WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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JUL 7 2 41 PM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Infrastructure and Jobs Development Council TITLE NUMBER: 167

CITE AUTHORITY 31-15A-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: ______

TITLE OF RULE BEING AMENDED: ______

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Infrastructure and Jobs Development Council Funding Rules

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Daniel B Yonkosky

DATE: July 7, 1995

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Infrastructure and Jobs Development Council

LEGISLATIVE RULE TITLE: Infrastructure and Jobs Development Council Funding Rule

1. Authorizing statute(s) citation: 31-15A-1 et seq.

2. a. Date filed in State Register with Notice of Hearing: April 10, 1995

   b. What other notice, including advertising, did you give of the hearing?

   The West Virginia Water Development Authority mailed copies of the filing notices and proposed rules to 71 interested persons on April 14, 1995 (list attached). Additional packages of information were provided upon request and the information is included in the Council's information packet.

   c. Date of Hearing(s): May 11, 1995

   d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

   Attached __X__ No comments received ______

   e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing (be exact): July 7, 1995

   f. Name and phone number(s) of agency person(s) to contact for additional information:

   Daniel B. Yonkosky, Director
   West Virginia Water Development Authority
   1201 Dunbar Avenue
   Dunbar, WV 25064-3017
   Telephone: (304) 558-3612

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

   a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

      N/A

   b. Date of hearing: N/A

   c. On what date did you file in the State Register the finding and determinations required together with the reasons therefor?

      N/A

   d. Attach findings and determinations and reasons:

      N/A

TITLE 167
RULES

SERIES 1
STATE INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

§ 167-1-1. General.

1.1. Scope and Purpose. -- This legislative rule establishes guidelines to be used by the Council in evaluating any request by a project sponsor for funding assistance for the planning, design, acquisition, or construction of water and waste water projects and the funding of all or any part of such projects through the Infrastructure Fund.

1.2. Authority. -- West Virginia Code §§ 31-15A-4, 31-15A-5 and 31-15A-10.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Incorporation by Reference. -- Whenever federal or State statutes or regulations are incorporated into these regulations by reference, the reference is to the statute or regulation in effect on ________________.

§ 167-1-2. Definitions.

2.1. "Act" means the Infrastructure and Jobs Development Act, W. Va. Code § 31-15A-1 et seq.

2.2. "Cost" means, as applied to any project to be financed in whole or in part with infrastructure revenues or funds otherwise provided pursuant to the Act, the cost of planning, acquisition, improvement and construction of the project; the cost of preliminary design and analysis, surveys, borings; the cost of environmental, financial, market and engineering feasibility studies, assessments, applications, approvals, submissions or clearances; the cost of preparation of plans and specifications and other engineering services; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights and any other interests required for the acquisition, repair, improvement or construction of the project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of excavation, grading, shaping or treatment of earth, demolishing or removing any buildings or structures; the cost of constructing any buildings or other improvements; the cost of all pumps, tanks, vehicles, apparatus and other machinery, furnishings and equipment; loan or origination fees and all finance charges and interest incurred prior to and during the construction and for no more than six months after completion of construction; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring, repairing, improving or constructing any project; the cost of placing any project in operation; and all other costs and expenses of any kind or nature incurred or to be incurred by the project sponsor developing the project that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project: *Provided*, That costs shall not include any amounts related to the ongoing operations of the owner or operator, depreciation thereof or any other cost which the Council or the Water Development Authority has not determined to be consistent with the purposes and objectives of the Act.

2.3. "Council" means the West Virginia Infrastructure and Jobs Development Council.

2.4. "Crisis Situation" means a recent incident such as an act of God (drought, freeze, flood, storm or landslide), or an act of man (chemical spill or vandalism), resulting in an outage or a significant decline in quality or quantity of potable water or the treatment of waste water which poses a serious and immediate threat or endangerment to health for which local funds are not available to resolve: Provided, that a crisis situation caused by an act of man shall not include occurrences resulting from the lack of maintenance; negligence; normal replacement of operating parts, pumps, or systems; or upgrades to achieve compliance with existing or new regulatory standards.

2.5. "Division of Environmental Protection" means the Division of Environmental Protection or any successor to all or any substantial part of its powers and duties.

2.6. "Division of Health" means the Division of Health or any successor to all or any substantial part of its powers and duties.

2.7. "Economic Development Authority" means the Economic Development Authority or any successor to all or any substantial part of its powers and duties.

2.8. "Governmental agency" means any county; municipality; watershed improvement district; assessment district; soil conservation district; sanitary district; public service district; drainage district; regional governmental authority and any other state governmental agency, entity, political subdivision or public corporation or agency authorized to acquire, construct or operate water or waste water facilities or infrastructure projects.

2.9. "Housing Development Fund" means the West Virginia Housing Development Fund or any successor to all or any substantial part of its powers and duties.

2.10. "Infrastructure Fund" means the West Virginia Infrastructure Fund.

2.11. "Infrastructure project" means a project in the State which the Council determines is likely to foster and enhance public health, economic growth and development in the area of the state in which the project is developed, for commercial, industrial, community improvement or preservation or other proper purposes, including, without limitation, tourism and recreational housing, land, air or water transportation facilities and bridges, industrial or commercial projects and facilities, mail order, warehouses, wholesale and retail sales facilities and other real and personal properties, including facilities owned or leased by this state or any other project sponsor, and includes, without limitation (1) the process of acquiring, holding, operating, planning, financing, demolition, construction, improving, expanding, renovation, leasing or otherwise disposing of the project or any part thereof or interest therein, and (2) preparing land for construction and making, installing or constructing improvements on the land, including water or waste water facilities or any part thereof, steam, gas, telephone and telecommunications and electric lines and installations, roads, bridges, railroad spurs, buildings, docking and shipping facilities, curbs, gutters, sidewalks, and drainage and flood control facilities, whether on or off the site.

2.12. "Infrastructure revenue" means all amounts appropriated by the Legislature; all amounts deposited into the Infrastructure Fund; any amounts received, directly or indirectly, from any source for the use of all or any part of any project completed pursuant to this article; and any other amounts received by the State Treasurer, the Council or the Water Development Authority.

2.13. "Project" means any waste water facility or water facility project, or any combination thereof, constructed or operated or to be constructed or operated by a project sponsor.

2.14. "Project sponsor" means any governmental agency or person, or any combination thereof, including, but not limited to, any public utility, which intends to plan, acquire, construct, improve or otherwise develop a project.

2.15. "Public Service Commission" means the Public Service Commission of West Virginia or any successor to all or any substantial part of its powers and duties.

2.16. "Person" means any individual, corporation, partnership, association, limited liability company or any other form of business organization.

2.17. "Public utility" means any person or persons, or association of persons, however associated, whether incorporated or not, including, without limitation, any governmental agency, operating a waste water facility or water facility as a public service, which is regulated by the Public Service Commission as a public utility or which is required to file its tariff with the Public Service Commission.

2.18. "State Development Office" means the West Virginia Development Office or any successor to all or any substantial part of its powers and duties.

2.19. "State infrastructure agency" means the Division of Health, Division of Environmental Protection, Housing Development Fund, Public Service Commission, State Development Office, Water Development Authority, Economic Development Authority and any other state agency, division, body, authority, commission, instrumentality or entity which now or in the future receives applications for the funding of, and provides funding or technical assistance to, the planning, acquisition, construction or improvement of a project.

2.20. "Waste water facility" means all public facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including, without limitation, facilities for the treatment and disposal of sewage, industrial wastes or other wastes, waste water, and the residue thereof; facilities for the temporary or permanent impoundment of waste water, both surface and underground; and sanitary sewers or other collection systems, whether on the surface or underground, designed to transport waste water together with the equipment and furnishings therefor or thereof and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities therefor.

2.21. "Water Development Authority" means the West Virginia Water Development Authority or any successor to all or any substantial part of its powers and duties.

2.22. "Water facility" means all public facilities, land and equipment used for or in connection with the collection and/or storage of water, both surface and underground, transportation of water, storage of water, treatment of water and distribution of water for the purpose of providing potable, sanitary water suitable for human consumption and use.

§ 167-1-3. Projects.

3.1. Project Review. Prior to applying for or receiving any loan, loan guarantee, grant or other funding assistance for a project from any State infrastructure agency, a project sponsor must submit a preliminary application on the Council's form and must receive the Council's recommendation.

3.1.1. If a project sponsor believes that a project is outside the review of the Council, then the project sponsor shall complete only the appropriate sections of the preliminary application form and shall request an exemption from review.

3.2. Exemption from Review. The Council shall exempt a project from the preliminary application review process if:

3.2.1. Any project sponsor which either had received acceptable bids for the project or had all funding in place on July 1, 1994.

3.2.2. Any funding from a State infrastructure agency where the recipient of the funding is designated by state or federal law or regulation.

3.2.3. Any funding from any state agency determined by the Council not to be a State infrastructure agency.

3.2.4 Any funding from the governor's civil contingent fund with regard to projects or infrastructure projects.

3.2.5. Any activity funded by a State infrastructure agency determined by the Council to be outside the scope of the definition of project.

3.2.6. Any action taken by the Economic Development Authority pursuant to the authority established in article fifteen, chapter thirty-one of the West Virginia Code.

3.3. Preliminary Application Filing. A project sponsor may file a preliminary application with the Council, at the offices of the Water Development Authority, at any time: Provided, that the preliminary application will not be formally accepted until such preliminary application is presented to the Council at the next regularly scheduled Council meeting, at which time the thirty-day review period shall begin. The Water Development Authority may, but is not required to, circulate the preliminary application to Council members or Council committees in advance of such meeting.

3.4. Preliminary Application Review. Within thirty days of the Council's formal review of a complete preliminary application from a project sponsor, the Council shall either recommend that the project sponsor seek funding or that the project sponsor not seek funding for the project or request additional information if necessary to make a determination.

3.5. Approval. If the Council determines that the project is consistent with the Act, it shall make a written recommendation for the project financing stating: (i) the loan, loan guarantee or grant, or any combination thereof, for which the project sponsor should apply; (ii) the amount or amounts of said loan, loan guarantees or grant; (iii) the source or sources of such funding and which State infrastructure agency or agencies should consider funding the project, including funding from the Infrastructure Fund.

3.6. Funding of Project. The Council may provide that if the recommended funding sources have not or cannot dedicate money for the project, the project sponsor shall submit a supplement to its preliminary application to the Council for consideration of alternate funding from another funding source or the Infrastructure Fund.

3.7. Denial. If the Council determines that the project is not eligible for funding assistance from any State infrastructure agency, or that the project is not otherwise an appropriate or prudent investment of State funds, it shall recommend that the project sponsor not seek funding from any State infrastructure agency.

3.8. Recommendations. The Council shall provide a copy of its recommendation, together with a copy of the preliminary application, if not previously provided, to all State infrastructure agencies which are listed in the recommendation as recommended funding sources.

§ 167-1-4. Review Guidelines.

4.1. Determination of Eligible Projects. When evaluating any request for funding assistance to plan, acquire, construct, improve or otherwise develop a project, the Council and other State infrastructure agencies shall consider the following:

4.1.1. The public health benefits;

4.1.2. The economic development benefits;

4.1.3. The degree to which the project will correct deficiencies involving compliance of water systems or sewage treatment facilities with State or federal laws, regulations or standards;

4.1.4. The degree to which the project encourages effective and efficient consolidation of water or sewage treatment systems consistent with the comprehensive plan;

4.1.5. The cost effectiveness of the project as compared with alternatives which achieve substantially the same public health or economic development benefits, including the consideration of system operation and maintenance requirements and providing maximum feasible fire protection;

4.1.6. The availability of alternative sources of funding which could finance all or a part of the project, and the need for the assistance of the Council to finance the project or attract other sources of funding;

4.1.7. The applicant's ability to operate and maintain the system if the project is approved;

4.1.8. The degree to which the project achieves other State or regional planning goals;

4.1.9. The estimated date upon which the project could commence if funding were available and the estimated completion date of the project;

4.1.10. Such other considerations as the Council may consider necessary or appropriate to accomplish the purpose and intent of the Act.

4.2. Waste Water Guidelines. When evaluating a request for funding a project which will include the construction, improvement, or development of a waste water facility or system, the Council and other State infrastructure agencies shall consider the following:

4.2.1. The improvement of public health by addressing direct human impact due to system malfunctions or inadequately treated sewage; the severity of individual or public water supply contamination; the degree of impact on public bathing areas; and the severity of safety hazards from deteriorated facilities.

4.2.2. The enhancement of economic development by encouraging directly or indirectly development activity and job creation or retention.

4.2.3. The facilitation of enforcement compliance by reducing existence of overload conditions, damage to fish and aquatic life, loss of boating and recreation opportunity, impact on industrial water supply uses, impact on crop irrigation and degradation of streams used for stock watering.

4.2.4. The adequacy, efficiency and social impact; the extent that reorganization or consolidation of facilities will be accomplished; whether the population will be directly affected; the ongoing ability of the applicant to operate and maintain the project facilities and system; an increase in the reliability of service; and efficiency of the proposed solution when compared with other alternatives.

4.2.5. The enhancement of the State goal of providing waste water treatment in developing or developable but currently unserved areas.

4.3. Water Guidelines. When evaluating a request for funding of a project which will include the construction, improvement, or development of a water facility or system, the Council and other State infrastructure agencies shall consider the following:

4.3.1. The effect on public health; the elimination of an ongoing public health hazard; the elimination of a periodic or potential public health hazard; and the preventive maintenance related to health hazards.

4.3.2. The enhancement of economic development activity and job creation or retention resulting directly or indirectly from the project; the opportunity to use other State programs; and the degree of local distress in the area where the project is located.

4.3.3. The effect on compliance and improvement in water system design, treatment, service, operation and compliance.

4.3.4. The ongoing ability of the applicant to operate and maintain the project facility and system.

4.3.5. The beneficial environmental and social impacts; beneficial environmental impact only; and beneficial social impact only.

4.3.6. The adequacy and efficiency of the water facility or system; the increase in availability of water, consolidation of systems, water conservation or improvement in aesthetic water quality; the increase in the reliability of service; and the efficiency of the proposed solution when compared with other alternatives.

4.3.7. The enhancement of the State goal of providing potable water in developing or developable but currently unserved areas.

§ 167-1-5. Infrastructure Fund Administration.

5.1. Administration of Infrastructure Fund. The Water Development Authority shall administer amounts in the Infrastructure Fund.

5.2. Sources of Money for Fund. The Infrastructure Fund shall consist of infrastructure revenues; any appropriations, grants, gifts, contributions, loan proceeds or other revenues received by the Infrastructure Fund from any source, public or private; amounts received as payments on any loans made by the Water Development Authority from the Infrastructure Fund to pay for the cost of a project or infrastructure project; insurance proceeds payable to the Water Development Authority or the Infrastructure Fund in connection with any infrastructure project or project; all income earned on moneys held in the Infrastructure Fund; all funds deposited in accordance with the Act; and all proceeds derived from the sale of bonds issued pursuant to article fifteen-b, chapter thirty-one of the West Virginia Code.

5.3. Use of Moneys in the Fund. Upon the written recommendation of the Council, and subject to the restrictions set forth in the Act, including but not limited to the restrictions set forth below, the Water Development Authority shall use money in the Infrastructure Fund to make loans, loan guarantees or grants, or any combination thereof, and to provide such other assistance (financial, technical or otherwise) as necessary to finance all or part of the costs of infrastructure projects or projects to be undertaken by a project sponsor.

5.4. Council Determination. Prior to the Water Development Authority's making any loan, loan guarantee, grant or other assistance, the Council shall determine that the loan, loan guarantee, grant or other assistance and the manner in which it will be provided are necessary or appropriate to accomplish the purposes and intent of the Act.

5.5. Eligible Grant Recipients. The Council shall not authorize the Water Development Authority to make grants for any project to any project sponsor (i) which is not a governmental agency or a not-for-profit corporation, or (ii) where the project, if funded, will provide subsidized services to certain users in the service area of the project.

5.6. Grant Requirements. The Water Development Authority may make a grant to a project sponsor for a project if the Council in its sole discretion determines and finds that (1) the level of rates for the users would otherwise be an unreasonable burden given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents funding of the project except through grants. Prior to awarding any infrastructure grant money to a project sponsor, the Council must determine that no other funding is available for the proposed grant portion of the project.

5.7. Grant Criteria. In determining whether a grant should be offered, and, if so, what proportion of the financial assistance offered should constitute a grant and what portion should constitute a loan or other loan assistance, the Council will consider the ultimate effect that financing a project's costs will have on the rates that users will be required to pay. In performing this assessment, the Council shall review the mandatory minimum end user utility rate that must be met by the project sponsor before grant assistance may be awarded. This mandatory minimum end user utility rate shall be based upon a uniform statewide percentage of the median household income as determined and published by the United States Department of Commerce, Bureau of the Census, for the geographic area which the project will serve and upon an average customer usage of 4,500 gallons per month. The uniform percentage rate shall be 1 1/2% of the median household income. The Council shall base its determination on the median household income for the Bureau of Census established minor civil division (MCD) most closely related to the geographic boundaries of the project sponsor as established by law. The minor civil divisions and the median household incomes extracted from the most recent available census are set forth in Appendix A attached hereto and incorporated herein by reference. If the project sponsor provides service to two or more MCD's but does not serve an entire county or if a municipal project sponsor serves outside its corporate boundaries, then the Council shall compute the minimum end user utility rate in accordance with the formula set forth in Appendix A. The Council may further consider factors including, but not limited to, the financial condition of the applicant, including revenues, expenses, debt structure, reserve balances, available collateral and financial condition of the project sponsor, and the inability of the project sponsor to secure grant funding from other sources.

5.8. Limit on Grant Amount. Any moneys disbursed from the Infrastructure Fund in the form of grants shall not exceed twenty percent of the total funds available for the funding of projects. The Council may limit individual grant awards to whatever amount it deems desirable to advance the intent and purposes of the Act: Provided, That no project sponsor shall receive infrastructure grant money in an amount in excess of fifty percent of the total cost of the project.

5.9. Terms of Grant. Where a project sponsor has received infrastructure grant money to fund a project, and such project is then sold to a for-profit entity, the project sponsor shall reimburse the Infrastructure Fund the proportionate amount of infrastructure grant money received based upon the value of the project at the time of the sale. The Council may establish such other terms and conditions as it deems necessary.

5.10. Loans. The Council shall authorize the Water Development Authority to make loans or loan assistance from the Infrastructure Fund upon such terms and conditions as the Council shall recommend. No loan or loan assistance will be authorized where the project, if funded, will provide subsidized services to certain users in the service area of the project.

5.11. Limit on Loan Amount. The Council may limit loans to project sponsors to whatever amount it deems desirable to advance the intent and purposes of the Act.

5.12. Limit on Loan Interest Rate. The interest rate on any loan to governmental, quasi-governmental, or not-for-profit project sponsors for projects made pursuant to the Act shall not exceed three percent per annum. Loans made to for profit entities shall bear interest at the current market rates which shall be the equivalent of the prime rate published as such in the Wall Street Journal, or similar publication, on the date of the loan commitment.

5.13. Financial Assistance from the Fund. Each loan, loan guarantee, grant or other assistance made or provided by the Water Development Authority shall be evidenced by a loan, loan guarantee, grant or assistance agreement between the Water Development Authority and the project sponsor to which the loan, loan guarantee, grant or assistance shall be made or provided, which agreement shall include, without limitation and to the extent applicable, the following provisions:

5.13.1 The estimated cost of the infrastructure project or project, the amount of the loan, loan guarantee or grant or the nature of the assistance, and in the case of a loan or loan guarantee, the terms of repayment and the security therefore, if any;

5.13.2. The specific purposes for which the loan or grant proceeds shall be expended or the benefits to accrue from such loan guarantee or other assistance, and the conditions and procedure for disbursing loan or grant proceeds;

5.13.3. The duties and obligations imposed upon the project sponsor regarding the acquisition, construction, improvement or operation of the project or infrastructure project; and

5.13.4. The agreement of the project sponsor to comply with all applicable federal and state laws, and all rules and regulations issued or imposed by the Council or other state, federal or local bodies regarding the acquisition, construction, improvement or operation of the infrastructure project or project and granting the Water Development Authority the right to appoint a receiver for the project if the project sponsor should default on any terms of the agreement.

5.14. Advance Funding Assistance. If the Council determines that the engineering studies and requirements for the pre-application process would impose an undue hardship on a project sponsor, the Council may provide funding assistance to the project sponsor to defray the expenses of such process from moneys available in the Infrastructure Fund: Provided, That such funding assistance is limited to an amount equal to five thousand dollars or fifty percent of the total pre-application cost, whichever amount is greater. If the project is ultimately approved for a loan by the Council, the amount of such funding assistance shall be included in the total amount of the loan to be repaid by the project sponsor. If the project is not ultimately approved by the Council, the amount of such funding assistance shall be considered a grant by the Council, and the total amount of the assistance shall be forgiven. In no event may the amount of funding assistance provided to all project sponsors exceed, in the aggregate, one hundred thousand dollars annually, as determined on a State fiscal year basis.

