



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Public Service Commission

TITLE-SERIES: 150-05

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: RULES FOR THE GOVERNMENT OF SEWER
UTILITIES

CITE STATUTORY AUTHORITY: 24-1-1, 24-1-7, 24-2-1, and 24-2-2, and 24-2H-1

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 01/11/2021 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Connie Graley

ADDRESS: PO Box 812

Charleston WV 25323

EMAIL: cgraley@psc.state.wv.us

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Sewer Rule 10 and Water Rule 11 set forth the procedural steps necessary to identify a distressed or failing water or wastewater utility and provide assistance to that facility including the management or takeover of that facility by another utility, if necessary.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Sewer Rule 10 and Water Rule 11 set forth the procedural steps necessary to identify a distressed or failing water or wastewater utility and provide assistance to that facility including the management or takeover of that facility by another utility, if necessary.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

The proposed rulemaking will not have any impact on costs and revenues of state government

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	\$0		
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues	\$0		

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Janet A Terry -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

SERIES 5
RULES FOR THE GOVERNMENT OF SEWER UTILITIES

§150-5-1. General.

1.1. Scope. -- These rules govern the operation and service of sewer 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, and 24-2H-1.~~

1.3. Filing Date. -- ~~March 9, 2011.~~

1.4. Effective Date. -- ~~May 8, 2011.~~

1.5. General.

1.5.1a. ~~This rulemaking addresses legislative changes, and makes changes for stylistic and clarification purposes.~~ These rules replace rules that went into effect on May 8, 2011 ~~October 24, 2003.~~

1.5.2b. These rules are intended to ensure 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.

1.5.3e. ~~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.

1.5.4d. These rules will not relieve in any way a utility from any of its duties under the laws of this State.

§150-5-2. Application of rules. ~~1.6. Application of rules.~~

2.1. ~~1.6.a.~~ These rules apply to all public utilities as defined in Sewer Rule 3 ~~subsection 1.7.~~

2.1.1. ~~1.6.b.~~ If hardship results from the application of any Sewer 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.

§150-5-3. Definitions ~~1.7. Definitions.~~

3.1. ~~1.7.a.~~ "Applicant" -- A person, firm, corporation, municipality, public service district or any other entity that applies for sewer service.

3.2. ~~1.7.b.~~ "Available sewer service" -- Sewer service will be deemed available to a customer when a main is installed and maintained by the utility in such location and at such distance from the user's premises as may be provided by city ordinance or by the rules of the utility: Provided, that service shall not be deemed to be available unless the sewage will flow by gravity or be transported by such other

methods approved by the Bureau for Public Health including, but not limited to, vacuum and pressure systems, approved under W. Va. Code §16-1-9, from the customer's point of service into the utility service pipe.

3.3. 1.7.e. Billing Related Dates.

3.3.1. 1.7.e.1. "Bill due date" -- The date when the utility mails the bill.

3.3.2. 1.7.e.2. "Latest pay date" -- The last date, ~~which shall be no sooner than the 20th day following the date the utility mails the bill,~~ that the bill may be paid without incurring a late payment penalty. The latest pay date shall be no sooner than the 20th day following the date the utility mails the bill and must be stated on the face of the bill.

3.3.3. 1.7.e.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 sewer utility that is not a public service district or a municipal system within thirty (30) days of the bill due date. The date that a bill will become delinquent must be stated on the face of the bill.

3.4. 1.7.d. "Commercial Service" -- ~~Means~~ Service to each separate business enterprise, occupation or institution occupying for its exclusive use any units 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.

3.5. 1.7.e. "Commission" -- Whenever in these rules the words "Commission" or "Public Service Commission" appear, 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.

3.6. 1.7.f. "Customer" -- ~~Shall mean and include a~~ Any such person, firm, corporation, municipality, public service district or any other entity who ~~that~~ purchases a product or services ~~from~~ of any utility ~~and shall include~~ ing any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or product for resale.

3.7. 1.7.g. "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.~~

3.8. 1.7.h. "Governmental Unit" -- Any municipality or other political subdivision or agency of the State of West Virginia or the Federal Government.

3.9. 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.

3.10. 1.7.j. "Payment" -- Payment is made by cash, check, credit card, debit card, or voucher accepted by the utility.

3.11. 1.7.k. "Point of service" -- ~~Means~~ The point at which the utility's pipe and appurtenances ~~which connect any~~ the utility service pipe with the inlet connection of a customer's service pipe at or near 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.

3.12. 1.7.1. “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 collecting, transporting, and/or treating sewage.

3.13. 1.7.m. “Residential Service” -- ~~Means s~~Service to a householder or a tenant, living in a separate house or separate apartment in an apartment building, using water and sewer for general household service. ~~Should the~~ If an owner of a multiple apartment building undertake to furnish water to his tenants as a part of the tenants’ ~~their~~ monthly rent, then such service shall be classed 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.

3.14. 1.7.n. “Sewer Main” -- ~~Means s~~Sewer pipe owned, operated, or maintained by the utility located in a public right-of-way, street, alley, or private right-of-way, used for the purpose of collecting sewage and from which service connections for customers are taken. Any sewer pipe extending through a utility right-of-way across private property shall be a sewer main. Costs to install a sewer main across private property are subject to the cost-sharing provisions of Sewer Rule 7.5. ~~subsection 5.5.~~

3.15. 1.7.o. “Temporary Service Connection” -- ~~One which is~~ A connection installed for temporary use; 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 sewer main extending along the total frontage of the lot on said street or right-of-way, unless otherwise agreed to by the utility.

3.16. 1.7.p. “Utility Service Pipe” -- ~~Shall be t~~That portion of the service pipe between the sewer main and the point of service, ~~installed at the cost and expense of the utility.~~

§150-5-42. Records, Reports and Other Information to be Supplied to the Commission.

4.1. 2.1. Records and reports.

4.1.1. 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.

4.1.2. 2.1.b. Location of records.

4.1.2.a. 2.1.b.1. ~~Such~~ Required records should be kept at the office or offices of the utility in West Virginia and shall be available during regular business hours for examination by the Commission or its duly authorized representative.

4.1.2.b. 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.

4.1.3. 2.1.c. Reports to the 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.

4.2. 2.2. Filing of rate schedules.

4.2.1. 2.2.a. Tariffs containing rates and rules of each utility shall be filed in the manner prescribed by the Commission in “Rules for the Construction and Filing of Tariffs ~~Rules for the~~

~~Government and Filing of Tariffs,~~ 150CSR2 (Tariff Rules) effective as amended or modified by the Commission.

4.2.2. ~~2.2.b.~~ Municipal rates. -- Rates for municipal sewer and combined water and sewer utilities shall be adopted, and tariffs shall be filed, in accordance with the Commission's Tariff Rules ~~"Rule for the Construction Government and Filing of Tariffs,"~~ 150CSR2, effective as amended or modified by the Commission.

4.3. ~~2.3.~~ Utility's special rules.

4.3.1. ~~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).

4.3.2. ~~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 subsequently have been ~~ratified and~~ refiled after the effective date of these rules and approved by the Commission.

4.3.3. ~~2.3.e.~~ 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.

4.4. ~~2.4.~~ Financial and statistical report.

4.4.1. ~~2.4.a.~~ Each utility shall file annually a financial and statistical report ~~with upon forms to be furnished by the Commission.~~ The report shall be based upon the accounts set up in conformity with Sewer Rule 4.5 subsection 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 will be 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.~~

4.4.2. ~~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. A utility shall apply for an extension ~~Such application is to be made~~ before the expiration of the time for filing the report. An application for an extension must be accompanied by an income statement, balance sheet, and cash flow statement covering the annual report period for which the extension is requested.

4.5. ~~2.5.~~ Uniform system of accounts.

4.5.1. ~~2.5.a.~~ All sewer utilities shall maintain all 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, and C sewer utilities.

4.5.2. ~~2.5.b.~~ All persons having direct charge of the books and accounts of the utility must observe ~~Observance of the system of accounts applicable to the 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.

4.5.3. ~~2.5.e.~~ The classification of sewer 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	\$1,000,000 or more
B	\$200,000 - 999,999
C	less than \$200,000

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

4.6. 2.6. Maps and records.

