

F. LE IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/18/77

WEST VIRGINIA ADMINISTRATION REGULATIONS

PUBLIC SERVICE COMMISSION

CHAPTER 24-1

SERIES I

1977

RULES OF PRACTICE AND PROCEDURE

obsolete

valid 5-18-77

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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA,
at the Capitol in the City of Charleston on the 16th day of March, 1977.

GENERAL ORDER NO. 182

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

IN THE MATTER OF

Revision of Rules of Practice and Procedure.

THIS DATE 3/16/77

WHEREAS, the Commission has previously adopted and promulgated certain rules of practice and procedure effective January 2, 1969, by General Order No. 165, and as amended by 165.1 and 165.2, pursuant to the provisions of Chapter 24 of the Code of West Virginia; and

WHEREAS, the Commission is now of opinion and finds that its present rules of practice and procedure should be amended, revised and reissued in order to facilitate the administration of the public utility laws of the State of West Virginia pursuant to the provisions of Chapter 24 of the Code of West Virginia; and that all previously entered General Orders promulgating rules of practice and procedure which are superseded by and inconsistent with these rules should be cancelled and held for naught.

IT IS, THEREFORE, ORDERED that the rules of practice and procedure set forth in the attached document entitled "Rules of Practice and Procedure", issued March 1, 1977, be, and they hereby are, adopted, promulgated, and issued pursuant to the provisions of Chapter 24 of the Code of West Virginia, to become, and be effective as provided by and pursuant to Chapter 29A, Article 1, Section 2, Code of West Virginia.

RODRIGUEZ & PEASE "NOISE" ®

PEASE "NOISE" ®

IT IS FURTHER ORDERED that the rules of practice and procedure promulgated by General Order Nos. 165, 165.1 and 165.2 be, and they hereby are, cancelled and held for naught, effective as of the date the rules hereby promulgated become effective pursuant to the provisions of Chapter 29A, Article 1, Section 2, Code of West Virginia.

IT IS FURTHER ORDERED that the Secretary of the Commission file copies of this order and these Rules of Practice and Procedure with the Secretary of State, as required by and pursuant to Chapter 29A, Article 2, Section 1, of the Code of West Virginia.

A Copy

Teste:

S. Grover Smith, Jr.
Secretary

RULES OF PRACTICE AND PROCEDURE

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA



THIS DATE

3/1/77

PRESCRIBED BY

PUBLIC SERVICE COMMISSION
OF
WEST VIRGINIA

MARCH 1, 1977

COMMISSIONERS

Brooks E. Smith Chairman
N. Paul Bromley Commissioner
Milford L. Gibson Commissioner

CHARLESTON
1977

**PUBLIC SERVICE COMMISSION
RULES OF PRACTICE AND PROCEDURE**

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**FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA**

THIS DATE 3/19/72

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RULES OF PRACTICE AND PROCEDURE**

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RULES OF PRACTICE AND PROCEDURE

RULE 1 GENERAL OFFICES AND HEARINGS

(a) The general offices of the Public Service Commission shall be kept open, in charge of the Secretary, or some other competent person, each working day from 9 a.m. until 5 p.m. for the purpose of filing complaints, applications and petitions, issuing and returning notices, and making and directing interlocutory motions, orders, rules and other proceedings preparatory to the hearing of cases on the formal docket by the Commission.

(b) Public sessions of the Commission for hearing motions, evidence or oral argument, or for public conference, will be held at its offices in the City of Charleston, or at such other places as may be designated by it, at such time as may be set upon notice by the Commission, subject to change upon such notice as may be practical.

RULE 2 SECRETARY TO FURNISH INFORMATION

The Secretary of the Commission will, upon request, advise any party as to the form of petition, complaint, answer or other paper desired to be filed in any case; and he will make available from the files of the Commission any information required for a full presentation of the facts material to any controversy, investigation or other proceeding.

RULE 3 RECORDS

The Secretary shall keep the following record books, suitably indexed:

(a) Minute Book, in which shall be recorded all general orders, orders paying salaries of members, orders paying the expenses of the Commission and the salaries, compensations, costs and expenses of its employees, and all orders pertaining to the organization and administration of the Commission, together with such orders as may be directed to be entered therein by the Commission. Separate Minute Books shall be kept and maintained for Utility, Motor Carrier, and Gas Pipeline Safety Divisions.

(b) Formal Docket, in which shall be entered each formal case of complaint, investigation, application or petition, with a file number corresponding to the number of the case, together with brief chronological notations of the proceedings had in the case.

(c) Order Book, in which shall be recorded, on the day of their filing, all orders made or passed by the Secretary as of course or by the Commission in any formal case. Separate Order Books shall be kept and maintained for Utility, Motor Carrier and Gas Pipeline Safety Divisions.

(d) Special Order Books, in which shall be entered all applications for permission to change any rate, rule or regulation on less than statutory notice, and the special or informal order of the Commission made thereon without formal hearing. Separate Special Order Books shall be kept and maintained for Utility, Motor Carrier and Gas Pipeline Safety Divisions.

RULE 4 FILING PAPERS

(a) Communications addressed to the Commission and all petitions, applications, answers and other pleadings, all reports, exhibits, depositions, transcripts, orders and other papers or documents, shall be filed in the general offices kept by the Secretary, and shall be stamped showing the date of the receipt thereof.

(b) All papers, of whatever character, offered for filing in any case shall show the title and style of the case and the docket number. The Secretary will not be required to file any paper not so identified.

RULE 5 PARTIES AND PROTESTANTS

Parties to proceedings before the Commission are known as applicants, petitioners, complainants, defendants, respondents, and intervenors.

(a) "**Complainant**" means any party in a formal complaint who complains of anything done or omitted to be done in violation of any law, rule, regulation or order administered or promulgated by the Commission.

(b) "**Defendant**" means any party subject to the laws, rules, regulations and orders administered by the Commission against whom any complaint is filed.

(c) "Intervenor" means any person permitted by the Commission to intervene as a party in any proceeding.

(d) "Respondent" means any party subject to the jurisdiction of the Commission to whom the Commission issues notice instituting a proceeding or investigation or inquiry of the Commission; and any party in interest or person ordered before any pending proceeding of the Commission.

(e) "Applicant" means any party who files an application with the Commission for approval, determination, consent, certification or authorization of the Commission.

(f) "Petitioner" means any party on whose behalf a petition is made for approval, determination, consent, certification or authorization of the Commission.

(g) "Protestant" means any person who objects on the grounds of public or private interest to the approval, determination, consent, certification or authorization of any application, proposed tariff change, or petition which the Commission may have under consideration, and who is not a party to the proceeding.

RULE 6 COMPLAINTS

(a) Informal Complaints

1. Informal Complaints may be made by letter or other writing and as received are filed. Matters thus presented are, if their nature warrants, taken up by correspondence with the utility complained against in an endeavor to bring about satisfaction of the complaint without formal hearing.

2. No form of informal complaint is prescribed, but in substance the letter or other writing must contain the essential elements of a complaint, including name and address of complainant, the correct name of the utility against which complaint is made, a clear and concise statement of the facts involved, and a request for affirmative relief.

3. This informal procedure is found efficacious in the majority of cases, and is recommended. In the event, however, of failure to bring about satisfaction of the complaint because of the inability of the parties to agree as to the facts involved, or from other causes, the proceeding is held to be without prejudice to complainant's right to file and prosecute a formal complaint, whereupon the informal proceeding will be discontinued.

(b) **Formal Complaints**

1. Any person, firm, association of persons, public officer, public or private corporation, municipality or county may complain to the Commission by petition substantially in the form hereinafter prescribed (see Form No. 1) of anything done or omitted to be done by any public utility in violation of any of the provisions of the public service commission law of West Virginia. Two or more complainants may join in one complaint if their respective causes of action are against the same defendant or defendants and involve substantially the same violation of law and a like state of facts. When any defendant is operated by a receiver or trustee, both the utility and its receiver or trustee must be made defendants.

2. The names of all parties, complainant and defendant, must be stated in full without abbreviation, and the address of each complainant, with the name and address of his attorney, if any, must be given.

3. Each formal complaint must be accompanied by copies in sufficient number to enable the Commission to serve one copy on each defendant and retain seven (7) copies for its own use.

4. Formal complaints should be so drawn as to fully and completely advise the defendant or defendants and the Commission wherein the provisions of the law have been, are, or will be violated. Each distinct charge should be stated concisely in a separate paragraph. The complaint should also state specifically the relief sought.

5. All formal complaints must be typewritten or printed on paper not more than 8½ inches wide and 13 inches long, and must be signed.

6. Formal complaints must be sworn to substantially in the form hereinafter prescribed. (see Form No. 13.)

7. When a formal complaint, together with the requisite number of copies, shall have been filed and ordered investigated, the Commission will cause a copy of such complaint to be served upon each defendant, together with a copy of an order requiring the defendant or defendants to satisfy the said complaint or make answer thereto within ten (10) days. Such service shall be by certified mail unless otherwise ordered.

8. When issue is joined by service of an answer on the complainant, the Commission may set a time and place for an evidentiary hearing which will be at its offices in the City of Charleston or elsewhere in the state at the discretion of the Commission. The Commission may issue its order on the pleading, if there are no sub-

stantial issues of fact.

9. The complainant must in all cases establish the facts alleged to constitute a violation of the law, unless the defendant admits the same or fails to answer the complaint.

10. In case of failure to answer, the Commission may hear such proof of facts as it may deem proper and reasonable, and may make such investigation and enter such order as the facts justify and the circumstances may require.

(c) Investigations by Commission

In case of an investigation on motion of the Commission, the notice of investigation will take the place of a formal complaint in such proceeding, and shall be served in like manner as a formal complaint unless otherwise ordered.

(d) Interim Relief

Request for interim relief may be included in a complaint. The title must clearly indicate that interim relief is requested. The pleading must allege such extraordinary facts of immediate and irreparable injury or public interest as would justify the Commission granting interim relief prior to a final decision.

RULE 7 ANSWER AND SERVICE

(a) Time to File

Within ten (10) days from the date of service of the complaint and order above provided for, the defendant or defendants complained against shall file typewritten answer or answers, duly verified. The period so fixed may be shortened or extended by the Commission when it deems advisable.

(b) Answer to an Investigation

An answer to a notice of investigation on the motion of the Commission may be requested.

(c) Service

The original answer and seven (7) copies thereof must be filed with the Secretary of the Commission, and, at the same time, a copy of said answer shall be served, by the defendant serving such answer, personally, or by registered mail, upon each complainant or his attorney. The said defendant shall certify to the Secretary that said service has been made.

(d) **Content**

All answers shall be drawn as to fully and completely advise the parties and the Commission of the nature of the defense, and should admit or deny specifically and in detail each material allegation of the pleading answered.

(e) **Satisfaction**

If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the complainant and defendant must be filed, setting forth when and how the complaint has been satisfied. The proceeding will then be discontinued.

RULE 8 AMENDMENTS

(a) Any application, complaint, document or other pleading may be amended prior to notice of the hearing. After notice of a hearing a written motion for leave to amend any pleading or document may be filed with the Commission and may be authorized in the discretion of the Commission. Any amendment shall contain the notification of service upon all known interested parties. Amendments to any application, complaint, document or other pleading shall not unduly broaden the scope of the issues originally filed with the Commission, unless the Commission shall in its discretion allow such amendments.

(b) Technical forms and allegations in pleadings are not required to be observed in complaints, answers or other papers filed.

(c) **Further Statements**

A further and better statement of any cause or ground of complaint or defense, or further and better particulars of any matter stated in any pleading, may in any case be ordered at the discretion of the Commission.

RULE 9 (RESERVED)

RULE 10 APPLICATIONS FOR AUTHORITY OR PERMISSION

(a) **Change or Discontinue Service**

A railroad, or any other public utility or motor carrier, desiring to discontinue any regular passenger train, or other public ser-

vice facility or service, or to change any regular passenger train schedule or timetable, shall file with the Commission its application for authority so to do, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission; provided (in the case of train schedule or timetable) uniform rules and regulations for such change have not theretofore been filed by such railroad and approved by the Commission. (see Form No. 3.)

(b) Change of Rates

A public utility or motor carrier desiring to change its rates, rules and/or regulations may file with the Commission its application for authority so to do, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such application shall set forth accurately and fully all the rates, rules and regulations of the applicant in effect on the date the application is made, also the proposed rates, rules and regulations in full, and the reasons for the change. (see Form No. 4.)

(c) Certificate of Convenience and Necessity

A public utility, person or corporation desiring to construct any plant, equipment, property or facility for furnishing public utility service or to obtain any franchise, license or permit from any municipality or other governmental agency, except ordinary extensions of its existing system in the usual course of business, or to construct an extension of its existing system into new territory shall file with the Commission an application for a certificate that public convenience and necessity require such construction, franchise, license, permit or extension, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such application shall set forth, or by exhibits attached thereto show, the following: Name and address of petitioner, the city, town or community affected, the nature of the utility service to be furnished, the municipality or other governmental agency from which a franchise, license or permit is to be obtained, a full description of the proposed new construction or extension, including the manner in which the same will be constructed, the names of all public utilities, corporations or persons with whom the proposed new construction or extension is likely to compete, the rates proposed, cost, and estimate of operating revenues and expenses of new construction or extension, the manner, in detail, in which it is proposed to finance the same, and a concise statement of the reasons why a certificate should be issued. (see Form No. 5.)

1. Any municipality, governmental agency, or political subdivision desiring to construct a new system or to make major ex-

tensions to an existing system shall include in its feasibility study: (1) A complete customer listing, which is cross-referenced to the system or project map showing the location of each customer, (2) Which customers have signed contracts for service, (3) Which customers have paid tap fees, (4) Which houses and buildings are plumbed, and (5) Which customers have a private water supply.

2. Any public utility desiring to construct a high voltage transmission line of two hundred thousand (200,000) volts or higher, shall file with the Commission its application for authority to do so, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such application shall include, in addition to the appropriate information required by paragraph (c) above, all of the information required by Rule 9.00 of the Commission's Rules and Regulations for the Government of Electric Utilities.

3. Any person, association, firm or corporation desiring to operate as a common or contract carrier by motor vehicle in the transportation of persons or property for hire over the public highways of this State shall file an application for a certificate of convenience and necessity or a permit to operate as a common or contract motor carrier, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such application shall set forth, or by exhibits attached thereto show, the following: Name and address of the applicant, if a corporation, a copy of the effective charter of incorporation, unless the same has been heretofore filed with the Commission, a description of the type of service to be performed and a description of the area to be served.

(d) Operating Contracts Between Utilities

A public utility, except railroads other than street railroads, desiring to enter into any contract with any other utility to operate its line or plant or to enter into any contract to operate their lines or plants in connection with each other (except physical connections between utilities supplying the same service or commodity for temporary purposes only) shall file with the Commission its application for authority so to do, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such petition shall set forth the name and address of the petitioner, the name and address of the utility whose line or plant is to be operated or whose lines or plants are to be operated in connection with the petitioner, the class of service rendered by the petitioner and the utility whose line or plant is to be operated, the location thereof, a detailed statement covering the operation or connection, the effect it will have upon the service of the petitioner and the utility involved, the consideration to be paid for the service to be rendered, whether or not

any other utility will be affected by the proposed operation and a statement why the prayer of the petition should be granted. (see Form No. 6.)

NOTE: (If the connection is physical between utilities supplying the same service for temporary purposes only, the parties thereto shall immediately give notice to the Commission, in writing, of such connection. Said notice shall state the name and address of the parties, the utility service in which they are engaged, the location of the physical connection and a description thereof and the reason it was made.)

