure or premises supplied, installed at the cost and expense of the customer.

1.7.g. "Distribution Main" -- Means water pipe owned, operated, or maintained by the utility located in a public right-of-way, street, alley, or private right-of-way, which is used for the purpose of distribution of water from which utility service pipes extend to make service connections with customers. Any water pipe extending through a utility right-of-way across private property shall be a distribution main. Costs to install a distribution main across private property are subject to the cost-sharing provisions of Rule 5.5.

1.7.h. "Governmental Unit" -- Any municipality or other political sub-division or agency of the State of West Virginia or the Federal Government.

1.7.i. "Moratorium" -- A condition imposed on a utility by the Commission prohibiting service connections and/or reactivation of service for an entire system, or a portion thereof.

1.7.j. "Payment" -- Payment is made by cash, check, credit card, debit card, or voucher accepted by the utility.

1.7.k. "Point of service" -- Means the utility's pipe and appurtenances which connect any utility service pipe with the inlet connection of a customer's service pipe at the customer's property line, or elsewhere on the customer's property if provided for in a user's agreement. The utility shall own and maintain all facilities located between the point of service and the main.

1.7.l. "Private Fire Service Connection" -- Is one to which is attached fixtures from which water is taken in whole or in part for the extinguishment of fire.

1.7.m. "Public Utility" -- Except where a different meaning clearly appears from the context, the word or words "utility" or "public utility" when used in these rules shall mean and include any person or persons, or association of persons, however associated, whether incorporated or not, including municipalities, engaged in the business of producing, furnishing, transporting, distributing or selling water for any purpose which is now or may hereafter be held to be a public service.

1.7.n. "Residential Service" -- Means service to a householder or a tenant, living in a separate house or separate apartment in an apartment building, using water for general household service. Should the owner of a multiple apartment building undertake to furnish water to his tenants as a part of their monthly rent, then such service shall be classed as "Commercial." However, a close branch of a householder's family living with the householder and using the same water facilities, shall not be classified as an additional service or as "Commercial." In cases where a householder or tenant devotes some portion of the occupied building to commercial use and uses the remainder as a residence then the predominate use of water shall constitute the basis for classification as either residential or commercial.

1.7.o. "Standard Distribution Pressure" -- Shall be the distribution pressure established by the utility under the requirements of Rule 5.8.

1.7.p. "Temporary Service Connection" -- One which is installed for the temporary use of water; provided that the customer's premises is located on a lot having a curb line abutting on that part of a street or public right-of-way in which there is located a utility distribution main extending along the total frontage of the lot on said street or right-of-way, unless otherwise agreed to by the utility.

1.7.q. "Unaccounted for Water" -- The volume of water introduced into the distribution system less all metered usage and all known non-metered usage which can be estimated with reasonable accuracy.

1.7.r. "Utility Service Pipe" -- Shall mean that portion of the service pipe between the distribution main and the curb cock or the inlet connection of the coppersetter at or near the customer's property line or point of service, installed at the cost and expense of the utility, regardless of the side of the road on which the customer is located in reference to the main line.

**§150-7-2. Records, Reports and Other Information to be Supplied to the Commission.**

## 2.1. Records and reports.

2.1.a. Preservation of records -- All records required by these rules shall be preserved by the utility in the manner prescribed by the Commission.

## 2.1.b. Location of records.

2.1.b.1. Such records shall be kept at the office(s) of the utility in West Virginia, and shall be open at all reasonable hours for examination by the Commission or its duly authorized representative.

2.1.b.2. If kept outside the State, such records shall be brought to the utility's office in West Virginia upon request of the Commission, or the utility may be required to pay the reasonable traveling expenses of Commission employees assigned to examine the records.

2.1.c. Reports to Commission -- Upon Commission request, a utility shall furnish to the Commission the results of any test or tests required to be made, or the information contained in any records required to be kept by the utility, or any further information in its possession, respecting its rates, charges, or practices, without formal order of the Commission requiring the release of such information.

## 2.2. Filing of rate schedules.

2.2.a. Tariffs containing rates and rules of each utility shall be filed in the manner prescribed by the Commission in "*Rules and Regulations for the Government and Filing of Tariffs*" (Tariff Rules) effective as amended or modified by the Commission.

2.2.b. Municipal rates -- Rates for municipal water and combined water and sewer utilities shall be adopted, and tariffs shall be filed, in accordance with the Commission's "Rules for the Government and Filing of Tariffs," 150CSR2, effective as amended or modified by the Commission.

## 2.3. Utility's special rules.

2.3.a. A utility desiring to establish any rule(s), supplementing the rules of the Commission shall first make application to the Commission for authority to establish such a rule(s), clearly stating the reasons for the rule(s).

2.3.b. On and after ninety (90) days from the effective date of these Rules, any utility's special rules and regulations now on file with the Commission which conflict with these rules, will become null and void, unless they have been ratified and approved by the Commission.

2.3.c. Exemption -- A customer who has complied with the rules of the Commission shall not be denied service for failure to comply with the rules of the utility that have not been approved by the Commission.

## 2.4. Financial and statistical report.

2.4.a. Every utility shall file annually a financial and statistical report upon forms to be furnished by the Commission. The report shall be based upon the accounts set up in conformity with Rule 2.5. The

report shall be filed on or before three (3) months following the end of the utility's fiscal year or on such date as the Commission may direct. In addition to the form requirement specified in the annual letter sent by the Commission to utilities, for all reports due to be filed after July 1, 2011, an electronic copy of the report shall be filed utilizing the form template and filing instructions that can be found on the Commission web site.

2.4.b. Upon written request and for good cause shown, the Commission may approve or disapprove, through its Executive Secretary, by letter, a reasonable extension of time to file the financial and statistical report. Such application is to be made before the expiration of the time for filing the report.

~~2.4.c. Each utility shall file, yearly as of July 1 for the preceding July 1 through June 30, water statistical reports upon forms to be furnished by the Commission. The report shall be filed on or before three (3) months following the end of the utility's fiscal year or on such date as the Commission may direct.~~

## 2.5. Uniform system of accounts.

2.5.a. All water utilities shall maintain their accounts and records in compliance with the Uniform System of Accounts as promulgated in ~~1973~~ 1996 by the National Association of Regulatory Utility Commissioners for Class A, ~~and B, Water Utilities and Class C and D Water Utilities.~~

2.5.b. Observance of the system of accounts applicable to the water utility by appropriate class is obligatory upon all persons having direct charge of the books and accounts of the utility. For the purpose of securing uniformity in the applications of this system all questions of doubtful interpretation of accounting rules are to be submitted to the Commission for consideration and decision.

2.5.c. The classification of water utilities for purposes of keeping accounts in accordance with the Uniform System of Accounts shall be as follows:

<u>Classification</u>	<u>Revenue Level</u>
A	<del>\$800,000</del> <u>\$1,000,000</u> or more
B	<del>400,000 - 799,999</del> <u>\$200,000 - \$999,999</u>
C	<del>100,000 - 399,999</del> <u>less than \$200,000</u>
<del>D</del>	<del>less than 100,000</del>

These modified classifications and revenue levels will not take affect until the first full fiscal year after the adoption of these rules.

## 2.6. Maps and records.

2.6.a. Each utility shall keep on file suitable maps, plans and records showing the entire layout of every pumping station, filter plant, reservoir, transmission and distribution system, with the location, size and capacity of each plant, size of each transmission and distribution line, fire hydrant, valve and customer's service, reservoirs, tanks and other facilities used in the production and delivery of water.

2.6.b. In the case of new construction or property acquired from others, the additions to such maps and records should be made by the end of the next calendar year following the year in which the construction is done or property acquired. All drawings shall have the scale clearly shown and be of sufficient detail to accurately depict the project or property.

2.6.c. In general, where present maps of existing facilities are not entirely up to date, special surveys to locate any plant or facilities will not be required immediately, but maps must be updated as prescribed by the Commission.

## 2.7. Management audits.

2.7.a. Scope -- To establish a procedure for examination of management practices and policies to determine whether the utility being audited is operating with efficiency and utilizing sound management practices. The purpose of a management audit is to disclose operating areas that are efficient or inefficient, to identify areas for improvement, and to form recommendations for changes. The results of a management audit and the response of the utility to the recommendations and implementation plans developed pursuant to a management audit may be a factor in determining just and reasonable rates, as set out herein.

2.7.b. Types of management audits -- The following types of management audit, which vary in scope, may be directed and used by the Commission:

2.7.b.1. Comprehensive -- An investigation characterized by an extensive, detailed analysis of a utility's management and operations.

2.7.b.2. Reconnaissance -- A broad review, similar in scope to a comprehensive audit, but in less detail. The objective of this type of audit is to identify specific areas for more intensive investigation based upon the magnitude of the problem identified or the potential benefits to be derived.

2.7.b.3. Focused -- An in-depth investigation of one or several specific areas of a utility's management and operations.

2.7.c. Frequency -- The Commission shall order a management audit of any utility under its jurisdiction whenever the Commission deems it necessary to investigate the operational efficiency of the utility. Such factors as the cost of the management audit and the potential benefits of such audit may be taken into consideration. The Commission may accept or request a management audit performed under the rules of another jurisdiction in satisfaction of this rule when that audit is of the scope contemplated by the Commission, conforms to the standards herein set forth and covers the utility's service functions in its West Virginia jurisdiction.

## 2.7.d. Conduct and control.

2.7.d.1. The Commission may choose to have the audit performed by its Staff or contracted to a qualified outside auditing firm. In the latter case, the Commission may supervise the selection process. If the management audit is to be conducted by an auditing firm, the Commission's order initiating the audit shall include provision for the development of the request for proposal (RFP), the consultant selection process and Staff's assistance and supervision during the audit.

2.7.d.2. The Commission may impose eligibility restrictions upon contractors relating to past, current and post-audit relationships with the utility.

2.7.d.3. The utility is expected to cooperate to the fullest extent with the performer of a Commission ordered management audit. A responsible employee shall be appointed by the utility as its management audit coordinator, who shall be responsible to assist in the efficient performance of the management audit.

2.7.e. Costs -- It shall be the responsibility of the audited utility to pay for a contracted audit. The Commission shall include the reasonable cost of conducting the contracted management audit in the cost of service of the utility. The Commission may allow such costs to be recovered in the utility's next general rate case following completion of the audit, or the Commission may order such costs to be amortized over a reasonable period of years, considering the impact of these costs on both the utility and its customers.

2.7.f. Implementation of recommendations.

2.7.f.1. Draft report.

2.7.f.1.A. Upon completion of the audit a draft report shall be submitted to the utility for comments.

2.7.f.1.B. The auditor and Company representatives shall conduct a draft review meeting subsequent to the distribution of the draft review report.

2.7.f.2. Final report.

2.7.f.2.A. A final report shall be submitted to the Commission no later than thirty (30) days after the submission of the draft report to the utility.

2.7.f.2.B. Within thirty (30) days of the final submission of the management audit report, the utility shall file a document detailing its position on each audit recommendation. This document must state which recommendations are acceptable to the utility and the nature of the utility's disagreement with any recommendations.

2.7.f.3. The Commission may, after hearing, issue an order prescribing the recommendations which should be adopted by the utility.

2.7.f.4. The utility shall file detailed implementation plans for the Commission review and approval within the time specified in the Commission's order prescribing which recommendations the utility should adopt. The utility shall not deviate from an approved implementation plan without prior notice to the Commission which specifically states the utility's reasons for departing from the approved plan.

2.7.f.5. At the direction of the Commission, a follow-up audit may be performed to review the progress of the utility in implementing the approved plans and the results of previously performed management audits.

2.7.f.6. A management audit report and implementation plan adopted pursuant thereto and any follow-up audit may be used by parties in a general rate case subsequent to the management audit. Such audits and implementation plans may be a factor in the determination of just and reasonable rates if introduced as an exhibit and subjected to normal due process procedures.

2.7.f.7. The Commission may grant an extension of the time limits established in this section upon a showing of good cause for such extension.



**§150-7-3. Meter Requirements.**

3.1. Utility to provide meters -- Unless otherwise authorized by the Commission, each utility shall provide and install at its own expense (except as provided in Rule 5.2) and shall continue to own, maintain, and operate all equipment necessary for the regulation and measurement of water, in accordance with tariff or contract provisions, to its customers. Where additional meters are requested by the customer and are furnished by the utility for the convenience of the customer, a charge for such meters shall be made. All meters used in serving resale customer(s) shall be owned and operated by the utility providing service to the bulk or resale customer.

3.2. Location of meters.

3.2.a. Accessibility -- In the interest of safety and convenience to the customer, and as a measure of economical operation to the utility, it is required that all meters should be located at or near the property line: provided that when such location is impractical meters shall be placed outside of the customer's building as near as possible to where the "Point of Service" joins the "Customer's Service Pipe": provided, further, if neither of the foregoing requirements can be complied with on account of physical, economic, or climatic conditions, the meter may be placed within the building, preferably in the cellar, and when so placed within the building, the meter shall be so located that it will be easily accessible for reading, maintenance and protected from freezing and mechanical damage.

3.2.b. Meter grouping -- When a number of meters are grouped, every meter shall be tagged so as to indicate the particular customer served by it.

3.2.c. Remote meters -- When a meter is located inside a home or building, the utility may install a remote register or dial on the exterior of a home or building accessible for meter reading. The remote counter reading shall be compared to the actual meter register reading not less than once every six (6) months.

3.2.d. Meter setting installation -- Meter settings shall be installed in accordance with drawings submitted and approved by the Commission under Rule 5.2.i.

3.3. Prohibitions on master metering.

3.3.~~1~~a. Reserved.

3.3.~~2~~b. Mobile home parks -- For mobile home parks constructed on or after ~~the effective date of these rules~~ October 24, 2003, each mobile home in a mobile home park shall be individually metered with taps installed at the lot line of each mobile home. The lot owner shall be responsible for payment of any applicable tap fees. All utility easements and mains constructed within the mobile home park will become the property of the utility by agreement between the (i) owner of the mobile home park or the lot owner, whichever is applicable, and (ii) the utility. The agreement must be approved by order of the Commission prior to construction of any main. Lines extending from the mobile home to the tap will be considered customer service lines and maintenance of those lines will be the responsibility of the applicable lot owner.

**§150-7-4. Customer Relations.**

4.1. Customer information.

4.1.a. Information as to service -- Each utility shall, upon request, give its customers such information and assistance as is reasonable, in order that customers may enjoy safe and efficient service.

4.1.b. Explanation of meter readings -- Each utility shall adopt some means of informing its customers as to the method of reading meters, either by a printed description on its bills, or by a notice to the effect that the method will be explained at the office of the utility upon request. It is recommended that an exhibition meter be kept on display in each sales office maintained by a utility.

4.1.c. Explanation of rates -- It shall be the duty of the utility to explain to the customer at the beginning of service, or whenever the customer shall request the utility to do so, the utility's rates applicable to the type of service furnished to the customer and all other classes of customers, and to assist him in obtaining the best rate for his service requirements. The responsibility for the selection, however, rests with the applicant. In the event the customer's use of service changes such that a rate schedule other than the one initially selected becomes favorable, the responsibility for requesting a change in rate schedule, consistent with the provisions of the service agreement, shall rest with the customer. The utility shall, on its periodic statements, annually inform its customers that, if they so request, it shall supply them with a copy of the utility's rate or rates applicable to the type of service to be furnished to all classes of customers with a concise written explanation of the rates, and an identification of any classes of customer for whom rates are not summarized.

4.1.d. Posting of law, rates, rules and collection agents.

4.1.d.1. Every utility shall maintain in its office for inspection by the public the following:

4.1.d.1.A. A copy of the rates and rules of the utility, and of forms of contracts and applications applicable to the territory served from that office.

4.1.d.1.B. A copy of the Public Service Commission Law of this State.

4.1.d.1.C. A copy of these rules.

4.1.d.2. A suitable placard, in large type, shall be exhibited in a conspicuous location, giving information to customers that a copy of the law, the rules of the Public Service Commission and the schedule of rates are kept for their inspection.

4.1.d.3. Once a year, or as often as a utility changes collection agents, each utility shall publicize by newspaper or bill insert to its customers its collection agents to whom customers may deliver payment of water bills.

4.1.e. Applications for water service.

4.1.e.1. All applicants desiring water service may be required to make written application at the office of the utility on printed forms provided therefor, setting forth in said application all purposes for which water will be used upon their premises. The utility may require the applicant to provide identification at the time of application for service. All applicants for service shall be required to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he shall state the name and address of the owner or owners of the premises to be served.

4.1.e.2. Any change in the identity of the contracting customer at a premises will require a new application for water, and the utility may, after reasonable notice, discontinue water service until such new application has been made and accepted, but the former customer shall remain liable for water furnished to said premises until he has given notice in writing to the utility to discontinue water service. In the event the customer of record has died or has become incapable of being responsible for water service, that individual's spouse may become the customer of record without being required to complete a new application for water service, or paying a new deposit.

4.1.e.3. Except as provided in Rule 4.8.c.2., no charge will be made for turning on the water to new customers or current customers transferring service to a new location during regular working hours.

4.1.e.4. The utility's approval of an Accepted applications for water to be supplied to any premises shall constitute a right to the customer to take and receive a supply of water for said premises for the purposes specified in such application; (i.e. Residential, Commercial, and Industrial) subject only to the fulfillment of the conditions of these rules by the customer.

4.1.e.5. In the event that a public service district providing sewer service owns and operates facilities within the same service territory as the publicly or privately owned water utility, city, incorporated town, other municipal corporation or other public service district providing water service to the area, then an application shall not be complete until such time as the applicant provides a receipt from the sewer public service district showing that, where the applicant is legally required to do so, proper application for sewer service has been made and a security deposit paid thereto. Upon receipt of said proof from the applicant, or upon a showing that the applicant is not legally required to apply for sewer service or pay a security deposit, the water utility shall notify the sewer public service district, in writing, the date upon which water service is scheduled to be turned on to the applicant. Said written notification to the sewer public service district shall be made within five (5) working days of the date that the application for water service is deemed complete.

4.1.f. Special applications to a utility for water service.

4.1.f.1. Water for building, construction or other temporary purposes must be specifically applied for with the utility.

4.1.f.2. Connections for private fire service must be specifically applied for with the utility.

4.1.f.3. Where water is desired for only a short period of time, and not continuously throughout the year, such as for vacation homes or cottages, building purposes, street paving, cleaning property, filling tanks or other short-term uses, an application shall be made to the utility as set forth in Rule 4.1.e., and payment made in accordance with the applicable schedule of rates and charges, in which case a suitable deposit shall be made.

4.1.f.4. Whenever a street service connection is made to the mains for temporary service or for temporary private fire service, the applicant shall bear the entire cost and expense of labor and material for tapping the main and installing the service pipe and meter and its removal, if required.

4.1.g. Private fire protection service.

4.1.g.1. The applicant shall furnish the utility with one set of complete drawings prior to the completion of the tap, showing the pipes, valves, hydrants, tanks, openings, and appurtenances contemplated

in the application. Such sketch must also show any other water supply system, pipelines and appurtenances existing on the premises. There shall be no connection between such other supply and pipes connected to the utility's mains unless protected by a backflow prevention device approved by the utility, or the Bureau for Public Health.

4.1.g.2. The utility shall not approve an application for private fire protection service unless the utility determines that its system provides an adequate size water main with sufficient water volume and pressure. Prior to the installation of a private fire protection system, a flow test shall be performed as required by the State Fire Code, specifically as described within the incorporated National Fire Protection Association (NFPA) Standard 291, to determine the water supply and pressure available in the utility's water main. The private fire protection system shall be designed by the applicant based on the results of this flow test, with the understanding that the results of a particular test may not consistently be available on the utility's system. The applicant shall be responsible for the cost of the flow test.

4.1.g.3. The customer shall obtain in advance the approval of the utility for any change, alteration or addition in the fixtures, openings and uses specified in the application. The customer shall make its fire protection facilities available to the utility at all reasonable times.

4.1.g.4. The utility shall determine the size and location of any connections made to its distribution mains for private fire protection service, and will, at the cost and expense of the customer, make the connection to its mains and install the service connection from the distribution main to a point at or near the property line.

4.1.g.5. The extent of the rights of the private fire protection service customer is to receive, but only at times of fire on his premises, the available water supply. The utility shall not be considered an insurer of property or persons, or to have undertaken to extinguish fire or to protect any persons or property against loss or damage by fire or otherwise, and shall be free and exempt from any and all claims for damages on account of injury to property or persons by reason of fire, water, failure to supply water or pressure, or for any other cause whatsoever.

4.1.g.6. Unless otherwise provided in a written agreement between the applicant and the utility, service lines for private fire protection service shall be distinct and separate from the regular or general water service line. A private fire service connection is furnished for the sole purpose of supplying water for the extinguishment of fires, and the use of water from such a connection for any other purpose is absolutely forbidden.

4.1.g.7. Where the applicant and the utility have entered into a written agreement that one service pipe be used for both general and fire purposes, ~~the entire service pipe on the applicant's premises will be installed and maintained by and at the cost and expense of the applicant as if it were solely a private fire protection service line. The~~ the utility may set minimum construction standards and specifications for the applicant's portion of the dual purpose service pipe, and may require that its construction be subject to inspection by the utility. ~~Maintenance of the service line, from the main to the property line, will be the responsibility of the utility.~~

4.1.g.7.a. At the building to be served, the common service pipe shall separate into two service pipes, one for private fire protection and the other for general water service unless the private fire protection service is for a residential one- or two-family dwelling. Residential one- and two-family dwelling Life Safety fire sprinkler systems based on the State Fire Code, standard NFPA 13D may be provided through the general water service connection. The utility will, at its cost and expense, install and maintain

a water meter of appropriate size on the general water service pipe and the necessary piping and fitting for the meter setting. All dual purpose service lines must comply with all applicable Bureau for Public Health standards and regulations.

4.1.g.7.b. The utility will charge the applicant for general water service based on the consumption through and size of the water meter installed, in accordance with its schedule of rates for general water service with the exception that a residential one- or two-family Life Safety fire service supplied through a residential service meter shall be provided with a one-inch meter and shall be charged based on the consumption through the meter. The minimum charge shall be based on a meter size no greater than the size of meter that would have otherwise been needed without residential fire service. It shall be understood that this increased meter size is due to the potential volume necessary for a residential Life Safety fire service and for no other purpose. The applicant shall be responsible for the additional cost of materials for the one-inch service over the service size that would have otherwise been needed without a residential fire service. Except as otherwise provided in this rule. ~~The~~ the utility shall, subject to Commission approval, charge the applicant for private fire protection service in accordance with its schedule of rates for such service.

4.1.g.8. A gate valve and curb box, or a post indicator and gate valve controlling the entire supply shall be placed at the curb or property line of the street in which the main is located or at such other points as may be approved by the utility, and shall be furnished and installed by and at the expense of the customer, and if required by the utility, said valve shall be installed in a valve pit or vault which shall also be furnished and installed at the expense of the customer.

4.1.g.9. Service lines supplying private fire protection sprinkler systems ~~only~~, must be protected by a minimum of two approved check valves. One of these check valves may be the alarm check provided as part of the sprinkler system. The other may be a detector check, double check valve assembly, or an approved single check valve. Specific requirements and/or installation procedures are governed by the Bureau for Public Health but the backflow prevention requirements shall be no more stringent than the minimum standards necessary to protect the utility's main(s).

4.1.g.10. Under no circumstances will anti-freeze be permitted in the sprinkling systems unless a reduced pressure zone backflow preventer, approved by the utility or the Bureau for Public Health, is provided at the point of connection in the anti-freeze system.

4.1.g.11. The entire private fire service system on the customer's premises shall be installed and maintained by and at the expense of customer and shall be subject to the inspection, test and approval of the utility before the service is made effective, and at such times thereafter as the utility deems necessary or appropriate.

4.1.g.12. Hydrants and other fixtures connected with a private fire service system may be sealed by the utility, and such seals may be broken only in case of fire or as specially permitted by the utility, and the customer shall immediately notify the utility of the breaking of any such seal.

4.1.g.13. Whenever a fire service system is to be tested, the customer shall notify the utility of the proposed test, designate the day and hour when same is to be made, so that, if desired, the utility may have an inspector present during the test.

4.1.h. Public fire service.

4.1.h.1. Any governmental unit located in the utility's service area by ordinance of its Council or by resolution of its Board of County Commissioners shall have the right to order the installation of additional fire hydrants on existing utility owned mains having an internal diameter of six (6) inches or larger and the utility will install such hydrants at its own cost and expense; provided the estimated gross receipts from such proposed new fire hydrant rentals shall equal or exceed twelve percent (12%) annually of the cost of said installations.

4.1.h.2. Where pipeline installations are required to carry out an order of any governmental unit located in the utility's service area to install fire hydrants, or where existing utility owned mains, in the opinion of the utility, are inadequate to provide fire flows to such hydrants, and when any governmental unit located in the utility's service area orders the installation of a water main of adequate size to provide such flows to the hydrant or hydrants so ordered, the utility will install such mains and hydrants at its own cost and expense; provided that the utility shall not be required to make extensions of said water mains unless the estimated gross receipts from private consumers and from such proposed new fire hydrant rentals shall equal or exceed twelve percent (12%) annually of the cost of such extensions.

4.1.h.3. Non-emergency use of a fire hydrant is prohibited unless there has been made advance notification of such proposed use by the user to the utility, and the utility has provided prior written approval of such use to the user. The utility shall charge its tariff rate for domestic water usage for all non-emergency fire hydrant water usage.

#### 4.2. Customer deposits.

##### 4.2.a. Security deposits.

4.2.a.1. Security deposits for utilities other than public service districts -- A utility, other than a public service district may require the applicant or customer to make a deposit with it initially, and from time to time, to secure the payment of water service rates and charges. Except for municipal water systems, such deposit shall not be more than one-twelfth (1/12) of the annual estimated charge for residential service or one-sixth (1/6) of the annual estimated charge for all other service. For a municipal water system only, the deposit shall not be more than either fifty dollars (\$50) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater. For combined water and sewer municipal systems the deposit shall not be more than either one hundred dollars (\$100) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater. This provision must be included in the utility's tariff filed with the Commission. The utility shall not be bound to supply water until these conditions are fulfilled and it may terminate water service if the security or increased security is not given when required. ~~After the customer has paid bills for service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit plus accrued interest. Calculation of the above twelve (12) months' period shall commence from the first regular payment or following the payment of a delinquent bill or bills. Interest at the rate as determined in accordance with Rule 4.2.a.7., shall be paid from the date of deposit until the date of the refund of the security deposit.~~ The utility shall have a reasonable time, not to exceed thirty (30) days, to read and remove meters and to ascertain that the obligations of the customer have been fully performed before being required to return any deposit in the case where there has not been an automatic refund. This provision must be included in the utility's tariff filed with the Commission.

4.2.a.2. Security deposits for public service districts -- All new applicants for residential or other water service from a public service district shall make a deposit of (i) a minimum of fifty dollars (\$50), or (ii) two-twelfths (2/12) of the ~~annual estimated charge~~ average annual usage for the applicant's specific

customer class for water service, whichever is greater, with the district to secure the payment of water service rates and charges. For combined water and sewer public service districts such deposit shall not be more than either one hundred dollars (\$100) or two-twelfths (2/12) of the average annual usage of water service and wastewater service for the applicant's specific customer class, whichever is greater. The district shall not be bound to supply water until this condition is fulfilled. In any case where a deposit is forfeited to pay service rates and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit as described above has been remitted to the district. This provision must be included in the utility's tariff filed with the Commission.

4.2.a.3. Return of deposit to customers who are not tenants -- Except as otherwise provided in 4.2.a.4., ~~After a customer who is not a tenant~~ has paid bills for service for twelve (12) consecutive months without a delinquency the utility shall promptly and automatically refund the deposit plus accrued interest. Calculation of the above twelve (12) month period shall commence from the first regular payment or following the payment of a delinquent bill or bills.

4.2.a.4. Return of deposit by public service districts and municipal systems only for to a customer who is a tenant -- By statute ~~A districts and municipal water systems is~~ are not required to return a deposit to a customer who is a tenant until the time the tenant discontinues service with the district or municipal system. After a customer who is a tenant discontinues service with the district or municipal system, the utility shall promptly and automatically refund the deposit plus accrued interest. The public service district or municipal system shall have a reasonable time, not to exceed thirty (30) days, to read and remove meters and to ascertain that the obligations of the customer have been fully performed before being required to return any deposit in the case where there has not been an automatic refund.

4.2.a.5. Unless otherwise ordered by the Commission by general order, simple ~~interest at the rate of 1% per year as determined in accordance with Rule 4.2.a.8.~~ shall be paid from the date of deposit until the date of the refund of the security deposit. All customer security deposits shall be placed in an interest bearing account at a local federally insured financial institution. ~~The district shall have a reasonable time, not to exceed thirty (30) days, to read and remove meters and to ascertain that the obligations of the customer have been fully performed before being required to return any deposit in the case where there has not been an automatic refund.~~

4.2.a.6. Rule 4.2.a.5 requires Public service districts and municipal systems must to segregate security deposits into interest bearing accounts. Upon proper showing by complaint or otherwise, the Commission may require any other utility to likewise segregate customer deposits.

~~7. The interest rate to be paid by all water utilities other than public service districts shall be determined as follows. The rate which utilities shall be required to pay shall be the average of the one-year United States Treasury Bill rates for October, November and December of the preceding calendar year. By January 15 of each year, Staff of the Commission shall make the necessary calculations and file with the Commission its calculations. The Commission will issue an order setting the rate to be paid by the utilities until the next annual Commission order. The simple interest shall be paid at the date of discontinuance of service or at the end of the deposit period.~~

~~8. The interest rate to be paid by public service districts shall be determined as follows: The Staff of the Commission shall determine a rate which a typical small investor could receive at federally insured banks in W. Va. in the last quarter of each calendar year. The Staff shall by January 15 of each year report to the Commission its rate with supporting information. The Commission will issue an order setting~~

~~the rate to be paid until the next annual Commission order. The simple interest shall be paid at the date of discontinuance of service or at the end of the deposit period.~~

4.2.a.7.9 A current customer of a public service district or a municipal system who requests service at another location within the jurisdiction of the district and who has made payment of bills for the previous twelve (12) months without a delinquency is not required to pay a deposit for service at the new location because that customer is not a new applicant for service under W.Va. Code §§16-13A-9, 8-20-10 or 16-13-16. The preceding sentence shall not apply to multiple service locations. Multiple service locations shall require multiple deposits. In the event the customer of record has died or has become incapable of being responsible for water service, that individual's spouse may become the customer of record without being required to complete a new application for water service, or paying a new deposit.

~~10. All new applicants for residential or other service from a combined water and sewer public service district shall deposit (i) a minimum of fifty dollars (\$50.00), or (ii) two-twelfths (2/12) of the annual estimated charge for water service, whichever is greater, for each of the services to be rendered:~~

4.2.a.8.11 Record of deposit -- Each utility holding a cash deposit shall keep a record showing: (i) the name and current address of each depositor; (ii) the amount and date of the deposit; (iii) each transaction concerning the deposit.

4.2.a.9.12 The receipt -- Concurrently with receiving a cash deposit, the utility shall deliver to the applicant for service or the customer, a receipt showing: (i) the date thereof, (ii) the name of the applicant or customer and the address of the premises to be served or served, (iii) the service to be furnished or furnished, and (iv) the amount of the deposit and the fact that interest will be paid at a Commission determined rate. Each utility shall provide automatic means to refund the deposit of a customer, when he is so entitled, if the original receipt cannot be produced. A receipt of proof or payment will not be necessary under the provisions for an automatic refund.

4.2.a.10.13 Unclaimed deposits -- Should a utility have retained, through no fault of its own, deposits made by customers to whom service has been discontinued during any calendar year, it shall, on or before the first day of March, in each year, mail to the customer's last known address a check as refund of the deposit plus accrued interest, or at the utility's option, publish a list of such depositors, in a newspaper published and of general circulation in each of the counties in which it operates and in which the deposits were made, showing as of the thirty-first (31st) day of December immediately preceding, the amount of each such deposit, together with the interest due thereon, and notifying depositors listed therein that their deposits, together with accrued interest, are being held to their credit and will be returned upon request. The utility shall not be liable for any interest on such deposit after publication of such lists. Upon the completion of the above procedure, the utility shall follow the provisions of the Uniform Unclaimed Property Act, codified at W.Va. Code §36-8-1, with regard to the disposition of any unclaimed deposit.

~~14. Provided that this rule shall not affect residential customer security deposits required by a utility prior to the passage of W.Va. Code §24-3-8 on March 12, 1983:~~

4.2.a.11.15. All utilities that collect security deposits must do so in a nondiscriminatory manner.

4.2.b. Guarantee Guaranty agreement --



4.2.b.1. A utility, other than a public service district, may accept, in lieu of the cash deposit, a guaranty agreement signed by a financially responsible guarantor, whereby payment of a specified sum, not exceeding the cash deposit aforesaid, is guaranteed. The guarantor may, upon request, receive copies of disconnection notices sent to the customer whose account has been guaranteed: provided that the limitations herein fixed upon the terms of a guaranty agreement shall not apply to industrial customers.

4.2.b.2. A guaranty agreement shall terminate after the customer has satisfactorily paid bills for twelve (12) consecutive months, or when the customer gives notice to the utility of discontinuance of service at the location covered by the guaranty agreement, or six (6) months after discontinuance of service where no notice was given, or at the guarantor's request upon thirty (30) days' written notice to the utility. Upon termination of a guaranty agreement, or whenever the utility deems the same insufficient as to amount of surety, a cash deposit or a new or additional guaranty may be required upon reasonable written notice to the customer.

4.2.b.3. Application in case of receiver or trustee -- The aforesaid provisions shall apply in the case of a receiver or trustee operating a business, under court order that requires utility service.

#### 4.3. Billing information.

4.3.a. Bills shall be rendered periodically, and they shall show the readings of the meter at the beginning and end of the period for which the bill is rendered, the date of the meter readings, the number of cubic feet or gallons of water supplied, and the authorized rate. If the utility must, for any reason, render an estimated bill, the bill shall be clearly marked as an estimated bill. All bills shall state "This utility is regulated by the Public Service Commission of West Virginia" and "Rates available upon request."

4.3.b. First and last bills, monthly or quarterly, for water service rendered for periods of five (5) days more or five (5) days less than the normal billing period will be computed in accordance with the rate applicable to that service, by the amount of water blocks, and the minimum charge as set forth in that rate will be prorated on the basis of the number of days in the period in question, to the total number of days in the normal period.

4.3.c. Utilities desiring to adopt mechanical billing of such nature as to render compliance with all the terms of Rule 4.3.b. impractical, may make application to the Commission for relief from part of these terms. After consideration of the reasons given when asking for relief, the Commission may allow the omission of part of these requirements.

4.3.d. On all bills which include charges for items other than authorized water charges, the other factors used in computing the bill shall be clearly stated so that the amount may be readily verified from the information appearing on the bill.

4.3.e. Each bill shall bear upon its face the latest pay date and the date it shall be a delinquent bill if not paid. On all current usage billings not paid by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate. This provision must be included in the utility's tariff filed with the Commission.

4.3.e.1. When a utility receives a customer payment at a time when both a delinquent bill and a current bill are outstanding, the utility will apply the payment first to the current bill, and apply any leftover amounts to the delinquency. Provided, that this rule shall not apply to payments from customers whose

delinquencies have been addressed in a deferred payment agreement. If a termination notice has been issued then the payment should first be applied to the delinquent amount that is the subject of the termination notice.

#### 4.4. Adjustment of bills.

4.4.a. Fast meters -- If, upon test of any meter, the meter is found to have an average error of more than two percent (2%) fast, the utility shall refund to the customer the overcharge, based upon the corrected meter reading for a period equal to one-half ( $\frac{1}{2}$ ) the time elapsed since the last previous test, but not to exceed six (6) months. If it can be shown that the error was due to some cause, the date of which can be fixed, the overcharge shall be computed back to but not beyond such date. If the meter has not been tested in accordance with Rule 6.4, the period for which it has been in service beyond the regular test period shall be added to the six (6) months in computing the refund.

4.4.b. Dead meters -- If a meter is found not to register, or that remote metering equipment has failed, for any period, the utility shall compute the water used by taking the average of the water used for the meter-reading period preceding and the meter-reading period following the date when the meter was found to be dead, which amount shall be assumed to be the amount of water used by the customer during the billing period in which the meter was found dead. Exceptions will be made to this rule in case the facts clearly show that the above method does not give the correct consumption for the period. A utility may backbill the customer for the difference between the amount previously billed and the customer's estimated usage for a maximum of three (3) months preceding the date the dead meter is repaired or replaced. The utility should fix or replace dead or malfunctioning meters within thirty (30) days of the utility's discovery that a meter is dead or malfunctioning.

#### 4.4.c. Leaks on the customer's side of the meter.

4.4.c.1. Each utility shall develop and implement a written policy concerning the adjustment of customer bills where the bill reflects unusual usage which can be attributed to leakage on the customer's side of the meter. Leaking commodes, dripping faucets, malfunctioning appliances and similar situations shall not constitute leaks which entitle the customer to a recalculated bill. The policy shall be maintained in the utility's office for inspection by the public and shall be applied in a non-discriminatory manner to all customers. The reasonableness of the utility's policy or practice with respect to a policy shall be subject to Commission review in a formal complaint proceeding.

4.4.c.2. The policy shall provide for a recalculated bill to reflect the utility's incremental cost of treating or purchasing the water, as contained in the utility's tariff, for all amounts above the customer's historic usage. Historic usage shall be defined as the average usage of the preceding twelve (12) months, or actual period of service if less than twelve (12) months. If using the historic usage would result in an unreasonable calculation, adjustments may be made. If such adjustments are made, the utility should advise its customer that a dispute regarding such adjustments may be taken to the Commission in the form of an informal complaint.

4.4.c.3. As an alternative to using the incremental cost of treating or purchasing the water, the utility may, at its option, use an adjustment which allows it to recover the Commission's estimate of "typical incremental" cost per thousand gallons of water on usage above the historic usage. The Commission shall from time to time establish its estimate of "typical incremental cost" by order.

4.4.c.4. However, in future rate cases the utility's incremental cost of treating or purchasing the water shall be determined and the rate placed in an appropriate tariff as the leak adjustment rate. After a rate

has been determined in a rate case, the utility shall not have the option to use the Commission's estimate of "typical incremental cost" found in 4.4.c.3.

4.4.c.5. The water utility shall, after determining that a leak adjustment must be made, notify the sewer utility of the amount of the adjustment in gallons and the reason for making the adjustment.

#### 4.5. Complaints.

4.5.a. Investigation of complaints -- Each utility shall make a full and prompt investigation of all complaints made to it by its customers, either directly or through the Commission. In the event that the complaint is not adjusted, the utility shall notify the customer that he may file an informal or formal complaint with the Commission.

4.5.b. Records of complaints -- The utility shall keep a record of all complaints received, which record shall show the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made thereof.

4.5.c. Disposition of records -- Records of complaints shall not be destroyed until a summary has been prepared for permanent record, showing the character of complaints made, the number of each type received in each month, and the disposition of the complaints.

#### 4.6. Disputed bills.

4.6.a. In the event of a dispute between the customer and the utility respecting any bill, the utility shall conduct an investigation and report the result thereof to the customer. In the event that the complaint is not resolved, the utility shall, before service is discontinued, notify the customer that he may file an informal or formal complaint with the Commission.

#### 4.7. Customer discontinuance of service.

4.7.a. Any customer requesting service to be discontinued shall give notice thereof to the utility, during regular business hours. Unless a different period shall be mutually agreed upon by written contract, service will be discontinued by the end of the next business day. Until the utility shall have such notice, the customer may be held responsible for all service rendered.

#### 4.8. Utility discontinuance of service.

##### 4.8.a. Notice of discontinuance.

4.8.a.1. Service shall ~~actually~~ be discontinued no sooner than ten (10) days following the date that a utility has mailed to a customer ~~a statement that water bills are delinquent~~ written notice of scheduled termination of service, in compliance with Water Form No. 1 attached to these rules. Where written notice is required it must be sent first class mail, address service requested. The written notice shall become void if the utility has not discontinued service within thirty (30) days of the date indicated on the notice.

4.8.a.2. Where conditions hazardous to life or property are found to exist on the customer's premises, or where the utility's regulating, measuring or distribution equipment or facilities have been tampered with, the water may be shut off without notice in advance.

~~3. Where written notice is required it must be sent first class mail, address service requested. Written notice shall comply with Water Form No. 1, attached to these rules. The written notice shall become void if the utility has not discontinued service within thirty (30) days of the date indicated on the notice for termination.~~

4.8.a.3.4. Prior to disconnecting water service for non-payment of either a water, a stormwater, or a sewer bill, the water utility shall make at least two (2) attempts to notify the customer through personal contact shall be required. For the purposes of subsection 4.8.a.3., personal contact includes both face-to-face meetings and telephone calls.

4.8.a.3.A. First the water utility shall either telephone or visit the customer at least twenty-four (24) hours prior to a scheduled disconnection. Second, the water utility shall knock on the customer's door immediately prior to a disconnection. When the water service is being terminated for non-payment of a water bill, the two (2) attempts to notify by personal contact shall be made on two (2) separate business days at least twenty-four (24) hours prior to the scheduled termination unless it is reasonably established that the premises are not permanently inhabited. The inability to make personal contact shall not prevent the water utility from terminating service.

4.8.a.3.B. When water service is being terminated for non-payment of a sewer or stormwater bill, the sewer utility, the stormwater utility, or the water utility shall make two (2) attempts to notify by personal contact on two (2) separate business days at least twenty-four (24) hours prior to the scheduled termination unless it is reasonably established that the premises are not permanently inhabited. The inability to make personal contact shall not prevent the water utility from terminating service.

4.8.a.4.5. Service shall not be discontinued on a Saturday, Sunday, any day that is a federal or state holiday, a day on which the utility's business office is not open to accept payment, or on the day before such days, unless an emergency exists.

4.8.a.5.6. All disconnections shall be performed between the hours of 8 a.m. and 4 p.m.

4.8.a.6.7. The utility shall may, but is not required to, accept payment at the customer's premises in lieu of discontinuing service for either a delinquent water or sewer bill. The payment must be for the entire amount of the delinquency to prevent termination. However, a utility may refuse payment by check if the customer has, during the previous twelve (12) months, attempted to make payment by a check subsequently returned by the bank for insufficient funds.

4.8.a.7.8: If a customer has received notice of a scheduled termination, and, to avoid such termination, makes payment by check which is subsequently dishonored by the bank, the utility may then terminate service only after it has mailed notice, by first class mail, to the customer at least five (5) calendar days, excluding state or federal holidays, prior to termination; provided that at the option of the utility, either personal contact or telephone contact may be substituted for contact by first class mail in lieu of mailing the notice, the utility may contact the customer either in person or by telephone. For purposes of subsection 4.8.a.7., if the utility elects to contact the customer either in person or by telephone, an attempt to contact shall not be considered sufficient – actual contact must be made.

4.8.a.8.9: If a landlord of a single-unit dwelling or a master-metered mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling is responsible for payment of a utility bill, written notice of termination in the form of Water Form No. 2 shall be placed at a location readily available for public inspection on the premises at least five (5) days prior to the scheduled termination of

service to that mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling. If the billing address for any single unit service is different than the service location, a written notice in the form of Water Form No. 2 shall be delivered or posted at a visible location on the premises where the service is to be terminated at least five (5) days prior to the scheduled termination. This notice shall inform the occupant(s) of the date on or after which termination of service will occur and shall state the steps the occupant(s) can take to avoid termination of service.

4.8.a.9.10. A water customer who has been notified that water service is to be terminated for non-payment of water bills shall be given the opportunity to enter into a deferred payment agreement: Provided, that the customer has demonstrated an ability to pay but only in installments. The customer shall be informed at the time a disconnect notice is issued of the availability of a reasonable payment plan.

4.8.a.9.A. The details of the deferred payment agreement are to be negotiated between the utility and the customer and may consider several factors, including, but not limited to the following: amount of the delinquency; ability of the customer to pay; payment history; time the delinquency has been outstanding; reasons why the delinquency has been outstanding; and any other relevant factors.

4.8.a.9.B. The deferred payment agreement shall include language informing the customer of the right to challenge the reasonableness of the proposed payments to the Commission.

4.8.a.9.C. During the challenge, the utility may not terminate service: provided that the current bill must be paid by the customer on time and in full in order to protect his rights under this rule.

4.8.a.9.D. Once a deferred payment agreement has been established, the customer must pay the current bill on time and in full and make timely payments in accordance with the deferred payment agreement.

4.8.a.9.E. If the customer's financial condition significantly changes and the existing payment agreement results in hardship, the utility shall renegotiate the payment agreement, consistent with the provisions of Rule 4.8.a.10.A. The customer shall provide documentation in support of his claim that his financial condition has changed. During the renegotiation period the customer must continue to pay the current bill on time and in full and make some payment on the delinquency.

4.8.a.9.F. If the deferred payment is not received in accordance with the terms of the agreement or the payment is made with a check subsequently dishonored by the bank, the utility may terminate service only after it has mailed written notice, by first class mail, to the customer at least five (5) calendar days, excluding state or federal holidays, prior to termination: provided that at the option of the utility, either personal contact or telephone contact with the customer may be substituted for contact by first class mail. If the customer makes the delinquent payment within that notice period, service shall not be terminated. However, if the customer has, during the previous twelve (12) months, attempted to make payment by a check which was subsequently dishonored by the bank the utility may refuse the customer's check and immediately terminate service without additional notice.

4.8.a.10.11. In the case of a sewer utility requesting termination of water service for non-payment of sewer service, the sewer utility shall provide the customer written notice complying with Sewer Form No. 1, ten (10) days before the effective termination that the sewer utility will request termination of water service by the water utility if payment is not made in full or a payment schedule is not established as provided by Sewer Rule 4.8.a.10. The written notice must be sent first class mail, address service requested.

This notice shall contain a provision notifying the customer that in the event water is terminated the customer will be responsible for and required to pay the fees charged to the sewer utility by the water utility.

4.8.a.11,12: A sewer utility requesting termination of water service for non-payment of sewer bills shall provide the water utility with a copy of the notice to the customer required by Sewer Rule 4.8.a.1.

4.8.a.12,13: A sewer utility will provide the water utility with a written request for termination of water service for non-payment at least twenty-four (24) hours before the end of the ten (10) day notice period to the customer.

4.8.b. Once a disconnected customer has paid his delinquency in full, or the utility has agreed to enter into a deferred payment agreement with the customer, and all disconnect and/or reconnect fees have been paid, the utility shall reconnect the customer's water service as soon as possible but no later than twenty-four (24) hours from the time the customer pays all disconnect and reconnect fees.

4.8.c. Charge for reconnection.

4.8.c.1. Whenever the supply of water is turned off for violation of rules, non-payment of bills, or fraudulent use of water, the utility may make a charge as set forth in its tariff for reestablishment of service.

4.8.c.2. If service is discontinued at the request of the customer, the utility may refuse service to such customer, at the same premises, if requested within eight (8) months of the date service was discontinued, unless the customer shall first pay the reconnection charge set forth in the utility's tariff.

4.8.d. The utility shall not refuse, deny, or discontinue service to an applicant or present customer due to a delinquency in payment for service by a previous occupant of the premises to be served unless such applicant or present customer and such previous occupant are members of the same household and were members of the same household at the time the delinquent bill was incurred.

4.8.e. Combined water and sewer public service districts -- Any public service district providing water and sewer service to its customers shall have the right to terminate water service for delinquency in payment of either water or sewer bills; provided that proper notice is given and procedures followed as set out in these Rules.

4.8.f. Inter-utility Agreements regarding discontinuance of water service for non-payment of sewer bills.

4.8.f.1. In the event that any utility, (whether public, private, city, incorporated town, municipal corporation or public service district) owns and operates either water facilities or sewer facilities, and a separate utility owns and operates the other kind of facilities, either water or sewer, then the two utilities shall covenant and contract with each other to shut off and discontinue the supplying of water service for the non-payment of sewer service fees and charges; provided that proper notice is given and procedures are followed as set forth in Rules 4.8.a.1. through 4.8.a.13,12.

4.8.f.2. Municipal sewer -- When sewer facilities are municipally owned and water facilities are not, the municipality providing sewer service may require the water utility to discontinue water service to any customer who is delinquent in the payment of sewer service rates and charges to the municipality. The water utility shall discontinue water service upon demand of the municipality for this purpose; however,

prior to discontinuance of any water service, the municipality shall contract with the water utility which contract shall provide that the municipality shall reimburse the water utility for all costs and expenses incurred in both the termination of water service to the delinquent sewer customer and the subsequent resumption of water service to such customer. The contract shall provide for reasonable methods and assurances so that the water utility will be protected and held harmless from claims and damages when water service is discontinued in error or in violation of the rights of the customer through the fault of the municipal sewer utility.

4.8.f.3. The inter-utility agreement should contain specific provisions regarding responsibilities of notice of termination, termination, reconnection, and reasonable fees based on fair and reasonable compensation.

4.8.f.4. Any inter-utility agreements pursuant to Rule 4.8.f.2. shall be submitted to the Commission for approval prior to any termination of water service for non-payment of sewer bills under such agreements.

4.8.f.5. A water utility that has terminated or reconnected service for non-payment of sewer bills or that has made a visit to the customer's premises to terminate service, may charge the sewer utility a fee pursuant to Rule 4.8.c. The sewer utility may include this charge in the billing to the delinquent customer; provided that such charge is included in the sewer utility's approved tariff.

4.8.g. A sewer customer who has been notified that water service is to be terminated for non-payment of sewer bills shall be given the opportunity to enter into a deferred payment on the same terms and conditions set forth in Rule 4.8.a.10.

4.9. Refusal to serve applicant -- It is suggested the utility design its application form to reflect the following:

4.9.a. Non-compliance with rules -- Any utility may decline to serve an applicant until he has complied with these rules and the Commission approved utility's rules set forth in a Commission approved tariff governing water service.

4.9.b. Applicant's facilities inadequate -- The utility may refuse to serve an applicant if, in its judgment, the applicant's installation of piping equipment is regarded as hazardous or of such character that satisfactory service cannot be provided.

4.9.c. A bill which has been found to be contractually uncollectible by a court or could reasonably be found to be uncollectible by reason of an applicable statute of limitations shall not be used by a utility to deny or discontinue service.

4.9.d. Applicant's recourse -- In the event that the utility shall refuse to serve an applicant under the provisions of this rule, the utility must inform the applicant that the question may be submitted to the Commission for decision.