5.15. Crisis Situation Funding Assistance. The Water Development Authority, upon recommendation of the Council or designated committees of Council, shall make funding available to provide assistance to restore or safeguard water or waste water treatment service following a crisis situation which is an immediate threat or endangerment to the public health, provided, that the project sponsor must notify the Council as soon as reasonably possible following the incident and make application for funding in writing within 30 days of the incident.

5.16. Other Assistance. The Authority, at the discretion of the Council, may provide other forms and methods of assistance in addition to loans and grants, including, but not limited to, bond and loan guarantees and the purchase of insurance for the bonds.

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APPENDIX A

Median Household Incomes and Average Customer Bill Calculation Instructions

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Barbour	**$15,607**	**$19.51**
North District	$15,434	$19.29
South District	$13,401	$16.75
West District	$19,712	$24.64
Berkeley	**$27,412**	**$34.27**
Arden District	$28,221	$35.28
Falling Waters District	$29,795	$37.24
Gerrardstown District	$30,750	$38.44
Hedgesville District	$30,854	$38.57
Martinsburg District	$18,867	$23.58
Mill Creek District	$30,927	$38.66
Opequon District	$28,656	$35.82
Boone	**$17,073**	**$21.34**
District 1	$15,234	$19.04
District 2	$17,203	$21.50
District 3	$19,152	$23.94
Braxton	**$16,359**	**$20.45**
Eastern District	$19,726	$24.66
Northern District	$14,124	$17.66
Southern District	$15,422	$19.28
Western District	$17,401	$21.75
Brooke	**$26,500**	**$33.13**
Buffalo District	$27,048	$33.81
Cross Creek District	$27,265	$34.08
Follansbee District	$25,982	$32.48
Weirton District	$26,185	$32.73
Wellsburg District	$23,854	$29.82
Cabell	**$21,256**	**$26.57**
District 1	$23,275	$29.09
District 2	$14,214	$17.77
District 3	$17,392	$21.74
District 4	$29,339	$36.67
District 5	$23,011	$28.76
Calhoun	**$14,496**	**$18.12**
District 1	$14,493	$18.12
District 2	$14,444	$18.06
District 3	$14,557	$18.20
District 4	$13,906	$17.38
District 5	$15,099	$18.87
Clay	**$12,855**	**$16.07**
Buffalo District	$13,250	$16.56
Henry District	$14,418	$18.02
Otter District	$9,529	$11.91
Pleasant District	$13,229	$16.54
Union District	$14,911	$18.64
Doddridge	**$17,159**	**$21.45**
Beech District	$18,750	$23.44
Maple District	$17,647	$22.06
Oak District	$17,813	$22.27
Pine District	$12,444	$15.56
Fayette	**$16,774**	**$20.97**
New Haven District	$17,390	$21.74
Plateau District	$15,885	$19.86
Valley District	$17,410	$21.76
Gilmer	**$14,539**	**$18.17**
Center District	$14,583	$18.23
City District	$12,112	$15.14
De Kalb-Troy District	$15,102	$18.88
Glenville District	$15,433	$19.29
Grant	**$20,923**	**$26.15**
Grant District	$20,053	$25.07
Milroy District	$20,972	$26.22
Union District	$21,361	$26.70

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Greenbrier	**$19,411**	**$24.26**
Anthony Creek District	$20,050	$25.06
Blue Sulphur District	$19,290	$24.11
Falling Spring District	$15,561	$19.45
Fort Spring District	$19,007	$23.76
Frankford District	$22,500	$28.13
Irish Corner District	$19,174	$23.97
Lewisburg District	$25,683	$32.10
Meadow Bluff District	$16,811	$21.01
White Sulphur District	$19,772	$24.72
Williamsburg District	$16,389	$20.49
Hampshire	**$20,753**	**$25.94**
Bloomery District	$23,605	$29.51
Capon District	$24,904	$31.13
Gore District	$21,462	$26.83
Mill Creek District	$17,679	$22.10
Romney District	$17,616	$22.02
Sherman District	$21,811	$27.26
Springfield District	$18,946	$23.68
Hancock	**$26,031**	**$32.54**
Butler District	$30,236	$37.80
Clay District	$26,797	$33.50
Grant District	$21,155	$26.44
Hardy	**$20,745**	**$25.93**
Capon District	$22,275	$27.84
Lost River District	$19,408	$24.26
Moorefield District	$19,694	$24.62
Old Fields District	$19,527	$24.41
South Fork District	$21,622	$27.03
Harrison	**$20,367**	**$25.46**
Northern District	$19,016	$23.77
North Urban District	$16,035	$20.04
Southeast District	$29,759	$37.20
South Urban District	$20,199	$25.25
Southwest District	$20,344	$25.43
Suburban District	$18,835	$23.54
Jackson	**$21,655**	**$27.07**
Grant District	$24,485	$30.61
Ravenswood District	$20,710	$25.89
Ripley District	$22,322	$27.90
Union District	$28,269	$35.34
Washington District	$16,315	$20.39
Jefferson	**$30,941**	**$38.68**
Charlestown District	$24,065	$30.08
Harpers Ferry District	$30,195	$37.74
Kabletown District	$34,735	$43.42
Middleway District	$31,038	$38.80
Shepherdstown District	$35,000	$43.75
Kanawha	**$23,999**	**$30.00**
District 1	$19,659	$24.57
District 2	$33,351	$41.69
District 3	$25,321	$31.65
District 4	$26,526	$33.16
District 5	$17,268	$21.59
District 6	$24,911	$31.14
Lewis	**$17,972**	**$22.47**
Collins Settlement District	$12,299	$15.37
Court House District	$14,755	$18.44
Freemans District	$19,631	$24.54
Hackers Creek District	$17,281	$21.60
Skin Creek District	$22,604	$28.26
Lincoln	**$14,659**	**$18.32**
Carroll District	$13,578	$16.97

Median Household Incomes and Average Customer Bill Calculation Instructions

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Duval District	$16,097	$20.12
Harts Creek District	$14,267	$17.83
Jefferson District	$8,011	$10.01
Laurel Hill District	$10,254	$12.82
Sheridan District	$14,855	$18.57
Union District	$17,361	$21.70
Washington District	$20,263	$25.33
Logan	$17,942	$22.43
Buffalo District	$16,503	$20.63
Chapmanville District	$16,771	$20.96
East District	$18,524	$23.16
Guyan District	$20,770	$25.96
Island Creek District	$17,246	$21.56
Logan District	$19,694	$24.62
Northwest District	$14,617	$18.27
Triadelphia District	$20,353	$25.44
West District	$17,516	$21.90
Marion	$20,386	$25.48
Middletown District	$17,595	$21.99
Palatine District	$23,384	$29.23
West Augusta District	$18,739	$23.42
Marshall	$22,687	$28.36
District 1	$23,865	$29.83
District 2	$20,036	$25.05
District 3	$24,456	$30.57
Mason	$20,135	$25.17
Arbuckle District	$16,136	$20.17
Clendenin District	$17,835	$22.29
Cologne District	$15,600	$19.50
Copper District	$23,770	$29.71
Graham District	$22,679	$28.35
Hannan District	$15,064	$18.83
Lewis District	$19,722	$24.65
Robinson District	$24,361	$30.45
Union District	$17,969	$22.46
Waggener District	$19,508	$24.39
McDowell	$13,141	$16.43
Big Creek District	$11,459	$14.32
Browns Creek District	$13,579	$16.97
North Elkin District	$14,933	$18.67
Sandy River District	$12,450	$15.56
Mercer	$19,365	$24.21
District I	$20,417	$25.52
District II	$19,628	$24.54
District III	$18,047	$22.56
Mineral	$22,036	$27.55
District 1	$20,809	$26.01
District 2	$21,326	$26.66
District 3	$24,523	$30.65
Mingo	$16,066	$20.08
Hardee District	$14,583	$18.23
Harvey District	$14,163	$17.70
Kermit District	$13,152	$16.44
Lee District	$17,139	$21.42
Magnolia District	$14,167	$17.71
Stafford District	$18,449	$23.06
Tug River District	$14,971	$18.71
Williamson District	$18,306	$22.88
Monongalia	$22,183	$27.73
Central District	$18,074	$22.59
Eastern District	$25,104	$31.38
Western District	$22,548	$28.19

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Monroe	$18,217	$22.77
Red Sulphur District	$20,531	$25.66
Second Creek District	$16,875	$21.09
Springfield District	$17,113	$21.39
Sweet Springs District	$16,487	$20.61
Union District	$16,290	$20.36
Wolf Creek District	$16,473	$20.59
Morgan	$24,372	$30.47
District 1	$21,780	$27.23
District 2	$24,157	$30.20
District 3	$28,477	$35.60
Nicholas	$18,116	$22.65
Beaver District	$16,841	$21.05
Grant District	$16,500	$20.63
Hamilton District	$16,969	$21.21
Jefferson District	$14,825	$18.53
Kentucky District	$19,770	$24.71
Summersville District	$21,237	$26.55
Wilderness District	$18,556	$23.20
Ohio	$22,489	$28.11
District 1	$25,981	$32.48
District 2	$17,170	$21.46
District 3	$24,538	$30.67
Pendleton	$19,565	$24.46
Bethel District	$17,806	$22.26
Circleville District	$14,899	$18.62
Franklin District	$22,120	$27.65
Mill Run District	$26,354	$32.94
Sugar Grove District	$20,284	$25.36
Union District	$17,939	$22.42
Pleasants	$20,910	$26.14
District A	$21,643	$27.05
District B	$22,019	$27.52
District C	$19,089	$23.86
District D	$21,429	$26.79
Pocahontas	$17,237	$21.55
Edray District	$16,138	$20.17
Greenbank District	$16,959	$21.20
Huntersville District	$16,800	$21.00
Little Levels District	$19,127	$23.91
Preston	$19,940	$24.93
Grant District	$22,332	$27.92
Kingwood District	$19,776	$24.72
Lyon District	$19,565	$24.46
Pleasant District	$19,069	$23.84
Portland District	$20,977	$26.22
Reno District	$17,347	$21.68
Union District	$18,221	$22.78
Valley District	$20,981	$26.23
Putnam	$27,405	$34.26
Buffalo-Union District	$21,164	$26.46
Curry District	$25,947	$32.43
Pocatalico District	$22,964	$28.71
Scott District	$31,194	$38.99
Teays District	$33,354	$41.69
Raleigh	$19,566	$24.46
District 1	$20,103	$25.13
District 2	$19,171	$23.96
District 3	$19,422	$24.28
Randolph	$18,278	$22.85
Beverly District	$19,233	$24.04
Dry Fork District	$18,409	$23.01

Median Household Incomes and Average Customer Bill Calculation Instructions

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Huttonsville District	$17,057	$21.32
Leadsville District	$18,294	$22.87
Middle Fork District	$15,921	$19.90
Mingo District	$12,399	$15.50
New Interest District	$20,149	$25.19
Roaring Creek District	$17,569	$21.96
Valley Bend District	$20,250	$25.31
Ritchie	**$17,333**	**$21.67**
Clay District	$18,357	$22.95
Grant District	$17,440	$21.80
Murphy District	$13,864	$17.33
Union District	$18,172	$22.72
Roane	**$15,375**	**$19.22**
Eastern District	$15,278	$19.10
Northern District	$14,355	$17.94
Western District	$16,498	$20.62
Summers	**$16,457**	**$20.57**
Bluestone River District	$18,091	$22.61
Greenbrier River District	$17,895	$22.37
New River District	$12,541	$15.68
Taylor	**$17,963**	**$22.45**
Eastern District	$18,684	$23.36
Tygart District	$14,963	$18.70
Western District	$19,926	$24.91
Tucker	**$17,949**	**$22.44**
Black Fork District	$16,721	$20.90
Clover District	$15,789	$19.74
Davis District	$16,811	$21.01
Dry Fork District	$24,643	$30.80
Fairfax District	$20,474	$25.59
Licking District	$23,021	$28.78
St. George District	$17,344	$21.68
Tyler	**$20,360**	**$25.45**
Central District	$23,940	$29.93
North District	$29,018	$36.27
South District	$14,753	$18.44
West District	$20,984	$26.23
Upshur	$18,739	$23.42
Banks District	$15,673	$19.59
Buckhannon District	$20,729	$25.91
Meade District	$16,089	$20.11

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Union District	$16,173	$20.22
Warren District	$21,333	$26.67
Washington District	$21,096	$26.37
Wayne	**$19,688**	**$24.61**
Butler District	$20,823	$26.03
Ceredo District	$19,358	$24.20
Stonewall District	$12,083	$15.10
Union District	$20,040	$25.05
Westmoreland District	$24,793	$30.99
Webster	**$13,371**	**$16.71**
Fork Lick District	$13,678	$17.10
Glade District	$13,454	$16.82
Hacker Valley District	$12,778	$15.97
Holley District	$13,291	$16.61
Wetzel	**$21,545**	**$26.93**
District 1	$19,323	$24.15
District 2	$22,331	$27.91
District 3	$22,542	$28.18
Wirt	**$16,951**	**$21.19**
Central District	$16,798	$21.00
Northeast District	$20,417	$25.52
Southwest District	$14,599	$18.25
Wood	**$25,161**	**$31.45**
Clay District	$27,168	$33.96
Harris District	$28,068	$35.09
Lubeck District	$30,583	$38.23
Parkersburg District	$22,097	$27.62
Slate District	$30,426	$38.03
Steele District	$20,208	$25.26
Tygart District	$21,665	$27.08
Union District	$30,602	$38.25
Walker District	$22,598	$28.25
Williams District	$31,449	$39.31
Wyoming	**$17,248**	**$21.56**
Baileysville District	$17,933	$22.42
Barkers Ridge District	$14,167	$17.71
Center District	$19,048	$23.81
Clear Fork District	$14,667	$18.33
Huff Creek District	$15,810	$19.76
Oceana District	$19,392	$24.24
Slab Fork District	$17,579	$21.97
STATE	$20,795	$25.99

Instructions:

To compute the minimum end user rate:

1. Look up the MCDs served and record the rates from the above chart.
2. From the utility records or the preliminary engineering report, record the number of users for each MCD served.
3. Multiply the number of users in each MCD by the minimum rate from the chart for each MCD. Add these amounts to produce the Total Minimum Revenue.
4. Total the number of users and divide the Total Minimum Revenue by this number. The result is the Average Customer Bill.

Notes:

The Average Customer Bill is based on 4500 gallons per month water usage.

The Average Customer Bill is for a single utility. Rates for water and sewer would double the Average Customer Bill computed in accord with the above formula.

Towns and cities are included in the MCD, and if the whole project is in a single town and MCD, the MCD figure can be used without calculation. The same situation exists for countywide PSDs.

Median Household Incomes and Average Customer Bill Calculation Instructions

Cities and Towns	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Addison (Webster Springs) town	$16,417	$20.52
Albright town	$12,500	$15.63
Alderson town	$20,093	$25.12
Anawalt town	$14,167	$17.71
Anmoore town	$18,125	$22.66
Ansted town	$16,395	$20.49
Athens town	$21,726	$27.16
Auburn town	$7,714	$9.64
Bancroft town	$22,143	$27.68
Barboursville village	$23,750	$29.69
Barrackville town	$23,300	$29.13
Bath (Berkeley Springs) town	$17,283	$21.60
Bayard town	$25,417	$31.77
Beckley city	$19,110	$23.89
Beech Bottom village	$20,417	$25.52
Belington town	$15,401	$19.25
Belle town	$22,472	$28.09
Belmont city	$21,413	$26.77
Benwood city	$14,659	$18.32
Bethany town	$41,481	$51.85
Bethlehem village	$31,815	$39.77
Beverly town	$14,609	$18.26
Blacksville town	$16,806	$21.01
Bluefield city	$21,319	$26.65
Bolivar town	$25,809	$32.26
Bradshaw town	$10,096	$12.62
Bramwell town	$17,083	$21.35
Brandonville town	$18,500	$23.13
Bridgeport city	$34,114	$42.64
Bruceton Mills town	$19,375	$24.22
Buckhannon city	$17,258	$21.57
Buffalo town	$15,962	$19.95
Burnsville town	$15,326	$19.16
Cairo town	$15,313	$19.14
Camden-on-Gauley town	$20,625	$25.78
Cameron city	$15,179	$18.97
Capon Bridge town	$19,792	$24.74
Cedar Grove town	$18,807	$23.51
Ceredo city	$18,488	$23.11
Chapmanville town	$15,474	$19.34
Charleston city	$23,584	$29.48
Charles Town city	$24,014	$30.02
Chesapeake town	$16,758	$20.95
Chester city	$17,320	$21.65
Clarksburg city	$17,884	$22.36
Clay town	$13,417	$16.77
Clearview village	$30,417	$38.02
Clendenin town	$19,792	$24.74
Corporation of Ranson town	$23,822	$29.78
Cowen town	$15,000	$18.75
Danville town	$11,750	$14.69
Davis town	$16,736	$20.92
Davy town	$11,550	$14.44
Delbarton town	$12,454	$15.57
Dunbar city	$24,872	$31.09
Durbin town	$16,071	$20.09
East Bank town	$25,938	$32.42
Eleanor town	$23,125	$28.91
Elizabeth town	$15,221	$19.03
Elk Garden town	$13,846	$17.31
Elkins city	$17,383	$21.73
Ellenboro town	$14,028	$17.54
Fairmont city	$18,370	$22.96
Fairview town	$16,563	$20.70
Falling Spring town	$20,179	$25.22
Farmington town	$12,019	$15.02
Fayetteville town	$23,652	$29.57
Flatwoods town	$16,641	$20.80
Flemington town	$18,750	$23.44
Follansbee city	$23,976	$29.97
Fort Gay town	$14,514	$18.14
Franklin town	$22,292	$27.87
Friendly town	$21,250	$26.56
Gary city	$17,350	$21.69
Gassaway town	$19,773	$24.72
Gauley Bridge town	$18,565	$23.21
Gilbert town	$19,732	$24.67
Glasgow town	$22,105	$27.63
Glen Dale city	$30,393	$37.99
Glenville town	$12,112	$15.14
Grafton city	$14,621	$18.28
Grantsville town	$12,813	$16.02
Grant Town town	$14,559	$18.20
Granville town	$16,314	$20.39
Hambleton town	$14,318	$17.90
Hamlin town	$16,167	$20.21
Handley town	$16,875	$21.09
Harman town	$12,375	$15.47
Harpers Ferry town	$31,625	$39.53
Harrisville town	$18,778	$23.47
Hartford City town	$16,528	$20.66
Hedgesville town	$27,083	$33.85
Henderson town	$13,152	$16.44
Hendricks town	$18,750	$23.44
Hillsboro town	$15,962	$19.95
Hinton city	$13,500	$16.88
Hundred town	$15,313	$19.14
Huntington city	$18,276	$22.85
Hurricane city	$23,990	$29.99
Huttonsville town	$17,614	$22.02
Iaeger town	$12,727	$15.91
Jane Lew town	$17,763	$22.20
Junior town	$14,412	$18.02
Kenova city	$18,160	$22.70
Kermit town	$18,250	$22.81
Keyser city	$19,562	$24.45
Keystone city	$10,598	$13.25
Kimball town	$15,074	$18.84
Kingwood city	$19,955	$24.94
Leon town	$14,583	$18.23
Lester town	$20,208	$25.26
Lewisburg city	$26,750	$33.44
Littleton town	$12,321	$15.40
Logan city	$16,746	$20.93
Lost Creek town	$18,036	$22.55
Lumberport town	$20,882	$26.10
Mabscott town	$22,788	$28.49
McMechen city	$20,644	$25.81
Madison city	$22,565	$28.21
Man town	$26,875	$33.59
Mannington city	$14,145	$17.68
Marlinton town	$14,315	$17.89
Marmet city	$21,424	$26.78
Martinsburg city	$22,193	$27.74
Mason town	$19,934	$24.92
Masontown town	$18,462	$23.08
Matewan town	$10,875	$13.59
Matoaka town	$14,167	$17.71
Meadow Bridge town	$14,063	$17.58
Middlebourne town	$23,819	$29.77
Mill Creek town	$17,865	$22.33
Milton town	$18,235	$22.79
Mitchell Heights town	$45,469	$56.84
Monongah town	$17,083	$21.35
Montgomery city	$12,904	$16.13
Montrose town	$17,500	$21.88

