

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: PUBLIC SERVICE COMMISSION TITLE NUMBER: 150
RULE TYPE: Legislative Exempt; CITE AUTHORITY West Virginia Code §24-1-7
AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Rules and Regulations for the
Government of Electric Utilities

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

DATE OF PUBLIC HEARING: October 26, 2000 TIME: 9:30 a.m.

LOCATION OF PUBLIC HEARING: HOWARD M. CUNNINGHAM HEARING ROOM
PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
201 BROOKS STREET
CHARLESTON, WEST VIRGINIA

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH X
COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: October 10, 2000

Initial written comments due
September 18, 2000
Reply written comments due
October 10, 2000
Sandra Squire, Executive Sect.
Public Service Commission
201 Brooks Street
P.O. Box 812
Charleston, WV 25323

The Department requests that persons wishing to make
comments at the hearing make an effort to submit written
comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Charles H. Lane
8-16-00

#22.80

FISCAL NOTE

**P.S.C.
Series 1**

In the matter of a proposed rulemaking related to restructuring the electric utility industry in West Virginia, 150 CSR, Series 3.

I. OBJECTIVES OF THE RULE

The purpose of this rulemaking is to implement necessary rules prior to implementation of the Commission's plan to restructure the electric generation industry in West Virginia, whereby users of electricity in the State would have open access, across existing and new utility delivery systems, to a competitive market for power supply (the "Plan"). The Plan was passed into law by the West Virginia Legislature in March 2000.

II. COST OF IMPLEMENTING THE PROPOSED RULE

There will be no significant implementation cost relating to this rulemaking for the State of West Virginia. The Commission does not anticipate additional costs to be incurred as a result of the rulemaking.

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 costs or revenues of state government.


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

This rulemaking, together with the Plan, is designed to have a positive impact on the state and its residents.

DATE: August 16, 2000

AGENCY: Public Service
Commission

**SIGNATURE OF
AUTHORIZED REPRESENTATIVE**


Charlotte R. Lane, Chairman
Public Service Commission

SUMMARY OF PROPOSED RULE

The Commission is proposing to adopt new rules governing electric transmission and distribution utilities and a competitive electric generation/power supply market in the State. The proposed rules would modify and greatly enhance the Commission's current *Rules and Regulations for the Government of Electric Utilities*, 150 CSR, Series 3. The proposed rules include, but are not limited to, modifications of the current rules governing distributions functions of electric utilities, licensing of competitive electric service providers, a code of conduct for transactions between electric utilities, their affiliates and competitive electric service providers, consumer protection, emergency service, employee protection, and a systems benefits charge and joint labor-management council. The proposed rules are required to implement competition pursuant to the Commission's plan for restructuring the electric supply market in the State through which users of electricity in the State will have open access, across existing and new utility delivery systems, to a competitive market for power supply (the "Plan"). The Plan was passed into law by the West Virginia Legislature in March 2000.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE PROPOSED RULE

The Commission is proposing to adopt new rules governing electric transmission and distribution utilities and a competitive electric generation/power supply market in the State. The proposed rules are required to implement competition pursuant to the Commission's plan for restructuring the electric supply market in the State through which users of electricity in the State will have open access, across existing and new utility delivery systems, to a competitive market for power supply (the "Plan"). The Plan was passed into law by the West Virginia Legislature in March 2000.

The Commission's authority for proposing these rules is provided by West Virginia Code § 24-1-7. Further these rules are necessitated by West Virginia Code § 24-2-18, which authorized the Commission to prescribe, by order or rules, procedures and standards for the marketing of power supply in the state; and to resolve all issues necessary to provide for an orderly transition from the current regulated structure to a system of direct retail access in a fully workable competitive power supply market in a manner that is fair to customers, electric utilities and other affected parties.

**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 16th day of August, 2000.

GENERAL ORDER NUMBER 255

In the matter of a Proposed Rulemaking
Related to Restructuring the Electric Utility
Industry in West Virginia.

COMMISSION ORDER

By Order issued March 14, 2000, the Commission identified the rulemaking proceedings that are necessary prior to implementation of customer choice pursuant to the Commission's plan for restructuring the electric supply market in the State, whereby users of electricity in the State will have open access, across existing and new utility delivery systems, to a competitive market for power supply (the "Plan").¹ Further Orders in this proceeding issued April 14, 2000, and May 11, 2000, modified the original procedural schedule and established the following schedule to accommodate issuances of final rules on or about December 2000: On or before May 22, 2000, interested parties were permitted to file initial general comments on the rulemaking proceeding and Commission Staff (Staff) was permitted to file proposed content and format of rules (Staff Strawman); on or before June 19, 2000, parties could file reply comments to the Staff Strawman; the Commission established a tentative date of August 1, 2000, to issue proposed rules; and tentative dates were also established for the receipt of comments and a hearing. Since the filing date of the Commission proposed rules is August 16, 2000, these dates for comments and hearing are herein modified.

The Commission is informed that the parties have met on numerous occasions in an attempt to reach consensus regarding the content and format of these rules. Their efforts at consensus have been successful in some instances, and unsuccessful in other instance.

By this Order, the Commission issues proposed rules identified as Series 3, "*Rules for the Government of Electric Utilities, Electric Service Providers and Retail Electric Service*" (New Electric Rules). The proposed New Electric Rules modify and greatly enhance the Commission's current *Rules and Regulations for the Government of Electric*

¹The Plan was approved by concurrent resolution of the West Virginia Legislature in March 2000.

Utilities, 150 CSR, Series 3 (Existing Electric Rules). The enhancements are necessitated by the Commission's Restructuring Plan. After the starting date of the Restructuring Plan, the Commission will not normally establish rates for the retail supply of electricity, and customers will be able to exercise choice in the procurement of electricity. The Commission will, however, have jurisdiction over the issuance of licenses and will regulate the conduct of competitive electric service (CES) providers in the electricity market to ensure that consumers have adequate information to make informed choices and that consumers are protected from unfair, misleading and deceptive practices in the procurement of electric supplies and services.

Accordingly, in addition to the Existing Electric Rules' provisions governing transmission and distribution functions of electric utilities, the proposed New Electric Rules include provisions addressing: (1) licensing of competitive electric service providers; (2) a code of conduct for transactions between electric utilities, their affiliates and competitive electric service providers; (3) consumer protection; (4) emergency service; (5) protection of employees of incumbent utilities; and (6) a system benefits charge and joint labor-management council.

In proposing these rules, the Commission has considered all of the comments filed in this proceeding.

§ 150-3-1

The provisions of proposed § 150-3-1 constitute a general section including definitions of terms used throughout the proposed New Electric Rules and an index to the remainder of Series 3. The Commission finds that it is not necessary to include a summary of its Plan in Series 3.

The Commission has revised the definition of "aggregator" in Rule 1.8.c. from the definition proposed in Staff's Strawman. The Commission's definition mirrors that in the Restructuring Plan, which contemplated that all aggregators be licensed. Staff's Strawman definition included exemptions for labor organizations and common interest groups. The Commission sees merit in the proposed exemptions in certain instances, but our concerns for the protection of the ultimate consumer outweigh the merits of the broad blanket exemption as proposed by Staff. However, if specific organizations feel that licensing is unwarranted those organizations may seek an exemption from the licensing requirement pursuant to proposed Rule 1.7.b. Justification for an exemption may be found if an aggregator is acting on behalf of a non-profit organization and is obtaining supply through a West Virginia licensed CES provider.

§§ 150-3-2 through 150-3-12

The provisions of proposed §§ 150-3-2 through 150-3-12, are titled “Rules for the Government of the Distribution of Electricity,” and constitute a modified version of the Commission’s current *Rules and Regulations for the Government of Electric Utilities*, 150 CSR 3.

§ 150-3-13

The provisions of proposed 150-3-13 *et seq.* are titled, “Rules for the Licensing of Competitive Electric Service Providers.” These Rules apply to applicants and CES providers as defined in Series 3. The licensing requirements do not apply to a local distribution company (LDC) acting as a default service provider or an emergency service provider, but do apply to affiliates of local distribution companies providing competitive electric service.

§ 150-3-14

The provisions of 150-3-14 are reserved for Rules on Interconnection, Reliability, Distributed Generation and Net-metering which will be the subject of a future task force and will be promulgated at an appropriate time.

§ 150-3-15

The provisions of 150-3-15 *et seq.* are titled, “Code of Conduct for Transactions between Electric Utilities, Their Affiliates and Competitive Electric Service Providers.” These rules establish safeguards with regard to the transactions and interaction between LDCs, their affiliates, and CES providers to avoid potential market-power abuses and cross-subsidization between regulated and unregulated activities, to promote effective competition in the electricity market in the State and to carry out the provisions of the State’s Restructuring Plan.

These rules prohibit an LDC, its affiliates or a CES provider from circumventing the provisions or the intent of these rules in any manner, including but not limited to, using an affiliate to provide information, services, products, or subsidies between it, or another affiliate, and the LDC.

These rules are not intended to affect or modify the obligation or duties relating to any rules or standards of conduct that may apply to an LDC or its affiliates under orders or regulations of the Federal Energy Regulatory Commission (FERC) or the Securities and Exchange Commission (SEC). An LDC must file with the Commission a notice of any provision in these Rules that conflicts with a FERC or SEC order or regulation.

Section 15.1.c.1. (Strawman 2.2.1. of Series 3D) of these rules will require that

incumbent electric utilities separate generation and non-regulated businesses into separate corporate entities from transmission and distribution operations.

Strawman 2.2.2 of Series 3D (now numbered 15.1.c.2.) dealing with corporate separation, has been simplified from the versions proposed by both Staff and by AEP to eliminate the post-starting date requirement that incumbent electric utilities file either semi-annual or annual reports detailing efforts towards corporation separation of generation and non-regulated businesses from transmission and distribution operations. This rule will require that the incumbent electric utilities file a corporate separation plan one year prior to each utility's completion of corporate separation of generation and non-regulated businesses from transmission and distribution operations.

Strawman 2.3.1. and 2.3.2. of Series 3D are not proposed in the accounts and records section of the Code of Conduct (now numbered 15.1.d) because the requirements contained in Staff's proposed language repeat requirements contained elsewhere in Series 3.

Section 15.1.d. (Strawman 2.6. of Series 3D) will be titled "Employees" instead of "Sharing of Employees." The language of paragraph 15.1.d.1.(Strawman 2.6.1. of Series 3D) has been modified slightly and a sentence added to indicate that electric utilities may petition the Commission, pursuant to W.Va. Code § 24-2-12, for approval to employ persons who have also been employed by an affiliate.

Strawman 3.5. of Series 3D was deleted on grounds that Commission approval of transactions between electric utilities and affiliates are always required under W.Va. Code § 24-2-12. Therefore, this rule is unnecessary.

Rule 15.5. (Strawman 150-3D-6) has been retitled, "Marketing and advertising," instead of "Prohibition against joint marketing and advertising." The Commission deleted section 6.2. of Staff's Strawman because Rule 15.5.a.1 (Strawman 6.1.a. of Series 3D) already prohibits the same conduct.

The Commission has not included a prohibition on an affiliate's use of the electric utility name or logo in paragraph 15.5.d. of the proposed rules (Strawman 6.5. of Series 3D). However, the Commission will continue to consider whether a limit on such use is appropriate. Parties supporting a prohibition should comment on the justification for a prohibition such as that proposed by Staff and the Commission will consider any recommended alternative treatments of the name and logo issue.

§ 150-3-16

The provisions of 150-3-16 *et seq.* are titled, "Rules for Consumer Protection." These

Rules govern the provision of competitive electric service and default electric service to consumers. Except for default service, local distribution companies, other than Public Systems, shall not be authorized to provide electric energy as competitive electric service providers; provided, however, that any affiliate of a local distribution company may qualify as a competitive electric service provider, subject to the Commission's Rules. Public Systems may also qualify as competitive electric service providers, subject to the requirements of the Commission's rules.

The purpose of these Rules is to (a) provide minimum standards for service quality, safety and reliability in the provision of competitive electric service and default electric service; (b) provide consumers with sufficient information to make informed decisions about competitive electric services and default electric service; and (c) protect consumers against deceptive, unfair, and misleading acts and practices in the marketing, solicitation and sale of competitive electric services and default electric service, and in the administration of any contract or tariff for those services.

The Commission has not included provision governing net-metering in these proposed rules. However, we recognize that such provisions will be necessary and are part of an overall set of inter-related issues. The Commission will reserve all issues relating to net-metering for a future rulemaking and/or task force which will address Interconnection, Distributed Generation, Reliability and Net-Metering.

§ 150-3-17

The proposed provisions of § 150-3-17 are titled, "Emergency Service Rules." These Rules govern the provision of electric service to customers in the event that a CES provider fails to meet its obligations to deliver into the control area sufficient amounts of electrical energy to meet the requirements of its retail customers.

Rule 17.2.b.3. (Strawman 2.2.c. of Series F) is drafted to reduce from 30 to 15 days, the time during which a customer, whose competitive electric supplier is in default, may continue to receive service from the default service provider at the contract rate between the customer and the CES. On the 16th day following notice of the CES's default, unless arrangements for a new CES provider have been made, the customer must begin paying the default service provider's default service rate. The protection of Rule 17.2.b.4. which provides that a return to default service due to a CES provider's default shall not be considered an exercise of the customer's right to return under Section 11 of the Plan, has been limited by the requirement that the customer choose an alternate CES provider within 75 days of its return to default service.

§ 150-3-18

The proposed provisions of § 150-3-18 are titled, "Rules for Employee Protection Plans." These Rules govern employee protection plans submitted by incumbent electric utilities pursuant to the Commission's Restructuring Plan.

§ 150-3-19

The proposed provisions of § 150-3-19 are titled, "Rules for the System Benefits Charge and Joint Labor-Management Council." These Rules govern the system benefits charge and the Joint Labor-Management Council established pursuant to the Commission's Restructuring Plan. Nothing in these Rules shall reduce the assistance provided to customers pursuant to West Virginia Code §24-2A-1 et seq.

Not included in the proposed rules:

The Commission notes that although Section 3 (e) of its Plan contemplates that within four years after its starting date, residential and small commercial customers shall be permitted to exercise choice in the procurement of metering and billing services, these proposed rules do not fully address metering and billing choice. The Commission will monitor the development of the competitive market for metering and billing and propose additional rules at an appropriate time, or appoint a task force to make recommendations on this issue.

ORDER

IT IS THEREFORE ORDERED that the *Rules for the Government of Electric Utilities, Electric Service Providers and Retail Electric Service*, attached hereto, are hereby promulgated as proposed legislative rules.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall give notice of these proposed rules to all regulated electric utilities in the State and Commission Staff, by service of a copy of this order and the proposed rules, upon them.

IT IS FURTHER ORDERED that the Executive Secretary shall cause a copy of the Notice of Rulemaking attached hereto as Appendix A to be published once, in a newspaper, duly qualified by the Secretary of State, published and of general circulation in each of the following cities: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Huntington, Keyser, New Cumberland, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Welch, Wheeling, and Williamson.

IT IS FURTHER ORDERED that the Executive Secretary shall file a copy of these rules and the requisite forms with the Office of the Secretary of State.

IT IS FURTHER ORDERED that a comment period shall be provided with respect to the proposed rules identified in this Order and comments shall be filed with the Commission's Executive Secretary no later than 4:00 p.m. September 18, 2000. Any interested party who files comments shall set forth specific comments concerning the proposed rules.

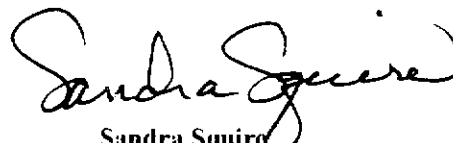
IT IS FURTHER ORDERED that parties may file reply comments. Such comments shall be filed with the Commission's Executive Secretary no later than 4:00 p.m. October 10, 2000.

IT IS FURTHER ORDERED that this matter shall be set for hearing. The hearing will commence on October 26, 2000 at 9:30 a.m. in the Howard M. Cunningham Memorial Hearing Room, 201 Brooks Street, Charleston West Virginia. If necessary, the hearing shall continue on October 27, 2000 at the same location.

IT IS FURTHER ORDERED that the Executive Secretary shall provide copies of these proposed rules to interested parties who address inquiries to Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, Post Office Box 812, Charleston, West Virginia 25323.

JML:seg
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A True Copy, Teste:


Sandra Squire
Executive Secretary

NOTICE OF RULEMAKING

GENERAL ORDER NO. 255

In the matter of a Proposed Rulemaking
Related to Restructuring the Electric Utility
Industry in West Virginia.

By Order issued March 14, 2000, the Commission identified rulemakings necessary prior to implementation of customer choice pursuant to the Commission's plan whereby users of electricity in the State will have open access, across existing and new utility delivery systems, to a competitive market for power supply (the "Plan"). Further Orders in this proceeding issued April 14, 2000, and May 11, 2000, modified the original procedural schedule and resulted in a schedule whereby on or before May 22, 2000, interested parties were permitted to file initial general comments on the rulemaking proceeding and Commission Staff (Staff) was permitted to file proposed content and format of rules (Staff Strawman). On or before June 19, 2000, parties could file reply comments to the Staff Strawman.

By Order issued August 16, 2000, the Commission issued proposed Series 3, titled, *Rules for the Government of Electric Utilities, Electric Service Providers and Retail Electric Service*. Proposed Series 3 would replace the Commission's current *Rules and Regulations for the Government of Electric Utilities, 150 CSR, Series 3*. Proposed Series 3 modify and greatly enhance the Commission's current *Rules and Regulations for the Government of Electric Utilities, 150 CSR, Series 3 (Existing Electric Rules)*. The enhancements are necessitated by the Commission's Restructuring Plan for the electric supply market in the State which was passed into law by the West Virginia Legislature in March 2000. The Restructuring Plan will provide users of electricity in the State with open access, across existing and new utility delivery systems, to a competitive market for power supply. After the starting date of the Restructuring Plan, the Commission will not normally establish rates for the retail supply of electricity, and customers will be able to exercise choice in the procurement of electricity. The Commission will, however, have jurisdiction over the issuance of licenses and will regulate the conduct of competitive electric service (CES) providers in the electricity market to ensure that consumers have adequate information to make informed choices and that consumers are protected from unfair, misleading and deceptive practices in the procurement of electric supplies and services.

Any interested person may obtain a copy of the proposed *Rules for the Government of Electric Utilities, Electric Service Providers and Retail Electric Service* by addressing a request to Sandra Squire, Executive Secretary, Public Service Commission of West Virginia,

P.O. Box 812, Charleston, WV 25323. An internet accessible copy of the Commission's August 16, 2000 Order and the Proposed Rules is available at www.psc.state.wv.us.

Any interested party may file comments with the Commission's Executive Secretary's Office. Comments should be filed no later than 4:00 p.m. September 18, 2000. Any interested party who files comments shall set forth specific comments concerning the proposed rules. Reply comments may be filed with the Commission's Executive Secretary no later than 4:00 p.m. October 10, 2000.

The Commission has scheduled a hearing on these proposed rules. The hearing will commence on October 26, 2000 at 9:30 a.m. in the Howard M. Cunningham Memorial Hearing Room, 201 Brooks Street, Charleston West Virginia. If necessary, the hearing shall continue on October 27, 2000 at the same location.

150CSR3
TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

SERIES 3
RULES AND REGULATIONS FOR THE GOVERNMENT
OF ELECTRIC UTILITIES, ELECTRIC SERVICE PROVIDERS
AND RETAIL ELECTRIC SERVICE

§150-3-1. General.

1.1. Scope -- These rules govern the operation and service of electric utilities subject to the jurisdiction of the Public Service Commission of West Virginia pursuant to West Virginia Code §24-2-1. provision of retail electric service and related competitive services by local distribution companies and electric service providers pursuant to the Public Service Commission Restructuring Plan. The subjects covered by these rules are:

- §§ 150-3-2 through 150-3-12: Local Distribution Companies.
- § 150-3-13: Licensing of Competitive Electric Service Providers.
- § 150-3-14: Interconnection, Reliability and Distributed Generation.
- § 150-3-15: Code of Conduct for Electric Utilities, Their Affiliates and competitive Electric Providers.
- § 150-3-16: Consumer Protection.
- § 150-3-17: Emergency Service.
- § 150-3-18: Employee Protection Plans.
- § 150-3-19: System Benefits Charge.

To the extent these rules do not specifically include all of the requirements and provisions of the Commission's Restructuring Plan, the Commission's Restructuring Plan will apply.

1.2. Authority -- West Virginia Code §§24-1-1, 24-1-7, 24-2-1, ~~and~~ 24-2-2, 24-2-18 and H.C.R. 27, adopted March 11, 2000.

1.3. Filing Date -- ~~November 4, 1999.~~

1.4. Effective Date -- ~~January 3, 2000.~~

1.5. Amendment of Former Rule. -- This legislative rule amends West Virginia Legislative Rule "Public Service Commission, Chapter 24-1, Series 3, Rules and Regulations for the Government of Electric Utilities", filed ~~May 8, 1996~~ November 4, 1999. Subsection heading of the standard format.

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1.6. Authorization of rules.

1.6.1a. These rules are intended to insure adequate electric service to the public, to provide consumers with adequate protections in the competitive market for electricity and adequate information to make informed choices about competitive electric services, to provide standards for electric service providers and to establish the rights and responsibilities of customers, local distribution companies and competitive electric service providers. ~~to provide standards for uniform and fair charges and requirements by the utilities and their customers, and to establish the rights and responsibilities of both the utility and the customer.~~

1.6.2b. The adoption of these rules and regulations shall in no way preclude the Public Service Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, either upon complaint or upon its own motion, or upon the application of an entity subject to these rules. ~~the utility.~~

1.6.3c. These rules shall not relieve in any way an electric service provider or a local distribution company ~~a utility~~ from any of the duties under the laws of this State.

1.7. Application of rules.

1.7.1a. These rules apply to incumbent electric utilities, local distribution companies, meter service providers and electric service providers ~~public utilities~~ as defined in regulation 1.8.