4.9.e. In the case of the establishment of a new utility and/or extensions, the utility has received applications for service and has accepted the tap-fee for same; the utility will immediately upon receiving bids for such installation determine the feasibility of serving the areas in question and immediately advise the applicants. In the event an area is deemed infeasible to serve, the tap-fee deposit will be returned to the applicant immediately.

~~It is suggested the utility design its application form to reflect the above procedures.~~

4.10. Change in character of service -- When a substantial change is made by a utility in water pressure, or other conditions affecting the efficiency of operation or adjustment of appliances, the utility shall inspect and readjust the appliances of all customers in the district affected, if necessary, without charge. Where circumstances require, the utility shall furnish and install suitable pressure regulating devices.

4.11. Access to property.

4.11.a. The utility shall at all reasonable times have access to meters, service connections and other property owned by it on customer's premises, for the purpose of maintenance and operation. Neglect or refusal on the part of customers to provide reasonable access to meters, service connections and other property owned by the utility for the above purposes shall be deemed to be sufficient cause for discontinuance of service.

4.11.b. Identification for employees -- Every employee, whose duties regularly require him to enter the homes of customers, shall wear a distinguishing uniform or insignia, identifying him as an employee of the utility and shall carry on his person an identification card which will identify him as an employee of the utility, containing a photograph of said employee. The identification card shall contain the telephone number of the utility as well as other pertinent information necessary to identify the employee. All other employees, whose duties require occasional entry into the homes or premises of customers, shall carry an identification card containing information as herein required.

4.12. Service interruptions.

4.12.a. Records of interruptions -- Each utility shall keep a record of all interruptions of service affecting its entire system or major divisions thereof, including a statement of the time, duration, and cause of the interruptions.

4.12.b. Notification to customer for scheduled interruptions -- Every customer affected shall be notified in advance of contemplated work which will result in an interruption of service.

4.12.c. Curtailment or restriction service policy -- Each utility shall file with the Commission for any contemplated curtailment or restriction policy to any customers, prior to such curtailment or restriction policy being put into effect. The following information shall be supplied:

4.12.c.1. Reason for curtailment or restriction of service.

4.12.c.2. Date curtailment or restriction policy requested to begin.

4.12.c.3. Duration of policy and projected correction programs with time parameters for completion.

4.12.d. Notice required for unscheduled interruptions -- In the event of an unscheduled service interruption, the Bureau for Public Health and the Commission shall be notified as soon as possible upon a utility becoming aware of an unscheduled service interruption. Additionally, customers and the general public shall be made aware of any unscheduled service interruption by utilizing one or more of the following acceptable methods of public notification as appropriate:



4.12.d.1. Fax/e-mail notification to local radio and television stations, cable systems, newspapers and other print and news media in the affected area as soon as possible after the event occurs. The notification must provide relevant information about the event, such as the affected location, its potential impact including possible adverse health effects and the population or subpopulation particularly at risk, and a description of actions affected ratepayers/occupants should take to ensure their safety, with updates as often as needed.

4.12.d.2. Use of the utility's own Internet web site and 24/7 emergency phone line and integrated voice response system to provide relevant information about the event, such as the affected location, its potential impact including possible adverse health effects and the population or subpopulation particularly at risk, and a description of actions affected ratepayers/occupants should take to ensure their safety, with updates as often as needed.

4.12.d.3. Other types of notice at the discretion of the utility, including, but not limited to, doorknob flyers distributed to affected ratepayers/occupants, e-mail, text message, automated dialing system (outbound dialing).

4.12.e. Actual notice must be provided to affected health care and childcare facilities and other facilities, for example, schools and restaurants, as determined by consultation with the Commission, the Bureau for Public Health, the Department of Environmental Protection and other state agencies as necessary.

4.12.f. Coordination with state and local emergency management agencies must occur, as needed, to use any emergency alert system available for qualifying situations.

4.12.g. Public Notice Templates -- Utilities should have public notice templates prepared in advance to be available when needed to avoid wasting critical time developing materials when confronted with an unscheduled service interruption. The notices should cover all possible scenarios from water conservation to boil water alerts to contaminants of concern and associated health effects.

4.12.h. Utility Contact Person -- To ensure that the public is informed in the case of an unscheduled interruption occurring due to an emergency situation, utilities should have a knowledgeable contact person stationed onsite during the emergency, if possible, to communicate to the public and media on behalf of the company.

4.12.i. In the case of an unscheduled interruption occurring due to an emergency situation, water utilities should make a reasonable effort to ensure that adequate quantities of alternative supplies of water essential for domestic use are made available in a sufficient number of conspicuous and predetermined locations relative to the number of customers affected by the incident. This includes the use of water tankers or free bottled water, or both. Utilities should ensure that customers are adequately notified of the times available and locations of alternative water supplies. When bottled water is used, utilities should have plans in place, based on prior coordination with local vendors, to have adequate supplies to last for the duration of the outage. The Commission encourages utilities to work proactively with community-based organizations that would have readily available information on the location and special needs of affected elderly or homebound customers in the area.

#### 4.13. Moratoria

4.13.a. Conditions -- The Commission may impose a moratorium on a system, either entire or apportioned, whenever sufficient evidence exists that the existing facilities are operating in excess of design

capacity, that the system capacity necessary for future demand does not exist, or when an increase in customers will result in the degradation of service to existing customers.

4.13.b. Petition -- A utility, Commission Staff, or governmental entity may petition the Commission in writing for the imposition of a moratorium on a system. The petition should include evidence of the existence of conditions outlined in Rule 4.13.a. If the utility is the petitioner, it must state the utility's plan to remediate those conditions.

4.13.c. Imposition by state agency other than the Commission -- A utility must immediately notify the Commission in writing if a State agency other than the Commission imposes a moratorium on the utility's system.

4.13.d. Public notification of petition -- A party petitioning for a moratorium shall notify the public that such request is being made, through a Class II legal advertisement in the form of Water Form No. 3, "Public Notice of Filing of a Petition for Imposition of a Moratorium" attached to these Rules, published no later than fifteen (15) calendar days from the date such request is made to the Commission. The notification shall clearly state which areas of the utility's system are affected, and that interested parties may submit comments to the Commission for consideration.

4.13.e. Exemptions -- Any prospective customer or group of prospective customers may apply to the Commission for an exemption from an existing moratorium. Such requests shall be made in writing by the prospective customer(s) to the Commission, and shall include justification for the proposed exemption.

4.13.f. Refusal of Service -- A utility may not deny service to a prospective customer on grounds of a moratorium until the Commission has imposed a moratorium. Any utility denying service to a prospective customer or group of customers due to a moratorium shall notify, in writing, all applicants for service of their right to file with the Commission a request for exemption from the moratorium.

4.13.g. Improvements to System -- A utility upon which a moratorium is imposed shall continue to seek improvements to its system necessary to lift the moratorium. The Commission may, at its discretion, require the utility to submit reports outlining all progress made toward system improvements.

#### 4.14. Local water rationing plans.

4.14.a. Authority -- Upon giving notice to the Commission and the general public, any water utility declaring a temporary shortage of water, and that it is necessary for the health and welfare of the utility's customers to restrict the consumption and use of the existing water supply, shall be authorized to enforce the following Local Water Rationing Plan ("Plan") to restrict use of water to human consumption and for sanitary purposes. If a utility wishes to adopt a water rationing plan different from the following Local Water Rationing Plan, it may petition the Commission for permission to do so.

##### 4.14.b. Definitions.

4.14.b.1. "Emergency service area" -- the area or areas within which the utility has declared a state of drought and water shortage emergency.

4.14.b.2. "Excess use" -- the usage of water by a water customer in excess of the water allotment provided under the Local Water Rationing Plan for that customer, over any applicable period.

4.14.b.3. "Service area" -- the territory and the customers serviced by the utility.

4.14.b.4. "Service interruption" -- the temporary suspension of water supply, or reduction of pressures below that required for adequate supply, to any customer, portion of a water supply system or an entire system.

4.14.c. Purpose -- This Plan is intended to establish measures for essential conservation of water resources, and to provide for equitable distribution of limited water supplies, to balance demand and available supplies and to assure that sufficient water is available to preserve public health and safety within an emergency service area.

4.14.d. Scope -- This Plan shall apply to all water uses within a utility's emergency service area including uses by customers of wholesale customers of the utility.

4.14.e. Objective of the Plan.

4.14.e.1. It is imperative that water customers within an emergency service area reduce water use in order to extend existing water supplies, and to assure that sufficient water is available to preserve the public health and sanitation, and provide fire protection service and electric power generation.

4.14.e.2. This Plan requires equitable reductions in water usage, and for equal sacrifice on the part of each water customer, insofar as such restrictions do not interfere with the public health, adequate fire protection and the generation of electric power. The success of this Plan depends on the cooperation of all water customers in the emergency service area.

4.14.f. Measures to implement the water rationing plan -- Each water supply purveyor, including resellers, within the emergency service area, will develop and adopt necessary and appropriate measures to assure compliance with requirements of this Plan.

4.14.g. Prohibiting non-essential water uses -- The following water uses are non-essential and are prohibited within an emergency service area:

4.14.g.1. Watering of outside shrubbery, trees, lawns, grass, plants or any other vegetation, except from a watering can or other container not exceeding three (3) gallon capacity. This limitation shall not apply to vegetable gardens, greenhouse or nursery stocks and newly established lawns or sod less than five (5) weeks old, which may be watered in the minimum amount required to preserve plant life before 8:00 a.m. or after 6:00 p.m.

4.14.g.2. The watering of golf course fairways.

4.14.g.3. The washing of automobiles, trucks, trailers or any other type of mobile equipment except in vehicle wash facilities operating with a water recycling system with a prominently displayed sign in public viewing so stating, or from a bucket or other container not exceeding three (3) gallons.

4.14.g.4. The washing of streets, driveways, parking lots, service station aprons, office buildings, exteriors of homes or apartments or other outdoor surfaces.

4.14.g.5. The serving of water in restaurants, clubs or eating places unless specifically requested by the individual.

4.14.g.6. Ornamental water use, including but not limited to fountains, artificial waterfalls and reflecting pools.

4.14.g.7. The use of water for flushing sewers or hydrants by municipalities or any public or private individual or entity except as deemed necessary in the interest of public health or safety by the utility.

4.14.g.8. The use of fire hydrants by fire companies for testing fire apparatus and for fire department drills except as deemed necessary in the interest of public safety and specifically approved by the municipal governing body.

4.14.g.9. The use of fire hydrants by municipal road departments, contractors and all others, except as necessary for fire fighting or protection purposes.

4.14.g.10. The filling of swimming or watering pools requiring more than five (5) gallons of water, or the refilling of swimming or wading pools which were drained after the effective date of the order, except that pools may be filled to a level of two (2) feet below normal, or as necessary to protect the structure from hydrostatic damage, as to pools constructed or contracted for on or after the date of the final order.

4.14.h. Recourse -- Any person aggrieved by a utility's decision relating to these rules may file a complaint with the Commission.

4.14.i. Penalties. -- Any person who violates the provisions of this Plan, who fails to carry out duties and responsibilities imposed by this Plan or who impedes or interferes with any action undertaken or ordered pursuant to this Plan, shall be subject to the following penalties:

4.14.i.1. For the first excess use, the utility shall issue a warning of possible discontinuation of service.

4.14.i.2. For the second or subsequent excess use, the utility may interrupt or shut off service to the customer without notice, or the utility may add a surcharge of ten percent (10%) to the end user's monthly bill for the month of the infraction.

4.14.j. Effective period -- This Plan shall remain in effect until terminated by action of the utility declaring an end to the emergency condition or until terminated by order of the Commission, whichever comes first.

4.14.k. Effective date -- This Plan shall take effect immediately upon adoption by the utility.

4.15. Resale of water.

4.15.a. Water furnished on approved rates or contracts by a public utility shall not be resold or caused to be resold by any customer unless the said customer is engaged in the business of distributing water as a public utility.

#### **§150-7-5. Utility Facilities; Service Pipes; Extension of System.**

5.1. Adequacy of facilities.

5.1.a. Construction and maintenance of plant -- Each utility shall at all times construct and maintain its entire plant and system in such condition that it will furnish safe, adequate and continuous service.

5.1.b. Inspection of plant -- Each utility shall inspect its plant and facilities in such manner and with such frequency as is necessary to insure a reasonably complete knowledge as to their conditions and adequacy at all times. Such inspections must comply with the requirements of the legally applicable Minimum Federal Safety Standards (Federal Occupational Health and Safety Administration) and the standards of the Bureau for Public Health and the Department of Environmental Protection (as applicable).

5.1.c. Records of conditions -- Records necessary for the proper maintenance of the system and in accordance with the Bureau for Public Health and the Department of Environmental Protection (as applicable), and the Minimum Federal Safety Standards shall be kept of the conditions found. In special cases, a more complete record may be specified by the Commission.

5.1.d. Records of operation -- Each utility shall keep a record of the operation of its plant, which, so far as practical, shall show sufficient details of plant operation as is necessary to substantially reproduce the daily history of its operation. The records shall also be maintained in accordance with the requirements of the Minimum Federal Safety Standards and Bureau for Public Health and Department of Environmental Protection (as applicable).

5.1.e. Reports to Commission -- Each utility shall, upon request of the Commission, file with the Commission a statement regarding the condition and adequacy of its plant, equipment, and facilities, and of its operations and service in such form as the Commission may require.

5.1.f. Bureau for Public Health Standards -- All extensions, service connections and modifications to the utility's plant must meet applicable design standards established by the West Virginia State Bureau for Public Health in addition to these rules.

5.1.g. Dead ends -- "Dead ends" in the utility's distribution mains should be avoided so far as possible. If such "Dead ends" exist the utility shall provide facilities for flushing.

## 5.2. Utility Service Pipe.

5.2.a. Where the service pipe is required for the immediate and continuous use for general service to premises abutting the public street or right-of-way in which mains are located, the utility will furnish, install, and maintain the utility service pipe and appurtenances between the main in the street up to the customer's point of service at or near 90 degrees to the main. Provided, all such utility service pipes and appurtenances shall be installed only by the utility unless by prior written agreement.

5.2.b. The utility shall determine the location of the utility service pipe.

5.2.c. The utility will specify the size, kind, quality and location of all materials used in the utility service pipe.

5.2.d. The utility shall install and maintain, at its own cost and expense, all of the utility service pipe regardless of the side of the road on which the customer is located in reference to the main line. The utility shall designate the point of service on the customer's side of the road.

5.2.e. The utility shall not make any charge for furnishing and installing any permanent service connection, meter or other appliance necessary to deliver and measure the water furnished unless the utility has prior approval of the Commission to charge a tap fee and the same is set forth in the utility's tariff on file with the Commission.

5.2.f. The utility's service pipe shall remain under the utility's sole control and jurisdiction.

5.2.g. The customer shall not attach any fixtures to, or make any branches in, the utility service pipe between the point of service and the distribution main. Violation of this rule may result in termination of service pursuant to these rules.

5.2.h. Temporary service connections for construction or other temporary purposes or connections for private fire service shall be installed by the utility at the cost of the applicant.

5.2.i. Each water utility shall adopt standard methods of meter installations where practicable. Such methods shall be set out with a written description and drawings to provide a clear understanding of the requirements; all of which shall be submitted to the Commission.

### 5.3. Customer Service Pipe.

5.3.a. No customer, plumber, company owner or any agent shall connect to the utility's main or to any utility service pipe, or extend the pipes therefrom to any premises for the purpose of securing water service, until application has been made therefore to the utility as provided in these rules and permission for doing so has been granted by the utility in writing.

5.3.b. Once an application for service has been granted, the customer shall install and maintain the customer service pipe.

5.3.c. The utility's authorized employee shall inform the customer of the location of the point of service. The customer shall install the customer service pipe to the point of service after which the utility will install the utility service pipe from the distribution main to the point of service.

5.3.d. The customer shall also install and properly maintain in good working condition a stop and waste cock of a type approved by the utility on the customer's service pipe immediately inside the foundation wall in a readily accessible location and in a place protected from the possibility of freezing and so placed that it will shut off and drain all plumbing within any and all buildings in the premises.

5.3.e. Where the utility's service pipe is already installed to the point of service, the customer shall connect with the utility service pipe as installed.

5.3.f. The customer's service pipe shall be installed in a workmanlike manner, shall conform to all reasonable rules and regulations of the utility, and shall be maintained by the customer at his own expense.

5.3.g. The utility will specify the size, kind, quality and location of all materials used in the customer's service pipe and the customer shall comply with those specifications.

5.3.h. A customer must maintain his service pipe in good condition and free from all leaks and defects, at the customer's cost and expense. A customer's failure to comply with this rule may result in termination of service pursuant to these Rules.

5.3.i. The customer's service pipe shall: be laid below the frost line at all points; be placed on firm and continuous earth so as to give unyielding and permanent support; and be installed in a trench at least two (2) feet in a horizontal direction from any other trench wherein gas pipe, sewer pipe, or other facilities, public or private, are or are to be installed.

5.3.j. Except in the case of long-service lines, a customer's service pipe shall not pass through or across any premises or property other than that to be served, nor across any portion of the property that could practicably be sold separately from the immediate premises served, and no water pipes or plumbing in any premises shall be extended therefrom to adjacent or other premises.

5.3.k. The customer's service pipe and all connections and fixtures attached thereto shall be subject to the inspection of the utility before the water will be turned on, and all premises receiving a supply of water and all service pipes, meters and fixtures, including any and all fixtures within the said premises, shall at all reasonable hours be subject to inspection by any duly authorized employees of the utility.

5.3.l. The utility shall make changes and bear the full costs of changes in the customer's service pipe or meter location required due to changes in grade, relocation of mains, and other causes not related to the customer. The customer shall bear the full costs of changes in service pipe or meter location desired by the customer for his or her convenience.

5.3.m. The customer shall not attach any fixtures to, or make any branches in, the customer service pipe between the point of service and the premises served. Violation of this rule may result in termination of service pursuant to Rule 4.8.

5.3.n. There shall be no more than one (1) customer service pipe required to serve a single premises and each premises shall be supplied through an independent customer service pipe, unless otherwise approved by the utility in writing.

#### 5.4. Long service lines.

5.4.a. To assure the orderly development of its system, and to provide adequate service to its customers, the utility should ordinarily provide water service only at the property line of the customer requesting service, and in those instances where the utility's service does not extend to the customer's property line, an extension should be made by the utility in accordance with Rule 5.5. of these rules. In unusual and exceptional cases where the property line of the customer requesting service is an excessive distance from the existing main of the utility, and the cost to be borne by the prospective customer under Rule 5.5. is prohibitive, and there is no reasonable prospect of further growth and development in the area, or for any one of the above reasons, the utility may serve the customer by installing a meter in the utility's right-of-way at its main nearest the customer's property, and connecting the meter to the customer's privately owned service line. The customer shall extend his customer service line to an existing distribution main of the utility and shall be solely responsible for service beyond the meter.

5.4.b. If a road crossing is necessary to serve the customer, the utility shall install that portion of the line crossing under the road and shall locate the meter on the customer's side of the road; provided that the utility's distribution main lies within or adjacent to the existing road right-of-way. The customer shall be required to provide evidence to the utility that proper easements or rights-of-way have been obtained. Standards of service received by the customer shall be determined at the metering point. The customer shall not permit others to connect to the customer's water lines or receive water service from the customer's privately owned service line. In the event the utility's main is later extended to the customer's property line

under Rule 5.5., the customer shall discontinue the use of his privately owned service line and shall pay all costs and charges authorized by the rules of the Commission and the rules and tariffs of the utility for water service from such extension, the same as if the customer had not previously laid and received service through a private service line. The provisions of this rule shall apply to all persons now or hereafter receiving water service through a privately owned service line extending from the utility's main to the property to be served.

5.5. Extension of mains to serve new customer(s) and customers currently served under Rule 5.4.

5.5.a. A water utility, whether publicly or privately owned, is under a public service obligation to extend its mains, and its plant and facilities to serve new customers within its service area who may apply for service.

5.5.b. Extensions shall be made in all cases in which the public convenience and necessity require the service, construction problems are not unusual or burdensome, and the extensions appear to be economically feasible.

5.5.c. For any proposed extension of mains, a reasonable relationship should exist between the per customer investment to serve new customers and the per customer investment to serve existing customers.

5.5.d. Every effort shall be made by a utility to install its distribution main in the public road right-of-way or in a utility right-of-way abutting the public road right-of-way.

5.5.e. Extensions for general water service.

5.5.e.1. The utility will respond to all inquiries regarding new water service, whether oral or written, by explaining all available options for obtaining service under these rules.

5.5.e.2. The utility will, upon written request for service in the form of Water Form No. 4, by a prospective customer or group of prospective customers located in the same neighborhood, or a customer currently served under Rule 5.4., determine the necessary size of main required to give service and make an estimate of the cost of providing the requested service, using the form of Water Form No. 5, including pipe, valves, fittings, necessary materials, permits, costs incurred by the utility when the utility externally contracts for the construction of the extension, or internal labor costs, provided such internal or external costs are not recovered in existing rates, and other applicable related costs. When a road crossing(s) is (are) necessary to serve the customer(s) requesting service, the cost estimate shall not include costs attributable to extending the main across the first road (closest to the already existing main), but shall include the costs of installing the main across a second and any subsequent road(s). The written estimate calculated using Water Form No. 5, shall be provided to the customer in the form of Water Form No. 6, no more than forty-five (45) days from the receipt by the utility of the written request for service. The written estimate shall include an estimated construction start date and an estimated time of construction. If the prospective customer believes that any part of the estimate is unreasonable, the customer is free to pursue an informal request for assistance from the Commission staff or to file a formal complaint with the Commission. Further, the utility and the customer shall execute a Main Line Extension Agreement. Commission Staff may be consulted to provide assistance and sample forms. The agreement must include as an attachment a copy of this extension rule. The utility shall keep an executed copy of their agreement for at least six (6) years. The length of the extension required shall be that length required to extend from the new proposed service area to the nearest point of connection to the utility system having sufficient excess capacity to provide service at maximum demand.



5.5.e.3.2. Unless service is to be provided by a long service line pursuant to Rule 5.4., whenever the utility is required to extend service from an existing distribution main to property that does not immediately abut the utility's right-of-way or the public road that contains the distribution main, the extension shall be considered a main extension and cost responsibility shall be determined under this Rule 5.5.e.

5.5.e.4.3. Where the cost of the extension does not exceed the estimated total net revenue, as calculated below, from hydrants and prospective customers whose service pipes will immediately be connected directly to the extension and from whom the utility has received applications for service upon forms provided by the utility for this purpose, the utility will install, at its own cost and expense, the necessary extension; provided that the patronage or demand will be of such permanency as to warrant the capital expenditure involved.

5.5.e.4.A. Net revenue shall be gross revenue minus the excess usage leak adjustment rate approved for the utility, and with this difference further reduced for any revenue based taxes.

5.5.e.4.B. Revenue shall be based on 4,500 gallons per month per residential unit, unless circumstances of the applicant show this would result in significant error. For non-residential units, annual revenue shall be based on typical consumption for comparable units published by the American Water Works Association.

5.5.e.4.C. Estimated total net revenue for private, for profit, utilities will be initially calculated as six (6) times estimated net annual revenue. Each such utility shall file for a line extension multiplier within twelve (12) months of the effective date of these rules.

5.5.e.4.D. The utility-specific line extension multiplier for private, for-profit, utilities shall be based on one (1) divided by the utility's net fixed charge rate. The net fixed charge rate shall equal the total a function of the utility's weighted cost of capital, applicable income tax rates, and the Commission approved depreciation accrual rate.

5.5.e.4.E. Estimated total net revenue for associations, municipal, and public service district utilities will be calculated as five (5) times estimated net annual revenue. If the excess leak adjustment calculated for the utility fails to include all of the incremental costs of serving a new customer that should properly be netted out from the total revenues of the utility, the utility may apply to the Commission for a determination of the proper amount to be deducted from gross revenues to arrive at an appropriate determination of net revenue.

5.5.f. Extensions beyond the limit of utility-financed extensions of general water service and public fire service.

5.5.f.1. If the estimated cost of the proposed extension required in order to furnish general water service exceeds the utility's estimate of total net revenue as determined by Rule 5.5.e.4., such extension shall be made if the applicant or the applicant's authorized agent contracts for such extension and deposits in advance with the utility the estimated cost of the extension over and above the limit of the utility-funded portion of the extension. The utility shall not pay nor be liable for any interest on such cash deposits. The utility shall make the extension after receiving the cash deposit. The utility shall, for each bona fide new customer who, within a period of ten (10) years from the making of such extension, directly connects to the extension between its original beginning and the original terminus, refund to the original depositor(s), an amount equal to the estimated total net revenue of the new customer as determined by Rule 5.5.e.4., but in

no event shall the aggregate refund made to the depositor(s) exceed the original deposit. Provided that associations, public service districts and municipal water utilities may elect to refund the estimated amount over a period of five (5) years ~~equal to the utility's line extension multiplier as defined in Rule 5.5.e.4.D.~~ making payments no less frequently than every six (6) months.

5.5.g. Alternate depositor-financed extension plan.

5.5.g.1. Qualifying utilities -- The above requirements notwithstanding, the utility may decline to finance the portion of a requested extension that would be utility-funded if it can demonstrate that it has no prospect of any reasonable internal or external financing through commercial loans, grants, or through an installment arrangement with an entity installing the extension or providing the necessary materials.

5.5.g.1.A. If the utility declines to finance the portion of a requested extension that would be the financial responsibility of the utility, the utility shall file for a waiver of the extension rule within sixty (60) days of the written request.

5.5.g.1.B. Before filing for a waiver, the utility must first make an estimate of the extension costs.

5.5.g.1.C. A request for a waiver by a utility shall be accompanied by supporting documentation justifying its request, including cost estimates, documentation of inability to finance, internally or externally, through commercial loans, grants or an installment arrangement with an entity installing the extension or providing the necessary materials, and the proposed agreement.

5.5.g.1.D. If the Commission finds that the utility has reasonably declined to finance the portion of the requested extension that would otherwise be utility-funded, the Commission shall authorize the use of the alternate depositor-financed extension plan as described below.

5.5.g.2. Description of alternate depositor-financed extension plan -- Under the alternate depositor-financed extension plan, the utility shall make the extension after:

5.5.g.2.A. receiving a cash deposit equal to the full amount of the extension cost; and

5.5.g.2.B. agreeing to give the depositor(s), who is a customer, a monthly bill credit totaling one hundred percent (100%) of the actual net bill(s) from the date service is initiated and until the total credits given equal the estimated total net revenue as defined in Rule 5.5.e.4. and

5.5.g.2.C. agreeing to refund to the original depositor(s) an amount equal to the estimated total net revenue as defined in Rule 5.5.e.4. of each bona fide customer, other than the depositor(s), who, within a period of ten (10) years from the construction of the extension, directly connects to the extension between its original beginning and the original terminus. The refund may be spread out over a five (5) year period with the utility making payments no less frequently than every six (6) months. Such refunds shall continue until the total refunds given equal the estimated total net revenue as defined in Rule 5.5.e.4.

5.5.g.3. In no event shall the total refund made to the depositor(s) under Rule 5.5.g. exceed the original deposit of the depositor(s).

5.5.g.4. The utility shall not pay nor be liable for any interest on the cash deposits associated with line extensions.

#### 5.5.h. General Provisions.

5.5.h.1. Should the actual cost of the extension be less than the estimated cost, the utility will refund the difference as soon as the actual cost has been ascertained, but in no event longer than ninety (90) days after completion of construction of the extension. When the actual cost of the extension exceeds the estimated cost, then the utility will bill the depositor for the difference between the estimated and the actual cost. No interest will be paid by the utility on the applicant's payment or on any balance to be refunded.

5.5.h.2. In estimating the cost of an extension, the estimate shall be based on the diameter of the pipe to be used; provided that the estimated cost to the customer or customers shall not be based on a pipe diameter greater than the diameter of the main from which the extension is to be made, unless actual consumption estimated for the proposed customer or customers requires a larger pipe.

5.5.h.3. Extensions made under this rule shall be and remain the property of the utility.

5.5.h.4. The utility reserves the right to further extend its distribution mains from and beyond the extension made under this rule, and the depositor or the depositor's agent paying for an extension shall not be entitled to any refund for the attaching of customers to such further extension or branch mains.

5.5.h.5. In determining the length of water line to be installed in an urban area when land is subdivided into lots, the main, or water line (if installed by an entity other than a utility), shall be extended to fully cover the frontage of the property, and if the last lot to be served is a corner lot the terminal point of the extension made hereunder shall be located so that the water line ties in with the intersecting street; and further; provided that if there is no main located in the intersecting street, the terminal point of the extension shall be located at the nearest street line of the intersecting street. In rural areas or open land areas, the extension required will be that length necessary to adequately serve the applicant.

5.5.h.6. Before water lines will be laid in any new subdivision, the road surface shall be brought to the established sub-grade as determined by the agency having jurisdiction.

5.5.h.7. This rule shall not be construed as prohibiting the utility from entering into an agreement with a customer that complies with the Commission approved checklist attached hereto as Water Form No. 6, providing an alternate plan for a main extension. Commission Staff may be consulted to provide assistance and sample forms. In providing an alternate plan for main extensions a utility may not discriminate between customers whose service requirements are similar. The agreement shall be filed with and approved by the Commission prior to implementation or execution of the agreement by any of the parties. The agreement shall include the name, address and phone number of the parties to the agreement. The agreement shall also include a provision explaining why the utility is not funding the extension. The agreement must attach a copy of this Rule 5.5., and a statement signed by the prospective customer that he has reviewed and understands the provisions of Rule 5.5.g. which entitle a customer to refunds and that he knowingly waives such rights, if applicable. Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility. If an entity other than the utility constructs the extension, upon completion of construction and proper utility inspection of the extension, the utility shall initiate service only after proper transfer of title to all facilities including property, plant and rights-of-way incidental to the furnishing of utility service.

5.5.h.8. Contract for service -- The utility shall not be required to make free extensions or refunds as described in this rule unless those to be served by such extension shall guarantee to the utility that they will take water service at their premises within thirty (30) days after water is turned into the main or as otherwise mutually agreed in a user's agreement.

5.5.h.9. Construction conditions -- Construction of line extensions, as provided in this rule, will be undertaken promptly after all applications have been completed, necessary right-of-way agreements or rights of entry have been delivered to the utility, and all prospective customers have signed contracts.

5.5.h.10. Right-of-Way.

5.5.h.10.A. If the construction of an extension involves the acquisition of a private right-of-way, then the prospective customer shall attempt to secure the right-of-way and deliver it to the utility free of cost before construction of the extension is started.

5.5.h.10.B. If, however, it is not reasonably possible for the prospective customer or customers to secure the right-of-way, and the construction of an extension involves the utility's incurring expense for right-of-way easements, either by purchase or condemnation, such costs shall be added to the total cost of the extension.

5.5.h.10.C. As a condition to obtaining a main extension, any property owner or developer shall grant the utility the necessary easements to allow the utility to make future extensions into unserved areas. The granting of the necessary easements shall be made without the utility being required to pay additional consideration for the additional easements to the property owner or developer. If the property owner or developer is unwilling to grant the additional easements, the utility shall not be required to extend its main to serve the property owner or developer.

5.5.h.11. Upon the proper filing of a Tariff Rule 42A, 42T, or 19A rate case or a certificate case filed pursuant to W. Va. Code §24-2-11 by the utility, the utility may seek an impact fee to include in its tariff a Capacity Improvement Fee, Capacity Assurance Fee or such other fee or charge designed to raise capital to cover the cost of future capacity expansion to be assessed against customers or entities creating those costs.

5.5.i. Community infrastructure investment agreements with municipal utilities and public service districts.

5.5.i.1. Notwithstanding the foregoing, municipal utilities and public service districts may enter into "community infrastructure agreements" in accordance with the provisions of W.Va. Code §22-28-1 et seq.

5.5.i.2. Utilities that have entered into "community infrastructure investment agreements" pursuant to W.Va. Code §22-28-1 et seq. shall be required to maintain separate books and records for the project areas involved in the agreements. For purposes of this section, the project areas for which separate books and records are required include plant upgrades and stand alone systems.

5.5.i.3. Utilities that have entered into "community infrastructure investment agreements" pursuant to W.Va. Code §22-28-1 et seq. shall file (i) a copy of the certificate of appropriateness, (ii) a copy of the community infrastructure investment agreement, and, if necessary, (iii) a new tariff containing rates

applicable to the new service area. The required documents shall be filed with the Commission no later than thirty (30) days of the date the project is transferred to the utility.

5.5.i.4. If the rates for the new customers served by a public service district's project are higher than the rates for the public service district's existing customers, the public service district shall, within ninety (90) days of the date the project is transferred to the public service district, make a formal rate application with the Commission in order to justify the higher rates to the new customers. A municipality shall enact an ordinance increasing rates, if necessary, within ninety (90) days of the date the project is transferred to the municipality.

#### 5.6. Unaccounted for water.

5.6.a. Each utility shall determine either by actual measurement or by estimate the amount of "Unaccounted for Water" as defined in 1.7.q. of these Rules in each division of its system and report, separately, to the Commission in its annual report. Said report shall contain the proposed remedial actions to be taken if unaccounted for water is in excess of fifteen percent (15%) of the gross production on an annual basis. A utility may seek assistance from the Commission regarding remediation of unaccounted for water in excess of fifteen percent (15%).

#### 5.7. Cross connections and back flow prevention regulations.

5.7.a. See West Virginia Bureau for Public Health Bulletin EW-113 Effective April 1, 1976 legislative rules pertaining to cross-connections and backflow prevention codified at 64 CSR 15 (effective March 13, 2004).

5.7.b. All utilities that have adopted a standard or uniform cross-connection and backflow program pursuant to §64-15-8.2 of the *West Virginia Code of State Rules* must file the details of such programs with the Commission. Such programs will be approved as filed unless it can be shown that the program violates an existing Commission rule.

#### 5.8. Standard pressure.

5.8.a. Each customer shall be deemed to receive a "standard pressure" within the Commission's established minimum and maximum pressure limits. When possible, such "standard pressure" shall be calculated as the static pressure based on the difference in elevation between the base of the storage tank and meter box or point of service. Where this method of calculating a customer's "standard pressure" is not practical, the actual engineering design of the system or common engineering methods shall be used to determine the "standard pressure" at the point of service. Pressure fluctuations shall not vary more than fifty percent (50%) above nor fifty percent (50%) below such "standard pressure" during normal operating conditions. Pressure variations outside the limits specified will not be considered a violation of this rule if they are infrequent and arise from unusual or extraordinary conditions, or arise from the operation of the customer's equipment. This rule shall be interpreted to permit a different "standard pressure" calculation for each customer due to varying elevations.

5.8.b. Each utility should establish an elevation in each pressure district above which it cannot provide the minimum pressure required by this rule. This elevation shall be displayed in a prominent place in the public offices of the utility. The utility may furnish new service to customers above this elevation if the customer is fully advised of the conditions under which average service may be expected, and the customer's agreement is secured in writing. The utility may require in the agreement that its terms shall be

binding on future customers served at the same location under similar circumstances; provided that the agreement be recorded with the appropriate county clerk. This waiver shall not prevent the Commission from requiring a better service when, upon investigation, it appears that improvements should be made.

5.8.c. No change shall be made by a utility in the standard pressure or pressures adopted for its customers without the approval of the Commission.

5.8.d. A customer's pressure shall be no less than twenty (20) p.s.i. at peak demand on system or thirty (30) p.s.i. static pressure at the terminus of the utility's service line (meter box or curb box) unless the customer has waived this requirement. For all new customers desiring service on and after ~~the effective date of these rules~~ October 24, 2003, a customer's pressure shall be no greater than one hundred thirty-five (135) p.s.i. unless the customer has waived this requirement. The utility shall keep on file all the aforesaid waivers, in accordance with Rule 2.1.

#### 5.9. Quality of water.

5.9.a. Purity -- All water furnished by a utility for domestic use, shall be pure, wholesome, potable and in no way dangerous to the health of the consumer.

5.9.b. Health Department -- Every water utility shall comply with the rules of the Bureau for Public Health governing purity of water, testing of water, operation of filter plants and such other rules they may prescribe, pursuant to law, having as their ultimate end the purity of water.

### §150-7-6. Inspections and Tests.

#### 6.1. Meter testing facilities and equipment.

6.1.a. Testing facilities -- Each utility shall provide or have access to such laboratory meter-testing facilities as may be necessary to make the tests required by these rules or other orders of the Commission. The facilities so provided shall be subject to the approval of the Commission, and shall be available at all times for inspection or use by any member or authorized representative of the Commission.

6.1.b. Tests required; Reports to Commission -- Each utility shall, as a minimum requirement, conduct the tests required by these rules with such frequency, and in such manner, and at such places as provided herein or as may be approved or ordered by the Commission. Each utility shall make yearly reports, in accordance with the requirements of the Commission, ~~on Water Form No. 8~~ in the annual report, of meter tests, number of customers and amount of refunds. These reports must be filed not later than thirty (30) days after the expiration of the period covered by the reports.

6.1.c. General testing equipment -- Each utility furnishing metered water service shall own and maintain the equipment necessary to accurately test all types and sizes of meters employed for the measurement of water unless the utility has made arrangements to have such testing done in a shop or laboratory containing equipment acceptable to the Commission. The utility shall promptly report in writing to the Commission all alterations or repairs to meter testing equipment, which might affect the accuracy or method of operation of such equipment.

6.1.c.1. The utility shall hold for all testing instruments and other equipment, a certificate signed by a proper authority giving the date when the instrument was last certified and adjusted, and certificates, when superseded, shall be kept on file in the office of the utility.

6.1.c.2. Shop testing equipment -- Testing equipment shall consist of calibrated tanks large enough to hold the equivalent volume needed to move the test dial one or more complete revolutions. It is recommended that the calibrated tanks hold not less than the quantity needed to test meters in accordance with the test requirements of the American Water Works Association (AWWA) found in the Water Meters Section of Manual M6, Denver (1986). The equipment shall be provided with the proper valves, gauges, and flow devices so constructed that the flow rate can be determined in gallons per minute and an accurate check can be made of the pressure on the intake side of the meter.

6.1.c.3. Field testing equipment "Prover Meter" -- Testing equipment shall consist of a calibrated meter(s) provided with the proper discharge valves and gauges so constructed that the flow can be adjusted on the outlet side of the prover meter. Said equipment shall be tested and calibrated against a certified calibrated tank not less than once each year, or more frequently if circumstances warrant, and a record of such test shall accompany the field test equipment when in use. It is recommended that the test record be plotted as an accuracy curve in graph form so that operating error may be determined easily. The error of the prover meter shall be applied as a correction factor when computing final accuracy of meters tested in place by using the following formula:

$$\text{TESTED METER ACCURACY} = \frac{MV}{PV} \times PA$$

where: MV = volume recorded on meter tested  
 PV = volume recorded on prover meter  
 PA = accuracy of prover meter at tested flow rate (in %).

## 6.2. Tagging, sealing and capping meters.

6.2.a. Tagging meters -- A record of each meter shall be maintained showing the type, brand, serial number, registration reading, test date, flow rates, and test results. This record, which may be kept on paper or electronically, shall be maintained after installation of the meter and for so long as the meter remains in service.

6.2.b. Sealing meters -- All meters in which the accuracy can be adjusted or which could otherwise be easily altered or tampered with shall be sealed at the time of the test by the metertester performing the test. Pulse generator remote type meters shall have the remote counter sealed.

6.2.c. Capping meters -- All meters must have caps placed on the inlet and outlet ports when removed from service and awaiting testing. All meters that have been tested and sealed or are ready for installation must be capped when sealed and kept capped until installed.

## 6.3. Accuracy requirements for water meters.

6.3.a. Installation accuracy -- Before being installed for the use of any customer a water meter, whether new, repaired, or removed from service for any cause, shall be in good order and shall be adjusted or repaired to be as nearly correct as is commercially practical. However, a manufacturer's certified test may be accepted in lieu of utilities' test of new meters of the positive displacement type.

6.3.b. Whenever, on installation, periodic or any other test, a meter is found to exceed a limit of two percent (2%) fast or slow, it must be adjusted so as to register as nearly one-hundred percent (100%) as is commercially practicable. For displacement, multi-jet, propeller, and turbine meters, the normal test-flow-

percent accuracy shall be the average of the accuracy results at the intermediate and maximum test-flow rates. For compound and fire-service meters, the normal test-flow-percent accuracy shall be the average of the accuracy results at the maximum test-flow rate of the main line meter and the intermediate and maximum test-flow rates of the bypass meter.

6.3.c. After all necessary repairs, adjustments and final tests have been made so that the meter registers accurately, such meter shall be sealed. It is recommended that all meters of the disc or displacement type, two inch (2") or less in size, be tested before being installed on the premises of any customer.

6.3.d. Meters of the turbine type, two inch (2") and larger, shall always be tested after installation. These meter installations shall be installed with a "Test Tee" and valve for use in testing.

6.3.e. Meters of the turbine type can be tested and calibrated more accurately in place. The accuracy of turbine meters is affected by changes in distribution of velocities through the meter. Such variation of velocity may occur to an appreciable degree through change of nature of inlet piping.

6.3.e.1. All tests to determine the accuracy of registration of any water meter shall be made with a Commission certified meter prover.

6.3.f. Meter Test Flow -- Flow rates shall be in accordance with "American Water Works Association" standards.

6.3.g. Tests -- How Made -- The testing procedures shall be in accordance with American Water Works Association standards.

#### 6.4. Periodic test.

6.4.a. Meters shall be periodically tested as follows:

3/4" or less in size at least once every 10 years.

1" in size at least once every 7 years.

1-1/4", 1-1/2", 2" in size at least once every 5 years.

3" in size at least once every 3 years.

4" and larger in size at least once each year.

6.4.b. "Periodic test periods" for testing meters in the system of utilities supplying water of high turbidity, or of peculiar characteristics, will be determined by the Commission from time to time.

6.4.c. The time frame for periodic tests may be modified by the Commission from time to time upon the submission of evidence by the utility to substantiate any request for modification.

#### 6.5. Request tests.

6.5.a. Action required -- If any customer shall request in writing to the utility a test of the accuracy of his or her meter, and the meter is not due for periodic testing, the utility shall notify the customer of the conditions under which the test will be made by the utility or by a referee. If the customer shall then request the utility to proceed with the test and remits an amount equal to the estimated cost incurred by the utility, but not less than ten dollars (\$10), the utility shall make the test promptly. A report giving results of the test shall be made to the customer and the utility, and a complete record of the test shall be kept within the



applicable Division of the Commission. If, when tested, the meter is found to be more than two percent (2%) in error, the amount advanced shall be promptly refunded to the customer. If the meter is not found to be more than two percent (2%) in error, the utility shall retain the amount advanced by the customer for the test.

6.5.b. Customer's privilege -- A customer may be present when the utility conducts the test on the customer's meter or, if the customer desires, may send an expert or other representative appointed by the customer.

6.5.c. If the customer files a complaint with, or makes a request for assistance from, the Commission regarding the accuracy of his or her meter, the utility owning the meter shall be notified and shall have a representative present to remove the meter and assist a Commission inspector with the test. This test shall be made at the expense of the utility.

6.5.d. Report to customer -- A report giving the name of the customer requesting the test, the date of the request, the location of the premises where the meter had been installed, the type, make, size and serial number of the meter, the date of removal, the date tested, and the result of the test shall be supplied to such customer within ten (10) days after the completion of the test.

#### 6.6. Metertesters.

6.6.a. Metertester required -- Every utility shall have in its employ or have access to the services of one or more competent metertesters whose duty it shall be to perform such tests as may be necessary to determine the accuracy of the utility's meters.

6.6.b. Certification of metertester -- A utility desiring to certify an employee as a metertester must secure a qualification card from the Commission in the form of Water Form No. 9; have same executed by the applicant and returned to the Commission; together with a certification by a responsible representative of the utility as to the facts contained on the card. The Commission will then schedule a certification test which will consist of a written examination and a demonstration test of the applicant's meter testing skills on certified testing equipment. If the applicant's qualifications are satisfactory, the Commission will then issue a card to the employee in the form of Water Form No. 10, authorizing the employee to test meters of the type and size shown on the card.

6.6.c. Experience required -- No employee of a utility shall be authorized to test meters unless he or she has had at least six (6) months' experience in a utility water-meter shop, or equivalent experience, part of which time must have been spent working on the type meter for which authority to test has been requested. All tests must be made by an authorized metertester.

#### 6.6.d. Reports to Commission.

6.6.d.1. Each utility shall file on or before February 1st, each year, a list of the individuals in its employ authorized to test meters.

6.6.d.2. The utility shall notify the Commission and shall take up and return the metertester's card when a certified metertester ceases to be in its employ.

**§150-7-7. Safety Requirements.**

7.1. Accidents -- Every utility shall keep a record of every accidental happening in connection with the operation of its plant, station, property, and equipment, whereby any person shall have been killed, or seriously injured, or any property damaged or destroyed, with full statement of the cause of such accident, and the precautions taken to prevent similar accidents in the future.

**§150-7-8. Creation or Alteration of Public Service Districts.****8.1. Creation or alteration of a public service district.**

8.1.a. A county commission upon entering an order on its own motion, or upon receipt of a petition, or upon receipt of a recommendation of the Commission, proposing the creation, ~~expansion~~, enlargement, reduction, merger, dissolution, or consolidation, ~~reduction or dissolution~~ of a public service district pursuant to W.Va. Code §16-13A-2, shall:

8.1.a.1. At the same session, fix a date of hearing in the county which date shall be not more than forty (40) days nor less than twenty (20) days from the date of the action;

8.1.a.2. Within ten (10) days, provide the Executive Secretary of the Commission with a copy of the order or petition and notification of the time and place of the hearing to be held by the county commission;

8.1.a.3. If the territory proposed to be included is situated in more than one county, when fixing the date of hearing, provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed;

8.1.a.4. Publish, at least ten (10) days prior to the hearing, a Class I legal advertisement meeting the requirements stated in W.Va. Code §16-13A-2, giving notice of the hearing;

8.1.a.5. Post notice in at least five (5) conspicuous locations in the proposed public service district as required by W.Va. Code §16-13A-2; and

8.1.a.6. File with the Executive Secretary of the Commission affidavits of publication pursuant to Rule 4. above, and affidavits of posting pursuant to Rule 5. above as soon as the same are available.

**8.2. Notification to the Commission of county commission action.**

8.2.a. If the county commission enters an order creating, enlarging, reducing, merging, dissolving, or consolidating a public service district, the county commission shall, within ten (10) days of entering such order, file a copy of such order with the Executive Secretary of the Commission. If the county commission declines to enter such an order, the county commission shall, within ten (10) days of declining, file with the Executive Secretary of the Commission notice that it has declined to enter any such order.

**8.3. Notice of Filing.**

8.3.a. Upon the receipt of a county commission order proposing the creation, enlargement, reduction, merger, dissolution, or consolidation of a public service district pursuant to W.Va. Code §16-13A-2, the Commission shall enter an order directing the county commission to provide notice of the proceeding through

the issuance of a Class I legal advertisement in the form prescribed by the Commission, in the county or counties affected by the proposed order. The notice shall include the right of any customer of the proposed public service district or other interested party to file a written protest. See Water Form No. 8 for example of notice to be published.

~~8.3:~~ 8.4. Commission hearing.

~~8.3.a:~~ 8.4.a. The Commission ~~shall~~ may hold a hearing or hearings in each county affected by a county commission order(s) filed pursuant to Rule 8.1.a. ~~and~~ The Commission shall publish a Class I legal advertisement giving notice should it hold of such hearing or hearings.

~~8.4:~~ 8.5. Commission consideration of proposed creation or alteration.

~~8.4.a:~~ 8.5.a. After public comment and hearing the Commission shall, by order, approve, disapprove or modify a county commission order creating, expanding, merging, consolidating, reducing or dissolving a public service district. In deliberating on approval, modification or disapproval the Commission may consider, among other things:

8.5.a.1. the public convenience and necessity;

8.5.a.2. the economic feasibility, including sources of funding, costs and related benefits of the county commission's order;

8.5.a.3. the adequacy of facilities;

8.5.a.4. other facilities in the area; and

8.5.a.5. other possible alternatives.

**Water Form No.1**  
(Water Rule 4.8.a.)

(Insert Company Name Here)

**NOTICE OF SCHEDULED TERMINATION OF SERVICE  
AND CUSTOMER RIGHTS**

We have scheduled your water service provided at \_\_\_\_\_  
(address) for termination on or after \_\_\_\_\_ (date).

This action has been taken for the following reason(s):

(Include reason and facts resulting in decision to terminate service).

If your service is terminated you may be subject to additional charges involving reconnect fees and deposit requirements in order to restore service.

(Include all applicable charges.)

**YOU HAVE THE RIGHT TO CHALLENGE THE TERMINATION IF YOU BELIEVE ANY OF  
THE FOLLOWING CONDITIONS APPLY TO YOU:**

1. Any portion of the bill is in dispute
2. You are being charged for service not received
3. The information above is incorrect
4. You are unable to pay the bill in accordance with the billing, and termination of service would be especially dangerous to the health or safety of a member of your household.
5. You are able to pay only installments

If the reason for your challenge is 1, 2 or 3 above, you will have to pay any amount not in dispute. If the reason for your challenge is 4 or 5, we will attempt to negotiate a deferred payment agreement with you.

**YOU MUST NOTIFY US BEFORE THE DATE OF TERMINATION IN ORDER TO PROTECT  
YOUR RIGHTS UNDER THIS RULE:**

(Provide instructions for contacting the appropriate utility  
personnel by telephone and mail, including business hours)

You should also inform us if you are 65 years or older, or regardless of age, if you are physically, mentally, or emotionally incapacitated.

Once you have notified us of your challenge, we will schedule a meeting at the business office nearest to your residence and try to resolve your problem. At your option, the discussion of your challenge may be made over the telephone. **IF YOU ARE NOT SATISFIED WITH OUR DECISION AT THIS MEETING, YOU WILL HAVE SEVEN DAYS IN WHICH TO FILE A CHALLENGE WITH THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA.** You will be required to pay your current bill while the challenge is pending. There is no charge associated with filing a challenge and you may do so without the assistance of an attorney.

Water Form No. 1  
Page 2 of 2

To file a challenge with the PSC, you may call this toll free telephone number 1-800-642-8544 or write to this address:

Utility Challenge  
Public Service Commission of West Virginia  
P. O. Box 812  
Charleston, W. Va. 25323

If you are in need of assistance to pay your bill, you should contact the following agencies: (List agencies in service area).

If you desire the assistance of a lawyer with regard to the scheduled termination and are unable to pay for legal counsel, contact one of the following low income legal assistance organizations: (List agencies in service area).