Moorefield town	$17,712	$22.14
Morgantown city	$18,022	$22.53
Moundsville city	$20,036	$25.05
Mount Hope city	$14,635	$18.29
Mullens city	$19,013	$23.77
Newburg town	$17,625	$22.03
New Cumberland city	$19,120	$23.90
New Haven town	$24,706	$30.88
New Martinsville city	$22,542	$28.18
Nitro city	$22,188	$27.74
Northfork town	$12,500	$15.63
North Hills town	$64,121	$80.15
Nutter Fort town	$18,692	$23.37
Oak Hill city	$18,606	$23.26
Oakvale town	$13,438	$16.80
Oceana town	$16,484	$20.61
Osage town	$14,750	$18.44
Paden City city	$25,313	$31.64
Parkersburg city	$20,461	$25.58
Parsons city	$16,693	$20.87
Paw Paw town	$17,279	$21.60
Pax town	$21,250	$26.56
Pennsboro city	$16,250	$20.31
Petersburg city	$18,873	$23.59
Peterstown town	$16,607	$20.76
Philippi city	$16,594	$20.74
Piedmont town	$15,208	$19.01
Pine Grove town	$20,865	$26.08
Pineville town	$25,313	$31.64
Poca town	$32,589	$40.74
Point Pleasant city	$17,113	$21.39
Pratt town	$30,104	$37.63
Princeton city	$14,945	$18.68
Pullman town	$11,563	$14.45
Quinwood town	$16,346	$20.43
Rainelle town	$15,959	$19.95
Ravenswood city	$20,667	$25.83
Reedsville town	$20,357	$25.45
Reedy town	$16,083	$20.10
Rhodell town	$12,500	$15.63
Richwood city	$14,155	$17.69
Ridgeley town	$18,359	$22.95
Ripley city	$21,823	$27.28
Rivesville town	$20,543	$25.68
Romney city	$17,091	$21.36
Ronceverte city	$17,964	$22.46
Rowlesburg town	$16,544	$20.68

Rupert town	$18,452	$23.07
St. Albans city	$26,040	$32.55
St. Marys city	$21,549	$26.94
Salem city	$13,214	$16.52
Sand Fork town	$16,563	$20.70
Shepherdstown town	$32,188	$40.24
Shinnston city	$22,460	$28.08
Sistersville city	$20,670	$25.84
Smithers city	$15,444	$19.31
Smithfield town	$7,593	$9.49
Sophia town	$15,459	$19.32
South Charleston city	$27,366	$34.21
Spencer city	$14,452	$18.07
Star City town	$18,269	$22.84
Stonewood city	$20,064	$25.08
Summersville town	$21,719	$27.15
Sutton town	$18,606	$23.26
Sylvester town	$24,375	$30.47
Terra Alta town	$17,468	$21.84
Thomas city	$19,625	$24.53
Thurmond town	$12,750	$15.94
Triadelphia town	$20,000	$25.00
Tunnelton town	$13,833	$17.29
Union town	$13,681	$17.10
Valley Grove village	$21,316	$26.65
Vienna city	$31,613	$39.52
War city	$10,382	$12.98
Wardensville town	$12,159	$15.20
Wayne town	$13,844	$17.31
Weirton city	$28,261	$35.33
Welch city	$18,684	$23.36
Wellsburg city	$24,167	$30.21
West Hamlin town	$15,294	$19.12
West Liberty town	$26,042	$32.55
West Logan town	$20,114	$25.14
West Milford town	$21,477	$26.85
Weston city	$14,333	$17.92
Westover city	$22,563	$28.20
West Union town	$12,672	$15.84
Wheeling city	$21,053	$26.32
White Sulphur Springs city	$17,539	$21.92
Whitesville town	$16,167	$20.21
Williamson city	$18,306	$22.88
Williamstown city	$23,636	$29.55
Winfield town	$33,077	$41.35
Womelsdorf (Coalton) town	$19,500	$24.38
Worthington town	$15,750	$19.69

APRIL 14, 1995, COUNCIL RULES
SENT TO:
71 (16 Interdept.+55 mailed)

+Already on mailing list but also requested rules.
*Signed form requesting rules but not on mailing list.

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Mr. Sam Sutton
Governor's Office

ALSO SENT TO REGIONAL COUNCILS

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Infrastructure & Jobs Development Council Funding Rules

Type of Rule: _xx_ **Legislative** ____ **Interpretive** ____ **Procedural**

Agency Infrastructure & Jobs Development Council

Address c/o Water Development Authority
1201 Dunbar Avenue
Dunbar, WV 25064-3017

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1. Effect of Proposed Rule N/A

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	$	$	$	$	$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

The rules provide for the funding mechanism for the expenditure of general obligation proceeds and other dedicated funds.

3. Objectives of these rules:

Provides funding guidelines to the Infrastructure & Jobs Development Council regarding the expenditure of public dollars for water/wastewater system expansion and upgrade.

Rule Title: Infrastructure & Jobs Development Council Funding Rules

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Tax revenue base increase due to increased construction/economic development activity.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

Direct impact of injection of up to three hundred million dollars into local economy.

C. Economic Impact on Citizens/Public at Large.

Increased ability to facilitate expansion and new location of business due to infrastructure upgrades.

Date: April 10, 1995

Signature of Agency Head or Authorized Representative

Michael A. Basile

TITLE 167
RULES

SERIES 1
STATE INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

§ 167-1-1. General.

1.1. Scope and Purpose. -- This legislative rule establishes guidelines to be used by the Council in evaluating any request by a project sponsor for funding assistance for the planning, design, acquisition, or construction of water and waste water projects and the funding of all or any part of such projects through the Infrastructure Fund.

1.2. Authority. -- West Virginia Code §§ 31-15A-4, 31-15A-5 and 31-15A-10.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Incorporation by Reference. -- Whenever federal or State statutes or regulations are incorporated into these regulations by reference, the reference is to the statute or regulation in effect on ______________.

§ 167-1-2. Definitions.

2.1. "Act" means the Infrastructure and Jobs Development Act, W. Va. Code § 31-15A-1 *et seq*.

2.2. "Cost" means, as applied to any project to be financed in whole or in part with infrastructure revenues or funds otherwise provided pursuant to the Act, the cost of planning, acquisition, improvement and construction of the project; the cost of preliminary design and analysis, surveys, borings; the cost of environmental, financial, market and engineering feasibility studies, assessments, applications, approvals, submissions or clearances; the cost of preparation of plans and specifications and other engineering services; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights and any other interests required for the acquisition, repair, improvement or construction of the project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of excavation, grading, shaping or treatment of earth, demolishing or removing any buildings or structures; the cost of constructing any buildings or other improvements; the cost of all pumps, tanks, vehicles, apparatus and other machinery, furnishings and equipment; loan or origination fees and all finance charges and interest incurred prior to and during the construction and for no more than six months after completion of construction; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring, repairing, improving or constructing any project; the cost of placing any project in operation; and all other costs and expenses of any kind or nature incurred or to be incurred by the project sponsor developing the project that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project: *Provided*, That costs shall not include any amounts related to the ongoing operations of the owner or operator, depreciation thereof or any other cost which the Council or the Water Development Authority has not determined to be consistent with the purposes and objectives of the Act.

2.3. "Council" means the West Virginia Infrastructure and Jobs Development Council.

2.4. "Crisis Situation" means a recent incident such as an act of God (drought, freeze, flood, storm or landslide), or an act of man (chemical spill or vandalism), resulting in an outage or a significant decline in quality or quantity of potable water or the treatment of waste water which poses a serious and immediate threat or endangerment to health for which local funds are not available to resolve: Provided, that a crisis situation caused by an act of man shall not include occurrences resulting from the lack of maintenance; negligence; normal replacement of operating parts, pumps, or systems; or upgrades to achieve compliance with existing or new regulatory standards.

2.5. "Division of Environmental Protection" means the Division of Environmental Protection or any successor to all or any substantial part of its powers and duties.

2.6. "Division of Health" means the Division of Health or any successor to all or any substantial part of its powers and duties.

2.7. "Economic Development Authority" means the Economic Development Authority or any successor to all or any substantial part of its powers and duties.

2.8. "Governmental agency" means any county; municipality; watershed improvement district; assessment district; soil conservation district; sanitary district; public service district; drainage district; regional governmental authority and any other state governmental agency, entity, political subdivision or public corporation or agency authorized to acquire, construct or operate water or waste water facilities or infrastructure projects.

2.9. "Housing Development Fund" means the West Virginia Housing Development Fund or any successor to all or any substantial part of its powers and duties.

2.10. "Infrastructure Fund" means the West Virginia Infrastructure Fund.

2.11. "Infrastructure project" means a project in the State which the Council determines is likely to foster and enhance public health, economic growth and development in the area of the state in which the project is developed, for commercial, industrial, community improvement or preservation or other proper purposes, including, without limitation, tourism and recreational housing, land, air or water transportation facilities and bridges, industrial or commercial projects and facilities, mail order, warehouses, wholesale and retail sales facilities and other real and personal properties, including facilities owned or leased by this state or any other project sponsor, and includes, without limitation (1) the process of acquiring, holding, operating, planning, financing, demolition, construction, improving, expanding, renovation, leasing or otherwise disposing of the project or any part thereof or interest therein, and (2) preparing land for construction and making, installing or constructing improvements on the land, including water or waste water facilities or any part thereof, steam, gas, telephone and telecommunications and electric lines and installations, roads, bridges, railroad spurs, buildings, docking and shipping facilities, curbs, gutters, sidewalks, and drainage and flood control facilities, whether on or off the site.

2.12. "Infrastructure revenue" means all amounts appropriated by the Legislature; all amounts deposited into the Infrastructure Fund; any amounts received, directly or indirectly, from any source for the use of all or any part of any project completed pursuant to this article; and any other amounts received by the State Treasurer, the Council or the Water Development Authority.

2.13. "Project" means any waste water facility or water facility project, or any combination thereof, constructed or operated or to be constructed or operated by a project sponsor.

2.14. "Project sponsor" means any governmental agency or person, or any combination thereof, including, but not limited to, any public utility, which intends to plan, acquire, construct, improve or otherwise develop a project.

2.15. "Public Service Commission" means the Public Service Commission of West Virginia or any successor to all or any substantial part of its powers and duties.

2.16. "Person" means any individual, corporation, partnership, association, limited liability company or any other form of business organization.

2.17. "Public utility" means any person or persons, or association of persons, however associated, whether incorporated or not, including, without limitation, any governmental agency, operating a waste water facility or water facility as a public service, which is regulated by the Public Service Commission as a public utility or which is required to file its tariff with the Public Service Commission.

2.18. "State Development Office" means the West Virginia Development Office or any successor to all or any substantial part of its powers and duties.

2.19. "State infrastructure agency" means the Division of Health, Division of Environmental Protection, Housing Development Fund, Public Service Commission, State Development Office, Water Development Authority, Economic Development Authority and any other state agency, division, body, authority, commission, instrumentality or entity which now or in the future receives applications for the funding of, and provides funding or technical assistance to, the planning, acquisition, construction or improvement of a project.

2.20. "Waste water facility" means all public facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including, without limitation, facilities for the treatment and disposal of sewage, industrial wastes or other wastes, waste water, and the residue thereof; facilities for the temporary or permanent impoundment of waste water, both surface and underground; and sanitary sewers or other collection systems, whether on the surface or underground, designed to transport waste water together with the equipment and furnishings therefor or thereof and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities therefor.

2.21. "Water Development Authority" means the West Virginia Water Development Authority or any successor to all or any substantial part of its powers and duties.

2.22. "Water facility" means all public facilities, land and equipment used for or in connection with the collection and/or storage of water, both surface and underground, transportation of water, storage of water, treatment of water and distribution of water for the purpose of providing potable, sanitary water suitable for human consumption and use.

§ 167-1-3. Projects.

3.1. Project Review. Prior to applying for or receiving any loan, loan guarantee, grant or other funding assistance for a project from any State infrastructure agency, a project sponsor must submit a preliminary application on the Council's form and must receive the Council's recommendation.

3.1.1. If a project sponsor believes that a project is outside the review of the Council, then the project sponsor shall complete only the appropriate sections of the preliminary application form and shall request an exemption from review.

3.2. Exemption from Review. The Council shall exempt a project from the preliminary application review process if:

3.2.1. Any project sponsor which either had received acceptable bids for the project or had all funding in place on July 1, 1994.

3.2.2. Any funding from a State infrastructure agency where the recipient of the funding is designated by state or federal law or regulation.

3.2.3. Any funding from any state agency determined by the Council not to be a State infrastructure agency.

3.2.4 Any funding from the governor's civil contingent fund with regard to projects or infrastructure projects.

3.2.5. Any activity funded by a State infrastructure agency determined by the Council to be outside the scope of the definition of project.

3.2.6. Any action taken by the Economic Development Authority pursuant to the authority established in article fifteen, chapter thirty-one of the West Virginia Code.

3.3. Preliminary Application Filing. A project sponsor may file a preliminary application with the Council, at the offices of the Water Development Authority, at any time: Provided, that the preliminary application will not be formally accepted until such preliminary application is presented to the Council at the next regularly scheduled Council meeting, at which time the thirty-day review period shall begin. The Water Development Authority may, but is not required to, circulate the preliminary application to Council members or Council committees in advance of such meeting.

3.4. Preliminary Application Review. Within thirty days of the Council's formal review of a complete preliminary application from a project sponsor, the Council shall either recommend that the project sponsor seek funding or that the project sponsor not seek funding for the project or request additional information if necessary to make a determination.

3.5. Approval. If the Council determines that the project is consistent with the Act, it shall make a written recommendation for the project financing stating: (i) the loan, loan guarantee or grant, or any combination thereof, for which the project sponsor should apply; (ii) the amount or amounts of said loan, loan guarantees or grant; (iii) the source or sources of such funding and which State infrastructure agency or agencies should consider funding the project, including funding from the Infrastructure Fund.

3.6. Funding of Project. The Council may provide that if the recommended funding sources have not or cannot dedicate money for the project, the project sponsor shall submit a supplement to its preliminary application to the Council for consideration of alternate funding from another funding source or the Infrastructure Fund.

3.7. Denial. If the Council determines that the project is not eligible for funding assistance from any State infrastructure agency, or that the project is not otherwise an appropriate or prudent investment of State funds, it shall recommend that the project sponsor not seek funding from any State infrastructure agency.

3.8. Recommendations. The Council shall provide a copy of its recommendation, together with a copy of the preliminary application, if not previously provided, to all State infrastructure agencies which are listed in the recommendation as recommended funding sources.

§ 167-1-4. Review Guidelines.

4.1. Determination of Eligible Projects. When evaluating any request for funding assistance to plan, acquire, construct, improve or otherwise develop a project, the Council and other State infrastructure agencies shall consider the following:

4.1.1. The public health benefits;

4.1.2. The economic development benefits;

4.1.3. The degree to which the project will correct deficiencies involving compliance of water systems or sewage treatment facilities with State or federal laws, regulations or standards;

4.1.4. The degree to which the project encourages effective and efficient consolidation of water or sewage treatment systems consistent with the comprehensive plan;

4.1.5. The cost effectiveness of the project as compared with alternatives which achieve substantially the same public health or economic development benefits, including the consideration of system operation and maintenance requirements and providing maximum feasible fire protection;

4.1.6. The availability of alternative sources of funding which could finance all or a part of the project, and the need for the assistance of the Council to finance the project or attract other sources of funding;

4.1.7. The applicant's ability to operate and maintain the system if the project is approved;

4.1.8. The degree to which the project achieves other State or regional planning goals;

4.1.9. The estimated date upon which the project could commence if funding were available and the estimated completion date of the project;

4.1.10. Such other considerations as the Council may consider necessary or appropriate to accomplish the purpose and intent of the Act.

4.2. Waste Water Guidelines. When evaluating a request for funding a project which will include the construction, improvement, or development of a waste water facility or system, the Council and other State infrastructure agencies shall consider the following:

4.2.1. The improvement of public health by addressing direct human impact due to system malfunctions or inadequately treated sewage; the severity of individual or public water supply contamination; the degree of impact on public bathing areas; and the severity of safety hazards from deteriorated facilities.

4.2.2. The enhancement of economic development by encouraging directly or indirectly development activity and job creation or retention.

4.2.3. The facilitation of enforcement compliance by reducing existence of overload conditions, damage to fish and aquatic life, loss of boating and recreation opportunity, impact on industrial water supply uses, impact on crop irrigation and degradation of streams used for stock watering.

4.2.4. The adequacy, efficiency and social impact; the extent that reorganization or consolidation of facilities will be accomplished; whether the population will be directly affected; the ongoing ability of the applicant to operate and maintain the project facilities and system; an increase in the reliability of service; and efficiency of the proposed solution when compared with other alternatives.

4.2.5. The enhancement of the State goal of providing waste water treatment in developing or developable but currently unserved areas.

4.3. Water Guidelines. When evaluating a request for funding of a project which will include the construction, improvement, or development of a water facility or system, the Council and other State infrastructure agencies shall consider the following:

4.3.1. The effect on public health; the elimination of an ongoing public health hazard; the elimination of a periodic or potential public health hazard; and the preventive maintenance related to health hazards.

4.3.2. The enhancement of economic development activity and job creation or retention resulting directly or indirectly from the project; the opportunity to use other State programs; and the degree of local distress in the area where the project is located.

4.3.3. The effect on compliance and improvement in water system design, treatment, service, operation and compliance.

4.3.4. The ongoing ability of the applicant to operate and maintain the project facility and system.

4.3.5. The beneficial environmental and social impacts; beneficial environmental impact only; and beneficial social impact only.

4.3.6. The adequacy and efficiency of the water facility or system; the increase in availability of water, consolidation of systems, water conservation or improvement in aesthetic water quality; the increase in the reliability of service; and the efficiency of the proposed solution when compared with other alternatives.

4.3.7. The enhancement of the State goal of providing potable water in developing or developable but currently unserved areas.

§ 167-1-5. Infrastructure Fund Administration.

5.1. Administration of Infrastructure Fund. The Water Development Authority shall administer amounts in the Infrastructure Fund.

5.2. Sources of Money for Fund. The Infrastructure Fund shall consist of infrastructure revenues; any appropriations, grants, gifts, contributions, loan proceeds or other revenues received by the Infrastructure Fund from any source, public or private; amounts received as payments on any loans made by the Water Development Authority from the Infrastructure Fund to pay for the cost of a project or infrastructure project; insurance proceeds payable to the Water Development Authority or the Infrastructure Fund in connection with any infrastructure project or project; all income earned on moneys held in the Infrastructure Fund; all funds deposited in accordance with the Act; and all proceeds derived from the sale of bonds issued pursuant to article fifteen-b, chapter thirty-one of the West Virginia Code.

5.3. Use of Moneys in the Fund. Upon the written recommendation of the Council, and subject to the restrictions set forth in the Act, including but not limited to the restrictions set forth below, the Water Development Authority shall use money in the Infrastructure Fund to make loans, loan guarantees or grants, or any combination thereof, and to provide such other assistance (financial, technical or otherwise) as necessary to finance all or part of the costs of infrastructure projects or projects to be undertaken by a project sponsor.

5.4. Council Determination. Prior to the Water Development Authority's making any loan, loan guarantee, grant or other assistance, the Council shall determine that the loan, loan guarantee, grant or other assistance and the manner in which it will be provided are necessary or appropriate to accomplish the purposes and intent of the Act.

5.5. Eligible Grant Recipients. The Council shall not authorize the Water Development Authority to make grants for any project to any project sponsor (i) which is not a governmental agency or a not-for-profit corporation, or (ii) where the project, if funded, will provide subsidized services to certain users in the service area of the project.

5.6. Grant Requirements. The Water Development Authority may make a grant to a project sponsor for a project if the Council in its sole discretion determines and finds that (1) the level of rates for the users would otherwise be an unreasonable burden given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents funding of the project except through grants. Prior to awarding any infrastructure grant money to a project sponsor, the Council must determine that no other funding is available for the proposed grant portion of the project.

5.7. Grant Criteria. In determining whether a grant should be offered, and, if so, what proportion of the financial assistance offered should constitute a grant and what portion should constitute a loan or other loan assistance, the Council will consider the ultimate effect that financing a project's costs will have on the rates that users will be required to pay. In performing this assessment, the Council shall review the mandatory minimum end user utility rate that must be met by the project sponsor before grant assistance may be awarded. This mandatory minimum end user utility rate shall be based upon a uniform statewide percentage of the median household income as determined and published by the United States Department of Commerce, Bureau of the Census, for the geographic area which the project will serve and upon an average customer usage of 4,500 gallons per month. The uniform percentage rate shall be 1 1/2% of the median household income. The Council shall base its determination on the median household income for the Bureau of Census established minor civil division (MCD) most closely related to the geographic boundaries of the project sponsor as established by law. The minor civil divisions and the median household incomes extracted from the most recent available census are set forth in Appendix A attached hereto and incorporated herein by reference. If the project sponsor provides service to two or more MCD's but does not serve an entire county or if a municipal project sponsor serves outside its corporate boundaries, then the Council shall compute the minimum end user utility rate in accordance with the formula set forth in Appendix A. The Council may further consider factors including, but not limited to, the financial condition of the applicant, including revenues, expenses, debt structure, reserve balances, available collateral and financial condition of the project sponsor, and the inability of the project sponsor to secure grant funding from other sources.