(e) To Control or Acquire Property of Another Utility

A public utility, except railroads other than street railroads, desiring to purchase, lease or in any other manner acquire control, direct or indirect, over the franchise, licenses, permits, plant, equipment, business or other property of any other utility shall file with the Commission its application for authority so to do, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such petition shall set forth the name and address of the petitioner, the name and address of the utility whose property, etc., is sought to be acquired, the financial condition of the petitioner and of the utility whose property, etc., is sought to be acquired, the property, etc., to be acquired and location thereof, the terms and conditions of the proposed transaction, the effect of the proposed transaction upon the service of the parties thereto, the method of financing the transaction and whether or not any other utility will be affected, and, if so, in what respect, and a statement of the reasons why the prayer of the petition should be granted. (see Form No. 7.)

(f) Sale of Franchises, Permits and Plant

A public utility, except railroads other than street railroads, desiring to assign, transfer, lease, sell or otherwise dispose of its franchises, licenses, permits, plants, equipment, business or other property, or any part thereof, (except tangible personal property not necessary or useful, nor which will become necessary or useful in the future, in the performance of its duties to the public), shall file with the Commission its application for authority so to do, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such petition shall set forth the name and address of the petitioner, the name and address of the person, firm, corporation or utility to whom it desires to assign, transfer, sell, etc., its franchises, licenses, equipment, etc., the financial condition of the of the petitioner, brief statement of the history and corporate make-up and financial condition, if available, of the person, corporation, etc., to whom the franchises, licenses, etc., are to be sold, assigned,

etc., the terms and conditions of the proposed transfer, sale, etc., a description of the franchises, licenses, etc., which are to be assigned, sold, etc., the effect of the proposed transaction on the service of the petitioner, the method by which the proposed assignment, sale, etc., is to be financed, whether or not any other utility will be affected and, if so, in what respect, and a statement why the prayer of the petition should be granted. (see Form No. 8.)

(g) Merger or Consolidation

A public utility, except railroads other than street railroads, desiring by any means, direct or indirect, to merge or consolidate its franchises, licenses, permits, plants, equipment, business or other property with that of any other public utility, shall file with the Commission its application for authority so to do, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such petition shall set forth the name and address of the persons forming the merger or consolidation, the financial condition of the parties to the consolidation, the franchises, licenses, permits, plants, equipment, business and other property which are the subject of the consolidation, the effect of the proposed transaction upon the service of the parties thereto, the method by which the consolidation will be financed, including a detailed statement of the common stocks, preferred stocks, and bonds that are proposed to be issued, if any, whether or not any other utility will be affected and, if so, in what respect, a general statement of the physical property of each of the merging parties and value thereof, and a statement of the reasons why the prayer of the petition should be granted, including the name of the merged or consolidated company. (see Form No. 9.)

(h) Purchase of Stock, Bonds, Etc., of Another Utility

A public utility, except railroads other than street railroads, desiring to purchase, acquire, take or receive any stock, stock certificates, bonds, notes or other evidence of indebtedness of any other public utility, shall file with the Commission its application for authority so to do, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such petition shall set forth the name and address of the petitioner, the name and address of the company or companies whose stock, stock certificates, bonds, notes or other evidence of indebtedness is sought to be purchased, etc., the kind, character, description, in detail, and amount, by classes, of the stocks, bonds, notes or other evidence of indebtedness that is to be purchased, etc., the price proposed to be paid for said stocks, etc., and the terms of payment, the financial condition of the petitioner, the effect of the proposed purchase upon the service, rates, and capital structure of the petitioner, the effect the proposed

transaction will have upon the service of the petitioner and the utility whose stocks, etc., are to be acquired, and the reasons why the approval and consent of the Commission should be given to the proposed purchase, etc. (see Form No. 10.)

(i) Management Contract Between Affiliates

A public utility, except railroads other than street railroads, desiring by any means, direct or indirect, to enter into any contract or arrangement for management, construction, engineering, supply or financial services, or for the furnishing of any other service, property or thing, with any affiliated corporation, person or interest, shall file with the Commission its application for authority so to do, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such petition shall set forth the name and address of the petitioner, the name and address of the affiliated corporation, person or interest with whom the contract or arrangement is to be made, a copy of the contract, a full description of the nature and character of the service, property or things to be rendered the petitioner, the compensation to be paid and the terms thereof, the financial condition of the petitioner and the affiliated corporation, person or interest, the effect of the proposed arrangement upon the service of the petitioner, and, if the affiliate corporation is a utility under the jurisdiction of the Commission, the effect of the proposed transaction upon its service, and a statement of the reasons why the prayer of the petition should be granted. (see Form No. 11.)

(j) Consent in Advance to Exemption From Requirements of Section 12, Article 2, Chapter 24 of the Code

A public utility desiring consent of the Commission in advance or exemption from the requirements of subsections (a), (b), (c), (d), (e), and (f) of section 12 of article 2, of chapter 24 of the Code of West Virginia, and subsections (d), (e), (g), (h), and (i), of this rule with reference thereto, shall file with the Commission its petition for consent in advance or exemption from the requirements of said section, together with seven (7) additional copies thereof, substantially in the form prescribed by the Commission. Such petition shall set forth the name and address of the petitioner, a statement of the subsection of section 12 from the requirements of which consent in advance or exemption is sought, including the reasons therefor, the effect thereof upon the service of the petitioner and any other public utility operating in this state, if any, a statement that neither party thereto is given an undue advantage over the other and the reasons therefor, a statement why the prayer of the petition should be granted and its effect upon the public in this state. If, however, consent is prayed for in advance to do any of the things provided for in subsec-

tions (d), (e), (f), (g), (h), and (i) of this rule, the petitioner shall also adhere substantially to the form and requirements of the appropriate subsection. (see Form No. 12.)

(k) Notice and Hearing

When any such applications shall be filed, the applicant will be required to give notice of the time and place set by the Commission for the hearing thereon. Said hearing shall be conducted substantially in the matter prescribed in Rule 12 hereof, except that the Commission may, for good cause shown, grant the authority prayed for without formal notice and hearing.

NOTE: (See Appendix for checklists that may be used as an aid in filing applications for certificate.)

RULE 11 PREHEARING CONFERENCE

(a) When Conference may be Requested

When issues are joined in any formal proceeding the Commission may, on its own motion or upon petition by any party, with reasonable written notice, request all interested parties to attend a prehearing conference for the purpose of determining the feasibility of settlement or formulating the issues in the proceeding and to determine other matters to aid in its disposition. A commissioner or a hearing examiner shall preside at such conference to consider: simplification of issues; necessity or desirability of amendments to the pleadings; the possibility of obtaining admissions of fact and documents which will avoid unnecessary proof; limitations on the number and consolidation of the examination of witnesses; the procedure at the hearing; the distribution of written testimony and exhibits to the parties prior to the hearing; and such other matters as may aid in the disposition of the proceeding, or settlement thereof.

Facts disclosed in the course of a prehearing conference are privileged and, except by agreement, shall not be used against participating parties before the Commission unless fully substantiated by other evidence.

(b) Procedure Following Prehearing Conference

Following the prehearing conference a proposed form of notice of the formal hearing, if one is to be had, reciting the action taken at the conference, amendments allowed to the pleadings, and the agreements made by the parties concerning all of the matters considered shall be submitted by mail as specified in these rules for

proper service to the parties or their attorneys, or authorized representatives, for approval. If no objection to form of notice is filed within ten days after the date such notice is mailed it shall be deemed to be approved. This notice when so approved, and after due service, shall limit the issues to be heard at the hearing to those not disposed of by admissions or agreements of the parties or their counsel, and will control the subsequent course of the proceeding unless modified at the hearing to prevent manifest injustice. Provided, however, that no such limitations on issues by the parties shall prohibit the Commission from enlarging or modifying the issues in any case.

(c) Recessing Hearing for Conference

In any proceeding the presiding officer may, in his discretion, call the parties together for a conference prior to the taking of testimony, or may recess the hearing for such a conference, with a view to carrying out the purpose of this rule. The presiding officer shall state on the record the results of such conference.

RULE 12 HEARINGS

(a) General Provisions

1. The time and place of holding hearings will be set by the Commission and notice thereof served upon all parties as may be required by statute and/or the Commission's Rules and Regulations. Hearings will be held at the Commission's hearing room in the City of Charleston or elsewhere in the State at its discretion. An effort will be made to set all formal hearings sufficiently in advance so that all parties will have a reasonable time to prepare their cases, and so that continuances will be reduced to a minimum.

2. All hearings will be open to the public.

(b) Presiding Officers

1. When evidence is to be taken in any proceeding before the Commission, said hearings will be held by one or more of the members of the Commission, or by one or more of its employees that shall have been duly designated by it to hold hearings.

2. The presiding officer shall have the duty to conduct full, fair and impartial hearings; to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order; and he shall possess all powers necessary to that end, including the following: To administer oaths and affirmations; to issue subpoenas and to provide for other methods of discovery; to receive

evidence and rule upon all objections and motions that do not involve final determination of proceedings; and to take such other action as may be necessary and appropriate to the discharge of his duties, consistent with the statutory authority and with the rules, regulations and policies of the Commission.

(c) Appearances

Parties shall enter their appearances at the beginning of the hearing by giving their name and address in writing to the reporter who will include the same in the record of the hearing. The presiding officer conducting the hearing may, in addition thereto, require appearances to be stated orally, so that the identity and interest of all parties present will be known to those at the hearing. Any further notice, pleading, or order in the matter which is required to be served upon parties to the proceeding may be served upon the attorney or representative of a party so represented and such service shall be effective as service upon the party.

(d) Rights of Parties and Protestants

1. At any hearing, all participants, except protestants, shall be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make argument, and generally participate in the conduct of the proceeding.

2. Any person who is a protestant and who desires to participate in the proceeding, other than as a witness, may, within the discretion of the presiding officer, file a petition or move orally to do so prior to the close of the period for taking appearances. The presiding officer may, within his discretion, grant, deny or qualify the extent of participation by such protestant during the evidentiary proceeding and thereafter.

(e) Termination of Party Status

Notwithstanding any other provision of these rules pertaining to party status, and unless specifically authorized by the presiding officer or by order of the Commission for good cause shown, no person shall be a party to any proceeding in which such person has failed to enter an appearance at any hearing in the manner as prescribed in paragraph (c); the party status of any person failing to enter an appearance shall terminate at the close of the period for taking of appearances unless otherwise ordered by the presiding officer or the Commission.

(f) Interventions

1. Any person having a legal interest in the subject matter of any hearing or investigation pending before the Commission

may petition or move orally for leave to intervene in such proceeding prior to or at the time it is called for hearing, but not thereafter except for good cause shown. If leave is granted, the petitioner becomes an intervenor and a party to the proceeding with the right to have notice of and appear at the taking of testimony, to produce and cross-examine witnesses, and to be heard on the argument of the case.

The petition or motion shall disclose the name of the party intervening, the name and address of his attorney, if any, a clear and concise statement of the grounds for the proposed intervention, the position and interest of the petitioner or movant in the proceeding, and a concise statement of the relief desired. Leave will not be granted except on allegations reasonably pertinent to the issues already presented and which do not unduly broaden them.

2. Service of Petition

The original petition for leave to intervene and five (5) copies thereof must be filed with the Secretary of the Commission, and at the same time a copy of said petition shall be served by the petitioner, personally, or by registered mail or certified mail, return receipt requested, upon all known parties of record. The petitioner shall certify to the Secretary that said service has been made.

3. Special Intervention

Any person, other than the original parties to the proceeding, who shall desire to appear and participate in any proceeding before the Commission, and who desires to broaden the issues of the original proceeding, shall petition in writing for leave to intervene in the proceeding, which petition shall be filed with the Commission and copies thereof shall be served on all known parties of record at least ten (10) days prior to the date of the hearing. Petition shall be in the form and content as required by these rules. There shall also be attached to said petition a properly verified complaint or answer, as the case may be, setting forth clearly and concisely the facts supporting the relief sought.

Such petitions shall be considered first at all hearings, or may be acted upon prior to hearing and an opportunity shall be afforded the original parties to be heard thereupon. If it appears, after consideration, that the petition discloses a substantial interest in the subject matter of the hearing, or that participation of the petitioner may be in the public interest, the Commission may grant the same, which may be done by order or oral ruling at the time of the hearing. Thereafter such petitioner shall become a party to the proceeding and shall be known as an "intervenor" with the same rights as other parties to the proceeding.

4. Limitations of Intervention

When two or more intervenors have substantially similar interest and position, the Commission or presiding officer may, in order to expedite the hearing, limit the number of parties who may be permitted to cross-examine, make and argue motions, or object on behalf of such intervenors.

(g) Representation of Parties and Practice Before Commission

Representation or appearance of parties in all formal proceedings pending before the Commission, shall be only by attorneys at law admitted to practice before the Courts of this State, before the Courts of last resort of other states, or before the Supreme Court of the United States; provided, however, that a party may appear for and represent himself, a partner may represent his partnership, and a corporation or association may be represented by a duly authorized executive officer thereof, upon permission granted in the discretion of the presiding officer.

(h) Notice

Following the entry of appearances, all notice, pleadings and orders thereafter served shall be served upon such attorneys, representatives or parties of record, as defined in these rules, entering an appearance, and such service shall be considered valid service for all purposes upon the party represented.

(i) Continuance of Hearings

After date for hearing has been set continuances will not be granted by the Commission except for good and sufficient cause. A party who desires a continuance shall, immediately upon receipt of notice of the hearing, or as soon thereafter as facts requiring such continuance comes to his knowledge, file a written motion with the Commission stating in detail the reasons why such continuance is necessary. Such motion shall be filed at least five (5) days prior to the date of hearing. In cases of hardship or other good cause a party may by oral motion move for a continuance at the time the proceeding is called for hearing. The Commission may grant such a continuance and may at any time order a continuance upon its own motion.

(j) Failure to Appear

When any proceeding has been properly set for hearing and due notice given and any applicant, petitioner or complainant fails to appear without having obtained a continuance in the manner specified above, the Commission may dismiss the petition, application, or complaint with or without prejudice or may upon good cause

shown, recess such hearing for a further period to be set by the Commission to enable said applicant, petitioner, or complainant to attend.

(k) Conduct at Hearings

All parties to hearings, their counsel, and spectators shall conduct themselves in a respectful manner. Demonstrations of any kind at hearings shall not be permitted. The presiding officer may, at his discretion, recess or continue any hearing in which the parties, attorneys, witnesses, or spectators, conduct themselves in a disrespectful, disorderly or contemptuous manner which interferes with or prevents the proper conduct of such hearing.

(l) Consolidated Hearings

The Commission, upon its own motion, or upon motion by any party, may order two or more proceedings involving a similar question of law or fact to be consolidated for hearing where the rights of the parties or the public interest will not be prejudiced by such procedure.

(m) Transcripts

1. One copy of the transcript of testimony will be furnished by the Commission without charge for the use of the complainant and one copy for the use of the defendant. If two or more complainants or defendants have appeared at the hearing, such complainants or defendants must designate by written notice to the Secretary to whom the copy for their use shall be delivered. A similar course as to parties will be pursued in rate investigation cases, applications to change or discontinue service and similar cases.