1.7.2b. If hardship results from the application of any rule herein prescribed, or if unusual difficulty is involved in immediately complying with any rule, application may be made to the Commission for the modification of the particular rule or for temporary or permanent exemption from its provisions: **Provided,** That no application for such modification or exemption shall be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

1.8. Definitions. The following definitions apply to all of Series 3. ~~Additional definitions may be provided for as appropriate.~~

~~1.8.1. Commission -- Whenever in these rules and regulations the words "Commission" or "Public Service Commission" occur, such word or words shall, unless a different intent clearly appears from the context, be taken to mean the~~

~~Public Service Commission of West Virginia.~~

~~1.8.2. Public Utility~~ --- Except where a different meaning clearly appears from the context, the word or words "utility" or "public utility" when used in these rules and regulations shall mean and include any person or persons, or association of persons, however associated, whether incorporated or not, including municipalities, distributing or selling electric energy for light, heat, power or other purpose, which are now or may hereafter be held to be a public service.

~~1.8.3. Customer~~ --- The word "customer" as used in these rules shall be construed to mean any person, group of persons, firm, corporation, institution, municipality or other service body furnished electric service by an electric utility.

~~1.8.4. Residential Service~~ ---

~~a. "Residential Service" is defined as a service to a householder or tenant, living in a separate house or separate apartment in a building, using electric energy for general household service.~~

~~b. Residential Service may be extended to include use of electric energy for lighting the yard, private garages and/or barns, which are adjacent to, connected with and used exclusively by the resident being served.~~

~~c. Should the owner of a multiple apartment building undertake to furnish electric energy to his tenants as a part of their monthly rent, then such service shall be classed as "Commercial."~~

~~d. In cases where a householder or tenant devotes some portion of the occupied building to substantial and bona fide commercial use and uses the remainder as a residence then the total service will be classified as commercial or the customer must separate his wiring so that each class of service can be separately metered and billed at the applicable rate.~~

~~1.8.5. Commercial Service~~ ---

~~a. "Commercial Service" is defined to include service to each separate business enterprise, occupation or institution occupying for its exclusive use any unit or units of space as an entire building, entire floor, suite of rooms or a single room, and using energy for the illumination of such space and for such incidental use as the schedule of rates applicable to the particular installation may permit.~~

~~Commercial Service shall apply to all stores, offices, hotels, wholesale houses, garages, display windows, signs, theaters, barber and beauty shops, churches, opera houses, auditoriums, lodge halls, school houses, banks, bakeries, and any other space occupied for commercial purposes. Any rooming house, lodging house, resort, inn or tavern renting more than four rooms to strangers or transients without any previous agreement for accommodation or as to the duration of stay shall be classed as a hotel and as such it comes under the commercial classification.~~

~~b. Where a single business enterprise or institution occupies more than one unit of space in the conduct of the same business, each separate unit will be metered separately and considered a separate service unless the units be adjoining or on the same plot of ground and customer makes the necessary provisions for approved circuits and loops whereby the different units may be connected to permit the metering of all the energy used in the various units through one meter. This Rule shall not be construed to allow any customer to secure combined meter readings and billings by reason of ownership in the same person, partnership, association or corporation of different buildings or units of space which are not used and operated by the customer and held out to the public as one single business unit.~~

~~1.8.6. Power Service~~

~~a. "Power Service" is defined to include service to each separate business enterprise, occupation or institution occupying for its exclusive use any unit or units of space as an entire building, entire floor, suite of rooms, or a single room, and using energy for driving motors and for supplying electric service used in industrial processes.~~

~~b. Primary power service is defined as service at the voltage common to the primary of the distribution system.~~

~~c. Secondary power service is defined as service at the voltage common to the secondary of the distribution system.~~

~~d. Where a single business enterprise, occupation or institution occupies more than one unit of space in the conduct of the same business and requires energy for power purposes, as defined herein in each unit of space, each unit will be metered separately and considered as a separate service unless the units be adjoining or on the same plot of ground and the customer makes the necessary provisions for approved circuits and loops by which the different units can be~~

~~connected to permit the metering of all energy used for power purposes in the various units through one meter.~~

~~1.8.7. Street Lighting Service -- "Street Lighting Service" is defined as service furnished for the purpose of lighting streets, highways, roads, parks and outdoor public places.~~

1.8.a. Affiliate - Any person that controls, is controlled by, is under common or partial control of, exercises common or partial control of, or jointly exercises common or partial control with an electric service provider or other entity subject to the jurisdiction of the Public Service Commission.

1.8.b. Aggregation or Aggregation Service - The act of combining the electric load of two or more retail customers for the purposes of supplying or arranging for the supply of retail electric service to those customers.

1.8.c. Aggregator - A person, who shall be licensed by the Commission that purchases or arranges for the purchase of electric energy as an agent or intermediary for sale to, or on behalf of, two or more retail customers. A person that purchases or arranges for the purchase of electric energy for multiple locations owned and operated under the same corporate or partnership structure shall not be an aggregator.

1.8.d. Billing and Payment History - The record of a customer's payments for services provided by a distributor, default electric service provider or CES provider.

1.8.e. Commercial Service --

1. "Commercial Service" is defined to include service to each separate business enterprise, occupation or institution occupying for its exclusive use any unit or units of space as an entire building, entire floor, suite of rooms or a single room, and using energy for the illumination of such space and for such incidental use as the schedule of rates applicable to the particular installation may permit. Commercial Service shall apply to all stores, offices, hotels, wholesale houses, garages, display windows, signs, theaters, barber and beauty shops, churches, opera houses, auditoriums, lodge halls, school houses, banks, bakeries, and any other space occupied for commercial purposes. Any rooming house, lodging house, resort, inn or tavern renting more than four rooms to strangers or transients without any previous agreement for accommodation or as to the duration of stay shall be classed as a hotel and as such it comes under the commercial classification.

2. Where a single business enterprise or institution occupies more than one unit of space in the conduct of the same business, each separate unit will be metered separately and considered a separate service unless the units be adjoining or on the same plot of ground and customer makes the necessary provisions for approved circuits and loops whereby the different units may be connected to permit the metering of all the energy used in the various units through one meter. This Rule shall not be construed to allow any customer to secure combined meter readings and billings by reason of ownership in the same person, partnership, association or corporation of different buildings or units of space which are not used and operated by the customer and held out to the public as one single business unit.

1.8.f. Competitive Electric Service or CES - electric energy, electric back-up or stand-by service, ancillary electric services, electric metering service and other related electric services, other than default service, offered to retail customers.

1.8.g. Competitive Electric Service Provider, CES Provider, or Alternative Supplier - any generator, aggregator, broker, marketer, or other person who offers to sell or sells electric energy to retail customers. Such entity shall be licensed by the Commission. This definition does not include a generator that produces electric energy exclusively for its own consumption or the consumption of an affiliate, nor any private power producer generating electric energy for sale to any supplier or incumbent electric utility.

1.8.h. Commission or Public Service Commission - The words "Commission" or "Public Service Commission" mean the Public Service Commission of West Virginia.

1.8.i. Customer, Consumer or Retail Customer - Any person that purchases retail electric services from, or is offered retail electric services by an incumbent electric utility, a competitive electric service provider, a default service provider or an emergency service provider.

1.8.j. Contract - An agreement between a customer and a CES provider, meter service provider or electric service provider that specifies the terms and conditions for provision of a competitive electric service or services.

1.8.k. Default Service or Default Electric Service - Electric service made available under the Commission's restructuring plan to retail customers that do not affirmatively select a competitive electric service provider, are unable to obtain service from a competitive electric

service provider or who have received service from a competitive electric service provider and have subsequently returned to the default service provider.

1.8.l. Default Service Provider or Default Electric Service Provider - The entity selected or approved by the Commission that provides default service to retail customers. The default service provider may also be the emergency service provider.

1.8.m. Deposit - A sum of money collected from a customer by an electric service provider and held as a security to ensure payment for provision of electric service, and shall include any payment in advance as a condition of initiating service.

1.8.n. Distribute, Distributing, Distribution, or Distribution Service - The transfer of electric energy through a distribution system to a retail customer.

1.8.o. Distribution System - Those facilities and equipment, other than transmission facilities and equipment, that are required to provide for the delivery of electric energy to retail customers.

1.8.p. In-person Solicitation - Face to face solicitation of a customer initiated by a CES provider at the home of a customer or at a place other than the normal place of business of the provider, and includes door-to-door solicitations.

1.8.q. Electric Service - Retail electric service.

1.8.r. Electric Service Provider - Any person that provides electric service. This definition includes incumbent electric utilities, default electric service providers and CES providers.

1.8.s. Emergency Service - Service made available to retail customers that have contracted with a CES provider that fails to perform or otherwise defaults in the provision of electric services.

1.8.t. Emergency Service Provider - The entity selected by the Commission to provide emergency service. The emergency service provider may also be the default service provider.

1.8.u. Generate, Generating, or Generation - The production of electric energy.

1.8.v. Generator - A person owning, controlling,

or operating a facility that produces electric energy.

1.8.w. Incumbent Electric Utility - Each public utility in West Virginia that delivered electric energy to retail customers on December 31, 2000.

1.8.x. Large Commercial and Industrial Customer - Any non-residential customer with normal maximum demands of ten (10) kW or greater; provided however, to prevent customers within a single tariff schedule from being split between this category and the Small Commercial category, this maximum demand level may be modified by the Commission for individual electric utilities based on the terms contained within such utility's tariff schedules.

1.8.y. Local Distribution Company, Distributor or Distribution Utility or LDC - A person owning, controlling, or operating a retail distribution system to provide electric energy directly to retail customers. Local distribution companies are public utilities.

1.8.z. Meter Service Provider or MSP - Any person other than an LDC, that provides metering equipment for use in measuring and billing energy and/or demand at customer's service locations.

1.8.aa. Non-Generation Public Systems - A municipally owned or cooperative electric utility.

1.8.bb. Person - Any individual, corporation, partnership, association, company, business, trust, joint venture, other private legal entity, the State, political subdivision of the State, any county or any municipality.

1.8.cc. Power Broker - A person that provides power brokerage. Such person must be licensed by the Commission to provide such service.

1.8.dd. Power Brokerage - Assuming the contractual and legal responsibility for the provision of retail electric service to a retail customer in this state without taking title to the electric power supplied.

1.8.ee. Power Marketer - A person that provides power marketing services. Such person must be licensed by the Commission to provide such service.

1.8.ff. Power Marketing - Assuming the contractual and legal responsibility for the sale and provision of retail electric service to a retail customer in this State and having title to electric power at some point during the transaction.

1.8.gg. Power Service --

1. "Power Service" is defined to include service to each separate business enterprise, occupation or institution occupying for its exclusive use any unit or units of space as an entire building, entire floor, suite of rooms, or a single room, and using energy for driving motors and for supplying electric service used in industrial processes.

2. Primary power service is defined as service at the voltage common to the primary of the distribution system.

3. Secondary power service is defined as service at the voltage common to the secondary of the distribution system.

4. Where a single business enterprise, occupation or institution occupies more than one unit of space in the conduct of the same business and requires energy for power purposes, as defined herein in each unit of space, each unit will be metered separately and considered as a separate service unless the units be adjoining or on the same plot of ground and the customer makes the necessary provisions for approved circuits and loops by which the different units can be connected to permit the metering of all energy used for power purposes in the various units through one meter.

1.8.hh. Public System - A municipally owned or cooperative incumbent electric utility.

1.8.ii. Regional Transmission Organization or RTO - A person or entity, other than incumbent electric utilities or their affiliates, that may receive or has received any ownership or control of, or any responsibility to operate, all or part of the transmission systems in West Virginia.

1.8.jj. Residential Customer - A customer that contracts for a competitive electric service for residential purposes.

1.8.kk. Restructuring Act - The amendment to the W. Va. Code enacted during the 1998 legislative session, codified at W. Va. Code § 24-2-18, authorizing the Commission to determine whether the public interest supports permitting retail access to competitive supply markets, and requiring the Commission to develop a restructuring plan.

1.8.ll. Restructuring Plan - The West Virginia Plan for Customer Choice of Electric Power Suppliers, Open Access to Electricity Transport Systems and Deregulation of Power Supply

as adopted by the Commission in its Order dated January 28, 2000 entered in Case No. 98-0452-E-GI, and subsequently approved by the West Virginia Legislature in H.C.R. 27 adopted on March 11, 2000.

1.8.mm. Retail Electric Energy or Retail Electric Service - Electric energy sold for ultimate consumption to a retail customer, either directly or through an intermediary.

1.8.nn. Residential Service --

1. "Residential Service" is defined as a service to a householder or tenant, living in a separate house or separate apartment in a building, using electric energy for general household service.

2. Residential Service may be extended to include use of electric energy for lighting the yard, private garages and/or barns, which are adjacent to, connected with and used exclusively by the resident being served.

3. Should the owner of a multiple apartment building undertake to furnish electric energy to his tenants as a part of their monthly rent, then such service shall be classed as "Commercial."

4. In cases where a householder or tenant devotes some portion of the occupied building to substantial and bona fide commercial use and uses the remainder as a residence then the total service will be classified as commercial or the customer must separate his wiring so that each class of service can be separately metered and billed at the applicable rate.

1.8.oo. Small Commercial Customer - A non-residential customer with normal maximum demands of less than 10 kW; provided, however, to prevent customers within a single tariff schedule from being split between this category and the Large Commercial and Industrial category, this maximum demand level may be modified by the Commission for individual electric utilities based on the terms contained within such utility's tariff schedules.

1.8.pp. Solicitation - Any communication intended to elicit a customer's agreement to purchase or contract for a competitive electric service, except that telephone solicitation does not include customer enrollment.

1.8.qq. Staff - The Commission Staff.

1.8.rr. Starting Date - The first date upon which

customer choice is available for retail customers of each electric utility pursuant to the provisions of the restructuring plan.

1.8.ss. Street Lighting Service -- "Street Lighting Service" is defined as service furnished for the purpose of lighting streets, highways, roads, parks and outdoor public places.

1.8.tt. Supply, or Supplying Electric Energy - The sale of or the offer to sell electric energy to a retail customer.

1.8.uu. Toll-Free - Telephone access provided to a customer at no charge to the customer.

1.8.vv. Transmission of, Transmit, or Transmitting Electric Energy - The transfer of electric energy through an interconnected transmission grid from a generator to either a distributor or a retail customer.

1.8.wv. Transmission System - Those facilities and equipment that are required to provide for the transmission of electric energy, but does not include facilities and equipment primarily operated in a distribution function.

1.8.xx. Transport - The delivery of electrical energy through either a transmission system, a distribution system or a combination of both transmission and distribution systems.

§150-3-2. Records, reports and other information to be supplied to the Commission. Rules for the Government of the Distribution and Metering of Electricity.

2.1. Records and reports by local distribution companies (LDC), Meter Service Providers (MSP) or other electric service providers.

2.1.1-a. Preservation of records -- All records required by these rules shall be preserved by the utility in accordance with the "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities" as prescribed by the National Association of Regulatory Utility Commissioners (NARUC) dated May, 1985, and adopted by the Commission by General Order No. 184.6 of March 30, 1987, and effective May 29, 1987, except, as they may be hereinafter modified by the Commission and except for Items 9(b) and 54(b) which are herein modified. No such record shall be destroyed earlier than as provided by these rules without Commission approval. (NOTE:

150CSR3

These NARUC regulations are published in separate pamphlet form and will be furnished upon request).

~~a.1.~~ Item 9(b) of the NARUC Regulations shall be modified to provide a retention period as follows:

Retain program documentation for current active source coding and the source coding immediately preceding the current one.

~~b.2.~~ Item 54(b) of the NARUC Regulations shall be modified to provide a retention period as follows:

Six months: Retain for an additional thirty (30) months if no other sources of this information are available.

2.1.2b. Location of records -

~~a.1.~~ Such records should be kept at the office or offices of the LDC utility in West Virginia, and shall be available during regular business hours for examination by the Commission or its duly authorized representative or,

~~b.2.~~ If kept outside of the State they shall be brought to the utility's LDC's office in West Virginia upon the request of the Commission or the LDC utility may be required to pay the reasonable traveling expenses of such Commission employees assigned to the work when it is necessary to examine such records.

2.1.3c. Reports to the Commission --

~~a.1.~~ Each LDC utility shall be required to furnish and report to this Commission when called upon to do so by the Secretary, or Director of any Division of the Commission, any other and further information in its possession respecting rates or practices in conducting its service, which may from time to time be required by this Commission, and without formal order of the Commission authorizing such request for said information.

~~b.2.~~ Each LDC utility shall submit to the Commission, upon request, duplicate copies of reports made by it to Federal Regulatory Commissions pertaining to any phase of its business as an LDC electric utility in West Virginia.

2.2. Filing of rate schedules.

~~2.2.1.a.~~ Filing required -- All rate schedules, rules, regulations, special contracts and other charges, for the purchase, sale or transportation of electric energy shall

be filed by each LDC utility with the Secretary of the Commission before they become effective.

2.2.2**b**. Manner of filing -- Tariffs containing all the rates, rules and regulations of each LDC utility shall be filed in the manner prescribed by the Commission in "Rules ~~and Regulations~~ for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicles," in effect on the date of such filing.

2.2.3**c**. Forms for filing -- The Commission will, upon application, furnish proper blanks to be used for the filing of tariffs and any changes thereof and additions thereto.

2.2.4**d**. LDC's Utility's special rules -- An LDC ~~A utility~~ desiring to establish any rule or requirement supplementing the rules of the Commission shall first make application to the Commission for authority for such rule or rules, clearly stating in its application the reason for such establishment.

2.2.5**e**. Exemption -- A customer who has complied with the rules of the Commission shall not be denied service for failure to comply with the rules of the LDC utility that have not been approved by the Commission.

2.3. Financial and statistical report.

2.3.1-**a**. Each LDC utility shall file annually a financial and statistical report upon forms to be furnished by the Commission or in lieu thereof, upon forms approved by the Commission.

2.3.2**b**. Said report shall be based upon the accounts set up in conformity with the Commission's order and rule as set out in Rule 2.4. section 2.4. of these rules.

2.3.3**c**. This report shall be filed on or before March 31st of the succeeding year for which the report covers.

2.3.4**d**. For good cause shown, the Commission will grant, through its Secretary, a reasonable extension of time upon application therefor in writing to the Secretary, such application to be made before the expiration of the time for filing of such report.

2.4. Uniform system of accounts.

All LDCs electric utilities are required to maintain their books and records in accordance with the "Uniform System

of Accounts" promulgated by the Federal Power Commission, as published in Title 18 C.F.R. parts 101 and 104, and in effect as of January 1, 1977, or as thereafter modified by General Order of the Public Service Commission.

2.5. Maps and records.

2.5.1-a. Each LDC utility shall keep on file suitable maps, plans and records showing the layout of every generating plant, transmission and primary distribution system, and substation, with the location, size and character of each plant, transmission and primary distribution lines, substation and other facilities used in the production and delivery of electric energy.

2.5.2b. In the case of new construction or property acquired from others, the additions to such maps and records should be made by the end of the next calendar year following the year in which the construction is done or property acquired.

2.5.3c. The maps, plans and records required by the provisions of this rule shall be kept up to date so that the LDC utility can furnish promptly and accurately any information regarding its facilities, or copies of its maps requested by the Commission.

2.6. Management audits.

2.6.1-a. Scope -- To establish a procedure for examination of management practices and policies to determine whether the entity being audited is operating with efficiency and utilizing sound management practices. The purpose of a management audit is to disclose operating areas that are efficient or inefficient, to identify areas for improvement, and to form recommendations for changes. The results of a management audit and the response of the LDC utility to the recommendations and implementation plans developed pursuant to a management audit may be a factor in determining just and reasonable rates, as set out herein.

2.6.2b. Types of management audits -- The following types of management audit, which vary in scope, may be directed and utilized by the Commission:

~~a~~-1. Comprehensive -- An investigation characterized by an extensive, detailed analysis of a utility's local distribution company's management and operations.

~~b~~-2. Reconnaissance -- A broad review, similar in scope to a comprehensive audit, but in less detail. The

objective of this type of audit is to identify specific areas for more intensive investigation based upon the magnitude of the problem identified or the potential benefits to be derived.

~~c-3.~~ Focused -- An in-depth investigation of one or several specific areas of a ~~utility's~~ local distribution company's management and operations.

2.6.3c. Frequency -- The Commission shall order a management audit of any LDC utility under its jurisdiction whenever the Commission deems it necessary to investigate the operational efficiency of the LDC utility. Such factors as the cost of the management audit and the potential benefits of such audit may be taken into consideration. The Commission may accept or request a management audit performed under the rules of another jurisdiction in satisfaction of this rule when that audit is of the scope contemplated by the Commission, conforms to the standards herein set forth and covers the ~~utility's~~ LDC's service functions in its West Virginia jurisdiction.

2.6.4d. Conduct and control --

~~a-1.~~ The Commission may choose to have the audit performed by its Staff or contracted to a qualified outside auditing firm. In the latter case, the Commission may supervise the selection process. If the management audit is to be conducted by an auditing firm, the Commission's order initiating the audit shall include provision for the development of the request for proposal (RFP), the consultant selection process and Staff's assistance and supervision during the audit.

~~b-2.~~ The Commission may impose eligibility restrictions upon contractors relating to past, current, and post-audit relationships with the LDC utility.

~~c-3.~~ The LDC utility is expected to cooperate to the fullest extent with the performer of a Commission ordered management audit. A responsible employee shall be appointed by the LDC utility as its management audit coordinator, who shall be responsible to assist in the efficient performance of the management audit.

2.6.5e. Costs -- It shall be the responsibility of the audited LDC utility to pay for a contracted audit. The Commission shall include the reasonable cost of conducting the contracted management audit in the cost of service of the LDC utility. The Commission may allow such costs to be recovered in the ~~utility's~~ LDC's next general rate case following completion of the audit, or the Commission may order such costs to be amortized over a reasonable period of years, considering

the impact of these costs on both the LDC utility and its customers.