5.8. Limit on Grant Amount. Any moneys disbursed from the Infrastructure Fund in the form of grants shall not exceed twenty percent of the total funds available for the funding of projects. The Council may limit individual grant awards to whatever amount it deems desirable to advance the intent and purposes of the Act: Provided, That no project sponsor shall receive infrastructure grant money in an amount in excess of fifty percent of the total cost of the project.

5.9. Terms of Grant. Where a project sponsor has received infrastructure grant money to fund a project, and such project is then sold to a for-profit entity, the project sponsor shall reimburse the Infrastructure Fund the proportionate amount of infrastructure grant money received based upon the value of the project at the time of the sale. The Council may establish such other terms and conditions as it deems necessary.

5.10. Loans. The Council shall authorize the Water Development Authority to make loans or loan assistance from the Infrastructure Fund upon such terms and conditions as the Council shall recommend. No loan or loan assistance will be authorized where the project, if funded, will provide subsidized services to certain users in the service area of the project.

5.11. Limit on Loan Amount. The Council may limit loans to project sponsors to whatever amount it deems desirable to advance the intent and purposes of the Act.

5.12. Limit on Loan Interest Rate. The interest rate on any loan to governmental, quasi-governmental, or not-for-profit project sponsors for projects made pursuant to the Act shall not exceed three percent per annum. Loans made to for profit entities shall bear interest at the current market rates which shall be the equivalent of the prime rate published as such in the Wall Street Journal, or similar publication, on the date of the loan commitment.

5.13. Financial Assistance from the Fund. Each loan, loan guarantee, grant or other assistance made or provided by the Water Development Authority shall be evidenced by a loan, loan guarantee, grant or assistance agreement between the Water Development Authority and the project sponsor to which the loan, loan guarantee, grant or assistance shall be made or provided, which agreement shall include, without limitation and to the extent applicable, the following provisions:

5.13.1 The estimated cost of the infrastructure project or project, the amount of the loan, loan guarantee or grant or the nature of the assistance, and in the case of a loan or loan guarantee, the terms of repayment and the security therefore, if any;

5.13.2. The specific purposes for which the loan or grant proceeds shall be expended or the benefits to accrue from such loan guarantee or other assistance, and the conditions and procedure for disbursing loan or grant proceeds;

5.13.3. The duties and obligations imposed upon the project sponsor regarding the acquisition, construction, improvement or operation of the project or infrastructure project; and

5.13.4. The agreement of the project sponsor to comply with all applicable federal and state laws, and all rules and regulations issued or imposed by the Council or other state, federal or local bodies regarding the acquisition, construction, improvement or operation of the infrastructure project or project and granting the Water Development Authority the right to appoint a receiver for the project if the project sponsor should default on any terms of the agreement.

5.14. Advance Funding Assistance. If the Council determines that the engineering studies and requirements for the pre-application process would impose an undue hardship on a project sponsor, the Council may provide funding assistance to the project sponsor to defray the expenses of such process from moneys available in the Infrastructure Fund: Provided, That such funding assistance is limited to an amount equal to five thousand dollars or fifty percent of the total pre-application cost, whichever amount is greater. If the project is ultimately approved for a loan by the Council, the amount of such funding assistance shall be included in the total amount of the loan to be repaid by the project sponsor. If the project is not ultimately approved by the Council, the amount of such funding assistance shall be considered a grant by the Council, and the total amount of the assistance shall be forgiven. In no event may the amount of funding assistance provided to all project sponsors exceed, in the aggregate, one hundred thousand dollars annually, as determined on a State fiscal year basis.

5.15. Crisis Situation Funding Assistance. The Water Development Authority, upon recommendation of the Council or designated committees of Council, shall make funding available to provide assistance to restore or safeguard water or waste water treatment service following a crisis situation which is an immediate threat or endangerment to the public health, provided, that the project sponsor must notify the Council as soon as reasonably possible following the incident and make application for funding in writing within 30 days of the incident.

5.16. Other Assistance. The Authority, at the discretion of the Council, may provide other forms and methods of assistance in addition to loans and grants, including, but not limited to, bond and loan guarantees and the purchase of insurance for the bonds.

AB308824

APPENDIX A

Median Household Incomes and Average Customer Bill Calculation Instructions

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Barbour	$15,607	$19.51
North District	$15,434	$19.29
South District	$13,401	$16.75
West District	$19,712	$24.64
Berkeley	$27,412	$34.27
Arden District	$28,221	$35.28
Falling Waters District	$29,795	$37.24
Gerrardstown District	$30,750	$38.44
Hedgesville District	$30,854	$38.57
Martinsburg District	$18,867	$23.58
Mill Creek District	$30,927	$38.66
Opequon District	$28,656	$35.82
Boone	$17,073	$21.34
District 1	$15,234	$19.04
District 2	$17,203	$21.50
District 3	$19,152	$23.94
Braxton	$16,359	$20.45
Eastern District	$19,726	$24.66
Northern District	$14,124	$17.66
Southern District	$15,422	$19.28
Western District	$17,401	$21.75
Brooke	$26,500	$33.13
Buffalo District	$27,048	$33.81
Cross Creek District	$27,265	$34.08
Follansbee District	$25,982	$32.48
Weirton District	$26,185	$32.73
Wellsburg District	$23,854	$29.82
Cabell	$21,255	$26.57
District 1	$23,275	$29.09
District 2	$14,214	$17.77
District 3	$17,392	$21.74
District 4	$29,339	$36.67
District 5	$23,011	$28.76
Calhoun	$14,496	$18.12
District 1	$14,493	$18.12
District 2	$14,444	$18.06
District 3	$14,557	$18.20
District 4	$13,906	$17.38
District 5	$15,099	$18.87
Clay	$12,855	$16.07
Buffalo District	$13,250	$16.56
Henry District	$14,418	$18.02
Otter District	$9,529	$11.91
Pleasant District	$13,229	$16.54
Union District	$14,911	$18.64
Doddridge	$17,159	$21.45
Beech District	$18,750	$23.44
Maple District	$17,647	$22.06
Oak District	$17,813	$22.27
Pine District	$12,444	$15.56
Fayette	$16,774	$20.97
New Haven District	$17,390	$21.74
Plateau District	$15,885	$19.86
Valley District	$17,410	$21.76
Gilmer	$14,539	$18.17
Center District	$14,583	$18.23
City District	$12,112	$15.14
De Kalb-Troy District	$15,102	$18.88
Glenville District	$15,433	$19.29
Grant	$20,923	$26.15
Grant District	$20,053	$25.07
Milroy District	$20,972	$26.22
Union District	$21,361	$26.70

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Greenbrier	$19,411	$24.26
Anthony Creek District	$20,050	$25.06
Blue Sulphur District	$19,290	$24.11
Falling Spring District	$15,561	$19.45
Fort Spring District	$19,007	$23.76
Frankford District	$22,500	$28.13
Irish Corner District	$19,174	$23.97
Lewisburg District	$25,683	$32.10
Meadow Bluff District	$16,811	$21.01
White Sulphur District	$19,772	$24.72
Williamsburg District	$16,389	$20.49
Hampshire	$20,753	$25.94
Bloomery District	$23,605	$29.51
Capon District	$24,904	$31.13
Gore District	$21,462	$26.83
Mill Creek District	$17,679	$22.10
Romney District	$17,616	$22.02
Sherman District	$21,811	$27.26
Springfield District	$18,946	$23.68
Hancock	$26,031	$32.54
Butler District	$30,236	$37.80
Clay District	$26,797	$33.50
Grant District	$21,156	$26.44
Hardy	$20,745	$25.93
Capon District	$22,276	$27.84
Lost River District	$19,408	$24.26
Moorefield District	$19,694	$24.62
Old Fields District	$19,527	$24.41
South Fork District	$21,622	$27.03
Harrison	$20,367	$25.46
Northern District	$19,016	$23.77
North Urban District	$16,035	$20.04
Southeast District	$29,759	$37.20
South Urban District	$20,199	$25.25
Southwest District	$20,344	$25.43
Suburban District	$18,835	$23.54
Jackson	$21,655	$27.07
Grant District	$24,485	$30.61
Ravenswood District	$20,710	$25.89
Ripley District	$22,322	$27.90
Union District	$28,269	$35.34
Washington District	$16,315	$20.39
Jefferson	$30,941	$38.68
Charlestown District	$24,065	$30.08
Harpers Ferry District	$30,195	$37.74
Kabletown District	$34,735	$43.42
Middleway District	$31,038	$38.80
Shepherdstown District	$35,000	$43.75
Kanawha	$23,999	$30.00
District 1	$19,659	$24.57
District 2	$33,351	$41.69
District 3	$25,321	$31.65
District 4	$26,526	$33.16
District 5	$17,268	$21.59
District 6	$24,911	$31.14
Lewis	$17,972	$22.47
Collins Settlement District	$12,299	$15.37
Court House District	$14,755	$18.44
Freemans District	$19,631	$24.54
Hackers Creek District	$17,281	$21.60
Skin Creek District	$22,604	$28.26
Lincoln	$14,659	$18.32
Carroll District	$13,578	$16.97

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Duval District	$16,097	$20.12
Harts Creek District	$14,267	$17.83
Jefferson District	$8,011	$10.01
Laurel Hill District	$10,254	$12.82
Sheridan District	$14,855	$18.57
Union District	$17,361	$21.70
Washington District	$20,263	$25.33
Logan	**$17,942**	**$22.43**
Buffalo District	$16,503	$20.63
Chapmanville District	$16,771	$20.96
East District	$18,524	$23.16
Guyan District	$20,770	$25.96
Island Creek District	$17,246	$21.56
Logan District	$19,694	$24.62
Northwest District	$14,617	$18.27
Triadelphia District	$20,353	$25.44
West District	$17,516	$21.90
Marion	**$20,386**	**$25.48**
Middletown District	$17,595	$21.99
Palatine District	$23,384	$29.23
West Augusta District	$18,739	$23.42
Marshall	**$22,687**	**$28.36**
District 1	$23,865	$29.83
District 2	$20,036	$25.05
District 3	$24,456	$30.57
Mason	**$20,135**	**$25.17**
Arbuckle District	$16,136	$20.17
Clendenin District	$17,835	$22.29
Cologne District	$15,600	$19.50
Copper District	$23,770	$29.71
Graham District	$22,679	$28.35
Hannan District	$15,064	$18.83
Lewis District	$19,722	$24.65
Robinson District	$24,361	$30.45
Union District	$17,969	$22.46
Waggener District	$19,508	$24.39
McDowell	**$13,141**	**$16.43**
Big Creek District	$11,459	$14.32
Browns Creek District	$13,579	$16.97
North Elkin District	$14,933	$18.67
Sandy River District	$12,450	$15.56
Mercer	**$19,365**	**$24.21**
District I	$20,417	$25.52
District II	$19,628	$24.54
District III	$18,047	$22.56
Mineral	**$22,036**	**$27.55**
District 1	$20,809	$26.01
District 2	$21,326	$26.66
District 3	$24,523	$30.65
Mingo	**$16,066**	**$20.08**
Hardee District	$14,583	$18.23
Harvey District	$14,163	$17.70
Kermit District	$13,152	$16.44
Lee District	$17,139	$21.42
Magnolia District	$14,167	$17.71
Stafford District	$18,449	$23.06
Tug River District	$14,971	$18.71
Williamson District	$18,306	$22.88
Monongalia	**$22,183**	**$27.73**
Central District	$18,074	$22.59
Eastern District	$25,104	$31.38
Western District	$22,548	$28.19

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Monroe	**$18,217**	**$22.77**
Red Sulphur District	$20,531	$25.66
Second Creek District	$16,875	$21.09
Springfield District	$17,113	$21.39
Sweet Springs District	$16,487	$20.61
Union District	$16,290	$20.36
Wolf Creek District	$16,473	$20.59
Morgan	**$24,372**	**$30.47**
District 1	$21,780	$27.23
District 2	$24,157	$30.20
District 3	$28,477	$35.60
Nicholas	**$18,116**	**$22.65**
Beaver District	$16,841	$21.05
Grant District	$16,500	$20.63
Hamilton District	$16,969	$21.21
Jefferson District	$14,825	$18.53
Kentucky District	$19,770	$24.71
Summersville District	$21,237	$26.55
Wilderness District	$18,556	$23.20
Ohio	**$22,489**	**$28.11**
District 1	$25,981	$32.48
District 2	$17,170	$21.46
District 3	$24,538	$30.67
Pendleton	**$19,565**	**$24.46**
Bethel District	$17,806	$22.26
Circleville District	$14,899	$18.62
Franklin District	$22,120	$27.65
Mill Run District	$26,354	$32.94
Sugar Grove District	$20,284	$25.36
Union District	$17,939	$22.42
Pleasants	**$20,910**	**$26.14**
District A	$21,643	$27.05
District B	$22,019	$27.52
District C	$19,089	$23.86
District D	$21,429	$26.79
Pocahontas	**$17,237**	**$21.55**
Edray District	$16,138	$20.17
Greenbank District	$16,959	$21.20
Huntersville District	$16,800	$21.00
Little Levels District	$19,127	$23.91
Preston	**$19,940**	**$24.93**
Grant District	$22,332	$27.92
Kingwood District	$19,776	$24.72
Lyon District	$19,565	$24.46
Pleasant District	$19,069	$23.84
Portland District	$20,977	$26.22
Reno District	$17,347	$21.68
Union District	$18,221	$22.78
Valley District	$20,981	$26.23
Putnam	**$27,405**	**$34.26**
Buffalo-Union District	$21,164	$26.46
Curry District	$25,947	$32.43
Pocatalico District	$22,964	$28.71
Scott District	$31,194	$38.99
Teays District	$33,354	$41.69
Raleigh	**$19,566**	**$24.46**
District 1	$20,103	$25.13
District 2	$19,171	$23.96
District 3	$19,422	$24.28
Randolph	**$18,278**	**$22.85**
Beverly District	$19,233	$24.04
Dry Fork District	$18,409	$23.01

Median Household Incomes and Average Customer Bill Calculation Instructions

COUNTY and MCDs	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Huttonsville District	$17,057	$21.32
Leadsville District	$18,294	$22.87
Middle Fork District	$15,921	$19.90
Mingo District	$12,399	$15.50
New Interest District	$20,149	$25.19
Roaring Creek District	$17,569	$21.96
Valley Bend District	$20,250	$25.31
Ritchie	**$17,333**	**$21.67**
Clay District	$18,357	$22.95
Grant District	$17,440	$21.80
Murphy District	$13,864	$17.33
Union District	$18,172	$22.72
Roane	**$15,375**	**$19.22**
Eastern District	$15,278	$19.10
Northern District	$14,355	$17.94
Western District	$16,498	$20.62
Summers	**$16,457**	**$20.57**
Bluestone River District	$18,091	$22.61
Greenbrier River District	$17,895	$22.37
New River District	$12,541	$15.68
Taylor	**$17,963**	**$22.45**
Eastern District	$18,684	$23.36
Tygart District	$14,963	$18.70
Western District	$19,926	$24.91
Tucker	**$17,949**	**$22.44**
Black Fork District	$16,721	$20.90
Clover District	$15,789	$19.74
Davis District	$16,811	$21.01
Dry Fork District	$24,643	$30.80
Fairfax District	$20,474	$25.59
Licking District	$23,021	$28.78
St. George District	$17,344	$21.68
Tyler	**$20,360**	**$25.45**
Central District	$23,940	$29.93
North District	$29,018	$36.27
South District	$14,753	$18.44
West District	$20,984	$26.23
Upshur	**$18,739**	**$23.42**
Banks District	$15,673	$19.59
Buckhannon District	$20,729	$25.91
Meade District	$16,089	$20.11
Union District	$16,173	$20.22
Warren District	$21,333	$26.67
Washington District	$21,096	$26.37
Wayne	**$19,688**	**$24.61**
Butler District	$20,823	$26.03
Ceredo District	$19,358	$24.20
Stonewall District	$12,083	$15.10
Union District	$20,040	$25.05
Westmoreland District	$24,793	$30.99
Webster	**$13,371**	**$16.71**
Fork Lick District	$13,678	$17.10
Glade District	$13,454	$16.82
Hacker Valley District	$12,778	$15.97
Holley District	$13,291	$16.61
Wetzel	**$21,545**	**$26.93**
District 1	$19,323	$24.15
District 2	$22,331	$27.91
District 3	$22,542	$28.18
Wirt	**$16,951**	**$21.19**
Central District	$16,798	$21.00
Northeast District	$20,417	$25.52
Southwest District	$14,599	$18.25
Wood	**$25,161**	**$31.45**
Clay District	$27,168	$33.96
Harris District	$28,068	$35.09
Lubeck District	$30,583	$38.23
Parkersburg District	$22,097	$27.62
Slate District	$30,426	$38.03
Steele District	$20,208	$25.26
Tygart District	$21,665	$27.08
Union District	$30,602	$38.25
Walker District	$22,598	$28.25
Williams District	$31,449	$39.31
Wyoming	**$17,248**	**$21.56**
Baileysville District	$17,933	$22.42
Barkers Ridge District	$14,167	$17.71
Center District	$19,048	$23.81
Clear Fork District	$14,667	$18.33
Huff Creek District	$15,810	$19.76
Oceana District	$19,392	$24.24
Slab Fork District	$17,579	$21.97
STATE	$20,795	$25.99

Instructions: To compute the minimum end user rate:

1. Look up the MCDs served and record the rates from the above chart.
2. From the utility records or the preliminary engineering report, record the number of users for each MCD served.
3. Multiply the number of users in each MCD by the minimum rate from the chart for each MCD. Add these amounts to produce the Total Minimum Revenue.
4. Total the number of users and divide the Total Minimum Revenue by this number. The result is the Average Customer Bill.

Notes: The Average Customer Bill is based on 4500 gallons per month water usage.

The Average Customer Bill is for a single utility. Rates for water and sewer would double the Average Customer Bill computed in accord with the above formula.

Towns and cities are included in the MCD, and if the whole project is in a single town and MCD, the MCD figure can be used without calculation. The same situation exists for countywide PSDs.

