



# Public Service Commission

Richard E. Hitt, General Counsel



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

Phone: (304) 340-0317  
FAX: (304) 340-0325

October 26, 1993

Judy Cooper, Director  
Administrative Law Division  
Secretary of State  
Main Unit, Capitol Building  
Charleston, WV

Re: General Order No. 166.11.

Dear Judy:

Enclosed is a copy of the Commission's Final Order regarding the addition of new Tariff Form Nos. 8B and 8C to the Commission's Tariff Rules, Title 150, Series 2.

In addition I have included a copy of the text of the tariff rules in your format that indicates where the proposed text changes take place, specifically, §150-2-13, 13.1 and 13.2. In addition I have enclosed the new Tariff Form No. 8B and the new Tariff Form No. 8C which would appear after the existing Tariff Form No. 8A. Although we have completed the text of the tariff rules, we have not quite finished the task of retyping all the tariff forms. We're close and I will send you a copy of the entire forms as soon as they become available.

If you have any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Richard E. Hitt".

RICHARD E. HITT  
General Counsel

REH/cg  
Enclosures  
cc: Howard M. Cunningham

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 28th day of October, 1993.

GENERAL ORDER NO. 166.11

IN THE MATTER OF

The need to amend Rule 30-B and 30-C 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 Vehicles and addition of tariff forms to accompanying such rules.

COMMISSION ORDER ADOPTING RULE

On February 25, 1993, the Commission issued an order, promulgating proposed rules that promulgated Tariff Forms Nos. 8-B and 8-C and amended Rules 30-B and 30-C 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 Vehicles. A comment period was provided. All interested parties were to have filed comments concerning the proposed rulemaking with the Commission by April 26, 1993.

Hope Gas, Inc. filed comments. In addition, Mountaineer Gas Company notified the Commission that it did not have comments, but wished to reserve the right to participate in the proceeding.

DISCUSSION

In addition to the comments submitted on the proposed rule, the Commission must consider another rulemaking promulgated coincident with this proposed rulemaking that also pertains to notice requirements for rate changes --- General Order no. 166.10.

On November 9, 1992, the Commission entered an order, promulgating proposed rules, that revised Tariff Forms 8, 8-A and 9 in General Order No. 166.10. On June 8, 1993, the Commission adopted revised Tariff Forms 8, 8-A and 9 as final.

The tariff forms proposed in the present rulemaking were drafted to parallel, where possible, Tariff Forms 8, 8-A and 9 in General Order 166.10, in order to promote clarity and consistency among tariff form notice requirements. Now that the tariff forms are finalized by General Order no. 166.10, entered June 8, 1993, the Commission shall incorporate changes made therein with the proposed tariff forms herein to ensure consistency among notice requirements contained in the

Commission rules. The changes to the proposed tariff forms are shown on Tariff Forms Nos. 8-B and 8-C, attached hereto.

In addition, the Commission must consider Hope Gas, Inc.'s comments submitted in this proceeding. Hope requested that the following changes be made to the proposed tariff forms:

"The changes shown are based on averages of all customers in the indicated class. Individual customers may receive changes that are greater or less than average. Furthermore, the proposed changed rates and charges are only a proposal and are subject to change (increases and decreases) by the Public Service Commission in its review of this filing. Any increase or decrease in rates and charges will not become effective until authorized and approved by the Commission. If a hearing is conducted, notice will be given of the time and place of hearing."

Hope states that its proposed language changes are to reflect that both increases and decreases may be proposed, and that the Commission may alter the requested change either up or down.

In General order 166.10, the Commission rejected nearly identical proposed changes by Hope Gas, Inc., because the Commission was of the opinion that the tariff language of Tariff Form Nos. 8, 8-A and 9, upon which the proposed tariff forms herein are modeled, already reflected that rates may increase or decrease. For the same reason, the Commission sees no reason to adopt the proposed changes in this proceeding.

#### FINDINGS OF FACT

1. On February 25, 1993, the Commission issued a general order in General Order No. 166.11, inviting written comments to be received on or before April 26, 1993 concerning promulgated Tariff Forms Nos. 8-B and 8-C and amendment of Rules 30-B and 30-C 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 Vehicles.

2. On April 26, 1993, comments were received from Hope Gas, Inc. Mountaineer Gas Company also filed correspondence, indicating that it wished to reserve the right to participate in the proceeding, but it did not submit comments.

3. The Commission seeks to make the notice requirements proposed in this rulemaking, consistent with those finalized by General Order No. 166.10 entered June 8, 1993.

4. West Virginia Code §24-1-7 provides that any rule finally adopted by the Public Service Commission shall not become final sooner than sixty (60) days after the filing of the finally adopted rules in the State Register.

CONCLUSION OF LAW

The Commission concludes that it is in the public interest to adopt the proposed rules and forms, attached hereto, as final rules and forms of the Commission, and that notice of the approval should be filed in the State Register.


ORDER

IT IS, THEREFORE, ORDERED that the proposed rules, as amended, copies of which are attached hereto, shall be, and they hereby are, approved.

IT IS FURTHER ORDERED that the proposed Tariff Forms as amended, copies of which are attached hereto, are approved.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order upon all parties in this matter by United States First Class Mail and upon Commission Staff by hand delivery.

A True Copy, Teste:

  
Howard M. Cunningham  
Executive Secretary

BRIEF SUMMARY

The purpose of the proposed rule change is to amend Rules 30-B and 30-C 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 and to add new Tariff Forms Nos. 8-B and 8-C to the rules. The proposed amendments and tariff forms clarify the public notice required in these proceedings and the scope of Commission review in these proceedings.

FISCAL NOTE

This is a fiscal note issued pursuant to West Virginia Code §§29A-3-4, 5 and 9 and West Virginia Code §24-1-7, relating to the Commission's General Order No. 166.11.

I. OBJECTIVES OF THE RULE

The objective of this rulemaking is to amend Rules 30-B and 30-C 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 Vehicles and add Tariff Forms Nos. 8-B and 8-C, concerning public notice, to clarify the public notice required in these proceedings and the scope of Commission review in these proceedings, upon timely protest filed.

II. COST OF IMPLEMENTING THE PROPOSED RULES

There will be no significant implementation cost relating to the rulemaking for the State of West Virginia or for the persons affected by the proposed rules.

III. THE EFFECT THIS MEASURE WILL HAVE ON THE COSTS OR REVENUES OF STATE GOVERNMENT (Information required by fiscal notes for either House of the Legislature).

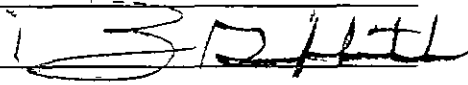
This rulemaking will have no effect on the cost and revenues of State Government.

IV. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS

The Commission foresees that there may be some unpredictable positive economic impact of this rule on the state and its residents.

DATE October 28, 1993 AGENCY Public Service Commission

SIGNATURE OF AUTHORIZED REPRESENTATIVE



Tariff Form No. 8-B

PUBLIC NOTICE OF CHANGE IN RATES UPON APPLICATION  
(Tariff Rule No. 30-B)

NOTICE is hereby given that \_\_\_\_\_, a public utility, has filed with the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, an application containing increased rates, tolls and charges for furnishing \_\_\_\_\_ service to customers at \_\_\_\_\_ in the \_\_\_\_\_ County(ies) of \_\_\_\_\_.

The proposed increased rates and charges will become effective \_\_\_\_\_ unless otherwise ordered by the Public Service Commission and will produce approximately \$\_\_\_\_\_ annually in additional revenue, an increase of \_\_\_\_\_%. The average monthly bill for the various classes of customers will be changed as follows:

	(\$) INCREASE	(%) INCREASE
Residential	\$ _____	% _____
Commercial	\$ _____	% _____
Industrial	\$ _____	% _____
Resale	\$ _____	% _____
Other	\$ _____	% _____

(If no rate increase involved, concisely described nature of filing.)

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested increased rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. Any increase in rates and charges will not become effective until authorized and approved by the Public Service Commission. (If a hearing is conducted, notice will be given of the time and place of hearing.)

A complete copy of the proposed rates, as well as a representative of the Company to provide any information requesting concerning it, is available to all customers, prospective customers or their agents at any of the following offices of the Company:

(List with each publication only those offices applicable)

A copy of proposed rates is available for public inspection at the Office of the Secretary of the PUBLIC SERVICE COMMISSION at 201 Brooks Street, Charleston, West Virginia.

The 30-B procedure is designed to provide for a change in rates and charges in order to produce additional revenue sufficient, but no more than sufficient, to offset increased cost for purchased gas, water, or electric or for transportation of such purchased gas, water or electric to such utilities. Consequently, protest should be limited to the reasonableness of the cost offset and the method by which it is calculated. Anyone desiring to protest or intervene should file a written protest or notice of intervention within twenty (25) days following the date of this publication unless otherwise modified by Commission order. Failure to timely intervene can affect your rights to protest any rate increases and to participate in future proceedings. Request to intervene must comply with the Commission's rules on intervention. All protests and intervention should be addressed to The Secretary, Public Service Commission of West Virginia, P. O. Box 812, Charleston, West Virginia 25323.

NOTE: Certificate of publication to be filed with Commission within fifteen (15) days of date of publication, unless notice is provided to not less than twenty (20) customers, as provided in Rule 30-B.

Tariff Form No. 8-C

PUBLIC NOTICE OF CHANGE IN RATES UPON APPLICATION  
(Tariff Rule No. 30-C)

NOTICE is hereby given that \_\_\_\_\_, a public utility, has filed with the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, an application containing increased rates, tolls and charges for furnishing \_\_\_\_\_ service to customers at \_\_\_\_\_ in the County(ies) of \_\_\_\_\_.

The proposed increased rates and charges will become effective \_\_\_\_\_ unless otherwise ordered by the Public Service Commission and will produce approximately \$ \_\_\_\_\_ annually in additional revenue, an increase of \_\_\_\_%. The average monthly bill for the various classes of customers will be changed as follows:

	(\$) INCREASE	(%) INCREASE
Residential	\$ _____	% _____
Commercial	\$ _____	% _____
Industrial	\$ _____	% _____
Resale	\$ _____	% _____

(If no rate increase involved, concisely described nature of filing.)

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested increased rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. Any increase in rates and charges will not become effective until authorized and approved by the Public Service Commission. (If a hearing is conducted, notice will be given of the time and place of hearing.)

A complete copy of the proposed rates, as well as a representative of the Company to provide any information requesting concerning it, is available to all customers, prospective customers or their agents at any of the following offices of the Company:

(List with each publication only those offices applicable)

A copy of proposed rates is available for public inspection at the Office of the Secretary of the PUBLIC SERVICE COMMISSION at 201 Brooks Street, Charleston, West Virginia.

The 30-C procedure is designed to provide a procedure for changing rates charged to customers by natural gas distribution utilities based exclusively on the cost of purchased gas. Consequently, protest should be limited to the reasonableness of such cost and the method by which they are calculated. Anyone desiring to protest or intervene should file a written protest or notice of intervention within twenty (25) days following the date of this publication unless otherwise modified by Commission order. Failure to timely intervene can affect your rights to protest any rate increases and to participate in future proceedings. Request to intervene must comply with the Commission's rules on intervention. All protests and intervention should be addressed to The Secretary, Public Service Commission of West Virginia, P. O. Box 812, Charleston, West Virginia 25323.

NOTE: Certificate of publication to be filed with Commission within fifteen (15) days of date of publication, unless notice is provided to not less than twenty (20) customers, as provided in Rule 30-C.

TITLE 150  
LEGISLATIVE RULES  
PUBLIC SERVICE COMMISSION

SERIES 2  
RULES AND REGULATIONS FOR  
THE GOVERNMENT OF THE  
CONSTRUCTION AND FILING OF TARIFFS  
OF PUBLIC UTILITIES AND  
COMMON CARRIERS BY MOTOR VEHICLE

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§150-2-1. General.**

1.1. Scope. -- These rules govern the construction and filing of tariffs of public utilities in West Virginia subject to the jurisdiction of the Public Service Commission of West Virginia pursuant to West Virginia Code §24-2-1.

1.2. Authority -- W. Va. Code §24-1-1, 24-1-7, 24-2-1, 24-2-2 and 24A-1-1.

1.3. Filing Date. -- January 9, 1992

1.4. Effective Date. -- March 10, 1992

1.5. Repeal of former rule. -- this legislative rule does not repeal a former rule but amends the gross revenue limitation under which qualifies small utilities for the optional rate procedure under §150-2-8.2.

**§150-2-2. General Applicability.**

2.1. RULE 1. Every corporation, firm, individual or municipality engaged in a public utility business as defined by Section 1, Article 2, Chapter 24, Code of West Virginia (other than common carriers) shall file with the Public Service Commission, in the Secretary's office at Charleston, eight (8) complete copies of a tariff containing schedules of all its rates, charges and tolls and stating all its rules and regulations, and shall keep a copy of said tariff open to public inspection, as required by section 5, article 3, of said law, in substantially the form and manner hereinafter set out. If a concern furnishes more than one kind of service (water and electricity, for example), a separate tariff must be filed for each kind of service.