2. Additional copies of transcripts of evidence may be obtained by any party in interest from the Secretary by paying therefor at a rate to be determined by agreement between the party requiring the same and the reporter, but in no event to exceed the maximum fixed therefor in the contract between the Commission and the reporter currently governing the subject. Persons desiring extra copies of the transcripts of testimony and proceedings shall make request therefor to the Secretary of the Commission at the time of hearing.

RULE 13 EVIDENCE

(a) General

In the investigations, preparations and hearings of cases, the Commission shall not be bound by the technical rules of plead-

ings and evidence, but in that respect it may exercise such discretion as will facilitate its efforts to understand and learn all the facts bearing upon the right and justice of the matters before it. Evidence may be received which, in the opinion of the presiding officer, is the best evidence reasonably obtainable, having due regard to its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the presiding officer shall give consideration to, but shall not be bound to follow the rules of evidence governing general civil procedures in courts of this State.

(b) Testimony Under Oath

All testimony to be considered by the Commission in formal hearings, except matters administratively noticed or entered by stipulation, shall be by sworn or affirmed testimony.

(c) Prepared Testimony

In major rate cases the Commission expects the parties to file prepared testimony. Eight copies of such prepared testimony shall be filed with the Secretary of the Commission at least twenty (20) days prior to the date of the hearing. Prepared testimony may be identified, marked and received as an exhibit. Admissibility shall be subject to the rules governing oral testimony. The party submitting prepared testimony shall supply copies to all parties of record.

(d) Stipulation of Facts

The parties to any proceeding or investigation before the Commission may, by stipulation in writing filed with the Secretary, or entered in the record, agree upon the facts, or any portion thereof, involved in the controversy, which stipulation shall be binding upon the parties thereto and may be regarded and used by the Commission as evidence at the hearing. It is desirable that the facts be thus agreed upon whenever practical. The Commission may, however, require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

(e) Depositions

The testimony of any witness may be taken by deposition at the instance of a party, in any proceeding or investigation at any time after the same is at issue, by the consent of the Commission. The Commission may, on its own motion, order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such deposition shall be taken in the manner prescribed by the laws of West Virginia for taking deposition in civil cases in courts of record.

(f) Interrogatories

A party may file with his complaint or answer, interrogatories in writing, which must be pertinent to substantial issues in the proceeding to be answered under oath by the adverse party for the discovery of facts and documents material in support of or defense against said complaint; and if either party be a corporation, an order may be made requiring such interrogatories to be answered under oath by any named officer of such corporation. No order will be made requiring such interrogatories to be answered unless the same shall be accompanied by oath or affirmation of the party filing the same, his agent or attorney, to the effect that he believes the answers to said interrogatories will be material to the defense or prosecution of his case. The interrogatories shall be answered separately and fully, in writing, under oath. The answer shall state the question, then the answer to said question. Answers to interrogatories shall be filed within ten (10) days after such order shall have been made and served upon the adverse party, or within such specified time as may be fixed by the Commission in such order. Written objections, if any, shall be filed within five (5) days after service of any interrogatories. Answers to interrogatories to which objection is made shall be deferred until the objections are determined by the Commission. If the objections are overruled, the answers shall be served within ten (10) days after notice of the Commission's action.

Matters relating to answering interrogatories should only be submitted to the Commission in instances where their propriety is questioned by the party from whom information is sought or when objections to answering specific questions are raised. Parties are encouraged to handle these matters between themselves, if possible, before offering any of them to the Commission.

(g) Exhibits

All maps, prints, writings, statements or documents, exhibited with and made part of any pleading, or filed as part of the testimony of any witness, must be accompanied by a sufficient number of copies to provide a copy for each party to the proceeding and seven (7) copies for use of the Commission. Reports of investigation made in any case by the Commission's Accounting or Engineering Division, or by any employee of the Commission, whether made before or after the hearing, will become a part of the record in the case and considered by the Commission. Upon the submission of any such report to the Commission, a copy thereof will be furnished by the Secretary to each party to the proceeding. Should such party take exception to or desire to be heard further upon, or to give further evi-

dence with regard to such report, he shall notify the Commission in writing within five (5) days from the receipt thereof. Whereupon the Commission will set the matter for further hearing or take such action as the circumstances of the case may require.

The Secretary shall keep in his custody and be responsible for the original, or one counterpart, of all maps, prints, writings, statements or documents made a part of the record as aforesaid.

(h) **Objections**

Any evidence offered in whatever form shall be subject to appropriate and timely objection. When objection is made to the admissibility of evidence, such evidence may be received subject to later ruling by the Commission. The Commission, in its discretion, either with or without objection, may exclude inadmissible, incompetent, cumulative, or irrelevant evidence, or order the presentation of such evidence discontinued. Parties objecting to the introduction of evidence shall briefly state the grounds of objection at the time such evidence is offered. The evidence to be admitted at hearing shall be competent material and relevant to the issue. Formal exceptions to rulings are not necessary and need not be taken.

RULE 14 SUBPOENAS FOR WITNESSES AND DOCUMENTS

(a) Subpoenas requiring the attendance of witnesses at any designated place of hearing before the Commission, or a member thereof, or any employee of the Commission which it shall have designated to hold such hearings, for the purpose of taking the testimony of such witness, may be issued upon the written application of any party, by the Secretary or any member of the Commission or any employee of the Commission which it shall have designated to hold hearings as provided by law. Such written application must be verified by affidavit and set forth reasons supporting the issuance of the subpoena for the attendance of the witness or witnesses.

(b) Subpoenas for the production of books, papers or documents may be issued upon written application by the Secretary or any member of the Commission or any employee of the Commission which it shall have designated to hold hearings as provided by law. Such application must be verified by affidavit and set forth and identify specifically the books, papers or documents sought to be produced and the reasons therefor.

RULE 15 WITNESS FEES

Witness fees necessary and incident to hearings before the Commission shall be paid by the party at whose instance the witness is summoned. No witness fees will be allowed except on subpoena. In all cases the fee allowed will be the same as that allowed by the circuit courts of this state.

RULE 16 SERVICE OF SUBPOENA AND NOTICE

(a) All subpoenas for parties, witnesses, records or papers, and all notices, shall be served by delivering a copy thereof personally or by certified mail to the party to be served, or in the manner prescribed by law for service of like processes issuing out of the circuit courts of this state.

(b) Service of subpoenas and the cost incident to the service is the responsibility of the party(ies) requesting the subpoenas.

RULE 17 PROPOSED FINDINGS AND CONCLUSIONS OF PARTIES

(a) Notice

The presiding officer (Commissioner or Examiner) may require all parties of record to file proposed findings of fact and conclusions of law and/or proposed final orders at the close of testimony in the proceeding. The presiding officer shall immediately fix the time in which such proposed findings and conclusions or proposed final orders shall be filed. No decision, report or recommended order shall be made until after the expiration of the time so fixed.

(b) Contents

Each proposed findings of fact and conclusions of law shall be clearly and concisely stated and numbered. Each statement shall show specifically the testimony by appropriate transcript reference which supports that proposed finding of fact.

(c) Copies Required

An original and six (6) copies of the findings of fact, conclusions of law and/or proposed final order accompanied by a certificate of service shall be filed with the Commission and one copy shall be filed with each attorney of record or each party.

(d) **Enlargement of Time**

Any party may petition the presiding officer for an enlargement of time in which to file proposed findings of fact, conclusions of law and/or proposed final order.

RULE 18 BRIEFS AND ORAL ARGUMENT

(a) **General**

A party may file a brief or present oral argument in any proceeding before the Commission. The presiding officer may require the filing of briefs or the presentation of oral argument or both by the parties. Requests for the filing of briefs or oral arguments shall be made before or at the conclusion of the taking of evidence. It is the policy of the Commission to encourage oral argument in lieu of filing of briefs. The requirements of this rule may be altered by agreement of the parties with the consent of the Commission or the presiding officer.

(b) **Oral Argument**

Oral argument may be presented in lieu of filing of briefs. When, in the opinion of the presiding officer, time permits and the nature of the proceedings, the complexity or importance of the issues of fact or law involved, and the public warrants, such presiding officer may, either on his own motion or at the request of a party or staff counsel at or before the close of the taking of testimony allow and fix a time for the presentation of oral argument, imposing such limits of time on the argument as deemed appropriate in the proceeding. Such argument shall be transcribed and bound with the transcript of testimony.

(c) **Time for Filing**

Unless otherwise ordered by the presiding officer, or unless briefs are to be filed simultaneously, the party having the burden of proof, such as a complainant, applicant, or respondent and intervenor, as the case may be, shall have twenty (20) days after the receipt of a transcript of the evidence in which to file six (6) copies of its brief with the Commission and to serve a copy thereof on each of the other parties to the case. The defendant, protestant or defending or protesting intervenor shall have ten (10) days after receiving said briefs within which to file six (6) copies of its brief with the Commission and serve a copy thereof on each of the other parties to the proceeding. The complainant, applicant or respondent and interven-

or shall file and serve its reply brief as aforesaid within five (5) days thereafter.

(d) Briefs Filed Simultaneously

In any proceeding when in the judgment of the presiding officer the circumstances or exigencies require may direct that briefs be filed simultaneously or otherwise and the presiding officer may require, after having given due regard to the nature of the proceeding, the magnitude of the record, and the complexity or importance of the issues involved, that the time for filing of briefs shall commence running at the close of the hearing.

RULE 19 FURTHER HEARING, REOPENING, OR REHEARING

(a) Application by Petition

Applications for (1) further hearing in a proceeding after the closing of testimony and before final submission on oral argument or brief, for (2) reopening a proceeding after final submission and before decision, or for (3) rehearing or reargument after decision, must be made by petition, duly verified, within ten (10) days after the date of such closing of testimony, final submission or within ten (10) days after the final order was mailed by the Commission to the parties of record, as the case may be. Such petition shall state specifically the grounds relied upon, and shall be filed with the Commission and a copy served by the petitioner upon each adverse party, or his attorney, who appeared at the hearing, or oral argument, if any, or on brief.

(b) Further Hearing, or Reopening

If the application be for further hearing before final submission, or for reopening the proceeding to take further evidence after submission and before decision, the nature and purpose of the evidence to be adduced must be briefly stated, and it must appear not to be merely cumulative.

(c) Rehearing or Reargument

If the application be for rehearing or reargument after decision, the matters claimed to have been erroneously decided must be specified and the alleged errors stated. If thereby any order of the Commission is sought to be vacated, reversed, or modified, by reason of matters which have arisen since the hearing, or by reason of con-

sequences which would result from compliance therewith, or by reason of facts not in possession of the petitioner at the time of the hearing, the matter so relied upon by the petitioner must be fully set forth in the petition.

(d) **Modification of Order**

Application for modification of orders which seek only change in the date when they shall take effect, or in the period of notice thereby prescribed, must be made by petition seasonably filed and served in like manner as other applications under this rule, except that, in case of unforeseen emergency satisfactorily shown by the applicant, such relief may be sought informally, by telegram or otherwise, upon notice thereof to all parties or attorneys who appeared as aforesaid.

(e) **Number of Copies of Petition**

Each petition filed under this rule shall be accompanied by three (3) additional copies thereof for the use of the Commission, and by certificate showing service upon the parties or their attorneys who appeared as aforesaid. Within five (5) days after such service any adverse party may file and serve in like manner a reply to the petition, the reply so filed to be accompanied by a like number of copies for the use of the Commission.

Upon the filing of said reply or upon default thereof within the said period, the Commission will make such order with respect to the hearing of said petition, or the granting of the prayer thereof, as it shall deem just and right.

RULE 20 CHANGE OF DEPRECIATION RATES

(a) Each public utility subject to the jurisdiction of this Commission shall, with respect to any proposed change in its depreciation rates, and at least sixty days prior to the last day of the month in which the accounts for which the effect of such change is first recorded, file with the Commission eight copies of the following information with respect to each depreciation rate proposed to change on or after the effective date of this rule:

1. A statement showing the class or subclass of plant to which applicable, the effective date of the proposed change, the rates in effect immediately before and after such change, and the corresponding service-life, salvage and cost of removal estimates.
2. A general statement describing the method or methods employed in the development of the service-life, salvage and

cost of removal estimates, and the reasons for the proposed change in the rate.

(b) When the proposed change in rate applicable to any class or subclass of plant (1) amounts to twenty percent (20%) or more of the rate currently applied thereto, or (2) would have changed by one percent (1%) or more the aggregate annual depreciation charges for all depreciable plant if the new rate applicable to such class or subclass had been in effect during the preceding calendar year, the statements required in foregoing paragraph (a) shall be supplemented by copies of supporting data, calculations, and charts underlying the service-life, salvage and cost of removal estimates.

(c) The foregoing statement shall be accompanied by an exhibit, an original and eight copies, showing the expected net change in the annual depreciation charges resulting from the revised depreciation rates and indicating the basis of determining the expected net change.

(d) A utility proposing such a change in depreciation rates may at the end of the sixty day period put such changed rates into effect providing, however, that during the sixty day period the Commission does not order the suspension of such rates together with the setting of a date for a hearing on the reasonableness of such change by notice to the utility proposing the change in depreciation rates.

RULE 21 FINANCIAL CONDITION DEFINED

Whenever, by these rules, a petitioner or utility is required to state its financial condition, the statement shall include the following information:

(a) Amount and class of stock authorized by the certificate of incorporation and by any other public authority.

(b) Amount and classes of stock issued and outstanding.

(c) Terms of preference of all preferred stock.

(d) Brief description of each mortgage upon any property of the applicant giving date of execution, name of mortgagor, name and address of mortgagee or trustee, amount of indebtedness authorized to be secured thereby, amount of indebtedness actually accrued, amount of principal outstanding, amount of interest due and unpaid, and brief description of mortgaged property.

(e) Number and amount of bonds authorized and issued, giving name of issuing company, describing each class separately, giving

ing date of issue, par value, rate of interest, date of maturity and how secured; and, if convertible debentures are authorized or outstanding, also the dates when the conversion privilege accrues and expires, and the securities into which and the rate at which conversion may be made.

(f) Other indebtedness, giving name of classes and describing security, if any.

(g) Amount of interest paid during previous calendar year and rate thereof; if different rates were paid, the amount paid at each rate.

(h) Rate and amount of dividends paid upon each class of stock during previous five years.

(i) Detailed income statement and balance sheet for latest calendar year.

A reference in the petition to annual or other reports filed or to be filed with the Commission will not be deemed a compliance with the provisions of this rule.

RULE 22 CERTIFIED COPIES

(a) Withdrawal of Papers

No original paper in any case shall be withdrawn from the file, except upon special order of the Commission.

(b) Certified Copies

Certified copies of papers on file in the Secretary's office may be obtained by any person desiring the same upon payment to the Secretary of the fees fixed by law to be paid to a clerk of the circuit court for like service, except that the fee for certifying a copy of any printed document furnished to the Secretary for certification, or a carbon copy of any typewritten document so furnished, shall be one dollar (\$1.00).

RULE 23 NOTICE OF ORDERS

When an order is made in the office of the Secretary, or by the Commission, without prior notice to, or in the absence of the party against whom the order is made, the Secretary shall, unless otherwise directed by the Commission, forthwith send a copy of such order by mail to such party, or his attorney of record.

RULE 24 ADDRESS

All official communications to the Commission and all correspondence in relation thereto should be delivered or mailed to:

Public Service Commission of West Virginia
Charleston, West Virginia 25305

RULE 25 ETHICAL RESPONSIBILITIES

The Constitution of West Virginia, Article 4, Section 5, requires each Commission member to support the Constitution of the United States and the Constitution of West Virginia and to faithfully discharge the duties of a Commission member to the best of the member's skill and judgment.