4.6.1. 2.6.a. Each utility shall keep on file suitable maps, plans, and records showing the entire layout of every pumping station, treatment plant, transmission and collection line, with the location, size and capacity of each plant, size of each transmission and collection line, and customer's service, and other facilities used in the collection and treatment of sewage.

4.6.2. 2.6.b. In the case of new construction or property acquired from others, a utility should reflect the addition to such changes in the 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.

4.6.3. 2.6.e. 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.

4.7. 2.7. Management audits.

4.7.1. 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.

4.7.2. 2.7.b. Types of management audits. -- The following types of management audits, which vary in scope, may be directed and utilized by the Commission:

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

4.7.2.b. 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.

4.7.2.c. 2.7.b.3. Focused. -- An in-depth investigation of one (1) or several specific areas of a utility's management and operations.

4.7.3. 2.7.e. 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.

4.7.4. ~~2.7.d.~~ Conduct and control.

4.7.4.a. ~~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.

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

4.7.4.c. ~~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.

4.7.5. ~~2.7.e.~~ Costs. -- ~~It shall be the responsibility of~~ The audited utility is responsible 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.

4.7.6. ~~2.7.f.~~ Implementation of recommendations.

4.7.6.a. ~~2.7.f.1.~~ Draft report.

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

4.7.6.a.2. ~~2.7.f.1.B.~~ The auditor and utility ~~Company~~ representatives shall conduct a draft review meeting subsequent to the distribution of the draft review report.

4.7.6.b. ~~2.7.f.2.~~ Final report.

4.7.6.b.1. ~~2.7.f.2.A.~~ The auditor will submit 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.

4.7.6.b.2. ~~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.

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

4.7.6.d. ~~2.7.f.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~~ the recommendations that the utility should adopt. The utility shall not deviate from an approved implementation plan without prior notice to the Commission ~~which~~ that specifically states the utility's reasons for departing from the approved plan. The utility shall obtain Commission approval prior to any

deviation from the approved plan.

4.7.6.e. 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.

4.7.6.f. 2.7.f.6. A management audit report, ~~the resulting 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.

4.7.6.g. 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.

§150-5-35. Meter Requirements.

5.1. 3.1. Scope. -- In general, sewer service charges shall be based upon the volume of water delivered to the customer's property. This volume is measured by the water meter serving the premises. In cases where a significant volume of the water delivered to the premises is not returned to the sanitary sewer system or water from another source is discharged to the sanitary sewer system the customer may request, or the utility may require, special flow measuring devices to properly measure the volume of waste water entering the sanitary sewer system. Such special flow measuring devices shall be furnished, installed, and maintained by and at the expense of the customer with the approval of the utility. In some situations suitable formulae may be used to determine waste water flow in lieu of special metering devices. Such formulae shall be approved by both the customer and the utility and are subject to the approval of the Commission. All flow meters used in serving bulk or resale customers shall be owned and operated by the utility providing service to the bulk or resale customer.

5.2. 3.2. Sewer flow measuring devices. -- Where sewer flow measuring devices are used for billing purposes, the utility shall test these devices for accuracy on an annual basis. The measuring devices shall also be maintained in good working order and shall be adjusted or repaired to be as nearly correct as is commercially practicable.

5.3. 3.3. Prohibitions on master metering.

3.3.a. Reserved.

5.3.1. 3.3.b. Mobile home parks. -- For mobile home parks constructed on or after October 24, 2003, each mobile home in a mobile home park shall be individually sewered 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.

§150-5-64. Customer Relations.

6.1. 4.1. Customer information.

6.1.1. 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.

6.1.2. ~~4.1.b.~~ Explanation of computing bills. -- Each utility shall adopt some means of informing its customers as to the method of computing bills, either by 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.

6.1.3. ~~4.1.e.~~ 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 the customer ~~him~~ in obtaining the best rate for the customer's ~~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 requested by the customer,~~ the utility ~~it~~ shall supply the customer ~~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.

6.1.4. ~~4.1.d.~~ Posting of law, rates, rules, and collection agents.

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

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

6.1.4.a.2. ~~4.1.d.1.B.~~ A copy of the Public Service Commission Law of this State; and

6.1.4.a.3. ~~4.1.d.1.C.~~ A copy of these rules.

6.1.4.b. ~~4.1.d.2.~~ A utility shall exhibit a suitable placard in large type in conspicuous location, ~~shall be conspicuously posted in the utility's business office~~ giving information to customers that the utility has a copy of the law, the rules of the Commission applicable to the utility, and the schedules of rates are available for their ~~customer~~ inspection.

6.1.4.c. ~~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 sewer bills.

6.1.5. ~~4.1.e.~~ Application for sewer service.

6.1.5.a. ~~4.1.e.1.~~ All applicants desiring sewer 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 sewer will be used upon the applicant's ~~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, the applicant ~~he~~ shall state the name and address of the owner or owners of the premises to be served.

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

required to complete a new application for sewer service, or paying a new deposit.

6.1.5.c. ~~4.1.e.3.~~ In the event that a publicly or privately owned water utility, city, incorporated town, other municipal corporation or other public service district, owns and operates water facilities within the same service territory as the public service district providing sewer service to the area, then the sewer public service district shall provide the customer with a proper receipt and shall instruct the customer to present said receipt to the water utility when application for water service is made.

6.1.6. ~~4.1.f.~~ Public service district's notice of availability of sewer service and billing after notice.

6.1.6.a. ~~4.1.f.1.~~ Notice by publication. -- When sewer service is made available by a public service district to customers in an area which has not previously been served by the district, the district shall publish a notice in a newspaper of general circulation in the area affected once a week for two consecutive weeks, with the second notice being published at least thirty (30) days prior to the date that the district intends to begin billing for services. The notice shall state, at a minimum, the following information: (1) that sewer services are available; (2) the date that the district will begin billing for services as authorized by W. Va. Code §16-13A-9 and Sewer Rule 6.3 ~~subsection 4.3. of the Commission's Rules for the Government of Sewer Utilities~~; (3) the district's rates; (4) that W. Va. Code §16-13A-9 authorizes the district to petition the circuit court to compel connection to the sewer system; (5) the location and telephone number of the district's business office; and (6) the amount of the bill to be rendered as provided by W. Va. Code §16-13A-9, in the event a customer does not connect to the system.

6.1.6.b. ~~4.1.f.2.~~ Publication is not required when service is extended to a single customer at the customer's request.

6.1.6.c. ~~4.1.f.3.~~ Personal notice. -- In addition to notice by publication, when sewer service is made available to customers in an area which has not previously been served by the district, the district shall provide notice with at least the information as described in Section 1. above, to all potential new customers by certified mail, return receipt requested, by personal service with signed and dated receipt, or by posting a notice on the premises. If the premises to be served is not inhabited by the owner, notice shall be given to the owner by certified mail, return receipt requested, in addition to giving notice to the customer inhabiting the premises. In the event that the district is not able to effect personal notice after a good faith effort, or if the district believes that the requirements of this section create an undue hardship on the district, the district may petition the Commission for a waiver of the requirements of personal notice provided in this section.

6.1.6.d. ~~4.1.f.4.~~ Customers of public service sewer districts who are not connected to the sewer system after appropriate notice has been given of availability of service pursuant to W. Va. Code §16-13A-9 and Sewer Rule 6.1.6. ~~subdivision 4.1.f.~~ shall be billed based on actual water consumption or the average monthly water consumption based upon the owner's, tenant's, or occupant's specific customer class. These charges must be included in the utility's tariff filed with the Commission.

6.2. ~~4.2.~~ Customer deposits.

6.2.1. ~~4.2.a.~~ Security deposits.

6.2.1.a. ~~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 payment of sewer service rates and charges. Except for municipal sewer systems, such deposit shall not be more than one-twelfth (1/12) of the annual estimated charge for residential service and or one-sixth (1/6) of the annual estimated charge for all other service. For a municipal sewer 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 sewer service until this condition is fulfilled. The utility shall have a reasonable time, not to exceed thirty (30) days, 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.

6.2.1.b. 4.2.a.2. Security deposits for public service districts. -- All new applicants for residential or other sewer service from a public service district shall make a deposit of (i) fifty dollars (\$50), or (ii) two-twelfths (2/12) of the average annual usage for the applicant's specific customer class for sewer service, whichever is greater, with the district to secure the payment of sewer 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 sewer service 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.