2.6.6f. Implementation of recommendations --

~~a~~-1. Draft report.

A. Upon completion of the audit a draft report shall be submitted to the LDC utility for comments.

B. The auditor and LDC utility representatives shall conduct a draft review meeting subsequent to the distribution of the draft review report.

~~b~~-2. Final report.

A. A final report shall be submitted to the Commission no later than thirty (30) days after the submission of the draft report to the LDC utility.

B. Within thirty (30) days of the final submission of the management audit report, the LDC utility shall file a document detailing its position on each audit recommendation. This document must state which recommendations are acceptable to the LDC utility and the nature of the ~~utility's~~ LDC's disagreement with any recommendations.

~~c~~-3. The Commission may, after hearing, issue an order prescribing the recommendations which should be adopted by the LDC utility.

~~d~~-4. The LDC utility shall file detailed implementation plans for the Commission's review and approval within the time specified in the Commission's order prescribing which recommendations the LDC utility should adopt. The LDC utility shall not deviate from an approved implementation plan without prior notice to the Commission which specifically states the ~~utility's~~ LDC's reasons for departing from the approved plan.

~~e~~-5. At the direction of the Commission, a follow-up audit may be performed to review the progress of the LDC utility in implementing the approved plans and the results of previously performed management audits.

~~f~~-6. A management audit report and implementation plan adopted pursuant thereto and any follow-up audit may be used by parties in a general rate case subsequent to the management audit. Such audits and implementation plans may be a factor in the determination of just and reasonable rates if introduced as an exhibit and subjected to normal due

process procedures.

~~g-7.~~ The Commission may grant an extension of the time limits established in this section upon a showing of good cause for such extension.

§150-3-3. Meter requirements.

3.1. Methods of measuring service.

3.1.1~~a.~~ Metered --

~~a-1.~~ All electric energy sold and/or delivered within the State of West Virginia shall be by meter measurements, except street lighting, outdoor lighting, traffic signal service and other small fixed loads.

~~b-2.~~ All customers served under a given rate schedule shall have their energy consumption measured with meters having suitable characteristics.

3.1.2~~b.~~ Metering point -- Each point of delivery of service shall be considered as a customer and the metering and billing shall be administered accordingly unless the applicable rate schedule includes provisions, or the consent of the Commission is first obtained, for combined meter readings.

3.1.3~~c.~~ Waste or fraud --

~~a-1.~~ The LDC or meter service provider (MSP) ~~utility~~ shall have the right to set meters or other devices for the detection and prevention of fraud or waste, without notice to the customer.

~~b-2.~~ In any case, where a service meter or service facility has been tampered with so as to interfere with accuracy of registration or indication, the LDC or MSP utility whose meter or service facilities have been tampered with shall be entitled to payment for energy or demand used but not registered during a period not exceeding one year prior to the date of discovery of the tampering, unless the time of tampering can be shown, in which case the energy not registered subsequent to such time shall be paid for.

3.2. Location of meters.

3.2.1~~a.~~ ~~utility rules and regulations~~ Requirements for metering service -- Each LDC and MSP shall comply with the requirements for metering service set forth below. Each LDC utility may establish rules and regulations governing the service entrance wiring and equipment to be installed on

customer's premises; such rules and regulations shall be effective when they have been filed with and approved by the Public Service Commission. In the absence of special rules and regulations filed by a LDC utility, such LDC utility shall require compliance with the following general provisions.

3.2.2b. Accessibility -- All meters owned and installed by the LDC or MSP utility shall be easily accessible for reading, testing and making necessary adjustments and repairs. When a number of meters are grouped at the same location, each service entrance equipment should be tagged, so as to indicate the circuit served by it.

3.2.3c. Outdoor --

a.1. Where meters are installed outdoors on customer's premises they shall be placed on the exterior of buildings in locations readily accessible to authorized LDC or MSP company representatives for meter reading, testing and maintenance and shall not be subject to severe vibration.

b.2. Meters should not be installed in locations where the meter readers or servicemen may inadvertently damage flower beds, or shrubbery, or where it will be necessary for them to climb over fences or other obstructions to service the meters. They shall not be placed in locations where they may be accidentally damaged or on buildings where they will cause inconvenience either to the customer or to the company's representative.

3.2.4d. Indoor -- Where meters are installed indoors on customer's premises they shall be located in a clean, dry, safe place as free as possible from vibration.

3.2.5e. Forbidden locations -- Meters should not be installed in basements where the only entrance is through a trap door or in coal or wood bins or on partitions forming such bins, nor on any unstable partitions or supports. They should not be installed in attics, bedrooms, bath or toilet rooms, restaurant kitchens, stairways, ventilating or elevator shafts, over windows, doors or in any like location. They should not be installed near belts or other moving machinery.

3.2.6f. Precautions for demand meters -- Demand meters, in general, may be located the same as watthour meters but due to the fact that they may be provided with a clock mechanism (either spring or motor driven) that is more sensitive to temperature changes, moisture and dust than watthour meters, the locations should be such that the severity as far as these conditions will be minimized.

3.2.7g. Exemption -- Districts subject to flood are exempted from this rule as it applies to the location of meters.

3.2.8h. Duty of customer --

a-1. Proper provision must be made for the installation of the ~~utility's~~ LDC's or MSP's meter. Unless the meter is to be mounted upon a panel installed within a cabinet or similar device, such provisions shall consist of a board constructed in accordance with the requirements of the LDC or MSP utility, or where meter sockets or similar meter mounting devices are used, they are to be mounted plumb on flat surfaces and, in general, located at a point mutually agreeable to the customer and the LDC or MSP utility. At least fifteen (15) inches clear space must be available on all sides of the meter mounting device and there must be a minimum of thirty-six (36) inches access space in front of the meter. Electric meters must not be installed in close proximity to water or gas meters or anything liable to damage the meter or thereby constitute a hazard to the customer's safety and continuity of the service.

b-2. When more than one meter is to be installed in the same building, it is recommended that provisions be made by the customer for grouping the meters at one location. When such grouping of single phase meters is made, they must not be mounted closer than 7 inches center to center.

3.3. Station meters and records.

3.3.1-a. Equipment -- Each LDC utility purchasing electric power shall maintain in service such meters or records as may be required to furnish a proper record of its purchases, and in case such LDC utility serves more than 750 customers, it shall maintain available for use a recording voltmeter suitable for securing a record of voltage of supply.

~~Each utility generating electric power shall install and maintain in service in each generating station such integrating and recording meters as may be necessary to obtain a record of station voltage, of gross and net output, and of peak or integrated demand.~~

3.4. Master metering.

3.4.1-a. Multiunit residential dwellings such as apartment houses, row houses, condominiums, etc., should be individually metered rather than master metered unless the LDC or MSP utility serving the facility, the owner or the designer

of the facility or other interested party establishes by clear and convincing evidence that an exemption to this rule would be proper. For the purposes of these rules, hospitals, nursing homes, motels and dormitories are not considered to be multiunit residential dwellings.

3.4.2b. Each ~~electric utility~~ LDC or MSP should encourage separate metering of multiunit buildings constructed for other than residential purposes (office buildings for example) whenever reasonable considering conservation of energy resources, economics, technical and other practical constraints. For the purposes of these rules, hospitals, nursing homes, hotels, motels and dormitories are not considered to be multiunit residential dwellings.

§150-3-4. Customer relations.

4.1. Customer information. This section provides the rules for customer relations and information related to service provided by LDCs. Rules related to electric service providers are found in 150-3-16, Consumer Protection. LDCs acting as default service providers must comply with relevant sections of 150-3-16. LDCs must also coordinate customer switching with CES providers. Coordination of customer switching shall be in accordance with the procedures set forth in these rules and in the applicable tariff of the distribution utility. As part of such coordination, each LDC shall possess the capability of receiving electronic notification from CES providers of customer enrollment and requests for customer switching.

~~4.1.1 Character of service -- A utility shall, upon request, when application is first made for electrical service, furnish to the applicant, information regarding the character of service:~~

- ~~a. Whether direct or alternating current is available.~~
- ~~b. The voltage or voltages available.~~
- ~~c. The frequency of the alternating current.~~
- ~~d. Whether single or multi-phase lines are available.~~

4.1.a. Responsibilities of an LDC.

1. It shall be the duty of the LDC to provide customers inquiring about electric service with the following:

- A. Information regarding the availability

of single or multi-phase lines, and the voltage or voltages.

B. Information as to the service options available under customer choice.

C. The Commission's list of licensed suppliers from which to choose competitive power supplies.

D. Information regarding the availability of and rates for default service.

E. At the customer's request, provide up to 12 months of customer specific energy consumption and load history for a specific location.

4.1.2b. Explanation of rates -- It shall be the duty of the LDC utility to explain to the customer, at the beginning of service, or whenever the customer shall request the LDC utility to do so, the ~~utility's~~ LDC's rates applicable to the type of service furnished to the customer and all other classes of customers, and to assist the customer in obtaining the rate which is most advantageous to the customer's requirement for service. The responsibility for the selection, however, must rest with the applicant. In the event that the customer's use of service is later such that an applicable rate schedule, other than the one initially selected, proves to be more favorable, the responsibility for requesting a change in rate schedule, consistent with the provisions of the service agreement, shall rest with the customer. The LDC utility shall, on its periodic statements, annually inform its customers that, if they so request, it shall supply the customers with a copy of the ~~utility's~~ LDC's rate or rates applicable to the type of service to be furnished to them and to all other classes of customers with a concise written explanation of the rates, and an identification of any classes of customer whose rates are not summarized.

4.1.3c. Selection of equipment -- ~~When service is available only at certain times of the day or night, full information shall be given with respect thereto.~~ Upon the request of any customer, reasonable assistance shall be given as to the selection of incandescent or other suitable types of lamps and appliances best adapted to the character of current furnished and most advantageous to said customer under the terms of the schedule of charges under which service is being furnished.

4.1.4d. Meter reading method -- The LDC utility shall, upon request, inform its customers how meters are read.

4.1.5e. Posting of law, rates, rules and

regulations --

~~a-1.~~ Every LDC utility shall provide in its business office, where it may be available to the public, the following:

A. A copy of the rates, rules and regulations of the LDC utility, and of forms of contracts and applications applicable to the territory served for that office.

B. A copy of Chapter 24, Code of West Virginia.

C. A copy of all Commission rules applicable to LDCs and other electric services providers. ~~the Commission's Rules and Regulations for the Government of Electric Utilities.~~

~~b-2.~~ A suitable placard in large type shall be placed in each business office of the LDC utility giving information to customers that a copy of the law, the rules and regulations of the Public Service Commission and the schedules of rates are available for their inspection.

4.1.6f. Information as to service -- Each LDC utility shall, upon request, give its customers such information and assistance as is reasonable, in order that customers may secure safe and efficient service.

4.2. Customer deposits.

~~4.2.1.a.~~ Security deposits --

~~a-1.~~ Security deposit -- ~~A~~ An LDC utility may require an applicant or customer to make a deposit as a guarantee of the payment for electricity used. Such deposit shall not be more than one-twelfth (1/12) of the annual estimated charge for residential service and one-sixth (1/6) for all other service to secure the LDC utility from loss. The LDC utility shall not be bound to supply electricity until this condition is fulfilled and it may cut off the supply if the guarantee is not given when required. After the customer has paid bills for service for twelve consecutive months, without a delinquency, the LDC utility shall promptly and automatically refund the deposit plus accrued interest. Utilities may, at their discretion, refund deposits after shorter periods of time. Calculation of the above twelve consecutive month period shall commence from the first regular payment or following the payment of a delinquent bill or bills. The interest rate to be paid shall be determined as follows. The rate which utilities

shall be required to pay shall be the average of the one-year United States Treasury Bill rates for October, November and December of the preceding calendar year. By January 15 of each year, Staff of the Commission shall make the necessary calculations and, file with the Commission its calculations. The Commission will issue an order setting the rate to be paid by the utilities until the next annual Commission order. The simple interest shall be paid at the date of discontinuance of service or at the end of the deposit period. The LDC utility shall have a reasonable time to read and remove meters and to ascertain that the obligations of the customer have been fully performed before being required to return any deposit in the case where there has not been an automatic refund.

b-2. Record of deposit -- Each LDC utility holding a cash deposit shall keep a record showing: (i) the name and current address of each depositor; (ii) the amount and date of the deposit; and (iii) each transaction concerning the deposit.

c-3. The receipt -- Concurrently with receiving a cash deposit, the LDC utility shall deliver to the applicant for service or customer, a receipt showing: (i) the date thereof; (ii) the name of the applicant or customer and the address of the premises served or to be served; (iii) the service furnished or to be furnished; and (iv) the amount of the deposit and the fact that interest will be paid on the deposit. Each LDC utility shall provide automatic means to refund the deposit of a customer, when the customer is so entitled, if the original receipt cannot be produced. A receipt or proof of payment will not be necessary under the provisions for an automatic refund.

d-4. Unclaimed deposits -- Should a LDC utility have retained, through no fault of its own, deposits made by customers to whom service has been discontinued during any calendar year, it shall, on or before the first day of March, in each year, mail to the customer's last known address a check as refund of the deposit, plus accrued interest, or at the ~~utility's~~ LDC's option, publish a list of such depositors in a newspaper published and of general circulation in each of the counties in which it operates and in which the deposits were made, showing as of the thirty-first (31st) day of December immediately preceding, the amount of each such deposit, together with the interest due thereon, and notifying depositors listed therein that their deposits, together with accrued interest, are being held to their credit and will be returned upon request. The LDC utility shall not be liable for any interest on such deposit after publication of such lists. (See West Virginia Code §34-2-1). Deposits remaining in the hands of the LDC utility upon completion of the foregoing

procedure shall be considered derelict property and shall escheat to the State of West Virginia under the provisions of the Code of West Virginia, Chapter 34, Article 2.

~~e.5.~~ The Commission may, upon entry of a proper order, require any LDC utility to segregate the customer deposits into a special account at a federally insured institution.

~~f.6.~~ All utilities that collect security deposits must do so in a non-discriminatory manner.

~~g. **Provided**, however, That this rule shall not affect residential customer security deposits required by a utility prior to the passage of West Virginia Code §24-3-8 on March 12, 1983.~~

4.2.2b. Guaranty agreement --

~~a.1.~~ An LDC A utility may accept, in lieu of the cash deposit, a guaranty agreement signed by a financially responsible guarantor, whereby payment of a specified sum, not exceeding the cash deposit aforesaid, is guaranteed. The guarantor shall receive copies of disconnection notices sent to the customer whose account has been guaranteed: **Provided**, however, That the limitations herein fixed upon the terms of a guaranty agreement shall not apply to industrial customers.

~~b.2.~~ Guaranty agreements shall terminate after the customer has satisfactorily paid bills for service for twelve consecutive months, or when the customer gives notice to the LDC utility of the discontinuance of service at the location covered by the guaranty agreement, or three months after discontinuance of service where no notice was given or at the guarantor's request upon thirty (30) days written notice to the LDC utility. In any case, after the automatic termination of a security agreement, where experience indicates that a cash deposit or a new guaranty agreement is reasonably necessary to secure the LDC utility from loss, a cash deposit or a new guaranty agreement may be required upon written notice to the customer.

4.2.3c. Application in case of receiver or trustee -
- The aforesaid provisions shall apply in the case of a receiver or trustee, operating under court order a business requiring LDC utility service.

4.3. Billing information.

~~4.3.4a.~~ Bills rendered periodically shall show the reading of the kilowatt hour meter at the beginning and the end

of the period for which the bill is rendered, the date of such reading and the amount of energy supplied during the period. At the ~~utility's~~ LDC's option, meters of residential and small commercial lighting customers may be read and bills computed in units of ten kilowatt hours. Units larger than ten kilowatt hours may be used in the case of larger commercial and industrial customers when required by the meter design or the use of instrument transformers. Each customer bill and/or each part of a bill containing charges by more than one company will itemize each charge, clearly identify the company responsible for resolving bill disputes and provide a customer contact telephone number associated with each such charge.

4.3.2b. In the case of a demand rate the number of demand units used in billing shall be shown on the bill.

4.3.3c. Mechanical billing -- ~~Utilities~~ LDCs or MSPs desiring to adopt mechanical billing of such nature as to render compliance with all of the terms of Rule 4.3.1.a. impracticable, may make application to the Commission for relief from part of these terms. After consideration of the reasons given when asking for relief, the Commission may allow the omission of part of these requirements.

4.3.4d. Billing period -- Meters will be read as nearly as possible at regular intervals except as otherwise provided in the ~~utility's~~ LDC's or MSP's tariff. Because of the incidence of weekends, holidays, and unusual conditions, it is recognized that there may be variations of several days in the period between meter readings. No adjustment will be required in billing when the deviation from the standard period is not more than five (5) days in the case of monthly billing, ten (10) days in the case of bi-monthly billing, and fifteen (15) days in the case of quarterly billing. When the deviation exceeds these limits, either for regular or periodic billing or for opening and closing bills, the energy blocks, demand charges, and minimum charges shall be prorated on the basis of the ratio of the number of days in the period in question to the number of days included in the standard period, which will be taken at thirty (30) days for monthly billing, sixty (60) days for bi-monthly billing, and ninety (90) days for quarterly billing.

4.4. Adjustment of bills.

4.4.1.a. Meter fast -- Whenever a meter in service is found upon periodic, request or complaint test, to be more than two percent (2%) fast, tests shall be made, as stipulated in Rule 6.5., ~~6.4.~~ to determine the average error of the meter.

~~a-1.~~ Whenever a meter is found upon periodic,

request or complaint test, to have an average error of registration of more than two percent (2%) fast the LDC, CES provider and/or MSP utility shall recalculate the monthly bills for a period equal to one-half of the time elapsed since the last test, but in no case shall this period exceed six (6) months. (See exception in Rule 4.4.4d.). The method of recalculating the monthly bills shall be as shown in the following example:

A. A meter, upon test, was found to have an average accuracy of one hundred five percent (105%) or an error of five percent (5%) fast. The consumption registered for a billing period previous to test was one hundred five (105) K.W.H. The correct amount is determined by multiplying one hundred five (105) K.W.H. by one hundred (100) and dividing this product by one hundred five (105), (the average percent accuracy) which result is one hundred (100) K.W.H. and is the proper amount to be billed.

~~b-2.~~ After making such recalculations the LDC, CES provider and/or MSP utility shall refund to the customer the difference between the amount previously billed and the amount calculated as being the proper charge.

4.4.2b. Meter slow -- Non-residential customers.

~~a-1.~~ When a meter upon periodic, request or complaint test, is found to have an average error of more than two percent (2%) slow, the LDC, CES provider and/or MSP utility may recalculate the monthly bills for a period equal to one-half of the time elapsed since the last test, but in no case to exceed six (6) months. The method for recalculating the monthly bills shall be as shown in the following example:

A. A meter, upon test, was found to have an average accuracy of ninety-five percent (95%) or an error of five percent (5%) slow. The consumption registered for a billing period previous to test was one hundred five (105) K.W.H. The correct amount is determined by multiplying one hundred five (105) K.W.H. by one hundred (100) and dividing this product by ninety-five (95), (the average percent accuracy) which result is 110.526 or one hundred eleven (111) K.W.H. and is the proper amount to be billed.

~~b-2.~~ After making such recalculations the LDC, CES provider and/or MSP utility may collect from the non-residential customer an amount, equal to the difference between the amount previously billed, and the amount calculated as being the proper charge.

4.4.3c. Percent error -- It shall be understood that

when a meter is found to have an error in excess of two percent (2%) fast or slow, the figure for calculating the amount of refund or the amount to be collected by the LDC, CES provider and/or MSP utility, where applicable, shall be that percentage of error as determined by the test. It is the duty of the LDC, CES provider and/or MSP utility to maintain the accuracy of its measuring devices as near one hundred percent (100%) as it is commercially practicable. Therefore, percent error shall be that difference as between one hundred percent (100%) and percent accuracy as is indicated by a proper test.

4.4.4d. Refunds -- The burden of maintaining measuring equipment, so that it will register accurately, is upon the LDC, CES provider and/or MSP utility; therefore, if meters, other than single phase meters tested under a sampling procedure approved by the Commission, are found upon test to register fast, and if time for periodic test has overrun to the extent that one-half (1/2) of the time elapsed since the last previous test exceeds six (6) months, the refund shall be for the six (6) months, as specified in Rule 4.4.1.a., and in addition thereto, a like refund upon those months exceeding the periodic test period: **Provided**, however, That the Commission may relieve the LDC, CES provider and/or MSP utility from this requirement in any particular case in which it shown that the failure to make the periodic test was due to causes beyond the ~~utility's~~ LDC's, CES provider's and/or MSP's control.

4.4.5e. Notification --

1. When a meter is tested and it is found necessary to make a refund or back bill a customer the customer shall be notified in substantially the following form:

On _____, 19____, the meter bearing identifying No. _____ installed in your building, located at _____, in _____ was tested at _____ and found to register

*(on premises or elsewhere)

_____. The meter was tested on
*(%fast or slow)

_____ test.

*(periodic - request - complaint)

Based upon this test, we herewith _____
*(charge or credit)
you with the sum of \$ _____, which amount has
been noted _____.

*To be filled in by LDC utility.

2. When a meter is found upon periodic, request, or complaint test to have an average error of registration of more than two percent fast or slow and a billing adjustment is permitted or required under this rule the LDC or MSP shall notify the customer's CES provider of the results of the meter test.

4.4.6f. When a meter is found to be non-registering, the LDC, CES provider and/or MSP utility may recalculate the monthly bills for a period equal to the time period determined that the meter has been non-registering, but in no case to exceed three months. The recalculation shall be based upon a similar period of usage, temperature variations, changes in customer equipment and other pertinent information. A meter is non-registering if it registers less than 25% of Kwh used when tested. An LDC, CES provider and/or MSP A utility shall retain a non-registering meter for a minimum of thirty (30) days following a rule 4.4.5e. notice.