Code, Chapter 24, Article 1, Section 2, provides that incompetency, neglect of duty, gross immorality or malfeasance in office are grounds for removal from the Commission. This statute provides, also, that (1) no member or employee of the Commission shall at the same time be in the employ of or hold any official relation to any public utility regulated by the Commission, (2) no member or employee of the Commission shall own any securities of or be peculiarly interested in any public utility regulated by the Commission, (3) no member or employee of the Commission shall receive anything of value either directly or indirectly from any public utility subject to regulation by the Commission, and (4) no member of the Commission shall be candidate for or hold public office or be a member of any political committee.

Code, Chapter 24, Article 1, Section 3, provides that any Commissioner or person employed by the Commission as director of any division thereof shall devote full time to the performance of his or her duties as such Commissioner or employee during the regular working hours as set by the Commission.

To supplement and expand on the foregoing constitutional and statutory standards of conduct, the Commission and the professional members of the Staff of the Commission shall observe the high standards of conduct required by the professions to which their activities relate as follows:

1. Commissioners

The Commission and each of its members in the performance of their quasi-judicial duties as an administrative tribunal or member thereof shall adhere to the Canons of the Code of Judicial Con-

duct as adopted by the Supreme Court of Appeals on December 20, 1972, except that Code, Chapter 24, Article 2, Section 2, makes unnecessary the filing of reports of compensation pursuant to Canon 6 of the Code of Judicial Conduct.

2. Legal Division

A. Hearing Officers—Employees of the Commission who are delegated to hold hearings on behalf of the Commission or its members shall conduct themselves in the performance of their delegated quasi-judicial duties as hearing officers under Code, Chapter 24, Article 1, Section 3, pursuant to the Canons of the Code of Judicial Conduct as prescribed for Commissioners in this rule and regulation.

B. Staff Counsel—Employees of the Commission when functioning or appearing as staff counsel before the Commission or on behalf of the staff shall represent all elements of the public and shall be bound by the Canons of the Code of Professional Responsibilities as adopted by the Supreme Court of Appeals on June 9, 1970, in like manner as shall apply to all attorneys who represent their particular clients while practicing before the Commission.

3. Divisions of Engineering and Gas Pipeline Safety

All Staff Engineers shall adhere specifically to the "Code of Ethics for Engineers" as promulgated in 1971 by the National Society of Professional Engineers. In general, they will:

A. Be guided in all professional relations by the highest standards of integrity.

B. Protect the public health, safety and welfare, and regard his or her duty to the public welfare as paramount.

C. Express an opinion of an engineering subject only when founded on adequate knowledge and honest conviction.

D. Perform services only in an area of his or her competence.

E. Avoid any actual or apparent conflict of interests.

F. Not compete unfairly with another engineer by taking advantage of a salaried position.

G. Not associate with or allow the use of his or her name by an enterprise of questionable character, not become professionally associated with engineers who do not conform to ethical practices, or with persons not legally qualified to render the professional services for which the association is intended.

H. Give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.

I. Cooperate in extending the effectiveness of the profession by interchanging information and experience with other engineers and students, and will endeavor to provide opportunity for the professional development and advancement of engineers under his or her supervision.

J. Not use a public position to secure personal advantage and will avoid any act tending to promote his or her own interest at the expense of the dignity and integrity of the profession or the Public Service Commission.

4. Division of Accounts, Finance and Rates

All professional members of the Staff of this Division shall adhere to the applicable portions of the "Rules of Professional Conduct" of the West Virginia Board of Accountancy, dated November 1, 1964, and the applicable professional ethics as contained in the "AICPA Professional Standards" of the American Institute of Certified Public Accountants which, in general, provide as follows:

A. An Accountant should:

- (1) Maintain his or her integrity and objectivity.
- (2) Observe the profession's technical standards and strive to improve his or her competence and quality of service.
- (3) Be fair and candid with the Commission and all persons or businesses subject to the Commission's regulation.
- (4) Conduct himself or herself in a manner which will promote cooperation and good professional relations in the public interest and will enhance his or her and the Commission's ability to serve the public.

B. An Accountant should not:

- (1) Express an opinion on financial matters of an enterprise unless done with impartiality.
- (2) Sign a report purporting to express a professional opinion as a result of an examination unless the same has been examined by said staff member or a staff employee under the direction of the said staff member.
- (3) Fail to disclose a material fact known to him or her which is necessary to make the financial statement not misleading.

(4) Express an opinion or direction in such a way that the hearer may reasonably be expected to believe that the staff speaks for the Commission and not as a staff employee.

C. The enumeration of these rules of ethical conduct should not be construed as a denial of the existence or applicability of other ethical standards not specified.

FORMS PRESCRIBED BY THE PUBLIC SERVICE COMMISSION

Form No. 1

COMPLAINT

State of West Virginia
Public Service Commission
Charleston

Case No.

....., Complainant

vs.

....., Defendant

The petition of the above-named complainant, respectfully shows:

1. That [Here state name and occupation or business of the complainant and place of business.]

2. That the above-named defendant, is a public utility engaged in the business of [Here state the public utility business of the defendant] at in the State of West Virginia, and as such is subject to the provisions of Chapter 24 (or 24A) of the Code of West Virginia, 1931, as amended, and the provisions thereof applicable to said class of public utilities.

3. That the said defendant has violated the laws of the State of West Virginia, governing said public utility business, in the following particulars, to-wit:

(a) [Here state concisely the matters complained of.]

Wherefore, the complainant prays that the said defendant be required to answer the charges hereinabove set out, and that, after due investigation, an order may be made commanding the said defendant to cease and desist from the violation of the law aforesaid, and for such other and further order as the Public Service Commission of West Virginia may deem necessary, reasonable and just in the premises.

[Prayer may ask for the ascertainment of lawful rates or practices, and an order requiring the defendant to conform thereto.]

Dated this day of, 19.....

(Signed) Complainant.

....., Attorney.

Address:

[Add verification as set out in Form 13.]

Form No. 2
ANSWER
State of West Virginia
Public Service Commission
Charleston

Case No. _____

_____, Complainant

vs.

_____, Defendant

The above-named defendant, for answer (or, for answer in the nature of a cross petition) to the complaint in this proceeding, says:

1. That [Here state allegations of fact by way of admission, avoidance, or denial of the allegations of facts contained in the complaint, designating each paragraph, (a), (b), (c), etc.]

Wherefore, the said defendant prays that the complaint in this proceeding be dismissed (or, prays for such affirmative relief as the facts alleged may justify).

(Signed) _____

By _____

President or other officer

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

Form No. 3
APPLICATION FOR AUTHORITY TO DISCONTINUE SERVICE
State of West Virginia
Public Service Commission
Charleston

Case No. _____

(Name of applicant)

Application for authority to discontinue

_____ service at _____

The undersigned, engaged in the public utility business of operating _____

_____ at _____, within the State of West

Virginia, with its principal office at _____, hereby makes application to the Public Service Commission for authority to discontinue the following service, to-wit:

[Here state nature of service.]

at .. _____ in _____ County, West Virginia,
for the following reasons: [Here state facts upon which application is based.]

(Signed) _____

By _____

President or other officer

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

Form No. 4

APPLICATION TO CHANGE RATES

State of West Virginia

Public Service Commission

Charleston

Case No. _____

Application of _____

for authority to change rates, tolls and charges for _____

at _____ in the county of _____

Comes now the above-named _____, the petitioner
herein, and respectfully shows to the Commission as follows:

1. That it is a public utility as defined by Chapter 24 (or 24A) of the Code of
West Virginia, 1931, as amended, doing business under the laws of the State of West
Virginia.

2. That its principal place of business is at _____,

West Virginia, and that it is engaged in the management and operation of a _____

_____ in said _____ and that
as such public utility, it is subject to the provisions of Chapter 24 (or 24A) of the
Code of West Virginia, 1931, as amended, applicable to said class of public service
utilities.

3. That at this time it has in effect the following schedule of rates, fares, tolls
and charges: [Here state in detail all the schedule of rates, fares, tolls and charges
in effect at the time this application is made.]

4. That it applies to the PUBLIC SERVICE COMMISSION for authority to
change its rates for the reason that: [Here state reasons for changing rates and if an
advance or decrease in rates, state estimated annual increase or decrease in revenue,
making a separate paragraph, if possible, for each reason, and numbering each
paragraph consecutively a, b, c, etc.]

5. That application is hereby made for authority to change the rates of said
applicant in the county of _____, in the State of
West Virginia, and to put into effect the following schedule: [Here state in detail
all the schedule of rates, fares, tolls and charges, proposed to be substituted for
those now in effect.]

6. [State what other public utilities are or may be interested in this schedule or change of rates.]

WHEREFORE. The said _____ applicant, prays that after due hearing and investigation, the Public Service Commission may make an order granting the application herein and establishing the proposed rates and charges, or such rates, fares, tolls and charges as it may find to be equitable in the premises.

Dated at _____, West Virginia, this _____ day of _____, 19_____

Applicant.

By _____
President or other officer.

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

NOTE: Such application must be accompanied by information required by Rule 42.

Form No. 5

APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY

State of West Virginia
Public Service Commission
Charleston

Case No. _____

Application of _____
for a certificate of convenience and necessity to

at _____

in the County of _____

Comes now the above-named _____
the petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are _____

2. That the applicant proposes to _____

at _____, in the County of _____,
(city or town)

and furnish _____ service.

3. That the following is a full and complete description of the new construction or extension, including a description of the manner in which the same will be constructed.

4. Names of other public utilities, corporations or persons with whom the proposed construction may compete: _____

5. Service is (is not) now rendered by an existing utility, corporation or person.

6. The rates proposed to be charged are as follows: _____

7. It is estimated that the proposed construction, etc., will cost \$ _____

8. It is proposed to finance the new construction, etc., as follows: _____

9. Detailed estimate of operating revenues and expenses as follows: _____

10. Attached hereto is a copy of the effective charter of incorporation of the applicant. (If charter has heretofore been filed, state style and case number; if applicant is a municipality, give citation to legislative or governmental act where charter may be found.)

11. A certificate should be issued for the following reasons: _____

Dated this _____ day of _____, 19 _____.

(Signed) _____

By _____

President or other officer

Attorney.

Address: _____

(Add verification as set out in Form 13.)

NOTE: Such application must be accompanied by information required by Rule 42.

Form No. 6

APPLICATION FOR AUTHORITY TO OPERATE PLANT IN CONNECTION
WITH ANOTHER PUBLIC UTILITY

State of West Virginia
Public Service Commission
Charleston

Case No. _____

Application of _____
for authority to operate its line or plant

in connection with _____
a public utility.

Comes now the above-named _____
petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are
2. That the name and address of the utility whose line or plant is to be operated, or whose line or plant is to be operated in connection with the petitioner are
3. [State the class of service rendered by the petitioner and the utility whose line or plant is to be operated and the location thereof.]
4. [State detailed information covering the operation or connection, including description and character of operation or connection.]
5. [State the effect it will have upon the service of the petitioner and the utility involved.]
6. The consideration to be paid for the service to be rendered for the operation or connection is as follows: [If the arrangement is by written contract a copy thereof must be filed as an exhibit attached to the petition.]
7. [State whether or not any other utility will be affected by the proposed operation.]
8. [State reasons why the prayer of the petition should be granted.]

Dated this day of, 19.....

(Signed)

By

President or other officer

....., Attorney.

Address:

[Add verification as set out in Form 13.]

Form No. 7

**FORM OF PETITION FOR PURCHASE, LEASE OR OTHERWISE
ACQUIRING CONTROL OF ONE PUBLIC UTILITY
BY ANOTHER PUBLIC UTILITY**

State of West Virginia
Public Service Commission
Charleston

Case No.

Petition of
for the consent and approval to the (purchase,
lease, etc.) of the
.....
.....

Comes now the above-named, petitioner
herein and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are
2. That the name and address of the utility whose property, etc., is sought to be acquired are

3. That the financial condition of the petitioner and of the utility whose property, etc., is sought to be acquired is _____

[Petitioner will adhere to the provisions of Rule 21 and may give the information therein required either as a part of its petition or as an exhibit attached thereto.]

4. That the petitioner desires to (purchase, lease, etc.) the (franchises, licenses, property, etc.) at _____, as follows: _____

5. [State the terms and conditions of the sale, lease, etc., with copy of any agreements attached as an exhibit to the petition.]

6. [State the effect of the proposed transaction upon the service of the parties thereto.]

7. [State the method of financing the proposed transaction.]

8. [State whether or not any other utility will be affected and, if so, in what respect.]

9. [State the reasons why the prayer of the petition should be granted.]

Dated this _____ day of _____, 19_____

(Signed) _____

By _____

President or other officer

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

Form No. 8

**FORM OF PETITION FOR ASSIGNMENT, TRANSFER, LEASE, SALE OR
OTHER DISPOSITION OF THE FRANCHISES, LICENSES, PERMITS,
PLANTS OR BUSINESS OF A PUBLIC UTILITY TO ANY OTHER
PERSON OR CORPORATION**

State of West Virginia
Public Service Commission
Charleston

Case No. _____

Petition of _____
for the consent and approval to the (assign-
ment, transfer, sales, etc.) of the

to _____
Comes now the above-named _____
petitioner herein and respectfully shows the Commission as follows:

1. That the address of the petitioner is
2. That the name and address of the assignee, lessee, purchaser, etc., are
3. That the financial condition of the petitioner is
[Petitioner will adhere to the provisions of Rule 21 and may give the information therein required either as a part of its petition or as an exhibit attached thereto.]
4. That the assignee, lessee, or purchaser is
[Give brief description of the assignee, purchaser, etc., including the financial condition, if available, corporate history, etc.]
5. [State the franchises, licenses, permits, plants, equipment, business or other property sought to be assigned, sold, etc.]
6. [State the terms and conditions of the proposed assignment, sale, lease, etc., with copy of said agreement attached as an exhibit to the petition.]
7. [State the effect of the proposed transaction upon the service of the petitioner.]
8. [State the method by which the proposed assignment, lease, sale, etc., is to be financed.]
9. [State whether or not any other utility will be affected and, if so, in what respect.]
10. [State the reasons why the prayer of the petition should be granted.]

Dated this day of, 19

(Signed)

By

President or other officer

....., Attorney.

Address:

[Add verification as set out in Form 13.]

Form No. 9
**FORM OF PETITION FOR APPROVAL OF CONSOLIDATION OR
 MERGER OF PUBLIC UTILITY COMPANIES**
 State of West Virginia
 Public Service Commission
 Charleston

Case No.

Petition of
 for consent and approval to the merger or
 consolidation of the

.....
 of said companies into a new corporation to
 be known as

Comes now the above-named
 petitioners herein, and respectfully show the Commission as follows:

1. That the name and address of the petitioner are _____
2. That the financial condition of each of the petitioners is _____
 [Petitioners will adhere to the provisions of Rule 21 and may give the information therein required either as a part of their petition or as an exhibit attached thereto.]
3. [State franchises, licenses, permits, plants, equipment, business or other property that is the subject of the merger or consolidation.]
4. [State the terms and conditions of the proposed merger or consolidation, with copy of said merger agreement attached as an exhibit to the petition.]
5. [State the effect of the proposed merger or consolidation upon the service of the parties thereto.]
6. [State the method by which the proposed merger or consolidation will be financed and add as a part of the petition, or as an exhibit attached thereto, a statement in respect to each kind of securities or evidence of indebtedness to be issued as follows:
 - (a) Total number of shares authorized
 - (b) Total number of shares to be issued
 - (c) Par value per share
 - (d) Total par value to be issued, or, without par value, the amount of the stated capital
 - (e) Voting power
 - (f) If preferred stock, state dividend rate, whether cumulative or participating, and terms of preference over other issues
 - (g) If stock, or any part thereof, is to be held by the consolidated company or by an affiliate, trustee or other agency, state the name of such company, trustee or agency
 - (h) Give the same information with respect to any bonds and other indebtedness or obligations of the new company
 - (i) If the securities of the new company are to be exchanged for those of the merging companies, state in detail the method employed in evaluating each kind of security for exchange purposes.]
7. [State whether or not any other utility will be affected and, if so, in what respect]
8. [Give a general statement of the physical property of each of the merging companies and the value thereof.]
9. [State the reasons why the prayer of the petition should be granted and the name of the consolidated or merged company.]