6.2.1.c. 4.2.a.3. Return of deposit to customers. -- Except as otherwise provided in Sewer Rule 6.2.1.d. 4.2.a.4., after a 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) month period shall commence from the first regular payment or following the payment of a delinquent bill or bills.

6.2.1.d. 4.2.a.4. Return of deposit by public service districts and municipal systems only for a customer who is a tenant. -- By statute public service districts and municipal systems 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.

6.2.1.e. 4.2.a.5. ~~Unless otherwise ordered by the Commission by general order, simple interest of 1% per year shall be paid from the date of deposit until the date of refund of the security deposit. All customer security deposits shall be placed in an interest bearing account at a local federally insured financial institution.~~ Interest paid on deposits will be established by the Commission by general order.

~~4.2.a.6. Public service districts and municipal systems must segregate security deposits in interest bearing accounts at federally insured institutions. Upon proper showing by complaint or otherwise, the Commission may require any other utility to likewise segregate customer deposits.~~

6.2.1.f. 4.2.a.7. 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 sewer service, that individual's spouse may become the

customer of record without being required to complete a new application for sewer service, or paying a new deposit.

6.2.1.g. ~~4.2.a.8.~~ 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; and (iii) each transaction concerning the deposit.

6.2.1.h. ~~4.2.a.9.~~ 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.

6.2.1.i. ~~4.2.a.10.~~ 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 the their deposits are being held to the customer's 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~~ The utility shall follow the provisions of the Uniform Unclaimed Property Act, codified in W. Va. Code §36-8-1 et seq., with regard to the disposition of any unclaimed deposit.~~

6.2.1.j. ~~4.2.a.11.~~ 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.

6.2.1.k. ~~4.2.a.12.~~ All utilities that collect security deposits must do so in a non-discriminatory manner.

6.2.2. ~~4.2.b.~~ Guaranty agreement.

6.2.2.a. ~~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.

6.2.2.b. ~~4.2.b.2.~~ A guaranty agreement shall terminate after the customer has satisfactorily paid bills for service 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.

6.2.2.c. ~~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.

6.3. 4.3. Billing information.

6.3.1. 4.3.a. All bills for sewer service shall state whether the charge is based upon quantities of water consumed at the premises, flat rate or other charge. ~~A utility shall render bills~~ Bills shall be rendered periodically, ~~and if based upon metered water consumption each bill must they shall~~ show the readings of the water meter at the beginning and end of the period for which the bill is rendered, the date of the water 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."

6.3.2. 4.3.b. ~~A utility shall compute~~ First and last bills, monthly or quarterly, for sewer service rendered for periods of five (5) days more or five (5) days less than the normal billing period. ~~The utility will use~~ will be computed in accordance with the rate applicable to that service, by the amount of sewer blocks, ~~and the utility will prorate 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 billing period.

6.3.3. 4.3.c. Utilities desiring to adopt mechanical billing of such nature as to render compliance with all the terms of Sewer Rule 6.3.2. subdivision 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.

6.3.4. 4.3.d. On all bills ~~that which~~ include charges for items other than authorized sewer charges, the utility will clearly state 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.

6.3.5. 4.3.e. Each bill shall bear on its face the latest pay date and the date it shall be a delinquent bill if not paid. A utility may request a delayed payment penalty applicable to ~~On all~~ current usage billings not paid in full by the latest pay date, equal to ten percent (10%) ~~will be added to~~ of 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.~~

6.3.5.a. 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.

6.4. 4.4. Adjustment of bills.

6.4.1. 4.4.a. Fast meters. -- If the water utility makes a refund to the customer pursuant to Rule 6.4.1. subdivision 4.4.a. of the Commission's "Rules for the Government of Water Utilities," 150CSR7 (Water Rules), the sewer utility will make a corresponding adjustment to the sewer charges associated with the same period of time based on the corrected meter reading and the applicable sewer rates.

6.4.2. 4.4.b. Dead Meters. -- At any time that a water utility calculates water usage and bills for water service pursuant to the provisions in Water Rule 6.4.2. subdivision 4.4.b. ~~of the Commission's "Rules for the Government of Water Utilities," 150CSR7,~~ the sewer utility will bill for sewer service for the corresponding time period based on the water usage calculated and billed by the water utility.

6.4.3. 4.4.e. Leaks on the customer's side of the meter.

6.4.3.a. 4.4.e.1. Each utility shall develop and implement a written policy consistent with Sewer Rule 6.4 et seq. concerning the adjustment of customer bills where they are based upon metered water consumption or are actually metered sewer lines, and the bill reflects unusual water usage in excess of 150% of the customer's historical usage that ~~which~~ can be attributed to leakage on the customer's side of the point of service. Leakage that is clearly noticeable such as leaking commodes, dripping faucets, malfunctioning appliances and similar above the floor, above-ground, or outside of the wall leaking situations or leakage that results in unusual bills for more than two consecutive billing periods may ~~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 policy shall be filed with the Commission as a part of the utility's tariff. The reasonableness of the utility's policy shall be subject to approval by the Commission and the reasonableness of the utility's ~~or~~ practice with respect to implementing a policy shall be subject to Commission review in a formal complaint proceeding.

6.4.3.b. 4.4.e.2. The policy shall provide for a recalculated bill to reflect the utility's incremental cost of treating or purchasing the treatment of the sewage, 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. Any amounts which the customer can prove did not enter the sanitary sewer system shall be credited at full tariff rates.

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

6.4.3.d. 4.4.e.4. ~~However, in future~~ In rate cases the Commission will determine the utility's incremental cost of treating or purchasing the treatment of the sewage ~~shall be determined and require that the utility include~~ the rate ~~placed~~ in an appropriate tariff as the leak adjustment rate. After the Commission approves 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 Sewer Rule 6.4.3.c. paragraph 4.4.e.3.

6.5. 4.5. Complaints.

6.5.1. 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 resolved, the utility shall, before service is discontinued, notify the customer that he may file an informal or formal complaint with the Commission.

6.5.2. 4.5.b. Record 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.

6.5.3. 4.5.e. 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.

6.6. 4.6. Disputed bills.

6.6.1. 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 water or sewer service is discontinued, notify the customer of the customer's right to ~~that he may~~ file an informal or formal complaint with the Commission.

6.7. 4.7. Customer discontinuance of service.

6.7.1. 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, the utility will discontinue service ~~will be discontinued~~ by the end of the next business day. Until the utility ~~shall have such~~ receive notice, the customer may be held responsible for all service rendered.

6.8. 4.8. Utility discontinuance of service.

6.8.1. 4.8.a. Consideration of health and sanitation require that sewer service should not be discontinued because of non-payment of service charges unless the utility has first acquired the approval of the Commission. The sewer utility shall make use of all such legal remedies ~~as may be~~ available for the collection of delinquent accounts prior to application to the Commission for other relief.

6.8.2. 4.8.b. Notice of discontinuance.

6.8.2.a. 4.8.b.1. In the case of a sewer utility requesting termination of water service for non-payment of sewer service, the water utility may not ~~service shall be discontinued~~ service until no sooner than ten (10) days following the date that a sewer utility has mailed to a customer written notice of scheduled termination of service, in compliance with Sewer Form No. 1 attached to these rules. Where written notice is required the utility must send the notice ~~it must be sent~~ first class mail, address service requested. The written notice shall become void if the utility service has not discontinued within thirty (30) days of the date indicated on the notice.

6.8.2.b. 4.8.b.2. Where (1) conditions hazardous to life or property are found to exist on the customer's premises, or where (2) the utility's regulating, measuring or collection equipment or facilities have been tampered with, or (3) the customer's premises have been condemned through a condemnation proceeding under the laws of this state, the water may be shut off without notice in advance.

