



STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
CHARLESTON, 25305

August 26, 1981

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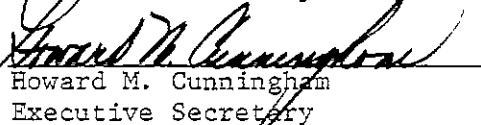
STATE REGISTER FILING

I, Howard M. Cunningham, Executive Secretary, Public Service Commission of West Virginia, hereby submit to record in the State Register on 8-1/2" x 11" paper, two (2) copies of a final Rule 19-A "Optional Rate Procedure for Small Public Utilities," adopted by the Commission on August 26, 1981. This final rule adopts a proposed amended rule filed in the State Register on July 2, 1981.

This final rule is filed in the Office of the Secretary of State, State of West Virginia, pursuant to the requirements of Chapter 29A, Article 3, Section 10, Code of West Virginia, and will become effective sixty (60) days of August 26, 1981, or October 25, 1981, again as provided by Chapter 29A, Article 3, Section 8.

August 26, 1981

Date submitted


Howard M. Cunningham
Executive Secretary

General Order No. 183.5

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 8/26/81
Administrative Law Division

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
at the Capitol in the City of Charleston on the 26th day of August, 1981.

GENERAL ORDER NO. 183.5

IN THE MATTER OF REVISION OF THE
RULES AND REGULATIONS FOR THE
GOVERNMENT OF THE CONSTRUCTION AND
FILING OF TARIFFS OF PUBLIC UTILITIES
AND COMMON CARRIER BY MOTOR VEHICLE.

COMMISSION ORDER ADOPTING RULE

The Commission, by General Order No. 183, made and entered on
March 16, 1977, adopted, promulgated, and issued Rules and Regulations
for the Government of the Construction and Filing of Tariffs of Public
Utilities and Common Carriers by Motor Vehicle, pursuant to provisions
of the Code of West Virginia.

On July 2, 1981, the Commission entered an order in the above-
styled and numbered case which proposed to amend Rule 19-A "Optional
Rate Procedure for Small Utilities", Tariff Form No. 10, Tariff Form
No. 10-A, and Tariff Form No. 11.

The order of July 2, 1981, required the Executive Secretary of
the Commission to cause the proposed amendment to said Rule 19-A,
attached to the order of July 2, 1981, as Appendix A, to be filed in
the State Register pursuant to West Virginia Code, §29A-3-5 and
§29A-3-8, and to attach thereto a notice stating that interested
parties may submit data, objections, suggested amendments, views,
evidence and arguments, in writing, concerning the proposed amendment
to the Public Service Commission of West Virginia, which comments were
to be submitted not later than August 1, 1981.

The order of July 2, 1981, required the Executive Secretary of
the Commission to cause a copy of the aforementioned notice to be
published in newspapers published in each county of the State, one
time, said publication to be made not later than July 15, 1981.

The order of July 2, 1981, further required that the Executive
Secretary of the Commission mail copies of the order to each recognized
association of small utilities whose members are regulated by this
Commission and to the office of the State Attorney General.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FILED IN THE OFFICE OF
A. JAMES MANCHINI
SECRETARY OF STATE

THIS DATE 8/26/81
Administrative Law Division

Notice was given as required by filing, mailing, and publication.

Comments were received by the Commission from the Lumberport-Shinnston Gas Company, Blacksville Oil and Gas Company, Inc., and Virginia S. Keys, Director of the Commission's Audit Division.

COMMENTS TO THE PROPOSED RULE

The Commission carefully reviewed all of the comments which it received.

Lumberport-Shinnston Gas Company expressed concern that the \$200,000 limit on a company's annual gross revenue enabling them to qualify for the shortened procedure in rate change applications was impractical in today's economic environment. It was suggested that the limit should be raised to \$500,000 to increase the number of utilities that could avail themselves of this procedure. Concern was also expressed about the requirement that where utilities are affiliated with other utilities, either through common ownership, management or otherwise, the total revenues of all the affiliates shall be considered. It was suggested that this requirement would prohibit many small utilities from using the shortened procedure and put a further cost burden on the utility's customers.