Median Household Incomes and Average Customer Bill Calculation Instructions

Cities and Towns	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Addison (Webster Springs) town	$16,417	$20.52
Albright town	$12,500	$15.63
Alderson town	$20,093	$25.12
Anawalt town	$14,167	$17.71
Anmoore town	$18,125	$22.66
Ansted town	$16,395	$20.49
Athens town	$21,726	$27.16
Auburn town	$7,714	$9.64
Bancroft town	$22,143	$27.68
Barboursville village	$23,750	$29.69
Barrackville town	$23,300	$29.13
Bath (Berkeley Springs) town	$17,283	$21.60
Bayard town	$25,417	$31.77
Beckley city	$19,110	$23.89
Beech Bottom village	$20,417	$25.52
Belington town	$15,401	$19.25
Belle town	$22,472	$28.09
Belmont city	$21,413	$26.77
Benwood city	$14,659	$18.32
Bethany town	$41,481	$51.85
Bethlehem village	$31,815	$39.77
Beverly town	$14,609	$18.26
Blacksville town	$16,806	$21.01
Bluefield city	$21,319	$26.65
Bolivar town	$25,809	$32.26
Bradshaw town	$10,096	$12.62
Bramwell town	$17,083	$21.35
Brandonville town	$18,500	$23.13
Bridgeport city	$34,114	$42.64
Bruceton Mills town	$19,375	$24.22
Buckhannon city	$17,258	$21.57
Buffalo town	$15,962	$19.95
Burnsville town	$15,326	$19.16
Cairo town	$15,313	$19.14
Camden-on-Gauley town	$20,625	$25.78
Cameron city	$15,179	$18.97
Capon Bridge town	$19,792	$24.74
Cedar Grove town	$18,807	$23.51
Ceredo city	$18,488	$23.11
Chapmanville town	$15,474	$19.34
Charleston city	$23,584	$29.48
Charles Town city	$24,014	$30.02
Chesapeake town	$16,758	$20.95
Chester city	$17,320	$21.65
Clarksburg city	$17,884	$22.36
Clay town	$13,417	$16.77
Clearview village	$30,417	$38.02
Clendenin town	$19,792	$24.74
Corporation of Ranson town	$23,822	$29.78
Cowen town	$15,000	$18.75
Danville town	$11,750	$14.69
Davis town	$16,736	$20.92
Davy town	$11,550	$14.44
Delbarton town	$12,454	$15.57
Dunbar city	$24,872	$31.09
Durbin town	$16,071	$20.09
East Bank town	$25,938	$32.42
Eleanor town	$23,125	$28.91
Elizabeth town	$15,221	$19.03
Elk Garden town	$13,846	$17.31
Elkins city	$17,383	$21.73
Ellenboro town	$14,028	$17.54
Fairmont city	$18,370	$22.96
Fairview town	$16,563	$20.70
Falling Spring town	$20,179	$25.22
Farmington town	$12,019	$15.02
Fayetteville town	$23,652	$29.57
Flatwoods town	$16,641	$20.80

Cities and Towns	1990 Census Median HH Income	Avg. Customer Bill Based on 1.5%
Flemington town	$18,750	$23.44
Follansbee city	$23,976	$29.97
Fort Gay town	$14,514	$18.14
Franklin town	$22,292	$27.87
Friendly town	$21,250	$26.56
Gary city	$17,350	$21.69
Gassaway town	$19,773	$24.72
Gauley Bridge town	$18,565	$23.21
Gilbert town	$19,732	$24.67
Glasgow town	$22,105	$27.63
Glen Dale city	$30,393	$37.99
Glenville town	$12,112	$15.14
Grafton city	$14,621	$18.28
Grantsville town	$12,813	$16.02
Grant Town town	$14,559	$18.20
Granville town	$16,314	$20.39
Hambleton town	$14,318	$17.90
Hamlin town	$16,167	$20.21
Handley town	$16,875	$21.09
Harman town	$12,375	$15.47
Harpers Ferry town	$31,625	$39.53
Harrisville town	$18,778	$23.47
Hartford City town	$16,528	$20.66
Hedgesville town	$27,083	$33.85
Henderson town	$13,152	$16.44
Hendricks town	$18,750	$23.44
Hillsboro town	$15,962	$19.95
Hinton city	$13,500	$16.88
Hundred town	$15,313	$19.14
Huntington city	$18,276	$22.85
Hurricane city	$23,990	$29.99
Huttonsville town	$17,614	$22.02
Iaeger town	$12,727	$15.91
Jane Lew town	$17,763	$22.20
Junior town	$14,412	$18.02
Kenova city	$18,160	$22.70
Kermit town	$18,250	$22.81
Keyser city	$19,562	$24.45
Keystone city	$10,598	$13.25
Kimball town	$15,074	$18.84
Kingwood city	$19,955	$24.94
Leon town	$14,583	$18.23
Lester town	$20,208	$25.26
Lewisburg city	$26,750	$33.44
Littleton town	$12,321	$15.40
Logan city	$16,746	$20.93
Lost Creek town	$18,036	$22.55
Lumberport town	$20,882	$26.10
Mabscott town	$22,788	$28.49
McMechen city	$20,644	$25.81
Madison city	$22,565	$28.21
Man town	$26,875	$33.59
Mannington city	$14,145	$17.68
Marlinton town	$14,315	$17.89
Marmet city	$21,424	$26.78
Martinsburg city	$22,193	$27.74
Mason town	$19,934	$24.92
Masontown town	$18,462	$23.08
Matewan town	$10,875	$13.59
Matoaka town	$14,167	$17.71
Meadow Bridge town	$14,063	$17.58
Middlebourne town	$23,819	$29.77
Mill Creek town	$17,865	$22.33
Milton town	$18,235	$22.79
Mitchell Heights town	$45,469	$56.84
Monongah town	$17,083	$21.35
Montgomery city	$12,904	$16.13
Montrose town	$17,500	$21.88

Median Household Incomes and Average Customer Bill Calculation Instructions

Moorefield town	$17,712	$22.14
Morgantown city	$18,022	$22.53
Moundsville city	$20,036	$25.05
Mount Hope city	$14,635	$18.29
Mullens city	$19,013	$23.77
Newburg town	$17,625	$22.03
New Cumberland city	$19,120	$23.90
New Haven town	$24,706	$30.88
New Martinsville city	$22,542	$28.18
Nitro city	$22,188	$27.74
Northfork town	$12,500	$15.63
North Hills town	$64,121	$80.15
Nutter Fort town	$18,692	$23.37
Oak Hill city	$18,606	$23.26
Oakvale town	$13,438	$16.80
Oceana town	$16,484	$20.61
Osage town	$14,750	$18.44
Paden City city	$25,313	$31.64
Parkersburg city	$20,461	$25.58
Parsons city	$16,693	$20.87
Paw Paw town	$17,279	$21.60
Pax town	$21,250	$26.56
Pennsboro city	$16,250	$20.31
Petersburg city	$18,873	$23.59
Peterstown town	$16,607	$20.76
Philippi city	$16,594	$20.74
Piedmont town	$15,208	$19.01
Pine Grove town	$20,865	$26.08
Pineville town	$25,313	$31.64
Poca town	$32,589	$40.74
Point Pleasant city	$17,113	$21.39
Pratt town	$30,104	$37.63
Princeton city	$14,945	$18.68
Pullman town	$11,563	$14.45
Quinwood town	$16,346	$20.43
Rainelle town	$15,959	$19.95
Ravenswood city	$20,667	$25.83
Reedsville town	$20,357	$25.45
Reedy town	$16,083	$20.10
Rhodell town	$12,500	$15.63
Richwood city	$14,155	$17.69
Ridgeley town	$18,359	$22.95
Ripley city	$21,823	$27.28
Rivesville town	$20,543	$25.68
Romney city	$17,091	$21.36
Ronceverte city	$17,964	$22.46
Rowlesburg town	$16,544	$20.68

Rupert town	$18,452	$23.07
St. Albans city	$26,040	$32.55
St. Marys city	$21,549	$26.94
Salem city	$13,214	$16.52
Sand Fork town	$16,563	$20.70
Shepherdstown town	$32,188	$40.24
Shinnston city	$22,460	$28.08
Sistersville city	$20,670	$25.84
Smithers city	$15,444	$19.31
Smithfield town	$7,593	$9.49
Sophia town	$15,459	$19.32
South Charleston city	$27,366	$34.21
Spencer city	$14,452	$18.07
Star City town	$18,269	$22.84
Stonewood city	$20,064	$25.08
Summersville town	$21,719	$27.15
Sutton town	$18,606	$23.26
Sylvester town	$24,375	$30.47
Terra Alta town	$17,468	$21.84
Thomas city	$19,625	$24.53
Thurmond town	$12,750	$15.94
Triadelphia town	$20,000	$25.00
Tunnelton town	$13,833	$17.29
Union town	$13,681	$17.10
Valley Grove village	$21,316	$26.65
Vienna city	$31,613	$39.52
War city	$10,382	$12.98
Wardensville town	$12,159	$15.20
Wayne town	$13,844	$17.31
Weirton city	$28,261	$35.33
Welch city	$18,684	$23.36
Wellsburg city	$24,167	$30.21
West Hamlin town	$15,294	$19.12
West Liberty town	$26,042	$32.55
West Logan town	$20,114	$25.14
West Milford town	$21,477	$26.85
Weston city	$14,333	$17.92
Westover city	$22,563	$28.20
West Union town	$12,672	$15.84
Wheeling city	$21,053	$26.32
White Sulphur Springs city	$17,539	$21.92
Whitesville town	$16,167	$20.21
Williamson city	$18,306	$22.88
Williamstown city	$23,636	$29.55
Winfield town	$33,077	$41.35
Womelsdorf (Coalton) town	$19,500	$24.38
Worthington town	$15,750	$19.69

BIDCO

BUSINESS & INDUSTRIAL DEVELOPMENT CORPORATION

May 10, 1995

Infrastructure and Jobs Development Council
c/o Mr. Daniel B. Yonkosky, Director
Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Re: Infrastructure and Jobs Development Council Funding Rules - Comments

Dear Council Members:

Throughout the history of this nation, our economic well being has been tied to public investment in basic infrastructure. Each generation has relied on the investment of the previous generation to support their economic growth efforts. Being prepared to seize economic growth opportunities is an ever increasing challenge for West Virginia. Prospective businesses looking to locate or expand within West Virginia are faced with the definitive challenge of finding available land served by existing utilities. Equally challenging is the search for a funding method which would provide on-time utility service without detrimentally affecting the locating industry or the existing utility's customer base. For these reasons, BIDCO vigorously and openly supported the Infrastructure and Jobs Bill (HB 2037).

The proposed Infrastructure and Jobs Development Council funding rules fall short of providing any effective or functional method for extending utility infrastructure to a locating or expanding industry. Without such provisions, the rules provide inadequate funding ability for expanding the economic base of West Virginia and offer little prospect for job creation beyond short term construction jobs.

The proposed rules for receiving grants or loans are customer rate based. Should a utility attempt to extend service under a loan program, the indebtedness incurred by the utility must be approved by the West Virginia Public Service Commission with the requisite public hearing or comment period. Traditionally, the cost of indebtedness is spread across the entire customer base; therefore, residential customers would be impacted and the approval for borrowing by a utility to provide service to a locating or expanding for-profit company would likely not occur. A grant is the only funding alternative to a loan; however, under the proposed rules only those communities/utilities meeting or exceeding the proposed minimum threshold would qualify for a grant.

1116 Smith Street, Charleston, West Virginia 25301 Telephone: (304) 340-4253 Telefax: (304) 340-4275
Serving Metro Charleston

The proposed rules primarily address the environmental needs of the State. We recognize and support the use of said funds for this purpose; however, other uses for these funds such as economic development are equally important.

To support economic development efforts, the proposed rules should be amended to provide for an additional - but separate - set of grant rules to be applied to the specific purpose of industry location or expansion. These separate rules would not require that threshold rates be achieved for obtaining grant funding. The rules should limit the use of grant funds to that individual line or portion of extended system providing the capacity requirements of such industry growth and would include funding for other associated non-construction project costs. Project costs relating to any additional capacity, service extensions, or system upgrades not required by the locating or expanding industry should be funded by other available financing programs.

As a recent example of West Virginia's challenges in funding corporate expansion, NGK is noteworthy because there was neither an appropriate methodology nor specific mechanism to generate funding to meet the project's needs in a timely fashion. The proceeds from the sale of property were used for infrastructure extensions on this project. If water and sewer extensions to new industry are to be funded from the monies governed by the proposed rules, then said rules do not offer a viable solution for future projects similar to NGK.

BIDCO supports the efforts of the Council and recognizes the difficulty of the task at hand; however, we cannot overemphasize the need not only to accommodate economic development but also to direct special attention to ensure that on-time infrastructure extensions are possible and probable under the rules.

Thank you for your review and thoughtful consideration. We are available to discuss these issues at your convenience.

Sincerely,

L. Newton Thomas Jr.

L. Newton Thomas, Jr., Chairman

L. Caldwell Davis

L. Caldwell Davis, President

LNT/LCD/khs
cc/Governor Gaston Caperton
Ken Hechler
David E. Lowe

Brooke County Commission
WELLSBURG, WEST VIRGINIA 26070
TEL: (304) 737-3661 • FAX: (304) 737-3668

COMMISSIONERS:
DANIEL L. GILCHRIST
NORMAN SCHWERTFEGER
HENRY A. WILSON

SYLVIA J BENZO, Clerk

June 5, 1995

RECEIVED
JUN 0 7 1995
WATER DEVELOPMENT AUTHORITY

Mr. Bernie Yankoski
Director
Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Re: Oppose 1½ Per Cent Rule on Infrastructure Program

Dear Mr. Yankoski:

The Brooke County Commission worked very hard on the Infrastructure Bill and was the leading county in voting on the bill. We were quite upset to learn of the recent rule of one and a half per cent (1½%) that bases rates on medium income levels according to magisterial districts.

We hope that you will review this rule and reward counties by keeping lower rates. If smaller cities are tied to this one and a half per cent rule we feel that we will be missing out on funding and do not feel this would be fair to us since we were the leading county on voting on this bill.

Please advise us if any consideration to making any changes to the current ruling is forthcoming. It would be more beneficial to Brooke County if this ruling is changed and ask that you give consideration to changing same.

Thanking you advance for your consideration in this matter.

Sincerely,
BROOKE COUNTY COMMISSION

Daniel L. Gilchrist sjb

By: Daniel L. Gilchrist
President

cc: Area Legislators
BHJ
Don Rigby
Sam Sutton

THE COMMISSION
ROGER D. CHAMP
GEORGE T. LEATHERMAN, III
J. MICHAEL TEETS

THE COUNTY COMMISSION OF HARDY COUNTY

A. J. WADE, CLERK

May 5, 1995

Mr. Daniel B. Yonkosky, Director
Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064-3017

Dear Mr. Yonkosky:

The Hardy County Commission, while supporting the passage of Bond Amendment Number 3, is very concerned at the present time regarding the Infrastructure and Jobs Development Council Proposed Emergency Funding Rules. These proposed funding rules will not be beneficial to needed water and sewer projects in Hardy County, West Virginia.

Hardy County has great need and requests for water and sewer projects throughout the County. The Infrastructure and Jobs Development Council should be focused to address, approve and get projects under construction to allow needed utility service.

Projects not requesting infrastructure bond funding should be exempt from any Infrastructure and Jobs Council review. The 80% funding identified for water and sewer projects should be divided equally for project funding.

The proposed 1990 Median Income for areas should allow income surveys to be completed if an area is believed to be lower in income than listed. Many residents cannot afford the identified rates or proposed increases to said.

Application preparation and approval should be focused for local governmental organized utility funding and projects identified by local area representatives. Local county commissions and public service districts are aware of existing infrastructure needs. Projects should be pursued based upon feasibility of said. Advanced fees for Infrastructure and Jobs Council application is not necessary and will merely result in paper projects and not construction projects whereby West Virginia residents receive needed water and/or sewer service.

204 WASHINGTON STREET - Room 111, MOOREFIELD, WEST VIRGINIA 26836 — (304) 538-2929 • Fax (304) 538-6832

In regard to economic development funding projects, it is of utmost importance to be able to respond in a timely and expeditious manner. Failure to do so will result in West Virginia loosing needed jobs. It is not necessary to have a duplicate review process.

Thank you for this opportunity to comments on the Infrastructure and Jobs Development Council Proposed Emergency Funding Rules. These proposed rules are critical and could result in the success or failure of this program.

Sincerely yours,

HARDY COUNTY COMMISSION

Roger D. Champ
President

RECEIVED

MAY 0 8 1995

WATER DEVELOPMENT AUTHORITY

HARDY COUNTY
RURAL DEVELOPMENT AUTHORITY

Hardy County Courthouse
P.O. Box 209, Moorefield, West Virginia 26836
304-538-6398
304-538-6287
FAX 304-538-6995

May 5, 1995

Mr. Daniel B. Yonkosky, Director
Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064-3017

Dear Mr. Yonkosky:

This letter and attached comments are to be entered and acknowledged as being written public comments regarding the Infrastructure and Jobs Development Council Funding Rules.

The Infrastructure Bond Amendment was supported and approved in Hardy County. Approval was based upon creation of more grant and loan funding for water, sewer and economic development infrastructure projects and these needed infrastructure projects becoming a reality.

The proposed Infrastructure and Jobs Development Council Funding rules if not modified and corrected will result in many needed West Virginia infrastructure development projects going unmet. Not every infrastructure development project in West Virginia should be processed through this council. Economic development, road, road access, water, sewer, etc. projects not requesting Infrastructure Council funding should be exempt from Infrastructure Council review.

The Infrastructure Council funding should focus on water and sewer projects and cost feasibility of said. A project priority list does not always reflect the most needed and/or beneficial project for a respective community. The 80% funding for projects should be balanced between water and sewer projects. Median Household Income and projected bills could create a financial obstacle for West Virginia residents and income surveys should be allowed if incomes are indeed actually lower.

Infrastructure Council funding should be prioritized and directed first to local governmental utilities serving respective areas or counties. Fees should not be advanced to any agency or business for application or research information.

Thank you for this opportunity to comments and express concerns regarding the Infrastructure and Jobs Development Council Funding Rules. It is in the best interest of all West Virginians that needed infrastructure projects be accomplished throughout West Virginia. If you have any questions or need further information, please contact me.

Very truly yours,
HARDY COUNTY RURAL DEVELOPMENT AUTHORITY

Mallie J. Combs

Mallie J. Combs
Executive Director

MJC/tds

Enclosure

INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL FUNDING RULES

COMMENTS

* Concern slow down of all projects throughout the State

* Focus on water and waste water project

* Infrastructure Council review should be automatically exempt if it is a road, road access or other project

* Projects not requesting infrastructure funding should be automatically exempt from any infrastructure council review.

* Funding structure should not be restructured by infrastructure council unless applicant requests said.

* Great concern exists with 2.16 "person" funding for existing water and/or waste water development could be jeopardized by encouraging private "person" project developer to subdivide and develop new project whereby overlooking more pressing needs within a community. Preference to project funding should be given to local governmental sponsored and applied projects.

* 2.11 - page 3 - This is very open language and to avoid delaying needed infrastructure project development as water and wastewater project, the focus of the infrastructure council needs to be water and wastewater projects.

* Infrastructure funding for project(s) must include grant and loan funding. The whole purpose of this bond was to leverage and obtain increased funding for water, sewer and economic development projects throughout the State. By merely creating additional loan funds will not result in addressing the infrastructure needs within any of our areas. In fact, if grant funding is not available to be combined with loan funding projects will not be affordable to local West Virginia residents. The population and income levels in most West Virginia areas is lower than the national average whereby making it essential to have affordable water and/or wastewater costs for our West Virginia residents.

* Even the 1990 Median Income as documented is not accurate. Once an area is actually surveyed for incomes, it has been determined that there are many lower incomes. Therefore, average customer bill as referenced on appendix A is not affordable to most Hardy County and West Virginia residents.

* It is of concern also that the application process appears to be so complex requiring an engineer or consultant firm to compile application and collecting up front fees for said. This in itself will limit available dollars for construction of projects and may result in application/fee abuse with applications setting on shelves and no project construction completion or needed utility service to meet the needs of area residents.

* Industrial project(s) needing infrastructure funding (grant/loan) to meet needs of a prospect creating jobs would encounter delays whereby not being able to respond to timely deadlines resulting in LOSS of new jobs and industrial projects.

* Provision to allow balance between projects for water, sewer. The current application process would allow only sewer projects to be processed and constructed based upon priority list.

Town of Middlebourne
P. O. Box 167
Main Street
Middlebourne, West Virginia
26149
(304) 758-4771

Robert L. Fletcher II
Mayor

David M. Smith
Recorder/Treasurer

RECEIVED
JUL 0 3 1995
WATER DEVELOPMENT
AUTHORITY

Mr. Bernie Yonkosky, Director
West Virginia Water Development Authority
West Virginia Infrastructure Council
1201 Dunbar Avenue
Dunbar, WV 25064

June 29, 1995

Dear Mr. Yonkosky,

This letter is to express our concern about the formula used by the West Virginia Infrastructure Council to calculate the usage rates on new water and sewer projects. The Town of Middlebounre recently submitted an Infrastructure Council pre-application. As indicated in the application, a project area income survey had been conducted in accordance with Rural Economic and Community Development (RECD) and small Cities Block Grant (SCBG) program guidelines. The conclusion of this survey resulted in a project area medium household income of $18,000. This survey result was documentated on the application but disregarded by Infrastructure Council's review committee.

We need to stress the difference between the 1990 U.S. Census figures for a municipality, county or magisterial district compared to a project area income determination which would include specific sections of a municipality and/or magisterial district and would not necessarily arrive at the same medium household income figures. (1990 Census for Town of Middlebourne $23,819 vs $18,000 for RECD/SCBG income survey)

The Town of Middlebourne, as most rural communities and public service districts, must utilize various loan sources and obtain the maximum in grant funds to perform renovations and provide extensions for new service. The method now used to calculate medium household income figures could cause a discrepancy in the allowable amount of grant funds due an applicant.

Thank you for your consideration of this matter.

Sincerely,

Robert L. Fletcher II

Robert L. Fletcher II

Putnam
County
Development
Authority

4237A State Route 34
Hurricane, West Virginia 25526

(304) 757-0318
(304) 757-7748 FAX

May 11, 1995

Ken B. Yonkosky, Director
Water Development Authority
1201 Dunbar Avenue
Dunbar, WV 25064-3017

Dear Mr. Yonkosky,

The Infrastructure and Jobs Development Council has a monumental task. It must work to obtain funding for necessary projects. Obviously, demand overwhelms available resources.