6.8.2.c. 4.8.b.3. Prior to disconnecting water service for non-payment of a sewer bill, a sewer utility or water utility is required to make at least two (2) attempts to notify the customer through personal contact ~~shall be required. Either the sewer 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 can be is reasonably established that the premises are not permanently inhabited. The attempts must be made on two (2) separate business days, with the last attempt occurring at least forty-eight hours prior to the scheduled service termination. For any category of telephone contact, a call must be placed no earlier than 8 a.m. and no later than 9 p.m. and one of the telephone attempts must be made after 6 p.m. For the purpose of this rule, personal contact includes both face-to-face meetings and telephone calls. The inability to make personal contact shall not prevent the water utility from terminating service.~~

6.8.2.c.1. For purposes of Sewer Rule 6.8.2.c., personal contact may be made by:

6.8.2.c.1.A. A face-to-face meeting initiated by the utility or by the customer (Actual Personal Contact);

6.8.2.c.1.B. A telephone call initiated by either the utility or the customer in which a

live conversation occurs between the utility and an adult member of the household and that alerts the customer to possible service disconnection and provides a toll free call back number or call back number local to the customer's service address (Actual Telephone Contact);

6.8.2.c.1.C. A telephone call that reaches a voicemail or answering device and that alerts the customer to possible service disconnection and provides a toll free call back number or call back number local to the customer's service address. If an automated call is answered by a live person, the call must provide a means for the customer to speak with a customer service representative during the automated call, such as by pressing a button or speaking a demand (Automated Telephone Contact); or

6.8.2.c.1.D. An electronic message if the customer provided an email address, cell phone number or text message capability, or other means of electronic communication and indicated a preference for this category of contact. The electronic message must alert the customer to possible service disconnection and provide a toll-free call back number local to the customer's service address (Electronic Communication Contact). An Electronic Communication Contact will be deemed successful unless the utility receives notice, or the utility's systems show, that the Electronic Communication Contact was not received by the customer.

6.8.2.c.1.E. Any of the four methods above shall be deemed a successful personal contact attempt. An Actual Telephone Contact, an Automated Telephone Contact, or an Electronic Communication Contact may be used as an after-hours personal contact attempt.

6.8.2.d. 4.8.b.4. Service shall not be discontinued on a Saturday, or Sunday, any day that is a federal or state holiday, a day on which either the water utility's or the sewer utility's business office is not open to accept payment, or on the day before such days, unless an emergency exists.

6.8.2.e. 4.8.b.5. All disconnections shall be performed between the hours of 8 a.m. and 4 p.m.

6.8.2.f. 4.8.b.6. The water utility may, but is not required to, accept payment at the customer's premises in lieu of discontinuing service for a delinquent sewer bill.

6.8.2.g. 4.8.b.7. 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 sewer utility may then request the water utility to terminate service only after it has mailed notice, by first class mail, to the customer at least five (5) ~~calendar~~ days, excluding Saturdays, Sundays, and state or federal holidays, prior to termination; provided that at the option of the utility, in lieu of mailing the notice, the utility may contact the customer either in person or by telephone. For purposes of this rule paragraph 4.8.b.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.

6.8.2.h. 4.8.b.8. 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 Sewer Form No. 2 shall be placed at a location readily available for public inspection on the premises at least five (5) days, excluding Saturdays, Sundays, and state or federal holidays, prior to the scheduled termination of service to that mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling in order to provide notice of the scheduled termination to the tenants of said 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 Sewer 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, excluding Saturdays, Sundays, and state or federal holidays, 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.

6.8.2.i. 4.8.b.9. Deferred Payment Agreement. 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 agreement: Provided, that such 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.

6.8.2.i.1. 4.8.b.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.

6.8.2.i.2. 4.8.b.9.B. A standard deferred payment agreement will include a pay-off amount consisting of the delinquency balance in twelve monthly payments. If a residential customer desires a payment period that is shorter than twelve (12) months, the utility shall accept the shorter term. The deferred payment agreement shall include language informing the customer of the right to challenge the reasonableness of the proposed payments to the Commission.

6.8.2.i.3. 4.8.b.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 the customer's ~~his~~ rights under this rule.

6.8.2.i.4. 4.8.b.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.

6.8.2.i.5. 4.8.b.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 Sewer Rule 6.8.2.i.1. ~~subparagraph 4.8.b.10.A.~~ The customer shall provide documentation in support of a ~~his~~ claim that the customer's ~~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.

6.8.2.i.6. 4.8.b.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 Saturdays, Sundays, and state or federal holidays, prior to notifying the water utility to terminate service 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 pays 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.

6.8.2.j. 4.8.b.10. 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 provided to the customer as required by Sewer Rule 6.8.2.a. ~~paragraph 4.8.b.1.~~

6.8.2.k. 4.8.b.11. 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-day notice period to the customer.

6.8.2.l. If a utility proposes termination rules that differ from the Commission rules, those

termination rules must be filed with the Commission as a request to modify the utility's tariff.

6.8.3. ~~4.8.e.~~ Once a disconnected customer has paid a 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.

6.8.4. ~~4.8.d.~~ Charge for reconnection.

6.8.4.a. ~~4.8.d.1.~~ Whenever the supply of water is turned off for non-payment of sewer bills, the water utility may make a charge as provided for in Water Rule 6.8.3. ~~subdivision 4.8.e. of the Commission's Rules for the Government of Water Utilities, 150CSR7.~~

6.8.5. ~~4.8.e.~~ 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.

6.8.6. ~~4.8.f.~~ 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.

6.8.7. ~~4.8.g.~~ Inter-utility Agreements regarding discontinuance of water service for non-payment of sewer bills.

6.8.7.a. ~~4.8.g.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 Sewer Rule 6.8.2. ~~subdivision 4.8.b.~~

6.8.7.b. ~~4.8.g.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.

6.8.7.c. ~~4.8.g.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.

6.8.7.d. ~~4.8.g.4.~~ Any inter-utility agreements pursuant to Sewer Rule 6.8.7.a. ~~paragraph 4.8.g.1.~~ shall be submitted to the Commission for approval prior to any termination of water service for non-payment of sewer bills under such agreements.

6.8.7.e. ~~4.8.g.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 Sewer Rule 6.8.7.c. paragraph 4.8.g.3. 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.

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

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

6.9.2.4.9.b. Applicant's facilities inadequate. -- The utility may refuse to serve an applicant if the applicant's installation of sewer piping is hazardous or of such character that satisfactory service cannot be provided.

6.9.3.4.9.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.

6.9.4.4.9.d. Applicant's recourse. -- In the event that the utility ~~shall~~ refuses to serve an applicant under the provisions of this rule, or any other rule incorporated herein, the utility must ~~shall~~ inform the applicant that the applicant may file a complaint with the Commission for decision. ~~of the basis of its refusal, and the applicant may apply to the Commission for a ruling thereon. The refusal must be in writing with a copy sent to the Commission.~~

6.10.4.10. Access to property.

6.10.1.4.10.a. The utility shall, at all reasonable times, have access to service connections and other property owned by it on a customer's premises for purpose of inspection, maintenance and operation.

6.10.2.4.10.b. Identification for employees. -- Every employee, whose duties regularly require ~~him to work on or near the property of a customer enter a customer's premises,~~ shall wear a distinguishing uniform or other insignia identifying the person him as an employee of the utility and shall carry ~~on his person~~ an identification card which will identify the person 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.

6.11.4.11. Service interruptions.

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

6.11.2.4.11.b. Notice required for scheduled interruptions. -- The utility will notify ~~The~~ Bureau for Public Health, the Department of Environmental Protection, the Commission and every customer affected ~~shall be notified~~ in advance of any contemplated work which will result in interruption of service for any duration that may cause a health or environmental hazard.

6.11.3.4.11.c. Notice required for unscheduled interruptions. -- In the event of an unscheduled service interruption that may cause a health or environmental hazard, the utility will notify the Bureau for

Public Health, the Department of Environmental Protection, and the Commission ~~shall be notified~~ as soon as possible upon ~~the~~ a utility becoming aware of an unscheduled service interruption. Additionally, a utility will make customers and the general public ~~shall be made~~ aware of any unscheduled service interruption for which the utility is required to provide notice by utilizing one or more of the following acceptable methods of public notification as appropriate:

6.11.3.a. ~~4.11.e.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 sub-population particularly at risk, and a description of actions affected ratepayers/occupants should take to ensure ~~their~~ safety, with updates as often as needed.

6.11.3.b. ~~4.11.e.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 sub-population particularly at risk, and a description of actions affected ratepayers/occupants should take to ensure ~~their~~ safety, with updates as often as needed.