Dated this _____ day of _____, 19_____

(Signed) _____

By _____
 President or other officer

_____, Attorney.

 [Add verification as set out in Form 13.]

Form No. 10

FORM OF PETITION FOR CONSENT TO AND APPROVAL OF THE
PURCHASE BY ONE UTILITY OF THE STOCK AND
BONDS OF ANOTHER UTILITY

State of West Virginia
Public Service Commission
Charleston

Case No. _____

Petition of _____
for consent and approval to the purchase of
the stock, etc., of _____

Comes now the above-named _____,
petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are _____.
2. That the name and address of the public utility whose stock, etc., are to be purchased are _____.
3. [State the kind, character, and description, in detail, and the amount, by classes, of the stocks, bonds, notes, etc., to be purchased.]
4. [State the price proposed to be paid for said stock, etc., and the terms and conditions of sale. If sale is by written agreement, a copy of the agreement must be attached to the petition as an exhibit.]
5. That the financial condition of the petitioner is _____.
[Petitioner will adhere to the provisions of Rule 21 and may give the information therein required either as a part of its petition or as an exhibit attached thereto.]
6. [State the effect of the proposed purchase upon the service and rates of the petitioner and the utility whose stock, etc., are sought to be acquired.]
7. [State the reasons why the Commission's consent and approval should be given to the proposed purchase.]

Dated this _____ day of _____, 19_____.

(Signed) _____

By _____
President or other officer

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

Form No. 11

FORM OF PETITION FOR CONSENT TO AND APPROVAL OF THE
ENTERING INTO OF SERVICE CONTRACT BETWEEN A
PUBLIC UTILITY AND AN AFFILIATED CORPO-
RATION, PERSON OR INTEREST

State of West Virginia
Public Service Commission
Charleston

Case No.

Petition of
for consent and approval of a contract for
management (or other) services, with

an affiliated

Comes now the above-named,
petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are
2. That the name and address of the affiliate with whom the petitioner desires to enter into a contract are

that it is incorporated under the laws of the State of
[If a foreign corporation, attach to the petition as an exhibit a certified copy of the articles of incorporation.]

3. That the, an affiliate of the petitioner, agrees to render the following services, property or thing: [State the nature and character of the services, property or thing to be rendered, in detail, and attach to the petition as exhibit a copy of the proposed contract.]

4. That in consideration of the services aforesaid, the petitioner agrees to pay the following: [State amount to be paid and terms thereof, in detail.]

5. That the financial condition of the petitioner and the affiliate, is

[Petitioner will adhere to the provisions of Rule 21 and may give the information therein required either as a part of the petition or as an exhibit attached thereto.]

6. [State the effect of the proposed arrangement upon the service of the petitioner, and, if the affiliate is a utility subject to the jurisdiction of the Public Service Commission of West Virginia, the effect of the proposed arrangement upon its service.]

7. [State the reasons why the prayer of the petition should be granted.]

Dated this day of, 19.....

(Signed)

By

President or other officer

....., Attorney.

Address:

[Add verification as set out in Form 13.]

Form No. 12

APPLICATION FOR CONSENT IN ADVANCE OR EXEMPTION FROM
THE REQUIREMENTS OF SECTION 12, ARTICLE 2, OF
CHAPTER 24 OF THE CODE, AS AMENDED

State of West Virginia
Public Service Commission
Charleston

Case No. _____

Application of _____
for consent in advance or exemption from the
requirements of _____

Comes now the above-named _____,
petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are _____
2. That consent in advance or exemption from the requirements of subsection
_____ of section 12 of article 2 of chapter 24 of the Code,
which reads as follows: _____

is prayed for the following reasons: _____

3. [State the effect thereof upon the service of the petitioner and any other
utility operated in this state, if any.]

4. [State whether or not either party thereto is given an undue advantage
over the other and the reasons therefor.]

5. [If consent in advance is prayed for to do any of the things provided for
in subsections (d), (e), (f), (g), (h), and (i) of Rule 11, the petitioner shall
here insert such pertinent and applicable provisions set forth in the appropriate
rule and form.]

Dated this _____ day of _____, 19____.

(Signed) _____

By _____

President or other officer

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

*Form No 12 amended
by 2-5-79 under attached*

Form No. 13

VERIFICATION

[To be added to all complaints, answers, applications and petitions.]

State of _____,

County of _____, ss.

_____, the _____
of _____, the _____ named in the
foregoing _____ being duly sworn, says that the
facts and allegations therein contained are true, except so far as they are therein
stated to be on information, and that, so far as they are therein stated to be on
information, he believes them to be true.

Affiant.

Taken, sworn to and subscribed before me this _____ day of
_____, 19_____.

Notary Public in and for said County.

My commission expires on the _____ day of _____, 19_____.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

THIS DATE 2-5-79

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA at
the Capitol in the City of Charleston on the 2nd day of February, 1979
GENERAL ORDER NO. 182.1

IN THE MATTER OF
Revision of the Rules of
Practice and Procedure.

WHEREAS, the Commission has previously adopted and promulgated
certain Rules of Practice and Procedure by General Order No. 182, made
and entered on March 16, 1977, pursuant to the Provisions of Chapter
of the Code of West Virginia.

On motion and after due consideration by the Commission, it is
hereby ordered that Form No. 12 of the Rules of Practice and Procedure
concerning application for consent in advance or exemption from the
requirements of Section 12, Article 2, of Chapter 24 of the Code of the
State of West Virginia, be, and they hereby are amended, adopted, pro-
mulgated and issued in the form and manner as follows:

APPLICATION FOR CONSENT IN ADVANCE OR EXEMPTION FROM
THE REQUIREMENTS OF SECTION 12, ARTICLE 2, OF
CHAPTER 24 OF THE CODE, AS AMENDED

STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
CHARLESTON

CASE NO.

Application of
for consent in advance or exemption from the
requirements of

Comes now the above-named
petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are.....
2. That consent in advance or exemption from the requirements of s
sectionof section 12 of article 2 of chapter 24 o
the Code, which reads as follows:

is prayed for the following reasons:

3. [State the effect thereof upon the service of the petitioner and
any other utility operated in this state, if any.]
4. [State whether or not either party thereto is given an undue ad-
vantage over the other and the reasons therefor.]
5. [If consent in advance is prayed for to do any of the things pro-
vided for in subsections (d), (e), (f), (g), (h), and (i) of Rule 10

the petitioner shall here insert such pertinent and applicable provision set forth in the appropriate rule and form.]

Dated this.....day of, 19.....

(Signed)

By
President or other officer

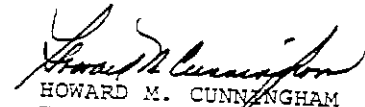
....., Attorney.

Address:
[Add verification as set out in Form 13.]

IT IS FURTHER ORDERED that the Secretary of the Commission file copies of this order and these Rules of Practice and Procedure with the Secretary of State, as required by and pursuant to Chapter 29A, Article 2, Section 1 of the Code of West Virginia to become, and be, effective within sixty (60) days after the date of said filing as provided by and pursuant to Section 2, Article 1 of said Chapter.

A Copy.

TESTE:


HOWARD M. CUNNINGHAM
Executive Secretary

FORMS PRESCRIBED BY THE PUBLIC SERVICE COMMISSION

Form No. 1

COMPLAINT

State of West Virginia
Public Service Commission
Charleston

Case No.

....., Complainant

vs.

....., Defendant

The petition of the above-named complainant, respectfully shows:

1. That [Here state name and occupation or business of the complainant and place of business.]

2. That the above-named defendant, is a public utility engaged in the business of [Here state the public utility business of the defendant] at in the State of West Virginia, and as such is subject to the provisions of Chapter 24 (or 24A) of the Code of West Virginia, 1931, as amended, and the provisions thereof applicable to said class of public utilities.

3. That the said defendant has violated the laws of the State of West Virginia, governing said public utility business, in the following particulars, to-wit:

(a) [Here state concisely the matters complained of.]

Wherefore, the complainant prays that the said defendant be required to answer the charges hereinabove set out, and that, after due investigation, an order may be made commanding the said defendant to cease and desist from the violation of the law aforesaid, and for such other and further order as the Public Service Commission of West Virginia may deem necessary, reasonable and just in the premises.

[Prayer may ask for the ascertainment of lawful rates or practices, and an order requiring the defendant to conform thereto.]

Dated this day of, 19.....

(Signed)

Complainant.

....., Attorney.

Address:

[Add verification as set out in Form 13.]

Form No. 2
ANSWER
State of West Virginia
Public Service Commission
Charleston

Case No.

....., Complainant

vs.

....., Defendant

The above-named defendant, for answer (or, for answer in the nature of a cross petition) to the complaint in this proceeding, says:

1. That [Here state allegations of fact by way of admission, avoidance, or denial of the allegations of facts contained in the complaint, designating each paragraph, (a), (b), (c), etc.]

Wherefore, the said defendant prays that the complaint in this proceeding be dismissed (or, prays for such affirmative relief as the facts alleged may justify).

(Signed)

By

President or other officer

....., Attorney.

Address:

[Add verification as set out in Form 13.]

Form No. 3
APPLICATION FOR AUTHORITY TO DISCONTINUE SERVICE
State of West Virginia
Public Service Commission
Charleston

Case No.

.....

(Name of applicant)

Application for authority to discontinue

..... service at

The undersigned, engaged in the public utility business of operating

..... at, within the State of West

Virginia, with its principal office at, hereby makes application to the Public Service Commission for authority to discontinue the following service, to-wit:

[Here state nature of service.]

at _____ in _____ County, West Virginia,
for the following reasons: [Here state facts upon which application is based.]

(Signed) _____

By _____

President or other officer

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

Form No. 4

APPLICATION TO CHANGE RATES

State of West Virginia

Public Service Commission

Charleston

Case No. _____

Application of _____

for authority to change rates, tolls and charges for _____

at _____ in the county of _____

Comes now the above-named _____, the petitioner herein, and respectfully shows to the Commission as follows:

1. That it is a public utility as defined by Chapter 24 (or 24A) of the Code of West Virginia, 1931, as amended, doing business under the laws of the State of West Virginia.

2. That its principal place of business is at _____, West Virginia, and that it is engaged in the management and operation of a _____

_____ in said _____ and that as such public utility, it is subject to the provisions of Chapter 24 (or 24A) of the Code of West Virginia, 1931, as amended, applicable to said class of public service utilities.

3. That at this time it has in effect the following schedule of rates, fares, tolls and charges: [Here state in detail all the schedule of rates, fares, tolls and charges in effect at the time this application is made.]

4. That it applies to the PUBLIC SERVICE COMMISSION for authority to change its rates for the reason that: [Here state reasons for changing rates and if an advance or decrease in rates, state estimated annual increase or decrease in revenue, making a separate paragraph, if possible, for each reason, and numbering each paragraph consecutively a, b, c, etc.]

5. That application is hereby made for authority to change the rates of said applicant in the county of _____, in the State of West Virginia, and to put into effect the following schedule: [Here state in detail all the schedule of rates, fares, tolls and charges, proposed to be substituted for those now in effect.]

6. [State what other public utilities are or may be interested in this schedule or change of rates.]

WHEREFORE, The said _____, applicant, prays that after due hearing and investigation, the Public Service Commission may make an order granting the application herein and establishing the proposed rates and charges, or such rates, fares, tolls and charges as it may find to be equitable in the premises.

Dated at _____, West Virginia, this _____ day of _____, 19_____

Applicant.

By _____
President or other officer.

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

NOTE: Such application must be accompanied by information required by Rule 42.

Form No. 5
APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY
State of West Virginia
Public Service Commission
Charleston

Case No. _____

Application of _____
for a certificate of convenience and necessity to _____

at _____,
in the County of _____

Comes now the above-named _____,
the petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are _____

2. That the applicant proposes to _____

at _____, in the County of _____,
(city or town)

and furnish _____ service.

3. That the following is a full and complete description of the new construction or extension, including a description of the manner in which the same will be constructed.

4. Names of other public utilities, corporations or persons with whom the proposed construction may compete:.....

5. Service is (is not) now rendered by an existing utility, corporation or person.

6. The rates proposed to be charged are as follows:

7. It is estimated that the proposed construction, etc., will cost \$.....

8. It is proposed to finance the new construction, etc., as follows:.....

9. Detailed estimate of operating revenues and expenses as follows:

10. Attached hereto is a copy of the effective charter of incorporation of the applicant. (If charter has heretofore been filed, state style and case number; if applicant is a municipality, give citation to legislative or governmental act where charter may be found.)

11. A certificate should be issued for the following reasons:.....

Dated this _____ day of _____, 19.....

(Signed) _____

By _____

President or other officer

, Attorney.

Address:

(Add verification as set out in Form 13.)

NOTE: Such application must be accompanied by information required by Rule 42.

Form No. 6

APPLICATION FOR AUTHORITY TO OPERATE PLANT IN CONNECTION WITH ANOTHER PUBLIC UTILITY

State of West Virginia
Public Service Commission
Charleston

Case No.

Application of _____
for authority to operate its line or plant

in connection with _____,
a public utility.

Comes now the above-named _____
petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are
2. That the name and address of the utility whose line or plant is to be operated, or whose line or plant is to be operated in connection with the petitioner are
3. [State the class of service rendered by the petitioner and the utility whose line or plant is to be operated and the location thereof.]
4. [State detailed information covering the operation or connection, including description and character of operation or connection.]
5. [State the effect it will have upon the service of the petitioner and the utility involved.]
6. The consideration to be paid for the service to be rendered for the operation or connection is as follows: [If the arrangement is by written contract a copy thereof must be filed as an exhibit attached to the petition.]
7. [State whether or not any other utility will be affected by the proposed operation.]
8. [State reasons why the prayer of the petition should be granted.]

Dated this day of, 19.....

(Signed)

By

President or other officer

....., Attorney.

Address:

[Add verification as set out in Form 13.]

Form No. 7

**FORM OF PETITION FOR PURCHASE, LEASE OR OTHERWISE
ACQUIRING CONTROL OF ONE PUBLIC UTILITY
BY ANOTHER PUBLIC UTILITY**

State of West Virginia
Public Service Commission
Charleston

Case No.

Petition of
for the consent and approval to the (purchase,
lease, etc.) of the
.....
.....

Comes now the above-named, petitioner
herein and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are
2. That the name and address of the utility whose property, etc., is sought to be acquired are

3. That the financial condition of the petitioner and of the utility whose property, etc., is sought to be acquired is _____
[Petitioner will adhere to the provisions of Rule 21 and may give the information therein required either as a part of its petition or as an exhibit attached thereto.]