The Commission is of the opinion that these comments should be rejected. The intent of the rule change was to allow small utilities to avoid filing detailed financial data. The limit was raised from \$50,000 to \$200,000 in gross annual revenues to insure that inflation would not force small utilities into filing costly rate cases. Those utilities which are affiliated with other utilities frequently exceed the \$200,000 limit and are able to spread the costs of preparing a rate case over a wider base of customers. The effect of raising the \$200,000 limit to \$500,000 would be too burdensome on the Commission's Staff. As mentioned before, the intent of the change is to assist the small utilities by removing costly filing requirements, not to substitute the Commission's Staff as financial consultants to every small utility in the State.

The comments of Blacksville Oil and Gas Company, Inc., consisted of a statement of support and agreement with the Lumberport-Shinnston Gas Company's comments and the Commission is of the opinion that those comments have already been adequately addressed.

Finally, the comments by the Director of the Commission's Audit Division addressed a requirement on Tariff Form No. 11, point number 4, which required the applicant to attach its most recently filed Federal Income Tax return. Concern was expressed that such a requirement may be an invasion of privacy, and that some utilities may file a complete Rule 42 application just to avoid this requirement.

The Commission is of the opinion that the comments address a valid point. The Commission realizes that some small utilities are owned by individuals who have other sources of income which they believe should not be made part of the public record. The intent of the rule change is to assist utilities in obtaining necessary rate relief at a minimum of expense to the ratepaying customers. The Commission requirement for including a Federal Income Tax return was based on the idea that since all companies must file such a return, the information would be available at no additional cost to the applicant. If the requirement, as it presently is written, would force utilities to hire an accountant or attorney to complete the more complicated Rule 42 exhibit, then it is apparent that some latitude should be granted applicants. One way to provide such relief would be to require that only Statement C of the Federal Income Tax return be filed if the utility is owned by an individual. However, the better way is to simply rephrase point number 4 of Tariff Form No. 11 so that utilities are granted an optional way to supply the Staff with the necessary financial information. To that end, Tariff Form 11, point number 4, has been changed to read as follows:

4. ATTACH A COPY OF THE APPLICANT'S MOST RECENTLY FILED FEDERAL INCOME TAX RETURN.
(If omitted, include an explanation, and substitute a statement of income and expenses for the most recent accounting year used by the utility for bookkeeping purposes.)

FINDINGS OF FACT

The Commission finds that based upon the comments submitted to it and discussed above the rule and the related tariff forms as proposed and filed with the Secretary of State on July 2, 1981, should be amended by changing point number 4 of Tariff Form No. 11 in accordance with the comments from the Audit Division. The Commission further finds that the comments submitted by the Lumberport-Shinnston Gas

Company should be rejected.

CONCLUSIONS OF LAW

The rule and Tariff Form Nos. 10, 10-A and 11 as proposed and filed with the Secretary of State on July 2, 1981, and as amended herein, are reasonable and should be adopted as a final rule of the Commission.

ORDER


IT IS, THEREFORE, ORDERED that the proposed amended Rule 19-A, Tariff Form No. 10, Tariff Form No. 10-A, and Tariff Form No. 11 set forth in the Commission's order of July 2, 1981, be, and the same is, hereby amended as set forth herein and finally adopted, as amended, as Rule 19-A and Tariff Form Nos. 10, 10-A and 11, 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 to become effective sixty (60) days after the filing of this order, which sets forth the text of the finally adopted rule and the effective date thereof, and a notice of final adoption in the State Register. Copies of the finally adopted Rule 19-A, Tariff Form No. 10, Tariff Form 10-A, and Tariff Form No. 11 are attached hereto and set forth in Appendix A of this order.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission file a copy of this order, including the text of the rule and Tariff Form Nos. 10, 10-A, and 11, as finally adopted, and the proposed effective date thereof, and notice of final adoption of the rule in the State Register as required by Chapter 29A, Article 3, Section 10 of the West Virginia Code.