6.11.3.c. ~~4.11.e.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).

6.11.4. ~~4.11.d.~~ 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.

6.11.5. ~~4.11.e.~~ A utility shall ~~Coordinate~~ with state and local emergency management agencies ~~must occur~~, as needed, to use any emergency alert system available for qualifying situations.

6.11.6. ~~4.11.f.~~ Public Notice Templates. -- Utilities should have public notice templates prepared and available 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 contaminants of concern and associated health effects.

6.11.7. ~~4.11.g.~~ 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.

6.12. ~~4.12.~~ Moratoria.

6.12.1. ~~4.12.a.~~ Conditions. -- The Commission may impose a moratorium on the 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.

6.12.2. ~~4.12.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 Sewer Rule 6.12.1. ~~subdivision 4.12.a.~~ If the utility is the petitioner, it must state the utility's plan to remediate those conditions.

6.12.3. ~~4.12.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.

6.12.4. ~~4.12.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 Sewer 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.

6.12.5. ~~4.12.e.~~ Exemptions. -- Any prospective customer or group of prospective customers may apply to the Commission for an exemption from an existing moratorium. The prospective customer(s) ~~Such requests~~ shall make the requests ~~be made~~ in writing ~~by the prospective customer(s)~~ to the Commission, and shall include justification for the proposed exemption.

6.12.6. ~~4.12.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 the applicant's ~~their~~ right to file with the Commission a request for exemption from the moratorium.

6.12.7. ~~4.12.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.

§150-5-75. Utility Facilities; Service Pipes; Extension of System.

7.1. ~~5.1.~~ Adequacy of facilities.

7.1.1. ~~5.1.a.~~ The collecting system of every sewer utility shall be designed, constructed, maintained and operated to receive and transport the sewage from its customers' outlets to its treatment plant without undue delay.

7.1.2. ~~5.1.b.~~ Where the terrain is such that pumping or lift stations must be provided, such facilities must have the approval of the Bureau for Public Health and the Department of Environmental Protection and be operated under the rules of the Bureau for Public Health and the Department of Environmental Protection.

7.1.3. ~~5.1.c.~~ When a new sewer utility proposes to construct and operate a sewer service business, its entire plant layout shall be approved by the Bureau for Public Health and the Water Resources Division of the Department of Environmental Protection.

7.1.4. ~~5.1.d.~~ Construction and maintenance of plant. -- A ~~Each~~ utility shall at all times construct and maintain its entire plant and system to furnish safe, adequate and continuous service.

7.1.5. ~~5.1.e.~~ Inspection of plant. -- A ~~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 legally applicable requirements of the Minimum Federal Safety Standards (Federal Occupational Health and Safety Administration) and the Bureau for Public Health and the Department of Environmental Protection.

7.1.6. ~~5.1.f.~~ 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 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.

7.1.7. 5.1.g. Records of operation. -- ~~A 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 its daily operations. The utility shall also maintain the records ~~shall also be maintained~~ in accordance with the requirements of the Minimum Safety Standards and the Bureau for Public Health and the Department of Environmental Protection.

7.1.8. 5.1.h. Report to Commission. -- ~~A 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.

7.2. 5.2. Utility Service Pipe.

7.2.1. 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. All such service pipes and appurtenances shall be installed only by the utility unless by prior written agreement.

7.2.2. 5.2.b. The utility shall determine the location of the utility service pipe.

7.2.3. 5.2.c. The utility shall install and maintain, at its own cost and expense, all of the utility service pipe to the point of service, 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.

7.2.4. 5.2.d. The utility shall not make any charge for furnishing and installing any permanent service connection, 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.

7.2.5. 5.2.e. The utility service pipe shall remain under the utility's sole control and jurisdiction.

7.2.6. 5.2.f. The customer shall not attach any fixtures to, or make any branches in, the utility service pipe between the point of service and the main. Violation of this rule may result in termination of service pursuant to these rules.

7.2.7. 5.2.g. A utility shall install t~~Temporary~~ service connections for construction or other temporary purposes ~~shall be installed by the utility~~ at the cost of the applicant.

7.2.8. 5.2.h. ~~A Each~~ utility shall adopt standard methods of installation where practicable. ~~Such methods shall be set out with~~ and file a written descriptions and drawings to provide a clear understanding of the requirements; ~~all of which shall be submitted to the Commission.~~

7.2.9. 5.2.i. Availability defined. -- Sewer service will be deemed available to a customer when a main is installed and maintained by the utility in ~~a such~~ location and at ~~a such~~ distance from the user's premises as may be provided by city ordinance or by the rules of the utility: provided, that service shall not be deemed to be available unless the sewage will flow by gravity or be transported by such other methods approved by the Bureau for Public Health including, but not limited to, vacuum and pressure systems, approved under W. Va. Code §16-1-9, from the customer's premises into the utility's facilities.

7.3. 5.3. Customer Service Pipe.

7.3.1. 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 sewer service, until application has been made therefor to the utility as provided in these rules and the utility has granted permission ~~for doing so has been granted by the utility~~ in writing.

7.3.2. 5.3.b. Once a utility grants an application for service ~~has been granted~~, the customer shall install and maintain the customer service pipe.

7.3.3. 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 main to the point of service.

7.3.4. 5.3.d. 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.

7.3.5. 5.3.e. The customer 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 the customer's ~~his own~~ expense.

7.3.6. 5.3.f. 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.

7.3.7. 5.3.g. A customer must maintain the customer ~~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 water or sewer service pursuant to these rules.

7.3.8. 5.3.h. The customer's service pipe shall be laid below the frost line at all points and shall be placed on firm and continuous earth so as to give unyielding and permanent support; and be installed in a trench at least two feet in a horizontal direction from any other trench wherein gas pipe, water pipe, or other facilities, public or private, are or are to be installed.

7.3.9. 5.3.i. A customer's service pipe shall not pass through or across any premises or property other than that to be served. If a property served as of [insert effective date of these rules] is later subdivided resulting in the original customer's service pipe crossing the subdivided property that will be occupied by a new customer, the original customer and new customer must have separate service pipes. The original customer must obtain a right-of-way for the original customer's service pipe on subdivided sections of property before title of such section passes to a new owner. nor across any portion of the property that could practicably be sold separately from the immediate premises served and no pipes or plumbing in any premises shall be extended therefrom to adjacent or other premises.

7.3.10. 5.3.j. The customer's service pipe and all connections and fixtures attached thereto shall be subject to the inspection of the utility before use, and all premises, including any and all fixtures within the said premises, shall at all reasonable hours be subject to inspection by a duly authorized employee of the utility.

7.3.11. 5.3.k. The utility shall make changes and bear the full costs of changes in the customer's service pipe 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 the customer's ~~his or her~~ convenience.

7.3.12. 5.3.l. 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 these rules.

7.3.13. ~~5.3.m.~~ The connection of surface drains to the sanitary system is prohibited. As a means to deter prohibited connections where surface or ground water is introduced into the sanitary system, the utility may add a surcharge to the customer's sewer bill where evidence of a violation exists. The surcharge shall be authorized by separate schedule to the utility's sewer tariff filed pursuant to the *Rules for the Construction and Filing of Tariffs*, 150CSR2, but the utility need not file revenue, expense, or other financial data unless otherwise ordered by the Commission. The charge for roof drains, downspouts, storm sewers or similar facilities connected to the sanitary sewer system will be calculated by the formula or rate clearly stated in the tariff, and will not be cumulative to any metered rate for sewer service. The tariff should further provide that the surcharge will not be imposed unless and until the customer is notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or surface water is being introduced into the sanitary sewer, and that the customer has thirty (30) days to divert that water from the sanitary sewer.

5.4. ~~Reserved.~~

7.4. ~~5.5.~~ Extension of mains to serve new customers.

7.4.1. ~~5.5.a.~~ A sewer 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.

7.4.2. ~~5.5.b.~~ The utility shall make e~~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.

7.4.3. ~~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 old customers.

7.4.4. ~~5.5.d.~~ A utility shall make e~~Every effort shall be made by a utility~~ to install its main line in the public road right-of-way or in a utility right-of-way abutting the public road right-of-way.

7.4.5. ~~5.5.e.~~ Extension for general sewer service.