4. That the petitioner desires to (purchase, lease, etc.) the (franchises, licenses, property, etc.) at _____, as follows: _____

5. [State the terms and conditions of the sale, lease, etc., with copy of any agreements attached as an exhibit to the petition.]

6. [State the effect of the proposed transaction upon the service of the parties thereto.]

7. [State the method of financing the proposed transaction.]

8. [State whether or not any other utility will be affected and, if so, in what respect.]

9. [State the reasons why the prayer of the petition should be granted.]

Dated this _____ day of _____, 19_____

(Signed) _____

By _____

President or other officer

_____; Attorney.

Address: _____

[Add verification as set out in Form 13.]

Form No. 8

FORM OF PETITION FOR ASSIGNMENT, TRANSFER, LEASE, SALE OR
OTHER DISPOSITION OF THE FRANCHISES, LICENSES, PERMITS,
PLANTS OR BUSINESS OF A PUBLIC UTILITY TO ANY OTHER
PERSON OR CORPORATION

State of West Virginia
Public Service Commission
Charleston

Case No. _____

Petition of _____
for the consent and approval to the (assign-
ment, transfer, sales, etc.) of the

Comes now the above-named _____
petitioner herein and respectfully shows the Commission as follows:

1. That the address of the petitioner is
2. That the name and address of the assignee, lessee, purchaser, etc., are
3. That the financial condition of the petitioner is
[Petitioner will adhere to the provisions of Rule 21 and may give the information therein required either as a part of its petition or as an exhibit attached thereto.]
4. That the assignee, lessee, or purchaser is
[Give brief description of the assignee, purchaser, etc., including the financial condition, if available, corporate history, etc.]
5. [State the franchises, licenses, permits, plants, equipment, business or other property sought to be assigned, sold, etc.]
6. [State the terms and conditions of the proposed assignment, sale, lease, etc., with copy of said agreement attached as an exhibit to the petition.]
7. [State the effect of the proposed transaction upon the service of the petitioner.]
8. [State the method by which the proposed assignment, lease, sale, etc., is to be financed.]
9. [State whether or not any other utility will be affected and, if so, in what respect.]
10. [State the reasons why the prayer of the petition should be granted.]

Dated this _____ day of _____, 19 _____.

(Signed)

By

President or other officer

....., Attorney.

Address:

[Add verification as set out in Form 13.]

Form No. 9
**FORM OF PETITION FOR APPROVAL OF CONSOLIDATION OR
 MERGER OF PUBLIC UTILITY COMPANIES**
 State of West Virginia
 Public Service Commission
 Charleston

Case No.

Petition of
 for consent and approval to the merger or
 consolidation of the

.....
 of said companies into a new corporation to
 be known as

Comes now the above-named
 petitioners herein, and respectfully show the Commission as follows:

1. That the name and address of the petitioner are
2. That the financial condition of each of the petitioners is
 [Petitioners will adhere to the provisions of Rule 21 and may give the information therein required either as a part of their petition or as an exhibit attached thereto.]
3. [State franchises, licenses, permits, plants, equipment, business or other property that is the subject of the merger or consolidation.]
4. [State the terms and conditions of the proposed merger or consolidation, with copy of said merger agreement attached as an exhibit to the petition.]
5. [State the effect of the proposed merger or consolidation upon the service of the parties thereto.]
6. [State the method by which the proposed merger or consolidation will be financed and add as a part of the petition, or as an exhibit attached thereto, a statement in respect to each kind of securities or evidence of indebtedness to be issued as follows:
 - (a) Total number of shares authorized
 - (b) Total number of shares to be issued
 - (c) Par value per share
 - (d) Total par value to be issued, or, without par value, the amount of the stated capital
 - (e) Voting power
 - (f) If preferred stock, state dividend rate, whether cumulative or participating, and terms of preference over other issues
 - (g) If stock, or any part thereof, is to be held by the consolidated company or by an affiliate, trustee or other agency, state the name of such company, trustee or agency
 - (h) Give the same information with respect to any bonds and other indebtedness or obligations of the new company
 - (i) If the securities of the new company are to be exchanged for those of the merging companies, state in detail the method employed in evaluating each kind of security for exchange purposes.]
7. [State whether or not any other utility will be affected and, if so, in what respect]
8. [Give a general statement of the physical property of each of the merging companies and the value thereof.]
9. [State the reasons why the prayer of the petition should be granted and the name of the consolidated or merged company.]

Dated this _____ day of _____, 19_____.

(Signed) _____

By _____
 President or other officer

_____, Attorney.

Address: _____
 [See verification as set out in Form 13.]

Form No. 10

FORM OF PETITION FOR CONSENT TO AND APPROVAL OF THE
PURCHASE BY ONE UTILITY OF THE STOCK AND
BONDS OF ANOTHER UTILITY

State of West Virginia
Public Service Commission
Charleston

Case No. _____

Petition of _____
for consent and approval to the purchase of
the stock, etc., of _____

Comes now the above-named _____,
petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are _____.
2. That the name and address of the public utility whose stock, etc., are to be purchased are _____.
3. [State the kind, character, and description, in detail, and the amount, by classes, of the stocks, bonds, notes, etc., to be purchased.] _____
4. [State the price proposed to be paid for said stock, etc., and the terms and conditions of sale. If sale is by written agreement, a copy of the agreement must be attached to the petition as an exhibit.] _____
5. That the financial condition of the petitioner is _____.
[Petitioner will adhere to the provisions of Rule 21 and may give the information therein required either as a part of its petition or as an exhibit attached thereto.]
6. [State the effect of the proposed purchase upon the service and rates of the petitioner and the utility whose stock, etc., are sought to be acquired.] _____
7. [State the reasons why the Commission's consent and approval should be given to the proposed purchase.] _____

Dated this _____ day of _____, 19_____.

(Signed) _____

By _____
President or other officer

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

Form No. 11

FORM OF PETITION FOR CONSENT TO AND APPROVAL OF THE
ENTERING INTO OF SERVICE CONTRACT BETWEEN A
PUBLIC UTILITY AND AN AFFILIATED CORPO-
RATION, PERSON OR INTEREST

State of West Virginia
Public Service Commission
Charleston

Case No. _____

Petition of _____

for consent and approval of a contract for
management (or other) services, with

an affiliated _____

Comes now the above-named _____
petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are _____

2. That the name and address of the affiliate with whom the petitioner desires to
enter into a _____ contract are _____;

that it is incorporated under the laws of the State of _____
[If a foreign corporation, attach to the petition as an exhibit a certified copy
of the articles of incorporation.]

3. That the _____, an affiliate of the petitioner,
agrees to render the following services, property or thing: [State the nature and
character of the services, property or thing to be rendered, in detail, and attach
to the petition as exhibit a copy of the proposed contract.]

4. That in consideration of the services aforesaid, the petitioner agrees to
pay _____ the following: [State amount to be
paid and terms thereof, in detail.]

5. That the financial condition of the petitioner and the affiliate, _____
_____ is _____

[Petitioner will adhere to the provisions of Rule 21 and may give the informa-
tion therein required either as a part of the petition or as an exhibit attached
thereto.]

6. [State the effect of the proposed arrangement upon the service of the peti-
tioner, and, if the affiliate is a utility subject to the jurisdiction of the Public
Service Commission of West Virginia, the effect of the proposed arrangement
upon its service.]

7. [State the reasons why the prayer of the petition should be granted.]

Dated this _____ day of _____, 19_____

(Signed) _____

By _____

President or other officer

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

Form No. 12

APPLICATION FOR CONSENT IN ADVANCE OR EXEMPTION FROM
THE REQUIREMENTS OF SECTION 12, ARTICLE 2, OF
CHAPTER 24 OF THE CODE, AS AMENDED

State of West Virginia
Public Service Commission
Charleston

Case No. _____

Application of _____
for consent in advance or exemption from the
requirements of _____

Comes now the above-named _____,
petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are _____
2. That consent in advance or exemption from the requirements of subsection
_____ of section 12 of article 2 of chapter 24 of the Code,
which reads as follows: _____

is prayed for the following reasons: _____

3. [State the effect thereof upon the service of the petitioner and any other
utility operated in this state, if any.]

4. [State whether or not either party thereto is given an undue advantage
over the other and the reasons therefor.]

5. [If consent in advance is prayed for to do any of the things provided for
in subsections (d), (e), (f), (g), (h), and (i) of Rule 11, the petitioner shall
here insert such pertinent and applicable provisions set forth in the appropriate
rule and form.]

Dated this _____ day of _____, 19_____.

(Signed) _____

By _____

President or other officer

_____, Attorney.

Address: _____

[Add verification as set out in Form 13.]

*Form No 12 amended
by 2-5-79 order & attached*



STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
CHARLESTON, 25305

STATE REGISTER FILING

I, Howard M. Cunningham, Executive Secretary, Public Service Commission of West Virginia, hereby submit to record in the State Register two (2) copies of proposed rules and regulations promulgated by the Public Service Commission of West Virginia pursuant to Chapter 24 of the Code of West Virginia, which rules and regulations named Form 12 of the Rules of Practice and Procedure.

These rules and regulations are filed in the Office of the Secretary of State, State of West Virginia, pursuant to the provisions of Chapter 29A, Article 2, Section 1, Code of West Virginia, and shall become effective within sixty (60) days of the date of filing as provided by Chapter 29A, Article 1, Section 2, Code of West Virginia.

February 5, 1979

DATE SUBMITTED


Executive Secretary

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 2-5-79

CERTIFICATE NO. 97

STATE OF WEST VIRGINIA

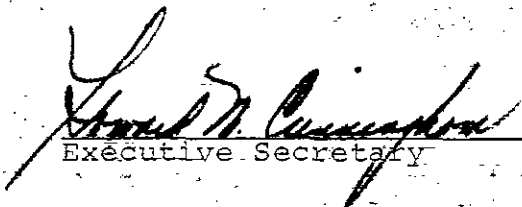
PUBLIC SERVICE COMMISSION, to-wit:

I, Howard M. Cunningham, Executive Secretary of the Public Service Commission, certify to the Secretary of State of the State of West Virginia that the hereinafter described document(s) is a true and accurate copy of a rule or rules, as defined by Chapter 1, Acts of the Legislature, Regular Session, 1964 (passed February 5, 1964; in effect July 1, 1964), prescribed by the Public Service Commission:

SUBJECT: REVISION OF THE RULES OF PRACTICE AND
PROCEDURE

General Order No. 182.1 entered February 27, 1979,
(Filed in Base File, Series I, as Appendix
Pages 1 to 2)

Given under my hand at the office of said Public Service Commission of West Virginia, at the Capitol, in the City of Charleston, this 5th day of February, 1979.


Executive Secretary

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 2-5-79

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

THIS DATE 2-5-79

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA at
the Capitol in the City of Charleston on the 2nd day of February, 1979.
GENERAL ORDER NO. 182.1

IN THE MATTER OF
Revision of the Rules of
Practice and Procedure.

WHEREAS, the Commission has previously adopted and promulgated
certain Rules of Practice and Procedure by General Order No. 182, made
and entered on March 16, 1977, pursuant to the Provisions of Chapter 2
of the Code of West Virginia.

On motion and after due consideration by the Commission, it is
hereby ordered that Form No. 12 of the Rules of Practice and Procedure
concerning application for consent in advance or exemption from the re-
quirements of Section 12, Article 2, of Chapter 24 of the Code of the
State of West Virginia, be, and they hereby are amended, adopted, prom-
ulgated and issued in the form and manner as follows:

APPLICATION FOR CONSENT IN ADVANCE OR EXEMPTION FROM
THE REQUIREMENTS OF SECTION 12, ARTICLE 2, OF
CHAPTER 24 OF THE CODE, AS AMENDED

STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
CHARLESTON

CASE NO.

Application of
for consent in advance or exemption from the
requirements of

Comes now the above-named
petitioner herein, and respectfully shows the Commission as follows:

1. That the name and address of the petitioner are.....
2. That consent in advance or exemption from the requirements of sub-
sectionof section 12 of article 2 of chapter 24 of
the Code, which reads as follows:
is prayed for the following reasons:
3. [State the effect thereof upon the service of the petitioner and
any other utility operated in this state, if any.]
4. [State whether or not either party thereto is given an undue advan-
tage over the other and the reasons therefor.]
5. [If consent in advance is prayed for to do any of the things pro-
vided for in subsections (d), (e), (f), (g), (h), and (i) of Rule 10,

the petitioner shall here insert such pertinent and applicable provision set forth in the appropriate rule and form.]

Dated this.....day of, 19.....

(Signed)

By
President or other officer


....., Attorney.

Address:
[Add verification as set out in Form 13.]

IT IS FURTHER ORDERED that the Secretary of the Commission file copies of this order and these Rules of Practice and Procedure with the Secretary of State, as required by and pursuant to Chapter 29A, Article 2, Section 1 of the Code of West Virginia to become, and be, effective within sixty (60) days after the date of said filing as provided by and pursuant to Section 2, Article 1 of said Chapter.

A Copy.

TESTE: ..


HOWARD M. CUNNINGHAM
Executive Secretary

Form No. 13
VERIFICATION

[To be added to all complaints, answers, applications and petitions.]

State of _____,
County of _____, ss.

_____, the _____
of _____, the _____ named in the
foregoing _____ being duly sworn, says that the
facts and allegations therein contained are true, except so far as they are therein
stated to be on information, and that, so far as they are therein stated to be on
information, he believes them to be true.

Affiant.

Taken, sworn to and subscribed before me this _____ day of
_____, 19_____.

Notary Public in and for said County.

My commission expires on the _____ day of _____, 19_____.

Form No. 13
VERIFICATION

[To be added to all complaints, answers, applications and petitions.]

State of _____,

County of _____, ss.

_____, the _____
of _____, the _____ named in the
foregoing _____ being duly sworn, says that the
facts and allegations therein contained are true, except so far as they are therein
stated to be on information, and that, so far as they are therein stated to be on
information, he believes them to be true.

Affiant.

Taken, sworn to and subscribed before me this _____ day of
_____, 19_____

Notary Public in and for said County.

My commission expires on the _____ day of _____, 19_____

APPENDIX
CHECKLIST
FOR
APPLICATIONS FOR CERTIFICATES OF
CONVENIENCE AND NECESSITY AND
FOR APPROVAL OF RATES

This is a checklist that may be used as an aid by a municipality or public service district in filing an application for a certificate of convenience and necessity and for approval of rates and charges for the construction or improvement of a water or sewer system, where EPA or FHA financing is involved. The information requested should be filed on or before the hearing date and represents the minimum needed.

(1) An application for a certificate of convenience and necessity and for approval of rates for the construction or improvement of a water or sewer system should be filed on Form No. 5 of the prescribed forms of the Rules of Practice and Procedure.

(2) The application should set out specifically, in addition to the information requested therein, all the rates and charges requested, such as usage blocks, the minimum charges, connection fee, delayed payment penalty, multiple occupancy, and mobile home charges, flat rates for non-metered customers, user surcharges where applicable, and the proposed rules and regulations, if any.

(3) The application should also request approval of proposed financing.

(4) The application should be accompanied by the following information, if available, and when applicable:

(a) The accounting information required by Rule 42 of the Commission's Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle.

(b) Preliminary engineering report, including detailed cost estimates.

(c) A copy of any agreement or contract between the applicant and another utility for the purchase or sale of water or sewer services.

(d) A project map(s) showing the location of each customer cross-reference to a complete customers list indicating which customers have signed contracts for service and paid connection fees, which houses and buildings are plumbed and which customers have a private water supply, as required by Rule 10 (c) of the Rules of Practice and Procedure.