This letter is in response to the request by the Infrastructure & Jobs Development Council to promulgate emergency rules for awarding of grants in accordance with H. B. 2037. Briefly, I have the following comments:

1. The rules, as drafted, do not take into account economic development projects that would involve construction of water and/or sewer improvements to meet the needs of a new or expanding business. A local Public Service District such as South Putnam would have to implement substantial rate increases on residential customers in order to fund an economic development project. This rate increase would not have any bearing on the size or dollar amount of the project. The rate increase would be based on a partial funding source. The rules need to be reviewed and changed to fund economic development projects Local communities that have available land will say no to projects if residential customers are required to carry infrastructure improvements to business projects.

In order to obtain grant funding for a business development project rates on 4,500 gallons in Scott Depot could rise from $ 33.24 per month to $77.98 per month for water and sewer service. The South Putnam Public Service District would not want to increase their rates in order to be eligible for grant funding and would be forced into borrowing from the council instead. It is possible that they would decline to do the project if water usage for the business did not justify the extension. Many business, for example, are seeking adequate flow and pressure for fire protection instead of water for a manufacturing process.

2. The rules, as established, appear to favor areas and projects that do not have a viable means of operating a water or sewer system. Grants could be awarded to an area that does not have the financial ability to operate a system. The state of West Virginia could potentially be investing money into areas that will continue to lose population, continue economic decline and will not be able to maintain the infrastructure given to it because it lacks an economic basis. Although water and sewer infrastructure can help develop a community's growth potential, lack of affordable, developable land can impede or stop the impact of infrastructure investment.

3. It will be possible to give a $30,000,000 grant to a project area that does not have the ability to maintain a system, and is projected to lose its population. Also, under these rules, the Infrastructure Council could clean up a number of trout streams and not impact jobs or large groups of people.

4. The Council needs to invest in areas in which growth will occur in order to generate a tax base Areas such as Kanawha and Putnam Counties are generating substantial tax dollars for payment of state bond indebtedness and under these rules will have to also borrow money to build projects

Taxpayers with higher median income levels also pay higher state income taxes. West Virginia appears to be rewarding the areas that have economic problems at the expense of the areas that are growing economically yet still need state government assistance to meet the demands of growing populations and businesses.

Financial resources of counties such as Putnam are being diluted by the demands of a growing population. These rules do not allow a county such as Putnam to obtain an equitable return of its tax investment. Our population in my opinion is paying twice for assistance under these proposed rules.

Thank you for considering my comments as you consider changes in the proposed rules.

Sincerely,

Deborah F. Phillips

Deborah F. Phillips
Executive Director

Public Service Commission
Richard E. Hitt, General Counsel

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323

Phone: (304) 340-0317
FAX: (304) 340-0372

June 26, 1995

RECEIVED
JUN 27 ...
WATER DEVELOPMENT AUTHORITY

Mr. Daniel Yonkosky, Director
Water Development Authority
1201 Dunbar Avenue
Dunbar, WV 25064

Dear Bernie,

H.B. 2037, passed March 10, 1995 contains the following provision:

> "No loan or grant funds may be made available for a projects (sic) if the project to be funded will provide subsidized services to certain users in the service area of the project."

W.Va. Code §31-15A-10(d).

Certain people have interpreted this provision as prohibiting the extension of infrastructure funds to an existing utility if existing utility customers are required to share in the costs associated with a new project serving new utility customers. I believe that interpretation is inconsistent with the literal wording of the statute. Furthermore, since the Commission, in certificate and rate cases, usually spreads total system costs over all customers regardless of when they were added to the system, we would not agree that old customers sharing in the costs of new customers, and vice versa, constitutes subsidization.

The statutory language uses the terms "project" and "certain users in the service area of the project." H.B. 5006 defines project as "any waste water facility, water facility project or any combination thereof, constructed or operated or to be constructed or operated by a project sponsor." Therefore, if there is an existing water or sewer utility system, only the new construction would be considered a "project" within the meaning of §31-15A-10(d). In other words, the "project" would be the new facility to be constructed not the entire utility system.

Furthermore, the legislature was not concerned with existing customers sharing in costs associated with all new customers in the project service area, because the subsidization issue is limited to subsidies within the project area, i.e., subsidies among new customers within the new project service area. The use of the term "certain users" instead of all users supports the contention that the statutory provision was only concerned about subsidies occurring between customers in the new project area.

Therefore, I conclude that the statutory language prohibits the extension of infrastructure loans and grants where a project will provide service to certain new customers at less than costs (subsidized service) compared to other new customers situated in the same project service area. I would advise clarification of the Council's proposed rules consistent with this interpretation.

I have also enclosed our proposed addition to the rules concerning emergency projects.

If I can provide anything further, please advise.

Sincerely,

Rick

Richard E. Hitt
General Counsel

REH:jrc

cc: Mr. Russell Isaacs, Chairman
Mr. Michael Basile, Acting Secretary
Chairman Boyce Griffith
Ms. Susan Riggs

§3 Emergency Project. If the Council determines that the project is an emergency project as defined by West Virginia Code §31-15A-2(g) and (a) is an extension of an existing certificated water facility or wastewater facility, (b) will be funded solely with grant money, and (c) its construction and acquisition will have no effect on the public utility's customer rates and will have no significant effect on the utility's operational costs as a result of the project cost, the Council will include in its funding recommendation a statement reflecting said determination and that pursuant to West Virginia Code §31-15A-8(a), the emergency project is exempt from the requirement to obtain a certificate of convenience and necessity under West Virginia Code §24-2-11, and if the utility is a public service district, the project is exempt from the pre-filing requirement under West Virginia Code §16-13A-25.

If the Council determines that the project is an emergency project as defined by West Virginia Code §31-15A-2(g) but the emergency project is not exempt from the pre-filing and certificate requirements of West Virginia Code §16-13A-25 and §24-2-11 as provided in West Virginia Code §31-15A-8(a), the Council will include in its funding recommendation a statement reflecting said determination and that pursuant to West Virginia Code § 31-15A-8(b), the Public Service Commission shall render its final decision on any application for a certificate of convenience and necessity within one hundred and twenty days of the filing of the application, and that the prefiling requirements of West Virginia Code §24-2-11 and §16-13A-25 are not required.

The Council will provide a copy of its recommendation to the Executive Secretary of the Public Service Commission by first class mail which will serve as notification to the Public Service Commission of the Council's determinations.

RECEIVED

MAY 12 1995

WATER DEVELOPMENT AUTHORITY

Region 8 Planning and Development Council

Kenneth W. Dyche
Executive Director
Grant County Industrial Park
PO Box 849
Petersburg, WV 26847

Telephone
Fax (304) 257-2292

FAX
TRANSMITTAL - MEMORANDUM

To: Bernie Yonkosky
From: Ken Dyche
Subject: Comments on IJDC Rules
Date: 5/11/95
Pages: 1

I support the West Virginia Association of Regional Planning and Development Council's comments on the proposed IJDC rules. The following are some additional comments on the proposed rule.

- Failure to define infrastructure grant money as suggested by the WVARPDC could result in an interpretation that would limit grant funding to 50% of a project's cost. This would preclude the development of many needed projects. Sewer systems in small communities would be particularly affected by such an interpretation.

- Minimum rates should not be based on the maximum affordable rate (1.5% of median household income). This approach will place a burden on the state's many low income residents. The use of the 1.1% factor as proposed by the WVARPDC would ease the burden faced by those living on fixed incomes.

- Median household income information at the level of census blocks is readily available from the state census data center and all affiliate data centers. These subdivisions of Magisterial Districts would provide the closest match to water/sewer service areas and therefore better fit the requirements established during the most recent legislative session.

- The IJDC should adopt rules for making grants to economic development projects. Localities cannot pursue these projects until such rules are adopted.

Please do not hesitate in contacting me should you have any questions regarding my comments.

EDWARD L. SHUTT, P.E.

Route 3 Box 304-E
Princeton, West Virginia 24740
(304) 425-0486

May 5, 1995

Mr. Daniel B. Yonkosky
Director, Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Dear Mr. Yonkosky:

RE: Emergency Rules Pursuant to Chapter 31, Article 15A, Section 4 and 10 of the Code of West Virginia, 1931 or Amended

It is my understanding that the Infrastructure Council proposed Emergency Rules on April 7, 1995 in anticipation of a bond issue after July 1, 1995. It is my understanding that resolution of the legal issues will probably not be resolved until after January 1, 1996, therefore, no Emergency Rules are required to deal with Bond Proceeds.

However, it is my understanding that the Council will have available sixteen (16) million dollars in dedicated severance taxes on July 1, 1995 which could be used to fund "crisis situation" projects or projects which receive bids above available funds and require an Infrastructure grant to immediately proceed to construction. I strongly support adoption of some type of emergency rules to deal with these two situations while the legal issues are being resolved.

APPENDIX B - Fiscal Note for proposed rules under Item 4.e. Explanation of Overall Economic Impact of Proposed Rule Notes the Economic Impact on Citizens/Public at Large. I believe the Infrastructure Council must include in this item the projected annual increase in utility rates to the consumers as a result of the proposed rules since the promotional literature promised the entire program would be paid for by dedicating a portion of state severance taxes. Please advise me of the projected amount of additional annual user fees to pay for the program under the proposed rules.

I offer the following comments to the proposed rules:

<u>Paragraph 2.12</u>

The wording "any amounts received, directly or indirectly, from any source for use of all or any part of any project" is unclear to me. Does this mean funds from other funding sources such as E.P.A., A.R.C., E.P.A. or R.E.C.D. I recommend this section of wording be clarified.

<u>Paragraph 2.19</u>

The following agencies should be added as State Infrastructure Agencies:

1. Division of Natural Resources
2. West Virginia Parkways and Tourism Authority
3. West Virginia Division of Highways

These agencies are at times involved in the funding or construction of Infrastructure projects which need to be reviewed to make certain they comply with the Act and intent of the legislature.

<u>Paragraph 5.5</u>

The words "subsidized services to certain users in the service area of the project" is not clear and will lead to existing customers paying for mainline extensions contrary to Public Service Commission Rules 5.03 and 5.05 to meet the mandatory minimum end user utility rate which appears to use an arbitrary percent of the Median Household Income or will result in Public Service Districts and Municipalities not doing projects which involve mainline extensions.

<u>Paragraph 5.7</u>

The formula to be used for grant determination on mainline extensions as set forth in Appendix A needs to be clarified to conform with Public Service Commission Rules 5.03 and 5.05.

<u>Paragraph 5.9</u>

The method used to determine the value of the project at the time of the sale needs to be clearly set forth. I recommend the Council adopt the formula recently used by R.E.C.D. in the Town of Winfield.

Paragraph 5.10

The terms "subsidized services" are not defined and must be set forth in the proposed rules so applicant understands how the grant will be calculated.

I appreciate the opportunity to comment on these proposed rules and look forward to positive changes in the rules.

Sincerely,

Edward L. Shutt, P.E.
Vice President

ELS/cld

cc: Leonard Anderson
Tony Whitlow
Homer Ball
Eustace Frederick
Elizabeth Osbourne

SMITH
ENVIRONMENTAL TECHNOLOGIES CORPORATION

RECEIVED
MAY 15 1995
WATER DEVELOPMENT AUTHORITY

(Previously received by facsimile 5/11/95)

BCM Engineers

May 11, 1995

Mr. Daniel B. Yonkosky
Director
West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, WV 25064

Subject: West Virginia Infrastructure and
Jobs Development Council Proposed Rules

Dear Mr. Yonkosky:

For your review and consideration, I have enclosed comments concerning the proposed rules for the West Virginia Infrastructure and Jobs Development Council (Council) developed by our Financial Section. If you should have any questions regarding their comments, I would be more than happy to arrange a conference call for you with our Financial Section. I can be reached in our Pittsburgh, PA office at (800) 447-3379.

We appreciate the opportunity to provide comments regarding this new and exciting program. Your efforts and the efforts of your associates in establishing this needed program are laudable, and we commend you for your efforts. If we can assist you in any way in getting this program moving, I trust that you will not hesitate to call.

We wish you continued success in you efforts and are looking forward to working with you on future projects.

Sincerely,

Francis R. Albright
Business Development Manager

FRA:fra
Enclosure
cc: Vince Torno
John L. Schaude
Thomas G. May
Larry Scott

5777 Baum Blvd. • Pittsburgh, PA 15206-3745 • (412) 361-6000 • fax (412) 361-6243

SMITH

COMMENTS ON WEST VIRGINIA REVOLVING LOAN FUNDS

1. Preliminary Application - Good.

3.5 I assume this includes an estimate or repayment terms, coverage provisions, etc.

4-1 Affordability?/Alternative Funding (4.1.6)?

4-1.7 What if it is not able/no funding? This is contradictory to low cost/loans/grants.

4.2.1 Affordability?

5.7 MHI - Be as specific as possible regarding area of study. Within Municipalities, MHI can change considerably - perhaps include a factor for a percent of senior citizens over a certain threshhold - 25 percent.

5.9 Check this Re: Federal Funding - 1993 Bill allows federally funded facilities to be sold without strings - this could limit Privatization. Re: Prior Sections.

5-12. Why not tie this rate to the curve and buyer index or Prime - 1 percent of the incentive for a profit entity is helping relieve seniors health/environmental problems - "For Profit" entities may be more able to pay back the loan.

5.13 Have a feasibility study done by an independent agent to determine project reasonableness. Make it a standard report.

5.14 $5,000,000 low to be effective for anything other than replication.

General

The state may want to cap loans as does PENNVEST - to spread applicable funds.

Value Engineering - Can save money - have a $5-10 million threshhold.

CITY OF WELLSBURG

CITY HALL
WELLSBURG, WV 26070
(304) 737-2104

RECEIVED
JUN 27 1995
WATER DEVELOPMENT
AUTHORITY

June 22, 1995

Mr. Bernie Yonkosky
WV Development Authority and
Infrastructure Council
1201 Dunbar Avenue
Charleston, WV 25064

Dear Mr. Yonkosky,

As per the request of the City of Wellsburg Water/Sewer Board, this letter serves as the City's opposition to the proposed Rules and Regulations in regard to the funds available through the Infrastructure Improvement Program. The City believes the method of calculating whether a municipality is eligible for CDBG Grants and/or Low Interest Infrastructure Funds would eliminate virtually all applicants.

Sincerely,

Mark S. Baldwin
City Manager

MSB/dlf

RECEIVED

MAY 1 0 95

WATER DEVELOPMENT AUTHORITY

WEST VIRGINIA ASSOCIATION
OF
REGIONAL PLANNING AND DEVELOPMENT COUNCILS

May 8, 1995

Mr. Daniel B. Yonkosky
Director
West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, WV 25064-3017

RE: Comments - West Virginia Infrastructure and Job Development Council - Proposed Title 167 Rules, Series 1

Dear Mr. Yonkosky:

The West Virginia Association of Regional Planning and Development Councils wishes to take this opportunity to make comment in regard to the above referenced proposed rules. The Association's comments are as follows:

167-1-2 Definitions

Please add - "Infrastructure Grant Money" means funds derived from the proceeds of the sale of General Obligation Bonds as is provided by the Infrastructure Act, and specifically does not include funds derived from other Federal and State sources, i.e., HUD Small Cities Community Development Block Grants, Appalachian Regional Commission Grants, WV Legislative Digest Funds, etc..

167-1-5 Infrastructure Fund Administration

5.7 Grant Criteria - Several items in this section are of concern. Of foremost concern is the proposed statewide percentage of 1 1/2% to be applied to the median household income to determine the mandatory minimum end user utility rate. Our research has concluded that if this calculation is used more than 80% of the State's water and sewer utilities would be ineligible to participate in infrastructure funding until they have increased their user rates. We respectfully request that a statewide percentage of 1.1% be adopted. By applying 1.1% as the multiplier approximately 50% of the State's water and utilities would be eligible. We believe that 1.1% is more equitable and palatable to the public. Also, we believe that it was not the intent of the legislation to impose rate increases on more than 80% of the State's water and sewer utilities for the purpose of utilizing infrastructure funds. An example (Region 2 and 4) of the impact between the 1 1/2% and 1.1% is attached.

5.7 We recommend that the Council base its determination on median household income not by minor civil division (MCD) as is proposed, but by smaller, more well defined divisions as block groups (BG). Larger divisions (MCD), in virtually every case, do not reflect the median household income level of the customer to be served by a particular project, and therefore is not a fair way to calculate a mandatory minimum end user utility rate.

5.10 Loans - We must respectfully request that this statement be defined " **No loan or loan assistance will be authorized where the project, if funded, will provide subsidized services to certain users in the service area of the project.**" By one interpretation, this provision will virtually eliminate water and sewer service extensions outside municipal corporations where loan indebtedness is required to fund the project. To limit significant protests of existing customers within municipal and PSD boundaries, a surcharged rate must be permitted to be applied to those customers' rates that will directly benefit from the loan indebtedness. Otherwise, mayors (and PSD board members in some instances) will be very reluctant to incur debt to build service extensions outside their jurisdictions.

Section 1.1 (Scope and Purpose) suggest that the proposed rules cover only water and sewer projects. Chapter 31, Article 15 A, Section 10 states that the Council shall adopt rules regarding the manner in which grants shall be awarded. This statement appears to apply to infrastructure (economic development) projects and to water and sewer projects. We request that the Council either amend the proposed rule to include infrastructure (economic development) projects or prepare an additional rule for such.

The lack of rules for infrastructure projects will prohibit grant funding of critical facilities that provide for the creation or retention of jobs. Further, the lack of such rules may result in an infrastructure project that consists of the improvement of a water or sewer facility for an industry being treated as a community water or sewer project. Such treatment, especially as it relates to minimum residential user rates, may preclude the development of needed facilities. A small town or PSD may be extremely reluctant to undertake a significant rate increase for a water or sewer improvement that would only benefit a commercial/industrial user. Also, this reluctance would increase if the job creation/retention impact occurred outside the entity's jurisdiction.

We would welcome the opportunity to discuss these concerns with you, should you desire.