**Water Form No. 2**  
(Water Rule 4.8.a.8)

**NOTICE OF SCHEDULED TERMINATION**

We have scheduled water service provided at \_\_\_\_\_  
(address)

for termination on or after \_\_\_\_\_ because of your landlord's delinquent water bill.  
(Date)

To notify the Public Service Commission, you may call this toll free telephone number, 1-800-642-8544,  
or write to this address:

Public Service Commission of West Virginia  
P.O. Box 812  
Charleston, WV 25323

If you desire the assistance of a lawyer with regard to the scheduled termination and are unable to pay  
for legal counsel, contact one of the following low income legal assistance organization: (List agencies in  
service area).

**Water Form No. 3**  
(Water Rule 4.13.d.)

**PUBLIC NOTICE OF FILING OF A PETITION  
FOR THE IMPOSITION OF A MORATORIUM**

Case No. \_\_\_\_\_

NAME OF UTILITY \_\_\_\_\_,  
a public utility.

Petition for consent and approval for  
the imposition of a moratorium on the  
utility system.

PUBLIC NOTICE

On \_\_\_\_\_, the \_\_\_\_\_  
(Date) (Name of Utility, Commission Staff, or governmental entity)

filed a petition with the Public Service Commission for approval of the imposition of a moratorium on

\_\_\_\_\_ 's \_\_\_\_\_ system serving  
[name of utility] [water, sewer, or other]

system serving \_\_\_\_\_. If approved, the moratorium would mean that  
(describe areas served)

no new customers could be served by the utility in these areas until the Commission lifts the moratorium.  
The \_\_\_\_\_ claims that the imposition of a moratorium is appropriate because  
(name of petitioner)

\_\_\_\_\_  
[describe reasons and describe any plans to alleviate the circumstances giving rise to the petition, and any  
estimate of a date when it would be appropriate for the Commission to lift the moratorium.]

Any person wishing to protest, support, make comment, or request a public hearing about the proposed moratorium should do so in writing. Written statements should be addressed to the Executive Secretary, Public Service Commission, P.O. Box 812, Charleston, WV, 25323.

NAME OF UTILITY

**Water Form No. 4**  
(Water Rule 5.5.e.2.)

Form of written request for service by a prospective customer or  
a group of prospective customers located in the same neighborhood

Water ( )    Water and Sewer ( )

Previous Customer ( )    If so, when \_\_\_\_\_ New customer ( )

Name \_\_\_\_\_

Mailing address \_\_\_\_\_ Phone \_\_\_\_\_

Property location \_\_\_\_\_

Rent ( )    Own ( )    Other \_\_\_\_\_

If rent: Property owners name \_\_\_\_\_

Property owner's mailing address \_\_\_\_\_ Phone \_\_\_\_\_

Type of service:    Residential ( )    Number in household \_\_\_\_\_

Commercial ( )    Type \_\_\_\_\_

Industrial ( )    Type \_\_\_\_\_

Applicant's place of employment \_\_\_\_\_

Employment address \_\_\_\_\_ Phone \_\_\_\_\_

Name of spouse \_\_\_\_\_

Spouse's place of employment \_\_\_\_\_

Spouse's employment address \_\_\_\_\_ Phone \_\_\_\_\_

I HEREBY AUTHORIZE SERVICE TO BE ESTABLISHED IN MY NAME AT THE ABOVE  
PROPERTY LOCATION AND AGREE TO PAY FOR SERVICE UNTIL DISCONTINUED BY MY  
REQUEST IN WRITING. I UNDERSTAND THAT THIS APPLICATION IS ACCEPTED SUBJECT TO  
THE AVAILABILITY OF SERVICE AT THIS LOCATION.

Applicant's signature \_\_\_\_\_

Date \_\_\_\_\_

Utility representative \_\_\_\_\_ Date \_\_\_\_\_



Water Form No. 4  
Page 2 of 2

For office use only

Name \_\_\_\_\_ Account No. \_\_\_\_\_

Applicant ID \_\_\_\_\_

Deposit amount \_\_\_\_\_ Tap fee amount \_\_\_\_\_

Meter Size \_\_\_\_\_ Meter No. \_\_\_\_\_

Meter Route \_\_\_\_\_ Meter reading \_\_\_\_\_

Date on \_\_\_\_\_ Date off \_\_\_\_\_

Customer request ( ) Termination ( )

**Water Form No. 5,**  
(Water Rule 5.5.e.2.)

Form for use in determining cost estimate  
to extend water service

Date \_\_\_\_\_

The following estimate is in response to a request to extend the Utility's water facilities approximately \_\_\_\_\_ feet along \_\_\_\_\_ to serve a customer or customers who desire water service.

**Cost Estimate**

Water line (    - inch PVC) _____	feet	@	\$ _____ /foot	=	\$ _____
Excavation/installation _____	feet	@	\$ _____ /foot	=	\$ _____
Materials (fittings, valves, stone, etc.)		=	\$ _____		
Permits/rights-of-way (Health, Highways, etc.)		=	\$ _____		
Restoration (seeding, gravel, etc.)		=	\$ _____		
Related cost (engineering, legal, etc.)		=	\$ _____		

TOTAL = \$ \_\_\_\_\_

**Cost Share of Customers and Utility**

A. Total estimated cost of extension \$ \_\_\_\_\_

B. Utility Share: (estimated total net revenue per customer calculated pursuant to Rule 5.5.e.4.)  
\$ \_\_\_\_\_ per customer x \_\_\_\_\_ customers = \$ \_\_\_\_\_

C. Customer share: estimated cost to be paid by \_\_\_\_\_ customers (A-B) = \$ \_\_\_\_\_

**Conditions**

If the potential customers shall deposit with the Utility, in advance, the total sum of \$ \_\_\_\_\_, (customers share from "C" above), a tap fee of \$ \_\_\_\_\_ per customer, and a \$ \_\_\_\_\_ security deposit per customer, the Utility will apply for the necessary permit applications and begin construction as soon as possible.

If the actual cost to construct the extension is less than the estimated cost, the Utility will refund the difference to the original depositors. If the actual cost exceeds the estimated cost the Utility will bill the depositors for the difference.

Water Form No. 5  
Page 2 of 2

The customers will be required to sign an application for service and/or a users agreement when the tap fees and deposits are made.

This main line extension estimate is made in accordance with Water Rule 5.5 of the *Rules for the Government of Water Utilities*.

**Water Form No. 6**

(Water Rule 5.5.e.2.)

Form of cost estimate to be provided to applicants for service

Dear Mr. Customer:

We have received a petition for a water main extension and have estimated the construction cost to extend the main to serve the properties of the \_\_\_\_ (insert number) petitioners. This estimate is summarized below:

Water _____ feet at \$_____ / foot	_____
Excavation/Installation _____ feet at \$_____/ foot	_____
Materials (fittings, valves, stone, etc.)	_____
Permits/Rights-of-way (Health, Highways, etc.)	_____
Restoration (seeding, gravel, etc.)	_____
Related Cost (engineering, legal, etc.)	_____
Total Estimated Extension Construction Cost	_____
Minus Utility's Share (estimated total net revenue per customer pursuant to Water Rule 5.5.e.4.)	_____
Estimated Cost to be Paid by Customers	_____
Estimated Cost per Customer	_____

When the "customer's share" referenced above is deposited with the Utility, the Utility will apply for the necessary permit applications and begin construction as soon as possible. If the actual cost to construct the extension is less than the estimated cost, the Utility will refund the difference to the original depositors. If the actual cost exceeds the estimated cost, the Utility will bill the depositors for the difference. This difference must be settled before service can actually be connected.

All customers will be required to sign an extension agreement and an application for service and/or a users agreement and pay a tap fee of \$\_\_\_\_\_, and a security deposit of \$\_\_\_\_\_ prior to receiving service. The security deposit is refunded with interest following twelve consecutive months of full and timely payments for services rendered.

The estimated start date of construction is \_\_\_\_\_.

The estimated duration of construction is \_\_\_\_\_ days.

Should you have any questions, you may contact Barbara Manager or John Foreman at \_\_\_\_\_ between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Sincerely,

**Water Form No. 7**  
(Water Rule 5.5.h.7)

**Form of Commission Check-List for Alternate Main Extension Agreements**

This form sets forth the minimum amount of information that should be included in a proposed alternate main extension agreement.

- ☐ 1. Name of developer, mobile home park owner or prospective customers(s).
- ☐ 2. General location or description of area to be served.
- ☐ 3. Indication that the developer, owner or prospective customer(s) has/have read Water Rule 5.5, Sewer Rule 5.3, or both in their entirety.
- ☐ 4. Indication that the developer, owner or prospective customer(s) understand(s) the Rules.
- ☐ 5. Having read and understood the Rules, the developer, owner or prospective customer(s) choose(s) to enter into the alternate main line extension agreement.
- ☐ 6. If the developer, owner or prospective customer(s) waive(s) reimbursement, the agreement should contain the waiver.
- ☐ 7. A copy of the applicable Rule(s) must be attached to the agreement.
- ☐ 8. A statement as to who will bear the cost of inspection, if any.
- ☐ 9. If the customer is to bear the cost of inspection, a statement of the maximum amount of the cost of inspection.
- ☐ 10. If the developer, owner or prospective customer(s) wish(es) to waive the right of receiving an estimate of the cost of the extension if constructed by the utility, a statement reflecting the waiver.
- ☐ 11. A statement as to the type of testing to be required.
- ☐ 12. A statement as to who will bear the cost of testing, if any.
- ☐ 13. If the customer is to bear the cost of the testing, a statement of the maximum amount of the cost of the testing.
- ☐ 14. A statement as to who will install the service connections.
- ☐ 15. If the developer, owner or prospective customer(s) is/are to install the service connections, a statement that the utility will not charge a tap fee.
- ☐ 16. A statement that the tap fee, if any to be charged, is the approved tap fee in the utility's tariff.
- ☐ 17. A statement that the utility is to be indemnified and held harmless against any and all claims for injuries and/or damages which may arise from problems associated with the construction of the extension by the developer, owner or prospective customer(s).

Water Form No. 7  
Page 2 of 2

- ☐ 18. A statement that the ownership of the extension will be conveyed to the utility prior to its connection to the utility's system.
- ☐ 19. A statement indicating who will be responsible for preparing the plans for the extension.
- ☐ 20. If the developer, owner or prospective customer(s) is/are to be responsible for the preparation of the plan for the extension, a statement that the developer, owner or prospective customer(s) will provide plans to the Staff of the Public Service Commission if required.
- ☐ 21. The number of prospective customers to be served by the extension, the number of lots to be served, or some other general indication of the size of the area to be served by the extension.
- ☐ 22. If the initial cost estimate has not been waived, the estimate must be set forth in the agreement.
- ☐ 23. A warranty indicating that the developer, owner or prospective customers will warrant the system for a period of one year after completion of the construction, or after system is placed into service.
- ☐ 24. The agreement should not be executed before being sent to the Commission for approval.
- ☐ 25. A statement as to who will obtain and pay for necessary permits.
- ☐ 26. A statement as to who is responsible for the cost of the construction.
- ☐ 27. A statement as to who is responsible for the cost of the material.
- ☐ 28. A statement describing the extension, including length, diameter and any major components such as fire hydrants, etc.

**NOTE:** A paragraph such as "The Developer/Customer waives his rights under paragraph 5.3 or 5.5 of the Commission's Rules" will not be acceptable as a catch-all for the requirements listed above. Each item must be addressed in the agreement.

Water Form No.8  
(Water Rule 6.1.b.)

WATER UTILITY REPORT  
REPORT OF METERS, CUSTOMERS AND REFUNDS  
TO THE  
PUBLIC SERVICE COMMISSION OF WEST VIRGINIA  
CHARLESTON

THIS REPORT TO BE MADE YEARLY

Name of Utility \_\_\_\_\_

Address \_\_\_\_\_

Names of Towns Covered by This Report \_\_\_\_\_

Period Covered by Previous Report \_\_\_\_\_ to \_\_\_\_\_

Period Covered by This Report \_\_\_\_\_ to \_\_\_\_\_

\*Number of Old Meters from Service Tested During This Period Were:

More than 2% slow \_\_\_\_\_; 1% to 2%, inclusive, slow \_\_\_\_\_; less than 1% slow \_\_\_\_\_

Total Slow \_\_\_\_\_

More than 2% fast \_\_\_\_\_; 1% to 2%, inclusive, fast \_\_\_\_\_; less than 1% fast \_\_\_\_\_

Total Fast \_\_\_\_\_

\*\*Number of New Meters, or Old Meters not from Service Tested During this Period \_\_\_\_\_

Total Meters Tested During this Period \_\_\_\_\_

Number of Tests Made at Customer's Request as per This Report \_\_\_\_\_

Number of Tests Made at Commission's Request as per This Report \_\_\_\_\_

Number of Meters Past Due for Test \_\_\_\_\_

	Metered	Unmetered	Total
	Customers	Customers	Customers
Number Residential- Customers Served			
Number Commercial- Customers Served			
Number Industrial- Customers Served			
Total Residential, Commercial, Industrial Customers			
Number Public Fire- Protection Customers Served			



~~Water Form No. 8~~~~Page 2 of 2~~~~Number Private Fire~~~~Protection Customers Served~~ \_\_\_\_\_~~TOTAL NUMBER OF CUSTOMERS~~~~ALL CLASSES~~ \_\_\_\_\_~~\*Number of Refunds to be Made Account of Fast Meters Found During This Period~~~~Total Amount of Refunds Account of Fast Meters Found During This Period~~~~\*Number of Customers to be Billed Account of Slow Meters Found During This Period~~~~Total Amount to be Billed Account of Slow Meters Found During This Period~~~~Report Covering Meter Tests Approved By:~~ \_\_\_\_\_\_\_\_\_\_  
Title~~Report Covering Customers and Refunds Approved By:~~\_\_\_\_\_  
Title~~NOTES:~~~~All spaces on this report MUST be filled in using "0" or the word "none" where applicable.~~~~\*Make special note if any Meters more than 2% fast or slow recorded above were used to measure service for company's use, free customers, customers who had a minimum bill for the 3 months previous to date of test, or any other special condition.~~~~\*\*All new Meters must be tested and a record made of their condition before being installed, but a report of their present condition is not required.~~

(Water Rule 8.3)

**PUBLIC SERVICE COMMISSION**  
**OF WEST VIRGINIA**  
**CHARLESTON**

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the  
day of [month], [year].

[ Case No.]

[ Case Name]

**NOTICE OF FILING**

On [date], the [name of party] filed a petition for consent and approval to [type of creation/alteration]  
the boundaries of the [description of area to be created, enlarged, reduced, merged, dissolved or consolidated]  
pursuant to W.Va. Code §16-13A-2. A complete description of the boundaries is on file with the [identify  
entity with which information is filed (for example, county commission and/or public service district)] and  
the West Virginia Public Service Commission.

Anyone desiring to protest or intervene should file a written protest or notice of the intervention within  
30 days following the date of this publication. All protests or requests to intervene should briefly state the  
reason for the protest or intervention. Requests to intervene must comply with the Commission's rules on  
intervention, set forth in the Commission's *Rules of Practice and Procedure*. All protests and interventions  
should be addressed to Sandra Squire, P. O. Box 812, Charleston, West Virginia 25323. If no substantial  
protest is filed, the Commission may approve the County Commission's Order without hearing.

[Name of Party]

**Water Form No.9**  
(Water Rule 6.6.b.)

**(Front)**

**QUALIFICATION CARD FOR WATER METERTESTER**

Name \_\_\_\_\_ Age \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

Title \_\_\_\_\_

Employer \_\_\_\_\_ Shop Location \_\_\_\_\_

Supervisor-Name \_\_\_\_\_ Title \_\_\_\_\_

**GENERAL EXPERIENCE**

<b>Type of Work</b>	<b>Company</b>	<b>Years</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**\*METER EXPERIENCE**

<b>Type Meter</b>	<b>Nature of Work</b>	<b>Company</b>	<b>Years</b>
Testing-	_____	_____	_____
Disc or Displacement	_____	_____	_____
Current	_____	_____	_____
Compound	_____	_____	_____
Fire Protection	_____	_____	_____
Testing & Repairing-	_____	_____	_____
Disc	_____	_____	_____
Current	_____	_____	_____
Compound	_____	_____	_____
Fire Protection	_____	_____	_____

Remarks: \_\_\_\_\_

\*State, under remarks, in detail the type or kind or work done on meters.

Should this application be approved, I will test all water meters in accordance with the Rules for the Government of Water Utilities of the Public Service Commission of West Virginia, and will not seal or approve for installation any meter that does not meet all of the requirements of the Rules for the Government of Water Utilities.

---

Signature

**(Back of Water Form No. 9)**

### CERTIFICATE BY RESPONSIBLE REPRESENTATIVE OF THE UTILITY

I, \_\_\_\_\_, \_\_\_\_\_ of the  
(Name) (Title)  
\_\_\_\_\_ certify that I have read the questions and answers on this  
(Water Company)  
card, relative to the experience of \_\_\_\_\_ and that they are true  
(Name of Employer)  
and correct to the best of my knowledge and belief. I further certify that the above employee is  
competent to test and repair \_\_\_\_\_ (Disc) \_\_\_\_\_ (Current) \_\_\_\_\_ (Compound) meters and will,  
faithfully and honestly discharge the duties of metertester.

Signature

**TO BE FILED BY THE PUBLIC SERVICE COMMISSION**

The above employee has been authorized to test Water Meters as shown below:

	Testing	Testing and Repairing
Disc	_____	_____
Current	_____	_____
Compound	_____	_____

PSCWV Employee

**date**

**Water Form No. 10**  
(Water Rule 6.6.b.)

**(Front)**

**WATER METERTESTER'S CARD**

**PUBLIC SERVICE COMMISSION OF WEST VIRGINIA**  
**Charleston, West Virginia**

No. \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Name of Employee

is hereby authorized to test and repair the following type or types of water meters:

**Testing**

**Testing and Repairing**

Disc \_\_\_\_\_  
Current \_\_\_\_\_  
Compound \_\_\_\_\_  
Utility \_\_\_\_\_  
Shop Location \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
PSCWV Employee

**(over)**

**(Back)**

This card must be returned to the Public Service Commission of W. Va. by the

\_\_\_\_\_ when \_\_\_\_\_ leaves the employee of the  
company or ceases to serve as metertester.

FILED

2011 MAR -9 PM 3:28

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# Comments received pertaining to Rules for the Government of Water Utilities

# TOMLINSON PUBLIC SERVICE DISTRICT

PO BOX 113

NEW MANCHESTER, WV 26056

PHONE: 304-387-9587 FAX: 304-387-0472

Robert S. Hobbs, Chairman  
John Yocina, Board Member  
Robert Koper, Board Member

October 10, 2008

David R. Stevens, Manager

2008 OCT 16 AM 8 22  
RECEIVED  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

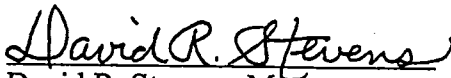
Debbie Britt, Executive Director  
West Virginia Rural Water Association  
100 Young Street  
Scott Depot, WV 25560

GO 188.28

Dear Ms. Britt:

The Board of the Tomlinson Public Service District requests your support in negotiating with the West Virginia Public Service Commission on the following policies:

1. **Collection of payment at the customers' door.** We strongly oppose this. Some problem customers have realized this is required and simply don't pay their bill until they get a shutoff notice and then wait until our employee comes to their door to notify them of the pending shutoff. Then, they pay their bill.
2. **Administrative fees for the delinquent customers.** We strongly support this proposal. Due to item one above, that would discourage the customer from delaying payment until our employee came to their door. It would also reimburse us for the cost of the employee serving the notice.
3. **Increased compensation for PSD board members.** The employees of Tomlinson P.S.D. strongly support this proposal. Our board members have been extremely supportive and cooperative to work with. They supply us with necessary materials and supplies when requested and provide us with timely increases in salary. They have not received an increase in compensation for 20 plus years. This proposal should definitely be addressed.
4. **Thermal expansion rule.** To place the burden of installing and/or maintaining thermal expansion tanks in customers' residences would bankrupt most Public Service Districts. We are opposed to any such proposal.
5. **Raising the purchase limit requiring bid from \$15,000.00-\$50,000.00.** We support this proposal. Due to inflation, the \$50,000.00 limit would still be about the same purchasing power as when the \$15,000.00 rule was put in place.

  
David R. Stevens, Manager

cc: Sandra Squire, Executive Secretary, W.V.P.S.C.



**GRANT PUBLIC SERVICE DISTRICT**

**P O BOX 326**

**NEWELL, WV 26034**

**PHONE: (304) 387-2658 FAX: (304) 387-0472**

Jeff Oyster, Chairman  
Charles L. Pugh, Treas  
Ed Huff Board Member

October 28, 2008

Debbie Britt, Executive Director  
West Virginia Rural Water Association  
100 Young Street  
Scott Depot, WV 25560

RECEIVED  
2008 NOV 3 AM 9 18  
WVA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

60188.28

Dear Ms. Britt:

Grant Public Service District is supporting your negotiating with the West Virginia Public Service Commission on the following:

1. Collection of payment at the door:  
Only collection of payment when came out to shut off the when a valid reason and know to be true.
2. Administrative fees for delinquent customers:  
We support this as a reason to stay current with their water bill payment. In some cases water bill has not come in the mail for what reason has not been determined. Yes they should call but consideration should be determined by the Board.
3. Raising the purchase limit requiring bid from \$15,000.00 to \$50,000.00:  
Grant PSD does support this increase due to rising cost on things that PSD's are engaged in doing. In some there are small number bids received as required.
4. Compensation for PSD Board members increased:  
Board member duties does not always end when meetings end. Many times phone calls are needed and site inspection doesn't fall under board meetings.
5. Thermal Expansion rule:  
Grant PSD not in favor of this rule because would be expensive for materials needed, time of employee's to install and need to enter property to do this.

Cc: Public Service Commission: Sandra Squires  
Jeffrey Oyster  
Charles Pugh  
Ed Huff

BERKELEY COUNTY  
PUBLIC SERVICE SEWER DISTRICT

P.O. BOX 944  
Martinsburg, WV 25402  
Phone: (304) 263-8566  
Fax: (304) 267-7478

Board of Directors:

John C. Kunkle, *Chairman*  
John E. Myers, *Secretary*  
Ronald K. Collins, *Treasurer*



William F. Rohrbaugh  
*General Counsel*

November 12, 2008

Sandra Squire, Executive Secretary  
Public Service Commission  
of West Virginia  
201 Brooks Street  
Post Office Box 812  
Charleston, WV 25323

Go 186.22  
Go 188.28

RECEIVED  
2008 NOV 14 AM 8 32  
WVA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

Re: **GENERAL ORDER NOS. 186.22 & 188.28**

In the matter of a rulemaking to amend the Commission's Rules  
and Regulations for the Government of Sewer Utilities (and Water  
Utilities)

Dear Ms. Squire:

Enclosed for filing please find an original and twelve (12) copies of this letter, which is the Berkeley County Public Service Sewer District's comments to the Public Service Commission's proposed amendments to 150 C.S.R. (Sewer Rules) and 150 C.S.R. 7 (Water Rules). Please note that the District did not receive notice of the proposed rule making. For its comments, the District states as follows:

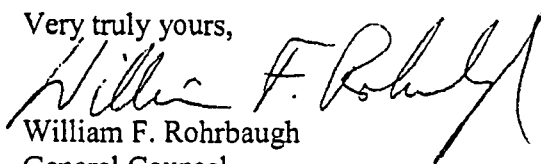
Sewer Rules (150 C.S.R. 5)

1. 4.1.f.4. *Requires that charges to customers of a public service sewer district who are not connected to the sewer service must be included in the public service district's tariff.* The District does not object to this proposed amendment, but respectfully requests that utilities be provided relief from its implementation. The District and its bondholders rely upon the ability of the District to charge customers who are not yet connected to public sewer in order to generate sufficient revenues to pay its debt service. If the PSC requires this provision to be included in a public service district's tariff, the District requests that the PSC amend all applicable tariffs upon its own motion and/or grant a grace period for the implementation of the same.

2. 4.8.b.4. *Clarifies responsibilities of water and sewer utilities and the provision of notice when water service is to be terminated for non-payment of a sewer bill.* This amendment requires the utility to make two (2) attempts to contact the customer, in person, before termination of water service for non-payment of a sewer bill. The District respectfully suggests that this requirement is redundant and needlessly increases utilities' already considerable collection costs. The existing method is more than adequate and should be retained.
3. 5.4. *Long service lines are not permitted for sewer utilities.* The District respectfully suggests that this proposed amendment is overly broad, ambiguous by its terms and unenforceable. Moreover, the District can envision a number of scenarios in which this requirement may limit opportunities for economic development.
4. 5.5.g.5. *Adds paragraph to advise parties of their option to come to the Commission to reach an alternate main extension plan.* The District respectfully requests that this proposed amendment be deleted in its entirety. The negotiation of terms between a utility and a developer, including the decision whether to enter into such an agreement, should remain the exclusive authority of the utility. PSC review should be limited to (1) whether the agreement protects the interests of the District and its rate payers; and (2) whether the agreement unfairly discriminates among similarly situated developers. The powers assumed under this amendment cross the line between utility and regulatory authority.
5. 5.5.h.11. *Clarifies the term "impact fee" and includes a certificate case as a possible means to seek a fee.* The District respectfully recommends that references to any type of "capacity impact fee" be modified to change or delete the word "impact." The use of the term "impact fee" may be legally problematic for the PSC and the utility. The District prefers the term "capacity improvement fee."

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Very truly yours,



William F. Rohrbaugh  
General Counsel  
W. Va. State Bar #5048

Enclosures

LAW OFFICE OF  
**JAMES V. KELSH**

Telephone  
(304) 343-1654

300 Summers St., Ste. 1230  
P.O. Box 3713  
Charleston, WV 25337-3713  
kelshlaw@yahoo.com  
WV State Bar #6617

Facsimile  
(304) 343-1657

October 31, 2008

Ms. Sandra Squire  
Executive Secretary  
Public Service Commission  
of West Virginia  
201 Brooks Street  
Charleston, West Virginia 25301

RECEIVED  
08 OCT 31 PM 3:53  
W. VA. PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

RE: GENERAL ORDER NO. 186.22  
In the matter of a rulemaking to amend the  
Commission's Rules and Regulations for the  
Government of Sewer Utilities

GENERAL ORDER NO. 188.28  
In the matter of a rulemaking to amend the  
Commission's Rules and Regulations for the  
Government of Water Utilities


Dear Ms. Squire:

Enclosed herein for filing on behalf of Greenbrier County Public Service District No. 2, Gilmer County Public Service District, Jane Lew Public Service District, Jefferson County Public Service District, Jefferson Utilities, Inc., Mason County Public Service District, Moundsville Water Board, and the Summit Park Public Service District (collectively referred to as "Utility Coalition"), please find the original and twelve (12) copies of the "Utility Coalition Comments".

Ms. Sandra Squire  
Page Two  
October 31, 2008

As evidenced by the Certificate of Service a copy of this filing is today being served upon Staff Attorney C. Terry Owen.

Sincerely,

  
James V. Kelsh  
WV State Bar No. 6617

Enclosures

cc: C. Terry Owen, Esquire  
Nancy Gee  
Randy S. Grinstead  
Brenda Lawson  
Suzanne Lawton  
Mary Seymour  
B. Lee Snyder  
David Stevens  
Jim Woods  
Debbie Britt  
Paul Fisher  
Jim Cox  
Kevin Williams

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

GENERAL ORDER NO. 186.22

In the matter of a rulemaking to amend the  
Commission's Rules and Regulations for the  
Government of Sewer Utilities.

GENERAL ORDER NO. 188.28

In the matter of a rulemaking to amend the  
Commission's Rules and Regulations for the  
Government of Water Utilities.

**UTILITY COALITION COMMENTS**

Comes now the Greenbrier County Public Service District No. 2, the Gilmer County Public Service District, the Jane Lew Public Service District, the Jefferson County Public Service District, Jefferson Utilities, Inc., the Mason County Public Service District, the Moundsville Water Board, and the Summit Park Public Service District (collectively, the "Utility Coalition"), pursuant to the Commission's August 15, 2008 order in the above captioned matter, to file these Comments ("Comments") to the Commission's proposed amendments to the Rules for the Government of Sewer Utilities, 150 WVCSR Series 5 ("Sewer Rules") and to the Rules for the Government of Water Utilities, 150 WVCSR Series 7 ("Water Rules").

**I. Stylistic Changes**

The Commission regulates 335 sewer utilities and 416 water utilities. The vast majority of these utilities serve a small customer base with a single manager

who must handle a variety of duties -- oversight and often hands-on administration of billing, field operations, and personnel. The rules these managers are obligated to enforce should be presented in a clear, easy to read manner. Rules should be stated concisely and comprehensively. Rules should be logically ordered. Rules that are more clearly understood should increase compliance.

Neither the existing Water and Sewer Rules nor the Commission's proposed alternatives are sufficiently user friendly. Both lack a table of contents,<sup>1</sup> a basic organizational device to help the reader identify applicable terms to a given situation. Rule and sub-rule titles are inconsistently used. When a rule title is not used, it forces the reader to read the entire rule to determine its subject. The consistent use of rule titles increases the logical ordering of the rules by congregating rules that pertain to the same topic under the same rule title. Rules under one topic are often not organized in an order that corresponds to the steps the utility will take in implementing the rule.

The Utility Coalition has carefully reviewed the entirety of the Water and Sewer Rules and made organizational and stylistic changes throughout, to make the rules more user friendly. The Utility Coalition's proposed Water Rules are provided as Attachment A, and its proposed Sewer Rules are provided as Attachment B. The Utility Coalition has prepared a table of contents for both sets of

---

<sup>1</sup> The Utility Coalition understands that in the past the West Virginia Secretary of State has refused to accept rules that include a table of contents. A table of contents is an important aid to efficient use of the Rules and should be utilized by the Commission either as a separate document provided on its website, or the Water and Sewer Rules could be put in the form of a manual with a table of contents, as the West Virginia Board of Education has done with its Purchasing Procedures for Local Education Agencies, 126 WVCSR Series 202, and the West Virginia Bureau of Senior Services has done with the West Virginia State Plan for Aging Programs, 76 WVCSR Series 3.

the Utility Coalition's proposed rules. Rule and sub-rule titles have been used throughout, with capitalization and underlining to give the rule titles greater prominence and easier readability. The Utility Coalition's proposed rules congregate what often were separate rules under more consolidated rule titles. Rules have been reorganized so that they more closely parallel the temporal steps a utility takes in implementing a rule. Because of the hundreds of changes made, not all are discussed in the text of these Comments, rather, footnotes appear in the Utility Coalition's proposed rules explaining the changes where an explanation was warranted. The Utility Coalition's proposed rules and footnotes thereto are incorporated into these Comments by this reference.

## **II. Substantive Changes**

The Utility Coalition has also proposed numerous substantive changes, not all of which are discussed in the text of these Comments. Most are explained in the footnotes to the Utility Coalition's proposed Rules. The Utility Coalition will discuss substantive changes that require a lengthier explanation than a footnote offers below.

### **A. Damaged Facilities Charge**

The Utility Coalition proposes a new term at Water Rule 3.4.d. and 4.3.d., and Sewer Rule 4.3.d. to charge a damaged facilities charge to customers or users when a water meter is damaged two or more times in a 24 month period, or when unauthorized devices are installed, such as meter bypassing devices, or unauthorized taps.



For water meter damage, the charge is the lesser of the utility's cost to repair or replace the meter or the utility's non-certificate project tap fee. The first incidence of meter damage in a 24 month period would be repaired or replaced at the utility's expense.

The utility would charge a damaged facilities charge set at the same level as its non-certificate project tap fee. For bypass devices or unauthorized devices, the utility could also charge for estimated usage and any other applicable fees from its tariff. To impose a damaged facilities charge, the utility would need to have a damaged facilities charge in its tariff.

Water utilities are increasingly using more sophisticated and more costly meters, such as touch-read and remote read waters. The cost of repairing and replacing these meters is higher than simpler, cheaper meters. The proposed damaged facilities charge is a reasonable and balanced way for utilities to recoup the cost of repairing and replacing these damaged facilities.

The criminal law statutes regarding tampering with utility facilities, W.Va. Code §§61-3-29 and 61-3-44 have proven to be of little use to utilities because law enforcement is typically uninterested in enforcing what are perceived to be "low level" crimes, and the level of proof required to meet the criminal law standard is hard to meet, as most tampering is unobserved by any witnesses.

**B. Interest on Security Deposits.**

The Utility Coalition proposes the elimination of payment on security deposits, Water and Sewer Rules 4.2, because the administrative cost to the utility of administering the separate security deposit account exceeds the interest paid to

customers. Security deposits from tenants are maintained so long as the tenant is a customer of the utility. When a security deposit refund is due to a tenant customer, utility personnel must review the customer's records to determine how long the deposit has been held and how much interest applies. This requires the time of office personnel. Office personnel and the governing bodies of utilities must administer numerous accounting processes for both tenant and non-tenant customers.

The task to utility office personnel would be greatly simplified and expedited by the elimination of the payment of interest on security deposits. Since inflation was tamed in the early 1980's, the interest obtainable on these security deposit accounts has been very low, and high inflation does not appear on the horizon. Requiring interest on security deposits is excessively burdensome to utilities considering the small benefit to customers.

The Commission's proposed 2% interest on security deposits should be rejected, as 2% interest is not obtainable by all utilities given their individual banking circumstances. An excessive interest rate results in subsidization. Such an approach ignores the Commission's practice of setting utility specific rates to reflect each utility's unique cost and revenue structure.

### **C. Termination for Payment by Bad Check**

The Utility Coalition proposes to modify Water Rule 4.8.a.3.B. and Sewer Rule 4.8.b.3.B. by eliminating the current requirement that a utility provide a customer with a second advance notice of intention to terminate when, following receipt of the first notice of intention to terminate, the customer pays with a bad

check. Instead the Utility Coalition proposes that when a customer avoids termination by issuing a bad check, the utility can terminate service without further notice. The Utility Coalition has made a corresponding change to Water and Sewer Forms Nos. 1 to inform customers of this policy.

The current rule imposes excessive administrative costs on the utility and its regular paying customers for the misdeeds of the utility's irregular paying customers.

#### **D. Administrative Fee for Termination Trips**

The Utility Coalition proposes at Water Rule 4.8.a.3.C. and Sewer Rule 4.8.b.3.C. to impose an administrative fee whenever a utility dispatches personnel to terminate water service for non-payment and the customer pays the delinquency prior to actual termination. This proposal is consistent with recent Commission orders, such as Claywood Park Public Service District, Case No. 07-0175-PWD-19A (August 19, 2008 Commission Order). The cost to the utility once personnel are dispatched to terminate service is the same regardless of whether service is actually disconnected or not. The administrative fee rightfully imposes this cost upon the cost-causers.

The administrative fee provision also includes a multiple trip charge that would apply when customers try to prevent disconnection by interposing some obstruction to the meter. The Greenbrier County Public Service District No. 2 has had a customer tie a pit bull's leash to the water meter. The Mason County Public Service District has had customers park cars, some without tires, over meters. This causes excessive cost in employee time and should be passed on to the cost-

causers. Once these fees become known, the Utility Coalition expects customer payment practices to improve, and to encounter fewer shenanigans by customers. This should improve the efficiency of utility operations.

#### **E. Termination of Sewer Service**

The Utility Coalition proposes substantial amendments to Sewer Rule 4.8.a. regarding termination of sewer service. The existing Rule lacks detail on the procedure to be followed.

The Utility Coalition proposal makes clear at the outset that sewer termination is only available when a sewer customer obtains water from a non-utility source.

The Utility Coalition proposes that utilities seeking termination of sewer service must use a form petition provided as Sewer Form No. 12. The form requires the utility to provide a copy of the customer's bill, the utility's offer of a deferred payment agreement or the customer's breach thereof, and a copy of an unsatisfied court judgment. If a utility files a fully completed Sewer Form No. 12, it has satisfied its burden of proof, and the burden shifts to the customer to show termination is not warranted. In Sewer Form No. 12, the utility prays that the Commission require the customer to pay its current bill while the matter is pending, with termination the penalty for failing to do so, as the Commission routinely does with water billing disputes.

The Utility Coalition believes that sewer customers can pay their bills just as well as water customers. Higher delinquencies arise with sewer customers on well

water because the current system discourages early action by utilities on delinquent sewer accounts of well water users. The high cost of the termination of sewer service process under the current rules leads to utilities refraining from initiating such actions until the amount of the outstanding bill is at least as large as the utility's expected litigation costs. This is economically rational, but leads to large delinquencies that the customer has difficulty paying and the utility has difficulty collecting except over a lengthy period. The Utility Coalition believes its proposal is a fair and lower cost procedure than the Commission's current practice. It does not require the utility to file a lien against the property, as the members of the Utility Coalition have found the practice of recording liens to be of no value in the short term, and little value in the long term. The Utility Coalition proposal does not require utilities to suggest wages, as this practice is excessively time consuming. The county health department is not made a part, as it is more economical for staff to confer with the county health department and call health department personnel as witnesses if need be than to automatically make county health departments involuntary parties in every case.

By specifying what is required by the utility and making that sufficient to switch the burden of proof, litigation at the PSC is simplified and cost to the utility reduced. This will encourage earlier initiation of actions before delinquencies get too high.

#### **F. Notice of Unscheduled Interruptions**

The Utilities Coalition opposes the Commission's proposed notice requirements for unscheduled interruptions in Water Rule 4.12.d. and Sewer Rule 4.11.c. as excessive, discretionary, and inconsistent with federal notice requirements.

The Utilities Coalition concurs with the well-stated comments on this proposal of the Berkeley County PSD and Lubeck PSD, two of the larger PSDs in the state. Compliance with this proposed requirement is even less realistic for the far more prevalent small systems with their smaller staffs. When a small system experiences an unscheduled interruption, it needs to have its personnel squarely focused upon fixing facilities without unnecessary distractions from that task.

All water systems in the state are required to comply with National Primary Drinking Water Regulations, 40 CFR 141 ("NPDWR"). Public Water Systems, 64 WVCSR Series 3, §10.1.a. Subpart Q to the NPDWR, 40 CFR §141.201-211, sets forth the standards for public notification of drinking water violations. The utility questions the authority of the Commission to impose notice requirements given that the federal EPA and the West Virginia Bureau of Public Health have already done so. This is a health issue that has and is being addressed by rules promulgated by the agencies entrusted with primary authority for the regulation of the public health aspects of potable water. It is not helpful to water utilities to have dual and inconsistent notice requirements. Given that existing regulations are already in place, there is no need for the Commission's proposed rules.

**g. Tap Cost Limit**

The Utility Coalition proposes a cost limitation upon a utility's duty to install a tap for a standard tariff tap fee at Water and Sewer Rule 5.2.d.1. The Commission has long recognized in the main line extension rule that a fairly standard ratio should exist between the cost to install facilities to serve a customer and the revenue expected to be received by the utility.

The Utility Coalition proposes to extend this concept to tap fees, with a very high cap on the cost obligation to install a tap. When the cost to install a tap exceeds 42 times the utility's expected gross monthly revenue from that customer, the customer must pay in advance the amount in excess of the 42 times figure. For the median water utility in the state according to the Commission's Water Utility Cost Ranking as of October 24, 2008, this would result in a cap of \$1,266.30 per tap, and for the median sewer utility, the cap would be \$1,273.86. The cost of a tap installation cap would have no effect upon the utility cost contribution requirement to extend mains under the main line extension rule.

**H. Notice of Thermal Expansion Risk**

The Utility Coalition opposes the Commission's proposed, Water Rule 5.7.b., on principled and practical grounds. Water utilities deliver cold water to customers. The utility should not be responsible for the costs and implications when a customer chooses to heat the water. The Commission's proposal would require utility personnel to enter customers' homes and to furnish and install expensive plumbing facilities. This will entail increased direct costs of utility personnel time and also

increased insuring and bonding costs. The Commission's proposed rule will have the effect of discouraging the use of check valves, thereby reducing water safety due to increased incidents of backflow contamination.

This matter may resolve itself in time. Either the hot water heater manufacturers will correct this design flaw or thermal expansion tanks will be part of a standard homebuilder installation. This is not an issue to be added as a rule as it will become outdated once thermal expansion awareness has been promoted to the public as well as homeowner's insurance companies. Someone should pay but not the utility.

The assertion in proposed Rule 5.7.b. that the utility will be "deemed to have changed the character of service" by requiring backflow prevention ignores the fact that such devices have been in common usage for over 20 years. Jefferson Utilities has been using check valve meter setters in its systems for over 20 years. Jefferson Utilities started using these to avoid the draining and damage to customers' water heaters in the case of a main line break. This is still a valid concern. The check valve protects the customer and the utility.

The Utility Coalition proposes as an alternative adding Water Rule 4.1.d.4. that notice of the presence of check valves in the meter pit or of backflow prevention devices be posted conspicuously in its office for inspection by the public.

#### **I. Main Extensions**

The Utility Coalition proposes fundamental revisions to the Commission's main extension rules, Water and Sewer Rules §5.5. The Utility Coalition proposes



that the term "Standard Extensions" be used to refer to extensions constructed by the utility to serve existing structures with a utility contribution of some or all of the cost. An "Alternate Extension" refers to the construction of an extension to serve proposed structures that must be paid in full by the developer without opportunity for refund. The Utility Coalition proposes the deletion of the "Alternate Depositor Financed Extension Plan" as seldom used. "Self-Help Extensions" are included in the Utility Coalition's proposal. Utilities could develop other forms of extension agreements. Sample Standard Extension and Self-Help Extension Agreement forms are provided. The utilities' cost contribution toward a Standard Extension is changed to 42 months expected gross revenue to replace the current formula, which is confusing and makes a legally baseless distinction between privately owned and publicly owned utilities. Utilities must offer alternate main line extension agreements on a non-discriminatory basis. Once a template or actual Alternate Extension Agreement is approved by the Commission, the utility could re-use the Alternate Extension Agreement with other developers without Commission review or approval. All Self-Help Extension Agreements would need to be reviewed and approved by the Commission.

The Utility Coalition's proposal to require the developers of proposed structures to pay for the cost of such extensions in full with no opportunity for reimbursement is consistent with most utilities' practices and appropriately shields current customers from adverse financial consequences that can result from speculative ventures.

The Utility Coalition's proposal provides greater form and recognition to Self-Help Extensions by explicitly including them in Rule 5.5, and providing a sample form and waiver. This type of extension often makes service possible where it otherwise would not.

The utility's cost contribution requirement is changed back to the former "3 and one-half times" rule as the current rule is overly complex in calculation and ambiguous in interpretation. The Utility Coalition does not propose the reinstatement of the former rule verbatim, but rather has used new and more concise terms to reach the same result.

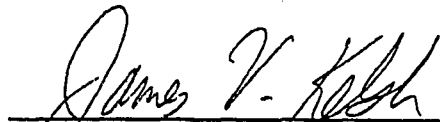
Once a form or actual Alternate Extension Agreement is approved by the Commission, the utility could re-use the same terms of agreement with other developers without Commission approval. This proposal is consistent with the preferences of developers, and saves administrative resources for both utilities and the Commission.

### **III. Procedural Recommendation**

The Commission's August 15, 2008 order initiating this rulemaking directed any party seeking a hearing to request one in the comments. The Utility Coalition does not recommend or request that the Commission schedule a hearing at this time. The Utility Coalition suggests that the Commission internally review the comments it receives, and in response thereto, issue a second set of proposed rules and another comment period, with parties given a second opportunity to request a hearing.

GILMER COUNTY PUBLIC SERVICE DISTRICT;  
GREENBRIER COUNTY PUBLIC SERVICE DISTRICT NO. 2;  
JANE LEW PUBLIC SERVICE DISTRICT;  
JEFFERSON COUNTY PUBLIC SERVICE DISTRICT;  
JEFFERSON UTILITIES;  
MASON COUNTY PUBLIC SERVICE DISTRICT;  
MOUNDSVILLE WATER BOARD; and  
SUMMIT PARK PUBLIC SERVICE DISTRICT

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**TITLE 150  
LEGISLATIVE RULE  
PUBLIC SERVICE COMMISSION**

**SERIES 7  
RULES FOR  
THE GOVERNMENT OF  
WATER UTILITIES**

**UTILITY COALITION'S  
PROPOSED REVISIONS**

### **EXPLANATION OF MARKING CONVENTIONS**

The attached proposal shows the Utility Coalition's proposed changes in yellow. The baseline document is an "accept all changes" version of the changes the Commission proposed in its August 15, 2008 Order. The table of contents is entirely new, so no yellow marking appear on it.

**TITLE 150  
LEGISLATIVE RULE  
PUBLIC SERVICE COMMISSION**

**SERIES 7  
RULES FOR THE GOVERNMENT OF  
WATER UTILITIES**

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TITLE 150  
LEGISLATIVE RULE  
PUBLIC SERVICE COMMISSION

SERIES 7  
RULES FOR  
THE GOVERNMENT OF  
WATER UTILITIES

**§150-7-1. General.**

1.1. Scope. These rules govern the operation and service of water utilities subject to the jurisdiction of the Public Service Commission pursuant to W. Va. Code §24-2-1.

1.2. Authority. W. Va. Code §§24-1-1, 24-1-7, 24-2-1, 24-2-2, ~~24-2-5, 24-2-6, 24-2-7, 24-2-8, 24-2-9, 24-3-2, 24-3-5, 24-3-10, 16-13A-2, 16-13A-9, 8-18-23 and 16-13A-2.~~<sup>1</sup>

1.3. Filing Date. ~~August 25, 2003.~~

1.4. Effective Date. ~~October 24, 2003.~~

1.5. General.

1.5.a. Changes<sup>2</sup>. This rulemaking repeals the Commission's current Rules and Regulations for the Government of Public Service Districts, 150-CSR-17, and incorporates portions of those rules within these Water Rules. Portions of Series 17 will be incorporated into the Commission's Rules for the Government of Sewer Utilities, 150-CSR-5, by separate proceeding. This rulemaking addresses legislative changes, makes changes for stylistic and clarification purposes and adds provisions for private fire protection. These rules replace rules that went into effect on October 24, 2003.

1.5.b. Purpose. These rules are intended to insure adequate service to the public, to provide standards for uniform and fair charges and requirements by the utilities and their customers, and to establish the rights and responsibilities of both utilities and customers.

1.5.c. Modifications. The adoption of these rules in no way precludes the Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard either upon complaint or upon its own motion, or upon the application of any utility.

1.5.d. Applicability of Other Laws. These rules shall not relieve in any way a utility from any of its duties under the laws of this State.

1.6. Application of Rules.

1.6.a. Persons Affected. These rules apply to all public utilities as defined in Rule 1.7, customers of public utilities, applicants for service from public utilities, and county commissions<sup>3</sup>.

<sup>1</sup> Statutory references changed to specify those statutes that provide the Commission with rulemaking authority utilized in adopting the Rules for the Government of Water Utilities (the "Rules")

<sup>2</sup> Topical heading added for this and nearly all Rules as a convention to aid review and congregation of topics.

<sup>3</sup> Amended to add other entities affected by the Rules consistent with the content of the Rules.



1.6.b. Waiver. If hardship results from the application of any Water Rule or if unusual difficulty is involved in immediately complying with any rule, application may be made to the Commission for the modification of the rule or for temporary or permanent exemption from its provisions: Provided, that no application for modification or exemption will be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

1.7. Definitions.

1.7.a. "Applicant". A person, firm, corporation, ~~municipality, public service district~~<sup>4</sup> or any other entity that applies for water service.

1.7.b. Billing Related Dates.

1. "Bill Due Date". The date when the utility mails the bill.

2. "Latest Pay Date". The last date, which shall be no sooner than the 20<sup>th</sup> day following the date the utility mails the bill, that the bill may be paid without incurring a late payment penalty. ~~Such date must be stated on the face of the bill.~~<sup>5</sup>

3. "Delinquent Bill". Any bill issued by a ~~public service district or a municipal system~~ utility that has not been paid within twenty (20) days of the bill due date. ; ~~or any bill issued by a water utility that is not a public service district or a municipal system within thirty (30) days of the bill due date. Such date must be stated on the face of the bill.~~<sup>6</sup>

1.7.c. "Commercial Service". Means service to each separate business enterprise, occupation or institution occupying for its exclusive use any unit or units of space as an entire building, entire floor, suite of rooms or a single room, and using water for such incidental use as the schedule of rates applicable to the particular installation may permit. Commercial service shall apply to all stores, offices, hotels, wholesale houses, garages, display windows, signs, theaters, barber and beauty shops, churches, opera houses, auditoriums, lodge halls, school houses, banks, bakeries and any other space occupied for commercial purposes. Any rooming house, lodging house, resort, inn or tavern renting more than four (4) rooms to strangers or transients without any previous agreement for accommodation or as to the duration of stay shall be classed as a hotel and as such it comes under the commercial classification.

1.7.d. "Commission". Whenever in these rules the words "Commission" or "Public Service Commission" occur, such word or words shall, unless a different intent clearly appears from the context, be taken to mean the Public Service Commission of West Virginia.

1.7.e. "Customer". Shall mean and include any such person, firm, corporation, ~~municipality, public service district~~ utility or any other entity who purchases a utility product or services ~~of~~ from any utility ~~and shall include any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or product for resale.~~<sup>7</sup>

<sup>4</sup> Removed as the Commission has not treated sale-for-resale customers in the same manner as other applicants for service. Further, there is no reason to include public service districts and municipalities in the Rule to the exclusion of other forms of water utilities.

<sup>5</sup> Stricken on the basis that duties should not be stated in definitions.

<sup>6</sup> Amended to make 20 day bill due date uniform for all types of utilities. 30 day billing results in difficulty in preparing bills, and customer confusion as payments and bills cross in the mail.

<sup>7</sup> Amended to clarify that all sale-for-resale purchasers of utility services are utility customers.

1.7.f. "Customer's Service Pipe". Shall be that portion of the service pipe from the point of service to the structure or premises supplied, ~~installed at the cost and expense of the customer.~~<sup>8</sup>

1.7.g. "Distribution Main". Means water pipe owned, operated, or maintained by the utility located in a public right-of-way, street, alley, or private right-of way, which is used for the purpose of distribution of water from which utility service pipes extend to make service connections with customers. Any water pipe extending through a utility right-of-way across private property shall be a distribution main. ~~Costs to install a distribution main across private property are subject to the cost sharing provisions of Rule 5.5.~~<sup>9</sup>

1.7.h. Easement Service Line. A customer service line crossing real property owned by one or more third parties pursuant to an easement and extending from the utility's main to the property to be served.<sup>10</sup>

1.7.h.i. "Governmental Unit". Any municipality or other political sub-division or agency of the State of W. Va. or the Federal Government.