(e) A copy of the proposed bond and rate ordinances.

(f) Certificates of approval by the State Department of Health and Department of Natural Resources.

(g) A copy of a letter from EPA, FHA, or other source showing commitment of funds for proposed financing.

(h) Information concerning interim financing.

(5) A public officer or official should appear at the hearing on behalf of the applicant, such as its Mayor, Chairman of the Sanitary or Water Board, Chairman or Member of the Public Service District. The applicant should also produce competent witnesses to introduce its engineering and accounting data and reports.

(6) The evidence to be offered at the hearing should concern the areas to be served by the system; the number of customers estimated to be served, initially and in the near future; capacity of the proposed system; number of customers contracting for service; the type of system or expansion to be built, cost estimates; proposed funding and financing, including interim financing, if any; estimated dates of advertising for bids, awarding of contracts, estimated dates of starting and completing construction, proposed operation of the system, including the number of employees, salaries, etc.

Sufficient evidence should be presented at the hearing to enable a finding on the following issues:

(a) Whether public convenience and necessity require the proposed service.

(b) Whether the proposed system will provide adequate service.

(c) Whether the project is adequately financed.

(d) Whether the project is economically feasible.

(e) Whether the proposed rates are just and reasonable and are not unduly discriminatory.

(7) At the hearing the applicant should be prepared to introduce evidence showing the actual amounts of the construction con-

tracts when let, whether bids are higher than originally estimated, whether additional financing will be required and the source thereof. If rates higher than the rates originally requested are needed, an amended application should be filed.

APPENDIX
CHECKLIST
FOR
FILING MOTOR CARRIER APPLICATIONS

This is a checklist that may be used as an aid in filing applications for common carrier operating authority, contract carrier operating authority, amendment of certificates, transfer of certificates, and applications to change rates, tolls and charges.

I. APPLICATIONS

A. All motor carrier applications shall be filed with the Commission on the form prescribed and shall be accompanied by the appropriate filing fee. Forms will be provided by the Motor Carrier Division upon request. If a petition is filed in lieu of a prescribed form, the petition shall contain substantially the same information required by the form. (Filing fees and forms are prescribed by Rules 3.02 and 10.00, respectively, of the Rules and Regulations for the Government of Motor Carriers of Passengers and Property).

B. Forms (Rule 10.00)

1. P.S.C. W. Va. M.C. Form No. 5—Application for a permit to operate as a contract carrier of property by motor vehicle.
2. P.S.C. W. Va. M.C. Form No. 6—Application for a certificate of convenience and necessity to operate as a common carrier of property by motor vehicle.
3. P.S.C. W. Va. M.C. Form No. 7—Application for a certificate of convenience and necessity to operate as a common carrier of passengers in taxicab service.
4. P.S.C. W. Va. M.C. Form No. 8—Application for a certificate of convenience and necessity to operate as a common carrier of passengers by motor vehicle over regular routes or between termini.
5. P.S.C. W. Va. M.C. Form No. 9—Application for authority to suspend operation as a common or contract carrier of passengers or property.
6. P.S.C. W. Va. M.C. Form No. 10—Application for

authority to discontinue operation as a common or contract carrier of property or passengers, and for the cancellation of the certificate or permit.

7. P.S.C. W. Va. M.C. Form No. 11—Application for approval of the transfer and assignment of a certificate of convenience and necessity.

8. P.S.C. W. Va. M.C. Form No. 12—Application for approval of the transfer and assignment of a permit to operate as a contract carrier.

9. P.S.C. W. Va. M.C. Form No. 48—Application for a change in rates.

C. Filing Fees (Rule 3.02)

1. Application for a certificate of convenience and necessity.	\$20.00
2. Application for reinstatement of, and/or to resume operations under a certificate.	\$20.00
3. Application for transfer of certificate.	\$15.00
4. Application for amendment of certificate.	\$15.00
5. Application to suspend all or a part of the operations under a certificate.	\$15.00
6. Petition for reopening a case involving a certificate when filed later than 10 days after entry of a final order.	\$15.00
7. Application for a contract carrier permit.	\$10.00
8. Application for reinstatement of, and/or to resume operations under a permit.	\$10.00
9. Application for transfer of permit.	\$10.00
10. Application for amendment of permit.	\$10.00
11. Application to suspend all or a part of the operations under a permit.	\$10.00
12. Petition for reopening a case involving a permit when filed later than 10 days after entry of a final order.	\$10.00

13. Application for authority to adopt or change a trade name under a certificate or permit. \$ 5.00
14. Combined applications for transfer of certificates and/or permits. \$15.00

D. Content

1. All applications shall contain the name and address of the applicant and the name under which the applicant is doing business, if any. The application must be signed by the applicant and acknowledged before a notary public. If the applicant is a corporation, the application shall state the name of the state issuing the charter and the date of issuance. A copy of charter should be attached, if not previously filed with the Commission.

2. An application for a certificate to transport property should list the commodities to be transported and describe the territory and/or routes to be served. (Example: General commodities (freight) or low-grade commodities, including but not limited to, sand, gravel, road building materials, etc.)

3. An application for a certificate to transport passengers in taxicab service or over regular routes of operation (bus) shall in addition to the above general requirements list the names of the existing carriers with which the proposed service is likely to compete.

4. An application to change rates, tolls and charges should be filed on P.S.C. W. Va. M.C. Form No. 48 and be accompanied by the financial data required by M.C. Rule No. 42 of the Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle.

5. An application for a contract carrier permit shall be accompanied by a contractor's affidavit—P.S.C. W. Va. M.C. Form No. 43, and an affidavit for a waiver of formal hearing.

II. NOTICE

After an application has been filed and the filing fees paid, the Commission will enter an order setting the application for hearing. The applicant shall publish notice of the time and place of hearing in the form and manner prescribed by the Commission in its order. The cost of publication shall be borne by the applicant. After the publication of notice, the applicant shall secure a certificate(s) of publication from the publisher and file the same with the Commission on or before the date of hearing.

III. HEARINGS

The time and place of hearings shall be prescribed by the Commission. The applicant shall appear at the time and place of the hearing and be prepared to pursue his application unless he has otherwise obtained a continuance pursuant to the provisions of Rule 12, Para. (1) of the Rules of Practice and Procedure. Failure to appear, without having obtained a continuance, may result in a dismissal of the proceeding.

IV. BURDEN OF PROOF

A. Application for Certificate and for an Amendment of Certificate

1. The burden of proof rests upon the applicant. Upon an application for a certificate of convenience and necessity to transport property or passengers, the applicant must show by preponderance of the evidence that public convenience and necessity require the proposed service. This burden of proof cannot be met solely by the applicant's testimony. The applicant should be prepared to produce public witnesses who can testify on his behalf that there is a public need for the proposed service.

2. The same proof is required for an amendment of an existing certificate.

B. Transfer of Certificate

Upon an application for approval of the transfer and assignment of a certificate or permit, the certificate or permit holder, i.e., transferor, and the transferee, i.e., the person seeking to acquire said certificate, shall appear at the hearing. The transferor should be prepared to testify as to the nature and extent of his operation under the certificate sought to be transferred, that he has actively been operating under the certificate and that the certificate is not otherwise dormant. The transferee should be prepared to show that he is financially able to provide the service, that he has the experience and the necessary equipment to provide the proposed service, that he is able to secure proper liability insurance on all motor vehicles to be operated, and should give a general description of his proposed operation.

C. Contract Carrier Permits

1. Upon the filing of an application for a contract carrier permit, including a contractor's affidavit and affidavit for waiver of formal hearings, the applicant shall publish notice of the filing of said application in the form and manner prescribed by the

Commission. The cost of publication shall be borne by the applicant. After the publication of notice, the applicant shall secure a certificate(s) of publication from the publisher and file the same with the Commission. Within three (3) days after the date of publication, and proof thereof, the Commission may grant temporary operating authority providing it has not received written notice of protest. If no written protest is received within ten (10) days of the date of publication, the Commission may grant the authority requested without formal hearing. If written protest is received, the application will be set for hearing.

2. The burden of proof will rest upon the applicant to show that the proposed service will not endanger the safety of the public or unduly interfere with the use of the highways or impair unduly the condition or unduly increase the maintenance cost of such highways, directly or indirectly, or impair the efficient public service of any authorized common carrier or common carriers adequately serving the same territory. The applicant shall produce a witness representing the contracting shipper who can testify as to his specialized need for a contract carrier as opposed to the services provided by a common carrier.



STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
CHARLESTON, 25305

July 22, 1980

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 7/22/80

STATE REGISTER FILING

I, Howard M. Cunningham, Executive Secretary, Public Service Commission of West Virginia, hereby submit to record in the State Register on 8-1/2" x 11" paper two (2) copies of a procedural rule for Public Service Commission review of municipal utility rate changes pursuant to West Virginia Code Section 24-2-4(b).

This rule is filed in the Office of the Secretary of State, State of West Virginia, pursuant to the provisions of Chapter 29A, Article 2, Section 1, Code of West Virginia, and shall become effective within sixty (60) days of the date of filing as provided by Chapter 29A, Article 1, Section 2, Code of West Virginia.

July 22, 1980

Date Submitted

Howard M. Cunningham
Howard M. Cunningham
Executive Secretary

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, at the Capitol in the City of Charleston on the 17th day of July, 1930.

GENERAL ORDER NO. 200

In the matter of establishing a procedural rule for Commission review of municipal utility rate changes pursuant to West Virginia Code §24-2-4(b).

WHEREAS, West Virginia Code §24-2-4(b) removes from Commission jurisdiction the approval of rate changes by municipal utilities except under certain circumstances; and

WHEREAS, there have been several instances when the Commission has assumed jurisdiction over municipal rate changes since the enactment of §24-2-4(b); and

WHEREAS, there has been some confusion on the part of municipalities and their customers about the procedure to be followed by the Commission in such cases; and

WHEREAS, §24-1-7 of the West Virginia Code directs that the Public Service Commission shall prescribe such rules and regulations as may be necessary to carry out the provisions of Chapter 24 of the Code.

WHEREUPON, the Commission finds, as a matter of fact, that it is in the public interest to develop a procedural rule for all parties to follow in the process of Commission review of municipal utility rate changes under §24-2-4(b) of the Code.

The Commission concludes as a matter of law that it has the legal authority to promulgate the proposed rule hereinafter set forth.

IT IS, THEREFORE, ORDERED that:

1) The proposed rule attached hereto as Appendix A entitled A procedural rule for Commission review of municipal utility rate changes pursuant to West Virginia Code §24-4-4(b), be adopted as a proposed rule and policy of this Commission which shall be included in the Rules of Practice and Procedure.

2) The Executive Secretary is directed to file a copy of this order together with the proposed rule with the Office of the Secretary of State, for inclusion in the State Register, together with notice as required by §19A-3-8 of the West Virginia Code, which notice shall

be published as a Class I legal advertisement in each County of the State at the expense of the Commission. The aforesaid notice shall, . . . specify that any interested party shall, by August 15, 1980, submit to the Executive Secretary's Office, in writing, any data, objections, suggested amendments, views, evidence, arguments and request for hearing. The Commission may, in its discretion, considering the foregoing submissions, schedule the matter for hearing.

3) The Executive Secretary is directed to serve a copy of this order together with the proposed rule on all municipally operated public utility in the State of West Virginia.

A Copy.

Teste:

Howard M. Cunningham
Howard M. Cunningham,
Executive Secretary

APPENDIX A.

PROCEDURAL RULE FOR COMMISSION REVIEW OF
MUNICIPAL UTILITY RATE CHANGES
PURSUANT TO W.VA. CODE 24-2-4b

1. PURPOSE.

In view of the power given to the Commission under §24-2-2 of the West Virginia Code to regulate the rates and practices of public utilities in this State through lawful rules, regulations and orders, and in view of the limited jurisdiction granted to the Commission over municipally operated utilities by §24-2-4(b) of the Code, the Commission has developed this Rule to provide guidance to municipalities and to customers of municipal utilities about Public Service Commission involvement with rate changes by municipal utilities. This Rule has been developed to provide reasonable guidelines for the exercise of Commission jurisdiction in such cases, and to provide procedural guidelines for the timely disposition of such cases within the statutory requirements of §24-2-4(b).

2. Procedure to be followed by municipalities for changing utility rates.

- a. All rates and charges set by municipally operated public utilities shall be just, reasonable, applied without unjust discrimination or preference and based primarily on the costs of providing these services.
- b. All municipal utility rates and charges are to be on file with the Commission at all times.
- c. All changes in municipal utility rates are to be accomplished by the adoption of a legally valid municipal ordinance, in accordance with the provisions of §8-11-4 of the West Virginia Code. The following provisions constitute the minimum requirements for the adoption of a legally valid municipal ordinance as included in §8-11-4:

"(1) A proposed ordinance shall be read by title at not less than two meetings of the governing body with at least one week intervening between each meeting, unless a member of the governing body demands that the ordinance be read in full at one or both meetings. If such demand is made, the ordinance shall be read in full as demanded.

(2) At least five days before the meeting at which a proposed ordinance, the principal object of which is the raising of revenue for the municipality, is to be finally adopted, the governing body shall cause notice of the proposed adoption of said proposed ordinance to be published as a Class 1-0 legal advertisement in compliance with the provisions of article three (§59-3-1 et seq.), chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state the subject matter and general title or titles of such proposed ordinance, the date, time and place of the proposed final vote on adoption, and the place or places within the municipality where such proposed ordinance may be inspected by the public. A reasonable number of copies of the proposed ordinance shall be kept at such place or places and be made available for public inspection. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(3) A proposed ordinance shall not be materially amended at the same meeting at which finally adopted."

- d. The municipality is to set the date when such an ordinance takes effect; however, in no event shall such an ordinance be effective sooner than forty-five (45) days after adoption.
- e. Within fifteen (15) days after the adoption of a municipal ordinance changing a municipal utility rate or charge, the new rate or charge and the applicable ordinance are to be filed with the Secretary of the Public Service Commission together with the justification for such ordinance, including, but not limited to a pro forma income statement showing the cost of providing service and the revenues to be generated by the new rates or charges.
- f. In addition to the filing of such new rate or charge and the justification therefor with the Commission, each municipality must file with the Commission the correct number of customers served by the utility, as determined by the number of bills rendered in the billing cycle last completed before the adoption of the ordinance.

Municipal utilities shall promptly provide information about the correct number of customers to any customer requesting this information.

3. Procedure to be followed by the customers of municipal utilities who wish to protest changes in municipal utility rates and charges.

a. Any customer aggrieved by a changed rate or charge of a municipal utility may, within thirty (30) days of the adoption of an ordinance changing such rate or charge, present to the Commission a petition signed by not less than twenty-five percent (25%) of the customers as defined below, served by such municipally operated public utility, requesting Commission review of the change.

b. Whenever used in Chapter 24 of the Code or this Rule, the term "Customer" shall mean and include any person, firm, corporation, municipality, public service district or any other entity who purchases a product or services of any utility and shall include any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or products for resale.

This definition refers to customers of record with the utility and cannot be broadened to include all residents of a municipality or those who are consumers of the product. The spouse of a customer of record may sign a petition for the customer of record, but if both parties sign they are to be treated as one customer.

4. Procedure to be followed by the Commission when a petition of protest is filed.

a. Upon the filing with the Commission of a petition which protests a changed rate or charge by a municipal utility and which meets the requirements of section 3 above, the effective date of the municipal ordinance changing such rate or charge shall be suspended for a period of one hundred

twenty (20) days from the date said rates or charges would otherwise go into effect or until any order issued in the case becomes final, whichever comes first.