Sincerely,

James C. Hunt

James C. Hunt
Chairman

CC: Hon. William Wallace
Hon. Robert Plymale
Mr. Michael Basile, Esq.
Mr. Fred Cutlip

SAMPLE MEDIAN HOUSEHOLD INCOMES AND MEDIAN END USER RATE CALCULA

COUNTY and Districts	1990 CENSUS Median HH Income	AVG. BILL/4,500 GAL. Based on 1.5%	AVG. BILL/4,500 GAL. Based on 1.1%
CABELL	$21,255.00	$26.57	$19.48
1	$23,275.00	$29.09	$21.34
2	$14,214.00	$17.77	$13.03
3	$17,392.00	$21.74	$15.94
4	$29,339.00	$36.67	$26.89
5	$23,011.00	$28.76	$21.09

COUNTY and Districts	1990 CENSUS Median HH Income	AVG. BILL/4,500 GAL. Based on 1.5%	AVG. BILL/4,500 GAL. Based on 1.1%
LOGAN	$17,942.00	$22.43	$16.45
Buffalo	$16,503.00	$20.63	$15.13
Chapmanville	$16,771.00	$20.96	$15.37
East	$18,524.00	$23.16	$16.98
Guyan	$20,770.00	$25.96	$19.04
Island Creek	$17,246.00	$21.56	$15.81
Logan	$19,694.00	$24.62	$18.05
Northwest	$14,617.00	$18.27	$13.40
Tridelphia	$20,353.00	$25.44	$18.66
West	$17,516.00	$21.90	$16.06

COUNTY and Districts	1990 CENSUS Median HH Income	AVG. BILL/4,500 GAL. Based on 1.5%	AVG. BILL/4,500 GAL. Based on 1.1%
MASON	$20,135.00	$25.17	$18.46
Arbuckle	$16,136.00	$20.17	$14.79
Clendenin	$17,835.00	$22.29	$16.35
Cologne	$15,600.00	$19.50	$14.30
Copper	$23,770.00	$29.71	$21.79
Graham	$22,679.00	$28.35	$20.79
Hannan	$15,064.00	$18.83	$13.81
Lewis	$19,722.00	$24.65	$18.08
Robinson	$24,361.00	$30.45	$22.33
Union	$17,969.00	$22.46	$16.47
Waggerer	$19,508.00	$24.39	$17.88

COUNTY and Districts	1990 CENSUS Median HH Income	AVG. BILL/4,500 GAL. Based on 1.5%	AVG. BILL/4,500 GAL. Based on 1.1%
MINGO	$16,066.00	$20.08	$14.73
Hardee	$14,583.00	$18.23	$13.37
Harvey	$14,163.00	$17.70	$12.98
Kermit	$13,152.00	$16.44	$12.06
Lee	$17,139.00	$21.42	$15.71

Magnolia	$14,167.00	$17.71	$12.99
Stafford	$18,449.00	$23.06	$16.91
Tug River	$14,971.00	$18.71	$13.72
Williamson	$18,306.00	$22.88	$16.78

COUNTY and Districts	1990 CENSUS Median HH Income	AVG. BILL/4,500 GAL. Based on 1.5%	AVG. BILL/4,500 GAL. Based on 1.1%
LINCOLN	$14,659.00	$18.32	$13.44
Carroll	$13,578.00	$16.97	$12.45
Duval	$16,097.00	$20.12	$14.76
Harts Creek	$14,267.00	$17.83	$13.08
Jefferson	$8,011.00	$10.01	$7.34
Laurel Hill	$10,254.00	$12.82	$9.40
Sheridan	$14,855.00	$18.57	$13.62
Union	$17,361.00	$21.70	$15.91
Washington	$20,263.00	$25.33	$18.57

COUNTY and Districts	1990 CENSUS Median HH Income	AVG. BILL/4,500 GAL. Based on 1.5%	AVG. BILL/4,500 GAL. Based on 1.1%
WAYNE	$19,688.00	$24.61	$18.05
Butler	$20,823.00	$26.03	$19.09
Ceredo	$19,358.00	$24.20	$17.74
Stonewall	$12,083.00	$15.10	$11.08
Union	$20,040.00	$25.05	$18.37
Westmoreland	$24,793.00	$30.99	$22.73

TOWNS	1990 CENSUS Median HH Income	AVG. BILL/4,500 GAL. Based on 1.5%	AVG. BILL/4,500 GAL. Based on 1.1%
BARBOURSVILLE	$23,750.00	$29.69	$21.77
CEREDO	**$18,488.00**	**$23.11**	**$16.95**
CHAPMANVILLE	$15,474.00	$19.34	$14.18
DELBARTON	$12,454.00	$15.57	$11.42
FORT GAY	**$14,514.00**	**$18.14**	**$13.30**
GILBERT	$19,732.00	$24.67	$18.09
HAMLIN	$16,167.00	$20.21	$14.82
HARTFORD	$16,528.00	$20.66	$15.15
HENDERSON	$13,152.00	$16.44	$12.06
HUNTINGTON	$18,276.00	$22.85	$16.75
KENOVA	**$18,160.00**	**$22.70**	**$16.65**
KERMIT	**$18,250.00**	**$22.81**	**$16.73**
LEON	$14,583.00	$18.23	$13.37
LOGAN	$16,746.00	$20.93	$15.35
MAN	$26,875.00	$33.59	$24.64
MASON	$19,934.00	$24.92	$18.27
MATEWAN	$10,875.00	$13.59	$9.97
MILTON	$18,235.00	$22.79	$16.72

MITCHELL HEIGHTS	$45,469.00	$56.84	$41.68
NEW HAVEN	$24,706.00	$30.88	$22.65
PT. PLEASANT	$17,113.00	$21.39	$15.69
WAYNE	**$13,844.00**	**$17.31**	**$12.69**
WEST HAMLIN	$15,294.00	$19.12	$14.02
WEST LOGAN	$20,114.00	$25.14	$18.44
WILLIAMSON	$18,306.00	$22.88	$16.78

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West Virginia-American Water Company

P.O. Box 1906 • Charleston, WV 25327-1906 • (304) 345-3474

May 10, 1995

Daniel B. Yonkosky, Director
West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, WV 25064-3017

Re: Infrastructure and Jobs Development Council Funding Rules, Title 167, Series 1, West Virginia Code of State Rules

Dear Mr. Yonkosky:

On behalf of the West Virginia-American Water Company ("West Virginia-American"), its customers, and future customers, I wish to comment on the Proposed Infrastructure and Jobs Development Council Funding Rules.

Specifically, West Virginia-American objects to Proposed Emergency Rule 5.9, which reads:

> Terms of Grant. Where a project sponsor has received infrastructure grant money to fund a project, and such project is then sold to a for-profit entity, the project sponsor shall reimburse the Infrastructure Fund the proportionate amount of infrastructure grant money received based upon the value of the project at the time of the sale. The Council may establish such other terms and conditions as it deems necessary.

Proposed Emergency Rule 5.9 will have the unintended effect of limiting the provision of quality water. Moreover, it is not required by the Infrastructure Improvement Amendment ("Infrastructure Amendment"), any statute, or by the State Constitution. An alternative rule can address the concerns of the Infrastructure and Jobs Development Council ("Council") without crippling project sponsors in meeting their future water needs.

Proposed Emergency Rule 5.9 is not required by the West Virginia Constitution. "Bonds issued pursuant to a constitutional amendment override the more general bond limit restrictions [referring to Article 10, Sections 6 and 4]." Winkler v. State of West Virginia Sch. Bldg. Auth., 189 W.Va. 748, 755, 434 S.E.2d 420, 427 (1993). The Infrastructure Amendment differs from Article 10, Section 6[1] by granting the legislature the general power "to enact legislation to implement the provisions of this amendment." House Joint Resolution 500, Acts of the Legislature of West Virginia, Regular Session, 1994, p. 2723, 2724 (submitting the Infrastructure Amendment to the voters, enacted)("H.J.R. 500"). Pursuant to the Infrastructure Amendment, the legislature enacted Enrolled Committee Substitute for House Bill No. 2037 ("H.B. 2037") which irreconcilably conflicts with Article 10, Section 6 by authorizing the issuance of loans, loan guarantees, and grants to "project sponsors", including "any governmental agency," W. Va. Code §31-15A-2(n), which by definition includes counties and municipalities. W. Va. Code §31-15A-2(h). Because of the unavoidable conflict between the Infrastructure Amendment, H.B. 2037 and Article 10, Section 6, the Infrastructure Improvement Bonds "supersede the general bond limitations." Winkler, 189 W.Va. at 755, 434 S.E.2d at 427.

Proposed Emergency Rule 5.9 would effectively undermine the goals of the Infrastructure Amendment and the authorizing legislation. The passage of the Infrastructure Amendment and the approval by the legislature and Governor Caperton of H.B. 2037 represent a consensus that West Virginia has too many areas and too many people that are not served by a safe, reliable drinking water supply. This condition inhibits economic growth, job creation, and improvements in the standard of living of West Virginians, directly and indirectly. The Infrastructure Amendment and H.B. 2037 were approved to reverse this pattern.

Proposed Emergency Rule 5.9 is inconsistent with the spirit of the Infrastructure Amendment and H.B. 2037. The Infrastructure Amendment makes clear that it is concerned with the "repair and improvement of water supply and sewage treatment systems" and makes no distinctions between public and private water suppliers. See H.J.R. 500. The Infrastructure Amendment attempts

[1] Article 10, Section 6 of the Constitution reads in full:

> The credit of the State shall not be granted to, or in aid of any county, city, township, corporation or person; nor shall the State ever assume, or become responsible for the debts or liabilities of any county, city, township, corporation, or person; nor shall the State ever hereafter become a joint owner, or stockholder in any company or association in this State or elsewhere, formed for any purpose whatever.

to facilitate the extension and improvement of water service, whether by private companies or public providers.

House Bill 2037 distinguished between not-for-profit and for-profit water providers by excluding for-profit entities from receiving initial grants and below market interest rate loans. H.B. 2037, amending W. Va. Code § 31-15A-9(f). The legislature also considered specific terms which it wanted included in loan and grant agreements, and notably, it did not require repayment of grant moneys if at some future point project sponsors, for whatever good reasons that may exist, decide to sell their systems to private entities. Id., amending W. Va. Code § 31-15A-9(d). Given (i) the policy of the amendment and H.B. 2037 to improve the provision of water service in the State, (ii) the legislature's consideration of distinctions between public and private water providers, (iii) its inclusion in legislation of specific terms which it wanted in agreements, (iv) the failure of the legislature to impose conditions upon project sponsors in transactions with for-profit entities, and (v) the continued use of the projects for the same purpose for which they were constructed (rendering water service), it is inconsistent with the Infrastructure Amendment and H.B. 2037 to include such restrictions for the first time in the Emergency Rules. In addition, because any projects constructed with grant monies and acquired by the Company constitute "contributions in aid of construction" and are thus excluded from West Virginia-American's rate base for purposes of determining its level of rates, the Company does not earn a return on these facilities.

Proposed Emergency Rule 5.9 would thwart the goals of the Infrastructure Amendment and H.B. 2037 by introducing inflexibility where flexibility is needed, and by creating an artificial barrier to participation by private water providers in resolution of the State's water problems. Under the Infrastructure Amendment and H.B. 2037, grants will be issued to not-for-profit and governmental water providers to create new water systems or improve existing systems. H.B. 2037 amending W. Va. Code § 31-15A-10(a). As with all water systems, the needs of these systems will change over time as the communities and the legal and regulatory environment change. A large commercial entity may locate in or move from an area served by an infrastructure project; unexpected residential growth or decline may occur; or regulatory requirements may change such that it may no longer be possible or cost effective for a project sponsor to continue to operate its system.

Flexibility is needed in order to address the changing needs of project sponsors. When confronted with problems project sponsors may wish to pursue solutions with private water providers. However, Proposed Emergency Rule 5.9 will in many instances make it prohibitively expensive for project sponsors to enter into agreements with private entities. As a consequence, project sponsors will have their choices restricted to (i) continuing to operate on their own, though failing to meet the needs of the community they serve and/or imposing excessive rates on their customers; or (ii) entering into agreements with a not-for-profit or governmental water provider which may not meet the needs of the project sponsors as well as a private water supplier could; or (iii) seeking additional increasingly limited grants or subsidized loans as may be available. As a result of choosing any of these less than optimal solutions, the problems which the Infrastructure Amendment and H.B. 2037 attempt to resolve will recur.

This prospect is not hypothetical. West Virginia-American recently experienced this very problem in its acquisition of the Winfield water system. In that case, the residential growth of the Winfield area exceeded the ability of the Winfield system or the adjoining Public Service District ("PSD") to adequately serve its customers. Winfield considered constructing the needed improvements on its own, however it believed that this would place intolerable burdens on its ratepayers. Winfield then solicited proposals from both West Virginia-American and the adjoining PSD. The Town found West Virginia-American's offer superior because West Virginia-American could quickly put in place the infrastructure assets Winfield needed, including a 250,000 gallon storage tank and connection to West Virginia-American's state-of-the-art Kanawha Valley Treatment Facility. This Facility has capacity to serve Winfield and many other communities. The adjoining PSD had not, and still has not, obtained approval to upgrade its treatment plant. In hearings before the Public Service Commission of West Virginia, the issue arose as to whether West Virginia-American would be obligated to repay federal grants which Winfield received to construct its system. While West Virginia-American was willing, in that instance, to repay grants, West Virginia-American did not believe that repayment would be required because it had <u>not</u> been required to repay similar grants in other acquisitions. Further, we believe that no repayment of grants will be required in the Winfield matter. If West Virginia-American is forced regularly to repay grants, obviously that will make such service possibilities less attractive to West Virginia-American and other private entities. Project sponsors will be precluded from considering solutions offered by private water providers, leaving customers unserved or ill-served. This need not and should not occur. An alternative to Proposed Emergency Rule 5.9 is available which would advance the goals of the Council, the Infrastructure Amendment, and H.B. 2037.

Specific terms of Proposed Emergency Rule 5.9 are objectionable. Proposed Emergency Rule 5.9 provides that "the project sponsor shall reimburse the Infrastructure Fund the proportionate amount of infrastructure money received," without specifying whether this is proportionate to the initial cost of construction or the total costs of construction, less depreciation and maintenance of the facility. Proposed Rule 5.9 states that repayment will be based upon "the value of the project at the time of sale." As used, "value" is ambiguous, and this alone may prevent some transactions from going forward. Would "value" be based upon depreciated original cost or some unspecified appraisal method? Both are objectionable because they do not reflect how private water providers value systems. Private water providers are not in the pipe business, but rather are in the water service business. When considering the acquisition of a system, we look to the number of customers which can be served or will be served; the original cost of construction of the system seeking relief is often irrelevant. West Virginia-American strongly objects to the last sentence of Proposed Emergency Rule 5.9, which would appear to give the Council open ended authority to impose additional restrictions on agreements between project sponsors and private entities. The uncertainty this creates will chill many agreements which otherwise would make sense, and offends basic notions of fairness.

So long as Infrastructure Fund grants are used for their original purpose of providing quality utility service, and private entities do not reap a windfall from grants, the Infrastructure Council should be indifferent about whether a project sponsor sells to a private, not-for-profit or governmental entity. These goals can be accomplished without the counterproductive restrictions contained in Proposed Emergency Rule 5.9.

AN ALTERNATIVE TO PROPOSED EMERGENCY RULE 5.9

Alternative wording of Proposed Emergency Rule 5.9 is available which would prevent private entities from benefitting from grants issued to project sponsors in contemplation of conveying them to private entities. This alternative would also preserve the flexibility which will enable project sponsor to address their future needs. Specifically, Proposed Rule 5.9 could provide that:

(a) Where a project sponsor has received infrastructure grant money to fund a project, and such project is then sold to a for-profit entity, the project sponsor shall not be required to reimburse the Infrastructure Fund if:

(i) the project sponsor operated the system for ten years or more;

(ii) the for-profit entity will continue to provide water through the grant subsidized system; and

(iii) the for-profit entity does not earn a return on that portion of the system built with grant funds.

(b) Where a project sponsor has received infrastructure grant money to fund a project, and such project is then sold to a for-profit entity, and such transfer does not comply with subsection (a) of this Rule, the cash proceeds of sale shall be distributed, in the following manner:

(i) the project sponsor shall first recoup in full the unadjusted dollar amount of their portion of total project costs (including any transaction and fix-up cost they incur) associated with the infrastructure asset involved;

(ii) if proceeds remain, then the Infrastructure Fund shall recoup in full the amount of infrastructure fund grant awards associated with the infrastructure asset, less the applicable share of accumulated depreciation on such asset (calculated using the Internal Revenue Service Accelerated Depreciation Schedule for the categories of asset in question); and

(iii) finally, the project sponsor shall keep any remaining proceeds.

(c) Where a project sponsor has received infrastructure grant money to fund a project which is an extension or improvement of a system that was in existence prior to receipt of the infrastructure grant, and such project is then sold to a for-profit entity, and such transfer does not comply with subsection (a) of this Rule, the project sponsor may petition the Infrastructure Fund to waive recoupment for cause.

Proposed Rule 5.9(b) is a modification of the grant repayment procedure contained in Executive Order 12803. Exec. Order 12803, 57 Fed. Reg. 19,063 (1992).

CONCLUSION

The Infrastructure Improvement Amendment and H.B. 2037 create an opportunity to resolve many of West Virginia's water problems. The private sector can and should be allowed and encouraged to participate in the resolution of those problems for the betterment of the West Virginia economy and its citizens. Proposed Emergency Rule 5.9 discourages private investment when it would otherwise make sense for private companies to enter into agreements to address the water needs of citizens. The Infrastructure and Jobs Development Council should not create artificial barriers to the provision of quality water service to residents of this State when a better alternative is available.

Very truly yours,

C E Jarrett

Chris E. Jarrett
President
West Virginia-American Water Company

CEJ/8DB6

West Virginia Rural Water Association
P.O. Box 225 • Teays, WV 25569 • 304/757-0985

COMMENTS TO PROPOSED RULE TITLED
INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL FUNDING RULES

MAY 11, 1995

Section 4.1, 4.2, 4.3

WVRWA Comment: Guidelines on issues that should be considered by the council and other state infrastructure agencies in evaluating project funding request do not indicate what is needed in the applicants engineering studies/report as required in the pre-application process. The Council has provided samples of preliminary engineering reports for water and waste water projects. These sample reports are overly detailed and complex and require information too costly to acquire and unnecessary for determining the economic feasibility of a project. It appears the Council is requiring more detailed information in the pre-application process than intended by the Infrastructure and Jobs Development Act.

WVRWA Recommendation: The Council should include in the proposed rules (or as an attachment thereto) minimum requirements for preliminary engineering reports/studies needed to determine a project's economic feasibility.

5.7 Grant Criteria

WVRWA Comments: The Council proposes to determine median household income by using the Bureau of Census established minor civil division (MCD) most closely related to the geographic boundaries of the project sponsor. Use of the MCD does not reflect true boundaries for the variety of income levels which may be served by a proposed project. Very low income areas may be unable to pay the level of rates that could result from using MCD.

WVRWA Recommendation: Another means of determining median household is needed such as conducting surveys similar to those conducted by the FMHA or HUD for block grants.

5.5 Eligible Grant Recipients:

WVRWA Comments: The rule proposes to prohibit the WDA from providing grants to any project where the project, if funded, will provide subsidized services to certain users in the service area of the project. Clarification is needed to determine who are those "certain users". A lack of definition could unintentionally discriminate against certain citizens of the state from getting badly needed water and sewer service from a nearby PSD, for example.

WVRWA Recommendation: Include language in the rules defining "certain users". WVRWA should be given additional opportunity to comment and propose amendments if necessary upon clarification.

West Virginia Rural Water Association
P.O. Box 225 • Teays, WV 25569 • 304/757-0985

Comments by WVRWA to proposed rules continued

5.10 Loans.

WVRWA Comments and Recommendations: Same comment and recommendation given for 5.5.

5.15 Advance Funding Assistance:

WVRWA Comments: The amount of and limit to funding assistance provided by the Council to the project sponsor to defray the expenses of engineering studies and requirements for the pre-application process is ambiguous. Intent to limit the amount of assistance for pre-application costs to an amount equal to $5,000 is negated by language providing for, "fifty percent of the total pre-application cost, whichever is greater". Is this a mistake - should it read "whichever is less"?

WVRWA Recommendation: Clarification is needed.

REVIEW OF COMMENTS ON PROPOSED
INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL RULES
AND OBSERVATIONS ON COMMENTS

EDWARD L. SHUTT, P.E.

1. Comment questions the need for the Emergency Rules at this time. The Rules were drafted as required by the statute and the legislative rule process not just to deal with the allocation of bond proceeds.

2. Comment questions need for economic impact on user rates. Rate increases, if any, will stem from increased O & M and capital costs. Specific projects may have rate increases but not uniform rate increase caused by the Rules. With respect to the fiscal note, the proposed rules do not include any type of user fee to pay for program costs, therefore the comment with respect to fiscal note is not applicable.

3. The comments dealing with paragraphs 2.12, 2.19 and 5.5 relate to statuary language which should be more appropriately addressed to the legislature than to the rulemaking body.

4. Paragraph 5.7, Appendix A does not relate specifically to mainline extensions so comment is unclear.

5. 5.9 - The Act does not provide for the repayment of grants, thus the Council can lock in a specific formula or leave it open to be handled on a case by case basis.

THE COUNTY COMMISSION OF HARDY COUNTY (the "Commission")

1. The Commission recommends exempting projects not requesting infrastructure money from the Council review. A statutory change would be required to do this.

2. The Commission recommends that the 80% funding for water and sewer be divided equally. Locking in a 50/50 formula may restrict the Council's ability to act rapidly on necessary projects.

3. The Commission recommends using income surveys to determine income levels The Act does not specifically include a provision for paying for income surveys and income surveys are subject to manipulation.

4. The Commission advocates focusing on local participation in the application process and questions the need for advanced fees. The advanced fees for preparing certain types of applications is provided for in the Act subject to Council's approval.

5. The Commission recommends speedy treatment of economic development projects. With regard to economic development projects, it should be clarified that separate rules will be drafted.

HARDY COUNTY RURAL DEVELOPMENT AUTHORITY (the "Authority")

1. The Authority questions the need for Council review of certain projects. With respect to projects to be reviewed by the Council, requirements are statutory, exemptions are to be

provided by the Legislature. The Council has also set up a committee to review projects for exemption.

2. The Authority recommends balancing the 80% funding between water and sewer projects. A set split between water and sewer may not allow the Council the most flexibility.

3. The Authority recommends providing for income surveys. Income surveys are subject to manipulation and are expensive.

4. The Authority recommends that Council funding be prioritized and directed to local governments. Comment on prioritizing projects and tying to local government utilization should be reviewed.

5. The Authority is opposed to advance fees for project application or reserve. (Could income surveys be paid from advance fees?)

SMITH ENVIRONMENTAL TECHNOLOGIES CORPORATION ("Smith")

1. Smith is concerned with the affordability of projects and the availability of funding to enhance low income areas.

2. Smith advocates that the rules should allow for the selling of facilities without strings, promoting privatization.

3. Smith promotes encouraging for profit entities and supports loans to private entities as an incentive-using prime minus one.

4. Smith suggests that the Council cap loan amounts, similar to the PENNVEST provision.

WEST VIRGINIA ASSOCIATION OF REGIONAL PLANNING AND DEVELOPMENT COUNCILS (the "Association")

The Association recommends that the Council:

1. Define infrastructure grant money.

2. Reduce statewide multiplier.

3. Utilize block groups (BG) rather than minor civil divisions (MCD).

4. Clarify subsidized services.

5. Clarify additional rules for infrastructure (economic development) projects.

The Council should consider defining "infrastructure grant money" if that term is being generally misused. The Council may request legislation guidance on "subsidized services."