**§150-2-3. Form and Size of Tariffs.**

3.1. RULE 2. All tariffs must be printed from type not smaller than 6-point or typewritten, mimeographed or produced by similar process, on hard calendared paper of good quality. Tariffs shall include cover sheets, which shall be blue for water

tariffs, buff for electric, pink for natural gas, gray for telephone, and white for other kinds of service.

3.2. RULE 3. The pages of a tariff should be 8-1/2 x 11 inches in size.

3.3 RULE 4. Tariffs may be in pamphlet or book form. Utilities having a large number of schedules shall publish tariffs in loose leaf form using one side of the paper only with not more than one schedule to the page.

3.4. RULE 5. The front cover page of a tariff shall contain the following: (1) name of the utility and location of principal office, (2) statement of kind of service offered, (3) general statement of territory served, (4) date of issue and date tariff is to become effective, provided, however, that every tariff which contains rates, charges or regulations, effective upon a date different from the general effective date of such tariff shall show on its front cover page the following notation: "Effective \_\_\_\_\_, 19 \_\_\_\_\_. (Except as otherwise provided herein.)" or "(Except as provided on page \_\_\_\_\_.)", (5) signature of the utility by the officer authorized to issue tariffs, and (6) identifying designation in the upper right corner as required by Rule 13 hereof.

3.5. RULE 6. The second and succeeding pages shall state (1) all the rules and regulations of the utility, (2) rate schedules showing all rates and charges for the several classes of service, and (3) the name of the utility on the upper left corner of each page.

3.6. RULE 7. The Secretary of the Commission will furnish standard forms of tariffs on request.

(See Tariff Form No. 3)

#### **\$150-2-4. Contents of Schedules.**

4.1. RULE 8. Each rate schedule in addition to a clear statement of all rates thereunder must state the city, town, village or district in which the rates are applicable: **Provided, however,** That schedules applicable in a large number of communities must be accompanied by an accurate index by which each community in which the rates are applicable may be readily ascertained, in which case the applicability of a schedule may be indicated by reference to the index sheet.

(Example: Applicable within the corporate limits of the city of Blank, or, see Sheet No. 2B for applicability).

4.2. RULE 9. Each rate schedule must state the class of service available under the rates stated therein.

(Example: Available for domestic lighting, or, available for all purposes).

4.3. RULE 10. In a tariff in which a number of schedules are shown available for various uses, each schedule should be identified by a number or by a group of letters, and if by a group of letters the designation should be indicative of the class of service for which the schedule is available.

(Example: Schedule No. 1, or, Schedule D.U.R., indicative that the schedule states domestic utility rates.)

4.4. RULE 11. When tariffs are filed in loose leaf form as required by Rule 4, each page should bear the P.S.C.W.Va. number of the tariff of which it is a part as required by Rule 13, the date issued and effective, and, in the upper right corner, a further designation, such as "Original Sheet No. 1," and/or "Original Sheet No. 2."

In case of a change in the text of any page as hereinafter provided, the further designation should be "First Revision of Original Sheet No. 1, canceling Original Sheet No. 1."

Tariffs may further be divided into sections, and so designated, if required by their size and contents.

4.5. RULE 12. All schedules shall state whether a minimum charge is made and, if so, they must set out all such charges.

#### **§150-2-5. Designation of Tariffs.**

5.1. RULE 13. All tariffs or tariff sheets, must bear in the upper right corner of the front cover page the P.S.C.W.Va. number thereof. Subsequent tariffs filed as provided by Rules 15 to 30, inclusive, must continue such designation in consecutive numerical order. Any subsequent tariff or tariff sheets must also show the P.S.C.W.Va. number of the tariff canceled, changed or modified by it.

#### **§150-2-6. Filing Additional Schedules.**

6.1. RULE 14. Additional and supplemental rate schedules, and additional rules and regulations, may be filed by supplement to an existing tariff, if such tariff be in pamphlet form. Any supplement so filed shall be numbered consecutively and shall state the tariff supplemented by the P.S.C.W.Va. number of such tariff. Not more than five (5) supplements to a tariff may be in effect at any one time.

Such additional schedules and rules and regulations may be filed in connection with an existing tariff which is in loose leaf form, by the filing of additional sheets or pages, designated in accordance with Rule 11 hereof.

**§150-2-7. Change or Withdrawal of Rate Schedules or Regulations.**

7.1. RULE 15. No tariff or tariff sheets, or any provision thereof, may be changed, canceled or withdrawn except upon full compliance with Section 4, Article 2, Chapter 24 of the Code and with Rules 17 to 30, inclusive, and Rule 40.

When a utility ceases operation or discontinues all service with permission of the Commission, in conformity with the requirements of Chapter 24 of the Code, it shall immediately notify the Secretary of the Public Service Commission that it has ceased operation or discontinued service and request the withdrawal of its tariff, tariffs, schedules or supplements.

7.2. RULE 16. All tariffs or revisions, stating changes in any provision, shall indicate reductions in rates by the letter (R), advances by the letter (A), new rates or regulations by the letter (N), omissions by the letter (O), and changes in text of regulations by the letter (C), or by other appropriate symbols, with explanatory footnotes.

7.3. RULE 17. New schedules stating changes in any provision of an effective tariff may be issued and put into effect by either of the two following methods, to-wit:

(a) By order of the Commission upon formal application by the utility, and after hearing, as provided by Rules 19, 20 and 21 hereof under the title "Change of Rates on Application."

(b) By issuing and filing on at least thirty days' notice to the Commission and the public a complete new tariff (or revised sheet of an existing tariff) stating all provisions and schedules it is proposed to put into effect as provided by Rules 22 to 27 hereof, inclusive, under the title "Change of Rates on Notice."

7.4. RULE 18. when a tariff is filed in loose leaf form as required by Rule 4, the provisions or rates stated on any sheet or page thereof may be modified or changed by the filing of a revision of such sheet or page in accordance with the provisions of Rules 19 to 27, inclusive. Such revisions must be identified as required by Rule 11.

**§150-2-8. Change of Rates on applications.**

8.1. RULE 19. A public utility desiring to modify, change, cancel or annul any of its rates, fares, classifications, charges, or rules and regulations, may file with the Commission its application, together with seven (7) copies of the same, in the form prescribed by the Commission for that purpose. Such application shall set forth (1) the rates, charges, rules and regulations in effect, (2) the proposed rates, charges, rules and

regulations, (3) if increase or reduction in rates estimated annual effect on revenue, and (4) the reason for the proposed change. At the time the applicant files its application it shall give notice to its customers in the form prescribed by the Commission (See Tariff Form No. 8-A) by publication in a newspaper published and of general circulation in each of the counties where a majority of its customers reside, provided, however, that when not more than twenty customers will be so affected by the proposed change, it shall be sufficient within the meaning of this rule, if typewritten or printed notice is mailed by the utility to each of its customers so affected. When the application is set for hearing the applicant shall give notice of the hearing thereon in the form prescribed by the Commission (See Tariff Form No. 9) by making publication once a week for two successive weeks, the first publication to be made not more than thirty (30) days nor less than fifteen (15) days prior to the date of the hearing, in a newspaper published and of general circulation in each of the counties in which customers reside. The application shall be accompanied by the information prescribed by Rule 42. A certificate(s) of publication shall be filed with the Commission to the effect that notice has been given as required by this rule, provided, however, that certificates of publication to the effect that notice has been given of the time and place of hearing may be filed on the day of hearing.

#### 8.2. RULE 19-A. Optional Rate Procedure for Small Utilities

The following shortened procedure may be used by a small utility for making application for change of rates.

(1) For the purpose of this section, a small utility shall be all those utilities with gross revenues less than \$300,000 annually. Where utilities are affiliated with other utilities, either through common ownership, management or otherwise, the total revenues of all the affiliates shall be considered. Where utilities are operating in more than one regulatory jurisdiction, the total revenues of all jurisdictions shall be considered. However, the Commission may, upon petition, good cause appearing therefor, exempt any applicant from the requirements of this section for the purpose of enabling said applicant to otherwise qualify for said procedure.

(2) No application shall be accepted from a utility which has not filed its most recent Annual Report as required by applicable Commission Rules and Regulations. Annual Reports which have been found to be unacceptable shall not be considered as properly filed.

(3) Any qualified small utility desiring to proceed under this section shall file with the Commission its application

and supporting financial data therefor, as required by P.S.C.W.Va. Tariff Form No. 11.

(4) Any request for increased rates in conjunction with major construction and financing shall not be permitted under Rule 19-A, regardless of the size of the utility. This includes any project requiring approval of the Department of Health, Department of Natural Resources, or any Federal Agency.

(5) When the application is filed, the Commission shall investigate the applicant's earnings, revenue requirements, adequacy of rates, and quality of service. After such investigation, the Commission will issue an order setting rates or approving or denying, or approving in part and denying in part, the proposed rates. Any rate or rates so approved shall not become effective sooner than thirty (30) days after the first publication of notice as hereinafter required, unless otherwise ordered.

(6) Upon receipt of the Commission's order, the applicant shall give notice to its customers of any rate or rates so approved by publishing notice once a week for two successive weeks in a newspaper published and of general circulation in each of the counties in which the customers reside; provided, however, that when not more than twenty customers will be so affected by the proposed change, it shall be sufficient within the meaning of this paragraph if typewritten or printed notice is mailed by the utility to each of its customers so affected. The notice shall be in the form prescribed in Tariff Form No. 10 which will be mailed to the applicant along with the Commission's order and staff audit report.

(7) The Commission may, in its discretion, upon the receipt of written objection by the applicant or protest by the customer, or upon written request for hearing, filed within the time period prescribed, schedule the matter for hearing. If a hearing is deemed necessary, the applicant will be informed to give notice thereof in the form prescribed in Tariff Form No. 10-A, which will be mailed to the applicant with the Commission's order. The applicant may make written request to place into effect interim rates set by the Commission pending disposition of the objection or protest.

(8) Nothing in this procedure shall prohibit an applicant from seeking additional rate relief through application as prescribed in Rules 19 through 21 or upon notice as prescribed in Rules 22 through 27.

(9) Nothing in this procedure shall prohibit a customer of the applicant from pursuing any remedy he would normally have under the law within the jurisdiction of the Commission.

It should be clear to an applicant that the intent of rule 19-A is to allow simplified rate filings and to enable the Commission's Staff to provide advice and assistance in the preparation of supportive financial data. The applicant is expected to cooperate to the fullest extent. Supporting records such as invoices, payroll records and quarterly reports should be readily available in proper order for verification to the applicant's books.

8.3. RULE 20. The burden of proof to show that the proposed rate, or the proposed change in rate, fare, classification, charge, or rule is just and reasonable shall be upon the public utility making application for such change.

8.4. RULE 21. Upon the granting of an application as aforesaid, the utility shall file a tariff setting out the rate, fare, classification, charge, or rule and regulation authorized by the Commission to become effective as the order may direct, and the tariff so filed shall state on the face thereof that it is "Issued by authority of an order of the Public Service Commission of West Virginia in Case No. \_\_\_\_\_ dated \_\_\_\_\_, 19\_\_\_\_."

#### **§150-2-9. Change of Rates on Notice.**

9.1. RULE 22. A public utility desiring to modify, change, cancel or annul any of its rates, fares, classifications, charges, rules and regulations, may, in lieu of the procedure prescribed in Rules 19, 20, and 21, proceed under section 4, article 2, of the law, by issuing and filing with the Commission a new tariff setting out in full the rates, fares, classifications, charges, rules and regulations it proposes to follow in the future (or, for convenience, a revision of any of the sheets of an existing tariff, setting out the proposed rates, etc.) and giving the notice to the Commission and the public required by said section 4, article 2, substantially as hereinafter prescribed. There shall be filed with the tariff or tariff sheets the information required by Rule 42.

#### **§150-2-10. Statutory Notice to the Public.**

10.1. RULE 23. Notice to the public of a change of rates and charges or rules and regulations, under section 4, article 2, of the law and as provided in Rule 22, shall be given by the utility in the following manner: (1) The tariff or revised sheet stating the proposed rates, rules, regulations, etc. shall be exhibited at the offices and places of business of the utility in the territory affected for at least thirty (30) days prior to the date such tariff or revision is to become effective, in the manner required for the posting of tariffs by Rule 37 hereof. (2) Typewritten or printed notice of the proposed rates or regulations shall be mailed by the utility to each customer to be

so affected at least thirty (30) days prior to the effective date of the change: **Provided, however,** That when more than twenty patrons will be so affected by the proposed change, it shall be sufficient within the meaning of this Rule if such notice is published once a week for two successive weeks, the first publication to be made at least thirty (30) days prior to the effective date in some newspaper of general circulation in the county in which a majority of such customers reside, (see Tariff Form No. 8), provided further, that the Commission, upon request of the utility, may modify the requirement as to notice other than by posting in any case in which it appears proper so to do.