- b. The Commission shall notify the affected municipality by certified mail, return receipt requested, that it has assumed jurisdiction over the case, and that the rates are suspended, and it shall furnish a copy of the applicable petition to the municipality.

5. Procedure concerning protests by customers who receive service outside the municipal corporate limits of municipalities which provide utility service.

If a municipally operated public utility provides service to customers outside its municipal corporate limits and these customers are charged at rates which are not identical to the rates applicable to customers within the corporate limits, the Commission shall review and approve or order changes in such rates if the following conditions are met:

- a. At least one customer who takes service outside the boundaries of the subject municipality requests in writing a review of said rates or charges by the Commission.
- b. Such customers must allege that the subject rates are discriminatory; and
- c. The request for a review of the rate or charge to which objection has been made is received by the Public Service Commission within thirty (30) days of the date such rate or charge goes into effect.

6. Procedure for the disposition of cases in which Commission jurisdiction is established.

- a. At such time as Commission jurisdiction is established in a case involving a rate change by a municipal utility, the Commission shall appoint a hearing examiner from its staff to review the grievances raised by the petitioners.

- b. Said hearing examiner shall conduct a public hearing, and shall, not later than twenty (20) days before the end of the suspension period or within one hundred twenty days from the date of filing of the petition, whichever comes first, issue an order approving, disapproving or modifying in whole or in part, the rate or charge at issue.
- c. In addition to this rule, all relevant rules and regulations of the Commission shall apply to such cases.
- d. The burden of proving the reasonableness of rate changes shall be on the municipality and the municipality is free to file with the Commission any information it desires to support a change in rates. The Hearing Examiner in each case shall direct when all such information is to be filed.
- e. The Commission staff shall in all cases conduct an investigation of the municipal utility and submit an audit report and cash-flow analysis to the Hearing Examiner at such time as requested by the Examiner.
- f. In order to facilitate the timely disposition of such cases, the following timetable is suggested to be followed by municipalities and the Commission staff; however, the Examiner in such cases shall be free to establish any reasonable timetable.
 - Day 1 - Petition filed.
 - Day 63 - The staff must file its required reports.
 - Day 70 - Public hearing is to be held
- 7. It is expected that municipalities will cooperate with the Commission as much as possible in cases where customers protest a municipal rate change. In circumstances in which a municipality does not cooperate with the Commission or in any way causes an unreasonable delay in the proceeding, the Commission may toll the running of the one hundred twenty (120) day suspension period until such time as the municipality cooperates with the Commission.

The following situations represent instances in which the Commission may toll the one hundred twenty (120) day suspension period:

- a) Failure of the municipality to supply to the Commission its rates and charges or other information required by §24-2-4b of the Code or other provisions of this rule.
- b) Failure of the municipality to supply the Commission staff with requested information within a reasonable period of time.
- c) Any other instance in which a municipality causes a delay in the timely disposition of a case.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

GENERAL ORDER NO. 200

In the matter of Establishing a
Procedural Rule for Commission
Review of Municipal Rate Changes
pursuant to Section 24-2-4(b) of
West Virginia Code.

NOTICE

On July 17, 1980, the Public Service Commission of West Virginia promulgated a rule for Commission review of municipal utility rate changes pursuant to Section 24-2-4(b) of the West Virginia Code. The Commission has developed the rule to provide guidance to municipalities and to customers of municipal utilities about Commission involvement with rate changes by municipal utilities. This rule has been developed also to provide reasonable guidelines for the exercise of Commission jurisdiction in such cases, and to provide procedural guidelines for the timely disposition of such cases within the statutory requirements of the Code.

Any interested party shall, by August 15, 1980, submit to the Executive Secretary's Office, Room E-217, State Capitol, Charleston 25305, in writing, any data, objections, suggested amendments, views, evidence, arguments and requests for hearing. The Commission may, in its discretion, considering the foregoing submissions, schedule the matter for hearing.

Copies of the procedural rule may be obtained from the Executive Secretary's Office, telephone number (AC304) 348-2182.

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Howard M. Cunningham
Howard M. Cunningham
Executive Secretary

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON



STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
CHARLESTON, 25305

June 18, 1981

STATE REGISTER FILING

I, Howard M. Cunningham, Executive Secretary, Public Service Commission of West Virginia, hereby submit to record in the State Register on 8-1/2" x 11" paper, two (2) copies of an amended procedural rule for Commission Review of Municipal Utility Rate Changes Pursuant to West Virginia Code Section 24-2-4(b).

This rule is filed in the Office of the Secretary of State, State of West Virginia, pursuant to the requirements of Chapter 29A, Article 3, Section 10, Code of West Virginia, as well as Chapter 24, Article 1, Section 1, Code of West Virginia.

June 18, 1981
Date Submitted

Howard M. Cunningham
Howard M. Cunningham
Executive Secretary

GENERAL ORDER NO. 200.2

RECEIVED
OFFICE
SECY. OF STATE

81 JUN 18 AM 11:23

RECEIVED

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA at the Capitol in the City of Charleston on the 18th day of June, 1981.

GENERAL ORDER NO. 200.2

In the matter of establishing a procedural rule for Commission review of municipal utility rate changes pursuant to West Virginia Code §24-2-4(b), as amended.

PROCEDURE:

WHEREAS, by General Order No. 200, dated July 17, 1980, the Commission adopted a proposed rule attached thereto as Appendix A and entitled "Procedural Rule for Commission Review of Municipal Utility Rate Changes Pursuant to West Virginia Code §24-2-4b." A copy of the order and the proposed rule was filed with the Secretary of State for inclusion in the State Register together with notice as required by §29A-3-8 of the Code; and

WHEREAS, after comments were received and reviewed, the Commission made several amendments to the proposed rule. By General Order 200.1, dated January 15, 1981, the Commission ordered that the rule as proposed and filed with the Secretary of State July 22, 1980, and as amended in General Order 200.1, should be adopted as a final rule of the Commission, effective sixty (60) days after filing with the Secretary of State; and

WHEREAS, the Code section upon which the amended rule is based has been changed by act of the West Virginia Legislature contained in Enrolled Senate Bill No. 226, passed April 8, 1981 and in effect July 1, 1981; and

WHEREAS, §24-1-7 of the West Virginia Code directs that the Public Service Commission shall prescribe such rules and regulations as may be necessary to carry out the provisions of Chapter 24 of the Code. Whereupon, the Commission is of the opinion that the previously issued final rule must be amended to reflect the changes in §24-2-4(b) of the Code.

The Commission concludes as a matter of law that it has the legal authority to promulgate the proposed rule hereinafter set forth.

IT IS, THEREFORE, ORDERED that:

- 1) The proposed rule attached hereto as Appendix A entitled

A "Procedural Rule for Commission Review of Municipal Utility Rate Changes Pursuant to West Virginia Code §24-2-4(b)", be adopted as a proposed rule and policy of this Commission which shall be included in the Rules of Practice and Procedure.

2) The Executive Secretary is directed to file a copy of this order together with the proposed rule with the Office of the Secretary of State, for inclusion in the State Register, together with notice as required by §29A-3-8 of the West Virginia Code, which notice shall be published as a Class I legal advertisement in each County of the State at the expense of the Commission. The aforesaid notice shall, specify that any interested party shall, by July 18, 1981, submit to the Executive Secretary's Office, in writing, any data, objections, suggested amendments, views, evidence, arguments and request for hearing. The Commission may, in its discretion and after considering the foregoing submissions, schedule the matter for hearing.

3) The Executive Secretary is directed to serve a copy of this order together with the proposed rule on all municipally operated public utilities in the State of West Virginia.

A TRUE COPY

TESTE:


HOWARD M. CUNNINGHAM
Executive Secretary

APPENDIX A

PROCEDURAL RULE FOR COMMISSION REVIEW OF
MUNICIPAL UTILITY RATE CHANGES
PURSUANT TO W.VA. CODE 24-2-4B

1. PURPOSE

In view of the power given to the Commission under §24-2-2 of the West Virginia Code to regulate the rates and practices of public utilities in this State through lawful rules, regulations and orders, and in view of the limited jurisdiction granted to the Commission over municipally operated utilities by §24-2-4b of the Code, the Commission has developed this Rule to provide guidance to municipalities and to customers of municipal utilities about Public Service Commission involvement with rate changes by municipal utilities. This Rule has been developed to provide reasonable guidelines for the exercise of Commission jurisdiction in such cases, and to provide procedural guidelines for the timely disposition of such cases within the statutory requirements of §24-2-4b.

2. Procedure to be followed by municipalities for changing utility rates.

- a. All rates and charges set by municipally operated public utilities shall be just, reasonable, applied without unjust discrimination or preference and based primarily on the costs of providing these services.
- b. All municipal utility rates and charges are to be on file with the Commission at all times.
- c. All changes in municipal utility rates are to be accomplished by the adoption of a legally valid municipal ordinance, in accordance with the provisions of §8-11-4 or the provisions of §16-13-16 of the Code, any other applicable Code provision, or by a provision of a municipal charter, whichever is appropriate in the particular case.
- d. The municipality is to set the date when such an ordinance takes effect; however, in no event shall such an ordinance be effective sooner than forty-five (45) days after adoption.

- e. Within fifteen (15) days after the adoption of a municipal ordinance changing a municipal utility rate or charge the municipality shall file with the Secretary of the Public Service Commission: the new rates or charges; the applicable ordinance; the justification for such ordinance, including, but not limited to a pro forma income statement showing the cost of providing service and the revenues to be generated by the new rates or charges; and the correct number of customers served by the utility, as determined by the number of bills rendered in the billing cycle last completed before the adoption of the ordinance. A Rule 42 exhibit is not required to be filed by the municipal utility in cases subject to this rule.
- f. Municipal utilities shall promptly provide information about the correct number of customers to any customer requesting this information.
- g. Failure to file any of the information required in subsection (e) of this section shall cause the suspension period limitation of one hundred twenty days and the one hundred day period limitation for issuance of an order by a hearing examiner, as contained in section 6 below, to be tolled until the necessary information is filed.

3. Procedure to be followed by the customers of municipal utilities who wish to protest changes in municipal utility rates and charges.

- a. The Commission shall review and approve or modify such rates upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges by:
 - 1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty five percent (25%) of the customers, as defined below, served by such municipally operated public utility; or

2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or

3) Any customers or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customers or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

b. Whenever used in Chapter 24 of the Code or this Rule, the term "Customer" shall mean and include any person, firm, corporation, municipality, public service district or any other entity who purchases a product or services of any utility and shall include any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or products for resale.

This definition refers to customers of record with the utility and cannot be broadened to include all residents of a municipality or those who may be ultimate consumers of the product. The spouse of a customer of record may sign a petition for the customer of record, but if both parties sign they are to be treated as one customer.

4. Procedure to be followed by the Commission when a petition of protest is filed.

a. Upon the filing with the Commission of a petition which protests a changed rate or charge by a municipal utility and which meets the requirements of section 3(a)(1) above, the effective date of the

municipal ordinance changing such rate or charge is automatically suspended for a period of one hundred twenty (120) days from the date said rates or charges would otherwise go into effect, or until an order is issued as provided in Section 5(b), below.

- b. Upon sufficient showing of discrimination by any customer who resides outside the municipal boundaries, or by a customer or group of customers who reside within the municipal boundaries, under a petition filed under Section 3(a)(2) or Section 3(a)(3) above, the Commission shall suspend the effective date of the municipal ordinance changing such rate or charge for a period of one hundred twenty (120) days from the date said rates or charges would otherwise go into effect or until an order is issued as provided in Section 5(b), below.
- c. The Commission shall notify the affected municipality by certified mail, return receipt requested, that it has assumed jurisdiction over the case, and that the rates are suspended, and it shall furnish a copy of the applicable petition to the municipality.

5. Procedure for the disposition of cases in which Commission jurisdiction is established.

- a. At such time as Commission jurisdiction is established in a case involving a rate change by a municipal utility, the Commission shall appoint a hearing examiner from its staff to review the grievances raised by the petitioners.
- b. Said hearing examiner shall conduct a public hearing, and shall, within 100 days from the date the said rates or charges would otherwise go into effect, unless otherwise tolled as provided in Section 6, issue an order approving, disapproving or modifying in whole or in part, the rate or charge at issue.
- c. In addition to this rule, all relevant rules and regulations of the Commission shall apply to such

cases.

- d. The burden of proving the reasonableness of rate changes shall be on the municipality and the municipality is free to file with the Commission any information it desires to support a change in rates. The Hearing Examiner in each case shall direct when all such information is to be filed.
- e. The Commission staff shall in all cases conduct an investigation of the municipal utility and submit an audit report and cash-flow analysis to the Hearing Examiner at such time as requested by the Examiner.
- f. In order to facilitate the timely disposition of such cases, the following timetable is suggested to be followed by municipalities and the Commission staff; however, the Examiner in such cases shall be free to establish any reasonable timetable.

Day 1 - Petition filed.

Day 63 - The staff must file its required reports.

Day 70 - Public hearing is to be held.

6. It is expected that municipalities will cooperate with the Commission as much as possible in cases where customers protest a municipal rate change. In circumstances in which a municipality does not file with the Commission any of the information required in subsection (e) of section 2, above, the Commission may toll the running of the one hundred twenty (120) day suspension period and the one hundred (100) day period limitation for issuance of an order by a Hearing Examiner until such time as the municipality files the required information with the Secretary of the Public Service Commission.

For the purposes of this order, the information required to be filed with the Commission shall include, but is not limited to, the following:

- a. the new rates and charges;
- b. the applicable municipal ordinance establishing the new rates and charges;
- c. the justification for such ordinance, including, but not limited to a pro forma income statement showing

the cost of providing service and the revenues to be generated by the new rates or charges;

- d. the correct number of customers served by the utility, as determined by the number of bills rendered in the billing cycle last completed before the adoption of the ordinance; and
- e. such other information as the Commission deems necessary.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

GENERAL ORDER NO. 200.2

In the matter of establishing a
procedural rule for Commission review
of municipal utility rate changes
pursuant to West Virginia Code
Section 24-2-4(b), as amended.

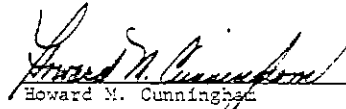
NOTICE

On June 18, 1981, the Public Service Commission of West Virginia promulgated a rule for Commission review of municipal utility rate changes pursuant to Section 24-2-4(b) of the West Virginia Code. The Commission is required to promulgate the rule because of new legislation enacted by the West Virginia Legislature on April 8, 1981 and in effect July 1, 1981. The Commission has developed the rule to provide guidance to municipalities and to customers of municipal utilities about Public Service Commission involvement with rate changes by municipal utilities. This rule has been developed to provide reasonable guidelines for the exercise of Commission jurisdiction in such cases, and to provide procedural guidelines for the timely disposition of such cases within the statutory requirements of the Code.

Any interested party shall, by July 18, 1981, submit to the Executive Secretary's Office, Room E-217, State Capitol, Charleston 25305, in writing, any data, objections, suggested amendments, views, evidence, arguments and request for hearing. The Commission may, in its discretion and after considering the foregoing submissions, schedule the matter for hearing.

Copies of the procedural rule may be obtained from the Executive Secretary's Office at the above address, or by calling (AC304) 346-2182.

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA


Howard M. Cunningham
Executive Secretary