~~1.7.j. "Payment". Payment is made by cash, check, credit card, debit card, or voucher accepted by the utility.~~<sup>11</sup>

1.7.j. "Moratorium". A condition imposed on a utility by the Commission or other state agency<sup>12</sup> prohibiting service connections and/or reactivation of service for an entire system, or a portion thereof.

1.7.k. "MS4". A municipal separate storm sewer system as designated by the West Virginia Department of Environmental Protection.

1.7.k.l. "Point of Service". Means the utility's pipe and appurtenances which connect any utility service pipe with the inlet connection of a customer's service pipe at the customer's property line, or elsewhere on the customer's property if provided for in a user's agreement. ~~The utility shall own and maintain all facilities located between the point of service and the main.~~<sup>13</sup>

~~1.7.l. m. "Private Fire Service Connection". Is one to which is attached fixtures from which water is taken~~ A water connection used in whole or in part for the extinguishment of fire.

1.7.m.n. "Prospective Customer". Means the owner or occupant of a completed structure.<sup>14</sup>

1.7.m.o. "Public Utility". Except where a different meaning clearly appears from the context, the word or words "utility" or "public utility" when used in these rules shall mean and include any person or persons, or association of persons, however associated, whether incorporated or not, including municipalities, engaged in the business of producing, furnishing, transporting, distributing or selling potable water for any purpose which is now or may hereafter be held to be a public service.<sup>15</sup>

1.7.n.p. "Residential Service". Means service to a householder or a tenant, living in a separate house or separate apartment in an apartment building, using water for general household service. Should the

<sup>8</sup> Amended to remove duty from definition.

<sup>9</sup> Stricken term is not accurate in all contexts, i.e., mains extended in the course of a certificate project.

<sup>10</sup> New term consistent with Utility Coalition proposed modifications to Rule 5.4.

<sup>11</sup> Term stricken as meaningless.

<sup>12</sup> Term added to clarify that other agencies besides Commission may impose moratoria.

<sup>13</sup> Term stricken as definitions should not impose duties.

<sup>14</sup> Term added to definitions section and used at Rule 5.5.

<sup>15</sup> Definition amended to clarify that Water Rules only apply to the sale of potable water, to the exclusion of other water uses, such as the sale of non-potable water to cool industrial facilities.

owner of a multiple apartment building undertake to furnish water to his tenants as a part of their monthly rent, then such service shall be classed as "Commercial." However, a close branch of a householder's family living with the householder and using the same water facilities, shall not be classified as an additional service or as "Commercial." In cases where a householder or tenant devotes some portion of the occupied building to commercial use and uses the remainder as a residence then the predominate use of water shall constitute the basis for classification as either residential or commercial.

1.7.q. Self-Help Extension. an extension in which the utility contributes the costs of materials, legal and engineering services up to its contribution requirement under Rule 5.5.b.2, and some or all Prospective Customers provide labor, equipment and materials costing in excess of the utility contribution requirement.<sup>16</sup>

1.7.r. Sewer System. Refers to a sanitary sewer utility certificate by the Commission or a municipal separate storm sewer system ("MS4") listed by the West Virginia Department of Environmental Protection.

1.7.e.s. "Standard Distribution Pressure". ~~Shall be the distribution pressure established by the utility under the requirements of Rule 5.8. Twenty pounds per square inch (p.s.i.) at peak system demand or thirty p.s.i. static pressure at the terminus of the utility's service line, meter box, or curb box, as applicable, not to exceed 135 p.s.i.~~<sup>17</sup>

1.7.t. Temporary Service. Water service desired for less than a year-round basis, including vacation homes, water for construction, private fire protection during construction, or other short-term uses.<sup>18</sup>

1.7.p. u. "Temporary Service Connection". One which is installed for the temporary use of water; provided that the customer's premises is located on a lot having a curb line abutting on that part of a street or public right-of-way in which there is located a utility distribution main extending along the total frontage of the lot on said street or right-of-way, unless otherwise agreed to by the utility.

1.7.q.v. "Unaccounted for Water". The volume of water introduced into the distribution system less all metered usage and all known non-metered usage which can be estimated with reasonable accuracy.

1.7.f.w. "Utility Service Pipe". Shall mean that portion of the service pipe between the distribution main and the curb cock or the inlet connection of the coppersetter at or near the customer's property line or point of service.<sup>19</sup> ~~installed at the cost and expense of the utility, regardless of the side of the road on which the customer is located in reference to the main line.~~

## **§150-7-2. Records, Reports and Other Information to be Supplied to the Commission.**

### **2.1. Records and Reports.**

2.1.a. Preservation of Records. All records required by these rules shall be preserved by the utility in the manner prescribed by the Commission.

<sup>16</sup> Proposed rule 5.5.b.4.

<sup>17</sup> Amended consistent with changes herein to Water Rule 5.8.

<sup>18</sup> New definition to clarify meaning of term.

<sup>19</sup> Definitions should not impose duties.

### 2.1.b. Location of Records.

1. Inspection. Such Records shall be kept at the office or offices of the utility in West Virginia, and shall be open at all reasonable hours for examination by the Commission or its duly authorized representative without formal order of the Commission.<sup>20</sup>

2. Out of State Records. If kept outside the State, such records shall be brought to the utility's office in West Virginia upon request of the Commission or its duly authorized representative without formal order of the Commission, or the utility may be required to pay the reasonable traveling expenses of the Commission employees assigned to examine the records.

2.1.c. Reports to Commission. Upon Commission request by the Commission or its duly authorized representative without formal order of the Commission, a utility shall furnish to the Commission the results of any test or tests required to be made, or the information contained in any records required to be kept by the utility, or any further information in its possession, respecting its rates, charges, or practices, ~~without formal order of the Commission requiring the release of such information.~~<sup>21</sup>

### 2.2. Filing of Rate Schedules.

2.2.a. Tariffs. Tariffs containing rates and rules of each utility, including municipal utilities, shall be filed in the manner prescribed by the Commission in "Rules and Regulations for the Government and Filing of Tariffs" (Tariff Rules) effective as amended or modified by the Commission.<sup>22</sup>

2.2.b. Municipal rates — Rates for municipal water and combined water and sewer utilities shall be adopted, and tariffs shall be filed, in accordance with the Commission's "Rule for the Government and Filing of Tariffs," 150CSR2, effective as amended or modified by the Commission.

### 2.3. Utility's Special Rules.

2.3.a. Application. A utility desiring to establish any rule(s), supplementing the rules of the Commission, shall first make application to the Commission for authority to establish such a rule(s), clearly stating the reasons for the rule(s).

2.3.b. ~~On and after ninety (90) days from the effective date of these Rules, any utility's special rules and regulations now on file with the Commission which conflict with these rules, will become null and void, unless they have been ratified and approved by the Commission.~~<sup>23</sup>

2.3.c. b. Exemption Effect. A customer who has complied with the rules of the Commission shall not be denied service for failure to comply with the rules of the utility that have not been approved by the Commission.

### 2.4. Financial and Statistical Report.

2.4.a. Annual Report. Every utility shall file annually a financial and statistical report upon forms to be furnished by the Commission. The report shall be based upon the accounts set up in conformity with Rule 2.5. The report shall be filed on or before three (3) months following the end of the utility's fiscal year or on such date as the Commission may direct. ~~Beginning January 1, 2009, all financial and statistical reports shall~~

<sup>20</sup> Language added to clarify that no order is required.

<sup>21</sup> Rule amended to clarify that no Commission order is required.

<sup>22</sup> Term "municipal utilities" added to Rule 2.2.a. to eliminate need for Rule 2.2.b.

<sup>23</sup> Deleted as no longer needed due to effect of prior versions of the Rules.

be filed electronically utilizing the Commission's web site. Utilities shall file reports with the Commission in electronic spreadsheet format utilizing the Commission's web site beginning with the utility's first full fiscal year commencing after the adoption of these rules.<sup>24</sup>

2.4.b. Extensions. Upon written request and for good cause shown, the Commission may approve or disapprove, through its Executive Secretary, by letter, a reasonable extension of time to file the financial and statistical report. Such application is to be made before the expiration of the time for filing the report.

2.4.c. ~~Each utility shall file, yearly as of July 1 for the preceding July 1 through June 30, water statistical reports upon forms to be furnished by the Commission. The report shall be filed on or before three (3) months following the end of the utility's fiscal year or on such date as the Commission may direct.~~

## 2.5. Uniform System of Accounts.

2.5.a. Format. All water utilities shall maintain their accounts and records in compliance with the Uniform System of Accounts as promulgated in ~~1973~~ 1996 by the National Association of Regulatory Utility Commissioners ("NARUC") for Class A, ~~and B, Water Utilities and Class C and D Water Utilities~~ beginning with the utility's first full fiscal year commencing after adoption of these rules. For any prior periods, the utility may use the 1996 NARUC format or the format previously used by the Commission from October 24, 2003 to the effective date of these rules.<sup>25</sup>

2.5.b. Interpretation. Observance of the system of accounts applicable to the water utility by appropriate class is obligatory upon all persons having direct charge of the books and accounts of the utility. For the purpose of securing uniformity in the applications of this system all questions of doubtful interpretation of accounting rules are to be submitted to the Water and Wastewater Division of the Commission for consideration and decision.<sup>26</sup>

2.5.c. Classifications. The classification of water utilities for purposes of keeping accounts in accordance with the 1996 NARUC Uniform System of Accounts shall be as follows:

<u>Classification</u>	<u>Revenue Level</u>
A	<del>\$800,000</del> \$1,000,000 or more
B	<del>400,000 - 799,999</del> \$200,000 - \$999,999
C	<del>100,000 - 399,999</del> less than \$200,000
D	<del>less than 100,000</del>

1. For utilities filing an annual report in a format other than the 1996 NARUC format, the classification system shall be that previously used by the Commission from October 24, 2003 to the effective date of these rules.<sup>27</sup>

## 2.6. Maps and Records.

2.6.a. Covered Facilities. Each utility shall keep on file suitable maps, plans and records showing the entire layout of every pumping station, filter plant, reservoir, transmission and distribution system, with the location, size and capacity of each plant, size of each transmission and distribution line, fire hydrant, valve and customer's service, reservoirs, tanks and other facilities used in the production and delivery of water.

<sup>24</sup> Alternative language needed to permit utilities to make an orderly transition to the new format requirements. The term "spreadsheet" added to clarify the type of format required.

<sup>25</sup> Change made to promote an orderly transition to the new accounting system.

<sup>26</sup> Change made to clarify that resolution will not be by a formal Commission order.

<sup>27</sup> Transitional provision.

2.6.b. Additions to System. In the case of new construction or property acquired from others, the additions to such maps and records should be made by the end of the next calendar year following the year in which the construction is done or property acquired. All drawings shall have the scale clearly shown and be of sufficient detail to accurately depict the project or property.

2.6.c. Updating. In general, where present maps of existing facilities are not entirely up to date, special surveys to locate any plant or facilities will not be required immediately, but maps must be updated as prescribed by the Commission.

## 2.7. Management audits.

2.7.a. Scope—To establish a procedure for examination of management practices and policies to determine whether the utility being audited is operating with efficiency and utilizing sound management practices. The purpose of a management audit is to disclose operating areas that are efficient or inefficient, to identify areas for improvement, and to form recommendations for changes. The results of a management audit and the response of the utility to the recommendations and implementation plans developed pursuant to a management audit may be a factor in determining just and reasonable rates, as set out herein.

2.7.b. Types of management audits—The following types of management audit, which vary in scope, may be directed and used by the Commission:

1. Comprehensive—An investigation characterized by an extensive, detailed analysis of a utility's management and operations.

2. Reconnaissance—A broad review, similar in scope to a comprehensive audit, but in less detail. The objective of this type of audit is to identify specific areas for more intensive investigation based upon the magnitude of the problem identified or the potential benefits to be derived.

3. Focused—An in-depth investigation of one or several specific areas of a utility's management and operations.

2.7.c. Frequency—The Commission shall order a management audit of any utility under its jurisdiction whenever the Commission deems it necessary to investigate the operational efficiency of the utility. Such factors as the cost of the management audit and the potential benefits of such audit may be taken into consideration. The Commission may accept or request a management audit performed under the rules of another jurisdiction in satisfaction of this rule when that audit is of the scope contemplated by the Commission, conforms to the standards herein set forth and covers the utility's service functions in its W. Va. jurisdiction.

## 2.7.d. Conduct and control

1. The Commission may choose to have the audit performed by its Staff or contracted to a qualified outside auditing firm. In the latter case, the Commission may supervise the selection process. If the management audit is to be conducted by an auditing firm, the Commission's order initiating the audit shall include provision for the development of the request for proposal (RFP), the consultant selection process and Staff's assistance and supervision during the audit.

2. The Commission may impose eligibility restrictions upon contractors relating to past, current and post audit relationships with the utility.

3. The utility is expected to cooperate to the fullest extent with the performer of a Commission ordered management audit. A responsible employee shall be appointed by the utility as its management audit coordinator, who shall be responsible to assist in the efficient performance of the management audit.

2.7.e. Costs — It shall be the responsibility of the audited utility to pay for a contracted audit. The Commission shall include the reasonable cost of conducting the contracted management audit in the cost of service of the utility. The Commission may allow such costs to be recovered in the utility's next general rate case following completion of the audit, or the Commission may order such costs to be amortized over a reasonable period of years, considering the impact of these costs on both the utility and its customers.

2.7.f. Implementation of recommendations —

1. Draft report.

A. Upon completion of the audit a draft report shall be submitted to the utility for comments.

B. The auditor and Company representatives shall conduct a draft review meeting subsequent to the distribution of the draft review report.

2. Final report.

A. A final report shall be submitted to the Commission no later than thirty (30) days after the submission of the draft report to the utility.

B. Within thirty (30) days of the final submission of the management audit report, the utility shall file a document detailing its position on each audit recommendation. This document must state which recommendations are acceptable to the utility and the nature of the utility's disagreement with any recommendations.

3. The Commission may, after hearing, issue an order prescribing the recommendations which should be adopted by the utility.

4. The utility shall file detailed implementation plans for the Commission's review and approval within the time specified in the Commission's order prescribing which recommendations the utility should adopt. The utility shall not deviate from an approved implementation plan without prior notice to the Commission which specifically states the utility's reasons for departing from the approved plan.

5. At the direction of the Commission, a follow-up audit may be performed to review the progress of the utility in implementing the approved plans and the results of previously performed management audits.

6. A management audit report and implementation plan adopted pursuant thereto and any follow-up audit may be used by parties in a general rate case subsequent to the management audit. Such audits and implementation plans may be a factor in the determination of just and reasonable rates if introduced as an exhibit and subjected to normal due process procedures.













~~7. The Commission may grant an extension of the time limits established in this section upon a showing of good cause for such extension.~~<sup>28</sup>

### §150-7.3. Meter Requirements.

3.1. Utility to Provide Meters. Unless otherwise authorized by the Commission, each utility shall provide and install the meter serving a customer upon payment by the customer of the applicable tap fee in the utility's tariff ~~at its own expense~~ (except as provided in Rule 5.2) and shall continue to own, maintain, and operate, repair, and replace all equipment necessary for the regulation and measurement of water, in accordance with tariff or contract provisions, to its customers. Where additional meters are requested by the customer and are furnished by the utility for the convenience of the customer, the utility shall charge its full cost of acquisition and installation of such meters. ~~a charge for such meters shall be made.~~ All meters used in serving resale customer(s) shall be owned and operated by the utility providing service to the bulk or resale customer.<sup>29</sup>

#### 3.2. Location of Meters.

3.2.a. Accessibility. In the interest of safety and convenience to the customer, and as a measure of economical operation to the utility, it is required that all meters, except for easement service extensions as provided in Rule 5.4, should be located at or near the property line: Provided that when such location is impractical meters shall be placed outside of the customer's building as near as possible to where the "Point of Service" joins the "Customer's Service Pipe": Provided, further, if neither of the foregoing requirements can be complied with on account of physical, economic, or climatic conditions, the meter may be placed within the building, preferably in the cellar, and when so placed within the building, the meter shall be so located that it will be easily accessible for reading, maintenance and protected from freezing and mechanical damage.<sup>30</sup>

3.2.b. Meter Grouping. When a number of meters are grouped, every meter shall be tagged so as to indicate the particular customer served by it.

3.2.c. Remote Meters. When a meter is located inside a home or building, the utility may install a remote register or dial on the exterior of a home or building accessible for meter reading. The remote counter reading shall be compared to the actual meter register reading not less than once every six (6) months.

3.2.d. Meter Setting Installation. Meter settings shall be installed in accordance with drawings submitted and approved by the Commission under Rule 5.2.i.

#### 3.3. Prohibitions on Master Metering.

##### ~~3.3.1. Reserved.~~

##### 3.3.1. Mobile Home Parks.

For mobile home parks constructed on or after ~~the effective date of these rules~~ October 24, 2003, each mobile home in a mobile home park shall be individually metered with taps installed at the lot line of each mobile home. The lot owner shall be responsible for payment of any applicable tap fees. All utility easements and mains constructed within the mobile home park will become the property of the utility by

<sup>28</sup> Rule 2.7 removed because it is overly specific and seldom used by the Commission. The Commission can set the terms and scope of management audits by its orders in general investigations or other proceedings.

<sup>29</sup> Rule amended to clarify payment and maintenance obligations.

<sup>30</sup> Modification made to make it consistent with Rule 5.4.

agreement between the (i) owner of the mobile home park or the lot owner, whichever is applicable, and (ii) the utility. The agreement must be approved by order of the Commission prior to construction of any main. Lines extending from the mobile home to the tap will be considered customer service lines and maintenance of those lines will be the responsibility of the applicable lot owner.<sup>31</sup>

### 3.4 Damaged Facilities.

3.4.a. Inaccurate Meters. The utility should fix or replace dead or malfunctioning meters within thirty (30) days of the utility's discovery that a meter is dead or malfunctioning.<sup>32</sup>

3.4.b. Damaged Facilities Fee. When a water meter is damaged, the utility shall be responsible for repairing or replacing the first instance of such damage to a customer's meter. If the meter is damaged twice or more frequently within a twenty-four month period, the customer shall pay the lesser of the utility's full cost of repairing or replacing the damaged meter or the utility's tap fee for the second and all subsequent times damage occurs to the meter, provided, the utility has a damaged facilities charge in its tariff.<sup>33</sup>

## §150-7-4. Customer Relations.

### 4.1. Customer Information.

4.1.a. Information as to Service. Each utility shall, upon request, give its customers such information and assistance as is reasonable, in order that customers may enjoy safe and efficient service.

4.1.b. Explanation of Meter Readings. Each utility shall adopt some means of informing its customers as to the method of reading meters, either by a printed description on its bills, or by a notice to the effect that the method will be explained at the office of the utility upon request. It is recommended that an exhibition meter be kept on display in each sales office maintained by a utility.

4.1.c. Explanation of Rates. It shall be the duty of the utility to explain to the customer at the beginning of service, or whenever the customer shall request the utility to do so, the utility's rates applicable to the type of service furnished to the customer and all other classes of customers, and to assist him in obtaining the best rate for his service requirements. The responsibility for the selection, however, rests with the applicant. In the event the customer's use of service changes such that a rate schedule other than the one initially selected becomes favorable, the responsibility for requesting a change in rate schedule, consistent with the provisions of the service agreement, shall rest with the customer. The utility shall, on its periodic statements, annually inform its customers that, if they so request, it shall supply them with a copy of the utility's rate or rates applicable to the type of service to be furnished to all classes of customers with a concise written explanation of the rates, and an identification of any classes of customer for whom rates are not summarized.

### 4.1.d. Posting Requirements. ~~of law, rates, rules and collection agents.~~

1. Required Items. Every utility shall maintain in its office for inspection by the public the following:

A. ~~A copy of~~ The rates and rules of the utility, and of forms of contracts and applications applicable to the territory served from that office.

<sup>31</sup> Change made to recognize effect of prior version of Rules.

<sup>32</sup> Term moved from Rule 4.4.b.

<sup>33</sup> See Comments of Utility Coalition, at 3-4.

B. ~~A copy of~~ The Public Service Commission Law of this State.

C. ~~A copy of~~ These rules.

2. Notice of Information. A suitable placard, in large type, shall be exhibited in a conspicuous location, giving information to customers that a copy of the law, the rules of the Public Service Commission and the schedule of rates are kept for their inspection.

3. Notice of Collection Agents. Once a year, or as often as a utility changes collection agents, each utility shall publicize by newspaper or bill insert to its customers its collection agents to whom customers may deliver payment of water bills.

4. Notice of Potential Thermal Expansion High Pressure. If a utility elects to install a check valve in the meter pit or has back flow prevention devices on its system, the utility shall maintain in its office in a conspicuous location a notice advising customers of the potential for the development of high pressure within the customer's water system due to thermal expansion arising from the customer's use of hot water heaters and advise the customer that it should consider the installation of thermal expansion protection equipment on the customer's premises. The utility is not responsible for any cost associated with the installation of thermal expansion protection equipment, nor is the utility liable for any damages to person or property arising from the failure of thermal expansion protection equipment to work properly, or for the customer's failure or refusal to install thermal expansion protection equipment<sup>34</sup>.

#### 4.1.e. Applications for Water Service.

1. Written Application. All applicants desiring water service may be required to make written application at the office of the utility on printed forms provided therefore, setting forth in said application all purposes for which water will be used upon their premises including, whether service is desired on a year-round, seasonal, or temporary basis, and whether service is for fire protection.<sup>35</sup>

A. Landlords and Tenants. All applicants for service shall be required to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. ~~If the applicant is a tenant, he shall state the name and address of the owner or owners of the premises to be served.~~<sup>36</sup>

B. Identification. The utility may require the applicant to provide valid current identification at the time of application for service.<sup>37</sup>

5. C. Confirmation of Sewer Service. In the event that a ~~public service district~~ sewer utility provides sewer service ~~owns and operates facilities~~ within the same service territory as the ~~publicly or privately owned~~ water utility, ~~city, incorporated town, other municipal corporation or other public service district providing water service to the area,~~ then an application shall not be complete until such time as the applicant provides a receipt from the sewer ~~public service district~~ utility showing that, where the applicant is legally required to do so, proper application for sewer service has been made and accepted and a security deposit paid thereto.<sup>38</sup>

2. Notice to Sewer Utility. Upon receipt of said proof from the applicant, or upon a showing

<sup>34</sup> New term added for the reasons discussed in Utility Coalition Comments, at 10-11.

<sup>35</sup> Significant additional terms of service added.

<sup>36</sup> Since landlords are no longer secondarily liable for tenant utility bills, this provision is struck.

<sup>37</sup> New term to enable utility to confirm identity of applicants.

<sup>38</sup> Rule amended to clarify that confirmation of service applies to sewer utilities of all types.

that the applicant is not legally required to apply for sewer service or pay a security deposit, the water utility shall notify the sewer ~~public service district~~ utility, in writing, the date upon which water service is scheduled to be turned on to the applicant. Said written notification to the sewer ~~public service district~~ utility shall be made within five (5) working days of the date that the application for water service is deemed complete.<sup>39</sup>

A. Liability for Non-Compliance. In the event the water utility connects a customer without confirming that the customer has applied for sewer service and had its application accepted by a sewer utility, and the sewer utility is unable to collect from the customer, then the water utility is liable to the sewer utility for the amount of the non-payment, without any obligation on the sewer utility to file an action or record a lien against the non-paying customer.<sup>40</sup>

3. 3. Initiation Charges. Except as provided in Rule 4.8.d.e.2., no charge will be made for turning on the water to new customers where a meter is already installed or current customers transferring service to a new location where a meter is already installed, so long as the initiation occurs during regular working hours.<sup>41</sup>

4. 4. Effect of Approved Application. The utility's approval of an ~~Accepted~~ applications for water to be supplied to any premises shall constitute a right to the customer to take and receive a supply of water for said premises for the purposes specified in such application; (i.e. Residential, Commercial, and Industrial) subject only to the fulfillment of the conditions of these rules by the customer.

2.5. Customer Change. Any change in the identity of the contracting customer at a premises will require a new application for water, and the utility may, after reasonable notice, discontinue water service until such new application has been made and accepted, but the former customer shall remain liable for water furnished to said premises until he has given notice in writing to the utility to discontinue water service. In the event the customer of record has died or has become incapable of being responsible for water service, that individual's spouse may become the customer of record without being required to complete a new application for water service, or paying a new deposit.

4.1.f. ~~Special applications to a utility for water service.~~ Temporary Service.

1. Water for ~~building, construction or other temporary service purposes~~ must be specifically applied for with the utility.<sup>42</sup>

2. ~~Connections for private fire service must be specifically applied for with the utility.~~<sup>43</sup>

3. ~~Where water is desired for only a short period of time, and not continuously throughout the year, such as for vacation homes or cottages, building purposes, street paving, cleaning property, filling tanks or other short term uses, an application shall be made to the utility as set forth in Rule 4.1.e., and payment made in accordance with the applicable schedule of rates and charges, in which case a suitable deposit shall be made.~~<sup>44</sup>

<sup>39</sup> Rule amended to clarify that confirmation of service applies to sewer utilities of all types.

<sup>40</sup> New rule to enforce duty of water utilities to notify sewer utilities.

<sup>41</sup> Cross reference is modified to reflect further changes in these Rules as proposed by the Utility Coalition. Rule modified to clarify that tap fee still applies when a tap is installed.

<sup>42</sup> Rule is shortened and uses the defined term temporary service.

<sup>43</sup> Eliminated as redundant to Rule 4.1.f.1

<sup>44</sup> Rule is eliminated due to definition of term in definitions section of rule, and financial aspects are addressed in Utility Coalition proposed Rule 4.1.f.2.



4. 2. Financial Responsibility. Whenever a ~~street service connection is made to the mains for temporary service connection is made or for temporary private fire service,~~ the applicant shall bear the entire cost and expense of labor and material for tapping the main and installing the utility and customer service pipe and meter and its removal, if required.<sup>45</sup>

3. Terms of Service. The utility may charge a security deposit that includes the cost of removal of facilities, if removal is expected. The utility shall charge its tariff rates for the volume of water consumed.<sup>46</sup>

4.1.g. Private Fire Protection service.

1. Engineering Documents. The applicant shall furnish the utility with one set of complete drawings prior to the commencement of installation ~~completion~~ of the tap, showing the pipes, valves, hydrants, tanks, openings, and appurtenances contemplated in the application. Such ~~sketch~~ drawings must also show any other water supply system, pipelines and appurtenances existing on the premises. ~~There shall be no connection between such other supply and pipes connected to the utility's mains unless protected by a backflow prevention device approved by the utility, or the Bureau for Public Health.~~<sup>47</sup>

2. Flow Testing. The utility shall not approve an application for private fire protection service unless the utility determines that its system provides an adequate size water main with sufficient water volume and pressure. A flow test shall be performed as required by the State Fire Code, specifically as described within the incorporated NFPA Standard 291, to determine the water supply and pressure available in the utility's water main. The private fire protection system shall be designed based on the results of this flow test, with the understanding that the results of this test may not consistently be available on the utility's system.

3. Change in Engineering. The customer shall obtain in advance of construction the approval of the utility for any change, alteration or addition in the fixtures, openings and uses specified in the application. ~~The customer shall make its fire protection facilities available to the utility at all reasonable times.~~<sup>48</sup>

4. Connection Location and Size. The utility shall determine the size and location of any connections made to its distribution mains for private fire protection service, ~~and will, at the cost and expense of the customer, make the connection to its mains and install the service connection from the distribution main to a point at or near the property line.~~<sup>49</sup>

A. Cost of Connection. Upon acceptance of the application for private fire protection service, approval of design documents, and payment in advance of all applicable charges including labor, materials, and installation, the utility shall make the connection to its mains and install the service connection from the distribution main to a point at or near the property line.<sup>50</sup>

6. 5. Separate Service Line. Unless otherwise provided in a written agreement between the applicant and the utility, service lines for private fire protection service shall be distinct and separate from the regular or general water service line.

<sup>45</sup>Rule is amended to clarify extent of customer's obligation for facilities.

<sup>46</sup> New Rule to clarify utility's ability to charge a security deposit above the ordinary security deposit.

<sup>47</sup> Rule is amended to clarify that utility approves plans before construction begins. Last phrase is stricken to remove selective reference to BPH rules. All water systems are required to comply with aspects of BPH rules, as applicable.

<sup>48</sup> Rule modified to clarify that changes in plans must be approved by utility before construction begins. The inspection provision is moved to Utility Coalition proposed Rule 4.1.g.10.

<sup>49</sup> Financial provisions of Rule modified and placed at 4.1.g.4.A.

<sup>50</sup> Clarifies all conditions precedent to the utility constructing the private fire service connection.

A. Limitation of Use. A private fire service connection is furnished for the sole purpose of supplying water for the extinguishment of fires, and the use of water from such a connection for any other purpose is absolutely forbidden.

7. 6. Single Service Line. Where the applicant and the utility have entered into a written agreement that one service pipe be used for both general and fire purposes, ~~the entire service pipe on the applicant's premises will be installed and maintained by and at the cost and expense of the applicant as if it were solely a private fire protection service line.~~ The utility may set minimum construction standards and specifications for the applicant's portion of the dual purpose service pipe, and may require that its construction be subject to inspection by the utility. ~~Maintenance of the service line, from the main to the property line, will be the responsibility of the utility.~~<sup>51</sup>

A. Internal Separation. At the building to be served, the common service pipe shall separate into two service pipes, one for private fire protection and the other for general water service, unless the private fire protection service is for a residential one-or two-family dwelling. Residential one-and two-family dwelling Life Safety fire sprinkler systems based on the State Fire Code, standard NFPA 13D may be provided through the general water service connection, and the general service meter shall be placed at the property line. The utility will, at ~~it's~~ the applicant's cost and expense, install and maintain a water meter of appropriate size on the general water service pipe and the necessary piping and fitting for the meter setting. All dual purpose service lines must comply with all applicable Bureau for Public Health standards and regulations.<sup>52</sup>

B. Rates. The utility will charge the applicant for general water service based on the consumption through and size of the water meter installed, in accordance with its schedule of rates for general water service, with the exception that a residential one-or two-family Life Safety fire service supplied through a residential service meter shall be provided with a 1" meter and shall be charged based on the consumption through the meter. The minimum charge shall be based on a meter size no greater than the size of meter that would have otherwise been needed without residential fire service. This increased meter size is due to the potential volume necessary for a residential Life Safety fire service and for no other purpose. The utility shall, subject to Commission approval, charge the commercial applicant for private fire protection service in accordance with its schedule of rates for such service.

7. Backflow Prevention. Service lines supplying private fire protection ~~sprinkler~~ systems ~~only~~, must be protected by a minimum of two approved check valves. One of these check valves may be the alarm check provided as part of the ~~sprinkler~~ system. The other may be a detector check, double check valve assembly, or an approved single check valve. Specific requirements and/or installation procedures are governed by the Bureau for Public Health, but the backflow prevention requirements shall be no more stringent than the minimum standards necessary to protect the utility's main(s).

~~10.~~ A. Antifreeze. Under no circumstances will anti-freeze be permitted in the sprinkling systems unless a reduced pressure zone backflow preventer, approved by the utility or the Bureau for Public Health, is provided at the point of connection in the anti-freeze system.<sup>53</sup>

8. Gate Valves. A gate valve and curb box, or a post indicator and gate valve controlling the entire supply shall be placed at the curb or property line of the street in which the main is located or at such other points as may be approved by the utility, and shall be furnished and installed by and at the expense of

<sup>51</sup> Discussion of service line cost allocation is needless, as it is no different from ordinary service line cost allocations.

<sup>52</sup> Rule corrects grammatical error and clarifies that the applicant is responsible for the cost of installing special metering facilities.

<sup>53</sup> Paragraph moved to fall under backflow prevention topic.

the customer, and if required by the utility, said valve shall be installed in a valve pit or vault which shall also be furnished and installed at the expense of the customer.

~~42-9.~~ Sealing Facilities. Hydrants and other fixtures connected with a private fire service system may be sealed by the utility, and such seals may be broken only in case of fire or as specially permitted by the utility, and the customer shall immediately notify the utility of the breaking of any such seal.

~~41-10.~~ Testing. The entire private fire service system on the customer's premises shall be installed and maintained by and at the expense of customer and shall be subject to the inspection, test and approval of the utility before the service is made effective, and at such times thereafter as the utility deems necessary or appropriate. The customer shall make its fire protection facilities available to the utility for inspection at all reasonable times.<sup>54</sup>

~~43-11.~~ Notice of Testing. Whenever a fire service system is to be tested, the customer shall notify the utility of the proposed test, designate the day and hour when same is to be made, so that, if desired, the utility may have an inspector present during the test.

~~5-12.~~ Service Not Guaranteed. The extent of the rights of the private fire protection service customer is to receive, but only at times of fire on his premises, the available water supply. The utility shall not be considered an insurer of property or persons, or to have undertaken to extinguish fire or to protect any persons or property against loss or damage by fire or otherwise, and shall be free and exempt from any and all claims for damages on account of injury to property or persons by reason of fire, water, failure to supply water or pressure, or for any other cause whatsoever.

#### 4.1.h. Public Fire Service.

1. Right to Demand. Any governmental unit located in the utility's service area by ordinance of its Council or by resolution of its Board of County Commissioners shall have the right to order the installation of additional fire hydrants on existing utility owned mains having an internal diameter of six (6) inches or larger and the utility will install such hydrants at its own cost and expense; provided the estimated gross receipts from such proposed new fire hydrant rentals shall equal or exceed twelve percent (12%) annually of the cost of said installations.

2. Main Extensions. Where pipeline installations are required to carry out an order of any governmental unit located in the utility's service area to install fire hydrants, or where existing utility owned mains, in the opinion of the utility, are inadequate to provide fire flows to such hydrants, and when any governmental unit located in the utility's service area orders the installation of a water main of adequate size to provide such flows to the hydrant or hydrants so ordered, the utility will install such mains and hydrants at its own cost and expense; provided that the utility shall not be required to make extensions of said water mains unless the estimated gross receipts from private consumers and from such proposed new fire hydrant rentals shall equal or exceed twelve percent (12%) annually of the cost of such extensions.

3. Non-Emergency Use. Non-emergency use of a fire hydrant is prohibited unless there has been made advance notification of such proposed use by the user to the utility, and the utility has provided prior written approval of such use to the user. The utility shall charge its tariff rate for domestic water usage for all non-emergency fire hydrant water usage.

#### 4.2. Customer Deposits.

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<sup>54</sup> Last sentence moved from Rule 4.1.g.3.

4.2.a. Security Deposits.1. General. ~~Security deposits for utilities other than public service districts~~

A. Requirement. A utility, ~~other than a public service district~~ may require the applicant or customer to make a deposit with it initially, and from time to time, to secure the payment of water service rates and charges. This provision must be included in the utility's tariff filed with the Commission. The utility shall not be bound to supply water until ~~these conditions~~ its security deposit requirements are fulfilled and it may terminate water service if the security or increased security is not given when required. <sup>55</sup>

15. B. Discrimination Prohibited. All utilities that collect security deposits must do so in a non-discriminatory manner. <sup>56</sup>

C. Multiple Service Locations. Multiple service locations shall require multiple deposits. <sup>57</sup>

9. D. Transfer of Service. A current customer of a ~~public service district~~ who requests service at another location ~~within the jurisdiction of the district~~ and who has made payment of bills for the previous twelve (12) months without a delinquency is not required to pay a deposit for service at the new location. ~~because that customer is not a new applicant for service under W. Va. Code § 16-13A-9.~~ The preceding sentence shall not apply to multiple service locations or locations where the customer is a tenant on a municipal or public service district system. ~~Multiple service locations shall require multiple deposits.~~ <sup>58</sup>

E. Forfeit And Resumption. In any case where a deposit is forfeited to pay service rates and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the ~~district~~ utility until another deposit as described above has been remitted to the ~~district~~ utility. <sup>59</sup>

F. Death of Customer. In the event the customer of record has died or has become incapable of being responsible for water service, that individual's spouse may become the customer of record without being required to complete a new application for water service, or paying a new deposit. <sup>60</sup>

10. ~~All new applicants for residential or other service from a combined water and sewer public service district shall deposit (i) a minimum of fifty dollars (\$50.00), or (ii) two twelfths (2/12) of the annual estimated charge for water service, whichever is greater, for each of the services to be rendered.~~ <sup>61</sup>

12. G. Receipt. Concurrently with receiving a cash deposit, the utility shall deliver to the applicant for service or the customer, a receipt showing: (i) the date thereof, (ii) the name of the applicant or customer and the address of the premises to be served or served, (iii) the service to be furnished or furnished, and (iv) the amount of the deposit ~~and the fact that interest will be paid at a Commission determined rate.~~ Each utility shall provide automatic means to refund the deposit of a customer, when he is so entitled, if the original receipt cannot be produced. A receipt of proof or payment will not be necessary

<sup>55</sup> Rule amended to clarify that all types of water utilities can charge a security deposit. Specific provisions with respect to municipalities and PSDs

<sup>56</sup> Moved from Rule 4.2.a.14.

<sup>57</sup> Moved from Rule 4.2.a.8.

<sup>58</sup> Moved from Commission proposed Rule 4.2.a.8. and modified to clarify that it applies to all types of utilities, except with respect to tenants.

<sup>59</sup> Moved from Rule 4.2.a.2, and modified to clarify that it applies to all types of utilities.

<sup>60</sup> Moved from Commission proposed Rule 4.2.a.8.

<sup>61</sup> Stricken as unneeded given the statutory identity with respect to the security deposit practices of PSDs and municipal utilities.

under the provisions for an automatic refund.<sup>62</sup>

~~4.1. H. Record of Deposit. Each utility holding a cash deposit shall keep a record showing: (i) the name and current address of each depositor; (ii) the amount and date of the deposit; (iii) each transaction concerning the deposit.~~

~~After the customer has paid bills for service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit plus accrued interest. Calculation of the above twelve (12) months' period shall commence from the first regular payment or following the payment of a delinquent bill or bills. Interest at the rate as determined in accordance with Rule 4.2.a.7., shall be paid from the date of deposit until the date of the refund of the security deposit.~~<sup>63</sup>

~~2.1. Security deposits for public service districts Deposit Limits for Municipal Utilities and Public Service Districts. All new applicants for residential or other water service from a municipal utility or public service district, shall make a deposit of (i) a minimum of fifty dollars (\$50.00), or (ii) two-twelfths (2/12) of the annual estimated charge average annual usage for the applicant's specific customer class for water service, whichever is greater, with the utility to secure the payment of water service rates and charges. For combined water and sewer utilities such deposit shall not be more than either one hundred dollars (\$100) or two-twelfths (2/12) of the average annual usage of water service and wastewater service for the applicant's specific customer class, whichever is greater. The district shall not be bound to supply water until this condition is fulfilled.~~<sup>64</sup>

~~3.2. Deposit Limits for Other Water Utilities. For investor owned utilities, associations, and non-profit utilities, the security deposit shall not be more than one-twelfth (1/12) of the annual estimated charge for residential service or one-sixth (1/6) of the annual estimated charge for all other service.~~<sup>65</sup>

~~6.3. Segregated Accounts. Rule 4.2.a.4 requires public service districts to segregate deposits into interest bearing accounts. Upon proper showing by complaint or otherwise, the Commission may require any other utility to likewise segregate customer deposits.~~<sup>66</sup>

~~7. The interest rate to be paid by all water utilities other than public service districts shall be determined as follows. The rate which utilities shall be required to pay shall be the average of the one year United States Treasury Bill rates for October, November and December of the preceding calendar year. By January 15 of each year, Staff of the Commission shall make the necessary calculations and file with the Commission its calculations. The Commission will issue an order setting the rate to be paid by the utilities until the next annual Commission order. The simple interest shall be paid at the date of discontinuance of service or at the end of the deposit period.~~<sup>67</sup>

~~8. The interest rate to be paid by public service districts shall be determined as follows. The Staff of the Commission shall determine a rate which a typical small investor could receive at federally insured banks in W. Va. in the last quarter of each calendar year. The Staff shall by January 15 of each year report to the Commission its rate with supporting information. The Commission will issue an order setting the rate to be paid until the next annual Commission order. The simple interest shall be paid at the date of~~

<sup>62</sup> Interest provision stricken consistent with Utility Coalition proposal to eliminate the payment of interest on security deposits.

<sup>63</sup> Stricken consistent with Utility Coalition proposal to eliminate the payment of interest on security deposits.

<sup>64</sup> Combination of Commission proposed Rules 4.2.a.1 and .2, as amounts are statutorily identical. Last sentence stricken as redundant given Utility Coalition Proposed Rule 4.2.a.1.A.

<sup>65</sup> Specification of "other utilities" added, remainder transferred from Commission proposed Rule 4.2.a.1.

<sup>66</sup> Cross reference modified consistent with other modifications to this rule proposed by the Utility Coalition. Interest provision stricken consistent with Utility Coalition proposal.

<sup>67</sup> Stricken for reasons stated in Utility Coalition Comments, at 4-5.

discontinuance of service or at the end of the deposit period.<sup>68</sup>

### 3.4. Return of Deposit. ~~to customers who are not tenants~~

#### A. General.

1. Time of Return. The utility shall have a reasonable time, not to exceed thirty (30) days, to read and remove meters and to ascertain that the obligations of the customer have been fully performed before being required to return any deposit ~~in the case where there has not been an automatic refund.~~<sup>69</sup>

2. 12 Month Period. Calculation of the ~~above~~ twelve (12) months' period shall commence from the first regular payment or following the payment of a delinquent bill or bills.

B. Non-Tenants. After a customer who is not a tenant has paid bills for service for twelve (12) consecutive months without a delinquency the utility shall promptly and automatically refund the deposit ~~plus accrued interest.~~

4. C. Tenants on PSD or Municipal System. ~~Return of deposit by district to a customer who is a tenant. A Public service districts and municipal water systems is are not required to return a deposit to a customer who is a tenant until the time the tenant discontinues service with the district or municipal system. After a customer who is a tenant discontinues service with the district or municipal system, the utility shall promptly and automatically refund the deposit plus accrued interest.~~

D. Tenants on Other Systems. Investor owned utilities, associations, and non-profit utilities may not retain security deposits for tenant customers who have paid bills for service for 12 consecutive months without delinquency.<sup>70</sup>

5. ~~Interest at the rate as determined in accordance with Rule 4.2.a.8. shall be paid from the date of deposit until the date of the refund of the security deposit. Simple interest on any deposit held for more than one year shall be calculated based on the applicable current year's rate of simple interest as determined in accordance with Rule 4.2.a.8. All customer security deposits shall be placed in an interest bearing account at a local federally insured financial institution. The district shall have a reasonable time, not to exceed thirty (30) days, to read and remove meters and to ascertain that the obligations of the customer have been fully performed before being required to return any deposit in the case where there has not been an automatic refund.~~<sup>71</sup>

13 5. Unclaimed Deposits. Should a utility have retained, through no fault of its own, deposits made by customers to whom service has been discontinued during any calendar year, it shall, on or before the first day of March, in each year, mail to the customer's last known address a check as refund of the deposit ~~plus accrued interest, or at the utility's option.~~ For all mailed checks that are returned by the postal service, or for checks that are not cashed within 90 days of issuance, the utility shall by the 1st day of July publish a list of such depositors, in a newspaper published and of general circulation in each of the counties in which it operates and in which the deposits were made, showing as of the thirty-first (31st) day of December immediately preceding, the amount of each such deposit, ~~together with the interest due thereon,~~ and notifying depositors listed therein that their deposits, ~~together with accrued interest,~~ are being held to their credit and will be returned upon request. ~~The utility shall not be liable for any interest on such deposit after publication of such lists. Upon the completion of the above procedure,~~ Sixty days after publication, the

<sup>68</sup> Stricken for reasons stated in Utility Coalition Comments, at 4-5.

<sup>69</sup> Phrase stricken as unnecessary.

<sup>70</sup> Term added to clarify duty of other utility systems.

<sup>71</sup> Stricken for the reasons stated in Utility Coalition Comments, at 4-5.

utility shall follow the provisions of the Uniform Unclaimed Property Act, codified at W. Va. Code §36-8-1, with regard to the disposition of any unclaimed deposit.<sup>72</sup>

~~14. Provided that this rule shall not affect residential customer security deposits required by a utility prior to the passage of W. Va. Code §24-3-8 on March 12, 1983.~~<sup>73</sup>

#### 4.2.b. Guarantee Guaranty Agreement.

1. Utility Option. A utility, other than a public service district, may accept, in lieu of the cash deposit, a guaranty agreement signed by a financially responsible guarantor, whereby payment of a specified sum, not exceeding the cash deposit aforesaid, is guaranteed. The guarantor may, upon request, receive copies of disconnection notices sent to the customer whose account has been guaranteed: Provided that the limitations herein fixed upon the terms of a guaranty agreement shall not apply to industrial customers.

2. Termination. A guaranty agreement shall terminate after the customer has satisfactorily paid bills for twelve (12) consecutive months, or when the customer gives notice to the utility of discontinuance of service at the location covered by the guaranty agreement, or six (6) months after discontinuance of service where no notice was given, or at the guarantor's request upon thirty (30) days' written notice to the utility. Upon termination of a guaranty agreement, or whenever the utility deems the same insufficient as to amount of surety, a cash deposit or a new or additional guaranty may be required upon reasonable written notice to the customer.

~~3. Application in case of receiver or trustee. — The aforesaid provisions shall apply in the case of a receiver or trustee operating a business, under court order that requires utility service.~~<sup>74</sup>

#### 4.3. Billing Information.

##### 4.3.a. General.

1. Content. Bills shall be rendered periodically, and they shall show the readings of the meter at the beginning and end of the period for which the bill is rendered, the date of the meter readings, the number of cubic feet or gallons of water supplied, and the authorized rate. Each bill shall bear upon its face the latest pay date and the date it shall be a delinquent bill if not paid. On all bills which include charges for items other than authorized water charges, the other factors used in computing the bill shall be clearly stated so that the amount may be readily verified from the information appearing upon the bill. All bills shall state "This utility is regulated by the Public Service Commission of West Virginia" and "Rates available upon request."<sup>75</sup>

2. Estimated Bills. If the utility must, for any reason, render an estimated bill, the bill shall be clearly marked as an estimated bill.

4.3.b. Initial and Final Bills. First and last bills, monthly or quarterly, for water service rendered for periods of five (5) days more or five (5) days less than the normal billing period will be computed in accordance with the rate applicable to that service, by the amount of water blocks, and the minimum charge as set forth in that rate will be prorated on the basis of the number of days in the period in question, to the total number of days in the normal period.

##### ~~4.3.c. Utilities desiring to adopt mechanical billing of such nature as to render compliance with all~~

<sup>72</sup> Rule is changed to provide distinct phases to furnish customer with unclaimed refund.

<sup>73</sup> Stricken as no longer necessary.

<sup>74</sup> Stricken as unnecessary as guaranty agreements are an option to the utility in all circumstances.

<sup>75</sup> Rule combines in one place several separate rules regarding bill content.

the terms of Rule 4.3.b. impractical, may make application to the Commission for relief from part of these terms. After consideration of the reasons given when asking for relief, the Commission may allow the omission of part of these requirements.<sup>76</sup>

4.3.e. c. Late Payment Penalty. On all current usage billings not paid by the latest pay date, the greater of \$5.00 or ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate. This provision must be included in the utility's tariff filed with the Commission.<sup>77</sup>

#### 4.3.d. Damaged Facilities.

A. Damaged Meters. When a meter serving a customer is damaged to the extent it requires repair or replacement twice in any 24 month period, the utility may charge the customer a damaged facilities charge equal to the lesser of the cost to the utility to repair or replace the meter or the utility's non-certificate project tap fee, Provided, the utility has a damaged facility charge in its tariff. The first incident of meter damage shall be repaired or replaced by the utility without charge to the customer. All subsequent meter damage incidents within a 24 month period shall be charged to the customer as provided above.<sup>78</sup>

B. Bypass and Diversion Devices. Whenever utility discovers a device installed without its consent, including but not limited to "jumper" pipes or hoses to bypass a meter, unauthorized connections to a main, utility service pipe or customer service pipe, the utility may immediately terminate service without notice and require as a condition of restoration of service that the entity benefitted by the illicitly installed device pay the utility's damaged facilities charge equal to the utility's non-certificate project tap fee, provided that the utility has a damaged facilities charge in its tariff. The utility may, in addition, require payment of estimated usage during the period in which any unauthorized device was believed to be present, and all applicable regular charges, including, when applicable, tap fees.<sup>79</sup>

4.3.e.1- Application of Payment. When a utility receives a customer payment at a time when both a delinquent bill and a current bill are outstanding, the utility will apply the payment first to the current bill, and apply any leftover amounts to the delinquency. Provided, that this rule shall not apply to payments from customers whose delinquencies have been addressed in a deferred payment agreement. If a termination notice has been issued then the payment should first be applied to the delinquent amount that is the subject of the termination notice.

#### 4.4. Adjustment of Bills.

4.4.a. Fast Meters. If, upon test of any meter, the meter is found to have an average error of more than two percent (2%) fast, the utility shall refund to the customer the overcharge, based upon the corrected meter reading for a period equal to one-half (½) the time elapsed since the last previous test, but not to exceed six (6) months. If it can be shown that the error was due to some cause, the date of which can be fixed, the overcharge shall be computed back to but not beyond such date. If the meter has not been tested in accordance with Rule 6.4, the period for which it has been in service beyond the regular test period shall be added to the six (6) months in computing the refund.

4.4.b. Dead Meters. If a meter is found not to register, or that remote metering equipment has

<sup>76</sup> Stricken as redundant given the general waiver rule, 1.6.b.

<sup>77</sup> Rule is amended to provide a minimum late payment penalty, as for low rate utilities the 10% penalty isn't sufficient to discourage late payment or to cover the utility's administrative cost in mailing termination notices.

<sup>78</sup> New provision. See Utility Coalition Comments at 6-7.

<sup>79</sup> New provision. See Utility Coalition Comments at 6-7.



failed, for any period, the utility shall compute the water used by taking the average of the water used for the meter-reading period preceding and the meter-reading period following the date when the meter was found to be dead, which amount shall be assumed to be the amount of water used by the customer during the billing period in which the meter was found dead. Exceptions will be made to this rule in case the facts clearly show that the above method does not give the correct consumption for the period. A utility may backbill the customer for the difference between the amount previously billed and the customer's estimated usage for a maximum of three (3) months preceding the date the dead meter is repaired or replaced. ~~The utility should fix or replace dead or malfunctioning meters within thirty (30) days of the utility's discovery that a meter is dead or malfunctioning.~~<sup>80</sup>

#### 4.4.c. Leaks Adjustments. ~~on the Customer's Side of the Meter.~~

1. Policy Adoption. Each utility shall develop, and implement, and make available upon request a written policy concerning the adjustment of customer bills where the bill reflects unusual usage which can be attributed to leakage on the customer's side of the meter.