10.2. RULE 24. The agent or representative of the utility in charge of an office or place of business shall give any information regarding said proposed rates and rules and regulations required of him by any consumer or prospective consumer or his agent, and shall accord said persons, or their agents, opportunity to examine any of the tariffs of the utility at all reasonable hours.

**§150-2-11. Statutory Notice to the Commission.**

11.1. RULE 25. Notice to the Commission of a change of rates and charges or rules and regulations, under Section 4, Article 2, Chapter 24 of the Code, shall be given by the utility by delivering to the Commission at the Secretary's office, free from all claims for postage or expressage, eight (8) complete copies of the tariff or revision stating all the rates and rules it proposes to use, (one copy to be returned to the utility) at least thirty (30) days prior to the effective date thereof, accompanied by a certificate in writing that notice is being given to the public in all respects as required by Rule 23 hereof, and if the proposed change states an increase or decrease, the estimated annual effect on revenues.

(See Tariff Form No. 6)

No consideration will be given to or for the time during which a tariff or revision may be held by an express company for charges or by the post office department because of insufficient postage. A tariff or revision that is received by the Secretary too late to give the Commission the full thirty (30) days' notice required by law will be returned to sender, and correction of the neglect or omission cannot be made which takes into account any time elapsing between the date upon which it was received and the date of attempted correction. When a tariff or revision is issued as to which the Commission is not given the statutory notice of thirty (30) days it is as if it had not been issued, and full statutory notice must be given on any reissue thereof. No consideration will be given to telephone or telegraphic notices in computing the thirty (30) days' notice required.

11.2. RULE 26.

(a) When a new tariff has been so issued and notice thereof given to the Commission and the public in all respects as hereinbefore provided, such tariff will become effective on the date stated therein unless the operation thereof be suspended and the use of the rates and regulations therein stated be deferred by an order of the Commission, pending a hearing concerning the propriety of the proposed rates and regulations, under Section 4, Article 2, Chapter 24 of the Code.

(b) When the Commission suspends any proposed rates, charges or regulations contained in any tariff, the previous rates, charges or regulations will remain in effect during the period of suspension or until lawfully canceled, reissued or otherwise ordered by the Commission. Whenever an order of suspension is received by a utility against whose tariffs the order of suspension is directed, it shall be the duty of such utility to file immediately a supplement, which shall bear no effective date but shall announce to the public and the Commission that such schedules are suspended until the date stated in the order of suspension and reference in such supplement shall be made to the tariffs where schedules remaining in effect during the period of suspension or until further orders of the Commission will be found.

(See Tariff Form No. 7)

(c) when the order of suspension directs the suspension of a part of a tariff, except as to such part, is allowed to become effective, the supplement announcing the suspension shall also contain the rates, charges and regulations applicable during the period of suspension or shall make specific reference by P.S.C. number or numbers to the tariff or supplement where they will be found.

(See Tariff Form No. 7)

(d) When the Commission suspends schedules in tariffs or supplements the Commission's Rule No. 14 relative to the number of supplements allowed will be waived.

(e) If upon final determination the matter suspended is found not unlawful and the Commission directs that the order of suspension be vacated or the case dismissed, the affected utility shall issue a supplement or revised page announcing the vacation of the order of suspension and provide by proper publication for the application of the lawful schedules and otherwise comply with such orders of the Commission as it may direct.

(See Tariff Form No. 7)

11.3. RULE 27. Before any schedule or regulation so filed shall become effective the utility filing the same as aforesaid

shall furnish the Commission with a certificate to the effect that notice has been given to the public as required by Rule 23 hereof. A failure to furnish said certificate shall be deemed sufficient cause for the suspension of said schedule.

**§150-2-12. Filing Tariffs on Less Than Statutory Notice.**

12.1. RULE 28. Tariffs and revised sheets stating changes in rates or practices, may be filed on less than thirty (30) days' notice to the Commission and the public, under Section 4, Article 2, Chapter 24 of the Code, provided good cause is shown therefor. In making application for permission to file tariff on less than statutory notice the utility shall follow Tariff Form No. 1.

12.2. RULE 29. When permission is granted to file a tariff or revision on less than statutory notice, the words "Effective on less than statutory notice by authority of an order of the Public Service Commission of West Virginia in Case No. \_\_\_\_\_, dated \_\_\_\_\_, 19\_\_\_\_", shall appear thereon.

12.3. RULE 30. For tariffs or revisions issued on less than statutory notice under special permission of the Commission as herein provided, literal compliance with the requirements for the notice prescribed in any permission so granted by the Commission will be exacted in accordance with the practice prescribed by these rules.

12.4. RULE 30-A. When application is made by common carriers by rail for permission to file revisions to existing tariffs stating increases or decreases in rates and charges on less than statutory notice to meet rail competition, water competitive conditions, or for other reasons such applicant shall, at the time application is made, certify that notice thereof has been given to all competitive shippers and to all rail competitive common carriers in the territory affected, and unless such certificate accompanies the application the latter will not be received or considered but will be returned to the applicant.

**§150-2-13. Accelerated Rate Procedure for Gas, Water and Electric Utilities.**

13.1. RULE 30-B. The following accelerated procedure may be used by a natural gas utility for changing rates because of increase or decrease in purchased gas cost and costs of transportation of purchased gas, by a water utility for changing rates because of increase or decrease in purchased water cost and costs of transportation of purchased water, or by an electric utility for changing rates because of increase or decrease in purchased electric costs and costs of transportation of purchased electricity.

Section A. If any natural gas utility is required to pay a higher cost for gas purchased or transported, or both, or if a water utility is required to pay a higher cost of water purchased or transported, or both or if an electric utility is required to pay a higher cost of electricity purchased or transported, or both, as a result of increased rates or charges allowed a supplier or transporter by a regulatory commission having jurisdiction thereof, or as a result of a rate filing pending before such a commission, such utility may file amended tariffs with this commission stating rates and charges designed to produce additional revenues sufficient, but no more than sufficient, to offset such increased cost for gas purchased or transported to a natural gas utility, or to offset such increased cost for water purchased or transported to a water utility, or to offset such increased cost for electric purchased or transported to an electric utility, and request an effective date for such amended tariffs not prior to the date it incurs said higher costs.

At the same time such utility files amended tariffs with this Commission it shall give notice to its customers in the form prescribed by the Commission (See Tariff Form No. 8-B) by publication by Class II legal advertisement in a newspaper published and of general circulation in each of the counties where a majority of its customers reside, provided, however, that when not more than twenty (20) customers will be so affected by the proposed change, it shall be sufficient within the meaning of this rule, if type written or printed notice is mailed by the utility to each of its customers so affected.

At any investigation of the justness and reasonableness of the new rates so sought by the utility, the issue shall be limited to:

(1) Whether the increased gas, water or electricity costs and transportation charges are duly authorized and collectible by the supplier or transporter.

(2) Whether the increase in rates filed by the utility are no more than sufficient to offset such increased costs.

(3) The effective date of such increased costs and the nature and permanency thereof.

(4) The possibility of the utility's receiving a refund at the termination of the proceeding in which the increased rates or charges are pending.

A total cost of service study need not be presented by a utility proceeding under this rule, and no evidence will be received or heard pertaining to any element of cost of service, except the increase in purchased gas, water or electricity costs and transportation costs as stated above.

Any utility using the foregoing procedure shall file a petition simultaneously with the tariff filing, invoking the provisions of this rule.

Before placing rates into effect pursuant to this procedure, the utility shall enter into an agreement and undertaking that, if it shall receive a refund of all or part of the higher costs for gas, water or electricity purchased or transported upon which are based its increased rates and charges placed into effect as authorized by this procedure, it will comply with such order as the Commission shall thereafter make in reference to such refund so received.

Section B. When any utility which has increased its rates pursuant to proceedings under this rule receives, as a result of an order by the regulatory body having jurisdiction, a reduction in, or a refund on, the rates and charges of the supplier or transporter whose rates and charges were the basis for the rate increase proceedings under this rule, it shall report promptly to this Commission the new reduced rates and charges so ordered and the annual saving in costs resulting to the utility from such reduction from the date and utility increased its rates under this rule, or the amount of the refund and the period to which it relates. Whereupon, this Commission will conduct an investigation, at which the issues and evidence will be limited to:

(1) The amount of the reduction.

(2) The effective date of the reduction.

(3) the manner in which, and the extent to which, the utility shall make refunds to its customers as a result of any refund received by it from its suppliers and transporter.

(4) The manner in which, and the extent to which, the utility shall amend or adjust its tariff to give effect to such reduction.

(5) No evidence will be received or heard pertaining to any element of the cost of service, except the decrease in purchased gas, water or electricity and transportation cost and the refunds, if any.

Any utility which invokes the proceedings provided under Section A hereof shall be deemed to have consented in advance to the proceedings under Section B.

Nothing in this rule shall be construed to prevent the Commission from investigating, in a separate proceeding, whether a utility should absorb an increase in the rates and charges of a supplier or transporter of gas, water or electricity.

13.2. RULE 30-C. Purchased Gas Costs -- This rule sets forth a procedure for changing rates per Mcf charged to customers by natural gas distribution utilities based exclusively on the cost of purchased gas including gas purchased by a utility and related transportation for delivery to its customers adjusted for net current gas stored, net exchange gas, shrinkage due to processing, excessive unaccounted for gas and over or under cost recoveries. The Public Service Commission of West Virginia may interpret this rule if necessary and may require appropriate action based upon any such interpretation. The Commission reserves the authority under its general power to review any information filed under this rule and to order appropriate changes based on applications before the Commission. If any provision of this rule would result in undue hardship for a utility or its customers, the Commission may modify the application of this rule appropriately.

(A) Application

Any change under this rule in the rates charged by a gas utility shall apply for a twelve-month period from November 1 through October 31. Each gas utility that requests an adjustment in its rates to reflect purchased gas costs shall submit an application on or before August 1. The application shall include proposed rates that reflect estimated purchased gas costs for the annual period beginning on November 1. The application shall also include a statement of actual purchased gas costs, cost over and under recovery and refund data for the twelve months ending June 30, and such other supporting information as the Commission may require. The utility shall state separately the quantity and cost of each source of gas.

A gas utility that submits application under division (A) of this rule shall continue to submit an application in each subsequent year until the Commission orders otherwise. Each ratemaking division of a utility shall submit a separate application under this rule.

At the same time the Applicant files its application it shall give notice to its customers in the form prescribed by the Commission (See Tariff Form No. 8-C) by publication by Class II legal advertisement in a newspaper published and of general circulation in each of the counties where a majority of its customers reside, provided, however, that when not more than twenty (20) customers will be so affected by the proposed change, it shall be sufficient within the meaning of this rule, if type written or printed notice is mailed by the utility to each of its customers so affected.

(B) Optional Semi-Annual Application

A gas utility or ratemaking division of a utility with annual intrastate sales of not more than 2,000,000 Mcf for the

year ending June 30 may elect to apply for semi-annual adjustments in its rates under this rule. A utility electing to file a semi-annual application shall file an application as required under division (A) of this rule with the statement that it will use the semi-annual option.

Any change under this rule in the rates charged by a gas utility using the semi-annual option shall apply for the period from November 1 through April 30 and May 1 through October 31. On or before February 1 the utility shall file a supplementary application, including a statement of actual purchased gas costs, cost over and under recovery, and refund data for the six-month period ending December 31 and proposed adjustments to its rates to reflect estimated purchased gas costs for the period May 1 through October 31.

The option to file a semi-annual application shall be exercised each year at the time for filing the annual application required under division (A).

(C) Commission Review

The Commission shall review applications submitted under this rule, specify an appropriate method for providing notice, and provide an opportunity for interested parties to submit evidence or objections concerning an application submitted under this rule.

1. Estimated Purchased Gas Costs. The Commission shall determine for the annual or semi-annual period for which a rate change is computed under this rule.

a) The estimated amount of purchased gas costs (Volume of purchased gas times average cost of purchased gas);

b) The estimated volume of purchased gas;

c) The estimated volume of sales;

d) The estimated total gas supply available (Total gas supply includes all purchased gas whether natural synthetic, liquified natural, propane or other manufactured gas, net storage, net exchange or net borrowed gas, and gas produced by the utility).