4.5. Complaints.

4.5.1a. Investigation of complaints -- Each LDC utility shall make a full and prompt investigation of all complaints made to it by its customers, either directly or through the Commission.

4.5.2b. Records of complaints -- The LDC utility shall keep a record of all complaints received, which record shall show the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made thereof.

4.5.3c. Disposition of records -- A summary of each complaint showing the nature of the complaint, the results of the investigation, and the disposition of each complaint will be prepared and maintained for a minimum of twenty-four (24) months after the resolution of each complaint.

4.6. Disputed bills.

In the event of a dispute between the customer and the LDC utility respecting any bill, the LDC utility shall make forthwith such investigation as shall be required by the particular case, and report the result thereof to the customer. In the event that the complaint is not adjusted, the LDC utility shall, before service is discontinued, comply with the provisions of Rule 4.8.

4.7. Customer discontinuance of service.

4.7.1a. Any customer desiring to have its service

discontinued shall give at least three (3) days' notice thereof to the LDC utility, unless a longer or shorter period shall be incorporated in any standard or special contract mutually agreed upon. Until the LDC utility shall have such notice, the customer may be held responsible for all service rendered. If the customer is served by a CES provider, the date that voluntary discontinuance of service will be completed by the LDC shall be transmitted by the LDC to the customer's CES provider.

4.7.2b. If service is disconnected at the request of the customer, the LDC utility may refuse service to such customer, at the same premises within eight (8) months of such disconnection, unless it shall first receive payment of a reconnection charge as provided for in an effective tariff on file with the Commission.

4.8. LDC utility discontinuance of service.

4.8.1-a. Grounds for discontinuance and procedure to be followed:

a-1. An LDC A utility may, after giving written notice and personal contact as provided below, discontinue service to any customer for non-payment of bills where any bill is ten (10) or more days delinquent, or for fraud, or violation of its rules on file with the Commission or failure to provide access to LDC utility property located on the customer's premises, subject to the following conditions:

A. The written notice must comply with P.S.C. W.Va. Electric Form No. 1, attached to these rules, Form No. 14-B and shall be sent first class mail, address correction requested, at least ten (10) days prior to the scheduled termination. The personal contact shall be at least twenty-four (24) hours prior to the scheduled service termination unless it is reasonably established that the premises are not permanently inhabited. The written notice shall become void if the LDC utility has not discontinued service within (30) thirty days of the date indicated on the notice for termination. The personal notice shall become void if the LDC utility has not discontinued service within thirty days of the personal notice. The individual giving notice in person shall present a copy of the original written notice or a document which contains the same information as presented on the original notice. If the personal notice is by telephone, the person shall inform the customer how to obtain a copy of the original written notice.

B. If, prior to termination of service, the LDC utility receives notice from the customer (a) that any

portion of a bill is in dispute, (b) that he is being charged for service not rendered, (c) that any information resulting in the ~~utility's~~ LDC's decision to terminate is erroneous, (d) that he is unable to pay for such service in accordance with the requirements of the ~~utility's~~ LDC's billing, and that termination of service would be especially dangerous to the health or safety of a member of the customer's household, or (e) that he is able to pay for the service but only in installments, the LDC utility shall provide an opportunity to the customer for presentation of his complaint to a designated managerial employee, who is empowered to resolve the dispute. The hearing shall take place at the business office nearest to the customer's residence: **Provided**, however, That at the option of the customer, the hearing may take place by a telephone conference. The customer shall have seven (7) days from the date of the ~~utility's~~ LDC's decision to file an appeal with the Commission. Service may not be terminated from the date the LDC utility receives notice of the customer complaint until the expiration of the seven (7) day appeal period, or during the pendency of an appeal to the Commission. Any amount not in dispute must be paid by the customer in order to protect his rights under this rule except as provided in Rule ~~4.8.1.a.C.~~ 4.8.a.1.C.

C. A residential customer who has been notified that electric service is to be terminated for non-payment of bills shall be given the opportunity to enter into a deferred payment agreement, provided that the customer has demonstrated an ability to pay but only in installments. The customer shall be informed at the time a disconnect notice is issued of the option for a reasonable payment plan. The conditions surrounding the deferred payment agreement shall be as follows:

~~(a)~~1. The details of the deferred payment agreement are to be negotiated between the LDC utility and the customer and may consider several factors, including, but not limited to the following: amount of the bill; ability of the customer to pay; payment history; time the debt has been outstanding; reasons why the debt has been outstanding; and any other relevant factors.

~~(b)~~2. LDCs Utilities shall be allowed to collect a carrying charge of 6% on any outstanding balance subject to a deferred payment agreement; provided however that any LDC utility which charges interest on unpaid balances pursuant to tariff shall be precluded from charging additional interest pursuant to this rule.

~~(c)~~3. The deferred payment agreement shall include language informing the customer of the

right to appeal the reasonableness of the proposed payments to the Public Service Commission.

~~(d)~~4. During the appeal, service may not be terminated, provided, however, that the current bill must be paid by the customer in order to protect his rights under this rule.

~~(e)~~5. If the deferred payment is not received in accordance with the terms of the agreement, the LDC utility may terminate service only after it has mailed written notice, by first class mail, to the customer at least five (5) calendar days, excluding postal holidays, prior to termination, provided, that at the option of the LDC utility, either personal contact or telephone contact may be substituted for contact by first class mail. If the customer makes the delinquent payment within that notice period, service shall not be terminated.

~~(f)~~6. Once a deferred payment agreement has been established, if the customer's financial conditions significantly change and the existing payment works a hardship, the LDC utility shall renegotiate the payment agreement, consistent with the provisions of Rule 4.8.a.1.C.1. ~~4.8.1.a.C.(a).~~ However during the renegotiation period the customer must timely pay the current bill and make some payment on the arrearage.

D. For the purposes of this rule, the following circumstances shall be deemed to constitute a period when termination of service would be especially dangerous to the health or safety of a member of the customer's household (by way of explanation and not limitation):

(a) Written certification from a licensed physician that termination of service would be especially dangerous. Such certification must be received by the LDC utility within 10 days after the LDC utility informs the customer of the circumstances set forth in Rule 4.8.a.1.D. ~~4.8.1.a.D.~~, and must be renewed every thirty days, starting from the date the certification is sent to the LDC utility; however the certification need not be renewed if a licensed physician can state to a reasonable degree of medical certainty that the condition is permanent.

(b) The time period running from the first day of December through the last day of February;

(c) The presence of electric or gas energy using life-supporting equipment such as kidney dialysis machines, iron lungs, etc.

The LDC utility will inform the customer of these circumstances at the meeting between the customer and the designated managerial employee, authorized in Rule ~~4.8.1.a.B.~~ 4.8.a.1.B

E. Service shall not be discontinued at any time to a residential customer who is sixty-five years old or older, without first making contact with a near relative or responsible third party and unless the customer refuses to agree to a reasonable deferred payment schedule. This rule shall also apply to any customer regardless of age who is physically, mentally or emotionally incapacitated.

F. Service shall not be discontinued on a day on which the ~~utility's~~ LDC's business office is not open to accept payment or on a day proceeding a day on which the ~~utility's~~ LDC's business office is not open to accept payment; or on a Friday, Saturday or Sunday. Service shall be reinstated within eight hours or less after receipt of payment.

G. Service shall not be discontinued earlier than 8:00 a.m. nor later than 4:00 p.m.

H. The LDC utility shall accept payment at the customer's premises in lieu of discontinuing service.

I. An LDC A utility may terminate service without notice when, absent such termination, a condition hazardous to life or property would exist. If a LDC utility terminates service without notice: (1) it must keep a record of the conditions causing the termination and (2) it should make a reasonable effort to notify the customer prior to termination and shall inform the customer of the steps which must be taken to have service restored.

J. If the customer of record responsible for payment of a LDC utility bill is: (a) a landlord of a master metered apartment building, motel, hotel, or other multiple unit dwelling, or (b) a third party who is a non-resident of the single service location, then written notice of termination, using Electric Form No. 2, attached to these rules Form 14-ME, shall be posted at least five (5) days prior to the scheduled termination. The notice for a master metered multiple unit dwelling shall be placed in a conspicuous common area at a location readily available for public inspection. Whenever possible, copies shall also be posted on the main doors of each dwelling in the facility. The notice for single unit dwellings occupied by third parties shall be placed on the main door the dwelling.

K. The Commission may waive the

application of any provision of this rule if it is demonstrated that the operation of any such provision will result in an undue hardship to the LDC utility or the customer. This provision is to be invoked only in exceptional cases and shall not be used to attempt to gain a general waiver of the application of the entire rule by either the LDC utility company or the customer.

L. Only Rules ~~4.8.1.a.A., 4.8.1.a.B., 4.8.1.a.F., 4.8.1.a.G., 4.8.1.a.H., 4.8.1.a.I., 4.8.1.a.J., and 4.8.1.a.K.~~ 4.8.a.1.A.; 4.8.a.1.B.; 4.8.a.1.F.; 4.8.a.1.G.; 4.8.a.1.H.; 4.8.a.1.I.; 4.8.a.1.J.; and 4.8.a.1.K. shall apply to commercial and industrial customers of any of the utilities covered by this rule, except that conditions (d) and (e) of Rule 4.8.1.a.B. shall not apply to commercial or industrial customers.

M. An LDC A utility may petition the Commission to waive the personal contact requirement of this rule only after it has made at least three (3) attempts at personal contact. At least one of the attempts at personal contact must be an on-site visit at the service location. The LDC utility shall leave an appropriate door hanger with relevant information in the event the on-site visit fails to accomplish personal contact. At least one attempt must be after normal working hours of 8 a.m. to 6 p.m. A telephone call may be used as an after hours personal contact attempt.

N. A bill which has been found to be contractually uncollectible by a Court or could reasonably be found to be uncollectible by reason of the Statute of Limitations shall not be used by a LDC utility to deny or discontinue service.

4.8.2b. Charge for reconnection -- Whenever LDC utility service is terminated pursuant to Rule 4.8.1.a. above, the LDC utility may make a charge of five dollars (\$5.00) for reconnection of service, unless otherwise provided for in an effective tariff on file with the Commission.

4.8.3c. Definitions -- for the purposes of this rule, the following definitions shall apply:

~~a-1.~~ Delinquent bill -- A bill becomes delinquent if not paid in full, within thirty (30) days after becoming due.

~~b-2.~~ Due bill -- A bill is due when rendered.

~~c-3.~~ Payment -- Payment is made by cash, check, money order or Department of Welfare voucher. Payment made by

personal check may be refused if, within the past twelve (12) months, a check from the customer has been returned for insufficient funds.

~~d.4.~~ Personal contact -- Personal contact includes both face-to-face meetings and telephone calls with a responsible adult member of the household. This requirement is **not** satisfied by attempts to contact.

~~e.~~ ~~Utility service~~ -- ~~Utility service means service provided by any electric or gas utility subject to the jurisdiction of this Commission to any customer of said utility, unless Rule 4.8. clearly indicates a different meaning.~~

4.8.4d. Insufficient reasons for disconnecting service -- The following shall not constitute sufficient cause for refusing, denying or discontinuing service to an applicant or present customer:

Delinquency in payment for service by a previous occupant of the premises to be served other than a member of the same household.

4.9. Refusal to serve applicant.

4.9.1-a. Non-compliance with rules and regulations - Any LDC utility may decline to serve an applicant until he has complied with the State and Municipal regulations governing electric service and the approved rules and regulations of the LDC utility.

4.9.2b. Applicant's facilities inadequate -- The LDC utility may decline to serve an applicant if, in its judgment, the applicant's installation of wiring or electrical energy consuming equipment is regarded as hazardous or of such character that satisfactory service cannot be given; however, in no event shall the LDC utility be under any obligation to inspect the wiring or appliances of the customer.

4.9.3c. Applicant's recourse -- In the event that the LDC utility shall refuse to serve an applicant under the provisions of this rule, or any other rule incorporated herein, the LDC utility must inform the applicant of the basis of its refusal, and that the applicant may appeal to the Commission for decision.

4.10. Change in character of service.

Prior to making any substantial change in the character of service furnished to any customer, which would

affect the efficiency of operation, adjustment, or speed of the equipment or appliances of any customer, the LDC utility shall notify any customer who may be affected. No change in the character of service being rendered may be made, on account of which an expense may be incurred by an existing customer, unless an agreement is secured from such customer and a complete understanding is had of the allotment of such costs as may be incurred.

4.11. Customer Switching of Electric Service Provider. CES providers are responsible for notifying the LDC of customer requests to switch suppliers. LDCs are responsible for notifying customers of the request to switch, for providing customer validation lists to CES providers, and for implementing the requested customer switches.

4.11.a Transmission of Enrollment to LDC. Within three (3) business days of confirmation of a customer enrollment, the CES provider will transmit electronically the customer enrollment to the LDC. Upon receipt of the electronic enrollment transaction, the LDC will respond to the CES with a confirmation that the electronic enrollment transaction was received and processed. If, for any reason, the electronic enrollment transaction cannot be processed by the LDC, the LDC will submit an electronic rejection transaction to the CES provider containing a rejection code identifying the reason for the rejection. All electronic data exchanges will be consistent with any Commission rules for electronic data exchange between electric distribution companies and CES providers.

4.11.b. Notification of Customer Request to Switch Suppliers. Within two business days from the receipt of an electronic notification from a CES provider that a customer has enrolled with the CES provider, the LDC will mail to the customer, and electronically notify any other CES provider currently providing retail electric service to the customer, a notification of customer request to switch suppliers. This notification will inform the customer of a pending change in the customer's generation service, the name of the new electric energy supplier and the effective date of the change. The notification will also inform the customer of the right to rescind the change by contacting the LDC at its toll-free number within ten calendar days of the postmarked date that the notification is mailed.

4.11.c. Effective Date of Customer Switching. The effective date of customer switching to a new electric service provider is the first day of the next calendar month after enrollment of the customer with a CES provider or the customer's next regularly scheduled meter reading date, provided notice of the enrollment is received by the LDC by the

15th day of the calendar month or 15 days before the customer's next regularly scheduled meter reading date. The CES provider will commence service to the customer on the effective date of customer switching.

4.11.d. Multiple Switching Requests. When more than one enrollment notification is received by the LDC for a particular customer before expiration of the 15th day of the month or the 15 days before the customer's next regularly scheduled meter reading date, the LDC will process the last enrollment notification received prior to the end of the 15th day of the month or the 15 days before the customer's next regularly scheduled meter reading date. Any prior switching transactions will be cancelled and notice of cancellation will be sent to the appropriate CES provider. CES providers are responsible for resolving any disputes between different CES providers over the electric service supply to a particular customer.

4.11.e. Customer Switching Validation. The LDC will provide to a CES provider a customer validation list containing customers' LDC account numbers, the first four letters of the account name and the customer's meter reading code. The CES provider must use this list to validate the customer information submitted to the LDC with the customer switching request.

4.112. Access to property.

4.112.1-a. The LDC utility shall at all reasonable times have access to meters, service connections and other property owned by it on customer's premises, for the purpose of maintenance and operation. Neglect or refusal on the part of customers to provide the LDC utility reasonable access to its meters, service connections, and other property for the above purposes shall be deemed to be sufficient cause for discontinuance of service on the part of the LDC utility.

4.112.2b. Identification of employees -- Every employee, whose duties regularly require him to enter the homes of customers shall wear a distinguishing uniform or insignia, and shall carry on his person an identification card, which will identify him as an employee of the LDC utility. The identification card shall contain a photograph of the employee and the telephone number of the LDC utility as well as other pertinent information necessary to identify the employee. All other employees, whose duties require occasional entry into the homes or premises of customers shall carry an identification card containing the information herein required.

4.1213. Service interruptions.

4.1213.1.a. Record -- Each LDC utility shall keep a record of system or major division interruptions of service. These records shall give complete information relative to the time, duration, cause, and location of each service interruption.

4.1213.2b. Notice required -- Insofar as is practical, every customer affected shall be notified in advance of any planned work which will result in interruption of service expected to last two (2) hours or longer, but such notice shall not be required in case of interruption due to emergencies, accidents, acts of God, public enemies, or strikes, which are beyond the control of the LDC utility.

4.1314. Sale of electric energy.

No utility shall sell electric energy to any customer except at the rates shown in the tariff or contract of the company filed with the Commission for the class of service furnished.

4.1415. Resale of electric energy.

Electric energy shall not be furnished by an LDC ~~a public utility~~ to any customer for resale, unless the customer is engaged in the business of distributing electric energy as ~~a public utility~~ an LDC, or is an electric service provider, or is an entity reselling or sharing electric supply services purchased by such entity from a licensed CES provider or Default Service Provider to or among a limited number of commercial or industrial operations at a single location.

4.1516. Residential conservation service program.

4.1516.1.a. ~~A public utility~~ An LDC subject to the jurisdiction of this Commission and to which Part 1, Title II of the National Energy Conservation Policy Act (Pub. L. 95-619, 92 Stat. 3206 et seq.), as amended by the Energy Security Act (Pub. L. 96-294, 94 Stat. 611 et seq.) (hereinafter NECPA), if applicable may recover reasonable costs associated with the implementation of the utility program under NECPA in the following manner:

~~a-1.~~ a-1. All amounts expended by ~~a public utility~~ an LDC for providing information under subsection (a), Section 215 of NECPA are to be treated as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of

providing utility service.

~~b.2.~~ All amounts expended by ~~a public utility~~ an LDC to carry out subsection (b), Section 215 of NECPA, by conducting or causing to be conducted a Class A Energy audit, for a particular residential customer may be recovered directly from the residential customer for whom the activities are performed: **Provided,** That the amount recovered from said residential customer for whom the Class A Energy audit described in subsection (b) is performed shall not exceed a total of fifteen dollars (\$15.00) per dwelling unit or the actual cost of such activities, whichever is less.

~~c.3.~~ All amounts expended by ~~a public utility~~ an LDC to carry out subsection (b), Section 215 of NECPA, including a Class B Energy audit, which are not recovered directly from the residential customer for whom a Class B Energy audit or the activities described in said subsection (b) are performed, and all administrative and general costs incurred by ~~a public utility~~ an LDC in carrying out a utility program under NECPA, including Class B Energy audits, may be recovered by the utility LDC as a current expense of providing utility service and charged to all ratepayers of such utility LDC in the same manner as current operating expenses of providing utility service.

~~d.4.~~ All amounts expended by ~~a public utility~~ an LDC for labor and materials for the purchase or installation of any residential energy conservation measure under Section 215 of NECPA shall be recovered from the residential customer for whom such purchase or installation is performed.

4.4617. Reduced rates for low income residential customers.

4.4617.1-a. Tariff filings --

No less than 30 days prior to the starting date of customer choice, within fifteen (15) days of the adoption of this rule, every LDC, other than a municipality or cooperative electric utility, which provides electric service to residential customers within the State of West Virginia subject to regulation by the Commission shall submit new tariff sheets, or an amendment or rider to its existing tariff sheets, to the Commission for its approval. Each ~~utility's~~ LDC's new tariff sheets, or amendments or rider to existing tariff sheets, shall contain a new Special Reduced Rate Residential Service rate schedule ("SRRRS rate schedule"), or Special Reduced Rate Residential Service amendment or rider ("SRRRS amendment or rider"), applicable to electric service provided during the billing months of December, January, February, March, and April

to residential customers who qualify for special reduced rates under the provisions of West Virginia Code §24-2A-1: ~~Provided, however, That a public utility shall not be required to file new tariff sheets under this rule if the utility has submitted new tariff sheets, or an amendment or rider to its existing tariff sheets since April 4, 1984, which contain new Special Reduced Rate Residential Service rate applicable to the billing months of December, January, February, March and April, and said tariffs have been approved by the Commission and are consistent with provisions of this rule.~~

The rate(s) charged for service under each SRRRS rate schedule, or amendment or rider, of an LDC shall reflect a credit of \$0.012 per kwh of metered energy delivered to the qualifying customer.

~~The rate(s) charged for service under each SRRRS rate schedule, or amendment or rider, of a utility shall be twenty percent (20%) less than the rate(s) charged for the same service under that utility's LDC's standard residential rates. This twenty percent (20%) discount shall apply to customer charges, minimum charges, usage charges, and any charges based on usage during the specified billing month(s) for which customers are eligible to receive the special reduced rates. If a customer is eligible to receive service under an SRRRS rate schedule and the customer is paying bills in accordance with the utility's LDC's budget payment plan, the customer shall be credited during any billing month for which the customer is eligible for the special reduced rates with the twenty percent (20%) discount based on the customer's actual usage during that billing month, regardless of the amount of the customer's budget payment plan bill.~~

The terms and conditions of service under each SRRRS rate schedule, or amendment or rider, offered by an LDC ~~a utility~~ shall comply with all relevant requirements and conditions set forth in West Virginia Code §24-2A-1, insofar as such requirements and conditions are applicable, and shall conform in all other respects to the terms and conditions under the ~~utility's~~ LDC's standard residential rate schedule.

Each LDC utility required to offer special reduced rates under West Virginia Code §24-2A-1 shall maintain tariff sheets, or amendments or riders to existing tariffs, which contain Commission-approved SRRRS rate schedules, amendments or riders. No modification may be made to such tariffs, amendments or riders without prior Commission consent.

