WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION
Form #2

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OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Public Energy Authority TITLE NUMBER: 53

RULE TYPE: Legislative ; CITE AUTHORITY 5D-1-5(8)

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: Establishment of Fee Schedule and Cost Allocations Applicable to the Issuance of Bonds by the West Virginia Pubic Energy Authority

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON February 20, 1990 AT 4:30 p.m.. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Jim Cristy
Public Energy Authority
Community & Industiral Dev.
Building 1, Room M-146
Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

David Cost
General Counsel

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

West Virginia

DEPARTMENT OF COMMERCE,
LABOR & ENVIRONMENTAL RESOURCES

OFFICE OF THE SECRETARY

State Capitol Charleston, West Virginia 25305 304/348-3255

February 9, 1990

The Honorable Ken Hechler
Secretary of State
State Capitol Building
Charleston, WV 25305

Re: Public Energy Authority Regulations

Dear Mr. Secretary:

The West Virginia Public Energy Authority has filed with your office proposed regulations; of those submitted one deals with charges for the PEA's issuance of bonds and the second with its exercise of it's eminent domain powers pursuant to Chapter 54 of the West Virginia Code. These two proposed regulations are legislative rules and require legislative approval. The third is purely procedural dealings with notice of the PEA's meetings and is consistent with the present statute relating to the same subject.

As Secretary of Commerce, I am in complete agreement with the proposed regulations and authorize their submission.

Respectfully yours,

Leonard A. Harvey
Secretary of Commerce,
Labor and Environmental Resources

LAH:ml

cc: PEA Board Members
J. David Cecil, Legal Counsel

WEST VIRGINIA LEGISLATIVE RULE
WEST VIRGINIA PUBLIC ENERGY AUTHORITY
CHAPTER 5D-1
SERIES 1

Title: Establishment of Fee Schedule and Cost Allocations Applicable to the Issuance of Bonds by the West Virginia Public Energy Authority.

Section 1. General.

1.1 Scope - This legislative rule establishes the fee schedule and the allocation of costs applicable to the issuance of bonds by the West Virginia Public Energy Authority.

1.2 Authority - West Virginia Code, 1931, §5D-1-5(8), as amended.

1.3 Filing Date -

1.4 Effective Date -

Section 2. Establishment of Fee Schedule for the Issuance of Bonds of West Virginia Public Energy Authority.

2.1 Pursuant to the provisions of West Virginia Code, 1931, §5D-1-5(8), the West Virginia Public Energy Authority hereby adopts and establishes the following fee schedule for the issuance of the bonds by the Authority.

Fee Schedule

For financing qualified projects as described in the Public Energy Authority Act [West Virginia Code, 1931, §5D-1-1, et seq., as amended.]

Initial Fee

$ 600.00	per million dollars issued for the first ten million dollars of an issue
$ 375.00	over the next ten million dollars of an issue
$5,000.00	minimum fee

Annual Fee

Maximum of 1/25th of 1% of bonds outstanding

(NOTE: The initial fees will be applied in proportion to any fraction of a million dollars issued.)

2.2 The initial fees shall be payable at closing out of the proceeds of the bond issue.

2.3 The annual fees shall be payable on the anniversary date of the respective issues, as calculated as of the date thirty (30) days immediately preceding said anniversary date.

2.4 The Authority may waive any annual fee upon request of the qualified project.

Section 3. Allocation of Costs Applicable to Issuance of Bonds of West Virginia Public Energy Authority.

3.1 All costs incurred by the Authority that can be directly attributed to a bond issue pending before the Authority shall be allocated to that bond issue and such costs shall be paid at closing out of the proceeds of that bond issue. All such costs shall be in addition to the fees established in Section 2 of this Rule.

3.2 Without limiting in any manner the costs that can be allocated pursuant to Section 3.1 of this Rule, all legal and other professional fees incurred by the Authority that can be attributed to a bond issue shall be allocated to that bond issue and such legal and other professional fees shall be paid at closing out of the proceeds of that bond issue. All such costs shall be in addition to the fees established in Section 2 of this Rule.

3.3 In the event that a bond issue is not consummated for any reason, whether by action of the Authority or otherwise, all costs incurred by the Authority that can be attributed to such bond issue, including any legal and other professional fees, shall be paid by the entity or entities, if any, that proposed or requested such bond issue.

Section 4. Amendment of Fee Schedule.

The Authority may amend, in accordance with law, the fee schedule by the affirmative vote of a majority of the board members and any such amendment shall be binding and applicable to all subsequent issues. Provided, that in no event shall the annual fees established in this Rule exceed an issue's proportionate share of the projected operating expenses of the Authority for the year of assessment as shown in the proposed budget adopted by the Authority for said year of assessment. Provided further, that in no event shall the annual fee established in this Rule for an issue exceed 1/20th of 1% of the bonds outstading for such issue.