2. Definitions.

a) "Unaccounted for gas" means the difference between total gas supply, net of measured company use and measured free gas, and total gas sales.

b) "Percentage of allowable unaccounted for gas" means for each utility or each ratemaking division of a utility the ratio of unaccounted for gas to total gas supply not in excess of the lesser of:

i) actual percentage of unaccounted for gas for the twelve month period ending June 30; or

ii) 8% for utilities or ratemaking divisions of utilities with more than 2,000,000 Mcf annual sales, and for all other utilities:

For rates taking effect on	
11/1/79	18%
11/1/80	14%
11/1/81 and each year	
thereafter	10%

3. Reduction For Estimated Excess Unaccounted For Gas. The Commission shall reduce the amount of purchased gas costs by the cost of excess unaccounted for gas. The cost of excess unaccounted for gas shall be computed as follows:

a) Subtract the estimated volume of sales from estimated total supply available, net of measured company use and free gas, to obtain the total volume of estimated unaccounted for gas;

b) Divide the estimated volume of unaccounted for gas by the total supply available, net of measured company use and free gas, to obtain the percentage of unaccounted for gas;

c) Subtract the allowable percentage of unaccounted for gas from the estimated percentage of unaccounted for gas obtained in (C)3(b) to obtain the percentage of excess unaccounted for gas (If the estimated percentage of unaccounted for gas is equal to or less than the percentage of allowable unaccounted for gas, no adjustment in the amount of purchased gas costs is made under this division);

d) Multiply the percentage of excess unaccounted for gas obtained in (C)3(c) by the amount of purchased gas costs in (C)1(a) to obtain the amount of excess unaccounted for gas costs by which such purchased gas costs must be reduced.

The difference between purchased gas costs and the amount of excess unaccounted for gas costs equals the amount of allowable purchased gas costs.

(D) Over or Under Recovery of Purchased Gas Costs

The amount of allowable purchased gas costs determined in division (C) shall be increased or decreased by the amount of over or under recovery of purchased gas costs in the preceding

period. Over or under recovery of purchased gas costs shall be computed as follows:

1. Actual Gas Cost. Within 60 days after the end of each calendar month, each gas utility whose rates are adjusted under this rule shall report the following information for that month:

a) Actual quantity and cost of purchased gas received from suppliers;

b) Actual quantity and cost of all gas transferred to storage;

c) Actual quantity and cost of all gas withdrawn from storage;

d) actual net settlement cost of exchange gas;

e) Actual cost of gas shrinkage (product of shrinkage volume multiplied by average unit cost of purchased gas processed);

f) Total gas sold in Mcf.

Add or subtract the cost amounts stated in (a) through (e) to obtain the net cost of gas. Divide the net cost of gas for the month by the total Mcf sold during that month to obtain the actual cost of gas per billing unit (Mcf).

2. Gross Over or Under Recovery of Purchased Gas Costs. Within 60 days after the end of each calendar month, each gas utility whose rates are adjusted under this rule shall report its over or under recovery of purchased gas costs to the Commission. Over or under recovery of purchased gas costs shall be computed as follows:

a) subtract the actual cost of gas per billing unit, as determined under (D)1 of this rule, during the month from the estimated cost per Mcf embedded in the rates authorized to be charged during that month under this rule;

b) Multiply the difference obtained in (a) by the total sales in Mcf to which the rates authorized under this rule were applied in that month.

c) The over or under recovery amounts so obtained for each month shall be accumulated for the twelve months ending June 30 or the six months ending June 30 and December 31 as appropriate to obtain an annual or semi-annual total over or under recovery of purchased gas cost.

3. Net Over Or Under Recovery Of Purchased Gas Costs. The cumulative over or under recovery obtained in (D)2(c) shall be reduced by an amount computed as follows:

a) Divide the actual cost of purchased gas during the period by the total Mcf purchased during that period to obtain the average cost per Mcf of purchased gas;

b) Multiply the average cost obtained in (a) by the total Mcf of unaccounted for gas in excess of the allowable percentage of unaccounted for gas for the period to obtain the total cost of excess unaccounted for gas;

c) Divide the volume of purchased gas by the total gas supply volume to obtain the percentage of purchased gas to total supply for the period.

d) Multiply the amount obtained in (b) by the percentage obtained in (c) to obtain the cost of excess unaccounted for gas attributable to purchased gas.

e) Subtract the amount obtained in (d) from the gross over or under recovery for the period obtained in (D)2(c) to obtain the net amount of cost over or under recovery in the preceding period to be recovered in the current period.

#### (E) Purchased Gas Rate

The Commission shall divide the estimated cost of purchased gas as adjusted for excess unaccounted for gas and over or under recovery of costs, as provided in divisions (C) and (D), by the estimated total sales (Mcf) for the annual or semi-annual period for which a rate change is computed. The quotient so obtained shall be multiplied by  $(1 \div (1 - \text{Tax}))$ , where "Tax" equals the West Virginia B & O Tax rate effective on November 1 of the current period. The product so obtained shall equal the rate per Mcf to be rolled into the base rates of the utility for the current period.

Purchased gas charges shall not be included in service charges or rates for zero usage.

#### (F) Refunds

When any utility which has received an increase in its rates under this rule receives a refund of the charges of a supplier whose charges were the basis for the increased rates under this rule, the utility shall provide a credit on each customer's bill within 120 days after receipt of the refund. The credit shall return to the utility's customers the full amount of the supplier's refund including any interest received. The amount of credit for each customer shall be based upon that customer's consumption during the period for which the refund was

awarded. Utilities shall report monthly by docket numbers the refunds received, refunds made, and current balances.

13.3. RULE 30-D. FERC Approved Wholesale Power Increases -- this rule sets forth a procedure for changing the rates per kilowatt hour (Kwh) charged to retail customers by non-generating electric utilities based exclusively on fuel cost allowances for suppliers of wholesale power approved by the Federal Energy Regulatory Commission. The Public Service Commission of West Virginia may interpret this rule if necessary and may require appropriate action based upon such interpretations. The Commission reserves the authority under its general power to review any information filed under this rule and to order appropriate changes based upon applications before the Commission.

(A) Definitions

1. "FERC" means the Federal Energy Regulatory Commission.

2. "Non-generating electric utility" means an electric utility subject to the jurisdiction of this Commission whose sole source of electric power is the purchase of power from one or more wholesale suppliers.

3. "Adjustment period" means the six consecutive calendar months during which a non-generating electric utility must charge the adjusted rate determined under this rule.

4. "Wholesale rate" means the rate per kilowatt hour charged by a wholesale supplier of electric power to a non-generating electric utility as approved by FERC.

5. "Fuel cost" means that portion of a supplier's wholesale rate specifically attributed by FERC to changes in the supplier's cost of fuel under the provisions of the federal fuel adjustment clause.

(B) Application

A non-generating electric utility which has not already filed an initial application under this rule may apply to the Commission for permission to change its rate per kilowatt hour based upon changes in the fuel portion of the wholesale rate charged by a supplier of power. The application shall be filed no later than forth-five days prior to the first day of the adjustment period. The application shall state the actual fuel cost rate charged to the utility by each supplier of power in each of the six months preceding the month in which the application is filed, the actual volume of power purchased from each supplier and the amount of power sold during such months, and such other information as the Commission may require.

(C) Continuing Application

If the Commission approves an initial application filed under this rule, the non-generating electric utility that filed the application shall file a similar application not later than forty-five days preceding the first day of the next succeeding adjustment period and each succeeding adjustment period. A utility may cease filing applications for succeeding adjustment periods only with the prior approval of the Commission.

(D) Hearing

Prior to the first day of the adjustment period, the Commission shall require notice and provide a hearing on the application filed under this Rule. After the hearing the Commission may authorize a change in the utility's tariff necessary to reflect fuel cost related changes in the wholesale rate paid by the utility for purchased power and shall reflect any cumulative under recovery or over recovery of fuel expense experienced by the utility in past periods under this rule, taking into consideration taxes and line losses as appropriate. Such authorization shall apply to rates charged by the utility during the adjustment period.

(E) Exclusive Remedy

A non-generating electric utility shall use the procedure provided in this rule rather than the procedure provided in Rule 30-B of the Commission to obtain interim changes in its tariff reflecting fuel cost related portions of the wholesale rate paid by the utility for purchased power.

13.4. Rule 30-E. The following accelerated procedure may be used by motor common carriers of solid waste applying for a rate surcharge because of an increase or decrease in the disposal rates, commonly known as tip fees, charged by landfills.

a. If any motor carrier of solid waste is required to pay higher tip fees as a result of increase landfill costs, or as a result of a rate filing pending before this Commission, or of any increases imposed by landfills, such motor carrier may file amended tariffs with this Commission stating rates and charges designed to produce additional revenues sufficient, but no more than sufficient to offset such increased costs for tip fees and request an effective date for such amended rates not prior to the date it incurs said higher costs.

The Commission may investigate the reasonableness of the new rates so sought by the motor carrier to determine:

1. Whether the increase in tip fees is duly authorized and collectible by the landfill, or whether such

increase in tip fees has in fact been imposed, if such increase is to occur prior to July 1, 1989;

2. Whether the increase in rates filed by the motor carrier are no more than sufficient to offset such increased costs;

3. The effective date of such costs and the permanency thereof; and

4. The possibility of the motor carrier receiving a refund at the termination of the proceeding in which the increased tip fees are pending.

Any motor carrier using the foregoing procedure shall file a petition simultaneously with the tariff filing, invoking the provisions of this rule.

The motor carrier shall file evidence of past solid waste disposal tip fees in the form of copies of bills rendered by the solid waste disposal facility. The minimum data requirement in support of this filing shall be copies of the most recent six (6) months' disposal bills.

Before placing rates into effect pursuant to this procedure, the motor carrier shall enter into an agreement and undertaking that, if it shall receive a refund or reduction of all or part of the higher tip fees upon which are based its higher rates and charges placed into effect as authorized by this procedure, it will comply with such order as the commission shall thereafter make in reference to such refund or tip fee reduction so received.

b. When any motor carrier which has increased its rates pursuant to proceedings under this rule receives a reduction, or a refund, on the tip fees of any landfill whose rates and charges were the basis for the rate increase proceedings under this rule, it shall report promptly to this Commission the new reduced rates and charges so ordered and the annual savings in costs resulting to the motor carrier from such reduction from the date said landfill increased its rates under this rule, or the amount of refund and the period to which it relates. Whereupon, this Commission may conduct an investigation to determine:

1. The amount of the reduction;

2. The effective date of the reduction;

3. The manner in which, and the extent to which, the motor carrier shall make refunds to its customers as a result of any refund received from a landfill to which it transports solid waste; and

4. The manner in which, and the extent to which, the motor carrier shall amend or adjust its rates to give effect to such reduction.

Any motor carrier which invokes the proceedings provided under Section a, hereof shall be deemed to have consented in advance to the proceedings under Section b.

Nothing in this rule shall be construed to prevent the Commission from investigating, in a separate proceeding, whether a motor carrier should absorb all or part of an increase in tip fees from a landfill.

**§150-2-14. Change of Ownership - Adoption Notice.**

14.1. RULE 31. In case of change of ownership or control of a utility, or when a utility or a part of its business is transferred from the operating control of one company to that of another, or when its name is changed, the company which will thereafter operate the utility business must use the rates, classifications and regulations of the former operating company, (unless authorized to change by the Commission) and shall issue, file and post an adoption notice, on a form furnished by the Commission, adopting, ratifying and making its own all rates, rules, classifications and regulations of the former operating utility, on file with the Commission and effective at the time of such change of ownership or control. Adoption notices may be filed and made effective without previous notice.

14.2. RULE 32. Adoption notices must likewise be filed by receivers and trustees assuming possession and operation of utilities.

14.3. RULE 33. All adoption notices shall be filed in consecutive numerical order, beginning with P.S.C.W.Va. Adoption Notice No. 1, and subsequent adoption notices filed by any public utility taking over another utility shall bear No. 2, etc.

14.4. RULE 34. Within ten days after the filing of an adoption notice as aforesaid by a public utility, said utility shall issue and file in its own name the tariff of the predecessor utility then in effect and adopted by it, or such other tariff as it proposes to put into effect in lieu thereof, as prescribed in Rules 1 through 13 hereof with proper identifying designation.

(Example: P.S.C.W.Va. No. 1 cancels P.S.C.W.Va. Adoption Notice No. 1).

14.5. RULE 35. (RESERVED)

14.6. RULE 36. When a tariff or revision is issued by a utility in compliance with Rule 34 which states the rates, rules

and regulations of the predecessor utility without change in any of the provisions thereof, the same may be filed without notice, but when such tariff or revision states any change in the effect of the rates, rules and regulations of the predecessor utility, such tariff or revision shall be subject in all respects as to filing and notice as required by these rules.

**§150-2-15. Posting Tariffs, Etc.**

15.1. RULE 37. Every utility shall provide a suitable table or desk (in its office where bills are paid) which shall make available to the public at all times the following:

(1) A copy of all effective tariffs and supplements with the Commission's filing date stamped thereon, setting out its rates, fares, classifications, charges, rules and regulations, together with forms of contracts and applications applicable to the territory served from that office or place of business.

(2) A copy of Chapter 24, Code of West Virginia.

(3) A copy of the rules and regulations for the government of such utility, adopted by the Public Service Commission.

(4) A suitable placard, in large type, giving information to the public that said tariffs, rules and regulations and a copy of the law are kept there for public inspection.