4.1617.2b. LDC's Utility's responsibility upon application for special reduced rate -

Each utility LDC offering special reduced rates shall accept applications for service under such rates from:

~~a.1.~~ any current customer, and

~~b.2.~~ any person who subsequently becomes a customer in his/her own right who makes such application in accordance with rules adopted by the West Virginia Department of Human Services pursuant to West Virginia Code §24-2A-1(b). However, if an SSI, AFDC, AFDC-U or food stamp recipient is living in a household which is served under the name of a person living in that household who is not an SSI, AFDC, AFDC-U or food stamp recipient, that service may not be changed subsequent to March 12, 1983, to the name of the SSI, AFDC, AFDC-U or food stamp recipient in order to qualify for service under the special reduced rates: **Provided,** That nothing in this section shall cause a utility to deny extension of special reduced rates to any customer on the basis that the customer is not a recipient of aid under any eligible program when said customer is:

A. A member of the support group or payment group receiving aid under AFDC or AFDC-U, as determined by the Department of Human Services; or

B. A member of the support group or payment group receiving food stamps, as determined by the Department of Human Services, and is over sixty (60) years of age; or

C. The spouse of a person who is over sixty (60) years of age and a recipient of food stamps; or

D. The spouse of a person who receives Social Security Supplemental Security Income (SSI), or

E. Otherwise determined to be eligible to receive such special reduced rates.

~~c.3.~~ For the purpose of applying special reduced rates under West Virginia Code §24-2A-1, et seq., a person shall be determined to be a customer of a utility if the person is a member of a household receiving electric service and such service is provided in that person's name. However, if the person in whose name electric service is provided is verified to no longer be a member of the household for reasons which include death or divorce, the customer shall be determined to be any person residing in the household receiving electric service who could be held to be legally accountable or is considered by the utility to be responsible for all or a portion of the utility bill. Verification that the person in

whose name service is provided is no longer a member of the household shall be provided by presentation of a death certificate, divorce papers or other reliable documentation or by verification from the Department of Human Services.

~~d~~.4. Each LDC utility offering special reduced rates shall maintain documentation regarding the resolution of individual applications for special reduced rates. The information contained in said records shall include names, addresses or other information which adequately identifies the applicant, the date on which the individual application was tendered to the utility, and the ~~utility's~~ LDC's determination with respect to the application.

~~e~~.5. After any period (including a period during which special reduced rates are not in effect) during which a customer does not receive service under an SRRRS rate schedule, or amendment or rider, that customer must reapply in order to receive service under such a rate schedule, or amendment or rider.

4.4617.3c. Provision of service under special reduced rate -- In determining whether an applicant is eligible to receive special reduced rates, an LDC ~~a utility~~ is entitled to rely on the information which is provided to it directly or indirectly by the West Virginia Department of Human Services.

Each LDC utility offering special reduced rates shall use due diligence to reflect charges thereunder on the bills it renders to customers entitled to service under such rates. However, no utility shall be required to alter the timing of its meter-reading or billing schedules, but may make adjustment to subsequent bills to correct billing errors or to reflect the effects of a customer beginning, continuing, or ceasing to be entitled to receive service under the special reduced rates.

4.4617.4d. Certification of deficiency --

Once a year, ~~beginning in the year 1984,~~ each LDC utility offering special reduced rates may make application to the Commission for a determination and certification of the revenue deficiency which it has experienced as a result of offering service under the special reduced rates instead of under the ~~utility's~~ LDC's standard residential rates. Each such application should contain sufficient information to enable the Commission to determine the revenue deficiency experienced by the LDC utility making the application. This information shall include a comprehensive monthly report of the ~~utility's~~ LDC's disposition of the applications received and the resulting revenue deficiency for each month by completion of attached PSC WVA Form 214.6A and a summary report for the

entire certification period by completion of attached PSC WVA Form 214.6. All information submitted for determination and certification of a ~~utility's~~ LDC's revenue deficiency shall be verified by the utility to be true and accurate to the best of its knowledge and information. Each determination and certification of a revenue deficiency shall be issued in the form of a final order.

4.4617.5e. Notice to customers --

It shall be the responsibility of the LDCs utilities to adopt policies for providing notice to their customers of the availability of and advantages of the discount program.

The LDCs utilities shall be required to provide notice to their customers at least once each fall prior to the winter heating season, concerning the availability of the discount program.

The notice shall state in bold face type that the customer must reapply each year to obtain the discount program benefit.

4.4718. Notice to landowners of right-of-way clearing activity --

4.4718.1.a. Authority -- The provisions of Rule 4.4718. are promulgated under the authority and requirements of West Virginia Code §61-3-48. These provisions do not apply to the aerial application of herbicides.

4.4718.2b. Definitions -- As used in Rule 4.4718, the term:

a.1. "Written permission" means the permission of a landowner to a local distribution company ~~public utility~~ to perform right-of-way clearing or maintenance pursuant to a contract with the landowner or his or her predecessor in title, such as an easement, franchise, permit, or by other operation of law.

b.2. "Right-of-way clearing or maintenance" means to cut down, trim, and/or otherwise control, or to cause to be cut down, trimmed, and otherwise controlled trees and other vegetation.

c.3. "Routine" means planned or scheduled in the normal course of operation.

d.4. "Sudden emergency" means a condition endangering persons or property of a landowner, an occupant of

land, a local distribution company ~~public utility~~ or the general public, as well as a condition endangering the provision of utility service.

~~e-5.~~ "Reasonable notice" means

A. In the case of routine right-of-way clearing or maintenance, personal contact with the owner of the property on which such clearing or maintenance is to be performed: **Provided**, That should such personal contact not be possible due to lack of structures for habitation on the property, or unavailability those properties shall be included in a Class I legal advertisement in a newspaper of general circulation in the county to be affected by the clearing or maintenance; or

B. In the case of right-of-way clearing or maintenance resulting from a sudden emergency, the utility shall issue a news release. After the sudden emergency is over and the necessary clearing is complete, the utility shall publish the notice regarding the properties in a Class I legal advertisement in a newspaper of general circulation in the county where the property is located.

~~f-6.~~ "Personal contact" means, at least seven (7) business days prior to the scheduled-clearing or maintenance, an attempt will be made to contact the property owner or tenant by telephone or in person. Should the attempt be unsuccessful, a door hanger or similar type of written notice will be left at the residence which contains the information detailed in Rule ~~4.1718.3c~~. A second personal contact attempt will be made prior to the start of work. Should contact made be with a tenant, the utility shall either actually contact the owner before beginning work or publish the notice regarding the property as discussed in ~~4.17.2.e.A~~ 4.18.b.5.A.

~~4.1718.3c.~~ If an employee, agent or contractor of a local distribution company ~~public utility~~ has written permission to perform right-of-way clearing or maintenance, the employee, agent or contractor shall provide the landowner with reasonable notice which shall include:

~~a-1.~~ A description of the area(s) in which the right-of-way clearing or maintenance is performed;

~~b-2.~~ An approximate schedule of work;

~~e-3.~~ A description of the type(s) of work to be performed, including but not limited to tree trimming, tree removal, brush cutting, herbicide application, growth

regulation, slash disposition;

~~d-4.~~ A general description of clearances required or rights-of-way widths to be maintained; and

~~e-5.~~ The name and telephone number of a contact person at the utility.

4.4819. Registry of electric customers on life support - notification prior to scheduled outages - priority of service restoration --

4.4819.1-a. Each LDC utility shall establish and maintain a registry of persons within their service areas that are dependant upon life support systems which require electric service to function.

4.4819.2b. The registry will be updated by the utility at least every six months.

4.4819.3c. Each LDC utility shall inform all new customers of the registry and its purpose.

4.4819.4d. Each LDC utility will provide a reasonable notice of planned power outages to each affected residence or customer on the registry.

4.4819.5e. To the extent practical, given the scope and nature of a power outage, each LDC utility shall organize service restoration to give priority to customers listed on the registry.

4.4819.6f. For purposes of this rule, the term "life support system" means a kidney dialysis machine, mechanical ventilation device or other medical device, the use of which is prescribed by a licensed physician and upon the request of the patient, is certified by the physician in writing to the ~~electric~~ LDC utility as necessary to sustain critical body functions and without which a person is in imminent risk of death.

§150-3-5. Engineering requirements.

5.1. Standard practice.

5.1.1-a. National Electrical Code -- Insofar as the National Electrical Code, as approved by American National Standards Institute, defines and establishes Standard Practice, it is the purpose of the Commission to be guided by the current edition of that "Code", except those changes that may be noted

in the current Rules and Regulations of this Commission from time to time.

5.1.2b. National Electrical Safety Code -- For practice not covered by the National Electrical Code the Commission will take as a guide the current edition of the National Electrical Safety Code, American National Standards Institute Publication (ANSI-C2), issued by the Institute of Electrical and Electronic Engineers.

5.1.3c. ~~LDC~~ Utility plant -- The entire plant of any ~~LDC electric utility~~ shall be constructed, installed, operated, and maintained in accordance with accepted standard practice as defined in this Rule, especially the following:

- a-1. Buildings and other structural facilities.
- b-2. The generating plant equipment.
- c-3. Transmission lines and equipment.
- ed. Substations.
- e-5. Distribution lines and equipment.
- f-6. Overhead system, poles, lines, transformers and associated equipment.
- g-7. Underground system, manholes, conduit, and cables.
- h-8. Street lighting system.
- i-9. Service wires and attachments.
- j-10. Meters and instruments.

5.2. Adequacy of facilities.

~~5.2.1. Generating -- The electrical generating capacity of any utility's LDC's plant, including that of any equipment reserved for emergency use, peak load or other requirement, supplemented by electric power regularly available from outside sources by transmission line connections must be sufficiently large to meet all normal, as well as reasonable emergency demands, for service occurring during any or all hours of the day during which the plant is normally in operation.~~

5.2.2a. Distribution -- The ~~transmission~~ distribution system shall be so designed, constructed,

maintained and operated as to enable each ~~electric utility~~ LDC to supply its customers at a standard or nominal voltage within the variation limits prescribed in Rule 7.2.

5.3. Interstate operation.

5.3.1.a. Export -- Where an LDC ~~electric utility~~ transmits energy out of the State, the Company shall accurately meter and record the flow of such energy.

5.3.2b. Import -- Where electric energy is imported into the State by a utility a record shall be maintained of that energy taken either from billing records or its own meters.

5.3.3c. Exception -- Where small distribution lines cross State boundaries the interstate energy may be estimated, based upon adjusted customer meter readings.

5.4. Pole identification.

5.4.1.a. General -- Each LDC ~~utility~~ owning poles, posts, or other structures supporting wires shall, except as provided in paragraph (4), mark every structure with:

a.1. The initials or abbreviation of its name, corporate symbol or other distinguishing mark by which the owner of every such structure may be readily determined.

b.2. In case of lines operated at voltage above 15,000 volts, the number by which the location of each structure may be described.

c.3. The requirements herein shall apply to all existing structures and those hereafter erected and to all changes in ownership.

5.4.2b. Methods -- Such marks shall be made with paint, stamps, brands, plates or other satisfactory method as the LDC ~~utility~~ may elect to use, and characters of the mark shall be of such size and so spaced and hereafter maintained as to be easily read from the surface of the ground at a distance of six feet from the structure.

5.4.3c. Joint use -- In case two or more LDCs ~~utilities~~ jointly own or use any such structures, the distinguishing mark of every utility shall be placed thereon.

5.4.4d. Private rights-of-way -- In case of structures erected on private rights-of-way, or on public highways, when of a character that the construction may be

deemed to be a through line, such marks need be affixed only to structures so located that the identification can be readily observed from the highway; not more than every tenth pole need be so identified.

5.4.5e. Filing method -- Each LDC utility shall file with the Commission, in duplicate, a statement showing (1) the initials, abbreviations of name, corporate symbol or distinguishing mark; (2) the means of marking to be employed; (3) the method intended to be followed in numbering structures upon through lines.

5.4.6f. Pole tags -- Each LDC utility shall in the future mark each such pole, post or other structure used for supporting electrical conductors with "pole tags" or other approved devices which will be used to indicate the location of said pole, post or other structure.

5.5. Extensions of lines.

5.5.1a. Urban extensions -- All LDCs utilities shall build at their own expense along public streets, alleys, highways or company's rights-of-way, extensions to distribution lines in urban areas upon at least as favorable terms as they make rural extensions.

5.5.2b. Rural extensions -- All rural extensions shall be made in accordance with the ~~utility's~~ LDC's tariff on file with the Commission or the Commission's latest order governing such extension if no such tariff is on file.

5.6. Service connections.

5.6.1a. Meter -- No LDC utility shall make any charge for furnishing or installing a watt hour meter or meters, or other devices necessary to the utility to measure the service furnished to the customer.

5.6.2b. Service drop -- In all cases the LDC utility shall pay the entire cost of connecting its distribution line by aerial service drop to the customer's service outlet.

~~a-1.~~ When the distance from the ~~utility's~~ LDC's distribution line to the customer's service outlet is in excess of 125 feet, or, where the customer's outlet for any reason is inaccessible to the utility, the cost of such special construction as may be found necessary shall be borne by the customer.

~~b-2.~~ Nothing contained herein shall be construed so as to prohibit a utility from making at its

expense, greater extensions to its facilities than set out herein, should its judgment so dictate, provided like extensions are made to other customers under similar conditions.

5.6.3c. Transformers -- In no case shall an LDC utility furnishing alternating current charge the customer for transforming apparatus, unless the charge so made is by mutual agreement to cover special conditions of service, by contract, or to furnish a voltage other than the standard secondary distribution voltage established by the utility.

5.6.4d. Underground -- Underground service requirements and regulations shall be established by each LDC utility having such class of service facilities and shall be submitted to the Commission for its approval.

5.6.5e. Devices and material -- All devices and material furnished by the LDC utility at its own expense shall remain the property of the LDC utility and may be removed by it at any reasonable time after the discontinuance of service or in case of renewal or replacement.

5.6.6f. Exceptions -- Nothing in the foregoing Rule shall prevent the LDC utility from making such charges as are prescribed for electric service in its filed tariffs, including those for seasonal or temporary service.

~~5.7. Lighting.~~

~~5.7.1.a. Incandescent~~

~~a.1. Each utility supplying electricity for incandescent lighting shall inform its customers, on request, of its standard voltage as defined in regulation 7.1, in the particular community in which they live, so that they may be enabled to purchase the most efficient lamp for their particular conditions.~~

~~5.7.2b. Gaseous Tube~~

~~a.1. No customer, after the effective date of these Rules, shall connect to the lines of the utility any fluorescent lighting, mercury vapor lamps, neon or zeon signs or other lighting or display facility having similar low power factor, unless such fluorescent mercury vapor lamp, neon, zeon, or other lighting equipment with similar load characteristics, shall have installed, by the customer, in connection therewith, such auxiliaries or other means designed to correct the power factor of such equipment to not less than ninety percent (90%) lagging, except that where the rate schedule, applicable to the~~

~~customer's service, contains suitable power factor provisions, this Rule shall not apply.~~

~~b.2. This rule shall apply on all future additions made to old installations that were installed prior to the effective date of these Rules and to such prior installations in their entirety in the event of rearrangement, relocation, or replacement thereof.~~

\$150-3-6. Inspections and tests.

6.1. Meter testing facilities and equipment.

6.1.1~~a~~. Meter test shop -- Each LDC or MSP utility furnishing electric service shall provide such laboratory, meter testing shop, instruments and equipment as may be necessary to determine the accuracy of its customers' meters, as required by these Rules. ~~A utility~~ An LDC or MSP desiring to have tests made by another LDC, MSP utility or agency may, upon application to the Commission, be relieved of the requirement to own and operate testing equipment, upon condition that the proposed arrangements for tests meet with the Commission's approval.

6.1.2~~b~~. Measurement standards -- All meter measurement standards shall be calibrated in accordance with national measurement standards traceable to the Bureau of Standards, and all standards owned by the utility for meter measurement purposes shall be recalibrated to such national standards not less frequently than annually.

6.2. Meter test records.

6.2.1~~a~~. Reporting --

~~a-1~~. All "As Found" and "As Left" (where applicable) tests for accuracy shall be recorded so that the average accuracy can be calculated as specified in section 6.4.

~~b-2~~. The test records shall be so kept that they may be readily inspected and checked by the Commission's representative.

6.2.2~~b~~. Meter records --

~~a-1~~. All meters shall be identified by either an LDC or MSP ~~a utility~~ assigned number or by the use of the manufacturer's serial number.

~~b-2~~. Suitable records of each meter shall be kept which will show identifying number, location, type and

size.

6.2.3c. Reports to Commission -- Each LDC or MSP utility shall also make monthly or quarterly reports, in accordance with the requirements of the Commission, on Form E.D. No. 2 or such other form as may be prescribed, of meter tests, number of customers and amount of refunds. These reports must be filed not later than thirty (30) days after the expiration of the period covered by the reports.

6.3. Sealing meters.

All meters tested to comply with these rules shall be sealed by the metering technician performing the work. The seal shall be of a type acceptable to the Commission. Those LDCs or MSPs utilities using a compression type lead seal shall have as a sealing tool a device furnished with dyes which shall bear the initial of the utility. LDCs or MSPs utilities using a snap tin type seal shall have the seal stamped in a similar manner.

6.4. Accuracy requirements for watthour meters. Meter Testing Requirements specified in the most current edition of the American National Standard for Electric Meters shall apply unless noted. (See ANSI C12.1-1995).

6.4.1-a. Installation accuracy --

a-1. New meter devices shall be 100% tested by either the LDC or MSP utility or the manufacturer. If the new metering devices are 100% tested by the manufacturer, then the utility shall sample test those devices in accordance with the ANSI/ASOC Z1.9 (Mil Std 414) Standard.

All meters being returned to service, once removed from service, should be tested before being returned to service, unless

1A. a meter is being transferred from a temporary service to a permanent service at the same premise, or

2B. the meter is the manufacturer's latest single-phase model or series type and,

a1. the meter is not damaged or in need of repair and,

b2. the register can easily be read through the cover and,

~~c~~3. the meter's seal is intact and no evidence of tampering is present.

~~b~~2. All tests provided for in this rule shall be made at the place of permanent location of the meters on the customer's premises or in a mobile testing unit or in a suitable meter testing site, including the ~~utility's~~ LDC's or MSP's meter testing shop.

~~c~~3. No final tests or checking of any customer's watt-hour meter, or other device employed to measure in any way the service furnished to a ~~utility's~~ LDC's or MSP's customer, shall be made by other than an employee or agent of the LDC or MSP utility who has been qualified by the LDC or MSP utility, and certified by the Commission to do such work, or a meter manufacturer.

~~d~~4. The custom sometimes followed in the past of putting a meter in service without adjusting it, if it is found to be less than two percent (2%) in error, is not satisfactory. It is required that meters be adjusted to the highest degree of accuracy commercially practicable before installation. A tolerance of one percent (1%) fast or slow is sufficient for any LDC or MSP utility which carefully supervises its meter shop. With such tolerance, meters will start in service as nearly correct as it is practicable to have them. It is possible to set all but a very few old type meters within one-half percent (½%) of one hundred percent (100%) percent accuracy, and these older styles can be set within one percent (1%) of one hundred percent (100%) accuracy. It shall be understood that the allowance of this variation from one hundred percent (100%) accuracy does not mean that the meter be set in error by this amount; the tolerance allows only for the unavoidable irregularity of the work on a commercial scale, and the average of the errors should be practically zero, substantially as many being slightly slow as are slightly fast. Polyphase meters shall be so adjusted at full rated test current and fifty percent (50%) lagging power factor within a tolerance of two percent (2%) fast or slow when tests are made in laboratory.

6.4.2b. Load definition -- Light load shall be approximately five (5) to ten (10%) percent of rated test current. Heavy load shall be not less than sixty-five percent (65%) nor more than one hundred ten percent (110%) of rated test current. When, however, operating conditions are such that the greater portion of the consumption is recorded at a point possible of determination, the test for heavy load should be at that load level.

6.4.3c. Meter test loads --

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a-1. Meters, upon customer's complaint or request, should be tested at two (2) points, namely, light load or approximately ten percent (10%) of rated test current, and at heavy load or from sixty-five percent (65%) to one hundred ten percent (110%) of the rated test current of the meter.

b-2. The final average accuracy of tests shall be determined as equal to the weighted average of the percentage registration at light load (LL) and at full load (FL), giving the full load registration a weight of four. Thus, average (or weighted) percentage accuracy = $(4FL + 1LL) \div 5$.

c-3. For meters tested by a manual test method, at least two (2) tests shall be made at each load, but should they fail to agree within one percent (1%), additional tests shall be made until consistent results are obtained which do not vary one from another by more than one percent (1%).

d-4. A watthour meter shall be considered as creeping when, with potential coils energized, but with the load side disconnected, the disc makes one complete revolution in five (5) minutes or less.

6.4.4d. Test - how made --

a-1. All tests to determine the accuracy of registration of any watthour meter shall be made with a suitable portable watthour meter standard or with other proper instruments.

b-2. The recommended method of testing service type meters is by the use of a suitable portable watthour meter standard. In making such tests the following general method is recommended.

c-3. The number of disc revolutions used to determine the accuracy of a watthour meter in service shall depend on the test point being determined. In order to eliminate the personal errors inherent in the manual starting and stopping of the reference meter or observing indicating instruments, the time shall not be less than that required to make ten (10) revolutions at the full load point of the moving element of the meter being tested. When suitable devices are employed to automatically start and stop the reference meters in such a manner as to eliminate personal errors, the above number of revolutions may be reduced.

d-4. Attention is here drawn to the method of determining the error in registration of past consumption as set out in Rule 4.4. That is, the error is, the registration

of past consumption divided by the percent accuracy and not registration multiplied by the percent error.

6.5. Accuracy requirement for demand meters.

Demand meters must be adjusted to meet the following accuracy requirements on installation and after periodic or any other test.

6.5.4a. Curve drawing instruments -

Electrical element Error shall not exceed two percent (2%) of full scale deflection.

Timing element (rate) 0.25 percent.

6.5.2b. Integrated-demand meters --

Electrical element Tolerance specified in Rule 6.1., watthour meters.

Timing element Where the timing element serves only to measure the demand interval, it should be adjusted if its rate is more than plus or minus two percent (2%) in error. Where the timing element serves also to keep a record of the time of day at which the demand occurs, it should be adjusted if its average rate is more than plus or minus 0.25 percent in error.

6.5.3c. Lagged-demand meters --

Electromagnetic type two percent (2%) of full-scale deflection.

Thermal type four percent (4%) of full-scale deflection.

6.6. Periodic test.

6.6.4a. Watthour meters -- All watthour meters installed by the LDC or MSP utility for the determination of a customer's use of electrical energy shall be tested to ensure continued reliability and commercial accuracy of the entire meter system in a manner acceptable to the Commission. Two methods designated A and B are recognized by the Commission for the purpose of scheduling watthour meters for periodic testing.