A. Ineligible Leaks. Leaking commodes, dripping faucets, malfunctioning appliances and similar situations shall not constitute leaks which entitle the customer to a recalculated bill.

B. Discrimination. The policy shall be ~~maintained in the utility's office for inspection by the public and shall be applied in a non-discriminatory manner to all customers. The reasonableness of the utility's policy or practice with respect to a policy shall be subject to Commission review in a formal complaint proceeding.~~<sup>81</sup>

2 C. Adjustments. The policy shall provide for a recalculated bill to reflect the utility's incremental cost of treating or purchasing the water, as contained in the utility's leak adjustment rate in its tariff, for all amounts volumes attributable to eligible leaks above the customer's historic usage. Historic usage shall be defined as the average usage of the preceding twelve (12) months, or actual period of service if less than twelve (12) months. If using the historic usage would result in an unreasonable calculation, adjustments may be made. ~~If such adjustments are made, the utility should advise its customer that a dispute regarding such adjustments may be taken to the Commission in the form of an informal complaint.~~<sup>82</sup>

3 i. Utilities Without Leak Adjustment Rates. ~~As an alternative to using the incremental cost of treating or purchasing the water, the utility may, at its option, use an adjustment which allows it to recover.~~ A utility without a leak adjustment rate in its tariff must use the Commission's estimate of "typical incremental" cost per thousand gallons of water on usage above the historic usage. The Commission shall from time to time establish its estimate of "typical incremental cost" by order.<sup>83</sup>

4. 2. Establishment of Leak Adjustment Rate. ~~However, i~~ In future rate cases the utility's incremental cost of treating or purchasing the water shall be determined and the rate placed in an appropriate the tariff as the leak adjustment rate. ~~After a rate has been determined in a rate case, the utility shall not have the option to use the Commission's estimate of "typical incremental cost" found in 4.4.c.3.~~<sup>84</sup>

<sup>80</sup> Moved to Rule 3.1.a.

<sup>81</sup> Language regarding the availability of the formal complaint proceeding stricken as redundant, as a utility is subject to a complaint for any violation of the rules.

<sup>82</sup> Language regarding the availability of the formal complaint proceeding stricken as redundant, as a utility is subject to a complaint for any violation of the rules.

<sup>83</sup> Change clarifies that utilities without a leak adjustment rate in the tariff must use the Commission's default leak adjustment rate.

<sup>84</sup> Language stricken as unneeded.

5. 3. Notice to Sewer Utility. The water utility shall, after determining that a leak adjustment must be made, notify the sewer utility of the amount of the adjustment in gallons and the reason for making the adjustment.

#### 4.5. Complaints.

4.5.a. Investigation of Complaints. Each utility shall make a full and prompt investigation of all complaints made to it by its customers, either directly or through the Commission. In the event that the complaint is not ~~adjusted~~ resolved to the satisfaction of the customer, the utility shall notify the customer that he may file an informal or formal complaint with the Commission.<sup>85</sup>

4.5.b. Records of Complaints. The utility shall keep a record of all complaints received, which record shall show the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made thereof.

4.5.c. Disposition of Records. Records of complaints shall not be destroyed until a summary has been prepared for permanent record, showing the character of complaints made, the number of each type received in each month, and the disposition of the complaints.

#### 4.6. Disputed Bills.

4.6.a. Investigation and Notice. In the event of a dispute between the customer and the utility respecting any bill, the utility shall conduct an investigation and report the result thereof to the customer. In the event that the complaint is not resolved, the utility shall, before service is discontinued, notify the customer that he may file an informal or formal complaint with the Commission.

4.7. Customer Discontinuance of Service. Any customer requesting service to be discontinued shall give written notice thereof to the utility, during regular business hours. The utility shall confirm that the person making the request is the utility's customer of record. Unless a different period shall be mutually agreed upon ~~by written contract~~, service will be discontinued by the end of the next business day. Until the utility shall have such written notice and be able to confirm that the person making the request is the utility's customer of record, the customer may be held responsible for all service rendered.<sup>86</sup>

#### 4.8. Utility Discontinuance of service for Non-Payment.<sup>87</sup>

##### 4.8.a. Notice of Discontinuance.

3. 1. Written Notice. ~~Where~~ Written notice is required to be made at least 10 calendar days before the utility disconnects service, and it must be sent first class mail, address service requested, or hand delivered or posted to the property where service may be terminated. Written notice shall comply with Water Form No. 1, attached to these rules. The written notice shall become void if the utility has not discontinued service within thirty (30) days of the date indicated on the notice for termination.

9. A. Notice to Landlord Customer. If a landlord of a single-unit dwelling or a master-metered mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling is responsible for payment of a utility bill, written notice of termination in the form of Water Form No. 2 shall be placed at a location readily available for public inspection on the premises at least five (5) days prior to

<sup>85</sup> Change made to reflect that not all customer complaints concern billing.

<sup>86</sup> Changes made to clarify that written notice is required, and that the utility may insist on identification.

<sup>87</sup> Change in scope of rule. Other reasons for utility discontinuance of service addressed at Rule 4.9. Rule 4.8 is generally reorganized to follow the temporal steps a utility takes in disconnecting for non-payment.

the scheduled termination of service to that mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling. If the billing address for any single unit service is different than the service location, a written notice in the form of Water Form No. 2 shall be delivered or posted at a visible location on the premises where the service is to be terminated at least five (5) days prior to the scheduled termination. This notice shall inform the occupant(s) of the date on or after which termination of service will occur and shall state the steps the occupant(s) can take to avoid termination of service.

2. Personal Contact Attempts. - Prior to disconnecting water service for non-payment of either a water, a stormwater, or a sewer bill, ~~the water utility shall make at least two (2) attempts to notify the customer through personal contact shall be required. First the water utility shall either telephone or visit the customer at least twenty four (24) hours prior to a scheduled disconnection. Second, the water utility shall knock on the customer's door immediately prior to a disconnection.~~ The two (2) attempts to notify shall be made by personal contact at least twenty-four (24) hours prior to the scheduled termination unless it is reasonably established that the premises are not permanently inhabited. The inability to make personal contact shall not prevent the water utility from terminating service.<sup>88</sup>

5. ~~Service shall not be discontinued on a Saturday, Sunday, any day that is a federal or state holiday, a day on which the utility's business office is not open to accept payment, or on the day before such days, unless an emergency exists.~~<sup>89</sup>

6. ~~All disconnections shall be performed between the hours of 8 a.m. and 4 p.m.~~<sup>90</sup>

3. Payment Prior to Termination. The payment must be for the entire amount of the delinquency to prevent termination. ~~However,~~ a utility may refuse payment by check if the customer has, during the previous twelve (12) months, attempted to make payment by a check subsequently returned by the bank for insufficient funds

7. A. Payments Outside of Office. The utility shall may, in its discretion, accept payment at the customer's premises in lieu of discontinuing service for either a delinquent water, stormwater, or sewer bill. The utility, in its discretion, may refuse to accept payment in cash at the customer's premises.<sup>91</sup>

8. B. Bad Checks. If a customer has received notice of a scheduled termination, and, to avoid such termination, makes payment by check which is subsequently dishonored by the bank, the utility may then terminate service ~~only after it has mailed without further notice, by first class mail, to the customer at least five (5) calendar days, excluding state or federal holidays, prior to termination; provided that at the option of the utility, either personal contact or telephone contact may be substituted for contact by first class mail.~~<sup>92</sup>

C. Administrative Fee. The utility may add a \$25.00 administrative fee to the bill of a customer when the utility has sent personnel to disconnect a customer's service and the customer makes payment prior to disconnection, provided the utility has such an administrative fee in its tariff.<sup>93</sup>

<sup>88</sup> Rule is amended to clarify it may apply to non-payment for stormwater service.

<sup>89</sup> Moved to Rule 4.8.a.5.

<sup>90</sup> Moved to Rule 4.8.a.5.

<sup>91</sup> Rule changed to make acceptance of payment outside of office discretionary to the utility for the same reasons stated in the comments filed by the West Virginia Rural Water Association, Tomlinson Public Service District, and the Berkeley County Public Service Water District. Reference to termination for non-payment of stormwater added.

<sup>92</sup> See Utility Coalition Comments, at 5-6..

<sup>93</sup> See Utility Coalition Comments, at 6-7.

i. Multiple Trips. When the utility is required to make multiple trips to disconnect service due to the presence of obstructions preventing safe access to the meter, the utility may charge an administrative fee for each trip, and, in addition thereto, add a charge to the customer's bill for unusual costs incurred by the utility in implementing the disconnection, including but not limited to towing fees, animal control costs, and additional utility personnel.<sup>94</sup>

~~4. For the purposes of this rule, personal contact includes both face-to-face meetings, and telephone calls with a responsible adult member of the household.~~<sup>95</sup>

4. 10. Deferred Payment Agreement. A water customer who has been notified that water service is to be terminated for non-payment of water bills shall be given the opportunity to enter into a deferred payment agreement: Provided, that the customer has demonstrated an ability to pay but only in installments. The customer shall be informed at the time a disconnect notice is issued of the availability of a reasonable payment plan.

A. Factors. The details of the deferred payment agreement are to be negotiated between the utility and the customer and may consider several factors, including, but not limited to the following: amount of the delinquency; ability of the customer to pay; payment history; time the delinquency has been outstanding; reasons why the delinquency has been outstanding; and any other relevant factors.

B. Notice of Right to Challenge. The deferred payment agreement shall include language informing the customer of the right to challenge the reasonableness of the proposed payments to the Commission.

C. Payment While Challenge Pending. During the challenge, the utility may not terminate service: provided that the current bill must be paid by the customer on time and in full in order to protect his rights under this rule.

D. Payment Obligation. Once a deferred payment agreement has been established, the customer must pay the current bill on time and in full and make timely payments in accordance with the deferred payment agreement.

~~E. Breach. If the deferred payment is not received in accordance with the terms of the agreement or the payment is made with a check subsequently dishonored by the bank, the utility may terminate service only after it has mailed written notice, by first class mail, to the customer at least five (5) calendar days, excluding state or federal holidays, prior to termination: provided that at the option of the utility, either personal contact or telephone contact with the customer may be substituted for contact by first class mail. If the customer makes the delinquent payment within that notice period, service shall not be terminated. However, if the customer has, during the previous twelve (12) months, attempted to make payment by a check which was subsequently dishonored by the bank the utility may refuse the customer's check and immediately terminate service without additional notice.~~<sup>96</sup>

~~E. F. Renegotiation. If the customer's financial condition significantly changes and the existing payment agreement results in hardship, the utility shall renegotiate the payment agreement, consistent with the provisions of Rule 4.8.a.10-A 4.A. The customer shall provide documentation in support~~

<sup>94</sup> See Utility Coalition Comments, at 6-7.

<sup>95</sup> Term stricken because it would effectively not count as valid programmed calls, e-mail, communications with a customer who is not "responsible", i.e., has Alzheimer's Disease, and rule could lead to disclosure of confidential customer information to someone who is not the customer of record.

<sup>96</sup> Last sentence stricken as redundant given Rule. 4.8.a.3.

of his claim that his financial condition has changed. During the renegotiation period the customer must continue to pay the current bill on time and in full and make some payment on the delinquency.

~~4~~ 5. Time of Termination. Service shall actually be discontinued no sooner than ten (10) days following the date that a utility has mailed to a customer a statement that water bills are delinquent. Service shall not be discontinued on a Saturday, Sunday, any day that is a federal or state full or partial holiday, a day on which the utility's business office is not open to accept payment, or on the day before such days, unless an emergency exists. All disconnections shall be performed between the hours of 8 a.m. and 4 p.m. <sup>97</sup>

~~11~~ 4.8.b. Termination of Water for Non-Payment of Sewer System Charges. In the case of a sanitary sewer utility or a municipal separate storm sewer system ("MS4") requesting termination of water service for non-payment of sewer service, the sewer utility system shall provide the customer written notice complying with Sewer Form No. 1, ten (10) days before the effective termination that the sewer utility system will request termination of water service by the water utility if payment is not made in full or, for sanitary sewer utilities, a payment schedule is not established as provided by Sewer Rule 4.8.a.10 4. The written notice must be sent first class mail, address service requested. This notice shall contain a provision notifying the customer that in the event water is terminated the customer will be responsible for and required to pay the fees charged to the sewer utility system by the water utility. <sup>98</sup>

~~12~~ A. Notice to Water Utility. A sewer utility system requesting termination of water service for non-payment of sewer bills shall provide the water utility with a copy of the notice to the customer required by consistent with Sewer Rule 4.8.a.1. ~~13~~ A sewer utility system will provide the water utility with a written request for termination of water service for non-payment at least twenty-four (24) hours before the end of the ten (10) day notice period to the customer. <sup>99</sup>

4.8.b c. Reconnection. Once a disconnected customer has paid his delinquency in full, or the utility has agreed to enter into a deferred payment agreement with the customer, and all disconnect and/or reconnect fees have been paid, the utility shall reconnect the customer's water service as soon as possible but no later than twenty-four (24) hours from the time the customer pays all disconnect and reconnect fees.

4.8.e. d. Charge for Reconnection.

1. Utility Termination. Whenever the supply of water is turned off for violation of rules, non-payment of bills, or fraudulent use of water, the utility may make a charge as set forth in its tariff for reestablishment of service.

2. Customer Termination. If service is discontinued at the request of the customer, the utility may refuse service to such customer, at the same premises, if requested within eight (8) months of the date service was discontinued, unless the customer shall first pay the reconnection charge set forth in the utility's tariff.

4.8.d e. Treatment of Households. The utility shall not ~~refuse, deny, or~~ discontinue service to an applicant or present customer due to a delinquency in payment for service by a previous occupant of the premises to be served unless such applicant or present customer and such previous occupant are members of the same household and were members of the same household at the time the delinquent bill was incurred. <sup>100</sup>

<sup>97</sup> Consolidation of several rules.

<sup>98</sup> Rule amended to add non-payment of stormwater. Since stormwater systems are not regulated by the Commission, they are not required to offer deferred payment agreements. Proposed rule reflects the distinction between stormwater systems and sanitary sewer utilities.

<sup>99</sup> Rule amended to address stormwater systems.

<sup>100</sup> Rule amended to address disconnection only. Similar rule addressing denial of service appears at Rule 4.10.d.

4.8.e. f. Combined Water and Sewer public service districts Utilities. Any public service district utility providing water and sanitary or stormwater sewer service to its customers shall have the right to terminate water service for delinquency in payment of either water or sewer bills; provided that proper notice is given and procedures followed as set out in these Rules.<sup>101</sup>

4.8.f.g. Inter-utility Agreements regarding for Discontinuance of Water Service for Non-Payment of Sewer bills.

1. In the event that any utility, (whether public, private, city, incorporated town, municipal corporation or public service district) owns and operates either water facilities or sewer facilities, and a separate utility owns and operates the other kind of facilities, either water or sewer, then the two utilities shall covenant and contract with each other to shut off and discontinue the supplying of water service for the non-payment of sewer service fees and charges; provided that proper notice is given and procedures are followed as set forth in Rules 4.8.a.1. through 4.8.a.13. Eligible Parties. A sanitary sewer utility or an MS4 may contract with a water utility to discontinue the supply of water service for non-payment of sanitary sewer or MS4 service fees and charges.<sup>102</sup>

2. Municipal sewer — When sewer facilities are municipally owned and water facilities are not, the municipality providing sewer service may require the water utility to discontinue water service to any customer who is delinquent in the payment of sewer service rates and charges to the municipality. The water utility shall discontinue water service upon demand of the municipality for this purpose; however, prior to discontinuance of any water service, the municipality shall contract with the water utility which contract shall provide that the municipality shall reimburse the water utility for all costs and expenses incurred in both the termination of water service to the delinquent sewer customer and the subsequent resumption of water service to such customer.<sup>103</sup>

## 2. Terms.

A. Indemnity. The contract shall provide for reasonable methods and assurances so that the water utility will be protected and held harmless from claims and damages when water service is discontinued in error or in violation of the rights of the customer through the fault of the ~~municipal sewer utility~~ system.<sup>104</sup>

3 B. Procedures. The inter-utility agreement should contain specific provisions regarding responsibilities of notice of termination, termination, reconnection, and reasonable fees based on ~~fair and reasonable compensation~~ tariff charges.

4-3. Commission Approval. Any inter-utility agreements pursuant to Rule 4.8.f.2h. shall be submitted to the Commission for approval prior to any termination of water service for non-payment of sanitary sewer or MS4 bills under such agreements.<sup>105</sup>

4. Notice and Procedure. Prior to termination of water service, proper notice must be given and procedures followed as set forth in these rules.<sup>106</sup>

<sup>101</sup> Rule amended to address stormwater systems and to clarify that it applies to any utility providing both water and sewer service.

<sup>102</sup> Rule amended to make more concise and to address MS4 systems.

<sup>103</sup> Term stricken as redundant given other rules.

<sup>104</sup> Rule amended to broaden scope to include all types of sewer systems.

<sup>105</sup> Rule amended to clarify application to MS4 systems.

<sup>106</sup> Stricken as redundant.

~~5. A water utility that has terminated or reconnected service for non-payment of sewer bills or that has made a visit to the customer's premises to terminate service, may charge the sewer utility a fee pursuant to Rule 4.8.e. The sewer utility may include this charge in the billing to the delinquent customer; provided that such charge is included in the sewer utility's approved tariff.~~<sup>107</sup>

4.8.g. 4. Deferred Payment Agreement. A sanitary sewer customer who has been notified that water service is to be terminated for non-payment of sanitary sewer bills shall be given the opportunity to enter into a deferred payment ~~on the same terms and conditions set forth in Rule 4.8.a.10. as provided in Rules for the Government of Sewer Utilities, 150 WVCSSR Series 5.~~ An MS4 system is not obligated to offer or to enter into a deferred payment agreement.<sup>108</sup>

#### 4.9. Utility Discontinuance for Other Reasons.

4.9.a. Termination Without Notice. Where conditions hazardous to life or property or continuity of service to other customers are found to exist on the customer's premises, where the utility's regulating, measuring or distribution equipment or facilities have been tampered with or damaged, or where the customer is violating a utility's water conservation plan, the water may be shut off without notice in advance.<sup>109</sup>

4.9.b. Termination With Notice. Where a customer has failed to post or re-post a security deposit, failed to provide the utility with access to a customer service line, or where the customer's service line is in a condition that is not compliant with these rules, the utility may terminate service following the notice required by Rule 4.8.a.<sup>110</sup>

#### 4.9.10. Refusal to Serve Applicant.

4.9.10.a. Non-Compliance With Rules. Any utility may decline to serve an applicant until he has complied with these rules and the Commission approved utility's rules set forth in a Commission approved tariff governing water service.

4.9.10.b. Applicant's Facilities Inadequate. The utility may refuse to serve an applicant if, in its judgment, the applicant's installation of piping equipment is regarded as hazardous or of such character that satisfactory service cannot be provided.

4.9.10.c. Uncollectible Bills. A bill which has been found to be contractually uncollectible by a court or could reasonably be found to be uncollectible by reason of an applicable statute of limitations shall not be used by a utility to deny or discontinue service.

4.8. 10.d. Treatment of Households. The utility shall not refuse service to an applicant due to a delinquency in payment for service by a previous occupant of the premises to be served unless such applicant and such previous occupant are members of the same household and were members of the same household at the time the delinquent bill was incurred, or the applicant is a tenant and the landlord has a delinquency.<sup>111</sup>

<sup>107</sup> Deleted as unneeded given other changes.

<sup>108</sup> Rule amended to provide distinct procedures applicable to MS4 and sanitary sewer utilities.

<sup>109</sup> Rule modified to clarify that utility can terminate service to customer where large leak threatens service to other customers, where user has tampered with or damaged utility's facilities.

<sup>110</sup> New provision to put into one place other reasons for termination of service.

<sup>111</sup> New term, modeled upon Rule 4.8.d. with addition that a tenant can be denied service if a landlord has failed to pay a delinquency.

4.9.10.e. Main Extensions. In the case of the establishment of a new utility and/or extensions, when the utility has received applications for service and has accepted the tap-fee for same; the utility will ~~immediately~~ upon receiving bids for such installation determine the feasibility of serving the areas in question and ~~immediately advise the applicants~~. In the event an area is deemed infeasible to serve, the tap-fee deposit will be returned to the applicant immediately. <sup>112</sup>

4.9.d 10.f. Applicant's Recourse. In the event that the utility shall refuse to serve an applicant under the provisions of this rule, the utility must inform the applicant that the question may be submitted to the Commission for decision.

~~It is suggested the utility design its application form to reflect the above procedures.~~ <sup>113</sup>

~~4.10. Change in Character of Service. When a substantial change is made by a utility in water pressure, or other conditions affecting the efficiency of operation or adjustment of appliances, the utility shall inspect and readjust the appliances of all customers in the district affected, if necessary, without charge. Where circumstances require, the utility shall furnish and install suitable pressure regulating devices.~~ <sup>114</sup>

#### 4.11. Access to Property.

4.11.a. Reasonable Access. The utility shall at all reasonable times have access to meters, service connections and other property owned by it on customer's premises, for the purpose of maintenance and operation. Neglect or refusal on the part of customers to provide reasonable access to meters, service connections and other property owned by the utility for the above purposes shall be deemed to be sufficient cause for discontinuance of service, subject to the notice and procedures provided in these rules, unless immediate termination is required to protect life, property, or the continuity of service to other customers. <sup>115</sup>

4.11.b. Identification for Employees. Every employee, whose duties regularly require him to enter the homes of customers, shall wear a distinguishing uniform or insignia, identifying him as an employee of the utility and shall carry on his person an identification card which will identify him as an employee of the utility, containing a photograph of said employee. The identification card shall contain the telephone number of the utility as well as other pertinent information necessary to identify the employee. All other employees, whose duties require occasional entry into the homes or premises of customers, shall carry an identification card containing information as herein required.

#### 4.12. Service Interruptions.

4.12.a. Records of Interruptions. Each utility shall keep a record of all interruptions of service affecting its entire system or major divisions thereof, including a statement of the time, duration, and cause of the interruptions.

4.12.b. Notification to Customer for Scheduled Interruptions. Every customer affected shall be notified in advance of contemplated work which will result in an interruption of service.

4.12.c. Curtailment or Restriction Service Policy. Each utility shall file with the Commission for any contemplated curtailment or restriction policy to any customers, prior to such curtailment or restriction policy being put into effect. The following information shall be supplied:

<sup>112</sup> Rule amended to remove excessive notification.

<sup>113</sup> Term removed as it is advisory only.

<sup>114</sup> Term stricken as it entails utility personnel entering customer premises, raising insurance and bonding costs to utilities.

<sup>115</sup> Rule amended to clarify that notice is required to termination except in specified circumstances.



1. Reason for curtailment or restriction of service.
2. Date curtailment or restriction policy requested to begin.
3. Duration of policy and projected correction programs with time parameters for completion.

4.12.d. Notice required for unscheduled interruptions — In the event of an unscheduled service interruption, the Bureau for Public Health and the Commission shall be notified as soon as possible upon a utility becoming aware of an unscheduled service interruption. Additionally, customers and the general public shall be made aware of the unscheduled service interruption by utilizing one or more of the following acceptable methods of public notification as appropriate:

A. Fax/e-mail notification to local radio and television stations, cable systems, newspapers and other print and news media in the affected area as soon as possible after the event occurs. The notification must provide relevant information about the event, such as the affected location, its potential impact including possible adverse health effects and the population or subpopulation particularly at risk, and a description of actions affected ratepayers/occupants should take to ensure their safety, with updates as often as needed.

B. Use of the utility's own Internet web site and 24/7 emergency phone line and integrated voice response system to provide relevant information about the event, such as the affected location, its potential impact including possible adverse health effects and the population or subpopulation particularly at risk, and a description of actions affected ratepayers/occupants should take to ensure their safety, with updates as often as needed.

C. Automated dialer system (outbound dialing) notification to affected ratepayers'/occupants' landline or wireless phones.

D. Actual notice to affected health care and childcare facilities and other facilities, for example, schools and restaurants, as determined by consultation with the Commission, the Bureau for Public Health, the Department of Environmental Protection and other state agencies as necessary.

E. Other types of direct or actual notice, such as doorknob flyers distributed to affected ratepayers/occupants, when feasible.

F. Email and text message notification to affected customers who have opted to receive notice through use of these methods.

G. Coordination with state and local emergency management agencies as needed to use any emergency alert system available for qualifying situations.

4.12.e. Public Notice Templates — Utilities should have public notice templates prepared in advance to be available when needed to avoid wasting critical time developing materials when confronted with an unscheduled service interruption. The notices should cover all possible scenarios from water conservation to boil water alerts to contaminants of concern and associated health effects.

4.12.f. Utility Contact Person — To ensure that the public is informed, utilities should have a knowledgeable contact person stationed onsite during the emergency, if possible, to communicate to the

public and media on behalf of the company. <sup>116</sup>

4.12.g. Water utilities should make a reasonable effort to ensure that adequate quantities of alternative supplies of water essential for domestic use are made available in a sufficient number of conspicuous and predetermined locations relative to the number of customers affected by the incident. This includes the use of water tankers or free bottled water, or both. Utilities should ensure that customers are adequately notified of the times available and locations of alternative water supplies. When bottled water is used, utilities should have plans in place, based on prior coordination with local vendors, to have adequate supplies to last for the duration of the outage. The Commission encourages utilities to work proactively with community-based organizations that would have readily available information on the location and special needs of affected elderly or homebound customers in the area. <sup>117</sup>

#### 4.13. Moratoria.

4.13.a. Petition. A utility, Commission Staff, or governmental entity may petition the Commission in writing for the imposition of a moratorium on a system. The petition should include evidence of the existence of conditions outlined in Rule 4.13.d. If the utility is the petitioner, it must state the utility's plan to remediate those conditions.

4.13.b. Public Notification Notice of Petition. A party petitioning for a moratorium shall notify the public that such request is being made, through a Class II legal advertisement in the form of Water Form No. 3, "Public Notice of Filing of a Petition for Imposition of a Moratorium" attached to these Rules, published no later than fifteen (15) calendar days from the date such request is made to the Commission. The notification shall clearly state which areas of the utility's system are affected, and that interested parties may submit comments to the Commission for consideration.

4.13.c. Refusal of Service. A utility may not deny service to a prospective customer on grounds of a moratorium until the Commission or another State agency has imposed a moratorium. ~~Any utility denying service to a prospective customer or group of customers due to a moratorium shall notify, in writing, all applicants for service of their right to file with the Commission a request for exemption from the moratorium.~~ <sup>118</sup>

4.13.d. Conditions. The Commission may impose a moratorium on a system, either entire or apportioned, whenever sufficient evidence exists that the existing facilities are operating in excess of design capacity, that the system capacity necessary for future demand does not exist, that a sale for resale customer is using water in excess of its contractual rights, or when an increase in customers will result in the degradation of service to existing customers. <sup>119</sup>

4.13.e. Improvements to System. A utility upon which a moratorium is imposed shall continue to seek improvements to its system necessary to lift the moratorium. The Commission may, at its discretion, require the utility to submit reports outlining all progress made toward system improvements.

4.13.f. Exemptions. Any utility denying service to a prospective customer or group of customers due to a moratorium shall notify, in writing, all applicants for service of their right to file with the

<sup>116</sup> See Utility Coalition Comments, at 8-9.

<sup>117</sup> Utility Coalition opposes for the reasons stated in the comments filed by Lubeck PSD, and additionally notes that oftentimes other agencies in a community can furnish bottled water in such situations.

<sup>118</sup> Rule amended to acknowledge efficacy of moratoria imposed by other state agencies.

<sup>119</sup> Rule amended to specify that a utility may petition the Commission for imposition of a moratorium based upon a sale for resale system exceeding its contractual right to capacity.

Commission a request for exemption from the moratorium. Any prospective customer or group of prospective customers may apply to the Commission for an exemption from an existing moratorium. Such requests shall be made in writing by the prospective customer(s) to the Commission, and shall include justification for the proposed exemption.<sup>120</sup>

4.13.g. Imposition by Other State Agency. A utility must immediately notify the Commission in writing if a State agency other than the Commission imposes a moratorium on the utility's system. The issuance of a moratorium by another State agency is effective upon issuance, and remains in effect until modified or removed by the State agency issuing the moratorium.<sup>121</sup>

#### 4.14. Local Water Rationing Plans.

4.14.a. Authority. Upon giving notice to the Commission and the general public, any water utility declaring a temporary shortage of water, and that it is necessary for the health and welfare of the utility's customers to restrict the consumption and use of the existing water supply, shall be authorized to enforce the following Local Water Rationing Plan ("Plan") to restrict use of water to human consumption and for sanitary purposes. If a utility wishes to adopt a water rationing plan different from the following Local Water Rationing Plan, it may petition the Commission for permission to do so.

##### 4.14.b. Definitions.

1. "Emergency Service Area". The area or areas within which the utility has declared a state of drought and water shortage emergency.

2. "Excess Use". The usage of water by a water customer in excess of the water allotment provided under the Local Water Rationing Plan for that customer, over any applicable period.

3. "Service Area". The territory and the customers serviced by the utility.

4. "Service Interruption". The temporary suspension of water supply, or reduction of pressures below that required for adequate supply, to any customer, portion of a water supply system or an entire system.

4.14.c. Purpose. This Plan is intended to establish measures for essential conservation of water resources, and to provide for equitable distribution of limited water supplies, to balance demand and available supplies and to assure that sufficient water is available to preserve public health and safety within an emergency service area.

4.14.d. Scope. This Plan shall apply to all water uses within a utility's emergency service area including uses by customers of wholesale customers of the utility.

##### 4.14.e. Objective of the Plan.

1. Reduced Usage. It is imperative that water customers within an emergency service area reduce water use in order to extend existing water supplies, and to assure that sufficient water is available to preserve the public health and sanitation, and provide fire protection service and electric power generation.

2. Equitable Burden. This Plan requires equitable reductions in water usage, and for equal

<sup>120</sup> Rule combines two components of current Rules 4.13.e and .f

<sup>121</sup> Rule confirms effectiveness of moratoria issued by other state agency.

sacrifice on the part of each water customer, insofar as such restrictions do not interfere with the public health, adequate fire protection and the generation of electric power. The success of this Plan depends on the cooperation of all water customers in the emergency service area.

4.14.f. Measures to Implement the Water Rationing Plan. Each water supply purveyor, including resellers, within the emergency service area, will develop and adopt necessary and appropriate measures to assure compliance with requirements of this Plan.

4.14.g. Prohibiting Non-Essential Water Uses. The following water uses are non-essential and are prohibited within an emergency service area:

1. Watering of outside shrubbery, trees, lawns, grass, plants or any other vegetation, except from a watering can or other container not exceeding three (3) gallon capacity. This limitation shall not apply to vegetable gardens, greenhouse or nursery stocks and newly established lawns or sod less than five (5) weeks old, which may be watered in the minimum amount required to preserve plant life before 8:00 a.m. or after 6:00 p.m.
2. The watering of golf course fairways.
3. The washing of automobiles, trucks, trailers or any other type of mobile equipment except in vehicle wash facilities operating with a water recycling system with a prominently displayed sign in public viewing so stating, or from a bucket or other container not exceeding three (3) gallons.
4. The washing of streets, driveways, parking lots, service station aprons, office buildings, exteriors of homes or apartments or other outdoor surfaces.
5. The serving of water in restaurants, clubs or eating places unless specifically requested by the individual.
6. Ornamental water use, including but not limited to fountains, artificial waterfalls and reflecting pools.
7. The use of water for flushing sewers or hydrants by municipalities or any public or private individual or entity except as deemed necessary in the interest of public health or safety by the utility.
8. The use of fire hydrants by fire companies for testing fire apparatus and for fire department drills except as deemed necessary in the interest of public safety and specifically approved by the municipal governing body.
9. The use of fire hydrants by municipal road departments, contractors and all others, except as necessary for fire fighting or protection purposes.
10. The filling of swimming or watering pools requiring more than five (5) gallons of water, or the refilling of swimming or wading pools which were drained after the effective date of the order, except that pools may be filled to a level of two (2) feet below normal, or as necessary to protect the structure from hydrostatic damage, as to pools constructed or contracted for on or after the date of the final order.

~~4.14.h. Recourse. Any person aggrieved by a utility's decision relating to these rules may file a complaint with the Commission.~~<sup>122</sup>

<sup>122</sup> Term stricken as redundant given that utilities are subject to the filing of a complaint for any violation of these rules.

4.14.i. Penalties. Any person who violates the provisions of this Plan, who fails to carry out duties and responsibilities imposed by this Plan or who impedes or interferes with any action undertaken or ordered pursuant to this Plan, shall be subject to the following penalties:

1. Warning. For the first excess use, the utility shall issue a warning of possible discontinuation of service or imposition of a double rate surcharge.<sup>123</sup>

2. Termination or Surcharge. For the second or subsequent excess use, the utility may interrupt or shut off service to the customer without notice, or the utility may add a surcharge of ten percent (10%) to double the end user's monthly bill for the month billing period of the infraction.<sup>124</sup>

4.14.j. Effective Period. This Plan shall remain in effect until terminated by action of the utility declaring an end to the emergency condition or until terminated by order of the Commission, whichever comes first.

~~4.14.k. Effective date. This Plan shall take effect immediately upon adoption by the utility.~~<sup>125</sup>

#### 4.15. Resale of Water.

Water furnished on approved rates or contracts by a public utility shall not be resold or caused to be resold by any customer unless the said customer is engaged in the business of distributing water as a public utility. When a utility learns that a customer that is not a public utility is reselling water, the utility shall continue to provide water to the customer, subject to the terms of these rules and the utility's tariff, until the Commission enters an order to modify or terminate service.<sup>126</sup>

### §150-7-5. Utility Facilities; Service Pipes; Extension of System.

#### 5.1. Adequacy of Facilities.

5.1.a. Construction and Maintenance of Plant. Each utility shall at all times construct and maintain its entire plant and system in such condition that it will furnish safe, adequate and continuous service.

~~5.1.b. Quality of water~~ Compliance with Health-BPH Rules. Every water utility shall comply with the rules of the Bureau for Public Health governing design and construction of facilities, operation of facilities, ~~and~~ quality of water, testing of water, ~~operation of filter plants and such other rules they may prescribe, pursuant to law, having as their ultimate end the purity of water.~~ All water furnished by a utility for domestic use, shall be ~~pure~~, wholesome, potable and in no way dangerous to the health of the consumer.<sup>127</sup>

~~5.1.b.~~ 5.1.c. Inspection of Plant. Each utility shall inspect its plant and facilities in such manner and with such frequency as is necessary to insure a reasonably complete knowledge as to their conditions and adequacy at all times. ~~Such inspections must comply with the requirements of the legally applicable Minimum Federal Safety Standards (Federal Occupational Health and Safety Administration) and the standards of the Bureau for Public Health and the Department of Environmental Protection (as applicable).~~

<sup>123</sup> Rule amended consistent with proposed amendment to 4.14.i.2.

<sup>124</sup> Rule amended to provide a double rate surcharge, as a 10% surcharge is not sufficient to curb usage.

<sup>125</sup> Stricken as redundant give 4.14.j.

<sup>126</sup> New language added to direct utility what action to take when a violation is identified.

<sup>127</sup> Rule amended to clarify that water utilities are subject to all the rules of the BPH applicable to water systems. Term "pure" stricken as ambiguous, i.e., water with a permissible concentration of chlorine may not be considered by some to be pure.

Members of the Staff of the Commission may inspect upon request the records identified in Rule 5.1.d., ~~records necessary for the proper maintenance of the system as required by and in accordance with the Bureau for Public Health, the Department of Environmental Protection and other governmental authorities, as applicable, and in special cases, a more complete record may be specified by order of the Commission.~~<sup>128</sup>

#### 5.1.e. Records of conditions

5.1.d. Records of Operation. Each utility shall keep a record of the operation of its plant, which, so far as practical, shall show sufficient details of plant operation as is necessary to substantially reproduce the daily history of its operation. The records shall also be maintained in accordance with the requirements of the ~~Minimum Federal Safety Standards and Bureau for Public Health, Department of Environmental Protection, and other governmental authorities, as applicable, and in special cases, a more complete record may be specified by order of the Commission.~~<sup>129</sup>

5.1.e. Reports to Commission. Each utility shall, ~~upon request~~ by order of the Commission, file with the Commission a statement regarding the condition and adequacy of its plant, equipment, and facilities, and of its operations and service in such form as the Commission may require.<sup>130</sup>

5.1.f. Bureau for Public Health Standards — ~~All extensions, service connections and modifications to the utility's plant must meet applicable design standards established by the West Virginia State Bureau for Public Health in addition to these rules.~~<sup>131</sup>

5.1.g. Dead ends. — ~~"Dead ends" in the utility's distribution mains should be avoided so far as possible. If such "Dead ends" exist the utility shall provide facilities for flushing.~~<sup>132</sup>

### 5.2. Utility Service Pipe and Meters

5.2.a. Pipe Installation Method. Where the service pipe is required for the immediate and continuous use for general service to premises abutting the public street or right-of-way in which mains are located, the utility will furnish, install, and maintain the utility service pipe and appurtenances between the main in the street up to the customer's point of service at or near 90 degrees to the main. Provided, all such utility service pipes and appurtenances shall be installed only by the utility unless by prior written agreement.

5.2.b. Selection of Location and Materials — ~~The utility shall determine the location of the utility service pipe.~~ The utility will specify the size, kind, quality and location of all materials used in the utility service pipe.

5.2.c. ~~The utility will specify the size, kind, quality and location of all materials used in the utility service pipe.~~<sup>133</sup>

5.2.c. Road Crossings. The utility shall install and maintain, at its own cost and expense, all of the utility service pipe regardless of the side of the road on which the customer is located in reference to the main line. The utility shall designate the point of service on the customer's side of the road.

5.2.d. Tap Installations Fees. The utility shall not make any charge for furnishing and installing any

<sup>128</sup> Reference to specific provisions of other legal authorities stricken as unneeded. Water utilities are subject to these legal requirements regardless of whether they are reiterated in the Rules.

<sup>129</sup> Reference to Minimum Federal Safety Standards stricken as undefined, and replaced with reference to "other governmental authorities." Language from Water Rule 5.1.c. added.

<sup>130</sup> Rule amended to clarify that a Commission order is required for the identified report.

<sup>131</sup> Rule stricken as unneeded give Rule 5.1.

<sup>132</sup> Rule stricken as unneeded give Rule 5.1.

<sup>133</sup> Stricken terms consolidated in more concise term.

permanent service connection, meter or other appliance necessary to deliver and measure the water furnished unless the utility has prior approval of the Commission to charge a tap fee and the same is set forth in the utility's tariff on file with the Commission.

5.2.d.1. Cost Limitation. If the cost to the utility of installing a permanent service connection is more than 42 times the estimated monthly gross revenue to be received by the utility from the customer, as calculated under Rule 5.5.b.2., the utility is not obligated to install a permanent service connection unless the customer pays in advance the estimated cost of installing a permanent service connection over and above 42 times the estimated monthly gross revenue to be received by the utility from the customer. If the actual cost to install the permanent service connection is less than estimated, the utility shall refund any excess amount collected from the customer after the utility has made final payment to its contractor or the utility's personnel have completed the installation. If the actual cost to install the permanent service connection is greater than estimated, the utility shall collect the excess amount through the customer's regular bill over a 12 month period.<sup>134</sup>

~~5.2.f. The utility's service pipe shall remain under the utility's sole control and jurisdiction.~~<sup>135</sup>

5.2.e.f. Meter Installation Method. Each water utility shall adopt standard methods of meter installations where practicable. Such methods shall be set out with a written description and drawings to provide a clear understanding of the requirements; ~~all of which shall be submitted to the Commission.~~<sup>136</sup>

5.2.f. g. Temporary Connections. Temporary service connections for construction or other temporary purposes or connections for private fire service shall be installed by the utility at the cost of the applicant.

~~5.2.g.. The customer shall not attach any fixtures to, or make any branches in, the utility service pipe between the point of service and the distribution main. Violation of this rule may result in termination of service pursuant to these rules~~<sup>137</sup>

### 5.3. Customer Service Pipe.

5.3.a. Selection of Location and Materials. The utility's authorized employee shall inform the customer of the location of the point of service. The customer shall install the customer service pipe to the point of service after which the utility will install the utility service pipe from the distribution main to the point of service. Where the utility's service pipe is already installed to the point of service, the customer shall connect with the utility service pipe as installed. The utility will specify the size, kind, quality and location of all materials used in the customer's service pipe and the customer shall comply with those specifications.<sup>138</sup>

5.3.b. One Customer per Service Pipe. There shall be no more than one (1) customer service pipe required to serve a single premises and each premises shall be supplied through an independent customer service pipe, unless otherwise approved by the utility in writing.<sup>139</sup>

5.3.c. Installation Requirements. The customer's service pipe shall: be laid below the frost line at all points; be placed on firm and continuous earth so as to give unyielding and permanent support; and be

<sup>134</sup> New term to place cap on utility's cost to install a tap. See Utility Consortium Comments at 9-10. Cost provisions made consistent with utility contribution requirement under Utility Consortium proposed amendment to Rule 5.5.

<sup>135</sup> Stricken as unnecessary.

<sup>136</sup> Stricken term removed as unenforced by the Commission and needlessly costly and intrusive, as utility methods change frequently.

<sup>137</sup> An all inclusive tampering rule is provided at 5.3.h.

<sup>138</sup> Consolidation of several former rules.

<sup>139</sup> Term moved to increase logical flow of rule.

installed in a trench at least two (2) feet in a horizontal direction from any other trench wherein gas pipe, sewer pipe, or other facilities, public or private, are or are to be installed. The customer shall also install and properly maintain in good working condition a stop and waste cock of a type approved by the utility on the customer's service pipe immediately inside the foundation wall in a readily accessible location and in a place protected from the possibility of freezing and so placed that it will shut off and drain all plumbing within any and all buildings in the premises.<sup>140</sup>

~~5.3.e. Where the utility's service pipe is already installed to the point of service, the customer shall connect with the utility service pipe as installed.~~<sup>141</sup>

5.3.j.d. Property Rights Requirements. Except in the case of a Commission approved Easement long Service Lines, a customer's service pipe shall not pass through or across any premises or property other than that to be served, nor across any portion of the property that could practicably be sold separately from the immediate premises served, and no water pipes or plumbing in any premises shall be extended therefrom to adjacent or other premises.

~~5.3.f. The customer's service pipe shall be installed in a workmanlike manner, shall conform to all reasonable rules and regulations of the utility, and shall be maintained by the customer at his own expense.~~<sup>142</sup>

5.3.k.e. Right to Inspect. The customer's service pipe and all connections and fixtures attached thereto shall be subject to the inspection of the utility before the water will be turned on, and all premises receiving a supply of water and all service pipes, meters and fixtures, including any and all fixtures within the said premises, shall at all reasonable hours be subject to inspection by any duly authorized employees of the utility.

5.3.b.f. Responsibility for Customer Service Pipe. Once an application for service has been granted, the customer shall install and maintain the customer service pipe. The customer's service pipe shall be installed in a workmanlike manner, shall conform to all reasonable rules and regulations of the utility, and shall be maintained by the customer at his own expense. A customer must maintain his service pipe in good condition and free from all leaks and defects, at the customer's cost and expense. A customer's failure to comply with this rule may result in termination of service pursuant to these Rules.<sup>143</sup>

~~5.3.g. The utility will specify the size, kind, quality and location of all materials used in the customer's service pipe and the customer shall comply with those specifications.~~<sup>144</sup>

5.3.l.g. Change in Customer Service Pipe. If the utility makes changes in grade, relocates mains, or causes other changes in service not initiated by the customer, then the utility shall make changes and bear the full costs of changes in the customer's service pipe or meter location. ~~required due to changes in grade, relocation of mains, and other causes not related to the customer.~~ The customer shall bear the full costs of changes in service pipe or meter location desired by the customer for his or her convenience.<sup>145</sup>

~~5.3.h. A customer must maintain his service pipe in good condition and free from all leaks and defects, at the customer's cost and expense. A customer's failure to comply with this rule may result in termination of service pursuant to these Rules.~~<sup>146</sup>

<sup>140</sup> Consolidation under one topic of several rules.

<sup>141</sup> Moved to 5.3.c

<sup>142</sup> Moved to 5.3.b

<sup>143</sup> Consolidation under one topic of several rules.

<sup>144</sup> Moved to 5.3.c

<sup>145</sup> Rule clarifies critical distinguishing feature as to whether customer or utility is financially responsible.

<sup>146</sup> Moved to 5.3.b



5.3.i. ~~The customer's service pipe shall be laid below the frost line at all points; be placed on firm and continuous earth so as to give unyielding and permanent support; and be installed in a trench at least two (2) feet in a horizontal direction from any other trench wherein gas pipe, sewer pipe, or other facilities, public or private, are or are to be installed.~~<sup>147</sup>

5.3.m. ~~The customer shall not attach any fixtures to, or make any branches in, the customer service pipe between the point of service and the premises served. Violation of this rule may result in termination of service pursuant to Rule 4.8. Violation of this rule may result in termination of service pursuant to these rules.~~<sup>148</sup>

5.3.n. ~~There shall be no more than one (1) customer service pipe required to serve a single premises and each premises shall be supplied through an independent customer service pipe, unless otherwise approved by the utility in writing.~~<sup>149</sup>

5.3.h. Tampering. No customer, plumber, company owner or any agent shall connect to the utility's main, to any utility service pipe, customer service pipe, or extend the pipes therefrom to any premises for the purpose of securing water service, until application has been made therefore to the utility as provided in these rules and permission for doing so has been granted by the utility in writing. The customer shall not attach any fixtures to, or make any branches in, the utility's main, the utility service pipe, or the customer service pipe between the point of service and the premises served. The utility may terminate water service without advance notice and refuse to serve a person until charges for estimated usage for the period in which the utility has information that leads it to believe a person has been receiving water in violation of this rule are paid. In addition, the utility may charge a damaged facilities fee equivalent to its tap fee (in addition to a regular tap fee charge) for violation of this rule; provided, the utility has a damaged facilities fee in its tariff.<sup>150</sup>

#### 5.4. Long Easement Service Lines.<sup>151</sup>

5.4.a. Conditions for Use. ~~To assure the orderly development of its system, and to provide adequate service to its customers,~~ The utility should ordinarily provide water service only at the property line of the customer requesting service, and in those instances where the utility's service does not extend to the customer's property line, an extension should be made by the utility in accordance with Rule 5.5. ~~of these rules.~~ In unusual and exceptional cases where (1) the property line of the customer requesting service is an excessive distance from the existing main of the utility; (2) ~~and the cost to be borne by the prospective customer under Rule 5.5. is prohibitive;~~ (3) and there is no reasonable prospect of further growth and development in the area, ~~or for any one of the above reasons,~~ the utility may serve the customer by installing a meter in the utility's right-of-way at its main nearest the customer's property, and connecting the meter to the customer's privately owned service line. ~~The customer shall extend his customer service line to an existing distribution main of the utility and shall be solely responsible for service beyond the meter.~~<sup>152</sup>

~~If a road crossing is necessary to serve the customer, the utility shall install that portion of the line crossing under the road and shall locate the meter on the customer's side of the road; provided that the utility's distribution main lies within or adjacent to the existing road right of way.~~<sup>153</sup>

<sup>147</sup> Moved to 5.3.d.

<sup>148</sup> Moved to 5.3.a.

<sup>149</sup> Moved to 5.3.c.

<sup>150</sup> Rule consolidates several provisions in Rules regarding unauthorized customer modification to facilities.

<sup>151</sup> Name changed to clarify distinctive feature of this type of arrangement.

<sup>152</sup> Rule amended to clarify that all three conditions must be present for utility to invoke procedure.

<sup>153</sup> Stricken as redundant.

5.4.b. Easements for Customer Service Line. Prior to the utility's commencement of construction of facilities to serve the prospective customer, the customer shall be required to provide evidence to the utility that proper easements ~~or rights-of-way~~ for the customer's service line across all lands owned by affected third parties have been obtained.<sup>154</sup>

5.4.c. Customer Requirements. The customer shall extend his customer service line to an existing distribution main of the utility and shall be solely responsible for service beyond the meter. Standards of service received by the customer shall be determined at the metering point.

~~The customer shall not permit others to connect to the customer's water lines or receive water service from the customer's privately owned service line. Violation of this rule may result in termination of water service pursuant to these rules.~~<sup>155</sup>

5.4.d. Future Extensions of Utility Main. In the event the utility's main is later extended to the customer's property line under Rule 5.5. or pursuant to a certificate of convenience and necessity issued to the utility, the customer shall discontinue the use of his privately owned service line and shall pay all costs and charges authorized by the rules of the Commission and the rules and tariffs of the utility for water service from such extension, the same as if the customer had not previously laid and received service through an easement ~~private~~ service line.<sup>156</sup>

5.4.e. Applicability. The provisions of this rule shall apply to all persons now or hereafter receiving water service through ~~a privately owned~~ an easement service line. All other provisions of these water rules apply to easement service lines unless Rule 5.4 specifically conflicts with such other rules, in which case Rule 5.4 governs.<sup>157</sup>

5.5. Main Extensions ~~of mains to serve new customer(s) and customers currently served under Rule 5.4.~~

5.5.a. General.

1. Duty to Serve. A water utility, whether publicly or privately owned, is under a public service obligation to extend its mains, ~~and its plant and appurtenant facilities~~ to serve new customers within its service area who may apply for service pursuant to this rule.

2. Applicability and Exemption. The terms of Rule 5.5 apply to the extensions of mains that do not involve the borrowing of funds by the utility or the issuance of a certificate of convenience and necessity by the Commission under W.Va. Code §24-2-11.

A. Certificates of Convenience and Necessity. The issue of whether a certificate of convenience and necessity is required for a project is case specific and utility specific. If a utility is in doubt as to whether or not a certificate of convenience and necessity is required for a project, it should file a written request for assistance with the Director of the Legal Division of the Commission and cooperate with the Legal Division and Staff in aiding the evaluation of that request. While an opinion of the Legal Division of the Commission does not bind the Commission, compliance with an opinion of the Legal Division constitutes proof of the utility's good faith effort to comply with law.

<sup>154</sup> Rule amended to clarify proof required by customer before utility commences construction.

<sup>155</sup> Stricken as redundant.

<sup>156</sup> Rule amended to broaden conditions under which customer must abandon easement service line.