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

7.4.5.b. ~~5.5.e.2.~~ The utility will, upon written request for service in the form of Sewer Form No. 4, by a prospective customer or group of prospective customers located in the same neighborhood, 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 Sewer Form No. 5, including pipe, valves, manholes, 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. 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 utility will provide the written estimate calculated using Sewer Form No. 5 ~~shall be provided~~ to the customer in the form of Sewer 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 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.

7.4.5.c. 5.5.e.3. Whenever the utility is required to extend service from an existing main to property that does not immediately abut the utility's right-of-way or the public road that contains the utility main, the extension shall be considered a main extension and the cost responsibility shall be determined under Sewer Rule 7.4.5. subdivision 5.5.e.

7.4.5.d. 5.5.e.4. Where the cost of the extension does not exceed the estimated total net revenue, as calculated below, from 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.

7.4.5.d.1. 5.5.e.4.A. Net annual revenue shall be gross annual revenue minus an amount equal to the excess usage leak adjustment rate approved for the utility times the applicant's usage used for the purposes of this rule, and with this difference further reduced for any revenue based taxes.

7.4.5.d.2. 5.5.e.4.B. The utility will base rRevenue shall be based on the average usage by customer class at the time of the extension 4,500 gallons per month per residential unit, unless circumstances of the applicant show this would result in significant error. For non-residential units, the utility will base annual revenue shall be based on typical consumption for comparable units published by the American Water Works Association.

7.4.5.d.3. 5.5.e.4.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.

7.4.5.d.4. 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 a function of the utility's weighted cost of capital, applicable income tax rates, and the Commission approved depreciation accrual rate.

7.4.5.d.5. 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 Commission approved 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.

7.4.6. 5.5.f. Extensions beyond the limit of utility-financed extensions of general sewer service.

7.4.6.a. 5.5.f.1. If the utility-estimated cost of the proposed extension required in order to furnish general sewer service exceeds the utility's estimate of total net revenue as determined by Sewer Rule 7.4.5.d. paragraph 5.5.e.4., the utility will make the such extension shall be made if the applicant or the applicant's authorized agent contracts for the 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 original terminus refund to the original depositor(s), an amount equal to the estimated total net revenue of the new customer as determined by Sewer Rule 7.4.5.d. 5.5.e.4., 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 sewer 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.

7.4.7. 5.5.g. Alternate Depositor-Financed Extension Plan.

7.4.7.a. 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.

7.4.7.a.1. 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.

7.4.7.a.2. 5.5.g.1.B. Before filing for a waiver, the utility must first ~~make an~~ estimate of the extension costs.

7.4.7.a.3. 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.

7.4.7.a.4. 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.

7.4.7.b. 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:

7.4.7.b.1. 5.5.g.2.A. receiving a cash deposit equal to the full amount of the extension cost; and

7.4.7.b.2. 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 Sewer Rule 7.4.5.d. paragraph 5.5.e.4.; and

7.4.7.b.3. 5.5.g.2.C. agreeing to refund to the original depositor(s) an amount equal to estimated total net revenue as defined in Sewer Rule 7.4.5.d. paragraph 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. ~~The Such~~ refunds shall continue until the total refunds given equal the estimated total net revenue as defined in Sewer Rule 7.4.5.d. paragraph 5.5.e.4.

7.4.7.c. 5.5.g.3. In no event shall the total refund made to the depositor(s) under Sewer Rule 7.4.7.b.3. subparagraph 5.5.g.2.C. exceed the original deposit of the depositor(s).

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

7.4.8. 5.5.h. General provisions.

7.4.8.a. 5.5.h.1. ~~If~~ ~~Should~~ the actual cost of the extension is ~~be~~ less than the estimated cost, the utility will refund the difference as soon as the actual cost is ~~has been~~ ascertained, but in no event ~~later~~ ~~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. ~~The customer may pay this additional amount in installments. The utility will not pay~~ ~~No interest will be paid by the utility~~ on the applicant's payment or on any balance that is ~~to be~~ refunded.

7.4.8.b. 5.5.h.2. In estimating the cost of an extension, the utility will base 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.

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

7.4.8.d. 5.5.h.4. The utility reserves the right to further extend its sewer 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 attaching to such further extension or branch mains so installed.

7.4.8.e. 5.5.h.5. In determining the length of main extensions or of sewer line to be installed in an urban area when land is subdivided in lots, the main, or sewer 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 sewer 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.

7.4.8.f. 5.5.h.6. Before sewer lines ~~are 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.

7.4.8.g. 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 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 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 Sewer Rule 7.4. ~~this rule subsection 5.5.~~, and a statement signed by the prospective customer that he has reviewed and understands the provisions of Sewer Rule 7.4.6. subdivision 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.

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

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

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

7.4.8.j.1. 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 begins ~~is started~~.

7.4.8.j.2. 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, the utility will add those ~~such~~ costs ~~shall be added~~ to the total cost of the extension.

7.4.8.j.3. 5.5.h.10.C. As a condition to obtaining a main extension, ~~any~~ property owner or developer must ~~shall~~ grant the utility the necessary easements which would allow the utility to make future extensions into unserved areas. The property owner or developer will granting of the necessary easements ~~shall be made~~ without requiring 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.

7.4.8.k. 5.5.h.11. Upon the proper filing of a Tariff Rule 42A, 42R, 42T, ~~or 19A~~, or 19R rate case or a certificate case filed pursuant to W. Va. Code §24-2-11 by the utility, the utility may seek 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.

7.4.9. 5.5.i. Community infrastructure investment agreements with municipal utilities and public service districts.

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

7.4.9.b. 5.5.i.2. ~~A utility~~ Utilities that has ~~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.

7.4.9.c. 5.5.i.3. ~~A utility~~ Utilities that has ~~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 utility shall file 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.

7.4.9.d. 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.

§150-5-86. Safety requirements.

8.1. 6.1. Accidents.

8.1.1. 6.1.a. Records. -- A Each utility shall keep a record of every accident occurring in connection with the operation of its treatment plant, property and equipment whereby any person is ~~shall have been~~ killed or seriously injured, or any substantial amount of property damaged or destroyed, with a full statement of the cause of ~~the such~~ accident and the precautions taken to prevent similar accidents in the future.

8.1.2. 6.1.b. Electric shock. -- A Each utility shall instruct its employees engaged in electrical work in the practice and use of accepted rules and proper procedure for resuscitation from electric shock.

8.1.3. 6.1.c. Asphyxiation. -- A Each utility shall inform its employees who must work in manholes and pits of the dangers of asphyxiation and instruct them in the practice and use of accepted rules for detection of dangerous gases, as well as the proper procedure for treating victims.

§150-5-97. Creation or alteration of public service districts.

9.1. 7.1. Creation or alteration of a public service district.

9.1.1. 7.1.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, enlargement, reduction, merger, dissolution, or consolidation of a public service district pursuant to W. Va. Code §16-13A-2, shall:

9.1.1.a. 7.1.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;

9.1.1.b. 7.1.a.2. Within 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;

9.1.1.c. 7.1.a.3. If the territory proposed to be included is situated in more than one (1) 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;

9.1.1.d. 7.1.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;

9.1.1.e. 7.1.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

9.1.1.f. 7.1.a.6. File with the Executive Secretary of the Commission affidavits of publication pursuant to Sewer Rule 9.1.1.d. section 4. above, and affidavits of posting pursuant to Sewer Rule 9.1.1.e. section 5. above as soon as the same are available.

9.2. 7.2. Notification to the Commission of county commission action.

9.2.1. 7.2.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.

9.3. 7.3. Notice of Filing.

9.3.1. 7.3.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 may ~~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 Sewer Form No. 8 for example of notice to be published.

9.4. 7.4. Commission hearing.

9.4.1. 7.4.a. The Commission may hold a hearing or hearings in each county affected by a county commission order(s) filed pursuant to Sewer Rule 9.1.1. 7.1.a. ~~If the Commission holds a hearing, the Commission shall publish a Class I legal advertisement giving notice of the should it hold such hearing or hearings. The notice shall include the right of any customer of the proposed public service district or other interested party to file a written protest.~~

9.5. 7.5. Commission consideration of proposed creation or alteration.