See ANSI C.12-1.1995, Appendix D, or any later version of the applicable ANSI standard.

a.1. Method A -- A sampling procedure acceptable to the Commission may be used in the selection of

single phase meters for test each year and other types of meters may be sampled in lieu of periodic testing after the LDC or MSP utility submits a sampling plan for non-single phase meters and approval is granted. The meters in a statistical sampling plan based on ANSI/ASOC Z1.9 (MIL std 414) shall be grouped into homogeneous lots, such as by manufacturer and type. Each lot shall contain meters manufactured within a consecutive time period and such lots are subject to review and approval as part of the submitted sampling procedure.

b.2. Method B -- The ~~electric~~ LDC or MSP utility may test its watthour meters according to ANSI C12.1-1995, Appendix D, or any later version of the applicable ANSI standard.

6.6.2b. Demand meters. -- Periodic tests should be made with sufficient frequency to insure continued reliability and commercial accuracy of the demand meter as a whole. The proper periodic test interval will depend upon the inherent reliability of the associated watthour meter.

Class 1. Curve drawing meters, except thermal: one (1) year.

Class 2. Thermal type meters, both curve drawing and indicating: same as schedule for associated watthour meters.

Class 3. Integrated demand meters, and lagged demand meters: same as schedule for associated watthour meters.

6.6.3c. Meters with instrument transformers -- Where instrument transformers are used, the rated capacity of the meter is considered to be that of the complete metering installation and is determined by taking into consideration the ratio of the instrument transformers.

6.7. Complaint test.

6.7.1.a. Procedure -- Upon formal written application to the Public Service Commission by a customer, a test supervised by a qualified representative of the Commission, shall be made upon the customer's meter. The LDC or MSP utility owning the meter shall be notified that such a test is to be made and shall have a representative present to perform the test at the direction of the Commission's engineer. A report giving the results of the test shall be made to the customer and the company and a complete record of the test shall be kept by the Commission. A representative of the customer may be present when the complaint test is made.

6.7.2b. If a customer requests that a complaint test

be made more frequently than once every twenty-four (24) months, and if the meter shall be found to register incorrectly to the customer's prejudice not more than two percent (2%) fast, the customer shall pay the LDC or MSP utility the cost of making such test, in accordance with the utility's LDC's or MSP's Commission-approved tariff.

6.8. Request test.

Each LDC or MSP utility furnishing metered electric service shall, without charge, make a test of the accuracy of any electric meter upon request of the customer, provided the customer does not request such tests more frequently than once in twenty-four (24) months. If a customer requests a meter tested more frequently than once in twenty-four (24) months and if such meter shall be found to register not more than two (2%) percent fast, the customer shall pay to the LDC or MSP utility the cost of making such test. A report giving the result of each test shall be made to the customer and the complete original record shall be kept on file in the office of the LDC or MSP utility for at least five (5) years. The customer or his representative may be present when this test is run.

6.9. Meter testing employees.

6.9.1-a. General requirement -- Each LDC or MSP utility shall have in its employ, or shall have access to, one or more competent employees whose duty it shall be to perform such tests, or to supervise such tests, as may be necessary to determine the accuracy of the utility's LDC's or MSP's meters.

6.9.2b. Qualification -- A LDC or MSP utility desiring to certify an employee to test meters, or to supervise such tests, must secure a qualification card from the Commission; have same executed by the applicant and returned to the Commission; together with a certification by a responsible representative of the LDC or MSP utility as to the facts contained on the card. The Commission will thereupon issue a card to the employee, if the applicant's qualifications are satisfactory, stating that the qualification card has been received and filed, and that the employee is authorized to test meters, or to supervise the testing of meters, of the type shown on the card.

6.9.3c. Experience requirement -- No employee of the LDC or MSP utility shall perform unsupervised testing and repairing of meters or supervise such tests and repairs, unless he/she has had at least six (6) months experience in an electric meter shop, or equivalent experience, part of which time must have been spent working on the type meter for which authority to test, or to supervise such tests, has been

requested. All tests must be made or supervised by an authorized employee.

6.10. Direct current meter installation.

Every direct current commutator type watthour meter shall be checked within thirty (30) days after installation, but not before seven (7) days, for correct connections, mechanical condition, proper and suitable location, absence of creep, and accuracy of adjustment at light and heavy load.

§150-3-7. Standards of quality of service.

7.1. Standard voltage.

Each LDC utility shall adopt a standard nominal voltage or standard nominal voltages, as may be required by the design of its distribution system for its entire constant voltage service, or for each of the several districts into which the systems may be divided, which standard voltages shall be filed with the Commission.

7.2. Voltage regulation.

7.2.1~~a~~. Residential or lighting -- The voltage level at the customer's service entrance equipment for a residential customer or a customer using service primarily for lighting shall be maintained between 112 volts and 127 volts on a 120 volt base.

7.2.2~~b~~. Power.

a-1. Power -- For service rendered under a power contract or primarily for power purposes the voltage variation shall not exceed ten percent (10%) above or ten percent (10%) below standard voltage at any time the service is regularly furnished.

b-2. By service under a power contract is meant service furnished principally for industrial purposes. Where a limited amount of lighting (twenty percent (20%)) or less by connected load) is permitted to be connected under these contracts, the entire load shall be considered power as far as voltage variation is concerned.

7.2.3~~c~~. Measurement point --

a-1. The point where voltage measurements are to be made shall be at the customer's service entrance equipment or at the lamps in the case of multiple street lighting.

~~b.2.~~ The LDC utility will be responsible for the voltage delivered at this point if the LDC utility furnishes the service entrance conductors, carries them in its fixed capital account or accepts the responsibility of ownership.

~~c.3.~~ If the customer furnishes and maintains the service entrance conductors, proper allowance may be made on any voltage tests if the conductors are not of reasonable size.

7.2.4d. Combined light and power -- By contracts contemplating an appreciable consumption or demand for lighting purposes is meant such service as street lighting, residential, commercial lighting, and combined lighting and power. If service is furnished at primary voltage to an ultimate customer under a combined lighting and power contract it is expected that the LDC utility will limit the voltage fluctuation to give proper secondary voltage within the limits prescribed, assuming proper equipment is supplied by the customer.

7.2.5e. Voltage variation -- The variation in voltage allowed in all parts of the rule except Rule 7.2.6f. means the gradual change in voltage as a result of normal changes in load.

7.2.6f. Flicker -- Flicker is defined as frequent and sudden changes in voltage occurring in one (1) second or less and exceeding three percent (3%) of the standard voltage. While occasional voltage fluctuations in excess of that listed above must be expected in the normal operation of a system, continuous flicker will be construed as below standard service, unless such variations are caused by the customer's own equipment.

7.2.7g. Emergency Service provided under emergency circumstances, excluding a CES provider default -- A greater variation in voltage than specified in this rule will be allowed for emergency service provided under emergency circumstances, excluding a CES provider default, but standby service must comply with the rules unless covered by a special contract.

7.3. Voltage surveys.

7.3.1-a. Instruments -- Each LDC utility shall provide itself with one (1) or more portable indicating voltmeters, and every LDC utility serving more than seven hundred fifty (750) customers shall have available one or more recording (curve-drawing) voltmeters of type and capacity suited to the voltage supplied.

7.3.2b. Every LDC utility shall make a sufficient number of voltage surveys to indicate the service furnished from each center of distribution, and to satisfy the Commission of its compliance with the voltage requirements, and those having curve-drawing voltmeters shall keep at least one (1) of those instruments in continuous service at some representative point on its system. This last requirement will be considered to be satisfied in the case of utilities purchasing all of their power requirements if a recording voltmeter is continuously in service at the nearest attended substation of the supplier of the energy. All records shall be available for inspection by the ~~utility's~~ LDC's customers, and the Commission or its representative, for a period of at least one (1) year.

7.3.3c. Each recording voltmeter shall be checked with an indicating voltmeter when it is placed in operation or when it is removed.

7.3.4d. Notations shall be made on each chart to indicate when registration began (time and date) and when the chart was removed, as well as to indicate the point where the chart was checked with the indicating voltmeter.

7.4. Standard frequency.

Each LDC utility supplying alternating current in its distribution system or systems shall use a standard frequency of sixty (60) hertz. This frequency shall be maintained within a band limited by a variation of two percent (2%) below and two percent (2%) above the standard. ~~Should a utility desire to use any frequency other than the "Standard" listed, it may appeal to the Commission for permission to use the frequency desired upon its own distribution system.~~

7.5. Inductive coordination.

7.5.1a. All supply and signal circuits with their associated apparatus should be constructed, operated and maintained in conformity with generally accepted coordinated methods with due regard to prevention of interference with the rendering of either service by adequately limiting in the most convenient and economical manner those characteristics of supply circuits which determine the character and intensity of the inductive field, or those characteristics of signal circuits which determine the extent to which the service they are designed to render is affected by a given inductive field, or both.

7.5.2b. Where such coordinated methods are insufficient in any specific case, special adequate coordinated measures determined by cooperative consideration should be

applied to the circuits of either or both kinds, to most conveniently and economically prevent the interference.

7.5.3c. To facilitate coordination, each party, in advance of any construction or change in the construction or operating conditions of its facilities, should consult with other parties between whose facilities and its own, coordinated measures may be necessary.

7.6. Constant current circuits.

7.6.1a. Current variation --

a.1. Constant current circuits supplying street lights shall be so operated that variation in current does not exceed three percent (3%) above nor three percent (3%) below a standard.

b.2. The allowable variation in this rule does not imply that street lighting circuits may be set below or above the circuit rating and maintained at this figure.

7.6.2b. Service interruptions -- Variations in current in excess of those specified arising from service interruptions caused by the action of the elements and infrequent and unavoidable fluctuations of short duration due to station operation will not be considered a violation of this rule.

§150-3-8. Safety requirements.

8.1. Accidents.

8.1.1a. Records -- Each LDC utility shall keep a record of every accident happening in connection with the operation of its plant, station, property, and equipment, whereby any person shall have been killed, or seriously injured, or any substantial amount of property damaged or destroyed, with a full statement of the cause of such accident, and the precautions taken to prevent similar accidents in the future.

8.1.2b. Electric shock -- Each LDC utility shall instruct those of its employees engaged in electrical work in the practice and use of accepted rules and proper procedure for resuscitation from electric shock.

8.2. Grounding of low potential circuits and apparatus.

8.2.1a. The rules contained in the current edition of the National Electrical Code regarding grounding of low

potential circuits shall be followed for all new construction.

8.2.2b. Every LDC utility shall change all its existing alternating current low potential distribution systems to conform to said rules, when any normal rebuilding, revamping, or repairing is done.

8.3. Sealing of main cabinets or circuit breakers.

8.3.1-a. General -- In the interest of safety to the customer and as a measure of protection to the property of the LDC utility, the Commission will allow "main service" cabinets or cabinets enclosing "main service switch" and "main circuit breakers" to be sealed; provided, such cabinet is externally operated, that service wires are properly enclosed and served from a grounded system, and that fuse or circuit breaker other than that protecting the customer's mains are not made inaccessible to the customer; provided, that the "~~utility's~~ LDC's Customers' Service Department" shall be so organized and directed that its customers may be assured prompt restoration of service when interrupted through failure of the main fuse or opening of the circuit breaker.

8.3.2b. Application required --

a-1. A An LDC utility desiring to seal main service cabinets shall make application to the Commission for permission to institute such practice.

b-2. On receipt of such application and notification, in writing, the Commission will make proper investigation, and if based on the report made to it by its inspector, the Commission deems it proper that cabinets be sealed, authority will be granted to the LDC utility to pursue such practice, but the Commission specifically reserves the right at any time to withdraw such authority for proper cause shown.

c-3. ~~A utility~~ An LDC which does not maintain a "Customers' Service Department" may seal main fuse and switch cabinets of the safety type, when such cabinets are so designed that the customer has access to all fuses.

8.4. Overhead and underground wire entrances.

8.4.1-a. LDC utility rules and regulations -- Each LDC utility may establish rules and regulations governing the service entrance wiring and equipment to be installed on customer's premises; such rules and regulations shall be effective when they have been filed with and accepted by the Public Service Commission. In the absence of special rules and

regulations filed by an LDC ~~a utility~~, such utility shall require compliance with the following general provisions:

8.4.2**b**. General location -- The overhead wire entrance must be located on the exterior of the building nearest the ~~utility's~~ LDC's lines at a point not less than ten (10) nor more than thirty (30) feet above the ground, unless a greater height is necessary to obtain proper clearance. When proper ground clearance cannot be obtained, due to height of building, a proper supporting structure shall be provided.

~~a.1.~~ For all new service entrances, the utility shall be consulted and its approval of the location of the service entrance secured.

~~b.2.~~ The service entrance conductors and the service drop wires shall be attached to buildings so as to provide all clearances as recommended in the National Electrical Code and the National Electrical Safety Code.

8.4.3**c**. New service entrances -- In the interest of safety to the customer and in conformity with approved modern practice, all new service entrances for light and power shall be installed in the manner prescribed by the National Electrical Code.

8.4.4**d**. Metal service cabinet -- The inner end of the service entrance shall terminate in an approved metallic service cabinet, enclosing the service entrance equipment. The metal service cabinet shall be grounded and shall be of such construction as to indicate plainly whether service disconnecting means is open or closed and allow the operation of the disconnecting means without exposing any current carrying parts. If more than one main service equipment cabinet is connected to a single service entrance outlet each such cabinet shall be of the type heretofore specified and shall be grounded as heretofore specified.

8.4.5**e**. Service to more than one building -- No overhead service shall supply more than one building unless the conductors are installed in such a manner as to introduce no electrical, mechanical or fire hazard, as prescribed by the National Electrical Code.

8.4.6**f**. Service wires -- Service drop conductors shall be installed in accordance with the National Electrical Code and the National Electrical Safety Code.

8.4.7**g**. Conductor identification -- All wiring installations shall have the conductors identified in accordance with the requirements of the National Electrical

Code.

8.4.~~8~~h. Underground service -- Underground service shall be installed, generally in the same manner prescribed for overhead services, and shall comply with all National Electrical Code requirements and the requirements of the LDC utility.

8.5. Pole inspection.

Each pole, tower or other structure used for the support, or attachment of electrical conductors, guys or lamps must be inspected by the LDC utility owning or using it with reasonable frequency, as determined by accepted good practice, in order to determine the necessity for replacement or repair.

8.6. Marking electric transmission lines affecting navigable airspace above the Ohio River.

8.6.~~1~~a. Every electric transmission line crossing above the Ohio River shall be marked as recommended by the Federal Aviation Administration (FAA) pursuant to the guidelines established in FAA Advisory Circular 70/7460-1G. Any entity maintaining or installing electric lines crossing the Ohio River of the type specified in 14 CFR 77.13 shall notify the FAA of any such line in the form and manner proscribed in 14 CFR 77.17 unless such entity has been notified that the line in question need not be marked pursuant to the exception in FAA Advisory Circular 70/7460-1G entitled "Obstruction Marking and Lighting," exempting certain lines from marking requirements.

8.6.~~2~~b. Any electric transmission line crossing above the Ohio River which heretofore has been struck by airborne traffic or is so struck in the future must be marked in the manner referenced in FAA Advisory Circular regardless of any FAA determination that marking is not necessary.

§150-3-9. Transmission line construction.

9.1. General.

Any public LDC utility desiring to construct a high voltage transmission line of 200,000 volts or higher shall first obtain a certificate of public convenience and necessity from the Commission as is required by Chapter 24, Article 2, Section 11(a), Code of West Virginia (Chapter 112, Acts Regular Session, 1973). The application for such certificate of public convenience and necessity shall contain all information required by law.

9.2. Required information.

9.2.1.a. In addition to containing the information required by Rule 9.1., above, the following information shall be filed with or contained in the application:

a.1. A map or plat showing in detail the proposed location of the line, including location of incorporated communities; public or private recreational areas, parks, forests, hunting or fishing areas, or similar facilities; historic scenic areas or places; rivers, lakes, streams, reservoirs and similar bodies of water, located within five (5) miles of either side of the center line of the proposed right-of-way.

b.2. The type of line to be constructed, including the height of the line and number and type of poles or towers to be placed there on; the number of wires to be used; the proposed voltage to be carried along said line; all safety features to be used in connection therewith.

c.3. A description of the width of the proposed right-of-way; the degree of slope in excess of twenty (20) degrees; the type of method proposed to be used to clear said right-of-way together with a statement of what, if any, disturbance or displacement will be made of the earth along said right-of-way, and of trees, crops, and other growing things thereon, as well as the disposition to be made of any such material or thing so disturbed or removed, and what will be done to upgrade, seed or otherwise restore the area which may be disturbed or displaced, to control erosion and also siltation of streams.

d.4. A statement of the method to be used to keep said right-of-way clean and free of brush and trees, and if chemical spray or other chemical means are used for such control, the chemical contents thereof, evidence that the same will not be injurious to animals, humans, or vegetation beyond said right-of-way.

e.5. A statement showing, insofar as is possible and applicable, the habitat and type of wildlife, both land and aquatic, which may be in the right-of-way or adjoining thereto, and any known effect said line may have upon the same, including feeding and breeding habits.

f.6. A statement showing what, if any, known effect upon human and domestic animal life located along said right-of-way will result from the construction thereof.

g.7. A statement as to whether alternate routes

for said right-of-way have been investigated, if the applicant has made preliminary or detailed investigations of all alternate locations for said high voltage transmission line, the applicant shall file sufficient information with regard to these alternate investigations. The information filed should clearly show the justifications for selecting the proposed route over the alternate routes studied.

~~h-8.~~ A statement of any other pertinent facts showing what, if any environmental impact said proposed line will have upon the area on and adjacent to said proposed line.

§150-3-10. Promotional practices.

10.1. Declaration of public policy.

In the public interest and pursuant to the powers vested in it, the Commission declares that any LDC utility in designing and implementing any promotional practice or practices shall consider what impact, if any, such promotional practice or practices will have upon the conservation of energy, and efficient use of LDC utility plant and the LDC utility shall not implement any practice or practices which shall have an adverse affect upon conservation, or which cannot be justified from a ratepayer benefit/LDC utility cost standpoint.

10.2. Prohibited promotional practices.

~~A public utility~~ An LDC or its affiliate shall not, without first obtaining the approval of the Commission, engage, directly or indirectly, in any of the following promotional practices:

10.2.1~~a.~~ The financing of land or the construction of any building when same is not owned or otherwise possessed by the LDC utility or its affiliate;

10.2.2~~b.~~ The furnishing of consideration to any person for work done or to be done on property not owned or otherwise possessed by the LDC utility or its affiliate; except for studies to determine comparative capital or operating costs and expenses or to show the desirability or feasibility of selecting one form of energy over another;

10.2.3~~c.~~ The acquisition from any person of any tangible or intangible property or service for a consideration in excess of the value thereof, or the furnishing to any person of any tangible or intangible property or service for a consideration of less than the value thereof;

10.2.4d. The furnishing of consideration to any person for the sale, installation or use of appliances or equipment;

10.2.5e. Other than the normal service extensions, the provision of free, or at less than cost or value, wiring, appliances or equipment to any person; provided that an LDC a utility, engaged in an appliance merchandising sales program, shall not be precluded from conducting legitimate closeouts of appliances, clearance sales, or sales of damaged or returned appliances;

10.2.6f. The provision of free, or at less than cost or value, installation, operation, repair, modification or maintenance of appliances, equipment, or wiring for any person;

10.2.7g. The granting of a trade-in allowance on the purchase of any appliance or equipment in excess of the value of the trade-in; or the granting of a trade-in allowance for such appliance or equipment when such allowance varies by the type of energy consumed in the trade-in;

10.2.8h. The financing of the acquisition of any appliance or equipment at a rate of interest or on terms significantly more favorable than those generally applicable to sales by non-LDC utility dealers in such appliances or equipment;

10.2.9i. The furnishing of consideration to any person for any advertising or publicity purpose of such person; except for payments not exceeding one-half (½) of the reasonable cost or value for joint advertising or publicity with a dealer in appliances or equipment for the sale or other provision of same;

10.2.10j. The guaranteeing of the maximum cost of electric service;

10.2.11k. The furnishing of underground electric distribution and service facilities to any area or customer under terms and conditions different from those applicable to any other area or customer receiving the particular class of service involved.

10.3. Notwithstanding any provision in 10.2., an LDC a utility may:

10.3.1-a. Engage in a program which offers discounts or financing to employees of the utility for purchase of appliances. However the plan must only be available to employees, retirees and their spouses. The plan must not

require the employee to take energy from the utility. The plan must be a reasonable employee benefit. The plan must be approved by the utility's LDC's management or be in a valid union contract. The plan must be filed with the Commission in accordance with these rules.

10.3.2b. Provide repairs and service to appliances or equipment of customers of a public utility in an emergency or to restore service or to prevent hazardous conditions or service interruptions.

10.4. No direct or indirect expenditures may be included in a utility's LDC's cost of service for ratemaking purposes for political advertising. Any expenditures for political advertising are expressly disallowed for ratemaking purposes. For the purposes of 10.4., "political advertising" means any advertising or related activity for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

~~10.5. Filing of Present Promotional Practices.~~

~~10.5.1. Each public utility shall file with the Commission, on or before January 1, 1997, a schedule setting forth each of the promotional practices being engaged in by the utility or its subsidiaries which operate in West Virginia as of that date.~~

~~10.5.2. The practices shall become effective thirty days after filing, subject to a suspension or prohibitory order of the Commission on its own motion or upon motion or complaint of an aggrieved person.~~

~~10.5.3. The schedule shall set forth:~~

~~a. The name, number, or letter designation of each promotional practice;~~

~~b. the class of persons to which the promotional practice is being offered or granted;~~

~~c. whether the promotional practice is being uniformly offered or granted to the persons within the class;~~

~~d. a description of the promotional practice which includes a statement of the terms and conditions governing it;~~

~~e. a description of the advertising or publicity employed with respect to the promotional practice;~~

~~f. if the promotional practice is offered or granted in whole or in part, by an affiliate or other person, the identity of the affiliate or person and the nature of that party's participation; and~~

~~g. other information relevant to a complete understanding of the promotional practice.~~

~~10.5.4. an LDC a utility or its affiliate may not continue to engage in any promotional practice after January 1, 1997 unless a schedule regarding promotional practices has been filed with the Commission.~~

10.65. Filing of Proposed Practices.

10.65.1.a. ~~A public utility~~ An LDC or its subsidiaries operating in West Virginia may not offer or grant any additional promotional practice or vary any existing promotional practice, directly or indirectly, or in concert with others, or by any means whatsoever, until a schedule showing the addition or variation, in the form prescribed below in ~~10.5.3c. above~~ has been on file with the Commission for a period of at least 30 days.