15.2. RULE 38. In addition to the foregoing requirements, operators of ferries shall keep posted, in a conspicuous place at each landing, a complete copy of all effective tariffs.

**§150-2-16. Filing Special Contracts.**

16.1. RULE 39. Every utility must file eight (8) true copies of all special contracts entered into governing the sale by it of electric, water, gas, telephone, telegraph or other public utility service. The provisions of the regulations herein set out for tariffs containing rates, rules and regulations, etc., shall apply to the rates and schedules set out in said contracts, so far as they are practicable.

**§150-2-17. Withdrawing Tariffs, Etc.**

17.1. RULE 40. Every utility desiring to withdraw or cancel any tariff, rates, schedule, etc., under which no customer is receiving service, may do so by making informal application to the Commission setting forth its reasons for withdrawing or canceling said tariff, rate or schedule, and the Commission may refuse or grant said request.

**\$150-2-18. Report of Tariff Changes.**

18.1. RULE 41. All public utilities, except railroads other than street railroads, filing tariffs or revisions to existing tariffs changing any rate, charge, rule or regulation shall, at the time said tariff or revision to an existing tariff is submitted for filing, file with the Secretary of the Commission a statement, in writing, showing the name and address of the utility, the tariff or revision sheet issued, change, reason for change, approximate annual reduction or increase in revenue, the points and number of customers effected by said tariff change, and the manner in which they are thereby affected, which statement shall follow Tariff Form No. 2, which form will be forwarded to any public utility for its use upon request.

**\$150-2-19. Information to be Submitted with Filing of Tariff or Application to Initiate or Change Rates.**

19.1. RULE 42. The information required by this rule represents the MINIMUM data that must accompany all tariff filings, applications for authority to change rates and charges or applications for approval of initial rates. If a utility fails to comply with this rule the tariff filing or application shall not be received or considered by the Commission but shall be returned to the utility.

Each utility, at the time it files a tariff for initial rates or stating changes in rates or an application for authority to change rates and charges for furnishing service, or an application for approval of initial rates and charges, shall present the schedules and exhibits upon which it intends to rely in support of its application or filing. Such schedules and exhibits shall include, but not necessarily be limited to, the minimum requirements outlined in Statements A to G, inclusive.

Deletion of any required schedule as outlined in this rule shall cause the tariff filing or application to be returned as unacceptable.

Provided, this rule may be waived for good cause upon request for changes in wording which merely clarify existing tariff provisions, or which offer new optional services which have no adverse impact on customers who do not choose to use the new service. Requests for such waiver shall be accompanied by explanatory information including the reasons for the proposed clarification or new offering; the class or classes of customers affected; the extent to which such customers will be affected; the net financial effect of the proposed clarification or new offering; and verification of such information by an appropriate company official.

Provided further, this rule may be waived for good cause where the proposed tariff provision reflects a de minimus change

in practices, a rate reduction, or removal of an obsolete rate or provision. Requests for waiver for good cause in these categories shall be accompanied by explanatory information including the reasons for the proposed change; the class or classes of customers affected; the net financial effect of the proposed change; and a verification of such information by an appropriate company official.

19.2. TEST PERIOD: Actual audited or finally closed experience for the most recent fiscal year (the 12 month period used by the utility for accounting and tax purposes) available shall be used in preparing Statements A to G, inclusive. All adjustments for known and measurable changes in revenues and costs shall be clearly and fully explained. If the utility has been in operation less than twelve (12) months, estimates covering the period in which actual experience was not available, may be used in preparing the statements. The bases, procedures and data used to prepare such estimates shall be submitted in such detail as to permit ready analysis of the estimates.

Filings shall be in such form and content so as to provide the Commission sufficient information with which to evaluate the request of the applicant. Information shown in the financial statements (prior to adjustments) shall originate from the applicant's general records (general ledger and/or subledgers).

The information required by this Rule shall be furnished as a minimum requirement. Other information shall be provided as deemed appropriate by the applicant or as requested by the Commission.

Eight copies of the filing shall be submitted to the Commission.

An Investor owned utility shall include a copy of its annual report to stockholders with its filing. The annual report to stockholders of its parent company shall also be filed. These reports should coincide with the test year used for the rate filing.

All adjustments to test year data must be based on known and measurable changes. All adjustments must be clearly and fully explained in detail. Grouping of two or more adjustments into a single net adjustment will not be permitted.

The format for financial statements and supporting schedules shown in this rule must be followed.

The prescribed forms of statements and supporting schedules for utilities whose operations do not require apportionment of cost of service between jurisdictions are contained in form number P.S.C.W.Va. Form No. 42.

The prescribed forms for multi-jurisdictional utilities are contained in form number P.S.C.W.Va. Form No. 42-M.

If, because of unusual circumstances, a departure from the prescribed format is deemed necessary, such departure must have prior approval of the Commission.

#### 19.3. STATEMENT A-STATEMENT OF INCOME

This statement develops the net income (loss) for the test year upon which the need for rate relief is to be measured. Statement A is a summary statement and must be supported by detailed schedules as provided herein.

Per books data shown on this statement as well as on supporting schedules must agree with the company's books of account.

Accounting adjustments should be used to correct accounting errors.

Going-level adjustments should be used to annualize the effect of significant changes that occurred during the test year but which were not reflected for the full twelve month period, and to reflect the effect of known and measurable changes in revenue and expense levels following the end of the test year. Consideration of items treated differently for ratemaking purposes than for bookkeeping purposes should also be reflected as going-level adjustments.

Proforma adjustments should be used only to reflect the effect of the proposed rates on revenues and any related expense changes.

#### STATEMENT A-SCHEDULE 1

This schedule details operating revenues shown on Statement A. Revenues must be shown by account number and classification set out in the applicable uniform system of accounts prescribed by this Commission.

#### STATEMENT A-SCHEDULE 2

This schedule details operating expenses shown on Statement A. Expenses must be shown by account number and classifications set out in the applicable uniform system of accounts prescribed by the Commission.

#### STATEMENT A-SCHEDULE 3

This schedule will show depreciation expense as reflected on the utility's books for the test period and any accounting or going-level adjustments that are appropriate. The going-level

depreciation expense must be supported by a detailed calculation showing average test year plant balances, annual depreciation rates approved by this Commission and the annual depreciation resulting from such plant balances and depreciation rates.

Changes in depreciation rates that have been previously approved by the Commission but that were not fully reflected in test year depreciation would result in proper going-level adjustments; however, filings under this rule should not reflect changes in depreciation rates not submitted for the Commission's approval in a separate filing.

#### STATEMENT A-SCHEDULE 4

This schedule must detail by type and state all taxes other than Federal Income Taxes. Federal taxes, other than income, must also be shown on this schedule.

#### STATEMENT A-SCHEDULE 5

This schedule will contain the detail of the calculation of federal income tax for the test year as well as at adjusted levels. For corporations the per books tax calculation should agree with the form 1120 filed for the test year. If there is any difference between the current provision for federal income tax as calculated on this schedule and the income tax recorded on the books for the test year such difference must be fully explained in an attachment to this schedule.

Any utility which participates in a consolidated federal income tax return must disclose such participation on this schedule. Savings arising from the filing of a consolidated tax return shall, for purposes of rate consideration before this Commission, be stated as a percentage of tax on a separate return basis.

If (because of "normalization" of timing differences between book and tax deductions, deferral of tax credits or any other reason) the provision for federal income tax calculated at going-level and/or proforma is different than a "flow through" calculation the reasons for the effect of the difference must be fully disclosed and clearly explained on this schedule.

Supplemental sheets to this schedule must be filed containing pertinent data from consolidated federal income tax returns for the five most recent tax years available. Information required on such supplemental sheets must include the following:

- (1) A listing showing the name of companies participating in each consolidated return and the contribution of each company to the consolidated taxable income or (loss).

(2) Operating loss carry forwards (or carry backs) included in each company's consolidated basis taxable income.

(3) Capital gains and/or (losses) included in each company's consolidated basis taxable income.

(4) Total federal income tax for the consolidation.

(5) Tax on capital gains and/or (losses) included in total consolidated tax. This data should be detailed for each company.

(6) Difference between depreciation expenses included for tax purposes and book straight line depreciation.

(7) Taxable income on a separate return basis for each company and a reconciliation of the differences between taxable income on a separate return and consolidated return basis.

#### STATEMENT A-SCHEDULE 6

This schedule must detail other income shown on Statement A. Other income must be shown by account number and classification set out in the applicable uniform system of accounts prescribed by this Commission.

#### STATEMENT A-SCHEDULE 7

This schedule must detail other income deductions shown on Statement A. Other income deductions must be shown by account number and classification set out in the applicable uniform system of accounts prescribed by this Commission.

#### 19.4. STATEMENT B-AVERAGE RATE BASE

This statement is a summary of the rate base components detailed in supporting schedules to Statement B. The average balance for each rate base component shall be determined by totaling the balance at the beginning of the test year and the balance at the end of each month of the test year and dividing such total by thirteen. An average rate base must be developed and filed as a part of the financial data required by this rule. Departure from the development of an average rate base or inclusion of items not specifically shown herein shall be unacceptable; however, such departures may be shown in supplemental exhibits which must be filed in a separate addendum to the financial data prescribed herein. Any such exhibits should include a complete description of the proposed departure from prescribed rate base development and a clear explanation of the underlying reasons indicating justification for such departure.

#### STATEMENT B-SCHEDULE 1

This schedule provides a detail of Utility Plant in Service by account number and classification prescribed by this Commission in the applicable uniform system of accounts. Accounting adjustments should be individually listed (as indicated in the prescribed form). All adjustments must include a reference to the explanation of adjustments on Statement G.

#### STATEMENT B-SCHEDULE 2

This schedule provides a detail of plant held for future use by account number and classification prescribed by this Commission in the applicable uniform system of accounts. Accounting adjustments should be individually listed (as indicated in the prescribed form). All adjustments must include a reference to the explanation of adjustments on Statement G.

#### STATEMENT B-SCHEDULE 3

This schedule provides a detail of Unclassified Plant. Accounting adjustments should be individually listed (as indicated in the prescribed form). All adjustments must include a reference to the explanation of adjustments on Statement G.

#### STATEMENT B-SCHEDULE 4

This schedule provides a detail of Construction Work in Progress -- Completed by account number and classification prescribed by this Commission in the applicable uniform system of accounts. Accounting adjustments should be individually listed (as indicated in the prescribed form). All adjustments must include a reference to the explanation of adjustments on Statement G.

#### STATEMENT B-SCHEDULE 5

This schedule provides a detail of Materials and Supplies by account number and classifications prescribed by this Commission in the applicable uniform system of accounts. Accounting adjustments should be individually listed (as indicated in the prescribed form). All adjustments must include a reference to the explanation of adjustments on Statement G.

#### STATEMENT B-SCHEDULE 6

This schedule provides a detail of Prepayments by account number and classification prescribed by this Commission in the applicable uniform system of accounts. Accounting adjustments should be individually listed (as indicated in the prescribed form). All adjustments must include a reference to the explanation of adjustments on Statement G.

#### STATEMENT B-SCHEDULE 7

This schedule provides detail of the calculations of a working cash allowance to be included in the average rate base. An allowance for working cash will generally be allowed to equal 45/365 times (12.33%) annual operation and maintenance expenses, excluding the cost of commodities purchased for resale (gas, electricity or water). While this rule will generally apply, certain exceptions may be applicable, including the following:

(1) Telephone companies will be allowed a working cash allowance equal to 15/365 times (4.11%) annual operation and maintenance expenses.

(2) Companies that bill less frequently than monthly may, with prior approval of the Commission, use a formula for working cash that is different than that explained above.

(3) Fuel costs of electric utilities should be deducted from operation and maintenance expenses before the working cash calculation. However, working cash will be allowed for fuel expense at a rate equal to 45 minus the average lag (in days) between the date fuel is received and the date it is paid for divided by 365.

#### STATEMENT B-SCHEDULE 8

This schedule provides a detail of Accumulated Depreciation, Depletion and Amortization by account number and classification prescribed by this Commission in the applicable uniform system of accounts. Accounting and/or going-level adjustments should be individually listed (as indicated in the prescribed form). All adjustments must include a reference to the explanation of adjustments on Statement G.

#### STATEMENT B-SCHEDULE 9

This schedule provides a detail of Retirement-Work-in-Progress. Accounting adjustments should be individually listed (as indicated in the prescribed form). All adjustments must include a reference to the explanation of adjustments on Statement G.

#### STATEMENT B-SCHEDULE 10

This schedule provides a detail of Contributions-in-Aid-of-Construction. Accounting adjustments should be individually listed (as indicated in the prescribed form). All adjustments must include a reference to the explanation of adjustments on Statement G.

#### STATEMENT B-SCHEDULE 11

This schedule provides a detail of Customers' Advances for Construction. Accounting adjustments should be individually

listed (as indicated in prescribed form) in column 6. All adjustments must include a reference to the explanation of adjustments on Statement G.