9.5.1. 7.5.a. After public comment and hearing, if held, 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:

9.5.1.a. 7.5.a.1. the public convenience and necessity;

9.5.1.b. 7.5.a.2. the economic feasibility, including sources of funding, costs and related benefits of the county commission's order;

9.5.1.c. 7.5.a.3. the adequacy of facilities;

9.5.1.d. 7.5.a.4. other facilities in the area; and

9.5.1.e. 7.5.a.5. other possible alternatives.

§150-5-10. Distressed and Failing Water or Wastewater Utilities.

10.1. Definitions – These definitions are specific to Section 10.

10.1.1. “Distressed Utility” – a water or wastewater utility that for financial, operational or managerial reasons:

(1)(a) Is in continual violation of statutory or regulatory standards of the Bureau for Public Health, the Department of Environmental Protection, or the Commission, which affect the water quality, safety, adequacy, efficiency or reasonableness of the service provided by the water or wastewater utility;

(b) Fails to comply within a reasonable period of time with any final, nonappealable order of the Department of Environmental Protection, Bureau for Public Health or the Commission concerning the safety, adequacy, efficiency or reasonableness of service, including, but not limited to, the availability of water, the potability of water, the palatability of water or the provision of water at adequate volume and pressure and the collection and treatment of wastewater;

(2) Is no longer able to provide adequate, efficient, safe and reasonable utility services; or

(3) Fails to timely pay some or all of its financial obligations, including, but not limited to, its federal and state tax obligations and its bond payments to the West Virginia Water Development Authority, the United States Department of Agriculture (USDA) or other bondholders; fails to maintain its debt service reserve; or fails to submit an audit as required by its bond or loan documents or state law.

10.1.2. "Failing water or wastewater utility" -- a public utility that:

(a) Meets the definition of a distressed water or wastewater utility; and either:

(b) Has not, after a reasonable time period, been stabilized and improved by corrective measures put in place under W. Va. Code §24-2H-4; or

(c) Has had the corrective measures suspended for good cause shown by an order of the Commission.

10.1.3. "Capable proximate water or wastewater utility" -- a public utility that regularly provides adequate, safe and reasonable service of the same type as the distressed utility and is situated close enough to the facilities of a distressed utility that operational management is reasonable, financially viable, and not adverse to the interests of the current customers of the non-distressed utility.

10.2. Potentially unstable water and wastewater utilities.

10.2.1. Commission Staff will review annual reports, rate case filings and other financial data available from public information or from the utility directly and prepare a list of water and wastewater utilities that appear to be financially unstable. This list will be updated annually. Commission Staff will provide the list to the Commission by interoffice memorandum by November 1st of each year.

10.2.1.a. After receipt of the list, the Commission may request from any water and wastewater utility current financial information, including bank statements, detail of accounts payable, detail of current and delinquent taxes payable, detail of pension funds, current debt payment and reserve fund status, and any other pertinent information that the Commission requires.

10.2.2. After the Commission finalizes the list, Commission Staff will contact each utility placed on the list to discuss the stability of the utility.

10.2.3. Each utility contacted shall respond to staff contacts in a timely manner, but in no less than 60 days. The utility shall indicate measures it plans to undertake to address the concerns of the Commission Staff regarding the potential instability of the utility.

10.2.4. Commission Staff will offer to provide advice and assistance to resolve any financial, managerial or operational issues that are contributing to the utility's potential instability.

10.2.5. Commission Staff shall periodically report to the Commission regarding the status of the unstable utility and any measures undertaken by the utility to address the potential instability.

10.3. Determination of whether a utility qualifies as a distressed or failing utility and the existence of one or more capable proximate public or private utilities.

10.3.1. The Commission may on its own motion, or upon a petition by Commission Staff or any other person or entity having a legal interest in the financial, managerial or operational condition of the utility, open a proceeding to investigate whether a utility is distressed or failing and to identify any capable proximate public or private utilities that may be able to acquire the utility.

10.3.1.a. The Commission will name as respondents the utility under investigation and any public or private utilities that may be able to acquire the utility under investigation.

10.3.2. The Commission will provide notice to named respondents by Order.

10.3.3. The Commission may, by Order, require any named respondent to file specific information in the form of documents, affidavits or prepared testimony.

10.3.4. The Commission will provide Commission Staff and other interested parties the opportunity to file testimony, participate in evidentiary hearings and file briefs in the proceeding.

10.3.5. To determine if a utility is a distressed or failing utility, the Commission will consider:

(1) The financial, managerial and technical ability of the utility;

(2) The level of expenditures necessary to make improvements to the water or wastewater utility to assure compliance with applicable statutory and regulatory standards concerning the adequacy, efficiency, safety or reasonableness of utility service and the impact of those expenditures on customer rates;

(3) The opinion and advice, if any, of the Department of Environmental Protection and the Bureau for Public Health as to steps that may be necessary to assure compliance with applicable statutory or regulatory standards concerning the adequacy, efficiency, safety or reasonableness of utility service;

(4) The status of the utility's bond payments and other financial obligations;

(5) The status and result of any corrective measures previously put into place; and

(6) any other relevant matter presented by the respondent utilities, Commission Staff or other interested party.

10.3.6. To determine if a utility is a capable proximate utility, the Commission will consider:

(1) The financial, managerial and technical ability of all proximate public utilities providing the same type of service;

(2) Expansion of the franchise or operating area of a potential acquiring utility to include the service area of the distressed utility;

(3) The financial, managerial, operational and rate demands that may result from the current proceeding and the cumulative impact of other demands where the utility has been identified as a capable proximate utility; and

(4) Any other relevant matter presented by the respondent utilities, Commission Staff or other interested party.

10.4. Hearings and public notice.

10.4.1. The Commission will hold evidentiary and public comment hearing(s) in the service area of the utility under investigation.

10.4.1.a. The Commission will conduct the public comment hearing(s) to receive public comments, including, but not limited to, comments regarding possible options available to bring the potential distressed or failing utility into compliance with appropriate statutory and regulatory standards.

10.4.1.b. The Commission will conduct the evidentiary hearing to receive evidence to determine if the utility is a distressed or failing utility and whether a capable proximate utility should manage, operate, or acquire the utility. If there is more than one proximate utility the Commission will also receive evidence to allow the Commission to determine the appropriate capable proximate utility.

10.4.2. The Commission will give notice of the time, place and subject matter of the hearing as follows by:

(a) placing a Class I legal publication in a qualified newspaper pursuant to W. Va. Code § 59-3-2(a) in the county or counties where the utility is located no more than 10 days before the date of the hearing;

(b) issuance of a press release; and

(c) providing written notice by certified mail or registered mail to the utility under investigation; the Consumer Advocate Division; any proximate utility that was made a party to the proceeding; the county commission if the utility under investigation is a

public service district; and the municipality if the utility is owned and operated by a municipality.

10.4.3. The Commission will, by Order, direct the utility under investigation to give notice to its customers of the time, place and subject matter of the hearing either as a bill insert or in print on its monthly bill statement or, if neither form of notice is reasonably possible, by a separate mailing.

10.4.4. Following the evidentiary hearing, the Commission shall enter an order stating whether the utility is a distressed or failing utility and identifying the capable proximate utilities, if any.

10.5. Alternative, intermediate remedies for distressed or failing utilities.

10.5.1. Before designating a utility as failing, the Commission must determine if one or more of these alternative remedial actions, is reasonable and cost effective for the distressed utility or the capable proximate utility:

(1) reorganization of the utility under new management or a new board, subject to the approval of the applicable county commission(s) or municipal government;

(2) operation of the distressed utility by another public utility or management or service company under a mutually agreed arms-length contract subject to approval by the Commission pursuant to W. Va. Code §24-2-12;

(3) appointment of a receiver to manage the operations of the distressed utility;

(4) immediate merger of utility with one or more other public utilities, subject to the approval of the applicable county commission(s) or municipal government;

(5) acquisition of the distressed utility through a mutual agreement made at arms-length subject to Commission approval pursuant to W. Va. Code §24-2-12; and

(6) any viable alternative other than an ordered acquisition by a capable proximate utility.

10.5.2. The alternative remedial action or actions that may be ordered by the Commission are not mutually exclusive. The Commission may order an interim remedial action or actions pending subsequent final actions. The Commission may also order intermediate objectives within set time limits for certain actions and a time limit for achieving final objectives to remedy financial, managerial, or operating problems that are contributing to the utility being distressed or failing.