REGION VIII PLANNING AND DEVELOPMENT COUNCIL ("Council")

The Council endorses and supports the comments and recommendations provided by the Association of Regional Planning and Development Councils.

PUTNAM COUNTY DEVELOPMENT AUTHORITY (the "Authority")

1. The Authority is concerned with costs of expanding systems to meet needs of a new or expanding business and impact of rates from such expansion. This should be addressed in the rules for infrastructure projects.

2. The Authority is concerned that rules appear to favor poorer areas and questions the method of awarding grants. The minimum end user rate that is necessary before grant funding is available should limit unfeasible projects.

3. The Authority suggests targeting the funding to growth areas.

4. The Authority suggests that customers in growth areas are paying twice - but should note that funding is supported by coal severance tax not general income taxes.

BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATION ("BIDCO")

BIDCO comments reflect a concern with financing for job expansion projects and concern with expanding water and sewer infrastructure to enhance and attract business. BIDCO recommends separate rules for infrastructure projects.

The infrastructure projects rules should address BIDCO's concerns and recommendations.

WEST VIRGINIA RURAL WATER ASSOCIATION ("RWA")

RWA recommends establishing minimum requirements for preliminary reports and studies; using surveys to determine median household income, clarifying subsidized "services to certain users;" and clarifying advanced funding assistance.

WEST VIRGINIA-AMERICAN WATER COMPANY ("WV-AWC")

1. WV-AWC is concerned with the repayment of grant funds when a public infrastructure fund financed project is sold to a private entity and recommends for alternative language which would not discourage for-profit participation and expansion.

SUMMARY:

Comments to proposed rules are by the nature negative or written in an attempt to induce change. The comments were for the most part well thought out and reflect a genuine intent to make the process work, and work efficiently. Certain themes were consistent throughout the comments: (1) need for infrastructure project rules, (2) clarification of the "subsidized service" language, and (3) request for use of income surveys or other source of income information when determining minimum end user rate. The comments also included a concern that the Council's funds be used for bricks and mortar and that local input is important in maximizing use of money.

RECOMMENDATION:

Joint meeting with Council and Regional Planning Council representatives to obtain more local input.

ABB09135

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

MINUTES

A meeting of the West Virginia Infrastructure and Jobs Development Council (the "Council") was held on Wednesday, June 7, 1995, beginning at 9 a.m. in the Governor's Press Conference Room, Capitol Building, Charleston, West Virginia.

A quorum was constituted by the following voting members present:

Fred Cutlip (Designee), West Virginia Development Office
Susan Riggs (Designee), Public Service Commission
Joe Hatfield, Housing Development Fund
Russell Isaacs (Public Member), Chairman
Joseph Schock (Designee), Bureau of Public Health
Mark Scott (Designee), Division of Environmental Protection
David Warner, Economic Development Authority
James Williams (Public Member), Vice Chairman
Daniel Yonkosky, Water Development Authority

Nonvoting, advisory members present were:

John Hedrick, State Rail Authority
Frank Justice, Board of Trustees of the University of West Virginia
David Long, Board of Directors of the State College System
Fred VanKirk, Division of Highways
Bill Wallace, West Virginia House of Delegates

Nonvoting, advisory members absent were:

Robert Kiss, West Virginia House of Delegates
Robert Plymale, West Virginia Senate
Earl Ray Tomblin, West Virginia Senate

Also in attendance were:

Francis Albright, Smith Environmental Technologies Corporation
Jim Anderson, Rural Economic & Community Development
Ron Ashbaker, Clarksburg Water Board
Diana Barber, Water Development Authority
Greg Belcher, Chapman Technical Group
David Bostic, Kanawha County Commission
Jennifer Bundy, Associated Press
Dwight Calhoun, West Virginia Rural Water Association
Judy Celayir, Region VI Planning & Development Council
Harvey Chapman, Chapman Technical Group
John Clark, GAI Consultants, Inc.
Bob Coit, Region VII Planning & Development Council
Vince Collins, Steptoe & Johnson
Michele Craig, Region II Planning & Development Council
Charles Crow, Salt Rock Water PSD
Paul Daniels, Bureau of Public Health
Joe Dunn, Dunn Engineers, Inc.
Ken Dyche, Region VIII Planning & Development Council

John Eleyette, City of Shinnston
James Ennis, GAI Consultants, Inc.
Ralph Goolsby, West Virginia Development Office
Ken Green, Region IX Planning & Development Council
Amy Haberbosch-Arco, Region VI Planning & Development Council
Patti Hamilton, Public Service Commission
Lynn Hartman, West Virginia Rural Water Association
Greg Herrick, Burgess & Niple Limited
James Hull, Region VI Planning & Development Council
Frederick Hypes, Division of Environmental Protection
Chris Jarrett, West Virginia-American Water Company
Jim Jeffrey, Logan County PSD
Mike Johnson, Division of Environmental Protection
Norman Kirkham, Region I Planning & Development Council
Debbie Legg, West Virginia Development Office
Bobby Lewis, Rural Economic & Community Development
Randall Lewis, Region II Planning & Development Council
Larry Long, West Virginia Development Office
Robert McCall, Kelley, Gidley, Blair & Wolfe
Becky McClure, West Virginia-American Water Company
Bruce McDaniel, City of Fairmont
Paul Mattox, Woolpert Consultants
Randy Maynor, City of Mount Hope
Barbara Meadows, Water Development Authority
David Michael, Region II Planning & Development Council
Tim Myers, US Army Corps of Engineers
James Mylott, Region V Planning & Development Council
Douglas Olds, Water Development Authority
Lisa Oparnico, Neilan Engineers
Pat Patterson, South Charleston Sanitary Board
Craig Richards, Burgess & Niple Limited
Rick Roberts, Logan County PSD
John Romano, Region III Planning & Development Council
Steve Sanders, Flatwoods-Canoe Run PSD
David Schultz, Business & Industrial Development Corporation
Howard Seufer, West Virginia Association of Public Service Districts
Edward Shutt, Stafford Consultants
John Stump, Steptoe & Johnson
Charles Welker, Neilan Engineers
James Wesolowski, Bluewell PSD
John Yeager, US Army Corps of Engineers
Ken Yost, City of Shinnston

The meeting was called to order by Russell Isaacs, Chairman. The Chair asked for corrections to the minutes of the May 3, 1995, meeting. Joseph Schock moved that the minutes be approved as previously mailed to the Council. Mark Scott seconded, and all approved.

Daniel Yonkosky, Chief Administrative Officer, presented a request by the Water Development Authority, the administrative agency for the Council, for reimbursement of the following administrative expenses incurred by the Water Development Authority for the period July 1, 1994, through May 31, 1995, on behalf of the Council: Office Expenses - $3,136.08, Printing - $195.25, and Legal - $46,512.93, totalling $49,844.26. James Williams moved the Council approve the request for reimbursement. Fred Cutlip seconded, and all approved.

Mr. Yonkosky, Chairman of the Funding Committee, reported that each of the twenty-three preliminary applications formally accepted by the Council at its May 3 meeting was first reviewed by the appropriate technical committee and then reviewed by the Funding Committee. Mr. Yonkosky moved that the Funding Committee recommendation on each preliminary application be adopted as presented. Joe Hatfield seconded the motion.

(1) Berkeley County Public Service Sewer District - The proposed sewer project for Quad Graphics was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the PSSD obtain a State Revolving Fund loan of $750,000 from the Division of Environmental Protection.

(2) Bluewell Public Service District - The proposed water project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the PSD utilize a Small Cities Block Grant of $500,000 and Rural Economic and Community Development funding of $1,180,000.

(3) Town of Burnsville - The proposed sewer project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended that the Town utilize a Small Cities Block Grant of $750,000 and Rural Economic and Community Development funding of $684,000.

(4) Cabell County Commission - The proposed Upper Madison Creek water project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the Commission proceed using the proposed financing of $3,349.96 in local customer contributions, $23,133.60 from the Salt Rock Water PSD, and $60,000 from the Cabell County Commission.

(5) Town of Davis - The proposed water project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the Town utilize a Small Cities Block Grant of $750,000 and Rural Economic and Community Development funding of $1,010,000.

(6) City of Elkins - The proposed sewer project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the City obtain a State Revolving Fund loan of $280,200 from the Division of Environmental Protection.

(7) Town of Farmington - The proposed sewer project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended that the Town utilize a Small Cities Block Grant of $970,000 and Rural Economic and Community Development funding of $730,000.

(8) Flatwoods-Canoe Run Public Service District - The proposed water project for Weyerhaeuser was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended that the PSD proceed using the proposed financing of a $50,000 contribution from Weyerhaeuser, an Appalachian Regional Commission grant of $300,000 and Rural Economic and Community Development funding of $240,000.

(9) Flatwoods-Canoe Run Public Service District - The proposed sewer project for Weyerhaeuser was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended that the PSD proceed using the proposed financing of an Appalachian Regional Commission grant of $860,000.

(10) Four States Public Service District - The proposed water project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the PSD obtain a Small Cities Block Grant of $449,350. The Marion County Commission must submit a letter to the West Virginia Development Office stating that this project is the county's highest priority project.

(11) City of Glenville - The proposed sewer project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the City utilize a Small Cities Block Grant of $1,250,000 and Rural Economic and Community Development funding of $1,674,000.

(12) Town of Grant Town - The proposed water project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the Town obtain a $250,000 loan from the Water Development Authority.

(13) City of Kingwood - The proposed sewer project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the City obtain a State Revolving Fund loan of $750,000 from the Division of Environmental Protection.

(14) Leadsville Public Service District - The proposed water project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the PSD obtain a Small Cities Block Grant of $750,000 and Rural Economic and Community Development funding of $744,000.

(15) Lincoln County Commission - The proposed Harts Creek water project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the Commission pursue a Small Cities Block Grant of $1,250,000 and local borrowing of $750,000. The Lincoln County Commission must submit a letter to the West Virginia Development Office stating that this project is the county's highest priority project.

(16) Town of Masontown - The proposed sewer project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended that the Town obtain a Small Cities Block Grant of $750,000 and Rural Economic and Community Development funding of $4,350,000.

(17) Midland Public Service District - The proposed water project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the PSD finance this project by providing $18,000 and pursuing Rural Economic and Community Development funding of $259,350 and a Randolph County grant of $8,000.

(18) Town of Mill Creek - The proposed water project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended that the Town either pursue Rural Economic and Community Development funding of $550,000 or obtain a loan in that amount from the Water Development Authority.

(19) Town of Newburg - The proposed sewer project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended that the Town obtain a Small Cities Block Grant of $1,060,000 and Rural Economic and Community Development funding of $600,000.

(20) Town of Tunnelton - The proposed sewer project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended that the Town obtain a Small Cities Block Grant of $833,000 and Rural Economic and Community Development funding of $900,000.

(21) Town of West Hamlin - The proposed water project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended that the Town obtain a Small Cities Block Grant of $200,000 and provide local funds of $47,500.

(22) Town of West Union - The proposed sewer project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended that the Town obtain a Small Cities Block Grant of $1,250,000 and Rural Economic and Community Development funding of $1,681,000.

(23) City of Weston - The proposed sewer project was determined to be technically feasible within the guidelines of the Act. The Funding Committee recommended the City proceed with the proposed financing of a $300,000 contribution from Sharp State Hospital, a $249,000 contribution from the Lewis County School Board, a $750,000 Small Cities Block Grant, and a $2,897,346 loan from the Division of Environmental Protection's State Revolving Fund Program.

Chairman Isaacs asked for discussion on the motion that the Funding Committee's recommendation on each preliminary application be adopted as presented. There being none, the Chair called for the vote; and the motion was adopted unanimously.

Mr. Yonkosky reported that the preliminary applications for the Kopperston PSD (water), Town of Oceana (water) and Town of West Hamlin (sewer) were reviewed by the technical review committees and determined to be technically feasible within the guidelines of the Act. The Funding Committee, however, cannot determine whether the proposed projects are the best utilization of available resources until the Consolidation Committee complies with Section 6C of the Act. The project sponsors have been notified, and the Consolidation Committee will schedule meetings with all appropriate representatives to discuss these proposed projects.

Regarding pending preliminary applications for Logan County PSD, Ohio County PSD and City of Romney, Mr. Yonkosky reported that, on the basis of preliminary reviews by the Funding Committee, these projects may be eligible for financial assistance from the Infrastructure Fund. The Council cannot predict if or when the Infrastructure General Obligation Bonds will be issued and, therefore, when moneys will be available in the Infrastructure Fund. The Funding Committee recommended that, in the meantime, the project sponsors should proceed by pursuing the other funding sources listed in the preliminary applications for these projects:

(1) Logan County PSD (Pecks Mill) (water) - The funding sources included a Small Cities Block Grant of $1,250,000 and an Abandoned Mine Lands grant from the Division of Environmental Protection of $2,750,000. Susan Riggs moved that the Council provide notification to the project sponsor that the project is pending regarding Infrastructure Funds but that the project can proceed with seeking conventional funding if it desires to do so. Mr. Schock seconded the motion. All approved.

(2) Ohio County PSD (Village of Valley Grove) (sewer) - The funding sources included a Small Cities Block Grant of $1,250,000. Ms. Riggs moved that the Council provide notification to the project sponsor that the project is pending regarding Infrastructure Funds but that the project can proceed with seeking conventional funding if it desires to do so. Mr. Schock seconded the motion. All approved.

(3) City of Romney (water) - The funding sources included a Small Cities Block Grant of $750,000 and Rural Economic and Community Development funding of $2,900,000. Ms. Riggs moved that the Council provide notification to the project sponsor that the project is pending regarding Infrastructure Funds but that the project can proceed with seeking conventional funding if it desires to do so. Mr. Schock seconded the motion. All approved.

Mr. Yonkosky noted that preliminary applications for the Century-Volga PSD (water), Hamrick PSD (sewer), Lewis County Commission (Jane Lew Water Commission) (water), Town of Monongah (sewer), Preston County PSD No. 4 (water), City of St. Albans (sewer) and City of Weirton (water - 4) were reviewed by the appropriate technical committees which recommended the preliminary applications be returned because they did not include sufficient information. The project sponsors and the Regional Planning & Development Councils were informed (notification included copies of technical review committees' comments). The preliminary applications may be resubmitted.

Mr. Yonkosky stated that twenty-one preliminary applications have been received since the Council's May 3 meeting: Infrastructure - Benedum Airport Authority, Business Development Corporation of the Northern Panhandle, Cabell County Commission, Hall Valley Estates and Town of Paw Paw; Sewer - Town of Clay, Town of Harrisville, Town of Mason, Northern Wayne County PSD, City of Oak Hill, City of St. Albans and City of Weirton; Water - City of Belington, Kanawha County Commission, Town of Lumberport, Page-Kincaid PSD, City of Petersburg, Putnam-Union PSD, Salt Rock Water PSD, Upshur County Commission (Elkins Road PSD) and City of Wellsburg. After technical and funding reviews are completed, the Funding Committee will provide recommendations to the Council at its July meeting.

Mr. Yonkosky announced the establishment of a deadline for receipt of preliminary applications: **4 p.m. on the Friday preceding the Council's meeting on the first Wednesday of each month.** Preliminary applications received after this deadline will be included in the review process but will not be formally accepted by the Council until the following meeting, at which time the 30-day review period officially begins.

Mr. Hatfield, Chairman of the Consolidation Committee, reported that the Committee met on June 1 to interview representatives for the three remaining respondents to the Request for Proposals for the consolidation study. On June 2, the Committee continued deliberations on the five proposals received.

He then moved that the Council accept the Consolidation Committee's unanimous recommendation that the Committee enter into negotiations with Vista Consulting Group, Inc. to develop a contract for the consolidation study. Dave Warner seconded, and all approved.

Concerning the Cottageville PSD, Mr. Hatfield reported that representatives of the District and the Regional Planning & Development Council are still reviewing the prospect of an operating agreement. Also, the Jackson County Commission is reviewing all public service districts in the county. The Committee will wait for the Regional Planning & Development Council's report before making a recommendation on consolidation to the Funding Committee.

Ms. Riggs provided a written report for the Exempt Projects Committee, created to determine which projects do not fall under the purview of the Council, and reported the following:

(1) The City of Parkersburg intends to use 1994 Community Development Block Grant funds to extend wastewater service to an industrial site. Because the City of Parkersburg is designated an "entitlement" city that receives funds directly from the federal government, the City's project is exempt and the City does not need to submit a preliminary application for the Council's review unless funding from a State infrastructure agency is requested.

(2) The City of Princeton intends to apply for Small Cities Block Grant (SCBG) funds to complete spot demolition of condemned structures on a city-wide basis. The Committee has determined that demolition of condemned structures does not fall within the definition of infrastructure project or project and, therefore, the City's request for SCBG funds is exempt from Council review.

(3) The Big Bend Public Service District intends to use approximately $35,000 in surplus SCBG funds from a 1992 project to correct a serious health threat occurring in a water/sewer system. Because these funds were committed from the 1992 SCBG program, the Committee has determined that the District's use of the funds would be exempt from Council review.

Ms. Riggs also brought to the attention of the Council the matter of cost overruns on projects that began construction prior to July 1, 1994, and which need additional funding from the State infrastructure agency (agencies) that originally funded the projects. The Exempt Projects Committee recommended that the project sponsor in such a situation should not be required to submit a preliminary application to the Council but that the infrastructure agency should present the request for additional funding to the technical review committee for a recommendation to the Council. Ms. Riggs moved that the Council adopt the Exempt Projects Committee's recommendations. Mr. Schock seconded; all agreed.

Fred VanKirk, Chairman of the Highways Committee which was created to study the prospective infrastructure needs relating to the Division of Highways' plans to develop and build new roads, reported that the Division of Highways has completed the Draft Environmental Impact Statement for the Merrick Creek Connector between US Route 60 and West Virginia Route 2 in Cabell County and that, within a few months, a preferred alternate will be chosen. The Cabell County Commission has requested the appointment of a local infrastructure planning committee in Cabell County. Mr. Scott moved the Council authorize the appointment of a local infrastructure planning team in Cabell County. Mr. Schock seconded the motion, and all approved.

Mr. VanKirk reported that the Highways Committee had met with the Wayne County infrastructure planning committee regarding the Tolsia Highway.

Mr. Scott reported that the Sewer Assessment Committee completed technical reviews on seventeen preliminary applications and forwarded its recommendations to the Funding Committee. The statewide sewer assessment of existing and future needs was initiated during April and continued during May. The Division of Environmental Protection has identified 144 areas of need within 21 counties.

Chairman Isaacs, speaking for himself and on behalf of other Council members, expressed congratulations to Mark Scott for having been appointed Deputy Director of the Division of Environmental Protection.

Mr. Schock reported that the Water Assessment Committee completed technical reviews on twenty-one preliminary applications and forwarded its recommendations to the Funding Committee.

Mr. Yonkosky emphasized the need for any additional comments on the emergency rules by June 21 so the Council can discuss at its July meeting proposed legislative rules that must be filed with the Legislative Rule Making Review Committee before the end of July.

Discussion concerning the preliminary application form for economic development projects was begun by Mr. Cutlip. He explained the slight changes in the draft document and the procedures for submitting the forms. Requests for the forms should be made to the Water Development Authority but the completed preliminary applications are to be submitted directly to the West Virginia Development Office. After a comprehensive review by its technical review committee, the West Virginia Development Office's recommendation will be presented to the Council for action. The 30-day cycle for review also applies to economic development projects. Mr. Cutlip moved that the Council adopt the preliminary application form titled "West Virginia Economic Infrastructure Fund, Preliminary Application for Financial Assistance." Mr. Schock seconded, and all approved.

Mr. Cutlip reported that rules are being developed for infrastructure projects.

The proposed funding of stormwater projects was discussed briefly. The Chair asked the Exempt Projects Committee to study the question and develop a policy for Council consideration.

Chairman Isaacs reported the petition for writ of mandamus was filed with the Circuit Court of Kanawha County. An order consolidating the cases (West Virginia Water Development Authority v. West Virginia Infrastructure and Jobs Development Council, Civil Action No. 95-MISC-293; and State of West Virginia ex rel. Thornton Cooper v. Honorable Gaston Caperton, Governor of the State of West Virginia; Honorable Larrie Bailey, Treasurer of the State of West Virginia; and the Honorable Ken Hechler, Secretary of State of the State of West Virginia, Civil Action No. 95-MISC-290) was entered by Circuit Judge Herman G. Canady, Jr. The original hearing date of August 8 was changed to June 26. [Subsequently, the June 26 date was rescheduled to July 5.]

There being no further business, Chairman Isaacs adjourned the meeting at 10:10 a.m.

Barbara B Meadows CPS/CPA