19.5. STATEMENT C-DETAIL OF EQUITY AND/OR DEBT CAPITAL

The information required by this Statement shall vary depending on the ownership of the filing utility.

I. The following information must be submitted by all publicly-owned utilities. This statement must detail all long term debt outstanding as of the end of the test year. In addition, if the rate relief requested in the filing for which this statement is supplied is wholly or partially based on expected future debt offerings, that fact must be noted on this statement and estimated (actual, if available) data pertaining to the proposed debt issue or issues must be included on this statement.

For each outstanding or proposed debt offering (as described above) the following data must be supplied.

(1) Title of issue or brief description of purpose.

(2) Date of issuance and date or dates of maturity.

(3) Coupon interest rate.

(4) Net amount realized from issue, as follows:

Principal Amount	\$ _____
Plus premium or (less discount)	_____
Deductions:	_____
Underwriters discount or commission	_____
Trustees fees	_____
Counsel fees	_____
Accountant's fees	_____
Other expenses (describe)	_____
Total Deductions	_____
Net Amount Realized	_____

(5) Sinking fund information:

a) Is a sinking fund maintained for issue?

Yes or No.

b) If answer to (a) is "yes", where or by whom is sinking fund maintained?

c) If sinking fund is maintained, supply a statement showing fund balances at beginning of test year, payments into fund during test year, fund earnings for test year, fund disbursements during test year and balances at end of test year. (Fund balances for each issue refers to a breakdown between fund cash and investment balances if applicable.)

(6) A complete amortization schedule showing annual principal and interest requirements plus annual coverage requirements, if any. The form for this schedule shall be as found in Table 150-2A at the end of this regulation.

(7) A copy of the bond ordinance authorizing the debt issue. If ordinance is not applicable, supply a copy of the bond agreement. (This data need not be incorporated in the exhibit required by this rule, but should be filed as a supplement to Statement C.)

II. The following information must be submitted by all investor owned utilities. If more than forty-nine percent of the utility's common stock is owned by another corporation the required information under the captions "Common Stock", "Preferred Stock" and "Debt Capital" shall be submitted for both the utility company filing under this rule and its parent company.

#### Common Stock

1. List the amount of common stock authorized as of the beginning and end of the test year.

2. List the number of shares and capital received from common stock issued and outstanding as of the end of each quarter of the test year and quarterly for the four years immediately preceding the test year.

3. List the total common dividends and dividend per share of common stock quarterly for the test year and quarterly for the four years immediately preceding the test year.

4. Where applicable show the quarterly high and low market price of common stock for the test year and quarterly for the four years immediately preceding the test year.

5. List the book value per share of common stock for the test year and the four years immediately preceding the test year.

6. List the total earnings and earnings per share of common stock for the test year and the four years immediately preceding the test year.

#### Preferred Stock

1. List the amount of preferred stock authorized as of the beginning and end of the test year.

2. List the number of shares and capital received from preferred stock issued and outstanding as of the end of the test year and each of the four years immediately preceding the test year.

3. List the dividend rate for each class of preferred stock in number 2, above.

4. List the total preferred dividends paid quarterly for the test year and for each of the four years immediately preceding the test year.

5. List the terms of preference of all preferred stock including convertible and/or call dates, if any.

#### Debt Capital

1. Provide a brief description of each property mortgage giving date of execution, name and address of mortgagee or trustee, amount of indebtedness authorized to be secured thereby, amount of indebtedness actually issued, amount of principal outstanding and interest due and payable as of the end of the test year and a brief description of mortgaged property.

2. Provide a schedule of all long-term debt as of the beginning and end of the test year listing number and amount of bonds issued, date of issue, call dates, call provisions, rate of interest, date of maturity and how secured. If convertible debentures are issued and outstanding, list the date between which the conversion privilege may be exercised and the securities into which and the rate at which the conversion may be made.

3. Detail all other indebtedness not shown in number 2, above (including long-term debt rentals and/or capital leases) as of the beginning and end of the test year. The detail should include classification of debt, description of securities, if any, and annual interest rate of each class.

4. List the interest paid during the test year on each debt issue, and the weighted average total annual interest rate based on average long-term debt outstanding during the test year and average other indebtedness outstanding during the test year.

## Other Information Required

(This data need not be incorporated in the exhibit required by this rule, but should be filed as supplements to Statement C.)

1. Briefly describe the expected short-term and long-term future capital requirements of the company. This summary should include a brief description of the construction budget for the year following the test year as well as estimated budgets through the end of the third year following the test year. If available, such construction budgets should be shown in sufficient detail to determine the general extent of replacement of revenue producing facilities, expansion involving income producing facilities and non-income producing facilities.

2. Briefly outline the expected sources of capital, including internally generated funds, that will finance the expected construction budgets.

3. If future capital requirements include refinancing of existing capital, list the proposed source of funds to be used for the refinancing.

4. Furnish a detailed income statement for the test year and a comparative balance sheet as of the beginning and end of the test year.

### 19.6. STATEMENT D-BILL ANALYSIS

This statement must show an analysis of customers' bills for the same twelve month period used for Statement A. A separate sheet must be used to detail the analysis of billings under each separate rate schedule included in the company's West Virginia tariff. The bill analysis must be prepared in such manner as to provide ready calculations of revenues derived under rates in effect during the test year as well as revenue to be derived under proposed rates.

### 19.7. STATEMENT E-APPORTIONMENT OF COST OF SERVICE

Statement E must be filed by all multi-jurisdictional utilities whose operations require an apportionment of cost of service between jurisdictions. In addition, all utilities which seek a departure from the rate structure last approved by this Commission must file an apportionment of cost of service between customer classes and/or between usage groups within each class.

The functional categories used, and bases for distributing cost components between two or more functional categories must be clearly shown and fully explained. This statement must be presented in such form as to clearly indicate which cost components are directly assignable to a particular jurisdiction, class or group and which cost components require allocation.

Where allocations are required, all allocation factors should be separately shown and explained with sufficient detail given to verify the computation of the factor. In the case of allocation between jurisdictions, allocation factors should be presented in a form that fully discloses each jurisdiction served and the relationship between allocations to each jurisdiction. If any volumes, demands, numbers, line mileage or other allocation factor determinants are either excluded in development of allocation factors or are included with another jurisdiction, class or group (rather than being shown separately) such treatment must be fully and clearly explained and justified.

For each utility, cost apportionment procedures last approved by this Commission shall be the guide for procedures used in this Statement. Departure from the cost apportionment procedures last approved by this Commission shall be unacceptable; however, such departures may be shown in supplemental exhibits which must be filed in a separate addendum to the data prescribed by this rule. Any such exhibits should include a complete description of the proposed departures from cost apportionment procedures last approved by this Commission and a clear explanation of the underlying reasons indicating justification for such departures.

Since the complexities of cost apportionment studies are such that uniform reporting forms that would be applicable to all utilities would be difficult to conceive, no such forms are prescribed herein.

#### 19.8. STATEMENT F-COMPARATIVE BALANCE SHEET

This statement should show, by account numbers and classification set out in the applicable uniform system of accounts prescribed by this Commission, the balance sheet account balances as of the end of the test period and as of the end of the year ending with the day immediately preceding the first day of the test period.

##### STATEMENT F-SCHEDULE 1

Statement of Changes in Stockholders' Equity or Fund Balance. This schedule detailing changes in stockholders' equity or fund balances shall be filed in support of the amounts shown in the balance sheet.

##### STATEMENT F-SCHEDULE 2

Statement of Changes in Financial Position. This schedule detailing changes in financial position shall be filed in support of the statements of income filed. It shall contain sufficient detail to account for changes in working capital, investment in plant and other significant components of the company's financial structure.

## 19.9. STATEMENT G-DETAIL OF ADJUSTMENTS

All adjustments must be referenced to the explanations contained on this Statement. Adjustments should be sequentially numbered and grouped under the three adjustment headings used: Accounting, Going-Level and Proforma.

Where adjustments are based on calculations shown on other statements of supporting schedules provided for herein such basis for the adjustment should be indicated on this Statement. All calculations of adjustments not shown elsewhere should be shown with the explanation; however, should the calculation be so extraordinarily voluminous as to unduly lengthen and complicate this Statement, it may be omitted. In the case of omission of the detailed calculation of an adjustment the basis for the adjustment must be fully explained on this Statement and the detail of the calculation must be immediately available for review at the request of the Commission, its staff or any party to the case evolving from the company's filing. The Commission may, subsequent to a filing under this rule, require that a copy of omitted detailed calculations be filed, regardless of the volume thereof.

The statements filed under this rule should not contain any adjustments that do not reflect known and quantifiable changes. Should a company desire to present other adjustments for the Commission's consideration they should be shown on supplemental sheets to the statements and schedules provided for herein. All such supplemental sheets should be grouped together as an addendum to the basic financial data prescribed by this rule.

### **§150-2-20. P.S.C.W.Va. Form 42.**

20.1. The formats for statements and supporting schedules required by Rule 42 for those utilities whose entire operations are under the jurisdiction of the West Virginia Public Service Commission are as follows:

(Schedules required by Rule 42 are available from the Public Service Commission of West Virginia.) Attached at end of rules are such schedules.

### **§150-2-21. Purchase of Gas Supplies.**

21.1. RULE 43. Burden of Proof and Filing Requirements Concerning Rate Increases for Natural Gas Utilities Relating to the Purchase of Gas Supplies.

#### A. Applicability

(1) These regulations are applicable to all natural gas utilities in the State subject to the Commission's jurisdiction.

(2) These regulations apply to any proceeding before the Commission which involves a rate increase for a natural gas utility due to, or partly due to, an increase in gas costs. In this regard, gas shall mean synthetic natural gas as well as natural gas.

#### B. Burden of Proof

(1) In addition to other burdens of proof generally applicable to utility rate proceedings, a natural gas utility, in any proceeding before the Commission which involves a rate increase for a natural gas utility due to, or partly due to, an increase in gas costs, must show the following:

a) that dependable, lower-priced supplies are not readily available from other sources;

b) that contracts between the utility and its suppliers for purchase of gas are negotiated at arm's length and are not detrimental to its customers. Transactions between non-affiliated entities shall be presumed to be at "arms-length"; however, transactions between affiliated entities must be shown to be non-detrimental to both the utilities and to their customers; and

c) that the utility has let out bids for the purchase of a substantial quantity of natural gas supplied to its customers. "Let out bids" shall include, but not be limited to, the utility's accepting sealed bids, buying at auction or other methods of purchasing which offer sellers of natural gas the opportunity to compete for the sale.

(2) Should the applying utility not satisfactorily meet the burden of proof set forth in Paragraph 2.1, then the Commission may not authorize an increase greater than that which reflects reasonable costs of gas which is determined to be readily available. In the event the Commission cannot make this determination from the record in the proceeding, the application may be dismissed.

#### C. Filing Requirements.

(1) In addition to other filing requirements prescribed by the Commission's rules and by statute, the utility must file, at the time of its application to the Commission, documentary material which demonstrates that all reasonably available sources of gas have been thoroughly investigated and that the utility's purchases, actual and expected, are at the lowest available price among reliable sources at the time of the purchase.

(2) The filing shall include the following:

a) The utility shall submit a list of all offers to purchase gas issued by the utility during the twelve months ending the June 30 preceding the filing of the application, which shall include the language of the offer, the manner in which it was issued, the parties to whom the offer was made, the response thereto, and any agreements or contracts which resulted therefrom.

b) The utility shall submit a list of all offers to sell gas received by the utility from suppliers or potential suppliers, during the twelve months ending the June 30 preceding the filing of the application, which shall include the language of the offer, the manner in which it was received, the person from whom it was received, the response thereto, and any agreements or contracts which resulted therefrom.

c) The utility shall submit a list of the names of all persons, firms, and corporations which were investigated as sources of gas during the twelve months ending the June 30 preceding the filing of the application, whether or not such investigation resulted in an agreement to purchase and/or sell gas, including investigations of sources with "shut-in" wells, which list shall include the following information:

i) the price pre Mcf at which each investigated party offered gas for sale, if any;

ii) the availability and cost of transporting such gas and the potential transporting pipeline or utility;

iii) the amount of gas potentially available each month by such investigated party;

iv) the date by which such deliveries could commence; and

v) the extent of the gas reserves which can be made available to the utility.

d) The utility shall submit a list of all of its contracts which shall include, but need not be limited to, the following information: The name of the supplier (if purchased from an affiliated entity, state the nature of the affiliation), the quantity of gas relevant to the test period or application period, price, price escalator provisions, the county wherein the production is located, if applicable, and the term of the contract.