1. The name, number or letter designation of each promotional practice;

2. the class of persons to which the promotional practice is being offered or granted;

3. whether the promotional practice is being uniformly offered or granted to the persons within the class;

4. a description of the promotional practice which includes a statement of the terms and conditions governing it;

5. a description of the advertising or publicity employed with respect to the promotional practices;

6. if the promotional practice is offered or granted in whole or in part, by an affiliate or other persons, the identity of the affiliate or persons and the nature of that party's participation; and

7. other information relevant to a complete understanding of the promotional practice.

10.65.2b. The Commission may issue an order approving a new promotional practice to become effective before the

expiration of the 30-day period.

10.65.3c. If a new promotional practice is not suspended or prohibited by order of the Commission during the 30-day period, the utility may engage in the practice subject to a suspension or prohibitory order of the Commission on its own motion or on the complaint of an aggrieved person.

10.65.4d. Notwithstanding any of the provisions of this rule, the Commission may authorize an otherwise prohibited promotional practice if the Commission finds that the promotional practice is in the public interest.

10.65.5e. ~~A public utility~~ An LDC or its subsidiary operating in West Virginia requesting authorization under 10.6.4d. shall provide information or data to show that:

~~a.1.~~ The promotional practice will result in the conservation of energy;

~~b.2.~~ The promotional practice is needed in order to foster conservation; and

~~c.3.~~ The direct and indirect costs associated with the promotional practice are reasonable, are not unduly burdensome to the applicant's ratepayers, and are not likely to impact detrimentally on the overall energy costs to consumers in its service territory.

10.65.6f. ~~A public utility's~~ An LDC's or its subsidiary operating in West Virginia proposed promotional practice filing under ~~10.6.4.~~ 10.5.e. shall include:

~~a.1.~~ A complete description of the proposed promotional practice;

~~b.2.~~ An analysis of the costs associated with the practice; and

~~c.3.~~ An analysis of the conservation effect of the practice.

10.76. Annual Report.

Each ~~public utility~~ LDC shall file with the Commission, concurrently with the annual report required by law, a report of the promotional practices offered or granted by the public utility and its subsidiaries operating in West Virginia during the period covered by the annual report. The report shall show in reasonable detail the amounts expended with respect to each promotional practice offered or granted.

10.87. Prohibition of discrimination for promotional practices.

10.87.1.a. ~~A public utility~~ An LDC or its subsidiary operating in West Virginia may not, directly or indirectly, in any manner or by any device whatsoever, offer or grant to a person any form of promotional practice except such as is uniformly and contemporaneously extended to all persons in the same reasonably defined class.

10.87.2b. ~~A public utility~~ An LDC or its subsidiary operating in West Virginia may not, in granting a promotional practice, make any undue preference or advantage to a person or subject a person to any undue prejudice or disadvantage.

10.87.3c. ~~A public utility~~ An LDC or its subsidiary operating in West Virginia may not establish or maintain any unreasonable difference in offering or granting promotional practices either as between localities or as between classes to whom promotional practices are offered or granted.

10.87.4d. ~~A public utility~~ An LDC or its subsidiary operating in West Virginia may not classify the persons to whom its promotional practices are offered or granted except to the extent permitted by the law of this State.

10.87.5e. Notwithstanding the other provisions of 10.8., ~~a public utility~~ an LDC or its subsidiary operating in West Virginia may offer an experimental program of limited duration which may not be extended to all customers of the class or to all areas of the service territory. The purpose of the temporary program must be limited to gathering data to determine if the plan should be extended to be offered in a non-discriminatory manner to all relevant customers.

§150-3-11. Consumer reimbursement program.

11.1. Statement of policy.

The Public Service Commission of West Virginia may award reimbursement for reasonable attorneys' fees, expert witness fees, and other reasonable costs of participation incurred by an electric consumer intervenor in any proceeding relating to the standards established in Subtitle B of Title I of the Public Utility Regulatory Policies Act of 1978, Public Law No. 95-617, Sections 111 through 117 (November 8, 1978), 16 U.S.C.A. §2621 through §2627 (Supp. 1980), hereinafter "PURPA". Such participation must have substantially contributed to the approval, in whole or in part, of a position advocated by the electric consumer intervenor. The electric consumer intervenor must have also satisfied the requirements established in this

Rule.

This reimbursement program is established to ensure adequate participation by electric consumers in these PURPA proceedings. Reimbursement will only be available when the State, through any agency, including the Commission, has not provided an alternative means which can ensure that the electric consumer intervenor's interest is adequately represented. Such alternative means may include, but is not limited to, an office of consumer advocate within the Commission, an office of utility consumer advocacy in the Attorney General's Office, a legislative office of Public Counsel, or other similar state agency, office or mechanism. The alternative means may in the form of either reimbursement to the electric consumer intervenor or representation of the electric consumer intervenor's interest. The adequacy of the alternative means is to be determined by the Commission, giving due consideration to the electric consumer intervenor's interest and the position represented by the alternative means.

11.2. Preliminary determination of eligibility.

11.2.1.a. An electric consumer intervenor who wishes to be eligible for reimbursement of the costs of participation in PURPA Title I, Subtitle B proceeding may apply to the Commission for a preliminary determination of eligibility. The application shall be brief and shall:

a.1. state the consumer interest represented by the electric consumer intervenor, the relevance of the hearings to that interest and the reason representation of that interest is necessary for a fair determination in the proceeding;

b.2. outline the general nature of the electric consumer intervenor's expected participation and the anticipated budget;

c.3. contain convincing evidence indicating that, but for an award of fees and costs, participation will be a significant financial hardship to the electric consumer intervenor;

d.4. be served upon all affected utilities and other known parties and intervenors to the proceeding; and

e.5. set forth the name(s) and address(es) of the electric consumer(s), the name(s) of the local distribution company(ies) ~~utility(ies)~~ from which compensation may ultimately be requested, and the case name and number of the proceeding in which the applicant has intervened or will intervene.

~~f.6.~~ The burden of proving significant hardship is placed on the applicant/electric consumer intervenor and will be determined by the Commission in accordance with Rule 11.2.3.a. below.

11.2.2b. Affected utilities, parties and other intervenors may file any objections to an application for eligibility within a reasonable time of the filing of the application, in any event, before the Commission enters an order granting or denying the application. The failure of any party to file objections to an eligibility application within the prescribed period precludes such party from raising an objection involving the preliminary eligibility criteria at a later period in the proceedings. The objecting party must state specific reasons for the objection.

11.2.3c. The Commission may within a reasonable time:

~~a.1.~~ make an affirmative determination of eligibility if the application shows that the electric consumer intervenor has satisfied its burden of proving significant financial hardship. Significant financial hardship may be established by demonstrating that the electric consumer intervenor does not have sufficient resources available to participate effectively in the proceeding without such an award. The Commission in determining significant financial hardship shall give due consideration to the electric consumer intervenor/applicant's other financial burdens, including those associated with intervention in other Commission cases. A decision as to whether a significant financial hardship exists shall be within the sole judgment of the Commission; and,

~~b.2.~~ condition a preliminary determination of eligibility upon the requirement that electric consumer intervenors with the same or similar interests share a common legal representative and common expert witnesses.

11.3. Award and cost determination procedure.

11.3.1~~a.~~ At the time of the issuance of a final order the Commission shall determine whether to award participation costs to an electric consumer intervenor who has fulfilled the requirements of this Rule.

11.3.2b. No award shall be made if an alternative means of adequate representation of the electric consumer intervenor's interests has been provided by the State in such forms including, but not limited to, the Commission's Staff, the Commission's Consumer Advocate Division, the Attorney General, a legislative office of Public Counsel or other state

agency or office having authority to intervene and represent the interests of electric consumers. Such alternative means of adequate representation must, in the Commission's judgment:

a-1. be available to persons who have or represent an interest which would not otherwise be adequately represented, the representation of which interest is necessary for a fair determination in the proceedings;

b-2. be available to persons who are, or represent an interest which is, unable to effectively participate in the proceeding because of an inability to pay for reasonable attorney's fees, expert witness fees, and other reasonable participation costs; and

c-3. satisfy the definition of alternative means of adequate representation set forth in the statement of policy section of this Rule.

11.3.3c. The determination as to which electric consumer intervenors are entitled to reimbursement shall be made by the Commission after considering the quality of the consumer intervention and the effect of that intervention upon the ultimate decision of the Commission in the proceeding. An award shall be made only if, in the Commission's judgment, the electric consumer intervenor's participation in the proceeding substantially contributed to the approval, in whole or in part, of a position advocated by the electric consumer intervenor. The amount of the award shall be commensurate with the contribution made. In determining this amount, the Commission may consider the actual costs of participation to the electric consumer intervenor and the prevailing market rates in West Virginia for the kind and quality of services rendered. Reasonable attorneys' fees, expert witness fees and other reasonable expenses of participation are compensable. These costs shall be assessed against such utility affected by the proceeding.

11.3.4d. In the event that more than one utility is affected, each ~~utility's~~ LDC's share of the assessment shall be determined by multiplying the total award by the ratio of that ~~utility's~~ LDC's total retail Kwh sales in West Virginia to the total retail Kwh sales in West Virginia of all the affected utility companies in the proceedings. The ratio is to be calculated using figures for the most recently completed calendar year.

11.3.5e. The electric consumer intervenor shall include a memorandum of costs with the initial brief to be filed after the close of the taking of evidence. The memorandum must set forth with detail the name(s) and

address(es) of the electric consumer(s); the name(s) of the utility(ies) from which compensation is being requested; the case name and number of the proceeding in which the applicant has intervened, and the costs for which compensation is claimed.

a.1. Any party may include an objection to the reasonableness of any fee or cost with the filing of reply briefs. The Commission may, in its final order and after consideration of the memorandum of costs and any objections thereto make an award and, if necessary, allocate the responsibility for payment of that award among the various affected utilities.

b.2. Any electric consumer intervenor who has not been awarded costs in the Commission's final order may petition the Commission for reconsideration. The petition must include a memorandum of cost as set forth above. The Commission shall dispose of such petition within a reasonable time by entering an order either granting or denying the petition.

11.4. Payment and accounting treatment.

11.4.1-a. Payment of costs under this rule shall be made by the affected ~~utility or utilities~~ LDC or LDCs within thirty (30) days of the date on which a Commission order granting an award issued under Rule 11.2.3.a. If costs are not paid within thirty (30) days of said final order, the electric consumer intervenor may initiate procedures to enforce the order pursuant to Sections 24-4-6 or 24-4-7 of the West Virginia Code.

11.4.2b. All monies paid to electric consumer intervenors by an affected LDC utility under this rule shall be treated as allowable operating expense in the rate case in which the electric consumers intervened, unless the Commission determines that another approach is more appropriate.

§150-3-12. Cogeneration and small power production.

12.1. Definitions.

12.1.1-a. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601, et seq., shall have the same meaning for purposes of this rule (Rule 12.) as they have under PURPA, unless further defined in this rule.

a.1. "Qualifying facility" means a cogeneration facility or a small power production facility which satisfies

the criteria for qualifying facilities set forth in Subpart B of Part 292 of the rules of the Federal Energy Regulatory Commission, Qualifying Cogeneration and Small Power Production Facilities, 18 C.F.R. §292.201 through §292.207.

b-2. "Purchase" means the purchase of electric energy or capacity or both from a qualifying facility by an LDC ~~electric utility~~.

c-3. "Sale" means the sale of electric energy or capacity or both by an LDC ~~electric utility~~ to a qualifying facility.

d-4. "System emergency" means a condition on a ~~utility's~~ LDC's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

e-5. "Rate" means any price, rate, charge, or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.

f-6. "Avoided costs" means the incremental costs to an LDC ~~electric utility~~ of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

g-7. "Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the LDC ~~electric utility~~ directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the LDC ~~electric utility~~ would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

h-8. "Supplementary Power" means electric energy or capacity or both supplied by an LDC ~~electric utility~~, regularly used by a qualifying facility in addition to that which the facility generates itself.

~~i-9.~~ "Back-up power" means electric energy or capacity or both supplied by an LDC ~~electric utility~~ to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

~~j-10.~~ "Interruptible power" means electric energy or capacity or both supplied by an LDC ~~electric utility~~ subject to interruption by the LDC ~~electric utility~~ under specified conditions.

~~k-11.~~ "Maintenance power" means electric energy or capacity or both supplied by an LDC ~~electric utility~~ during scheduled outages by the qualifying facility.

~~l-12.~~ "Commission" means Public Service Commission of West Virginia.

12.2. Scope.

12.2.~~1~~~~a.~~ Applicability -- The provisions of Rule 12. et seq. apply to the regulation of sales and purchases between qualifying facilities with a design capacity in excess of 100 KW and LDCs ~~electric utilities~~.

12.2.~~2~~~~b.~~ Negotiated rates or terms -- Nothing in Rule 12. et seq.

~~a-1.~~ Limits the authority of any LDC ~~electric utility~~ or any qualifying facility to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be required by this rule; or

~~b-2.~~ Affects the validity of any contract entered into between a qualifying facility and an LDC ~~electric utility~~ for any purchase.

12.3. Cost data to be supplied by LDCs ~~electric utilities~~.

12.3.~~1~~~~a.~~ Each utility required to file data with the Federal Energy Regulatory Commission under 18 C.F.R. 292.302, Availability of LDC ~~electric utility~~ System Cost Data, shall file the same data with the Commission in accordance with the time schedules and utility classifications set forth in that section.

12.3.~~2~~~~b.~~ Any data submitted by an LDC ~~electric utility~~ under Rule 12.3. shall be subject to Commission review. In any such review, the LDC ~~electric utility~~ has the burden of coming forward with justification for its data.

12.4. LDC ~~electric utility~~ obligation under Rule 12. et seq.

12.4.1a. Obligation to purchase from qualifying facilities -- Each LDC ~~electric utility~~ shall purchase, in accordance with Rule 12.6., any energy and capacity which is made available from a qualifying facility:

a-1. Directly to the LDC ~~electric utility~~; or

b-2. Indirectly to the LDC ~~electric utility~~ in accordance with Rule 12.4.4d.

12.4.2b. Obligation to sell to qualifying facilities -- Each LDC ~~electric utility~~ shall sell to any qualifying facility, in accordance with Rule 12.7., any energy and capacity requested by the qualifying facility.

12.4.3c. Obligation to interconnect --

a-1. Any LDC ~~electric utility~~ shall make such interconnection with any qualifying facility as may be necessary to accomplish purchases or sales under these rules (Rule 12. et seq.): **Provided**, however, That if, solely by reason of purchases or sales over the interconnection, the LDC ~~electric utility~~ would become subject to regulation as a public utility under Part II of the Federal Power Act, then the LDC ~~electric utility~~ will not be required to interconnect.

b-2. The obligation to pay for any interconnection costs shall be determined in accordance with Rule 12.8.

12.4.4d. Transmission to other LDCs ~~electric utilities~~ -- If a qualifying facility agrees, an LDC ~~electric utility~~ which would otherwise be obligated to purchase energy or capacity from such qualifying facility may transmit the energy or capacity to any other LDC ~~electric utility~~. Any LDC ~~electric utility~~ to which such energy or capacity is transmitted shall purchase such energy or capacity under this paragraph as if the qualifying facility were supplying energy or capacity directly to such LDC ~~electric utility~~. The rate for purchase by the LDC ~~electric utility~~ to which such energy is transmitted shall be adjusted up or down to reflect line losses and shall not include any charges for transmission.

12.4.5e. Parallel operation -- Each qualifying facility shall agree to operate in parallel with the LDC ~~electric utility~~; provided that the qualifying facility complies with the ~~utility's~~ LDC's reliability and safety standards on file with the Commission.

12.5. Procedure for establishing rates for purchases.

12.5.1-a. LDCs Utilities and qualifying facilities shall negotiate a mutually acceptable rate for purchase of power taking into consideration all relevant factors, including the factors set forth in Rule 12.6.4d. Prior to becoming effective, all negotiated contracts between utilities and qualifying facilities shall be filed with the Commission and approved by the Commission. Unless the Commission specifically modifies or disapproves a negotiated contract within thirty (30) days after filing, the contract shall be approved, as filed.

12.5.2b. If an LDC ~~a utility~~ and a qualifying facility cannot negotiate terms acceptable to both parties, either party, or both, may request an informal conference with the Commission Staff wherein the matters in controversy will be discussed. If after such conference a resolution acceptable to both parties has not been reached, either party, or both, may file a formal complaint with the Commission, pursuant to Rule 6 of the Commission's Rules of Practice and Procedure, setting forth in detail the matters in controversy; the basis for that party's position, including the necessary data in support thereof; and a history of the negotiations.

~~a-1.~~ Prefiled testimony shall be required unless waived by the Commission for good cause shown.

~~b-2.~~ The Commission shall make such order as necessary to reasonably resolve the controversy.

12.6. Rates for purchases.

12.6.1-a. Rates for purchases -- Rates for purchases shall:

~~a-1.~~ be just and reasonable to the electric consumer and in the public interest, and

~~b-2.~~ not discriminate against qualifying cogeneration and small power production facilities; however, nothing in this rule shall require an LDC ~~electric utility~~ to pay more than the avoided costs for purchases, as those costs are defined in Rule 12.1.1.f-6.

12.6.2b. Relationship to avoided costs:

~~a-1.~~ For purposes of this paragraph, "new capacity" means any purchase from capacity of a qualifying facility, construction of which was commenced on or after November 9, 1978.

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~~b.2.~~ Rates for purchases of new capacity shall equal the avoided costs determined after consideration of the factors set forth in Rule 12.6.4d. of this Rule, regardless of whether the LDC ~~electric utility~~ making such purchases is simultaneously making sales to the qualifying facility. A rate so determined satisfies the requirements of Rule 12.6.1-a.

~~c.3.~~ A rate for purchases (other than from new capacity) may be less than the avoided cost if the Commission determined that a lower rate is consistent with Rule 12.6.1-a. and is sufficient to encourage cogeneration and small power production.

~~d.4.~~ In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for such purchases do not violate this rule if the rates for such purchases differ from avoided costs at the time of delivery.

12.6.3c. Purchases "as available" or pursuant to a legally enforceable obligation -- Each qualifying facility shall have the option either:

~~a.1.~~ To provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall be based on the purchasing ~~utility's~~ LDC's avoided costs calculated at the time of delivery; or

~~b.2.~~ To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either:

A. The avoided costs calculated at the time of delivery; or

B. The avoided costs calculated at the time the obligation is incurred.

12.6.4d. Factors affecting rates for purchases. In determining avoided costs, the following factors shall, to the extent practicable, be taken into account:

~~a.1.~~ The data provided pursuant to Rule 12.3., including Commission review of any such data;

~~b.2.~~ The availability of capacity or energy

from a qualifying facility during the system daily and seasonal peak periods, including:

A. The ability of the utility to dispatch the qualifying facility;

B. The expected or demonstrated reliability of the qualifying facility;

C. The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;

D. The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the ~~utility's~~ LDC's facilities;

E. The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;

F. The individual and aggregate value of energy and capacity from qualifying facilities on the ~~electric utility's~~ LDC's system; and

G. The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities; and

~~e.3.~~ The relationship of the availability of energy or capacity from the qualifying facility as derived in Rule 12.6.4.~~b.2.~~, to the ability of the LDC ~~electric utility~~ to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and

~~d.4.~~ The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing LDC ~~electric utility~~ generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity.

12.6.5e. Periods during which purchases are not required.

~~a.1.~~ Any LDC ~~electric utility~~ which gives reasonable notice pursuant to Rule 12.6.5.~~b.2.~~, below, will not be required to purchase electric energy or capacity during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs

greater than those which the utility would incur if it did not make such purchases, but instead generated an equivalent amount of energy itself. The costs referred to herein shall be calculated in the same or a similar manner that was used to calculate costs for the purpose of establishing the rate for purchases from the qualifying facility.

b-2. For the purposes of Rule 12.6.5.a., reasonable notice is that which provides each affected qualifying facility adequate time to cease delivery of energy or capacity to the LDC electric utility.

A. Any utility failing to provide reasonable notice will be required to pay the contract rate for such purchase of energy or capacity from the facility.

c-3. A claim by an LDC electric utility that such period as described in Rule 12.6.5.a. has occurred or will occur is subject to verification by the Commission.

12.7. Rates for sales.

12.7.1-a. Rates for sales shall be just and reasonable and in the public interest and not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the LDC electric utility.

12.7.2b. When a qualifying facility's load or other cost-related characteristics are similar to those of other customers receiving service under a given rate schedule, the same rate schedule shall apply to the qualifying facility. If there is no existing rate schedule applicable to the qualifying facility, the utility shall file with the Commission a proposed tariff and supporting cost-of-service data.

12.7.3c. Upon request of a qualifying facility, each LDC electric utility shall provide supplementary power, back-up power, maintenance power and interruptible power; provided, however, that if, after public notice and hearing, it is determined that compliance with any of these requirements will impair the electric utility's LDC's ability to render adequate service to its customers or will place an undue burden on the LDC electric utility, then the Commission may waive such requirement(s).

a-1. The rates for sale of back-up power or maintenance power shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities on an electric utility's LDC's system will occur simultaneously, or during the system peak, or both, and shall take into account

the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with scheduled outages of the ~~utility's~~ LDC's facilities.