IT IS FURTHER ORDERED that a copy of this order together with the final rule and Tariff Form Nos. 10, 10-A, and 22, be served by the Executive Secretary of the Commission on all parties who submitted comments to the proposed rule and to each recognized association of small utilities whose members are regulated by this Commission.

A TRUE COPY

TESTE:


HOWARD M. CUNNINGHAM
Executive Secretary

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 \$200,000 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.

NOTICE OF APPLICATION TO CHANGE RATES
(Tariff Rule No. 19-A)

CASE NO. _____

On _____,
a public utility, filed with the Public Service Commission of West Virginia, an application requesting increased (decreased) rates and charges for furnishing _____ service to _____ customers at _____ in the County of _____.

The Public Service Commission has reviewed the application and has conditionally approved increased (decreased) rates and charges designed to produce approximately \$ _____ annually in additional (reduced) revenue, an increase (decrease) of _____%. The present rates are as follows:

PRESENT RATES

The Commission approved rates are as follows:

COMMISSION APPROVED RATES

Any person affected by this change has a right to protest or to be heard as to why the change should not be allowed, either wholly or in part.

Anyone desiring to protest the changed rates and charges must do so, in writing, within ten (10) days of the date of publication of this notice. All protests should be addressed to The Secretary, Public Service Commission of West Virginia, Charleston, West Virginia, 25305. To help the Commission determine the justification for additional review and investigation, protests must be specific as to reasons that the changed rates and charges should be modified. In addition, anyone desiring a hearing in this matter must demand a hearing in the letter of protest.

If no hearing is demanded, the Commission may affirm the rates without a hearing.

UTILITY NAME

NOTICE OF PUBLIC HEARING
(Tariff Rule No. 19-A)

CASE NO. _____

A hearing will be held by the Public Service Commission of West Virginia, in its Hearing Room at the Capitol in the City of Charleston on _____, at _____, .m., concerning the increased (decreased) rates and charges of _____, a public utility, for furnishing _____ to _____ customers at _____ in the County(ies) of _____.

Certain increased (decreased) rates were initially approved by the Commission pursuant to its Rule 19-A; however, good cause appearing therefore, final approval will be withheld until all interested parties have had the opportunity to appear at the hearing and register their protest or present testimony or other evidence that may be relevant.

The proposed increased (decreased) rates and charges will produce approximately \$_____ annually in additional (reduced) revenue, an increase (decrease) of _____%. The present rates are as follows:

PRESENT RATES

The Commission approved rates are as follows:

COMMISSION APPROVED RATES

The proposed rates and charges are effective _____, 19 __, subject to refund, pending the results of this hearing.

A complete copy of such rates, as well as a representative of the Company to provide any information requested concerning them, is available to any person at any of the following offices of the Company:

(List with each publication only those offices applicable)

A copy of such rates is also available for public inspection at the Offices of the Secretary of the Public Service Commission at the Capitol

UTILITY NAME

APPLICATION TO CHANGE RATES
(TARIFF RULE NO. 19-A)

STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION

1. THE APPLICANT IS:

Name _____

Address _____

Telephone Number _____

2. THE PERSON RESPONSIBLE FOR THE BOOKS AND RECORDS IS:

Name _____

Address _____

Telephone Number _____

3. LIST A COMPLETE SCHEDULE OF THE APPLICANT'S PROPOSED RATES. Attach a schedule if the space below is not sufficient. However, if the Applicant chooses to omit this section, the Form will be accepted for filing.

4. ATTACH A COPY OF THE APPLICANT'S MOST RECENTLY FILED FEDERAL INCOME TAX RETURN.
(If omitted, include an explanation, and substitute a statement of income and expenses for the most recent accounting year used by the utility for bookkeeping purposes.)

5. If the Applicant's most recent required Annual Report is not already on file, include the Annual Report with this application.

Signature of Owner or Officer