In the case of contracts involving the wellhead purchase of natural gas, the utility shall submit the following information: Producer's Name, Well Name/Number, the American Petroleum Institute (API) Identification Number, the Date Drilling Commenced, NGPA Classification, the Date NGPA Determination Was Received, the Contract Date, Contract Expiration Date, Price Adjustment Provisions, Contract quantities, Current Contract

Price in Dollars per MMBtu and Mcf. The utility shall tabulate the requested information by using PSC Form No. 185.7. If additional explanations are necessary, footnote and attach a page which explains the footnote.

e) The utility shall separately indicate which of the contracts listed in subsection (d) contain take-or-pay provisions, indefinite price escalators, and/or most favored nation clauses as defined within §24-2-16 of the West Virginia Code. With respect to those contractual provisions, the utility must show that the clauses do not require the utility to buy more than the reasonable amount of gas at a greater than reasonable price.

f) The utility shall submit copies of all relevant tariffs approved by the Federal Energy Regulatory Commission, or other regulatory bodies, under which it purchases gas together with the applicable service agreements and any legal instrument relating thereto.

g) If a utility presently has its own production, it shall provide historical information regarding such production for the period of time beginning with January 1st of the calendar year immediately preceding the year of the filing of the proposed rate increase through the month immediately preceding the month of filing. The utility shall provide estimated data and information regarding company production for the period of time beginning with the month of filing through December 31st of the calendar year following the year of filing. The information shall contain actual or estimated company production on a monthly basis, together with the actual or, if not available, estimated cost of production per Mcf, on a cost of service basis. The information shall indicate the number of producing wells and proven and/or estimated reserves, as well as a general description of the utility's future plans respecting its own production. The information shall further indicate the extent to which the utility has or plans to "shut-in" its production. If a utility owns mineral rights or holds leases which are not currently producing gas it shall provide evidence regarding the feasibility and cost effectiveness of developing gas wells on such rights or leases. If any of the rights or leases are currently producing, the utility shall provide evidence regarding the feasibility and cost effectiveness of expanding these producing properties, either through new wells, reworking existing wells or extending existing wells.

h) For all attached production obtained from suppliers, the utility shall indicate the extent to which the utility has or plans to shut-in suppliers' production. The utility shall identify the wells involved, by the API number, and quantify the volume of gas shut-in or expected to be shut-in.

**§150-2-22. General Applicability - Common Carriers by Motor**

## Vehicles.

22.1. M.C. RULE 1. All common carriers by motor vehicle engaged in the transportation of passengers or property for hire over the public highways of this State, as defined by Chapter 24A, Article 1, Section 2, Code of West Virginia, shall file with the Public Service Commission, in the Secretary's office at Charleston, eight (8) complete copies of a tariff containing schedules of all its rates, charges and tolls and stating all its rules and regulations, and shall keep a copy of said tariff open to public inspection, as required by Section 2, Article 6, of said law, in substantially the form and manner hereinafter set out, provided, however, that the reports and tariffs filed by an interstate motor carrier with the Commission may be copies of its reports and tariffs filed with the Interstate Commerce Commission.

22.2. M.C. RULE 1A. Adoption of Federal Regulations - The Commission hereby adopts the Rules and Regulations Governing the Construction and Filing of Tariffs and Schedules of Common Carriers by Motor Vehicle promulgated by the Interstate Commerce Commission, that are in effect as of January 1, 1977 and as published in Title 49 Code of Federal Regulations (CFR) Parts 1300 et seq., insofar as said rules and regulations may be applicable to the common carriers regulated by this Commission, and are not in conflict with these rules and regulations and the laws of the State of West Virginia.

### **§150-2-23. Form and Size of Tariff.**

23.1. M.C. RULE 2. All tariffs must be printed from type not smaller than 6-points, or typewritten, mimeographed or produced by similar process, on hard calendared paper of good quality.

23.2. M.C. RULE 3. The pages of a tariff should be 8 1/2 by 11 inches in size.

23.3. M.C. RULE 4. Tariffs may be in pamphlet or book form. A common carrier having a large number of schedules shall publish tariffs in loose leaf form.

23.4. M.C. RULE 5. The front cover page of a tariff shall contain the following:

(1) name of the common carrier and location of principal office,

(2) general statement of territory served,

(3) date of issue and date tariff is to become effective, provided, however, that every tariff which contains rates, charges, or regulations, effective upon a date different

from the general effective date of such tariff shall show on its front cover page the following notation: "Effective \_\_\_\_\_, 19\_\_\_\_. (Except as otherwise provided herein.)" or "(Except as provided on page \_\_\_\_\_.)"

(4) signature of the common carrier by the officer authorized to issue tariffs, and

(5) identifying designation in the upper right corner as required by M.C. Rule 13 hereof.

23.5 M.C. RULE 6. The second and succeeding pages shall state

(1) all the rules and regulations of the carrier,

(2) rate schedules showing all rates and charges for the several classes of service, and

(3) the name of the carrier on the upper left corner of each page.

23.6. M.C. RULE 7. The Motor Carrier Division of the Commission will furnish standard forms of tariffs on request. (See M.C. Tariff Form Nos. 34, 35, 50).

#### **§150-2-24. Contents of Schedules.**

24.1. M.C. RULE 8. Each rate schedule in addition to a clear statement of all rates thereunder must state a description of the certificated operating authority.

24.2. M.C. RULE 9. Each rate schedule must state the class of service available under the rates stated therein.

24.3. M.C. RULE 10. (RESERVED)

24.4. M.C. RULE 11. When tariffs are filed in loose leaf form as required by M.C. Rule 4, each page should bear the MF (Freight) or MP (Passenger) P.S.C.W.Va. number of the tariff of which it is a part as required by M.C. Rule 13, the date issued and effective, and, in the upper right corner, a further designation such as "Original Sheet No. 1," and/or "Original Sheet No. 2".

In case of a change in the text of any page as hereinafter provided, the further designation should be "First Revision of Original Sheet No. 1, cancelling Original Sheet No. 1".

Tariffs may further be divided into sections, and so designated, if required by their size and contents.

24.5. M.C. RULE 12. All schedules shall state whether a minimum charge is made and, if so, they must set out all such charges.

**§150-2-25. Designation of Tariffs.**

25.1. M.C. RULE 13. All tariffs or tariff sheets must bear in the upper right corner of the front cover page the MF (Freight) or MP (Passenger) P.S.C.W.Va. numbers thereof. Subsequent tariffs filed as provided by M.C. Rules 15 to 30, inclusive, must continue such designation in consecutive numerical order. Any subsequent tariff must also show the P.S.C.W.Va. number of the tariff cancelled, changed or modified by it.

**§150-2-26. Filing Additional Schedules.**

26.1. M.C. RULE 14. Additional and supplemental rate schedules, and additional rules and regulations, may be filed by supplement to an existing tariff, if such tariff be in pamphlet form. Any supplement so filed shall be numbered consecutively and shall state the tariff supplement by the P.S.C.W.Va. number of such tariff.

Such additional schedules and rules and regulations may be filed in connection with an existing tariff which is in loose leaf form, by the filing of additional sheets or pages, designated in accordance with M.C. Rule 11 hereof.

**§150-2-27. Change or Withdrawal of Rate Schedules or Regulations.**

27.1. M.C. RULE 15. No tariff, or tariff sheets, or any provisions thereof, may be changed, cancelled or withdrawn except upon full compliance with Chapter 24-A, article 5, section 2 of the Code, and with M.C. Rules 17 to 30, inclusive, and M.C. Rule 40.

When a common carrier ceases operation or discontinues all service with the consent and approval of the Commission and in compliance with the requirements of Chapter 24-A of the Code, it shall immediately notify the Motor Carrier Division of the Public Service Commission that it has ceased operation or discontinued service and request the withdrawal of its tariff, tariffs, schedules or supplements.

27.2. M.C. RULE 16. All tariffs or revisions, stating changes in any provision shall indicate reductions in rates by the letter (R), advances by the letter (A), new rates or regulations by the letter (N), omission by the letter (O), and changes in text of regulations by the letter (C), or by other appropriate symbols, with explanatory footnotes.

27.3. M.C. RULE 17. New schedules stating changes in any provision of any effective tariff may be issued and put into effect by either of the two following methods, to-wit:

(a) By order of the Commission upon formal application by the carrier, and after hearing, as provided by M.C. Rules 19, 20 and 21 hereof under the title "Changes of Rates on Application."

(b) By issuing and filing on at least thirty days' notice to the Commission and the public a complete new tariff (or revised sheets of an existing tariff) stating all provisions and schedules it is proposed to put into effect as provided by M.C. Rules 22 to 27 hereof, inclusive, under the title "Changes of Rates on Notice."

27.4. M.C. RULE 18. When a tariff is filed in loose leaf form as required by M.C. Rule 4, the provisions or rates stated on any sheet or page thereof may be modified or changed by the filing of a revision of such sheet or page in accordance with the provisions of M.C. Rules 19 to 27, inclusive. Such revisions must be identified as required by M.C. Rule 11.

#### **\$150-1-28. Change of Rates on Application.**

28.1. M.C. RULE 19. A common carrier desiring to modify charges, or rules and regulations, may file with the Commission eight (8) copies of its application therefor in that form prescribed by the Commission for that purpose. Such application shall set forth (1) the rates, charges, rules and regulations in effect, (2) the proposed rates, charges, rules and regulations, (3) if increase or reduction in rates estimated annual effect on revenue, and (4) the reason for the proposed change. The applicant shall give such notice of the filing of its application and of the hearing thereon as may be directed by the Commission. The application shall be accompanied by the minimum financial data required by M.C. Rule 42.

28.2. M.C. RULE 19-A. Optional Rate Procedure for Small Motor Carriers. The following shortened procedure may be used by a small motor carrier for making application for change of rates.

(1) For the purpose of this section, a small motor carrier shall be all those carriers with gross revenues less than \$200,000 annually. Where motor carriers are affiliated with other motor carriers, either through common ownership, management or otherwise, the total revenues of all the affiliates shall be considered. Where motor carriers are operating in more than one regulatory jurisdiction, the total revenues of all jurisdictions shall be considered. However, the Commission may, upon petition, good cause appearing therefore, exempt any applicant from the requirements of this section for the purpose of enabling said applicant to otherwise qualify for said procedure.

(2) Any qualified small motor carrier desiring to proceed under this section shall file with the Commission its application and supporting financial data therefor, as required by P.S.C.W.Va. M.C. Tariff Form No. 11.

(3) When the application is filed, the Commission shall investigate the applicant's earnings, revenue requirements, adequacy of rates, condition of equipment and quality of service. After such investigation, the Commission will issue an order approving or denying, or approving in part and denying in part, the proposed rates. Any rate or rates so approved shall not become effective sooner than thirty (30) days after the first publication of notice as hereinafter required, unless otherwise ordered.

(4) Upon receipt of the Commission's order the applicant shall give notice to its customers of any rate or rates so approved by publishing notice once a week for two successive weeks in a newspaper published and of general circulation in each of the counties in which the carrier regularly operates; provided, however, that when not more than twenty customers will be so affected by the proposed change, it shall be sufficient within the meaning of this paragraph if typewritten or printed notice is mailed by the carrier to each of its customers so affected. The notice shall be in the form prescribed in M.C. Tariff Form No. 10 which will be mailed to the applicant along with the Commission's order and staff audit report.

(5) The Commission may, in its discretion, upon the receipt of written objection by the applicant or protest by the customer, or upon written request for hearing, filed within the time period prescribed, schedule the matter for hearing. If a hearing is deemed necessary, the applicant will be informed to give notice thereof in the form prescribed in Tariff Form 10-A, which will be mailed to the applicant with the Commission's order. The applicant may make written request to place into effect interim rates set by the Commission pending disposition of objection or protest.

(6) Nothing in this procedure shall prohibit an applicant from seeking additional rate relief through application as prescribed in M.C. Rules 19 through 21 or upon notice as prescribed in M.C. Rules 22 through 27.

(7) Nothing in this procedure shall prohibit a customer of the applicant from pursuing any remedy he would normally have under the law within the jurisdiction of the Commission.

It should be clear to an applicant that the intent of M.C. Rule 19-A is to allow simplified rate filings and to enable the Commission's Staff to provide advice and assistance in the preparation of supportive financial data. The applicant is

expected to cooperate to the fullest extent. Supporting records such as invoices, payroll records and quarterly reports should be readily available in proper order for verification to the applicant's books.

28.3. M.C. RULE 20. The burden of proof to show that the proposed rates, or the proposed changes in rate, fare, classification, charge, or rule is just and reasonable shall be upon the carrier making application for such change.

28.4. M.C. RULE 21. Upon the granting of an application as aforesaid, the carrier shall file a tariff setting out the rate, fare, classification, charge, or rule and regulation authorized by the Commission to become effective as the order may direct, and the tariff so filed shall state on the face thereof that it is "Issued by authority of an order of the Public Service Commission of West Virginia M.C. Case No. \_\_\_\_\_, dated \_\_\_\_\_, 19\_\_\_\_."