<sup>157</sup> New language added to clarify applicability of other provisions of the rules.

B. Easement Service Lines. Rule 5.5 does not apply to easement service lines as described in Rule 5.4.<sup>158</sup>

~~5.5.d. 3. Location and Length of Mains.~~ Every effort shall be made by a utility to install its distribution main in the public road right-of-way or in a utility right-of-way abutting the public road right-of-way. The length of the extension required shall be that length required to extend from the new proposed service area to the nearest point of connection to the utility system having sufficient excess capacity to provide service at maximum demand. In determining the length of main extensions or of water line to be installed in an urban area when land is subdivided in lots, the main, or water line (if installed by an entity other than a utility), shall be extended to fully cover the frontage of the property and if the last lot to be served is a corner lot, the terminal point of the extension made hereunder shall be located so that the water line ties in with the intersecting street; and further; provided that if there is no main located in the intersecting street, the terminal point of the extension shall be located at the nearest street line of the intersecting street. In rural areas or open land areas, the extension required will be that length necessary to adequately serve the applicant.<sup>159</sup>

~~5.5.b. Extensions shall be made in all cases in which the public convenience and necessity require the service, construction problems are not unusual or burdensome, and the extensions appear to be economically feasible.~~

~~5.5.c. For any proposed extension of mains, a reasonable relationship should exist between the per customer investment to serve new customers and the per customer investment to serve existing customers.~~  
160

#### 10. 4. Rights-of-Way.

A. Standard Acquisition. If the construction of an extension involves the acquisition of a private right-of-way, then the prospective customer shall attempt to secure the right-of-way and deliver a copy of a stamped and recorded easement it to the utility free of cost before construction of the extension is started.<sup>161</sup>

B. Utility Acquisition. If, however, it is not reasonably possible for the prospective customer or customers to secure the right-of-way, and the construction of an extension involves the utility's incurring expense for right-of-way easements, either by purchase or condemnation, such costs shall be added to the total cost of the extension.

5. New Roads. Before water lines will be laid in any new subdivision, the road surface shall be brought to the established sub-grade as determined by the agency having jurisdiction.

~~5. Length and location of extensions. In determining the length of main extensions or of water line to be installed in an urban area when land is subdivided in lots, the main, or water line (if installed by an entity other than a utility), shall be extended to fully cover the frontage of the property and if the last lot to be served is a corner lot, the terminal point of the extension made hereunder shall be located so that the water line ties in with the intersecting street; and further; provided that if there is no main located in the intersecting street, the terminal point of the extension shall be located at the nearest street line of the intersecting street. In rural areas or open land areas, the extension required will be that length necessary to~~

<sup>158</sup> Rule 5.5.a.2 is new to clarify the limits of the applicability of the main extension rule.

<sup>159</sup> Consolidation of several rules under one topic.

<sup>160</sup> Rules 5.5.b. and c. have been stricken as meaningless in light of the specificity of the rest of Rule 5.5.

<sup>161</sup> Rule amended to clarify that prospective customer has duty to get easement recorded, thereby preventing the delivery to the utility in a form unacceptable for recording.

adequately serve the applicant.<sup>162</sup>

~~9. Construction conditions~~ — Construction of line extensions, as provided in this rule, will be undertaken promptly after all applications have been completed, necessary right of way agreements or rights of entry have been delivered to the utility, and all prospective customers have signed contracts, applications for service and paid all applicable fees, including tap fees, and deposits.<sup>163</sup>

8.6. Applicant Requirements. ~~Contract for services~~ -- The utility shall not be required to make utility-funded financial contributions toward extensions or refunds as described in this rule unless those to be served by such extensions shall guarantee to the utility that they will agree to take the service at their premises within thirty (30) days after service is available or as otherwise mutually agreed in a user's agreement, and pay all applicable charges, including tap fees and security deposits.<sup>164</sup>

~~7. This rule shall not be construed as prohibiting the utility from entering into an agreement with a customer that complies with the Commission approved checklist attached hereto as Water Form No. 7, in providing an alternate plan for a main extension. Commission Staff may be consulted to provide assistance and sample forms. In providing an alternate plan for main extensions a utility may not discriminate between customers whose service requirements are similar. The agreement shall be filed with and approved by the Commission prior to the implementation or execution of the agreement by any of the parties. The agreement shall include the name, address and phone number of the parties to the agreement. The agreement shall also include a provision explaining why the utility is not funding the extension. The agreement must attach a copy of this Rule 5.5., and a statement signed by the prospective customer that he has reviewed and understands the provisions of Rule 5.5.f. which entitle a customer to refunds and that he knowingly waives such rights, if applicable. Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility. If an entity other than the utility constructs the extension, upon completion of construction and proper utility inspection of the extension, the utility shall initiate service only after proper transfer of title to all facilities including property, plant and rights of way incidental to the furnishing of utility service.~~<sup>165</sup>

7. Ownership. The utility shall own standard main line extensions upon commencement of construction. Upon completion and acceptance by the utility, alternate main line and self-help extensions made under this rule shall become and remain the property of the utility.<sup>166</sup>

8. Further Extensions. The utility reserves the right to further extend its water mains from and beyond the extension made under this rule, and the depositor or the depositor's agent paying for an extension shall not be entitled to any refund for the attaching of customers to such further extension or branch mains so installed.

9. Future Easements. A mandatory term in any standard main line extension agreement or alternate main line extension agreement is that any property owner or developer shall agree to grant the utility the necessary easements in the future which would allow the utility to make future extensions into unserved areas without the utility being required to pay additional consideration for the additional easements to the property owner or developer or its assigns. If the property owner or developer is unwilling to agree to grant the additional easements, the utility shall not be required to extend its main to serve the property owner or developer.<sup>167</sup>

<sup>162</sup> Rule 5.5.d.5 moved to 5.5.a.3. with some changes.

<sup>163</sup> Stricken as redundant.

<sup>164</sup> Rule modified to enhance clarity and completeness.

<sup>165</sup> Moved and changed at 5.5.h.1

<sup>166</sup> Rule modified to clarify different utility role vis-à-vis ownership in different type of extensions.

<sup>167</sup> Consolidation and elaboration of existing terms.

5.5.e b. Standard Extension to Serve Existing Structures for general water service.<sup>168</sup>

~~1. The utility will respond to all inquiries regarding new water service, whether oral or written, by explaining all available options for obtaining service under these rules.~~<sup>169</sup>

2.1. Application and Estimate. The utility will, upon written request for service in the form of Water Form No. 4, by a prospective customer or group of prospective customers an owner or occupant of a completed structure or a group of owners or occupants of completed structures ("Prospective Customer") located in the same neighborhood vicinity, or a customer currently served under Rule 5.4, ~~determine the necessary size of main required to give service and make an estimate of the cost of providing the requested service, using the form of Water Form No. 5. , including pipe, valves, fittings, necessary materials, permits, labor costs incurred by the utility when the utility externally contracts for the construction of the extension, or internal labor costs, provided such internal or external costs are not recovered in existing rates, and other applicable related costs.~~<sup>170</sup>

A. Road Crossings. When a road crossing(s) is (are) necessary to serve the customer(s) the Prospective Customers, the cost estimate shall not include costs attributable to extending the main across the first road (closest to the already existing main), but shall include the costs of installing the main across a second and any subsequent road(s).

B. Estimate Deadline. The written estimate calculated using Water Form No. 5 shall be provided to the customer the Prospective Customer in the form of Water Form No. 6,<sup>171</sup> no more than forty-five (45) days from the receipt by the utility of the written request for service. ~~The written estimate shall include an estimated construction start date and an estimated time of construction.~~<sup>172</sup>

C. Review of Estimate. If the ~~prospective customer~~ Prospective Customers believes that any part of the estimate is unreasonable, the ~~customer~~ Prospective Customers are is free to pursue an informal request for assistance from the Commission staff or to file a formal complaint with the Commission.

~~Commission Staff may be consulted to provide assistance and sample forms. The agreement must include as an attachment a copy of this extension rule.~~<sup>173</sup> ~~The utility shall keep an executed copy of the agreement for at least six (6) years. The length of the extension required shall be that length required to extend from the new proposed service area to the nearest point of connection to the utility system having sufficient excess capacity to provide service at maximum demand.~~<sup>174</sup>

~~3.2. Unless service is to be provided by a long service line pursuant to Rule 5.4., whenever the utility is required to extend service from an existing distribution main to property that does not immediately abut the utility's right of way or the public road that contains the distribution main, the extension shall be considered a main extension and the cost responsibility shall be determined under Rule 5.5.e.~~<sup>175</sup>

4.2. Utility Contribution. Where the cost of the extension does not exceed three and one-half 42 times estimated gross monthly revenue ~~total net revenue as calculated below,~~ from hydrants and prospective customers Prospective Customers whose service pipes will immediately be connected directly to the

<sup>168</sup> See Utility Coalition Comments, at 11.

<sup>169</sup> Stricken for vagueness.

<sup>170</sup> Stricken as duplicative as already included on Form No. 5.

<sup>171</sup> Water Form Nos. 5 and 6 are largely redundant, so they have been consolidated into one form.

<sup>172</sup> Stricken as duplicative as already included on Form No. 6.

<sup>173</sup> Not required for standard main line extension agreements.

<sup>174</sup> Moved to 5.5.a.2.

<sup>175</sup> Stricken as meaningless.

extension and from whom the utility has received applications for service upon forms provided by the utility for this purpose, who have paid applicable tap fees, security deposits and other charges, and who have signed user agreements agreeing to take service within 30 days of completion of the extension, the utility will install, at its own cost and expense, the necessary extension; provided, that the patronage or demand will be of such permanency as to warrant the capital expenditure involved.<sup>176</sup>

A. Estimated Gross Monthly Revenue. Estimated gross monthly revenue shall be based upon the utility's tariff rates in effect on the date Water Form No. 4 is received, estimated usage from Prospective Customers, and estimated monthly hydrant revenue. If a utility's tariff is based upon any period other than a month, the utility shall adjust its calculations to reflect the monthly average of its charges.

i. Residential Customers. In estimating revenue to be obtained from residential customers, the utility shall use its average monthly residential volume, if available. If the utility is unable to determine its average residential monthly volume, the utility shall use 4,000 gallons. For systems without meters, the utility shall use its flat monthly residential charge.

ii. Non-Residential Customers. For non-residential customers, the utility shall use the volume estimated for the type of customer served by reference to tables maintained by the American Water Works Association.

iii. Fire Hydrants. The utility shall only include fire hydrant revenue in its estimate if it has a fire hydrant charge in its tariff and the utility has a customer who is willing to pay the fire hydrant charge.<sup>177</sup>

B. Written Agreement Required. Further, the utility and the customer Prospective Customers shall execute a Standard Main Line Extension Agreement consistent with Water Form No. 6.

~~A. Net revenue shall be gross revenue minus the excess usage leak adjustment rate approved for the utility, and with this difference further reduced for any revenue-based taxes.~~

~~B. Revenue shall be based on 4,500 gallons per month per residential unit, unless circumstances of the Current Applicants show this would result in significant error. For non-residential units, annual revenue shall be based on typical consumption for comparable units published by the American Water Works Association.~~

~~C. Estimated total net revenue for private, for profit, utilities will be calculated as six (6) times estimated net annual revenue. Each such utility shall file for a utility-specific line extension multiplier within twelve (12) months of the effective date of these rules.~~

~~D. The utility-specific line extension multiplier for private, for profit, utilities shall be based on one (1) divided by the utility's net fixed charge rate. The net fixed charge rate shall equal the total a function of the utility's weighted cost of capital, applicable income tax rates, and the Commission approved depreciation accrual rate.~~

~~E. Estimated total net revenue for associations, municipal, and public service district utilities will be calculated as five (5) times estimated net annual revenue. If the excess leak adjustment calculated for the utility fails to include all of the incremental costs of serving a new customer that should properly be netted out from the total revenues of the utility, the utility may apply to the Commission for a determination of the proper amount to be deducted from gross revenues to arrive at an appropriate determination of net revenue.~~

<sup>176</sup> Rule amended to revert to "three and one half times" rule of prior water rules. Rule modified to simplify mechanics of calculating utility contribution.

<sup>177</sup> New terms specifying method of calculation.

~~5.5.f. 3. Prospective Customer Contribution. Extensions beyond the limit of utility-financed extensions of general water service and public fire service.~~

~~1. A. Deposit Requirement. If the estimated cost of the proposed extension required in order to furnish general water service exceeds the utility's estimate of total net revenue as determined by Rule 5.5.e.4 b.2, such extension shall be made if the Prospective Customer or the authorized agent contracts for such extension and deposits in advance with the utility the estimated cost of the extension over and above the limit of the utility-funded portion of the extension. The utility shall not pay nor be liable for any interest on such cash deposits. The utility shall make the extension after receiving the cash deposit.~~

~~B. Construction Refunds. Should the actual cost of the extension be less than the estimated cost, the utility will refund the difference as soon as the actual cost has been ascertained, but in no event longer than ninety (90) days after completion of construction of the extension. When the actual cost of the extension exceeds the estimate cost, then the utility will bill the depositor for the difference between the estimated and the actual cost. The customer may pay this additional amount in installments. No interest will be paid by the utility on the applicant's payment or on any balance to be refunded.~~ <sup>178</sup>

~~C. Connection Refunds. The utility shall, for each bona fide new customer who, within a period of ten (10) years from the making of such extension, directly connects to the extension between its original beginning and original terminus refund to the original depositor(s), an amount equal to the estimated total net revenue of the new customer as determined by Rule 5.5.e.4.b.2., but in no event shall the aggregate refund made to the depositors exceed the original deposit. Provided, however, that Associations, public service districts and municipal water utilities may elect to refund the estimated amount over a period of five (5) years making payments no less frequently than every six (6) months.~~

~~D. Written Agreement Required. Further, The utility and the customer Prospective Customers shall execute a Standard Main Line Extension Agreement consistent with Water Form No. 7.~~

#### 5.4. 4. Alternate Main Line Extension Agreement Option

~~This rule shall not be construed as prohibiting the utility from entering into an agreement with a customer Prospective Customer that complies with the Commission approved checklist attached hereto as Water Form No. 7, in providing an alternate plan for a main extension. Commission Staff may be consulted to provide assistance and sample forms. In providing an alternate plan for main extensions a utility may not discriminate between customers Prospective Customers whose service requirements are similar. The agreement shall be filed with and approved by the Commission prior to the implementation or execution of the agreement by any of the parties. The agreement shall include the name, address and phone number of the parties to the agreement. The agreement shall also include a provision explaining why the utility is not funding the extension. The agreement must attach a copy of this Rule 5.5., and a statement signed by the prospective customer Prospective Customers that he has they have reviewed and understands the provisions of Rule 5.5.f. 5.5.b.3.C which entitle a customer to refunds and that he they knowingly waives such rights, if applicable. Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility. If an entity other than the utility constructs the extension, upon completion of construction and proper utility inspection of the extension, the utility shall initiate service only after proper transfer of title to all facilities including property, plant and rights-of-way incidental to the furnishing of utility service.~~

~~(2.) In estimating the cost of an extension, the estimate shall be based on the diameter of the pipe to be used; provided, that the estimated cost to the customer or customers shall not be based on a pipe diameter greater than the diameter of the main from which the extension is to be made, unless actual use~~

<sup>178</sup> New term.

estimated for the proposed customer or customers required a larger pipe.<sup>179</sup>

#### 5.5-g. 4. Self-Help Extensions<sup>180</sup>

A. Written Agreement Required. If a utility and an owner or prospective customer or group of prospective customers wish to enter into a self help extension agreement, the Utility shall prepare a self-help extension agreement containing, at a minimum, the information identified on Water Form No. 8 attached to these rules.

B. Commission Approval Required. A utility participating in a self help extension agreement shall submit the agreement to the Commission for review and approval prior to construction.

C. Waiver Required. The utility shall not permit anyone to work on a self help project who has not signed a waiver of liability consistent with Water Form No. 9 to the benefit of the utility for injury to person or property related to construction of the Self-Help Extension.

5. Other Form of Extensions. This rule shall not be construed as prohibiting the utility from entering into an agreement with a customer on alternative terms than those described herein. Any extension agreement that is inconsistent with the Standard Main Line Extension Agreement, Self-Help Extension Agreement, or Alternate Extension Agreement must be reviewed and approved by the Commission.

#### 5.5-h.c. Alternate Extensions to Serve Prospective Structures<sup>181</sup>

1. Written Agreement Required. Upon written request for service from a developer, builder, or owner of property ("Property Developer") to serve one or more proposed, incomplete, or unoccupied structures, the utility shall prepare an agreement with the that complies with the Commission approved checklist attached hereto as Water Form No. 10; provided, that such agreement may not provide for any reimbursement by the utility to the Property Developer for the cost of planning, designing, or constructing the extension.

2. Discrimination Prohibited. In providing an alternate plan for main extensions a utility may not discriminate between customers whose service requirements are similar. The agreement shall be filed with and approved by the Commission prior to the implementation or execution of the agreement by any of the parties, unless the agreement is identical in its legal terms to a form or actual agreement that the Commission previously approved for the utility, in which case the utility need not submit the agreement to the Commission for review and approval. ~~The agreement shall include the name, address and phone number of the parties to the agreement. The agreement shall also include a provision explaining why the utility is not funding the extension. The agreement must attach a copy of this Rule 5.5., and a statement signed by the prospective customer that he has reviewed and understands the provisions of Rule 5.5.f. which entitle a customer to refunds and that he knowingly waives such rights, if applicable. Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility. If an entity other than the utility constructs the extension,~~<sup>182</sup>

3. Initiation of Service. Upon completion of construction and proper utility inspection of the extension, the utility shall initiate service only after proper transfer of title to all facilities including property, plant and rights-of-way incidental to the furnishing of utility service.

<sup>179</sup> Stricken as redundant.

<sup>180</sup> New rule to give this practice a more consistent form and greater Commission oversight.

<sup>181</sup> New rule applicable only to planned structures.

<sup>182</sup> See Utility Coalition Comments, at 11.



~~2. If a utility and a prospective customer or group of customers are attempting to negotiate an alternate mainline extension agreement and are unable to reach an agreement regarding a proposed alternate main extension plan, either party may bring the dispute to the Commission for resolution.~~<sup>183</sup>

5.6 Capital Improvement Fee. Upon the proper filing of a Tariff Rule 42A, 42T, or 19A rate case or a certificate case filed pursuant to *W. Va. Code* § 24-2-11 by the utility, the utility may seek an impact fee a Capital Improvement Fee, Capacity Assurance Fee or such other fee designed to raise capital for future capacity to be assessed against new customers.<sup>184</sup>

~~5.5.g. Alternate Depositor Financed Extension Plan to serve existing structures.~~

~~1. Qualifying utilities — The above requirements notwithstanding, the utility may decline to finance the portion of a requested extension that would be utility funded, if it can demonstrate that it has no prospect of any reasonable internal or external financing through commercial loans, grants, or through an installment arrangement with an entity installing the extension or providing the necessary materials.~~

~~A. If the utility declines to finance the portion of a requested extension that would be the financial responsibility of the utility, the utility shall file for a waiver of the extension rule within sixty (60) days of the written request.~~

~~B. Before filing for a waiver, the utility must first make an estimate of the extension costs.~~

~~C. A request for a waiver by a utility shall be accompanied by supporting documentation justifying its request.~~

~~D. If the Commission finds that the utility has reasonably declined to finance the portion of the requested extension that would otherwise be utility funded, the Commission shall authorize the use of the alternate depositor financed extension plan as described below.~~

~~2. Description of alternate depositor financed extension plan — Under the alternate depositor financed extension plan, the utility shall make the extension after:~~

~~A. receiving a cash deposit equal to the full amount of the extension cost; and~~

~~B. agreeing to give the depositor(s), who is a customer, a monthly bill credit totaling one hundred percent (100%) of the actual net bill(s) from the date service is initiated and until the total credits given equal the estimated total net revenue as defined in Rule 5.5.e.4; and~~

~~C. agreeing to refund to the original depositor(s) an amount equal to estimated total net revenue as defined in Rule 5.5.e.4. of each bona fide customer, other than the depositor(s), who, within a period of ten (10) years from the construction of the extension, directly connects to the extension between its original beginning and the original terminus. The refund may be spread out over a five (5) year period with the utility making payments no less frequently than every six (6) months. Such refunds shall continue until the total refunds given equal the estimated total net revenue as defined in Rule 5.5.e.4.~~

~~3. In no event shall the total refund made to the depositor(s) under Rule 5.5.g.2.C. exceed the original deposit of the depositor(s).~~

<sup>183</sup> Stricken as unneeded given rules requirement for non-discrimination. Utilities are subject to the filing of complaints for any violation of rule, there is no need to selectively reiterate the availability of that form of relief.

<sup>184</sup> Rule modified to change term to Capital Improvement Fee and to clarify that such fees apply to new customers only.

~~4. The utility shall not pay nor be liable for any interest on the cash deposits associated with line extensions.~~

~~5. If a utility and a prospective customer or group of customers are attempting to negotiate an alternate mainline extension agreement and are unable to reach an agreement regarding a proposed alternate main extension plan, either party may bring the dispute to the Commission for resolution.~~<sup>185</sup>

~~5.5.h. General provisions:~~

~~1. Should the actual cost of the extension be less than the estimated cost, the utility will refund the difference as soon as the actual cost has been ascertained, but in no event longer than ninety (90) days after completion of construction of the extension. When the actual cost of the extension exceeds the estimate cost, then the utility will bill the depositor for the difference between the estimated and the actual cost. The customer may pay this additional amount in installments. No interest will be paid by the utility on the applicant's payment or on any balance to be refunded.~~

~~2. In estimating the cost of an extension, the estimate shall be based on the diameter of the pipe to be used; provided, that the estimated cost to the customer or customers shall not be based on a pipe diameter greater than the diameter of the main from which the extension is to be made, unless actual use estimated for the proposed customer or customers required a larger pipe.~~

~~11. Upon the proper filing of a Tariff Rule 42A, 42T, or 19A rate case or a certificate case filed pursuant to *W. Va. Code* § 24-2-11 by the utility, the utility may seek an impact fee a Capacity Impact Fee, Capacity Assurance Fee or such other fee designed to raise capital for future capacity to be assessed against customers.~~<sup>186</sup>

~~5.5.i. Community infrastructure agreements with municipal utilities and public service districts~~

~~1. Notwithstanding the foregoing, municipal utilities and public service districts may enter into "community infrastructure agreements" in accordance with the provisions of *W. Va. Code* § 22-28-1 et. seq.~~

~~2. Utilities that have entered into "community infrastructure agreements" pursuant to *W. Va. Code* § 22-28-1 et. seq. shall be required to maintain separate books and records for the project areas involved in the agreements. For purposes of this section, the project areas for which separate books and records are required include plant upgrades and stand alone systems.~~

~~3. Utilities that have entered into "community infrastructure agreements" pursuant to *W. Va. Code* § 22-28-1 et. seq. shall file a Notice of Transfer and a new tariff containing the additional service area.~~

~~The utility must state whether the rates for the new customers served by the project are higher than the rates for the utility's existing customers. The Notice of Transfer and tariff shall be filed with the Commission within thirty (30) days of the date the project is transferred to the utility.~~

~~4. If the rates for the new customers served by the project are higher than the rates for the utility's existing customers, the utility shall, within ninety (90) days of the date the project is transferred to the utility, make a formal rate application with the Commission in order to justify the higher rates to the new customers.~~<sup>187</sup>

<sup>185</sup> Moved to 5.5.h.2

<sup>186</sup> Moved and changed at 5.5.c.3

<sup>187</sup> Rule-making authority under the Community Infrastructure Investment Projects Act, *W. Va. Code* § 22-28-1 et seq., is restricted to the Secretary of the Department of Environmental Protection. *W. Va. Code* §22-28-9.

### 5.7. Unaccounted for Water.

Each utility shall determine either by actual measurement or by estimate the amount of "Unaccounted for Water" as defined in 1.7.q. of these Rules in each division of its system and report, separately, to the Commission in its annual report. Said report shall contain the proposed remedial actions to be taken if unaccounted for water is in excess of fifteen percent (15%) of the gross production on an annual basis. A utility may seek assistance from the Commission regarding remediation of unaccounted for water in excess of fifteen percent (15%).

### 5.7. Cross connections and back flow prevention regulations.

See West Virginia Bureau for Public Health Bulletin BW-113 Effective April 1, 1976 legislative rules; codified at 64 CSR-15 as of March 13, 2004 (the effective date of this rule).<sup>188</sup>

5.7.a. Pursuant to the requirements of the Bureau for Public Health legislative rules, all utilities that have adopted a standard or uniform cross connection and backflow program must file the details of such programs with this Commission. Such programs will be approved as filed unless it can be shown that the program violates an existing rule of this Commission.<sup>189</sup>

5.7.b. If a utility elects to universally require backflow prevention on all customers without regard to actual or potential health hazards that may exist, the utility will be deemed to have changed the character of service to the customer and, as a result, the utility will be held responsible for supplying and maintaining any necessary thermal expansion protection equipment on the customers' premises.<sup>190</sup>

### 5.8. Standard Pressure.

5.8.a. Pressure Ranges. Each customer shall be deemed to receive a "standard pressure" within the Commission's established minimum and maximum pressure limits. A customer's pressure shall be no less than twenty (20) p.s.i. at peak demand on system or thirty (30) p.s.i. static pressure at the terminus of the utility's service line (meter box or curb box) unless the customer has waived this requirement in writing. For all new customers desiring service on and after the effective date of these rules October 24, 2003, a customer's pressure shall be no greater than one hundred thirty-five (135) p.s.i. unless the customer has waived this requirement in writing. The utility shall keep on file all the aforesaid waivers, in accordance with Rule 2.1. When possible, such "standard pressure" shall be calculated as the static pressure based on the difference in elevation between the base of the storage tank and meter box or point of service. Where this method of calculating a customer's "standard pressure" is not practical, the actual engineering design of the system or common engineering methods shall be used to determine the "standard pressure" at the point of service. Pressure fluctuations shall not vary more than fifty percent (50%) above nor fifty percent (50%) below such "standard pressure" during normal operating conditions. Pressure variations outside the limits specified will not be considered a violation of this rule if they are infrequent and arise from unusual or extraordinary conditions, or arise from the operation of the customer's equipment. This rule shall be interpreted to permit a different "standard pressure" calculation for each customer due to varying elevations.

5.8.b. Retention of Waiver Agreements. The utility shall keep on file all the aforesaid pressure waiver agreements while each customer receiving service pursuant to such waiver remains a customer of the utility, in accordance with Rule 2.1.

<sup>188</sup> Stricken as redundant to the BPH rule.

<sup>189</sup> Stricken as the BPH rules do not require filing said program with the PSC.

<sup>190</sup> Stricken as unduly burdensome. See Brief in Support of Comments, at \_\_\_\_.

5.8.b. Each utility should establish an elevation in each pressure district above which it cannot provide the minimum pressure required by this rule. This elevation shall be displayed in a prominent place in the public offices of the utility. The utility may furnish new service to customers above this elevation if the customer is fully advised of the conditions under which average service may be expected, and the customer's agreement is secured in writing. The utility may require in the agreement that its terms shall be binding on future customers served at the same location under similar circumstances; provided that the agreement be recorded with the appropriate county clerk. This waiver shall not prevent the Commission from requiring a better service when, upon investigation, it appears that improvements should be made.<sup>191</sup>

5.8.c. No change shall be made by a utility in the standard pressure or pressures adopted for its customers without the approval of the Commission.<sup>192</sup>

5.8.d. A customer's pressure shall be no less than twenty (20) p.s.i. at peak demand on system or thirty (30) p.s.i. static pressure at the terminus of the utility's service line (meter box or curb box) unless the customer has waived this requirement. For all new customers desiring service on and after the effective date of these rules, a customer's pressure shall be no greater than one hundred thirty five (135) p.s.i. unless the customer has waived this requirement. The utility shall keep on file all the aforesaid waivers, in accordance with Rule 2.1.<sup>193</sup>

#### 5.9. Quality of water.

5.9.a. Purity—All water furnished by a utility for domestic use, shall be pure, wholesome, potable and in no way dangerous to the health of the consumer.

5.9.b. Health Department—Every water utility shall comply with the rules of the Bureau for Public Health governing purity of water, testing of water, operation of filter plants and such other rules they may prescribe, pursuant to law, having as their ultimate end the purity of water.<sup>194</sup>

### §150-7-6. Inspections and Tests.

#### 6.1. Meter Testing facilities and equipment.

6.1.a. Testing Facilities. Each utility shall provide or have access to such laboratory meter-testing facilities as may be necessary to make the tests required by these rules or other orders of the Commission. The facilities so provided shall be subject to the approval of the Commission, and shall be available at all times for inspection or use any member or authorized representative of the Commission without a formal order of the Commission.<sup>195</sup>

6.1.e. b. General Testing Equipment. Each utility furnishing metered water service shall own and maintain the equipment necessary to accurately test all types and sizes of meters employed for the measurement of water unless the utility has made arrangements to have such testing done in a shop or laboratory, containing equipment acceptable to the Commission. The utility shall promptly report in writing to the Commission all alterations or repairs to meter testing equipment, which might affect the accuracy or method of operation of such equipment.<sup>196</sup>

<sup>191</sup> This rule is not currently enforced by the PSC and should be removed.

<sup>192</sup> Stricken as irrelevant if rule 5.8.b. is stricken.

<sup>193</sup> Moved to Rule 5.8.

<sup>194</sup> Moved to 5.1.f.

<sup>195</sup> Rule amended to delete Commission approval as not enforced and unnecessary.

<sup>196</sup> Commission approval removed as unenforced and unnecessary.

6.1.b. c. Tests Required; Reports to Commission. Each utility shall, as a minimum requirement, conduct the tests required by these rules with such frequency, and in such manner, and at such places as provided herein or as may be approved or ordered by the Commission. Each utility shall make ~~yearly reports, in accordance with the requirements of the Commission, on Water Form No. 8~~ in the annual report required by Rule 2.4. of meter tests, number of customers and amount of refunds. ~~These reports must be filed not later than thirty (30) days after the expiration of the period covered by the reports.~~<sup>197</sup>

1. Certificates. The utility shall hold for all testing instruments and other equipment, a certificate signed by a proper authority giving the date when the instrument was last certified and adjusted, and certificates, when superseded, shall be kept on file in the office of the utility.

2. Shop Testing Equipment. Testing equipment shall consist of calibrated tanks large enough to hold the equivalent volume needed to move the test dial one or more complete revolutions. ~~It is recommended that the calibrated tanks hold not less than the quantity needed to test meters in accordance with the test requirements of the American Water Works Association (AWWA) found in the Water Meters Section of Manual M6, Denver (1986).~~ The equipment shall be provided with the proper valves, gauges, and flow devices so constructed that the flow rate can be determined in gallons per minute and an accurate check can be made of the pressure on the intake side of the meter.<sup>198</sup>

3. Field Testing Equipment "Prover Meter" -- Testing equipment shall consist of a calibrated meter(s) provided with the proper discharge valves and gauges so constructed that the flow can be adjusted on the outlet side of the prover meter. Said equipment shall be tested and calibrated against a certified calibrated tank not less than once each year, or more frequently if circumstances warrant, and a record of such test shall accompany the field test equipment when in use. It is recommended that the test record be plotted as an accuracy curve in graph form so that operating error may be determined easily. The error of the prover meter shall be applied as a correction factor when computing final accuracy of meters tested in place by using the following formula:

$$\text{TESTED METER ACCURACY} = \frac{MV}{PV} \times PA$$

where: MV= volume recorded on meter tested  
 PV = volume recorded on prover meter  
 PA = accuracy of prover meter at tested flow rate (in %).

## 6.2. Tagging, Sealing and Capping Meters.

6.2.a. Tagging Meters. A record of each meter shall be maintained showing the type, brand, serial number, registration reading, test date, flow rates, and test results. This record, which may be kept on paper or electronically, shall be maintained after installation of the meter and for so long as the meter remains in service.

6.2.b. Sealing Meters. All meters in which the accuracy can be adjusted or which could otherwise be easily altered or tampered with shall be sealed at the time of the test by the metertester performing the test. Pulse generator remote type meters shall have the remote counter sealed.

<sup>197</sup> Amended to clarify report is to be included in annual report.

<sup>198</sup> Advisory language deleted.

6.2.c. Capping Meters. All meters must have caps placed on the inlet and outlet ports when removed from service and awaiting testing. All meters that have been tested and sealed or are ready for installation must be capped when sealed and kept capped until installed.

### 6.3. Accuracy Requirements for Water Meters.

6.3.a. Installation Accuracy. Before being installed for the use of any customer a water meter, whether new, repaired, or removed from service for any cause, shall be in good order and shall be adjusted or repaired to be as nearly correct as is commercially practical. However, a manufacturer's certified test may be accepted in lieu of utilities' test of new meters of the positive displacement type.

6.3.b. Adjustments Required. Whenever, on installation, periodic or any other test, a meter is found to exceed a limit of two percent (2%) fast or slow, it must be adjusted so as to register as nearly one-hundred percent (100%) as is commercially practicable. For displacement, multi-jet, propeller, and turbine meters, the normal test-flow-percent accuracy shall be the average of the accuracy results at the intermediate and maximum test-flow rates. For compound and fire-service meters, the normal test-flow-percent accuracy shall be the average of the accuracy results at the maximum test-flow rate of the main line meter and the intermediate and maximum test-flow rates of the bypass meter.

6.3.c. Sealing After Repair. After all necessary repairs, adjustments and final tests have been made so that the meter registers accurately, such meter shall be sealed. It is recommended that all meters of the disc or displacement type, two inch (2") or less in size, be tested before being installed on the premises of any customer.

6.3.d. Turbine Meters. Meters of the turbine type, two inch (2") and larger, shall always be tested after installation. These meter installations shall be installed with a "Test Tee" and valve for use in testing.

~~6.3.e. Meters of the turbine type can be tested and calibrated more accurately in place. The accuracy of turbine meters is affected by changes in distribution of velocities through the meter. Such variation of velocity may occur to an appreciable degree through change of nature of inlet piping.~~<sup>199</sup>

6.3.e. Meter Prover for Tests. All tests to determine the accuracy of registration of any water meter shall be made with a Commission certified meter prover.

6.3.f. Meter Test Flow. Flow rates shall be in accordance with "American Water Works Association" standards.

6.3.g. Tests - How Made. The testing procedures shall be in accordance with American Water Works Association standards.

### 6.4. Periodic Test.

6.4.a. Schedule. Meters shall be periodically tested as follows:

- 3/4" or less in size at least once every 10 years.
- 1" in size at least once every 7 years.
- 1-1/4", 1-1/2", 2" in size at least once every 5 years.
- 3" in size at least once every 3 years.
- 4" and larger in size at least once each year.

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<sup>199</sup> Advisory language stricken.

6.4.b. ~~"Periodic test periods" for testing meters in the system of utilities supplying water of high turbidity, or of peculiar characteristics, will be determined by the Commission from time to time.~~

6.4.c. ~~The time frame for periodic tests may be modified by the Commission from time to time upon the submission of evidence by the utility to substantiate any request for modification.~~ <sup>200</sup>

#### 6.5. Request Tests.

6.5.a. Action Required. If any customer shall request in writing to the utility a test of the accuracy of his or her meter, and the meter is not due for periodic testing, the utility shall notify the customer of the conditions under which the test will be made by the utility or by a referee. If the customer shall then request the utility to proceed with the test and remits an amount equal to the estimated cost incurred by the utility, but not less than ten dollars (\$10), the utility shall make the test promptly. A report giving results of the test shall be made to the customer and the utility, ~~and a complete record of the test shall be kept within the applicable Division of the Commission.~~ If, when tested, the meter is found to be more than two percent (2%) in error, the amount advanced shall be promptly refunded to the customer. If the meter is not found to be more than two percent (2%) in error, the utility shall retain the amount advanced by the customer for the test. <sup>201</sup>

~~6.5.b. i.~~ Customer's Privilege. A customer may be present when the utility conducts the test on the customer's meter or, if the customer desires, may send an expert or other representative appointed by the customer.

6.5.e. b. Commission Inspection. If the customer files a complaint with, or makes a request for assistance from, the Commission regarding the accuracy of his or her meter, the utility owning the meter shall be notified and shall have a representative present to remove the meter and assist a Staff of the Commission inspector with the test. ~~This test shall be made at the expense of the utility.~~ If the customer remits an amount equal to the estimated cost incurred by the Staff of the Commission, but not less than ten dollars (\$10.00), the Staff of the Commission shall make the test promptly. <sup>202</sup>

6.5.d.i. Report to Customer. A report giving the name of the customer requesting the test, the date of the request, the location of the premises where the meter had been installed, the type, make, size and serial number of the meter, the date of removal, the date tested, and the result of the test shall be supplied to such customer within ten (10) days after the completion of the test.

#### 6.6. Metertesters.

6.6.a. Metertester Required. Every utility shall have in its employ or have access to the services of one or more competent metertesters whose duty it shall be to perform such tests as may be necessary to determine the accuracy of the utility's meters.

6.6.b. Certification of Metertester. A utility desiring to certify an employee as a metertester must secure a qualification card from the Commission in the form of Water Form No. 9; have same executed by the applicant and returned to the Commission; together with a certification by a responsible representative of the utility as to the facts contained on the card. The Commission will then schedule a certification test which will consist of a written examination and a demonstration test of the applicant's meter testing skills on

<sup>200</sup> Rule stricken as unnecessary given Rule 1.6.b.

<sup>201</sup> Obligation to file meter tests with Commission stricken as unnecessary until customer files complaint.

<sup>202</sup> Fee for Commission test added so that customer does not have an incentive to have Commission perform the test rather than the utility.

certified testing equipment. If the applicant's qualifications are satisfactory, the Commission will then issue a card to the employee in the form of Water Form No. 10 authorizing the employee to test meters of the type and size shown on the card.

6.6.c. Experience Required. No employee of a utility shall be authorized to test meters unless he or she has had at least six (6) months' experience in a utility water-meter shop, or equivalent experience, part of which time must have been spent working on the type meter for which authority to test has been requested. All tests must be made by an authorized metertester.

6.6.d. Reports to Commission — 203

1. ~~Each utility shall file on or before February 1st, each year, a list of the individuals in its employ authorized to test meters.~~

2. ~~The utility shall notify the Commission and shall take up and return the metertester's card when a certified metertester ceases to be in its employ.~~

**§150-7-7. Safety Requirements.**

7.1. Accidents Records. Every utility shall keep a record of every accidental happening in connection with the operation of its plant, station, property, and equipment, whereby any person shall have been killed, or seriously injured, or any property damaged or destroyed, with full statement of the cause of such accident, and the precautions taken to prevent similar accidents in the future.

**§150-7-8. ~~Creation or Alteration of Public Service Districts Territory.~~**

8.1. Creation or Alteration of a Public Service District.

8.1.a. Procedure. A county commission upon entering an order on its own motion, or upon receipt of a petition, or upon receipt of a recommendation of the Commission, proposing the creation, ~~expansion, enlargement, reduction, merger, dissolution, or consolidation, reduction or dissolution~~ of a public service district pursuant to W. Va. Code §16-13A-2, shall:

1. Setting Hearing. At the same session, fix a date of hearing in the county which date shall be not more than forty (40) days nor less than twenty (20) days from the date of the action;

2. Notice to the Commission. Within ten (10) days, provide the Executive Secretary of the Commission with a copy of the order or petition and notification of the time and place of the hearing to be held by the county commission;

3. Notice to Other County Commissions. If the territory proposed to be included is situated in more than one county, when fixing the date of hearing, provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed;

4. Publication of Notice. Publish, at least ten (10) days prior to the hearing, a Class I legal advertisement meeting the requirements stated in W. Va. Code §16-13A-2, giving notice of the hearing;

5. Posting of Notice. Post notice in at least five (5) conspicuous locations in the proposed public service district as required by W. Va. Code § 16-13A-2; and

<sup>203</sup> Rule stricken as unenforced and overly burdensome.



6. Filing Notices with Commission. File with the Executive Secretary of the Commission affidavits of publication pursuant to Rule 4. above, and affidavits of posting pursuant to Rule 5. above as soon as the same are available.

8.2. Notification to the Commission of County Commission Action.

8.2.a. Application to Public Service Commission. If the county commission enters an order creating, enlarging, reducing, merging, dissolving, or consolidating a public service district, the county commission shall, within ten (10) days of entering such order, file a copy of such order with the Executive Secretary of the Commission. If the county commission declines to enter such an order, the county commission shall, within ten (10) days of declining, file with the Executive Secretary of the Commission notice that it has declined to enter any such order.

8.3. Notice of Filing.

8.3.a. Content. Upon the receipt of a county commission order proposing the creation, enlargement, reduction, merger, dissolution, or consolidation of a public service district pursuant to W. Va. Code § 16-13A-2, the Commission shall enter an order directing the county commission to provide notice of the proceeding through the issuance of a Class I legal advertisement in the form of Water Form No. 11: ~~prescribed by the Commission, in the county or counties affected by the proposed order. The notice shall include the right of any customer of the proposed public service district to file a written protest or make a verbal protest at the hearing or hearings. See Water Form No. 8 for example of notice to be published.~~<sup>204</sup>

~~8.3.~~ 8.4. Commission Hearing.

~~8.3.a.~~ 8.4.a. Notice. The Commission ~~shall~~ may hold a hearing or hearings in each county affected by a county commission order(s) filed pursuant to Rule 8.1.a. ~~and~~<sup>+</sup> The Commission shall publish a Class I legal advertisement giving notice should it hold ~~of~~ such hearing or hearings.

~~8.4.~~ 8.5. Commission Consideration of Proposed Creation or Alteration.

~~8.4.a.~~ 8.5.a. Order. After public comment and hearing the Commission shall, by order, approve, disapprove or modify a county commission order creating, expanding, merging, consolidating, reducing or dissolving a public service district. In deliberating on approval, modification or disapproval the Commission may consider, among other things:

1. the public convenience and necessity;
2. the economic feasibility of providing service in the territory affected. ~~including sources of funding, costs and related benefits of the county commission's order;~~<sup>205</sup>
3. the adequacy of facilities;
4. other facilities in the area; and
5. other possible alternatives.

<sup>204</sup> Stricken language is redundant given content of Water Form No. 13.

<sup>205</sup> Stricken language is not a proper factor, as such information is typically not known at the time a PSD's territory is modified or a PSD is created.

### 8.6. Effect of Territory<sup>206</sup>

8.6.a. Authority Not Exclusive. The Commission approved territory authorizes a public service district to provide service within the territory so approved and up to ten miles outside of such territory; however such authority is not exclusive. A municipality, investor owned utility, association, or non-profit utility may provide and extend service into the unserved territory of a PSD.

8.6.b. PSD Incursion Into Another PSD's Territory. A PSD may only extend facilities into the Commission approved territory of another PSD with the consent of the board of the PSD with water authority in the territory in question, unless the PSD with Commission approved territory owns no water facilities.

8.6.c. Extending Facilities Into a Neighboring County. The extension of facilities into a county for which the appropriate county commission has not entered an order approving the PSD to provide service in said county may only occur with either the consent of a board of a PSD having water authority in such territory or an order of the county commission expressing consent to such extension. When such consent is provided, no county commission order is required.

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<sup>206</sup> New rule to clarify significance of PSD territory, and how it is to be treated by utilities.

**Water Form No.1**  
(Water Rule 4.8.a.)

(Insert Company Name Here)

**NOTICE OF SCHEDULED TERMINATION OF SERVICE  
AND CUSTOMER RIGHTS**

We have scheduled your water service provided at \_\_\_\_\_ (address)  
for termination on or after \_\_\_\_\_ (date).

This action has been taken for the following reason(s):

(Include reason and facts resulting in decision to terminate service).

If personnel are dispatched to terminate service, you will be charged a \$25.00 administrative fee, regardless of whether service is actually terminated. [For utilities with this administrative charge in the tariff.]

Personnel [do/do not] accept payment outside of the office.

Cash [is/is not] accepted outside of the office.

If you have written us a bad check in the last twelve months, we will not accept payment of applicable charges by check.

If your service is terminated you may be subject to additional charges involving reconnect fees and deposit requirements in order to restore service.

(Include all applicable charges.)

**YOU HAVE THE RIGHT TO CHALLENGE THE TERMINATION IF YOU BELIEVE ANY OF  
THE FOLLOWING CONDITIONS APPLY TO YOU:**

1. Any portion of the bill is in dispute
2. You are being charged for service not received
3. The information above is incorrect
4. You are unable to pay the bill in accordance with the billing, and termination of service would be especially dangerous to the health or safety of a member of your household.
5. You are able to pay only installments

If the reason for your challenge is 1, 2 or 3 above, you will have to pay any amount not in dispute. If the reason for your challenge is 4 or 5, we will attempt to negotiate a deferred payment agreement with you.

Water Form No. 1  
Page 2 of 2

**YOU MUST NOTIFY US BEFORE THE DATE OF TERMINATION IN ORDER TO PROTECT YOUR RIGHTS UNDER THIS RULE:**

(Provide instructions for contacting the appropriate utility personnel by telephone and mail, including business hours)

You should also inform us if you are 65 years or older, or regardless of age, if you are physically, mentally, or emotionally incapacitated.

Once you have notified us of your challenge, we will schedule a meeting at the business office nearest to your residence and try to resolve your problem. At your option, the discussion of your challenge may be made over the telephone. **IF YOU ARE NOT SATISFIED WITH OUR DECISION AT THIS MEETING, YOU WILL HAVE SEVEN DAYS IN WHICH TO FILE A CHALLENGE WITH THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA.** You will be required to pay your current bill while the challenge is pending. There is no charge associated with filing a challenge and you may do so without the assistance of an attorney.

To file a challenge with the PSC, you may call this toll free telephone number 1-800-642-8544 or write to this address:

Utility Challenge  
Public Service Commission of West Virginia  
P. O. Box 812  
Charleston, W. Va. 25323

If you are in need of assistance to pay your bill, you should contact the following agencies: (List agencies in service area).

If you desire the assistance of a lawyer with regard to the scheduled termination and are unable to pay for legal counsel, contact one of the following low income legal assistance organizations: (List agencies in service area).

**Water Form No. 2**  
**(Water Rule 4.8.a.9)**

**NOTICE OF SCHEDULED TERMINATION**

We have scheduled water service provided at \_\_\_\_\_  
(address)

for termination on or after \_\_\_\_\_ because of your landlord's delinquent water bill.  
(Date)

To notify the Public Service Commission, you may call this toll free telephone number, 1-800-642-8544,  
or write to this address:

Public Service Commission of West Virginia  
P.O. Box 812  
Charleston, WV 25323

If you desire the assistance of a lawyer with regard to the scheduled termination and are unable to pay  
for legal counsel, contact one of the following low income legal assistance organization: (List agencies in  
service area).

**Water Form No. 3**  
(Water Rule 4.13.d.)

**PUBLIC NOTICE OF FILING OF A PETITION  
FOR THE IMPOSITION OF A MORATORIUM**

Case No. \_\_\_\_\_

NAME OF UTILITY \_\_\_\_\_

a public utility.

Petition for consent and approval for  
the imposition of a moratorium on the  
utility system.

PUBLIC NOTICE

On \_\_\_\_\_ the \_\_\_\_\_  
(Date) (Name of Utility, Commission Staff, or governmental entity, Petitioner)

filed a petition with the Public Service Commission for approval of the imposition of a moratorium on

\_\_\_\_\_'s \_\_\_\_\_  
[name of utility] [water, sewer, or other]

system serving \_\_\_\_\_. If approved, the moratorium would mean  
(describe areas served)  
that no new customers could be served by the utility in these areas until the Commission lifts the  
moratorium.

The \_\_\_\_\_ claims that the imposition of a moratorium is appropriate because  
(name of petitioner)

\_\_\_\_\_  
[describe reasons and describe any plans to alleviate the circumstances giving rise to the petition, and any  
estimate of a date when it would be appropriate for the Commission to lift the moratorium.]

Any person wishing to protest, support, make comment, or request a public hearing about the proposed  
moratorium should do so in writing. Written statements should be addressed to the Executive Secretary,  
Public Service Commission, P.O. Box 812, Charleston, WV, 25323.

NAME OF UTILITY

**Water Form No. 4**  
(Water Rule 5.5-e-2 b.3.)

Form of written request for service to existing structures by a prospective customer or  
a group of prospective customers located in the same neighborhood vicinity

Water ( )    Water and Sewer ( )

Previous Customer ( )    If so, when \_\_\_\_\_ New customer ( )

Name \_\_\_\_\_

Mailing address \_\_\_\_\_ Phone \_\_\_\_\_

Property location \_\_\_\_\_

Rent ( )    Own ( )    Other \_\_\_\_\_

If rent: Property owner's name \_\_\_\_\_

Property owner's mailing address \_\_\_\_\_ Phone \_\_\_\_\_

Type of service:    Residential ( )                      Number in household \_\_\_\_\_

                                 Commercial ( )                      Type \_\_\_\_\_

                                 Industrial ( )                      Type \_\_\_\_\_

Applicant's place of employment \_\_\_\_\_

Employment address \_\_\_\_\_ Phone \_\_\_\_\_

Name of spouse \_\_\_\_\_

Spouse's place of employment \_\_\_\_\_

Spouse's employment address \_\_\_\_\_ Phone \_\_\_\_\_

I HEREBY AUTHORIZE SERVICE TO BE ESTABLISHED IN MY NAME AT THE ABOVE  
PROPERTY LOCATION AND AGREE TO PAY FOR SERVICE UNTIL DISCONTINUED BY MY  
REQUEST IN WRITING. I UNDERSTAND THAT THIS APPLICATION IS ACCEPTED SUBJECT TO  
THE AVAILABILITY OF SERVICE AT THIS LOCATION.