10.6. Commission ordered acquisition of a failing utility.

10.6.1. If the goals and objectives set by the Commission pursuant to Sewer Rule 10.5 are not met, the Commission may, without further hearing, determine that the utility is failing and direct an acquisition.

10.6.2. If the Commission determines that the utility is a failing utility and decides that it is in the public interest to forego any alternative remedial action, then the Commission may order the acquisition of the failing utility by the most suitable capable proximate utility, if there is more than one proximate utility.

10.6.2.a. If the distressed or failing utility is a public service district the Commission shall notify the respective county commission(s) with regard to the acquisition of the distressed or failing utility as provided in W. Va. Code § 16-13A-2(a)(2).

10.6.2.b. If the distressed or failing utility is a municipal corporation, then the Commission shall notify the respective municipal council with regard to the acquisition of the distressed or failing utility as provided in W. Va. Code § 8-12-17.

10.6.3. If the Commission orders an acquisition, the Commission will provide a timeframe for the failing utility and acquiring utility to agree on acquisition terms, timing, and acquisition price.

10.6.4. Preceding the final acquisition, the Commission may order the capable proximate utility to assume control of the management and operations of the failing utility under a temporary management and operating agreement subject to Commission approval.

10.6.4.a. The Commission may direct a date for the filing of an agreement for Commission approval.

10.6.4.b. If the agreement is not filed when directed, the Commission may direct the capable proximate utility to file a proposed temporary management and operating agreement.

10.6.4.c. The failing utility may respond to the proposed agreement within the time limits set by the Commission.

10.6.4.d. The Commission may, without further filings or hearing establish the terms of an agreement, direct the capable proximate utility to immediately assume management and operations of the failing utility pending an acquisition and direct the failing utility to turn over its management and operations to the capable proximate utility.

10.6.5. Prior to acquisition, the failing utility shall cooperate with the capable proximate utility in negotiating agreements with state and federal agencies, including, but not limited to, negotiation of hold harmless agreements, consent orders or enforcement moratoria during any period of remediation.

10.6.6. The parties to an acquisition may propose to the Commission methods of determining the acquisition price and the parties will have the burden to show that a proposed method is reasonable and in the public interest.

10.6.6.a. The acquisition price must, at a minimum, satisfy all outstanding loans, tax obligations, required grant repayment, liens and indebtedness owed by the failing utility or the acquiring utility may agree to assume those obligations if legally permitted.

10.6.6.b. The acquiring utility may propose to pay failing utility outstanding obligations directly, as part of the acquisition consideration, and shall consult with the lenders or lienholders regarding payment in full or the assumption, to the extent legally permissible, of such obligations.

10.6.7. If bondholder consent is required to finalize an acquisition, the failing utility must cooperate with the acquiring utility in obtaining the consent of bondholder(s).

10.6.8. The acquiring utility must submit a financing plan that includes documentation on how the failing utility's indebtedness will be paid or assumed.

10.6.9. If the parties are unable to agree on an acquisition price or any other terms related to the acquisition within the time allowed by the Commission, the Commission may, on its own motion, or upon a petition by either the failing or capable proximate utility, conduct an evidentiary hearing to determine the acquisition price and any other issues related to the acquisition.

10.7. Rates pertaining to recovery of costs for acquisition, operation, repairs and improvements to distressed or failing utility facilities.

10.7.1. The acquiring utility shall propose the rates to be charged after acquisition.

10.7.2. Without a separate rate or tariff filing and without further notice to customers, the acquiring utility may adopt the rates of the acquired utility not subject to true-up but subject to adjustment in future rate proceedings.

10.7.3. The Commission may approve an appropriate and reasonable cost recovery mechanism to allow the capable proximate utility to recover its acquisition costs and projected cost of service of operating, maintaining and improving the facilities of the failing water or wastewater utility or its net costs incurred to operate, maintain, and improve the distressed utility under a Commission approved operating agreement.

10.7.4. Subject to Commission approval in a separate rate or tariff proceeding, which shall be considered by the Commission on an expedited basis without the need for a full base rate proceeding, the acquiring utility may request:

(a) that it be permitted for a reasonable period of time after the date of acquisition to apply a surcharge on the adopted rates or to establish a surcharge on the acquiring utility's tariff applicable only to customers of the acquired utility;

(b) a surcharge or surcharges on acquired customers and existing customers;

(c) that it be allowed to charge the customers of the acquired utility pursuant to a separate tariff which may be higher or lower than the existing tariff of the acquired utility; or

(d) a surcharge on its existing customers related to its costs as a capable proximate utility.

10.7.5. Subject to Commission approval and other rate provisions of this rule, if requested by the acquiring utility, a cost recovery mechanism determined by the Commission to be appropriate, reasonable and in the public interest may include:

- (a) A surcharge above existing rates that allows recovery of incremental costs, net of recovery through existing rates necessary to operate, maintain and improve the failing utility's service level to an acceptable level and into compliance with all applicable regulatory standards;
- (b) A rate base acquisition adjustment for private for-profit utilities as an incentive to acquire a failing utility;
- (c) An increased return on investment as an incentive to acquire a failing utility; or
- (d) Any other incentive method proposed by the acquiring utility if the method is determined by the Commission to be appropriate, reasonable and in the public interest.

10.7.6. Rate increments and surcharges, other than adoption of existing rates, approved by the Commission shall be subject to adjustment on an annual basis to reflect changes in costs, additional projected capital and operating costs and true-up of any over or under recoveries of costs.

Sewer Form No. 1
(Sewer Rule ~~4.8.b~~ 6.8.2.)

(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 _____ because of your delinquent
_____ (date)
sewer bill.

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 will be subject to the following additional charges involving reconnect fees and deposit requirements in order to restore service.

(Include all applicable charges, including disconnect, reconnect and/or administrative fees)

**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 in 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.

Sewer Form No. 1

Page 2 of 2

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 (7) 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).

Sewer Form No. 2
(Sewer Rule ~~4.8.b.8~~ 6.8.2.h.)

NOTICE OF SCHEDULED TERMINATION

We have scheduled water service provided at _____
(address)
for termination on or after _____ because
(date)
of your landlord's delinquent sewer bill.

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).

Sewer Form No. 3
(Sewer Rule ~~4.12.4~~ 6.12.4.)

Public Notice of Filing of a Petition for 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 _____
(name of utility) (water, sewer or other)
system serving _____
[describe areas served].

If approved, the moratorium would mean that no new customers could be served by the utility in these
areas until the Commission lifts the moratorium. The _____
[name of petitioner]
claims that the imposition of a moratorium is appropriate because _____

[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 Executive
Secretary, Public Service Commission, P.O. Box 812, Charleston, WV, 25323.

NAME OF UTILITY

Sewer Form No. 4
(Sewer 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

Sewer () 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 _____

Applicant's place of employment _____ Industrial () Type _____

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 _____

For office use only

Name _____ Account No. _____

Applicant ID _____

Sewer Form No. 4

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Deposit amount _____	Tap fee amount _____
Meter Size _____	Meter No. _____
Meter Route _____	Meter reading _____
Date on _____	Date off _____
Customer request () Termination ()	

Sewer Form No. 5
(Sewer Rule ~~5.5.e.2~~ 7.4.5.b.)

Form for use in determining cost estimate to extend sewer service

Date _____

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

Cost Estimate

Sewer 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.

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 Sewer Rule 5.5 of the *Rules for the Government of Sewer Utilities*.

Sewer Form No. 6
(Sewer Rule ~~5.5.e.2~~ 7.4.5.b.)
Form of cost estimate to be
provided to applicants for service

Dear ~~Mr.~~ Customer:

We have received a petition for a sewer 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:

Sewer line _____	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 Sewer 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,

Sewer Form No. 7

(Sewer Rule ~~5.5.h.7~~ 7.4.8.g.)

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 7.5 ~~5.5~~, Sewer Rule 7.4 ~~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).

Sewer Form No. 7

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- ☐ 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 all ~~his~~ rights under Rule 7.5, ~~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.

Sewer Form No. 8
(Sewer Rule ~~7.3~~ 9.3.)

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 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]