**§150-2-29. Change of Rates on Notice.**

29.1. M.C. RULE 22. A common carrier desiring to modify, change, cancel or annul any of its rates, fares, classifications, charges, rules and regulations, may, in lieu of the procedure prescribed in M.C. Rules 19, 20 and 21, proceed under section 2, article 5, Chapter 24A, of the Code, by issuing and filing with the Commission a new tariff setting out in full the rates, fares, classifications, charges, rules and regulations it proposes to follow in the future (or, for convenience, a revision of any of the sheets of an existing tariff, setting out the proposed rates) and giving the notice to the Commission and the public required by said section 2, article 5, substantially as hereinafter prescribed. There shall be filed with the tariff or tariff sheets the minimum financial data required by M.C. Rule 42.

**§150-2-30. Statutory Notice to the Public.**

30.1. M.C. RULE 23. Notice to the public of a change of rates and charges or rules and regulations, under section 2, article 5, of Chapter 24-A, and as provided in M.C. Rule 22, shall be given by the carrier in the form prescribed by the Commission, by making publication once a week for two successive weeks, the first publication to be made at least thirty (30) days prior to the effective date, in a newspaper published and of general circulation in each of the counties in which the carrier is authorized to operate.

30.2. M.C. RULE 24. The agent or representative of the carrier in charge of an office or place of business shall give any information regarding said proposed rates and rules and regulations required of him by any customer or prospective customer or his agent, and shall accord said persons, or their

agents, opportunity to examine any of the tariffs of the carrier at all reasonable hours.

**§150-2-31. Statutory Notice to the Commission.**

31.1. M.C. RULE 25. Notice to the Commission of a change of rates and charges or rules and regulations, under section 2, article 5, Chapter 24-A, of the Code, shall be given by the carrier by delivering to the Commission at the Secretary's office, free from all claims for postage or expressage, eight (8) complete copies of the tariff or revision stating all the rates and rules it proposes to use, (one copy to be returned to the carrier) at least thirty (30) days prior to the effective date thereof, accompanied by a certificate in writing that notice is being given to the public in all respects as required by M.C. Rule 23 hereof, and if the proposed change states an increase or decrease, the estimated annual effect on revenues. (See Tariff Form No. 6).

No consideration will be given to or for the time during which a tariff or revision may be held by an express company for charges or by the post office department because of insufficient postage. A tariff or revision that is received by the Secretary too late to give the Commission the full thirty (30) days' notice required by law will be returned to sender, and correction of the neglect or omission cannot be made which takes into account any time elapsing between the date upon which it was received and the date of attempted correction. When a tariff or revision is issued as to which the Commission is not given the statutory notice of thirty (30) days it is as if it had not been issued, and full statutory notice must be given on any reissue thereof.

31.2. M.C. RULE 26.

(a) When a new tariff has been so issued and notice thereof given to the Commission and the public in all respects as hereinbefore provided, such tariff will become effective on the date stated therein unless the operation thereof be suspended and the use of the rates and regulations therein stated be deferred by an order of the Commission, pending a hearing concerning the propriety of the proposed rates and regulations, under section 2, article 5, Chapter 24A of the Code.

(b) When the Commission suspends any proposed rates, charges or regulations contained in any tariff, the previous rates, charges or regulations will remain in effect during the period of suspension or until lawfully cancelled, reissued or otherwise ordered by the Commission. Whenever an order of suspension is received by a carrier against whose tariffs the order of suspension is directed, it shall be the duty of such carrier to file immediately a supplement, which shall bear no effective date but shall announce to the public and the Commission that such schedules are suspended until the date

stated in the order of suspension and reference in such supplement shall be made to the tariffs where schedules remaining in effect during the period of suspension or until further orders of the Commission will be found. (See Tariff Form No. 7).

(c) When the order of suspension directs the suspension of a part of a tariff, which, except as to such part, is allowed to become effective, the supplement announcing the suspension shall also contain the rates, charges and regulations applicable during the period of suspension or shall make specific reference by P.S.C. number or numbers to the tariff or supplement where they will be found. (See Tariff Form No. 7).

(d) If upon final determination the matter suspended is found not unlawful and the Commission directs that the order of suspension be vacated or the case dismissed, the affected carrier shall issue a supplement or revised page announcing the vacation of the order of suspension and provide by proper publication for the application of the lawful schedules and otherwise comply with such orders of the Commission as it may direct. (See Tariff Form No. 7).

31.3. M.C. RULE 27. Before any schedule or regulation so filed shall become effective the carrier filing the same as aforesaid shall furnish the Commission with a certificate to the effect that notice has been given to the public as required by M.C. Rule 23 hereof. A failure to furnish said certificate shall be deemed sufficient cause for the suspension of said schedule.

#### **§150-2-32. Filing Tariffs on Less than Statutory Notice.**

32.1. M.C. RULE 28. Tariffs and revised sheets stating changes in rates or practices, may be filed on less than thirty (30) days' notice to the Commission and the public, under section 2, article 5, Chapter 24-A of the Code, provided good cause is shown therefor. In making application for permission to file tariff on less than statutory notice the carrier shall follow M.C. Tariff Form No. 1.

32.2. M.C. RULE 29. When permission is granted to file a tariff or revision on less than statutory notice, the words "Effective on less than statutory notice by authority of an order of the Public Service Commission of West Virginia in M.C. Case No. \_\_\_\_\_, dated \_\_\_\_\_, 19\_\_\_\_."

32.3. M.C. RULE 30. For tariffs or revisions issued on less than statutory notice under special permission of the Commission as herein provided, literal compliance with the requirements for the notice prescribed in any permission so granted by the Commission will be exacted in accordance with the practice prescribed by these rules.

32.4. M.C. RULE 30-A. When application is made by a common carrier for permission to file revisions to existing tariffs stating increases or decreases in rates and charges on less than statutory notice to meet motor truck competition or for other reasons such applicant shall, at the time application is made, certify that notice thereof has been given to all competitive shippers and to all motor vehicles competitive common carrier in the territory affected, and unless such certificate accompanies the application the latter will not be received or considered but will be returned to the applicant.

**\$150-2-33. Change of Ownership-Adoption Notice.**

33.1. M.C. RULE 31. In case of change of ownership or control of a common carrier by motor vehicle, or when a carrier or a part of its business is transferred from the operating control of one company to that of another, or when its name is changes, the company which will thereafter operate the carrier business must use the rates, classifications and regulations of the former operating company, (unless authorized to change by the Commission) and shall issue, file and post an adoption notice, on a form furnished by the Commission, adopting, ratifying and making its own all rates, rules, classifications and regulations of the former operating motor carrier, on file with the Commission and effective at the time of such change of ownership or control. Adoption notices may be filed and made effective without previous notice.

33.2. M.C. RULE 32. Adoption notices must likewise be filed by receivers and trustees assuming possession and operation of a motor carrier.

33.3. M.C. RULE 33. All adoption notices shall be filed in consecutive numerical order, beginning with P.S.C.W.Va. M.C. Adoption Notice No. 1, and subsequent adoption notices filed by a common carrier taking over another carrier shall bear No. 2.

33.4. M.C. RULE 34. Within ten days after the filing of an adoption notice as aforesaid by a common carrier, said carrier shall issue and file in its own name the tariff of the predecessor carrier then in effect and adopted by it, or such other tariff as it proposes to put into effect in lieu thereof, as prescribed in M.C. Rules 1 through 13 hereof with proper identifying designation. (Example: P.S.C.W.Va. M.C. No. 1 cancels P.S.C.W.Va. M.C. Adoption Notice No. 1.)

33.5. M.C. RULE 35. (RESERVED)

33.6. M.C. RULE 36. When a tariff or revision is issued by a motor carrier in compliance with Rule 34 which states the rates, rules and regulations of the predecessor carrier without change in any of the provisions thereof, the same may be filed without notice; but when such tariff or revision states any

change in the effect of the rates, rules and regulations of the predecessor motor carrier, such tariff or revision shall be subject in all respects as to filing and notice as provided in M.C. Rules 23 to 30, inclusive.

**§150-2-34. Posting Tariffs**

34.1. M.C. RULE 37. Every common carrier by motor vehicle shall provide a suitable table or desk (in its office where bills are paid) which shall make available to the public at all times the following:

(1) A copy of all effective tariffs and supplements with the Commission's filing date stamped thereon, setting out its rates, fares, classifications, charges, rules and regulations, together with forms of contracts and applications applicable to the territory served from that office or place of business.

(2) A copy of Chapter 24-A, Code of West Virginia.

(3) A copy of the rules and regulations for the government of such carrier adopted by the Public Service Commission.

(4) A suitable placard, in large type, giving information to the public that said tariffs, rules and regulations and a copy of the law are kept there for public inspection.

34.2. M.C. RULE 38. (RESERVED)

34.3. M.C. RULE 39. (RESERVED)

34.4. M.C. RULE 40. Every carrier desiring to withdraw or cancel any tariff, rates, or schedules, under which no customer is receiving service, may do so by making informal application to the Commission setting forth its reasons for withdrawing or cancelling said tariff, rate or schedule, and the Commission may refuse or grant said request.

34.5. M.C. RULE 41. (RESERVED)

**§150-2-35. Information to be Submitted with Filing of Tariff or Application to Initiate or Change Rates.**

35.1. M.C. RULE 42. The information Required by this Rule Represents the MINIMUM Data That Must Accompany All Tariff Filings, Applications for Authority to Change Rates and Charges or Applications for Approval of Initial Rates. If a Carrier Fails to Comply with this Rule, the Tariff Filing or Application Shall not be Received or Considered by the Commission but Shall be Returned to the Carrier.

Each common carrier by motor vehicle, at the time it files a tariff for initial rates or stating changes in rates or an application for authority to change rates and charges for furnishing service, or an application for approval of initial rates and charges, shall present schedules and exhibits upon which it intends to rely in support of its application or filing. Such schedules and exhibits shall include, but not necessarily be limited to, the minimum requirements outlined in Statements A to J, inclusive.

Deletion of any required schedule as outlined in this rule shall cause the tariff filing or application to be returned as unacceptable, unless said deletion is corrected immediately.

Filing shall be in such form and contents so as to provide the Commission with sufficient information with which to evaluate the request of the applicant. Information shown in financial statements (prior to adjustments) shall originate from the applicant's general records.

The information required by this rule shall be furnished as a minimum requirement. Other information shall be provided as deemed appropriate by the applicant or as requested by the Commission.

Provided, this rule may be waived for good cause upon request for changes in wording which merely clarify existing tariff provisions, or which offer new optional services which have no adverse impact on customers who do not choose to use the new service. Requests for such waiver shall be accompanied by explanatory information including the reasons for the proposed clarification or new offering; the class or classes of customers affected; the extent to which such customers will be affected; the net financial effect of the proposed clarification or new offering; and verification of such information by an appropriate company official.

Provided further, this rule may be waived for good cause where the proposed tariff provision reflects a de minimus change in practices, a rate reduction, or removal of an obsolete rate or provision. Requests for waiver for good cause in these categories shall be accompanied by explanatory information including the reasons for the proposed change; the class or classes of customers affected; the net financial effect of the proposed change; and a verification of such information by an appropriate company official.

Eight copies of the filing shall be submitted to the Commission.

All adjustments to test year data must be based on known and measurable changes. All adjustments must be clearly and fully

explained in detail. Grouping of two or more adjustments into a single net adjustment will not be permitted.

TEST PERIOD: Actual audited or finally closed experience for the most recent fiscal year (twelve month period used by the carrier for accounting and tax purposes) available shall be used in preparing statements A through J inclusive. All adjustments for known and measurable changes in revenues and cost shall be clearly and fully explained. If the carrier has been in operation less than twelve (12) months, estimates covering the period in which actual experience was not available, may be used in preparing the statements. The bases, procedure and data used to prepare such estimates shall be submitted in such detail as to permit ready analysis of the estimates.

35.2. The format for a formal application to change rates, and the statements and supporting schedules to accompany said application and/or tariff filing are set forth in P.S.C.M.C. Form No. 48, and supporting schedules A through J, as follows:



FILED

SEP 23 9 30 AM '94

KEN HECHLER
Secretary of State
MARY P. RATLIFF
Deputy Secretary of State
A. RENEE COE
Deputy Secretary of State
CATHERINE FREROTTE
Executive Assistant
Telephone: (304) 558-6000
Corporations: (304) 558-8000

WILLIAM H. HARRINGTON
Chief of Staff
JUDY COOPER
Director, Administrative Law
DONALD R. WILKES
Director, Corporations
(Plus all the volunteer help we can get)
FAX: (304) 558-0900

STATE OF WEST VIRGINIA

SECRETARY OF STATE
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

TO: Joyce Martin

AGENCY: Public Service Commission

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: March 14, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 10 TITLE: 150 Public Service Commission

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: [Signature]

TITLE OF PERSON SIGNING: General Counsel

DATE: 9-19-94

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

RECEIVED
94 MAR 15 1994
W.V. PUBLIC SERVICE COMMISSION