Applicant's signature \_\_\_\_\_

Date \_\_\_\_\_

Utility representative \_\_\_\_\_ Date \_\_\_\_\_

150 CSR7

Water Form No. 4  
Page 2 of 2

For office use only

Name \_\_\_\_\_ Account No. \_\_\_\_\_

Applicant ID \_\_\_\_\_

Deposit amount \_\_\_\_\_ Tap fee amount \_\_\_\_\_

Meter Size \_\_\_\_\_ Meter No. \_\_\_\_\_

Meter Route \_\_\_\_\_ Meter reading \_\_\_\_\_

Date on \_\_\_\_\_ Date off \_\_\_\_\_

Customer request ( ) Termination ( )



**Water Form No. 6-5<sup>207</sup>**  
 (Water Rule 5.5.e.2.5.5.b.1.)

Form of cost estimate to be provided to applicants for service to existing structures

Dear Mr. Customer:

We have received a petition for a water main extension and have estimated the construction cost to extend the main to serve the ~~properties~~ existing structures of the \_\_\_\_ (insert number) petitioners. This estimate is summarized below:

Water _____ feet at \$ _____ / foot	
Excavation/Installation _____ feet at \$ _____ / foot	
Materials (fittings, valves, stone, etc.)	
Permits/Rights-of-way (Health, Highways, etc.)	_____
Restoration (seeding, gravel, etc.)	_____
Related Cost (engineering, legal, etc.)	_____
Total Estimated Extension Construction Cost	_____
Minus Utility's Share (estimated total net revenue per customer pursuant to Water Rule 5.5.e.4 5.5.)	_____
Estimated Cost to be Paid by Customers	_____
Estimated Cost per Customer	_____

When the "customer's share" referenced above is deposited with the Utility and stamped and recorded easements are delivered to the utility, the Utility will apply for the necessary permit applications and begin construction as soon as possible. If the actual cost to construct the extension is less than the estimated cost, the Utility will refund the difference to the original depositors. If the actual cost exceeds the estimated cost, the Utility will bill the depositors for the difference. This difference must be settled before service can actually be connected.

All customers will be required to sign the attached ~~an~~ extension agreement and complete the attached ~~an~~ application for service and/or a users agreement and pay a tap fee of \$ \_\_\_\_\_, and a security deposit of \$ \_\_\_\_\_ prior to the commencement of construction ~~receiving~~ service. The security deposit is refunded with interest following twelve consecutive months of full and timely payments for services rendered.

The estimated start date of construction is \_\_\_\_\_.

The estimated duration of construction is \_\_\_\_\_ days.

Please complete and return the attached materials and make all payment identified.

Should you have any questions, you may contact Barbara Manager or John Foreman at \_\_\_\_\_ between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Sincerely,

<sup>207</sup> Water Form No. 5 stricken as redundant to Water Form No. 6. Utility Coalition proposes using Water Form No. 6 as Water Form No. 5 with changes.

**WATER FORM NO. 6<sup>208</sup>**  
**(Water Rule 5.5.b.2.B.)**

**STANDARD MAIN LINE EXTENSION AGREEMENT**  
**(NO CUSTOMER CONTRIBUTION)**

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_  
 \_\_\_\_\_[utility name], "OWNER", and \_\_\_\_\_,  
 "CUSTOMER", owning property located at \_\_\_\_\_, being one of \_\_\_\_\_,  
 customers requesting service by petition for a water extension known as the Extension.

**WITNESSETH:**

THAT WHEREAS, OWNER is the owner and operator of a water system serving customers within a geographic area in \_\_\_\_\_ County, West Virginia, as defined by the County Commission of \_\_\_\_\_, West Virginia; and

WHEREAS, CUSTOMER is a property owner, and with a group of \_\_\_\_\_ other CUSTOMERS, has requested OWNER to extend water service, to be known as the Extension, to their properties; and

WHEREAS, the cost of the Extension is estimated by the OWNER not to exceed 42 times OWNER'S estimate of monthly gross revenue.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereto have agreed and do hereby agree as follows:

(1) Construction Standards. The Extension will be installed according to the rules and regulations of the Public Service Commission of West Virginia and the West Virginia Bureau for Public Health and will be the property of the OWNER.

(2) Easements. CUSTOMER will deliver to the OWNER, prior to commencement of construction, at no cost to the OWNER, copies of stamped and recorded private easements necessary for the completion of the Extension in a form acceptable to OWNER.

(3) Further Extensions. The OWNER reserves the right to further extend its water system from and beyond the terminus of the Extension made pursuant to this agreement.

(4) Fees. CUSTOMER will pay to the OWNER the applicable tap fee, security deposit, and any other applicable charges in OWNER'S tariff prior to the connection of CUSTOMER'S service line to the Extension.

Witness the following signatures.

\_\_\_\_\_  
 CUSTOMER

\_\_\_\_\_  
 OWNER

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date

<sup>208</sup> New form.

**WATER FORM NO. 7<sup>209</sup>**  
**(Water Rule 5.5.b.3.D.)**

**STANDARD MAIN LINE EXTENSION AGREEMENT**  
**(CUSTOMER CONTRIBUTION)**

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_  
 \_\_\_\_\_ [utility name], "OWNER", and \_\_\_\_\_,  
 "CUSTOMER", owning property located at \_\_\_\_\_, being one of \_\_\_\_\_,  
 customers requesting service by petition for a water extension known as the Extension.

WITNESSETH:

THAT WHEREAS, OWNER is the owner and operator of a water system serving customers within a geographic area in \_\_\_\_\_ County, West Virginia, as defined by the County Commission of \_\_\_\_\_ West Virginia; and

WHEREAS, CUSTOMER is a property owner, and with a group of \_\_\_\_\_ other CUSTOMERS, has requested OWNER to extend water service, to be known as the Extension, to their properties; and

WHEREAS, the cost of the Extension is estimated by the OWNER to exceed 42 times OWNER'S estimate of gross monthly revenue.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereto have agreed and do hereby agree as follows:

(1) Customer Contribution. CUSTOMER will pay to OWNER the amount stated in (8) of this agreement as being equal to CUSTOMER'S share of the estimated Extension cost.

(2) Actual Costs and Estimates. If the Extension costs are less than the estimate, the difference will be refunded pro-ratably to the CUSTOMERS making deposits on the Extension. If the Extension costs are more than the estimate, the CUSTOMERS making deposits will be billed pro-ratably for the difference. The OWNER will make available to the CUSTOMERS all invoices and statements justifying the final cost.

(3) Construction Standards. The Extension will be installed according to the rules and regulations of the Public Service Commission of West Virginia and the West Virginia Bureau for Public Health and will be the property of the OWNER.

(4) Easements. CUSTOMER will deliver to the OWNER, prior to the commencement of construction, at no cost to the OWNER, copies of stamped and recorded private easements necessary for the completion of the Extension.

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<sup>209</sup> New form.

(5) Reimbursements for Subsequent Customers. Reimbursements will be made in accordance with Rule 5.5.b.3.C of the Rules and Regulations for the Government of Water Utilities.

(6) Further Extensions. The OWNER reserves the right to further extend its water system from and beyond the terminus of the Extension made pursuant to this agreement, and CUSTOMER shall not be entitled to any refund for the attaching of customers to any further extension.

(7) Fees. CUSTOMER will pay to the OWNER the applicable tap fee, security deposit, and any other applicable charges in OWNER'S tariff prior to the connection of CUSTOMER'S service line to the Extension.

(8) Costs. The preliminary Extension construction cost is estimated to be \$\_\_\_\_\_. The OWNER'S share based on \_\_\_\_\_ customers is \$\_\_\_\_\_. This leaves a balance of \$\_\_\_\_\_ to be shared equally between the customers at \$\_\_\_\_\_ per customer.

Witness the following signatures.

\_\_\_\_\_  
CUSTOMER

\_\_\_\_\_  
OWNER

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**WATER FORM NO. 8**  
**(Water Rule 5.5.b.4.)**

**SELF-HELP MAIN LINE EXTENSION AGREEMENT**  
**(CUSTOMER CONTRIBUTION)**

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ [utility name], "OWNER", and \_\_\_\_\_, "CUSTOMER", owning property located at \_\_\_\_\_, being one of \_\_\_\_\_, customers requesting service by petition for a water extension known as the Extension.

**WITNESSETH:**

THAT WHEREAS, OWNER is the owner and operator of a water system serving customers within a geographic area in \_\_\_\_\_ County, West Virginia, as defined by the County Commission of \_\_\_\_\_ West Virginia; and

WHEREAS, CUSTOMER is a property owner, and with a group of \_\_\_\_\_ other CUSTOMERS, has requested OWNER to extend water service, to be known as the Extension, to serve their properties located \_\_\_\_\_; and

WHEREAS, the cost of the Extension is estimated by the OWNER to exceed 42 times OWNER'S estimate of gross monthly revenue; and

WHEREAS, the CUSTOMERS to be served by the Extension have or have access to, the skills, labor and equipment necessary to construct the Extension; and

WHEREAS, to minimize costs to the CUSTOMERS to be served by the Extension, the CUSTOMERS are willing to furnish labor and equipment and materials exceeding the utility's costs contribution requirements, if any.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereto have agreed and do hereby agree as follows:

(1) Design. OWNER will have its engineer design the Extension at OWNER's expense, which is expected to be comprised of \_\_\_\_\_ linear feet ("lf") of \_\_\_\_\_-inch diameter main, \_\_\_\_\_ lf of \_\_\_\_\_-inch diameter main [identify other significant features, such as fire hydrants].

(2) Permits. OWNER will obtain all permits necessary for the Extension.

(3) Easements. CUSTOMER will deliver to the OWNER, prior to the commencement of construction, at no cost to the OWNER, copies of stamped and recorded private easements necessary for the completion of the Extension.

(4) Construction Standards. The Extension will be installed according to the OWNER's design, the rules and regulations of the Public Service Commission of West Virginia and the West Virginia Bureau for Public Health and will become the property of the OWNER.

(5) Owner Contribution. OWNER will contribute legal and engineering services and materials for the Extension up to \$\_\_\_\_\_, said amount representing the utility's cost contribution requirement under Water Rule 5.5.

OWNER's contribution is expected to be expended as follows:

Legal	\$ _____
Engineering (including permits and inspection)	\$ _____
Materials	\$ _____
TOTAL	\$ _____

The material to be contributed by OWNER will be:

\_\_\_\_\_ lf of \_\_\_\_\_ inch diameter main  
\_\_\_\_\_ lf of \_\_\_\_\_ inch diameter main  
\_\_\_\_\_ [describe other materials]

(6) CUSTOMER Contribution. Equipment necessary for the Extension consists of [describe]. CUSTOMER, in conjunction with other customers to be served by the Extension, has or will obtain such equipment. CUSTOMER will provide or obtain labor for installation of the Extension. CUSTOMER will, with other customers to be served by the Extension, pay for the acquisition of the following materials for the extension:

\_\_\_\_\_ lf of \_\_\_\_\_ inch diameter main  
\_\_\_\_\_ lf of \_\_\_\_\_ inch diameter main

The estimated cost of these materials is \$ \_\_\_\_\_.

The per customer share is \$ \_\_\_\_\_.

(7) Inspection. OWNER will assign an inspector for the installation of the Extension. OWNER will contribute the cost of testing or inspection, as indicated in Paragraph (5).

(8) Fees. OWNER will not charge a tap fee for taps installed by others.

(9) Further Extensions. The OWNER reserves the right to further extend its water system from and beyond the terminus of the Extension made pursuant to this agreement, and CUSTOMER shall not be entitled to any refund for the attaching of customers to any further extension.

(10) Waiver. CUSTOMER files herewith an executed waiver attached to this Agreement. This Agreement is null and void if CUSTOMER fails to fully execute the attached waiver.

Witness the following signatures.

\_\_\_\_\_  
CUSTOMER

\_\_\_\_\_  
OWNER

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Thank you for volunteering for the \_\_\_\_\_ self help extension project (the  
name of project  
"Project"), being constructed in conjunction with \_\_\_\_\_. This form must be fully  
utility  
completed and delivered to \_\_\_\_\_ prior to you performing any work on  
utility  
the Project.

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

STREET: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

DAYTIME PHONE: \_\_\_\_\_ EVENING PHONE: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

EMPLOYER/SCHOOL/ORGANIZATION: \_\_\_\_\_

I understand that my or my dependent's work as a volunteer on or about the Project could expose me or my dependent to various risks of injury or illness, and any tools or equipment used or clothes or jewelry worn to damage. I understand and assume these risks, and agree not to hold \_\_\_\_\_ (utility) its agents, employees, insurers, or fellow Project volunteers liable for such injury, illness, or damage. I hereby waive any and all claims for such injuries, illness, or damage that could be brought in any court of law, or administrative agency, including but not limited to Workers' Compensation claims. I further understand that it is the policy of \_\_\_\_\_ (utility) that all volunteers must abide by the verbal safety instructions and requirements of \_\_\_\_\_ (utility) staff on the construction site.

volunteer's printed name	signature	date
signature of parent/guardian if volunteer is under 18 years of age		date

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Water Form No. 10  
(Water Rule 5.5 ~~h-7~~ .c)

Form of Commission Check-List for Alternate Main Extension Agreements

This form sets forth the minimum amount of information that should be included in a proposed alternate main extension agreement.

- ☐ 1. Name of developer, mobile home park owner or prospective customers(s).
- ☐ 2. General location or description of area to be served.
- ☐ 3. ~~Indication that the developer, owner or prospective customer(s) has/have read Water Rule 5.5, Sewer Rule 5.35, or both in their entirety.~~ A statement indicating who will be responsible for preparing the plans for the extension.
- ☐ ~~21~~ 4. The number of prospective customers to be served by the extension, the number of lots to be served, identification of all easements needed to full build out of the development, ~~or some other general indication of the size of~~ and the area to be served by the extension.
- ☐ ~~5.~~ ~~For alternate main line extension agreements to serve only existing structures, Having read and understood the Rules, the developer, owner or prospective customer(s) choose(s) to enter into the alternate main line extension agreement.~~
- ☐ ~~28~~ 5. A statement describing the extension, including length, diameter and any major components such as fire hydrants, etc.
- ☐ ~~4.~~ 6. ~~Indication that the developer, owner or prospective customer(s) understand(s) the Rules.~~ A statement describing the utility's review of the plans for the extension and cost responsibility.
- ☐ ~~25~~ 7. A statement as to who will obtain and pay for necessary permits.
- ☐ ~~26~~ 8. A statement as to who is responsible for the cost of the construction.
- ☐ ~~9.~~ ~~If the customer is to bear the cost of inspection, a statement of the maximum amount of the cost of inspection.~~
- ☐ ~~27~~ 9. A statement as to who is responsible for the cost of the material.
- ☐ ~~10.~~ ~~For alternate main line extension agreements to serve only existing structures, if the developer, owner or prospective customer(s) wish(es) to waive the right of receiving an estimate of the cost of the extension if constructed by the utility, a statement reflecting the waiver.~~
- ☐ ~~6~~ 10. ~~For alternate main line extension agreements to serve only existing structures, if the developer, owner or prospective customer(s) waive(s) reimbursement, the agreement should contain the waiver.~~ Developer must present utility with copies of recorded easements and all other real property documents and permits, prior to commencement of construction
- ☐ ~~7.~~ 11. ~~For alternate main line extension agreements to serve only existing structures, A a copy of the applicable Rule(s) must be attached to the agreement.~~ Utility must authorize commencement of construction in writing.

Water Form No.10  
Page 2 of 2

- ☐ ~~8~~ 12. A statement as to who will bear the cost of inspection. ~~, if any.~~
- ☐ ~~13.~~ ~~If the customer is to bear the cost of the testing, a statement of the maximum amount of the cost of the testing.~~
- ☐ ~~11~~ 13. A statement as to the type of testing to be required.
- ☐ ~~12~~ 14. A statement as to who will bear the cost of testing, if any.
- ☐ ~~14~~ 15. A statement as to who will install the service connections.
- ☐ ~~16.~~ ~~A statement that the tap fee, if any to be charged, is the approved tap fee in the utility's tariff.~~
- ☐ ~~15~~ 16. If the developer, owner or prospective customer(s) is/are to install the service connections, a statement that the utility will not charge a tap fee.
- ☐ 17. A statement that the utility is to be indemnified and held harmless against any and all claims for injuries and/or damages which may arise from problems associated with the construction of the extension by the developer, owner, ~~or~~ prospective customer(s), or any agents or contractors of the same.
- ☐ 18. A statement that the ownership of the extension will be conveyed to the utility ~~prior to its connection to the utility's system~~ upon the utility's acceptance of the system.
- ☐ ~~23~~ 19. A warranty indicating that the developer, owner or prospective customers will warrant the system for a period of one year after completion of the construction, or after system is placed into service.
- ☐ 20. If the developer, owner or prospective customer(s) is/are to be responsible for the preparation of the plan for the extension, a statement that the developer, owner or prospective customer(s) will provide plans to the Staff of the Public Service Commission if Commission review of the agreement is required and Staff makes such a request.
- ☐ ~~24~~ 21. The agreement should not be executed before being sent to the Commission for approval, unless the legal terms of the agreement are identical to an Alternate Extension Agreement for the utility that the Commission has previously approved.
- ☐ 22. A statement that the developer, owner or prospective customer will grant the utility easements necessary for the utility to serve other customers at no cost to the utility.  
~~For alternate main line extension agreements to serve only existing structures, if the initial cost estimate has not been waived, the estimate must be set forth in the agreement.~~

**NOTE:** A paragraph such as "The Developer/Customer waives his rights under paragraph 5.3 or 5.5 of the Commission's Rules" will not be acceptable as a catch-all for the requirements listed

150 CSR7

above. Each item must be addressed in the agreement.

**Water Form No.9 11**  
(Water Rule 6.6.b.)

(Front)

**QUALIFICATION CARD FOR WATER METERTESTER**

Name \_\_\_\_\_ Age \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

Title \_\_\_\_\_

Employer \_\_\_\_\_ Shop Location \_\_\_\_\_

Supervisor-Name \_\_\_\_\_ Title \_\_\_\_\_

**GENERAL EXPERIENCE**

Type of Work	Company	Years
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**\*METER EXPERIENCE**

Type Meter	Nature of Work	Company	Years
Testing-	_____	_____	_____
Disc or Displacement	_____	_____	_____
Current	_____	_____	_____
Compound	_____	_____	_____
Fire Protection	_____	_____	_____
Testing & Repairing-	_____	_____	_____
Disc	_____	_____	_____
Current	_____	_____	_____
Compound	_____	_____	_____
Fire Protection	_____	_____	_____

Remarks: \_\_\_\_\_

\*State, under remarks, in detail the type or kind or work done on meters.

**150 CSR7**

Should this application be approved, I will test all water meters in accordance with the Rules for the Government of Water Utilities of the Public Service Commission of West Virginia, and will not seal or approve for installation any meter that does not meet all of the requirements of the Rules for the Government of Water Utilities.

---

Signature

I, \_\_\_\_\_, \_\_\_\_\_ of the  
(Name) (Title)

\_\_\_\_\_ certify that I have read the questions and  
(Water Company)

answers on this card, relative to the experience of \_\_\_\_\_  
(Name of Employer)

and that they are true and correct to the best of my knowledge and belief. I further certify that the above employee is competent to test and repair \_\_\_\_\_(Disc) \_\_\_\_\_(Current) \_\_\_\_\_(Compound) meters and will, faithfully and honestly discharge the duties of metertester.

Signature

The above employee has been authorized to test Water Meters as shown below:

	Testing	Testing and Repairing
Disc	_____	_____
Current	_____	_____
Compound	_____	_____

PSCWV Employee

**date**

150 CSR7

**Water Form No. 10 12**  
(Water Rule 6.6.b.)  
(Front)

**WATER METERTESTER'S CARD**

**PUBLIC SERVICE COMMISSION OF WEST VIRGINIA**  
**Charleston, West Virginia**

No. \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Name of Employee

is hereby authorized to test and repair the following type or types of water meters:

**Testing**

**Testing and Repairing**

Disc \_\_\_\_\_  
Current \_\_\_\_\_  
Compound \_\_\_\_\_  
Utility \_\_\_\_\_  
Shop Location \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
PSCWV Employee

(over)

**(Back)**

This card must be returned to the Public Service Commission of W. Va. by the

\_\_\_\_\_ when \_\_\_\_\_ leaves the

employ of the company or ceases to serve as metertester.

Water Form No. ~~11~~ 13  
(Water Rule 8.3)

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the [day] of [month], [year].

[Case No.]

[Case Name]

**NOTICE OF FILING**

On [date], the [name of party] filed a petition for consent and approval to [type of creation/alteration] the boundaries of the [description of area to be enlarged] pursuant to *West Virginia Code* §16-13A-2. A complete description of the boundary [type of creation/alteration] is on file with the [identify entity with which information is filed (for example, county commission and/or public service district)] and the West Virginia Public Service Commission.

Anyone desiring to protest or intervene should file a written protest or notice of the intervention within 30 days following the date of this publication. All protests or requests to intervene should briefly state the reason for the protest or intervention. Requests to intervene must comply with the Commission's rules on intervention, set forth in the Commission's *Rules of Practice and Procedure*. All protests and interventions should be addressed to Sandra Squire, P.O. Box 812, Charleston, West Virginia 25323. If no substantial protest is filed, the Commission may approve the County Commission's Order without hearing.

[Name of Party]



**PUBLIC SERVICE COMMISSION OF WEST VIRGINIA  
STAFF COMMENTS**

**DATE:** October 31, 2008

**TO:** SANDRA SQUIRE, Executive Secretary

**FROM:** C. TERRY OWEN, Staff Attorney  
Legal Division

**RE:** General Orders 186.22 and 188.28  
In the matter of a rulemaking to amend the Commission's Rules and Regulations for the Government of Water and Sewer Utilities.

RECEIVED  
08 OCT 31 PM 3:38  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

The Staff of the Public Service Commission provides for the Commission's consideration the following comments:

*Sewer Rules*, 150 C.S.R. 5

While the *Sewer Rules* are entitled "*Rules for the Government of Sewer Utilities*" as currently codified in the *Code of State Regulations* and as proposed, the Commission has historically referred to them as "Rules and Regulations for the Government of Sewer" Utilities in its orders and published documents. Perhaps it is time for consistency in future references and printings to drop the words "and Regulations". This is redundant and the Commission's *Rules* are usually referred to and cited as *Rules*, not regulations.

Rule 1.7.c.3. - Definition of delinquency.

The Legal Division notes that the proposed change reflects the language of *W. Va. Code* § 8-20-10(b) and is a needed update.

Rule 2.4.a. - Electronic filing of financial and statistical reports.

There is an inconsistency between the Commission's Order, which states on page 2 that electronic filings should begin two years after the proposed order becomes effective, and the proposed Rule. The proposed Rule states that electronic filing should begin January 1, 2009. The Water and Wastewater Division suggests that the effective date of the electronic filing requirement agree with the Commission's order and not the specific date set forth in the proposed rule.

The Legal Division concurs with the WWD comment.

Rule 2.5 - The requirement that utilities maintain their records in compliance with a more recent edition of the National Association of Regulatory Utility Commissioners' *Uniform System of Accounts (USA)*.

The WWD outlines the significant changes in record keeping requirements of this rule change. The WWD notes that the more current Uniform System of Accounts requires the posting of accumulated depreciation associated with contributions in aid of construction to be posted to contra accounts. The WWD opines that this serves no purpose and that public utilities should be allowed to charge all depreciation to an accumulated depreciation account, notwithstanding the source of the funding for the asset. In support of its position, the WWD states that the Governmental Accounting Standards Board-34 (GASB-34) prohibits the use of the proposed accounting method. The WWD provides a exhibit setting forth all of the USA expense accounts with the corresponding functional sub accounts as a working aid.

The Legal Division does not take a position on this issue because of its pure accounting nature. However, the Legal Division does caution that the NARUC requirement set forth in its USA may be a further requirement above and beyond the GASB-34 standards and required of regulated entities for specific regulatory purposes. The Legal Division also notes that not all water and sewer utilities are governmental entities.

#### Rule 4.2.a. - Security Deposits

The WWD makes several suggestions regarding changes in the proposed rules that would eliminate the payment of interest on customer deposits. The WWD contends that the calculation of interest is burdensome on utilities, that petitions for waivers would be eliminated and that the interest earned could be better utilized by public utilities in meeting their revenue requirements.

The WWD interprets the statutory language, which is repeatedly set forth in the *W. Va. Code*, as conferring upon the Commission the authority to set an interest rate payable upon deposits as 0.00%. If this were done, it would eliminate the interest bookkeeping and payment thereby freeing up the accrued interest revenues for other uses.

The Legal Division differs with the WWD's statutory interpretation. The statutory language which is repeatedly set forth in the *W. Va. Code* is: "... the governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the PSC may prescribe." See *W. Va. Code* §§ 8-19-12a(2), 8-20-10(a)(4), and 16-13-16(e). The Legal Division, applying the plain language rule of statutory interpretation suggests that the payment of interest on deposits is controlled by the use of the word "shall" in these statutes, while the reference to "... a rate as the PSC may prescribe." grants the PSC the discretion

to designate an interest rate, but no duty to do so. However, whether this discretion is exercised or not by the PSC to designate the interest rate, the utility is still required to return the deposit with interest. The Legal Division also suggests that it would be a callous and unnecessary anti-consumer policy to eliminate the interest payment requirement.

#### Rule 4.11 - Scheduled and unscheduled interruptions.

The Engineering Division suggests that the requirement that the reporting of all scheduled and unscheduled interruptions is overly burdensome and impractical. As an alternative, the ED suggests that the notification requirements only be applicable to interruptions affecting more than 50 customers or those lasting more than twenty-four hours. The ED further suggests that the notification rules be modified to be more specific regarding how notification of the Commission or other agencies be made and how the notifications should be distributed internally if filed with the Commission's Office of the Executive Secretary.

The Legal Division cautions that the controlling language may already eliminate all limited and brief interruptions. The language "... which will result in interruption of service for any duration **that may cause a health or environmental hazard** ..." is clear. The Legal Division cannot endorse a change that would allow either an interruption to less than fifty customers or an interruption of less than twenty-four hours to go unreported if those interruptions would **cause a health or environmental hazard**. The Legal Division concurs with the ED's recommendation that the notification process be more specifically defined.

#### Rule 5.5.g. - Alternate Depositor-Financed Extension Plans

The ED is concerned that the resolution of alternate depositor-financed extension plan disagreements by the Commission should be applicable only to alternate depositor-financed extension plan disagreements. The ED feels that this disagreement resolution rule should be applicable to both alternate depositor-financed extension plans and all other extension agreements.

The Legal Division is not certain that *Sewer Rule 4.5* pertaining to complaints and *Procedural Rules (Rules of Practice and Procedure, 150 C.S.R. 1) 6.1 and 6.2* do not already provide the Commission forum for resolution of disagreements pertaining to all service line extensions.

#### Rule 5.5.h.7. - Alternate Extension Plans

The ED proposes certain changes in the Commission's requirements regarding filing and Commission approval of all alternate mainline extension plans. In order to reduce

unnecessary filings, the ED recommends that once an alternate mainline extension plan format has been approved by the Commission, future filings should be for informational purposes only - thereby no longer requiring Commission approval. The ED also recommends that the provision requiring Commission approval as a prerequisite to the right to obtain reimbursement from the utility be eliminated. The ED feels that the utility is actually in control of the filing and approval policy and that this requirement unnecessarily penalizes the customers.

The Legal Division notes that no change was proposed by the Commission for this *Rule* and that consideration by the Commission during this rulemaking presents a public notice problem.

*Water Rules, 150 C.S.R. 7*

While the *Water Rules* are entitled "*Rules for the Government of Water Utilities*" as currently codified in the and as proposed, the Commission has historically referred to them as "Rules and Regulations for the Government of Water" Utilities in its orders and published documents. Perhaps it is time for consistency and future references and printings should drop the words "and Regulations". This is redundant and the Commission's *Rules* are usually referred to and cited as *Rules*, not regulations.

Rule 1.7.c.3. - Definition of delinquency.

The Staff's comments on the corresponding Sewer Rule are applicable.

Rule 2.4.a. - Electronic filing of financial and statistical reports.

The Staff's comments on the corresponding Sewer Rule are applicable.

Rule 2.5 - The requirement that utilities maintain their records in compliance with a more recent edition of the National Association of Regulatory Utility Commissioners *Uniform System of Accounts*.

The Staff's comments on the corresponding Sewer Rule are applicable.

Rule 4.2.a. - Security Deposits

The Staff's comments on the corresponding Sewer Rule are applicable.

Rule 4.1.g.2. - Requiring a flow test to determine whether sufficient supply and pressure are available to provide private fire protection service.

The Engineering Division feels that this testing could be expensive and burdensome on small utilities and recommends that applicants for private fire protection be required to pay for the testing. The ED also recommends that the *Rule* be amended further to clearly designate the private fire protection system designer as the responsible party for the design of the private fire protection system.

The Legal Division endorses the ED's position on payment for testing, but believes the proposed rule clearly imposes the responsibility for the design function of the private fire protection system upon its designer.

Rule 4.1.g.7. - Providing the exception that a residential minimum water bill be based upon the meter size that is normally required for residential service, when no fire protection service is provided. One- and two-family residences would be served through a one-inch meter and billed for consumption, but not billed for private fire protection service.

The ED recommends that the exceptions for one- and two-family residences be eliminated because there is no cost basis for their exception. A cost for this service should be determined by a cost of service study and charged.

The Legal Division has no reason, based in law, to advise the Commission to change its public interest policy on this issue.

Rule 4.12 - Scheduled and unscheduled interruptions.

The Staff's comments on the corresponding Sewer Rule are applicable.

Rule 5.5.g. - Alternate Depositor - Financed Extension Plans

The Staff's comments on the corresponding Sewer Rule are applicable.

Rule 5.5.h.7. - Alternate Extension Plans

The Staff's comments on the corresponding Sewer Rule are applicable.

Rule 5.7 - Cross connections and backflow prevention devices.

The ED interprets the Commission's proposed rule change to encourage public water utilities to adopt blanket requirements that their customers install approved backflow devices whether or not a real threat of cross-connection exists. The ED also feels that it would be overly burdensome and unreasonable to require public utilities to supply and maintain thermal expansion equipment. The ED states that thermal expansion equipment is usually installed inside the customers' premises and not outside with the utilities facilities. Most plumbing codes requires the installation of thermal expansion equipment to be the responsibility of a building owner, not utilities. The ED encourages the Commission to change its proposed rule to require only that water utilities comply with the regulations of the Bureau of Public Health. In this manner, cross-connections facilities will only be required in instances when there exists a real threat of contamination.

The Legal Division does not interpret the applicability of the proposed rule changes in the same manner as the ED. The changes require only that all standard or uniform cross-connection and backflow programs **be filed** with the Commission and that **if** a public utility goes **beyond** the requirements of the Bureau of Health and requires backflow prevention without regard to the existence of a real threat of contamination, **then** the utility must bear the cost of installing and maintaining the thermal expansion protections equipment.

CTO/s  
Attachments

CWS CWS

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

INTERNAL MEMORANDUM

DATE: October 27, 2008

TO: C. Terry Owen, Staff Attorney  
Legal Division

FROM: Amy Swann, Director *AS*  
Geert Bakker, Utility Analyst Manager, *GB*  
William Nelson, Utility Analyst Manager *WN*  
David Acord, Utility Analyst Supervisor *DA*  
David Hatten, Utility Analyst Supervisor *DH*  
Water and Wastewater Division

RECEIVED  
OCT 28 PM 1:06  
LEGAL DIVISION

SUBJECT: General Orders 186.22 and 188.28  
In the matter of a rulemaking to amend the Commission's Rules and  
Regulations for the Government of Water and Sewer Utilities.  
Internal Memorandum

On August 15, 2008, the Public Service Commission initiated Rulemakings to amend both the Commission's Sewer and Water Rules. The order provided the Executive Secretary's office would provide notice of the Rulemakings through publication in various newspapers throughout the state. In addition, the Commission ordered a comment period to be provided with respect to the proposed rules identified in the order and noted that comments should be filed with the Commission's Executive Secretary by October 31, 2008, by 4:00 PM.

The Staff of the Water and Wastewater Division has reviewed both of the proposed rules contained in the two rulemakings and offers the following comments:

1. Water and Sewer Rule 2.4.a. On Page 2 of the Commission's order it states that these Rules require that financial and statistical reports filed with the Commission will be filed electronically beginning two years after the effective date of the rules. The actual proposed rules state that beginning January 1, 2009, all financial and statistical reports shall be filed electronically utilizing the Commission's web site. The Staff recommends that the rules be amended as follows:

2.4.a Each utility shall file annually a financial and statistical report upon forms to be furnished by the Commission The report shall be based upon the accounts set up in conformity with Rule 2.5. The report shall be filed on or before three (3) months following the end of the utility's fiscal year or on such date as the Commission may

direct. Beginning two years from the dates these Rules go into effect (Insert date here), all financial and statistical reports shall be filed electronically utilizing the Commission's web site.

The Staff of the Water and Wastewater Division has, over the years, received many questions on the requirements in the rules for water and sewer utilities to pay interest on customer deposits. The Staff of the Water and Wastewater Division also proposes that water and sewer utilities be required to collect deposits and be required to maintain the deposits in a separate interest bearing account. However, under the Staff's proposed changes to the rules, the utility would have the ability to use the interest earned on deposits towards its revenue requirement and would only be required to refund the original deposit amount when the respective payment requirements have been met by the customer. The utilization of interest would be to the benefit of all customers on the system. Furthermore, this would also allow utilities to spend more time on more pressing matters than trying to calculate interest on each respective deposit, filing cases at the PSC for waiver of such requirements, etc. The following represents the Commission's current Water and Sewer rules as proposed and the Staff's proposed changes:

### **General Order 186.22 (Sewer)**

#### **4.2.a. Security Deposits:**

(Commission Proposed)

3. Return of deposit to customers who are not tenants -- After a customer who is not a tenant has paid bills for service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit plus accrued interest. Calculation of the above twelve (12) months' period shall commence from the first regular payment or following the payment of a delinquent bill or bills.

(WWD Proposed)

3. Return of deposit to customers who are not tenants -- After a customer who is not a tenant has paid bills for service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit ~~plus accrued interest~~. Calculation of the above twelve (12) months' period shall commence from the first regular payment or following the payment of a delinquent bill or bills.



(Commission Proposed)

4. Return of deposit by public service districts and municipal systems only for to a customer who is a tenant -- By statute A public service districts and municipal systems is are not required to return a deposit to a customer who is a tenant until the time the tenant discontinues service with the district or municipal system. After a customer who is a tenant discontinues service with the district or municipal system, the utility shall promptly and automatically refund the deposit plus accrued interest.

(WWD Proposed)

4. Return of deposit by public service districts and municipal systems only for to a customer who is a tenant -- By statute A public service districts and municipal systems is are not required to return a deposit to a customer who is a tenant until the time the tenant discontinues service with the district or municipal system. After a customer who is a tenant discontinues service with the district or municipal system, the utility shall promptly and automatically refund the deposit. ~~plus accrued interest.~~

(Commission Proposed)

5. Interest at the rate as determined in accordance with Rule 4.2.a.8. shall be paid from the date of deposit until the date of refund of the security deposit. Simple interest on any deposit held for more than one year shall be calculated based on the applicable current year's rate of simple interest as determined in accordance with Rule 4.2.a.8. All customer security deposits shall be placed in an interest bearing account at a local federally insured financial institution. The district shall have a reasonable time, not to exceed thirty (30) days, to read and remove meters and to ascertain that the obligations of the customer have been fully performed before being required to return any deposit in the case where there has not been an automatic refund.

(WWD Proposed)

~~5. Interest at the rate as determined in accordance with Rule 4.2.a.8. shall be paid from the date of deposit until the date of refund of the security deposit. Simple interest on any deposit held for more than one year shall be calculated based on the applicable current year's rate of simple interest as determined in accordance with Rule 4.2.a.8.~~ All customer security deposits shall be placed in an interest bearing account at a local federally insured financial institution. The district and municipality shall have a reasonable time, not to exceed thirty (30) days, to read and remove meters and to ascertain that the obligations of the customer have been fully performed before being required to return any deposit in the case where there has not been an automatic refund.

(Commission Proposed)

7. The interest rate to be paid by all sewer utilities ~~other than~~ including public service districts shall be ~~determined as follows~~ 2% per annum calculated as simple interest. ~~The rate which utilities shall be required to pay shall be the average of the one-year United States Treasury Bill rates for October, November, and December of the preceding calendar year. By January 15 of each year, Staff of the Commission shall make the necessary calculations and file with the Commission its calculations. The Commission will issue an order setting the rate to be paid by the utilities until the next annual Commission order. The simple interest shall be paid at the date of discontinuance of service or at the end of the deposit period.~~

(WWD Proposed)

~~7. The interest rate to be paid by all sewer utilities other than including public service districts shall be determined as follows 2% per annum calculated as simple interest. The rate which utilities shall be required to pay shall be the average of the one-year United States Treasury Bill rates for October, November, and December of the preceding calendar year. By January 15 of each year, Staff of the Commission shall make the necessary calculations and file with the Commission its calculations. The Commission will issue an order setting the rate to be paid by the utilities until the next annual Commission order. The simple interest shall be paid at the date of discontinuance of service or at the end of the deposit period.~~

(Commission Proposed)

12.11. The receipt -- Concurrently with receiving a cash deposit, the utility shall deliver to the applicant for service, or customer, a receipt showing: (i) The date thereof; (ii) the name of the applicant or customer and the address of the premises served or to be served; (iii) the service furnished or to be furnished; and (iv) the amount of the deposit and the fact that interest will be paid at a Commission determined rate. Each utility shall provide automatic means to refund the deposit of a customer, when so entitled, if the original receipt cannot be produced. A receipt or proof of payment will not be necessary under the provisions for an automatic refund.

(WWD Proposed)

~~12.11.~~ 10. The receipt -- Concurrently with receiving a cash deposit, the utility shall deliver to the applicant for service, or customer, a receipt showing: (i) The date thereof; (ii) the name of the applicant or customer and the address of the premises served or to be served; (iii) the service furnished or to be furnished; and (iv) the amount of the deposit. ~~and the fact that interest will be paid at a Commission determined rate.~~ Each utility shall provide automatic means to refund the deposit of a customer, when so entitled, if

the original receipt cannot be produced. A receipt or proof of payment will not be necessary under the provisions for an automatic refund.

(Commission Proposed)

**13. 12.** Unclaimed deposits -- Should a utility have retained, through no fault of its own, deposits made by customers whose service has been discontinued during any calendar year, it shall, on or before the first day of March, in each year, mail to the customer's last known address a check as refund of the deposit plus accrued interest, or at the utility's option, publish a list of such depositors in a newspaper published and of general circulation in each of the county(ies) in which it operates and in which the deposits were made, showing as of the thirty-first (31st) day of December immediately preceding, the amount of each such deposit, together with the interest due thereon, and notifying depositors listed therein that their deposits are being held to their credit and will be returned upon request. The utility will not be liable for any interest on such deposits after publication of such lists. Upon completion of the above procedure, the utility shall follow the provisions of the Uniform Unclaimed Property Act, codified in the W. Va. Code §36-8-1 et seq., with regard to the disposition of any unclaimed deposit.

(WWD Proposed)

**13. 12. 11.** Unclaimed deposits -- Should a utility have retained, through no fault of its own, deposits made by customers whose service has been discontinued during any calendar year, it shall, on or before the first day of March, in each year, mail to the customer's last known address a check as refund of the deposit ~~plus accrued interest~~, or at the utility's option, publish a list of such depositors in a newspaper published and of general circulation in each of the county(ies) in which it operates and in which the deposits were made, showing as of the thirty-first (31st) day of December immediately preceding, the amount of each such deposit, ~~together with the interest due thereon~~, and notifying depositors listed therein that their deposits are being held to their credit and will be returned upon request. ~~The utility will not be liable for any interest on such deposits after publication of such lists.~~ Upon completion of the above procedure, the utility shall follow the provisions of the Uniform Unclaimed Property Act, codified in the W. Va. Code §36-8-1 et seq., with regard to the disposition of any unclaimed deposit.

## **General Order 188.28 (Water)**

### **4.2.a. Security Deposits:**

(Commission Proposed)

3. Return of deposit to customers who are not tenants -- After a customer who is not a tenant has paid bills for service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit plus accrued interest. Calculation of the above twelve (12) months' period shall commence from the first regular payment or following the payment of a delinquent bill or bills.

(WWD Proposed)

3. Return of deposit to customers who are not tenants -- After a customer who is not a tenant has paid bills for service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit ~~plus accrued interest~~. Calculation of the above twelve (12) months' period shall commence from the first regular payment or following the payment of a delinquent bill or bills.

(Commission Proposed)

4. Return of deposit by public service districts and municipal systems only for to a customer who is a tenant -- By statute A public service districts and municipal systems is are not required to return a deposit to a customer who is a tenant until the time the tenant discontinues service with the district or municipal system. After a customer who is a tenant discontinues service with the district or municipal system, the utility shall promptly and automatically refund the deposit plus accrued interest.

(WWD Proposed)

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(Commission Proposed)

5. Interest at the rate as determined in accordance with Rule 4.2.a.8. shall be paid from the date of deposit until the date of refund of the security deposit. Simple interest on any deposit held for more than one year shall be calculated based on the applicable current year's rate of simple interest as determined in accordance with Rule 4.2.a.8. All customer security deposits shall be placed in an interest bearing account at a local federally insured financial institution. The district shall have a reasonable time, not to exceed thirty (30) days, to read and remove meters and to ascertain that the obligations of the customer have been fully performed before being required to return any deposit in the case where there has not been an automatic refund.

(WWD Proposed)

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(Commission Proposed)

7. The interest rate to be paid by all sewer utilities ~~other than~~ including public service districts shall be ~~determined as follows~~ 2% per annum calculated as simple interest. ~~The rate which utilities shall be required to pay shall be the average of the one-year United States Treasury Bill rates for October, November, and December of the preceding calendar year. By January 15 of each year, Staff of the Commission shall make the necessary calculations and file with the Commission its calculations. The Commission will issue an order setting the rate to be paid by the utilities until the next annual Commission order. The simple interest shall be paid at the date of discontinuance of service or at the end of the deposit period.~~

(WWD Proposed)

~~7. The interest rate to be paid by all sewer utilities other than~~ including public service districts shall be ~~determined as follows~~ 2% per annum calculated as simple interest. ~~The rate which utilities shall be required to pay shall be the average of the one-year United States Treasury Bill rates for October, November, and December of the preceding calendar year. By January 15 of each year, Staff of the Commission~~

~~shall make the necessary calculations and file with the Commission its calculations. The Commission will issue an order setting the rate to be paid by the utilities until the next annual Commission order. The simple interest shall be paid at the date of discontinuance of service or at the end of the deposit period.~~

(Commission Proposed)

**12.11.** The receipt -- Concurrently with receiving a cash deposit, the utility shall deliver to the applicant for service, or customer, a receipt showing: (i) The date thereof; (ii) the name of the applicant or customer and the address of the premises served or to be served; (iii) the service furnished or to be furnished; and (iv) the amount of the deposit and the fact that interest will be paid at a Commission determined rate. Each utility shall provide automatic means to refund the deposit of a customer, when so entitled, if the original receipt cannot be produced. A receipt or proof of payment will not be necessary under the provisions for an automatic refund.

(WWD Proposed)

~~**12.11.**~~ **10.** The receipt -- Concurrently with receiving a cash deposit, the utility shall deliver to the applicant for service, or customer, a receipt showing: (i) The date thereof; (ii) the name of the applicant or customer and the address of the premises served or to be served; (iii) the service furnished or to be furnished; and (iv) the amount of the deposit. ~~and the fact that interest will be paid at a Commission determined rate.~~ Each utility shall provide automatic means to refund the deposit of a customer, when so entitled, if the original receipt cannot be produced. A receipt or proof of payment will not be necessary under the provisions for an automatic refund.

(Commission Proposed)

~~**13.**~~ **12.** Unclaimed deposits -- Should a utility have retained, through no fault of its own, deposits made by customers whose service has been discontinued during any calendar year, it shall, on or before the first day of March, in each year, mail to the customer's last known address a check as refund of the deposit plus accrued interest, or at the utility's option, publish a list of such depositors in a newspaper published and of general circulation in each of the county(ies) in which it operates and in which the deposits were made, showing as of the thirty-first (31st) day of December immediately preceding, the amount of each such deposit, together with the interest due thereon, and notifying depositors listed therein that their deposits are being held to their credit and will be returned upon request. The utility will not be liable for any interest on such deposits after publication of such lists. Upon completion of the above procedure, the utility shall follow the provisions of the Uniform Unclaimed Property Act, codified in the W. Va. Code §36-8-1 et seq., with regard to the disposition of any unclaimed deposit.

(WWD Proposed)

**13. 12. 11.** Unclaimed deposits -- Should a utility have retained, through no fault of its own, deposits made by customers whose service has been discontinued during any calendar year, it shall, on or before the first day of March, in each year, mail to the customer's last known address a check as refund of the deposit ~~plus accrued interest~~, or at the utility's option, publish a list of such depositors in a newspaper published and of general circulation in each of the county(ies) in which it operates and in which the deposits were made, showing as of the thirty-first (31st) day of December immediately preceding, the amount of each such deposit, ~~together with the interest due thereon~~, and notifying depositors listed therein that their deposits are being held to their credit and will be returned upon request. ~~The utility will not be liable for any interest on such deposits after publication of such lists.~~ Upon completion of the above procedure, the utility shall follow the provisions of the Uniform Unclaimed Property Act, codified in the W. Va. Code §36-8-1 et seq., with regard to the disposition of any unclaimed deposit.

**General Order 186.22 and 188.28**

The Orders change the required Uniform System of Accounts as follows:

2.5. Uniform system of accounts.

2.5.a. All sewer utilities shall maintain their accounts and records in compliance with the Uniform System of Accounts as promulgated in 1996 by the National Association of Regulatory Utility Commissioners for Class A, B, & C sewer utilities.

2.5. Uniform system of accounts.

All water utilities shall maintain their accounts and records in compliance with the Uniform System of Accounts (USoA) as promulgated in 1996 by the National Association of Regulatory Utility Commissioners for Class A, B, and C Water Utilities.

The changes reflect current operating practices for both water and sewer utilities and water and sewer USoA mirror each other now. The sewer accounts place emphasis on water reuse and allow for recording the investments and costs, which will ease the calculation of tariff rates for effluent being reused for irrigation or drinking water.

The following are a summary of the changes in the Uniform System of Accounts for both water and sewer systems as promulgated in 1996 from the System of Accounts for Water of 1973 and the System of Accounts for Sewer Systems of 1958. The Class D is eliminated entirely from the System of Accounts.

<u>Changes</u>	<u>Water</u>	<u>Wastewater</u>
Change the term "sewer" to "wastewater" where applicable to conform with the terminology currently used by the industry.	ABC	ABC
1. Increased the Class A, B & C revenue levels to account for inflation since the levels were last changed in 1984. This was done based on the same index used to set the levels in  Class A: \$1,000,000 and more, Class B: \$200,000 to \$999,999, and Class C: Less than \$200,000.	ABC	ABC
2. Included a monetary level for capitalizing versus expensing for all Classes as follows: Class A: \$750 Class B: \$400 Class C: \$150	ABC	ABC
3. Added definitions, accounting instructions and subaccounts to provide for the accounting for regulatory assets and liabilities.	AB	AB
5. Added a new water plant account to separately account for backflow prevention devices.	ABC	



- |     |   |     |     |
|-----|---|-----|-----|
| 6.  | Added new wastewater plant accounts to separately account for reuse facilities used to produce reclaimed water.   | AB  |     |
| 7.  | Added new wastewater expense accounts to separately account for the operation of reuse facilities to produce reclaimed water.   | AB  |     |
| 8.  | Added new wastewater revenue accounts to separately account for revenue from reclaimed water sales.   | AB  |     |
| 9.  | Added a new water expense account to separately account for Water Conservation Expenses.  | AB  |     |
| 10. | Requires the use of subaccounts to Accounts 271 - CIAC and 272 - Amortization of CIAC to separately account for any CIAC gross-up funds received by a utility.<br>Also adds definitions for gross-up of CIAC. | ABC | ABC |
| 11. | Added a new account to separately account for revenues collected by a utility prior to service being initiated to guarantee or reserve plant capacity.  | ABC | ABC |
| 12. | Added a new water expense account to separately account for water testing expenses.   | ABC |     |
| 13. | Removed confusing language in Account 218 - Proprietary Capital - which indicated that the system provided language concerning the use of earned surplus accounts, which it does not.                         | ABC | ABC |

- |     |   |     |     |
|-----|---|-----|-----|
| 14. | Added a new wastewater plant account to separately account for power generation equipment.  |     | ABC |
| 15. | Added additional accounts for Contractual Services to separately account for billing and professional services.   | C   | C   |
| 16. | Redesigned the Operating and Maintenance Accounts for all schedules. Each type of expense, such as payroll, equipment rental, contract services or Material and Supplies, will have its own account number and a subaccount for each operation function, such as collection, treatment, distribution etc. | ABC | ABC |

Item 10 - CIAC.

This change requires utilities to post accumulated depreciation to a contra account (acct. 272) for all plant financed with contributions by customers, governments, etc. Now, some utilities do post their depreciation expense on plant financed with contributions to the Contribution account. This way, the contributions amount decreases with the depreciated value of the plant. With the introduction of GASB 34 and 33 (Governmental Accounting Standards Board), contributions are recognized in the year they are received as non-operating income. The 2006 Miller Governmental GAAP Manual includes the following guidance:

**“ Practice Point:** Prior to the issuance of GASB-34, an Enterprise Fund could account for depreciation expense in the conventional manner or depreciation expense could be closed at the end of the year directly to the fund’s contributed capital account that was created when a restricted grant, entitlement, or shared revenue was provided to acquire the related capital asset. GASB-34 prohibits the latter method of accounting for depreciation expense. (GASB-34, par. 103”

There is no purpose in matching depreciation expense with contributions anymore.

C. Terry Owen, Staff Attorney  
General Orders 186.22 and 188.28  
October 27, 2008  
Page 13

Staff recommends that the Commission specifically allows utilities to charge all depreciation expenses to account 108 Accumulated Depreciation, regardless of the type of funding received for the specific plant being depreciated for all water and sewer utility classes.

Item 16 – O&M.

We have attached as Attachment 1 the example of the expense schedules that illustrate all expense accounts and the corresponding functional sub accounts.

AS:GB:WAN:DA:DH:kes

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# Water Operation and Maintenance Expense Accounts-2009

Acct #	Description	Source of Supply and Expenses - Operations		Source of Supply and Expenses - Maint.		Water Treatment Expenses - Operations		Water Treatment Expenses - Maint.		Trans. & Dist. Expenses - Operations		Trans. & Dist. Expenses - Maint.		Customer Accounts Expenses		Admin. & General Expenses	
		0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9	1.0	1.1	1.2	1.3	1.4	1.5	1.6
601	Salaries and Wages - Employees	601.1	601.2	601.3	601.4	601.5	601.6	601.7	601.8								
603	Salaries and Wages - Officers, Directors and Majority Stockholders	603.1	603.2	603.3	603.4	603.5	603.6	603.7	603.8								
604	Employee Pension & Benefits	604.1	604.2	604.3	604.4	604.5	604.6	604.7	604.8								
610	Purchased Water	610.1	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX								
615	Purchased Power	615.1	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX								
616	Fuel for Power Production	616.1	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX								
618	Chemicals	618.1	618.2	618.3	618.4	618.5	618.6	XXXX	XXXX								
620	Materials and Supplies	620.1	620.2	620.3	620.4	620.5	620.6	620.7	620.8								
631	Contractual Services - Eng.	631.1	631.2	631.3	631.4	631.5	631.6	631.7	631.8								
632	Contractual Services - Acct.	632.1	632.2	632.3	632.4	632.5	632.6	632.7	632.8								
633	Contractual Services - Legal	633.1	633.2	633.3	633.4	633.5	633.6	633.7	633.8								
634	Contractual Services - Management Fees	634.1	634.2	634.3	634.4	634.5	634.6	634.7	634.8								
635	Contractual Services - Testing	635.1	635.2	635.3	635.4	635.5	635.6	635.7	635.8								
636	Contractual Services - Other	636.1	636.2	636.3	636.4	636.5	636.6	636.7	636.8								
641	Rental of Building/Real Property	641.1	641.2	641.3	641.4	641.5	641.6	641.7	641.8								
642	Rental of Equipment	642.1	642.2	642.3	642.4	642.5	642.6	642.7	642.8								
650	Transportation Expenses	650.1	650.2	650.3	650.4	650.5	650.6	650.7	650.8								
656	Insurance - Vehicle	656.1	656.2	656.3	656.4	656.5	656.6	656.7	656.8								
657	Insurance - General Liability	657.1	657.2	657.3	657.4	657.5	657.6	657.7	657.8								
658	Insurance - Workman's Compensation	658.1	658.2	658.3	658.4	658.5	658.6	658.7	658.8								
659	Insurance - Other	659.1	659.2	659.3	659.4	659.5	659.6	659.7	659.8								
660	Advertising Expense	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX								
666	Regulatory commission Expenses - Amortization of Rate Case Expense	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX								
667	Regulatory commission Expense - Other	667.1	667.2	667.3	667.4	667.5	667.6	667.7	667.8								
668	Water Resource Conservation Expense	668.1	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX								
670	Bad Debt Expense	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX								
675	Miscellaneous Expenses	675.1	675.2	675.3	675.4	675.5	675.6	675.7	675.8								

# WASTEWATER OPERATION AND MAINTENANCE EXPENSE ACCOUNTS-2009

Acct# Description	Reclaimed Water											
	Collection Expenses - Operations Maint.	Collection Expenses - Operations Maint.	Pumping Expenses - Operations Maint.	Treat. Disposal Expenses - Operations Maint.	Treat. Disposal Expenses - Operations Maint.	Customer Accounts- Expenses	Admin. & General - Expenses	Treatment- Expense- Operations	Expenses - Maint.	Expenses - Operations Maint.	Expenses - Operations Maint.	Expenses - Operations Maint.
701. Salaries and Wages - Employees	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9	0.11	0.12	0.13
703. Salaries and Wages - Officers, Directors and Majority Stockholders	703.1	703.2	703.3	703.4	703.5	703.6	703.7	703.8	703.9	703.10	703.11	703.12
704. Employee Pensions and Benefits	704.1	704.2	704.3	704.4	704.5	704.6	704.7	704.8	704.9	704.10	704.11	704.12
710. Purchased Wastewater Treatment	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
711. Sludge Removal Expense	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
715. Purchased Power	715.1	XXXX	715.3	XXXX	715.5	XXXX	715.7	715.8	715.9	XXXX	715.11	XXXX
716. Fuel for Power Production	716.1	XXXX	716.3	XXXX	716.5	XXXX	716.7	716.8	716.9	XXXX	716.11	XXXX
718. Chemicals	718.1	718.2	718.3	718.4	718.5	718.6	XXXX	XXXX	718.9	718.10	718.11	718.12
720. Materials and Supplies	720.1	720.2	720.3	720.4	720.5	720.6	720.7	720.8	720.9	720.10	720.11	720.12
731. Contractual Services - Eng.	731.1	731.2	731.3	731.4	731.5	731.6	731.7	731.8	731.9	731.10	731.11	731.12
732. Contractual Services - Acct.	732.1	732.2	732.3	732.4	732.5	732.6	732.7	732.8	732.9	732.10	732.11	732.12
733. Contractual Services - Legal	733.1	733.2	733.3	733.4	733.5	733.6	733.7	733.8	733.9	733.10	733.11	733.12
734. Contractual Services - Management Fees	734.1	734.2	734.3	734.4	734.5	734.6	734.7	734.8	734.9	734.10	734.11	734.12
735. Contractual Services - Testing	735.1	735.2	735.3	735.4	735.5	735.6	735.7	735.8	735.9	735.10	735.11	735.12
736. Contractual Services - Other	736.1	736.2	736.3	736.4	736.5	736.6	736.7	736.8	736.9	736.10	736.11	736.12
741. Rental of Building/Real Property	741.1	741.2	741.3	741.4	741.5	741.6	741.7	741.8	741.9	741.10	741.11	741.12
742. Rental of Equipment	742.1	742.2	742.3	742.4	742.5	742.6	742.7	742.8	742.9	742.10	742.11	742.12
750. Transportation Expenses	750.1	750.2	750.3	750.4	750.5	750.6	750.7	750.8	750.9	750.10	750.11	750.12
756. Insurance - Vehicle	756.1	756.2	756.3	756.4	756.5	756.6	756.7	756.8	756.9	756.10	756.11	756.12
757. Insurance - General Liability	757.1	757.2	757.3	757.4	757.5	757.6	757.7	757.8	757.9	757.10	757.11	757.12
758. Insurance - Workman's Compensation	758.1	758.2	758.3	758.4	758.5	758.6	758.7	758.8	758.9	758.10	758.11	758.12
759. Insurance - Other	759.1	759.2	759.3	759.4	759.5	759.6	759.7	759.8	759.9	759.10	759.11	759.12
760. Advertising Expense	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	760.8	XXXX	XXXX	XXXX	XXXX
766. Regulatory commission Expenses - Amortization of Rate Case Expense	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	766.8	XXXX	XXXX	XXXX	XXXX
767. Regulatory commission Expense - Other	767.1	767.2	767.3	767.4	767.5	767.6	767.7	767.8	767.9	767.10	767.11	767.12
770. Bad Debt Expense	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	770.7	XXXX	XXXX	XXXX	XXXX	XXXX
775. Miscellaneous Expenses	775.1	775.2	775.3	775.4	775.5	775.6	775.7	775.8	775.9	775.10	775.11	775.12

**ENGINEERING DIVISION FINAL STAFF MEMORANDUM**

DATE: October 29, 2008  
TO: Terry Owen, Staff Attorney  
Legal Division  
FROM: James W. Ellars, P.E., Senior Engineer **JWE**  
Engineering Division  
SUBJECT: General Order No. 186.22

In the matter of a rulemaking to amend the Commission's Rules and  
Regulations for the Government of Sewer Utilities

General Order No. 188.28

In the matter of a rulemaking to amend the Commission's Rules and  
Regulations for the Government of Water Utilities

On August 15, 2008 the Commission issued proposed rules changes in the above-captioned proceedings. Attached are comments and recommendations respectfully submitted on behalf of the Commission Staff's Engineering Division.

JWE:s  
Attachment

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LEGAL DIVISION

FEM

**GENERAL ORDER 186.22  
ENGINEERING DIVISION STAFF RECOMMENDATIONS  
SEWER RULE CHANGES**

**4.11 Scheduled and Unscheduled Interruptions:**

The proposed change requires utilities to notify the Commission in the event of *any* interruption.

Discussion: Assuming most utilities comply with the rule, expanding this requirement to include *any* interruption is overly burdensome and impractical. Such a requirement will likely result in the Commission receiving literally hundreds of notifications from utilities every month, with the vast majority of these notifications relating to interruptions that impact a very small number of customers and limited duration.

Moreover, the proposed rule does not define the term "notification" in terms of what equals a valid notification. Who, which Division, section, etc. should be notified?

Recommendation: The notification requirement should be limited to interruptions which impact a large number of customers, or those having long durations. Recommend that the notification requirement be limited only to those interruptions which fall into either of two categories:

- 1) Interruptions affecting more than 50 customers, or
- 2) Any interruption lasting longer than 24 hours;

Regarding the notification process internal to the Commission, the Commission's Executive Secretary should be notified and a subsequent notice, either in hardcopy form or electronically, forwarded to the Engineering and Water/Wastewater Divisions.

**5.4.a Long Service Lines:**

Rule change clarifies that long service lines are not permitted for sewer systems.

Discussion/Recommendation: Engineering Division agrees with the rule change.

**5.5.g Alternate Depositor-Financed Extension Plans:**

Discussion: The proposed language was inserted into Rule 5.5.g which relates only to Alternate Depositor-Financed Extension Plans. However, the intent of the proposed change appears to be applicable to all alternate main line extension agreements.

Recommendation: It is more appropriate to include it under Rule 5.5.h. (General Provisions - specifically 5.5.h.7). Engineering Division agrees with the rule change.

#### 5.5.h.7 Alternate Extension Plans:

Discussion: Historically, this Rule has been interpreted to require that every single agreement be submitted to the Commission for approval. However, it does not provide for identical agreements which have previously been submitted and approved by the Commission where only the parties to the agreement have changed and where the substantive terms and conditions remain identical to the previously-approved agreement. This can result in utilities being required to file the exact same agreement in multiple cases where the only difference is that one of the parties listed in the agreement (the customer) has changed.

The sentence "Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility" should be stricken. This penalizes the customer instead of the utility who actually has control over the filing process.

Recommendation: Strike and replace the following language from Rule 5.5.7.h:

This rule shall not be construed as prohibiting the utility from entering into an agreement with a customer that complies with the Commission approved checklist attached hereto as Sewer Form No. 7, in providing an alternate plan for a main extension. Commission Staff may be consulted to provide assistance and sample forms. In providing an alternate plan for main extensions a utility may not discriminate between customers whose service requirements are similar. The Agreements shall be filed with and approved by the Commission prior to the implementation or execution of the agreement by any of the parties. However, once an agreement is approved it may be utilized in subsequent extension agreements with other parties without further Commission approval, provided that the original terms and conditions of the previously-approved agreement remain unchanged. In such cases where subsequent approval is not required, the Utility shall be required to file the executed agreement with the Commission for informational purposes. The agreement shall include the name, address and phone number of the parties to the agreement. The agreement shall also include a provision explaining why the utility is not funding the extension. The agreement must attach a copy of this Rule 5.5 ., and a statement signed by the prospective customer that he has reviewed and understands the provisions of Rule 5.5 .f. which entitle a customer to refunds and that he knowingly waives such rights, if applicable. ~~Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility.~~ If an entity other than the utility constructs the extension, upon completion of construction and proper utility inspection of the extension, the utility shall initiate service only after proper transfer of title to all facilities including property, plant and rights-of-way incidental to the furnishing of utility service.



**GENERAL ORDER 188.28  
ENGINEERING DIVISION STAFF RECOMMENDATIONS**

**WATER RULE CHANGES**

**4.1.g Private fire protection service –**

**The proposed change at paragraph 2 requires the completion of a flow test in conjunction with an application for private fire protection service.**

Discussion: The proposed rule change does not specify who shall pay the costs associated with the conduct of the required flow test. Engineering Staff opines that the cost of such testing may prove burdensome to many small utilities and will recommend that the proposed rule change be amended to specify that the estimated cost of such testing shall be paid for by the applicant desiring private fire service. In addition, Staff believes that the designer of the private fire protection system must bear the responsibility for the design of the system and we are revising the language of the proposed rule to reflect this view.

Recommendation: Revise the proposed rule change as follows:

2. The utility shall not approve an application for private fire protection service unless the utility determines that its system provides an adequate size water main with sufficient water volume and pressure. A flow test shall be performed as required by the State Fire Code, specifically as described within the incorporated NFPA Standard 291, to determine the water supply and pressure available in the utility's water main. The cost of conducting such flow testing shall be paid for by the applicant based upon the Utility's written, detailed estimate of such cost. Payment shall be made at the time that application is made for service.

The private fire protection system MAY, at the discretion of the engineering professional in charge of the design of the private fire protection system, be engineered based on the results of the utility's flow test with the understanding that the results of any single flow test may not accurately represent the hydraulic capacity of the water supply system at all times and under all circumstances.

**The proposed rule at paragraph 7 provides an exception that allows residential, one- or two-family Life Safety fire service to be provided through a residential 1" meter and provides that the minimum charge shall be based on the meter size which would have been used if no fire service were to be provided.**

Discussion: A primary consideration in the establishment of rates is to establish such rates based primarily upon the cost of providing service. An important component of the cost of service is the need to provide excess capacity so as to allow a water system to meet the peak demands (such as the demand due to fires) of its customers. The proposed rule change arbitrarily mandates that this important cost component (excess capacity) be

ignored for certain "special" customers (one-or two-family residences) just because they install certain "life safety" fire protection equipment (residential sprinklers). Staff opines that such arbitrary negation of an important tenant of rate making should not be mandated-away via rule making. Instead, Staff advocates continuing with the proven, historical approach of using a properly-prepared and well thought out class cost of service study as the basis for establishing fair, cost-based rates for all customers.

Further, in the design of a residential sprinkler system, one uses a rational engineering approach to properly evaluate the needed water service size and water meter size. In many cases, dependant upon site specific conditions (such as the available water supply pressure and the flow needed by the sprinkler system), a "standard" ( $\frac{5}{8}$ " or  $\frac{3}{4}$ " ) water meter may prove adequate. Each sprinkler system is different and each such system will be designed by a qualified professional who will specify the size of meter and service which is needed for that particular installation. In other words, it is not necessary to mandate, by rule change, that a minimum 1" meter be used, in many instances; a smaller meter will serve satisfactorily.

Recommendation: Revise the proposed rule as follows:

The utility will charge the applicant for general water service based on the consumption through and size of the water meter installed, in accordance with its schedule of rates for general water service. ~~with the exception that a residential one or two family Life Safety fire service supplied through a residential service meter shall be provided with a 1" meter and shall be charged based on the consumption through the meter. The minimum charge shall be based on a meter size no greater than the size of meter that would have otherwise been needed without residential fire service. It shall be understood that this increased meter size is due to the potential volume necessary for a residential Life Safety fire service and for no other purpose. The applicant shall be responsible for the additional cost of materials for the 1 " service over the service size that would have otherwise been needed without a residential fire service.~~ The utility shall, subject to Commission approval, charge the commercial applicant for private fire protection service in accordance with its schedule of rates for such service.

#### 4.12 Scheduled and Unscheduled Interruptions:

The proposed change requires utilities to notify the Commission in the event of *any* interruption.

Discussion: Assuming most utilities comply with the rule, expanding this requirement to include *any* interruption is overly burdensome and impractical. Such a requirement will likely result in the Commission receiving literally hundreds of notifications from utilities every month, with the vast majority of these notifications relating to interruptions that impact a very small number of customers and limited duration. It is important to note that the Commission Staff already receives copies of all Boil Water Advisories issued by the Bureau for Public Health.

Moreover, the proposed rule does not define the term "notification" in terms of what equals a valid notification. Who, which Division, section, etc. should be notified?

Recommendation: The notification requirement should be limited to interruptions which impact a large number of customers or those having long durations. Recommend that the notification requirement be limited only to those interruptions which fall into either of two categories:

- 1) Interruptions affecting more than 50 customers, or
- 2) Any interruption lasting longer than 24 hours;

Regarding the notification process internal to the Commission, the Commission's Executive Secretary should be notified and a subsequent notice, either in hardcopy form or electronically, forwarded to the Engineering and Water/Wastewater Divisions.

#### 5.5.g Alternate Depositor-Financed Extension Plans:

Discussion: The proposed language was inserted into Rule 5.5.g which relates only to Alternate Depositor-Financed Extension Plans. However, the intent of the proposed change appears to be applicable to all alternate main line extension agreements.

Recommendation: It is more appropriate to include it under Rule 5.5.h. (General Provisions - specifically 5.5.h.7). Engineering Division agrees with the rule change.

#### 5.5.h.7 Alternate Extension Plans:

Discussion: Historically, this Rule has been interpreted to require that every single agreement be submitted to the Commission for approval. However, it does not provide for identical agreements which have previously been submitted and approved by the Commission where only the parties to the agreement have changed and where the substantive terms and conditions remain identical to the previously-approved agreement. This can result in utilities being required to file the exact same agreement in multiple cases where the only difference is that one of the parties listed in the agreement (the customer) has changed.

The sentence "Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility" should be stricken. This penalizes the customer instead of the utility, who actually has control over the filing process.

Recommendation: Strike and replace the following language from Rule 5.5.7.h:

This rule shall not be construed as prohibiting the utility from entering into an agreement with a customer that complies with the Commission approved checklist attached hereto as Water Form No. 6, in providing an alternate plan for a main extension.

Commission Staff may be consulted to provide assistance and sample forms. In providing an alternate plan for main extensions a utility may not discriminate between customers whose service requirements are similar. The Agreements shall be filed with and approved by the Commission prior to the implementation or execution of the agreement by any of the parties. However, once an agreement is approved it may be utilized in subsequent extension agreements with other parties without further Commission approval, provided that the original terms and conditions of the previously-approved agreement remain unchanged. In such cases where subsequent approval is not required, the Utility shall be required to file the executed agreement with the Commission for informational purposes. The agreement shall include the name, address and phone number of the parties to the agreement. The agreement shall also include a provision explaining why the utility is not funding the extension. The agreement must attach a copy of this Rule 5.5 ., and a statement signed by the prospective customer that he has reviewed and understands the provisions of Rule 5.5 .g. which entitle a customer to refunds and that he knowingly waives such rights, if applicable. ~~Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility.~~ If an entity other than the utility constructs the extension, upon completion of construction and proper utility inspection of the extension, the utility shall initiate service only after proper transfer of title to all facilities including property, plant and rights-of-way incidental to the furnishing of utility service.

#### 5.7 Cross connections and backflow prevention regulations.

Discussion: The applicable state standard is found in 64 CSR 15 effective March 13, 2004 as stated in the proposed rules. Under these regulations, however, approved backflow prevention devices are not required for every single customer connected to a public water system and such a practice should not be encouraged by the Commission. Utilities normally require backflow prevention devices *only where a cross-connection hazard exists, or where one could likely exist*. It is our opinion that utilities should not require, as a "blanket" policy, that approved backflow prevention devices be required for every single customer. Such a practice will be expensive and will raise costs to ratepayers, in many cases, unnecessarily. 64 CSR 15 provides clear instances where approved devices must be installed.

Section 5.2.1 of 64 CSR 15 does appear to give the "community public water system", i.e., the *utility* the authority to require approved backflow preventers whenever and wherever it chooses. However, the practice of placing a "blanket requirement" on all customers is not 1) supported by the existing rules, and 2) is overly broad and will likely result in unnecessary costs to ratepayers. Utilities should simply comply with 64 CSR 15 and not be encouraged to adopt "blanket requirements" for approved backflow preventers which impact all customers regardless of the real potential for contamination.

Additionally, requiring utilities to supply and maintain thermal expansion equipment is overly burdensome and unreasonable. Such equipment, if needed, is typically installed *inside* the customers' premises, which may create additional

responsibility and liability for the utility. The utility would then be responsible for maintaining equipment to which they may have no access, and then held accountable should the equipment fail. The current rules clearly delineate a point of service for customers where the utility's operation and maintenance responsibilities end, which in most cases is the property line. Likewise, only those customers whose service includes a cross-connection or a substantial contamination potential should be required to install and maintain these devices as well as the associated thermal expansion equipment. Further, most plumbing codes mandate the responsibility for thermal expansion devices to lie with the building owner and NOT with the utility.

Recommendation: The Commission should require utilities to comply with all regulations from the Bureau for Public Health, including 64 CSR 15. However, the Commission should not encourage utilities to adopt "blanket requirements" where all customers are required to install approved backflow preventers, regardless of whether or not a real and substantial threat of cross-connections exists.

Recommend the following changes to the proposed rule:

5.7. Cross connections and back flow prevention regulations.

See West Virginia Bureau for Public Health ~~Bulletin EW-113 effective April 1, 1976~~ legislative rules; codified at 64 CSR 15 as of March 13, 2004 (the effective date of this rule).

5.7.a. Pursuant to the requirements of the Bureau for Public Health legislative rules, all utilities that have adopted a standard or uniform cross-connection and backflow program must file the details of such programs with this Commission. ~~Such programs will be approved as filed unless it can be shown that the program violates an existing rule of this Commission.~~

5.7.b. If a utility elects to universally require backflow prevention on all customers without regard to actual or potential health hazards that may exist, the utility will be deemed to have changed the character of service to the customer and, as a result, the utility ~~will be held responsible for supplying and maintaining any necessary thermal expansion protection equipment on the customers' premises~~ shall be required to seek Commission approval prior to the implementation of any such plans or policies, during which the utility shall bear the burden of proof regarding the necessity of its actions.



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October 31, 2008

Sandra Squire, Executive Secretary  
Public Service Commission of West Virginia  
201 Brooks Street  
Post Office Box 812  
Charleston, West Virginia 25323-0812

RECEIVED  
08 OCT 31 PM 3:34  
WV PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

RE: Morgantown Utility Board and Putnam Public Service District;  
Comments on Proposed water and Sewer Rules

Dear Ms. Squire:

Morgantown Utility Board and Putnam Public Service District ("the Utilities"), by Counsel, and pursuant to Commission General Orders 186.22 and 188.28, jointly submit (original + 12) the following comments regarding the proposed changes to the Water and Sewer Rules:

**Sewer Rules: 150 WV CSR 5**

**4.8.b.4: Notice of Discontinuance**

Two attempts to make personal contact at least 24 hours prior to the scheduled termination for non-payment should be reduced to one attempt.

A customer scheduled for disconnection for non-payment receives a written Notice of Scheduled Termination. On the announced day of disconnection, a utility representative attempts personal contract at the service location immediately prior to disconnection. Two prior attempts to make personal contact is unreasonably labor intensive and costly. An initial written notice, a single attempt to make personal contact, and a final attempt at the service address is ample opportunity for the customer to bring the account current and avoid disconnection for non-payment.

The Utilities thank the Commission for its clarification of the nature of the personal contact requirements proposed in this rule.

#### 4.11: Notice Required for Unscheduled Interruptions

The proposed new requirements are overly broad, impractical and labor intensive. In exchange for these new costs and requirement, little value is delivered to the utility or its customers. Accordingly, the new requirements should be eliminated or limited.

Of course, notice to customers suffering a significant service interruption is an essential part of quality customer service. However, notice of every unscheduled interruption to the PSC, DEP and BPH will not add any value to utility operations and/or customer service. Accordingly, this duplicative and impractical requirement should be eliminated.

The proposed rule is overly broad because it would require notice for every unscheduled service interruption. Multiple notices of interruptions of short duration and/or limited customer impact are neither practical nor necessary. Furthermore, in the case of unscheduled interruptions that include a discharge to the environment, the Utilities are already required by the Clean Water Act to report these incidents to the DEP.

If the Commission chooses to continue this burdensome notice requirement, it should be limited to those unscheduled interruptions effecting more than 100 customers or those of more than 24 hours duration, with no regard to the number of customers effected.

Because of the many circumstances and impacts causing and arising from unscheduled interruptions, the notice templates suggested in section d are of questionable value and should be deleted.

#### Water Rules: 150 WV CSR 7

##### 4.1.g: Private Fire Protection Service

The proposed rule should clarify that the applicant is responsible for the cost of the required testing, and that payment must be made at the time of application for the fire service pursuant to a good faith cost estimate by the utility. Full payment for the required testing must be made prior to activation of service.

Because neither the Commission nor the utility has authority over or responsibility for the design of fire protection systems, the requirement that the system "shall be designed based on the results of this flow test ..." should be removed. The rule should continue to emphasize that the utility cannot guarantee flow delivery consistent with the results of the flow test. Furthermore, the rule should prohibit the utility from reviewing or commenting upon the design of the fire protection system.

The rule proposes that customers receiving residential one or two family "Life Safety" fire service be exempt from cost of service ratemaking by ignoring the excess capacity costs

generated by these customers is unfair and inconsistent with Commission ratemaking protocol. Accordingly, the minimum charge to these customers should be consistent with the actual demands (IAW actual meter size) placed on the system by their service configuration. To do as proposed would unfairly shift the costs away from those generating the cost.

Finally, the uniform 1" meter requirement for customers receiving residential one or two family "Life Safety" fire service is unnecessarily controlling. The system designed my request a meter of smaller size, and neither the Commission nor the utility should attempt to review, approve or dictate the meter size contrary to that requested by the private design professional.

#### 4.8.a.4: Notice of Discontinuance

Two attempts to make personal contact at least 24 hours prior to the scheduled termination for non-payment should be reduced to one attempt.

A customer scheduled for disconnection for non-payment receives a written Notice of Scheduled Termination. On the announced day of disconnection, a utility representative attempts personal contract at the service location immediately prior to disconnection. Two prior attempts to make personal contact is unreasonably labor intensive and costly. An initial written notice, a single attempt to make personal contact, and a final attempt at the service address is ample opportunity for the customer to bring the account current and avoid disconnection for non-payment.

The utilities thank the Commission for its clarification of the nature of the personal contact requirements proposed in this rule.

#### 4.12.d: Notice required for Unscheduled Interruptions

The proposed new requirements are overly broad, impractical and labor intensive. In exchange for these new costs and requirement, little value is delivered to the utility or its customers. Accordingly, the new requirements should be eliminated or limited.

Of course, notice to customers suffering a significant service interruption is an essential part of quality customer service. However, notice of every unscheduled interruption to the PSC and BPH will not add any value to utility operations and/or customer service. BPH already receives or issues notice of boil water advisories, which are presumably shared with the Commission. This duplicative and impractical requirement should be eliminated.

The proposed rule is overly broad because it would require notice for every unscheduled service interruption. Multiple notices of interruptions of short duration and/or limited customer impact are neither practical nor necessary.



If the Commission chooses to continue this burdensome notice requirement, it should be limited to those unscheduled interruptions effecting more than 100 customers or those of more than 24 hours duration, with no regard to the number of customers effected.

Because of the many circumstances and impacts causing and arising from unscheduled interruptions, the notice templates suggested in section e are of questionable value and should be deleted.

MORE FOLLOWS BELOW

### Other Suggestions for Rules Changes

While not responding to a proposed rule change, the Morgantown Utility Board respectfully requests that the Commission consider the following rules:

#### Sewer Rule 5.5.f and g/ Water Rule 5.5.f and g: Extensions

The refund requirements included in these Rules should be limited to bona fide customers occupying a single family home, and/or should classify a multiple-service structure as one bona fide customer.

Developers constructing buildings with multiple services can quickly occupy these buildings with multiple "bone fide customers". This requires the utility to pay refunds up to the original deposit amount almost immediately following completion of the project and occupation of the multi-unit building. In other words, the utility must underwrite the project, contrary to the intent of the Rules, and await recapture of this investment from customer revenues for a significant time following the initial investment.

Since 2002, the Morgantown Utility Board has refunded more than \$1.1 Million for water and sewer extensions as required by these rules. During the same period, Morgantown has realized a net revenue increase of less than \$110,000 from these new service accounts. As a result, existing customers are underwriting the many multi-family and student apartment developments in the MUB service area.

This transfer of costs from the developers to the existing customers is contrary to the intent of the rules and to fundamental fairness of the cost generators assuming the burden of those costs. Accordingly, Morgantown proposes the following change to the Rules:

5.5.f. Extensions beyond the limit of utility-financed extensions of general water service and public fire service.

If the estimated cost of the proposed extension required in order to furnish general water service exceeds the utility's estimate of total net revenue as determined by Rule 5.5.e.4., such extension shall be made if the applicant or the applicant's authorized agent contracts for such extension and deposits in advance with the utility the estimated cost of the extension over and above the limit of the utility-funded portion of the extension. The utility shall not pay nor be liable for any interest on such cash deposits. The utility shall make the extension after receiving the cash deposit. The utility shall, for each bona fide new customer who, within a period of ten (10) years from the making of such extension, directly connects to the extension between its original beginning and the original terminus, refund to the original depositor(s), an amount equal to the estimated total net revenue of the new customer as determined by Rule 5.5.e.4., but in no event shall the aggregate refund made to the depositor(s) exceed the original deposit. Provided that associations, public service districts and municipal water utilities may elect to refund the estimated amount over a period of five (5) years equal to the utility's line extension multiplier as

defined in Rule 5.5.e.4. ~~D~~ E. making payments no less frequently than every six (6) months. For the purposes of this rule, a qualifying bona fide customer is one occupying a single family home or, in the case of multiple unit developments, one building, regardless of the number of services included within the structure, shall be classified as one bona fide customer.

5.5.g.2.C Alternate Depositor-financed Extension Plan

... agreeing to refund to the original depositor(s) an amount equal to the estimated total net revenue as defined in Rule 5.5.e.4. of each bona fide customer, other than the depositor(s), who, within a period of ten (10) years from the construction of the extension, directly connects to the extension between its original beginning and the original terminus. The refund may be spread out over a five (5) year period with the utility making payments no less frequently than every six (6) months. Such refunds shall continue until the total refunds given equal the estimated total net revenue as defined in Rule 5.5.e.4. For the purposes of this rule, a qualifying bona fide customer is one occupying a single family home or, in the case of multiple unit developments, one building, regardless of the number of services included within the structure, shall be classified as one bona fide customer.

Thank you for your kind attention to these comments, and for your service to our State.

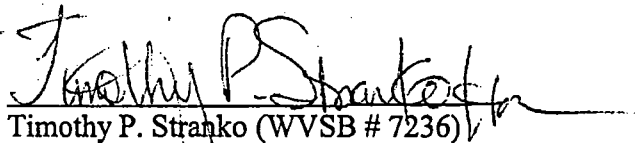
Respectfully submitted,

PUTNAM PUBLIC SERVICE DISTRICT

and

MORGANTOWN UTILITY BOARD

By Counsel:



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October 31, 2008



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October 31, 2008

**VIA HAND DELIVERY**

Ms. Sandra Squire  
Executive Secretary  
Public Service Commission  
201 Brooks Street  
Post Office Box 812  
Charleston, West Virginia 25323

RECEIVED  
08 OCT 31 PM 3:24  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

Re: General Order No. 188.28 (Water Rules) and  
General Order No. 186.22 (Sewer Rules)

Dear Ms. Squire:

I am writing on behalf of West Virginia-American Water Company ("Company") to provide comments on a number of the proposed changes to the Commission's Water and Sewer Rules promulgated by the Commission pursuant to the referenced General Orders.

Comments regarding Water Rules

Water Rule 1.7.b.3. (definition of "Delinquent Bill"). The Company believes that the definition of delinquent bill should, logically, be the same for all water utilities; therefore, the definition applicable to public service district and municipal water utilities should also be made applicable to all other water utilities.

Water Rule 4.8.a.4. (first sentence). The Company supports the deletion of language requiring the water utility to make the required attempts to notify the customer by personal contact of the pending service termination. However, the Company believes that, in the absence of an approved agreement to the contrary, the obligation to make such customer contact should fall on the utility that is seeking to have water service terminated. Consequently, it is suggested that the following sentence be added after the first sentence:

Unless otherwise provided under the terms of an approved inter-utility agreement, the water, sewer or stormwater utility that is seeking to have a customer's water service discontinued shall be responsible for making the required attempts to notify the customer of the discontinuance of water service by personal contact.

Water Rule 4.8.a.4. (last sentence). It is suggested that some clarification should be provided for the qualifier, "responsible adult", as this term could be interpreted narrowly to mean an adult with some express or implied legal responsibility for or authority over the customer, or could be interpreted more generally to mean any legally competent adult.

Comments regarding Sewer Rules

Sewer Rule 1.7.c.3. (definition of "Delinquent Bill"). The Company believes that the definition of delinquent bill should, logically, be the same for all sewer utilities; therefore, the definition applicable to public service district and municipal sewer utilities should also be made applicable to all other sewer utilities.

Sewer Rule 4.8.b.4. The Company supports the deletion of language requiring the water utility to make the required attempts to notify the customer by personal contact of the pending service termination. However, the Company believes that, in the absence of an approved agreement to the contrary, the obligation to make such customer contact should fall on the sewer utility that is seeking to have water service terminated. Consequently, it is suggested that the second sentence of the proposed rule be revised as follows:

Either the sewer utility or water utility Unless otherwise provided under the terms of an approved inter-utility agreement, the sewer utility shall make two (2) attempts to notify by personal contact at least twenty-four (24) hours prior to the scheduled termination unless it is reasonably established that the premises are not permanently inhabited.

Sincerely,

  
Stephen N. Chambers

SNC/dmb

cc: Linda S. Bouvette, Esq.



# PARKERSBURG UTILITY BOARD

125 Nineteenth Street  
Parkersburg, West Virginia 26101-2596

Telephone 304-424-8535  
Fax 304-485-3802

October 30, 2008

Mrs. Sandra Squire, Executive Secretary  
West Virginia Public Service Commission  
201 Brooks Street  
P.O. Box 812  
Charleston, WV 25323

GO 186.22  
GO 188.28

RECEIVED  
08 OCT 31 AM 10:24  
WV PUBLIC SERVICE  
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SECRETARY'S OFFICE

Re: Proposed Revision of Water Rules and Sewer Rules

Dear Mrs. Squire:

We wish to offer the following comments regarding the PSC's proposed revisions of Rules and Regulations for the Government of Water Utilities:

#### 4.1.g.7. Page 11

The proposed revision to allow for Life Safety fire service through a residential service meter is problematic in the fact that you are restricting the utility to charge the customer less than the utility would charge another customer with the same size meter. The additional cost related to meter size is in place in utilities tariffs to offset the higher cost of purchasing and maintaining those larger meter settings.

#### 4.2.a.1, Page 13

The ability for the utility to retain customer deposits of tenants for a period greater than twelve months is a much needed improvement and sincerely appreciated. This should minimize the amount of accounts that become uncollectible due to tenant customers skipping out on final payments.

#### 4.2.a.7, Page 14

The setting of a stable interest rate is also a much needed improvement that will save our employees valuable time in calculating the amount of money to be returned to the customer.

West Virginia Public Service Commission  
Proposed Revision of Water and Sewer Rules  
October 30, 2008  
Page 2 of 5

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W VA PUBLIC SERVICE  
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**4.8.a.4, Page 18**

This rule continues to unnecessarily burden the utility in expending a considerable amount of manpower related to personally notifying customers that are well aware they are delinquent on their bills and subject to termination of services. Utilities are already required to notify these customers with a termination notice by mail which makes them aware that they are delinquent on their bill and that service will be terminated if payment is not made by a certain date.

This practice continues to reward non paying customers with special notifications that are not necessary for those customers that religiously pay their bills on time. In turn the paying customers are subsidizing the non paying customers by the fact that utility personnel are be required to expend additional time for further notification of those delinquent customers, this time could be better utilized doing maintenance or other work that benefits the system as a whole not just a select few.

**4.12.d.A – G, Page 23**

This rule as currently written puts an unnecessary burden on the utility for the notification of customers affected by an unscheduled interruption. We are not totally opposed to this rule but feel that there needs to be additional clarification so that utilities are not wasting valuable time and personnel that could be better utilized dealing with the cause of the service interruption.

**4.12.e – g. Page 24**

Again these rules need to be clarified as discussed in the previous comment.

We have the following comments regarding the PSC's proposed revisions of Rules and Regulations for the Government of Sewer Utilities:

**4.2.a.1, Page 10**

The ability for the utility to retain customer deposits of tenants for a period greater than twelve months is a much needed improvement and sincerely appreciated. This should minimize the amount of accounts that become uncollectible due to tenant customers skipping out on final payments.

**4.2.a.7, Page 11**

The setting of a stable interest rate is also a much needed improvement that will save our employees valuable time in calculating the amount of money to be returned to the customer.

**4.8.a.4, Page 15**

This rule continues to unnecessarily burden the utility in expending a considerable amount of manpower related to personally notifying customers that are well aware they are delinquent on their bills and subject to termination of services. Utilities are already required to notify these customers with a termination notice by mail which makes them aware that they are delinquent on their bill and that service will be terminated if payment is not made by a certain date.

This practice continues to reward non paying customers with special notifications that are not necessary for those customers that religiously pay their bills on time. In turn the paying customers are subsidizing the non paying customers by the fact that utility personnel are be required to expend additional time for further notification of those delinquent customers, this time could be better utilized doing maintenance or other work that benefits the system as a whole not just a select few.



**4.11.c.A – G, Page 23**

This rule as currently written puts an unnecessary burden on the utility for the notification of customers affected by an unscheduled interruption. We are not totally opposed to this rule but feel that there needs to be additional clarification so that utilities are not wasting valuable time and personnel that could be better utilized dealing with the cause of the service interruption.

**4.11.d & e, Page 24**

Again these rules need to be clarified as discussed in the previous comment.

We continue to be concerned about the extent to which the rules benefit non-payers to the detriment of those who pay their bills. As a public utility, we are here to provide service to the public and we take that responsibility very seriously. Most customers conduct themselves in a responsible manner. In the event they have difficulty paying a bill for some reason, they contact us and make the necessary arrangements to take care of their financial obligation.

A portion of our customers make every effort to avoid paying for the services they utilize. Too often PSC rules serve to make it even easier for the non-paying customer to utilize services for an extended time, and then skip out without paying for those services. This practice adds to the operating costs and adds to the financial burden of those who make a sincere effort to pay their bills.

These revisions do give some relief with the extension for retaining security deposits. We feel that there are still many revisions that should be made to turn the tables on those non paying customers that play the system to extend their use of services that they frankly do not intend on paying for if at all possible.

West Virginia Public Service Commission  
Proposed Revision of Water and Sewer Rules  
October 30, 2008  
Page 5 of 5

Basic daily necessities like water and sanitary sewer service must rank higher in priority than entertainment and fast food. It is wrong to reward customers for making poor decisions relating to their priorities in life, and then allow them to ride the financial backs of those who make sound and reasonable choices. We need to revise the rules back toward the paying customers and stop encouraging and rewarding non paying customers.

Respectfully,  
Parkersburg Utility Board

A handwritten signature in black ink, appearing to read "Eric Bennett". The signature is fluid and cursive, with the first name "Eric" and last name "Bennett" clearly distinguishable.

Eric Bennett, Manager

cc:  
Parkersburg Utility Board  
George Zivkovich, Counsel  
Eric Bumgardner, Asst. Manager  
Pat Martin, Comptroller



# West Virginia Rural Water Association

100 Young Street

• Scott Depot, WV 25560

• 304/201-1689

October 28, 2008

Ms. Sandra Squire  
Executive Secretary  
Public Service Commission of West Virginia  
P.O. Box 812  
Charleston, WV 25323

RECEIVED  
08 OCT 30 AM 9:27  
W.V. PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

G0188.28

RE: PSC Proposed Rules

Dear Ms. Squire:

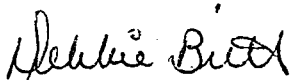
West Virginia Rural Water Association wishes to comment on the following proposed rules:

- 1) **Delay in 30B Tariff Change:** Utilities are being delayed in passing through a 30B because of delays in getting the final memo from the commission in order to raise their rates at the same time when the purchaser utility has already instigated their increased rates. This is causing a financial hardship on the utility that is waiting for the PSC to review the 30B and notify the utility that they can start passing this fee along to their customers'. Also, the utilities feel that there should be no delay in receiving 30Bs nor should all water utilities purchasing water from the same City need to individually apply for the 30B and each pay accountants to prepare the 30B paperwork.
- 2) **Collection of payment at the customers' door.** The collection of payment at the customers' door should be eliminated as the gas and electric utilities do not have to follow this rule because of unsafe conditions that exist for them. If it is unsafe for them, then it should also be unsafe for water utilities. Payment should never be collected at the door. This places a financial burden on the utility because of the costly hours of employee's time, vehicle gas, postage cost and trips to the post office. Due to safety concerns, two employees are required to attempt to collect at the door. In order to keep water rates down and the safety of employees, the burden and expense of paying one's bill should be that of the customer not the utility.
- 3) **Administrative fees for delinquent customers.** An additional administrative fee should be available for utilities that have to go that extra step in order to collect for delinquent customers that do not pay their bills on time. Because of the additional cost of gas and employees time, an administrative fee would help deter these delinquent customers from continuing this each and every month. Also, by the time the utility is allowed to collect the past due amount according to the PSC rules and regulations, the customer has moved without

notice and owes large bills which is an extra expense for the utility in that it has to hire a collection agency to recover these fees.

- 4) **Raising the purchase limits requiring bid from \$15,000 to \$50,000.** With the high cost today of purchasing, we would like to see the purchasing limit raised to \$50,000 at which time if it exceeded that amount, then you would have to go to bid.
- 5) **Raising the compensation for PSD Board Members.** Currently board members receive \$150 for regular meetings and \$100 for each special meeting. We would like to see that increased to \$200 for each regular meeting and \$150 for each special meeting.
- 6) **Disconnect of service for non-payment of sewer only customers.** When utilities provide sewer service only to a small area in which the customers all have working wells, there are customers who continue to be delinquent on paying their sewer bill which causes the utility to go to Magistrate court in order to get the customer to pay his/her bill. A ruling in favor of disconnecting sewer service for non-payment would be most helpful to utilities.
- 7) **W.Va. Code § 150-7-5: Utility Facilities, Service Pipes; Extension of System**
  - (v) **Cross Connections and Back Flow Prevention:** Thermal expansion rule. The utilities responsibility stops at the customers' meter. Holding utilities responsible for thermal expansion inside the customers' homes would cause a major financial strain for all water systems.

Sincerely,



Debbie Britt  
Executive Director

db

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08 OCT 30 AM 9:27  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

# LUBECK

## Public Service District

P.O. Box 700, Washington, West Virginia 26181-0700

Telephone (304) 863-3341

Facsimile (304) 863-3791

October 27, 2008

Ms. Sandra Squire, Executive Secretary  
Public Service Commission of West Virginia  
P. O. Box 812  
Charleston, West Virginia 25323

RECEIVED  
2008 OCT 28 AM 9 04  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

RE: Proposed Water Rule Changes

Dear Ms. Squire,

60188.28

Lubeck PSD would like to submit the following comments concerning the proposed water rule changes:

1. Section 2.4.a. Although the District has for the last two years completed our annual report electronically there has been and continues to be sections of the report that are not linked, thus not allowing the District to insert the required information, etc. This needs to be corrected for the PSC to get an accurate reading on the status of the PSD's. We have made notes and submitted them along with the report but they do not appear to get into the proper hands to make changes.

2. Section 4.2.a.4. In this section of the changes to the sewer rules you are adding public service before the word district. To make things consistent, this should be done in the water section also.

3. Section 4.2.a.5. This section requires the District's to pay 2% interest on our security deposits. If we invest our money locally, as is stated in the proposed rule, the District does not make close to the 2%, thus having our good paying customers supplementing our bad paying customers. Also, this section states that we are to look to Rule 4.2.a.8. I believe this should be 4.2.a.7.

4. Section 4.8.a.4. This part is difficult to gauge, in that if the calls are made by computer, it would be impossible to know whether the person answering the phone is an adult or not. This section, as it now reads, sounds like a duplication of wording.

5. Section 4.12.d. This notice is an unnecessary burden on the Districts and takes time from the task at hand. If the situation is one that is large enough to cause an extended outage, I feel that most District's already, without being required, will put out notifications. This should be left up to the individual District's and be based upon their staffing, etc.

6. Section 4.12.g. This section is going to be a costly burden to the District's. In addition, it is a direct conflict with what is required of electric and gas utilities. Why should the water departments be required to supply our customers with bottled water, etc. when no other utilities are required a like service. This again causes a burden of cost, hassle, and undue hardship on an already taxed utility that is trying to deal with the outage. Does this mean that you are now going to require the electric company to supply us with generators when we loose power, and the gas company to supply us with electric heater, etc. to keep us warm in the winter time. Don't forget, we need to eat also, so who is going to pay for that? I believe that most District's strive to take care of their customers to the best of their ability. To add an undue layer of burden is uncalled for.

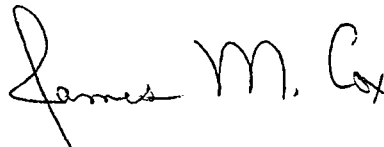
7. Section 5.5.g.5. This has been the case in the past. There is no reason to put this in writing. It only makes the possibility of coming to an agreement more difficult and costly to the District with attorney fees, etc. defending our position. It opens the door to the potential customers to likely take something to the PSC that otherwise we would have agreed to in the past, but since it so states, the customer will think, why not let the PSC determine my case for me.

In the back of the proposed rule changes there is a section of cost to implement. It is true that there may be no cost to the PSC to implement these changes but the cost to the District's will differ based upon how each District determines to handle the potential of a water outage. If implemented, our District would more than likely require our customers to come to the office to get their bottled water, thus taking staff's time, etc. to do other things, plus the cost to have the bottled water here and ready. If not needed then there would be a possibility of wasted water. All of this equates to dollar costs that the District will need to spend to implement this program.

This District feels that based upon the drastic changes that are being proposed, there needs to be a hearing on these changes.

Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "James M. Cox". The signature is written in a cursive, flowing style.

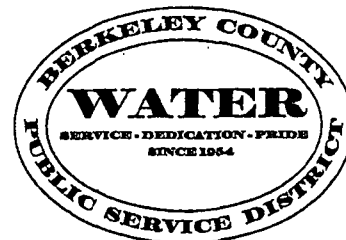
James M. Cox  
Manager

c: WVRWA

COPY

## Berkeley County Public Service Water District

83 Monroe Street  
P.O. Box 737  
Martinsburg, WV 25402-0737  
[www.berkeleywater.org](http://www.berkeleywater.org)  
Phone (304) 267-3855  
Fax (304) 267-3864



October 27, 2008

Original and twelve copies

Sandra Squire, Executive Secretary  
PUBLIC SERVICE COMMISSION OF WEST VIRGINIA  
P.O. Box 812  
Charleston, WV 25323-0812

RECEIVED  
2008 OCT 27 AM 9 17  
WVA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

RE: GENERAL ORDER NO. 188.28

Dear Ms. Squire:

Contained herein are the comments of the Berkeley County Public Service Water District staff on the proposed changes to the Commission's Rules and Regulations for the Government of Water Utilities. Comments are numbered to match the sections of Title 150, Series 7 Rules for the Government of Water Utilities.

3.3.2 - Consider expanding this requirement for clusters of rented units such as multiple apartment buildings and other residential structures. In Berkeley County we have owners who argue that a single tap can be used for multiple apartment buildings (a recent actual example: a 1 1/2" service for 18 apartment buildings containing 6 units each).

4.1.g.1 - Add a sentence such as "Applicant shall indicate the minimum water volume and pressure that is required."

4.1.g.7 - In the third paragraph it states "with the exception that a residential one-or two-family Life Safety fire service supplied through a residential service meter shall be provided with a 1" meter and shall be charged based on the consumption through the meter. The minimum charge shall be based on a meter size no greater than the size of meter that would have otherwise been needed without residential fire service. . . . The utility shall, subject to Commission approval, charge the commercial applicant for private fire protection service in accordance with its schedule of rates for such service."

It would be a terrible injustice to: 1) residential customers who have properly sized water meters to allow a certain class of residential customers [due to NFPA13D] to have an over sized water meter that would register less than the full amount of water used [this is subsidization by the many for a benefit of the few] and 2) commercial, public and industrial accounts that have to pay a fee for each sprinkler they have on site. Also, please consider the addition of the words, *public* and *industrial* to the last sentence as it could be argued that utilities would not be allowed to charge these classes of customer for sprinklers, hose connections and fire hydrants even though it has been approved and is included in a utility's tariff.

A 1" water meter will not register all of the water used in a single family residence or even in a duplex. Water utilities in this state struggle now with unaccounted for water loss and this rule will exacerbate the issue.

4.2.a.5 - Change 4.2.a.8 to 4.2.a.7 and delete the sentence proposed regarding simple interest after one year because 4.2.a.7 is all inclusive.

4.8.a.7 - Delete the first sentence to eliminate the requirement that the utility accept payment at the customer's premises. In today's electronic society, this is an archaic way to run a business. In my 27 years of experience in two other water utilities in two other states, the number of delinquent accounts that utility personnel left the office with was significantly less than this PSD. The Berkeley County PSD visits no less than 300 customers' residences a month for water collections and just less than 300 per month for sewer collections. A large percentage of these customers wait every month for us to show up at the door to pay the bill because there is no penalty for them. This is not fair for the other customers who pay their bills on time. It is very disheartening for our employees to get a \$50 bill from the same household month after month after month. Why should a rule such as this subject employees to double the amount of face to face confrontations that are sometimes unsafe than would be the case without such a rule.

In lieu of eliminating collections at the door, the **very least** the Commission should do is provide for an administrative fee in a utility's tariff that would cover the costs to make a visit to a customers door for collection of any fee. It is currently costing this District \$14.98 per visit and all our other customers that pay on time must foot the bill for visits to customers that pay at the door.

4.12.d. - This District has between 39 and 70 leaks a year that require unscheduled interruptions. The requirements of this section are overkill for 99% of all these cases. It is suggested that these requirements be necessary only for 1) interruptions that have public health concerns such as negative pressure that requires a boil water notice or 2) interruptions that are expected to exceed 24 hours in duration.

5.7.b - If the Commission is concerned about a system that does not survey commercial, public and industrial accounts and thereby requires reduced pressure backflow preventers on all services; this statement can be accepted. If the Commission is concerned about placement of dual check residential backflow preventers on all



residential accounts; this statement cannot be accepted. There is a potential for health hazards by contamination at every household in this state. For the Commission to require that thermal expansion protection become the water utility's responsibility is a death knell for cross connection and backflow programs across this state. The 1986 and 1996 Safe Drinking Water Act amendments and the Code of West Virginia Chapter 16, Article 1 and Public Health Laws, WV Bureau for Public Health Chapter 1, Article 5B require water utilities to develop and implement a cross connection and backflow prevention program. Historically there has existed a point of demarcation of responsibility between the utility and the property owner, which is usually at or near the private property line at a curb box valve or meter pit. To now require that a utility be responsible for anything inside the private property is the opening of Pandora's Box and will not stop with an expansion tank when the customer has any kind of a problem on the premises. We highly suggest that the Commission drop this incredulous requirement.

Finally, when the Rules are adopted and printed, could you please **number the pages**.

Thank you for the opportunity to comment on these proposed rules.

Sincerely,

A handwritten signature in cursive script that reads "Paul S. Fisher". The signature is written in dark ink and is positioned above the printed name.

Paul S. Fisher  
Executive Director

cc: West Virginia Rural Water Association  
Board of Directors meeting packet