12.8. Interconnection costs.

~~12.8.1-a.~~ 12.8.1-a. Each qualifying facility shall be obligated to pay any interconnection costs as defined in Rule 12.1.1.~~g-7.~~ Such costs shall be assessed on a nondiscriminatory basis with respect to other customers with similar load characteristics. Reasonable costs of interconnection shall be negotiated by the qualifying facility and the utility, and any disputes shall be resolved in accordance with the procedure established in Rule 12.5.2b.

12.8.2b. The utility shall be reimbursed by the qualifying facility at the time interconnection costs are incurred. Upon petition by and any party involved and for good cause shown, the Commission may allow for reimbursement of costs over a reasonable period of time and upon such conditions as the Commission may determine: **Provided**, however, That no other customers of the utility shall bear any of the costs of interconnection.

12.9. System emergencies or maintenance periods.

~~12.9.1-a.~~ 12.9.1-a. During a system emergency:

~~a-1.~~ a-1. A qualifying facility will be required to supply energy or capacity only to the extent:

A. provided by contract between the utility and qualifying facility; or

B. ordered under Section 202(c) of the Federal Power Act;

~~b-2.~~ b-2. An LDC electric utility may discontinue:

A. purchases from a qualifying facility if such purchases would contribute to the emergency; and

B. sales to a qualifying facility:
Provided, That such discontinuance is on a nondiscriminatory basis.

12.9.2b. During system maintenance periods:

An LDC electric utility may discontinue purchases from a qualifying facility during periods of maintenance when safety conditions would require the de-energizing of facilities.

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ED. NOTE: All forms are available from the P.S.C.

§150-3-13. Licensing of Competitive Electric Service Providers.

13.1. Licensing.

13.1.a. License required - Each person seeking to sell, offering to sell or selling competitive electric services to retail customers in the State as a competitive electric service provider shall obtain a license from the Commission. To request a license, the applicant must file an original application and twelve copies thereof with the Commission in the form indicated below, in addition to any other information the Commission may require. The application must be verified by oath or affirmation and signed by an Applicant owner or partner, or an officer of the Applicant.

1. License application form - The license application form includes information that will be used in the evaluation of the financial and technical fitness of the applicant to be a competitive electric service provider in the State. This information shall include, as applicable, the following:

A. The legal name of the applicant, as well as any trade name or fictitious name.

B. Evidence that the applicant is duly authorized to do business in the State.

C. Identification of the geographic area that the applicant proposes to serve.

D. Identification of the type of service that the applicant proposes to furnish.

E. Identification of the class of customers to which the applicant proposes to provide these services.

F. Identification of the applicant's affiliates and subsidiaries.

G. A listing of any predecessor(s) of the applicant or other names under which the applicant has operated within the preceding five years. Identify whether any affiliates or predecessors conducted business in the State.

H. Description of the applicant's business structure.

I. Names and contact information for the

applicant's contact person regarding the application, the applicant's attorney and registered agent to accept service of process, and the applicant's contact person for the West Virginia Office of Emergency Services.

J. Telephone number of the customer service department or the title and telephone number of the customer service contact person.

K. Financial information sufficient to demonstrate financial fitness. This information may include credit ratings and history, audited financial statements, published financial information such as 10Ks and 100s, and evidence or insurance pertinent to the conduct of the applicant's business as a competitive electric service provider.

L. Proof that applicant has obtained, or will obtain, sufficient bonding or other financial guaranty to meet the requirements under Rule 14 et seq.

M. Evidence of competency and experience in providing the scope and nature of the applicant's proposed services. This evidence may include descriptions of the applicant's prior experience, proposed staffing and employee training commitments, business plans, and agreements, arrangements and contracts for generation, transmission and related services. Documentation of the applicant's membership in a regional reliability council and or transmission organization shall be submitted, if applicable.

N. Evidence and explanation of the applicant's intent and ability to procure and maintain generation supplies (including necessary reserves) and transmission system access (if necessary) in providing its proposed services.

O. A listing of other jurisdictions where applicant or any of its affiliates is licensed to provide competitive electric service to retail customers.

P. Disclosure of any (i) civil, criminal, or regulatory sanctions or penalties imposed within the previous five years against the applicant, any of its affiliates, or any officer, director or partner of the applicant (or fellow member of an LLC if the applicant is an LLC), or any of its affiliates, pursuant to any state or federal consumer protection law or regulation; and (ii) felony convictions within the previous five years, which relate to the business of the applicant or to an affiliate thereof, of any officer, director or partner or fellow member of an LLC of the applicant or any affiliate.

Q. Disclosure of whether any application for license, authority or bond to conduct the same type of business has ever been denied or whether any license, authority or bond issued to it or an affiliate has ever been suspended, revoked, sanctioned or forfeited.

R. If applicant has engaged in the business of providing electricity in any state, a report of all instances of violations of reliability standards that were determined to be the fault of the applicant, including unplanned outages, failure to meet service obligations, and any other deviations from reliability standards during the previous three years. The report shall include, for each instance, the following information: a description of the event, its duration, its cause, the number of customers affected, any reports, findings or issuances by regulators or electric system reliability organizations relating to the instance, any penalties imposed, and whether and how the problem has been remedied.

S. Evidence of information demonstrating applicant's ability to comply with the Commission's applicable requirements concerning customer billing, customer education, billing and terms of service, and customer information. This evidence may include prior regulatory experience of the applicant; prior business experience in energy or other service-oriented industries; staffing and staff training commitments; agreements, arrangements and contracts for customer education and information service; customer satisfaction survey results; government agency reports; and complaint statistics compiled by the Better Business Bureau or similar business organizations.

T. An undertaking by the applicant that the applicant agrees to be assessed and will pay all applicable taxes and fees imposed by the State or by any municipality or other political subdivision of the State, and agrees and commits that sufficient business contact will exist continuously pursuant to its operations as a competitive electric service provider to create taxable nexus.

U. An undertaking to abide by all reporting requirements established by the Commission for CES providers.

2. Notice of license application filing.

A. The applicant shall file with the license application a completed Form No. 3 "Notice of Filing of Application to be Licensed as a Competitive Electric Service Provider," attached to these Rules.

B. After receipt of a complete license

application, the Commission will enter an order directing the applicant to publish Form No. 3, attached to these rules, as a Class I legal advertisement in such newspapers as designated in such order, and will further order the applicant to thereafter file with the Commission such verification of the publication as is required by the Commission's order.

3. Tax information - The applicant must provide tax information demonstrating that it has fully registered with the State Department of Tax and Revenue. The tax information must include:

A. The name, address, telephone number, and electronic numbers and addresses used to transmit tax and related information of the persons responsible for preparing and filing the applicant's West Virginia tax returns.

B. Trade names or fictitious names used by the applicant.

C. The type of business association (for example, sole proprietor, partnership and corporation).

D. The names of the applicant's owners, general partners or corporate officers.

E. The number of the applicant's current and anticipated employees working in this State.

F. An identification of the applicant's assets in this State.

G. The applicant's principal office in this State or of its registered agent.

H. The applicant's Tax Department identification numbers including Sales Tax license number, employer identification number and corporate box number. If tax numbers have not yet been obtained, the applicant shall so indicate and provide the actual or anticipated filing date of its application for these numbers.

4. The applicant may designate answers and documents in the application that it claims are proprietary and such designation shall be treated as a request for confidential treatment of such information.

13.1.b. Protests to license applications.

1. A 15 day protest period commences on the date of the publication of the Class I legal advertisement of the

notice of the application filing required pursuant to Rule 14.1.b. An interested party may file a protest with the Commission and shall simultaneously mail the protest to the Applicant. The protest shall set out clearly and concisely the facts upon which challenge to the fitness of the applicant is based. An applicant may file an answer to the protest within 10 days of the date the protest is filed with the Commission.

2. Protests may challenge only the applicant's financial and technical fitness to provide the service for which a license is requested. Consistent with the requirements of due process, sanctions, such as revocation or suspension of a protesting CES provider's license, may be imposed on parties who misuse the protest process to impede or restrict the development of a fully workable competitive market by the filing of a protests that the Commission in its discretion finds to have been filed in bad faith.

3. A protest to the applicant's technical or financial fitness to provide service will be reviewed to determine if the protest is sufficiently documented. If a protest is not sufficiently documented, the Commission may grant the application without further proceedings. If further proceedings are determined to be necessary, the Commission may establish an expedited schedule for such proceedings.

13.1.c. License application processing - Completed applications, with all supporting documentation, will be processed within 60 days after the date of publication of the Class I legal advertisement of the notice of the application filing required pursuant to Rule 13.1.a.2. unless extended by the Commission for good cause.

13.1.d. Conditions on license - The Commission shall place such conditions upon a license as it determines are reasonable. Such conditions shall include, but not be limited to: (1) a requirement that the applicant have the ability to serve customers upon request within a period of time specified by the Commission, which shall not be less than one year, from the issuance of the license; and (2) a requirement that the applicant shall maintain an active internet web site. The only penalty for failure to meet the requirement regarding ability to serve customers upon request within a specified time period shall be revocation of the license.

13.1.e. Licensing fee - All licensed CES providers shall pay to the Commission an annual licensing fee established by the Commission to defray the administrative costs of processing licenses and monitoring activities of CES providers.

13.1.f. Waiver of Certain License Application

Requirements - For good cause shown, the Commission may waive certain requirements of the licensing application process as it deems appropriate.

13.2. Security Requirements.

13.2.a. Requirement to furnish security - A license will not be issued or remain in force until the competitive electric service provider furnishes a bond or other corporate undertaking or financial guaranty or security approved by the Commission.

13.2.b. Purpose - The purpose of the security requirement is to ensure the licensee's financial responsibility, the payment of applicable fees and taxes assessed on the competitive electric service provider and the protection of customer deposits and/or prepayments. The furnishing of security under the requirements of these rules does not limit in any way the responsibility of any applicant or CES provider to furnish other bonds or security which may be required by LDCs, emergency service providers or regional transmission organizations.

13.2.c. Initial security amount - The initial security level required from each licensee is \$50,000. Modifications (either reductions or increases) of this amount commensurate with the nature and scope of business anticipated to be conducted in this State may be granted where substantial evidence is submitted in support of the modification. A request for modification of this initial security level may be made in conjunction with the filing of the application, and the license will be issued contingent on the submission of the proof that the applicant has obtained a bond, or other approved security in the amount directed by the Commission.

13.2.d. Review of security amount - The security level for each competitive electric service provider shall be reviewed by the Commission after six months, 12 months and annually thereafter, and modified primarily based on the CES provider's reported annual gross receipts and customer deposit and/or prepayment information. The security level will generally be the greater of \$50,000 or 1% of the competitive electric service provider's reported annualized gross receipts plus the total amount of any customer deposits and/or prepayments held by the provider. Maintenance of a license will be contingent on the competitive electric service provider providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained. A licensee may seek approval from the Commission of a lower level of security commensurate with the nature and scope of its operations.

13.2.e. Payments against security - Payments pursuant to the security instrument may result from the competitive electric service provider's failure to pay the full amount of applicable state and local fees and taxes or failure to comply with its agreements or Commission rules regarding disposition of customer deposits and/or prepayments.

13.2.f. Bond requirements - If the required security is provided in the form of a bond, the bond instrument shall include the following provisions:

1. The Public Service Commission of West Virginia as the sole beneficiary.

2. That the purpose of the security is to assure compliance with the Commission's rules by the Principal as a licensed competitive electric service provider; to ensure the payment of applicable state and local fees and taxes or compliance with its agreements or Commission rules regarding disposition of customer deposits and/or prepayments.

3. A listing of the prioritization of claims for payment under the security from highest priority to lowest priority as follows:

A. The State of West Virginia.

B. Municipalities or other political subdivisions of the State for the payment of fees and taxes assessed on the competitive electric service provider.

C. Customer prepayments and/or deposits.

4. A statement that the security shall be interpreted under law of the State, or in the alternative, no choice of law is specified.

5. An obligation of the holder, issuer or maker of the security to notify the Commission in writing within 5 days of termination of the security.

13.2.g. Use of security other than a bond - The applicant may request the use of a security other than a bond. The application shall include specific information about the licensee's need to use a security other than a bond and shall provide the name, business address, the nature of the business of the entity issuing the security, and if available, the financial rating of the entity. The applicant shall demonstrate that the financial protection afforded by the security is equivalent to that of a bond. If the Commission accepts a security other than a bond such security shall conform with the

requirements of Rule 13.2 et seq.

13.2.h. Liability pursuant to other provisions of law, and Commission orders and rules - A competitive electric service provider's liability for unreasonable service, or for violations of the W. Va. Code or Commission orders or rules is not limited by these security requirements.

13.3. Reporting Requirements.

13.3.a. A competitive electric service provider shall report to the Commission on a quarterly basis, beginning within 60 days following the end of the first full quarter, and of each subsequent quarter that the license is in effect, the following information:

1. Monthly gross receipts for each month of the quarterly reporting period, separated as between residential, commercial and industrial customers in West Virginia.

2. The number of customers and customer load for each month of the quarterly reporting period. The customer load information shall include peak MW per month based on the coincidental peak of all customer classes and total MWH per month for each customer class.

3. The total amount of customer deposits and/or prepayments held by the competitive electric service provider as of the end of each month of the quarterly reporting period.

13.3.b. A competitive electric service provider supplier shall file an annual report on or before April 30 of each year, for the previous calendar year. The annual report shall contain such information as the Commission may request, including but not limited to the following information.

1. Updates to the tax information requested in the original application form.

2. Gross receipts separated as between residential, commercial and industrial customers in West Virginia for the preceding calendar year.

3. The amount of electricity sold, stated in kilowatt hours and separated as between residential, commercial and industrial customers, during the preceding calendar year.

13.3.c. A competitive electric service provider shall be required to meet other periodic reporting requirements

as may be issued by the Commission to fulfill the Commission's duty pertaining to reliability and to inform the Governor and Legislature of the progress of the transition to a fully competitive electric market.

13.3.d. A competitive electric service provider has an ongoing duty to timely report to the Commission any material changes to the information or statements contained in the competitive electric service provider's original license application.

13.3.e. The financial and statistical information requested in Rule 13.3 et seq. will be maintained as confidential by the Commission unless a determination is made that such information must be made available pursuant to a Freedom of Information request. Provided, however, that the Commission shall provide to the public aggregated financial and statistical data for all CES providers. Such data shall be divided to show residential, commercial and industrial information on an aggregated basis.

13.4. License Suspension, Revocation, Transfers and Abandonment.

13.4.a. Suspension and revocation - A competitive electric service provider shall comply with the applicable requirements of the W. Va. Code, and Commission orders and rules. Consistent with due process, a competitive electric service provider's license may be suspended or revoked, and fines may be imposed against the competitive electric service provider for:

1. Failure to pay applicable Commission assessments and fees.

2. Failure to furnish and maintain a bond or other security approved by the Commission in the amount directed by the Commission.

3. Nonpayment of applicable taxes.

4. Failure to provide the address of its principal office in this State or of its registered agent.

5. Violation of applicable provisions of the W. Va. Code, the Restructuring Plan, or Commission orders or rules.

6. Violation of West Virginia consumer protection law.

7. Transfer of a customer without the customer's

consent.

8. Misrepresentation in its license application, any material change in the competitive electric service provider's financial or technical fitness or other action or omission of the competitive electric service provider that, in the Commission's discretion, constitutes sufficient cause for license suspension or revocation or the imposition of monetary penalties.

9. Failure to deliver, or cause to be delivered, electricity or provide other competitive electric services in accordance with its contracts, agreements or arrangements.

10. Failure to commence operations with the State within the period of time prescribed by the Commission. Provided, however, that the penalty for this violation will be limited to suspension and/or revocation of license.

13.4.b. Transfer - A competitive electric service provider license may not be transferred without prior Commission approval. Approval for transfer shall be obtained by petition to the Commission. The Commission shall maintain discretion to require the transferee to complete and file with the Commission an application that demonstrates the transferee's financial and technical fitness to render service under the transferred license.

13.4.c. Abandonment - A competitive electric service provider may not abandon its license without providing 75 days prior written notice to the Commission, the licensee's customers, the affected LDCs and default service providers of the abandonment of service. The competitive electric service provider shall provide individual notice to its customers with each billing or a separate mailing, in each of the three billing cycles preceding the effective date of the abandonment. This provision does not affect or supersede any existing contractual obligations of the licensee.

§150-3-14 (RESERVED FOR RULES ON INTERCONNECTION)

§150-3-15. Code of Conduct for Transactions Between LDCs, Their Affiliates and Competitive Electric Service Providers.

15.1 Separation.

15.1.a. Functional separation of business functions.

1. Separation of generation from transmission and distribution operations: Upon the starting date of the restructuring plan, each incumbent electric utility shall

functionally separate generation from its transmission and distribution operations.

2. Separation of non-regulated businesses from transmission and distribution operations: If an incumbent electric utility plans to engage in a business activity which is not subject to Commission jurisdiction, the utility shall functionally separate such business activity, if such activity has been authorized by the Commission, from its transmission and distribution operations.

3. Functional separation plan: Within sixty days of a Commission order adopting these Rules, or such other reasonable time as the Commission may determine upon request by an incumbent electric utility, each incumbent electric utility shall file with the Commission a specific plan to functionally separate generation (if applicable) and all non-regulated businesses (if applicable) from its transmission and distribution operations. Each such plan must include a detailed explanation of how the plan complies with these Rules. The Commission will require public notice and establish a proceeding to review each such plan. The Commission may prescribe by order the provisions for notification to the Commission of any future changes in such functional separation plan(s).

15.1.b. Corporate separation.

1. Separate corporate entity: As soon as possible after the starting date of the restructuring plan, but no later than January 1, 2005, each incumbent electric utility shall fully separate its generation into a separate corporate entity(ies) from its transmission and distribution operations.

2. No later than January 1, 2004, or one year prior to the incumbent electric utility's planned completion of corporate separation if such date is earlier than January 1, 2004, such utility must file a corporate separation plan detailing the corporate structure that will result from the separation of generation and the schedule of events necessary to complete such corporate separation. The Commission will establish a proceeding to review each such plan.

15.1.c. Accounts and records.

1. Each LDC and its affiliates shall implement processes and procedures to prevent each from accessing the accounts and records of the other to the extent necessary to fulfill the purposes of this Rule.

2. Each LDC shall prepare, for informational filings

with the Commission, separate financial statements that are not consolidated with those of its affiliates.

3. Each LDC's accounts and records are subject to review by the Commission to ensure compliance with the requirements of these Rules. Any competitively sensitive information obtained by the Commission through such review may be entitled to confidential treatment notwithstanding any other provision of law.

4. An LDC shall not subsidize any affiliate.

15.1.d. Sharing of office space, equipment, services or systems: An LDC shall not share property, equipment, computer systems, information systems, and corporate support services with its affiliates except in accordance with W. Va. Code § 24-2-12. Costs of shared office space, equipment, services or systems shall be fully allocated between the LDC and its affiliate(s).

15.1.e. Employees.

1. Except for common officers and directors, an LDC shall not directly employ any individual jointly with its non-regulated affiliates. Provided, however, that this shall not prohibit an LDC from petitioning the Commission pursuant to W. Va. Code § 24-2-12 for approval of an affiliated contract which provides for joint use of employees. An LDC shall not use shared officers and directors, or contractual arrangements, in a manner that would violate or circumvent these Rules.

2. To the extent practicable, and to the extent necessary to fulfil the purpose of this Rule, the employees of an LDC and those of an affiliate shall operate independently of one another, provided however, that this provision shall not prevent employees from transferring from one to the other so long as the effect of such transfer is not to circumvent the requirement of this rule or the law.

3. Any employee transferring from an LDC to a non-regulated affiliate, or from a non-regulated affiliate to the LDC, shall not thereafter transfer back to the company of his prior employment for a period of at least one year. Provided, however, that this restriction shall not apply to employees of an affiliate if the affiliate has ended operations and ceased to function as a going concern.

4. The transfer of an employee from an LDC to a non-regulated affiliate, or from a non-regulated affiliate to the LDC, may be accomplished through either the employee's termination of employment with one company and acceptance of

employment with the other, or a transfer to another company, so long as the transfer from the LDC to a non-regulated affiliate does not result in the LDC bearing any ongoing costs associated with that employee.

5. The LDC shall not make temporary or intermittent assignments or rotations of its employees to any affiliate to circumvent these Rules.

6. An LDC employee engaged in transmission or distribution system operations, including persons employed by a service company affiliated with the LDC who are engaged in transmission system operations on a day-to-day basis or have knowledge of transmission or distribution system operations, who is transferred to a non-regulated affiliate shall not remove or otherwise provide or use confidential property or information gained from the LDC or affiliated service company in a discriminatory or exclusive manner to the benefit of the affiliate or to the detriment of non-affiliated CES providers.

7. Transferring employees shall sign a statement indicating that they are aware of and understand the restrictions set forth in this Rule 15.1.d.

8. Each LDC shall maintain documentation detailing the transfer of employees from the LDC to any of its affiliates and from any of the affiliates to the LDC. The documentation shall be made available to the Commission upon request.

9. Each LDC shall post a conspicuous notice of each employee transfer between non-regulated affiliates on its internet website within one week of such transfer. This posting need not contain employee names, but it shall contain a position title and /or general job duty description, the previous employing affiliate and the new employing affiliate. This posting shall remain on the internet website for at least 15 consecutive days.

10. Each LDC must provide a report to the Commission annually by January 31 of each year which lists each employee transfer from the LDC to any of its affiliates and from any of the affiliates to the LDC during the preceding calendar year, and which provides the following information for each employee transfer:

A. the company name and the title and responsibilities of the position from which the employee is transferred;

B. the company name and the title and responsibilities of the position to which the employee is being

transferred; and

C. the effective date of the transfer.

The Commission will post this report on its internet website.

11. Nothing in these Rules shall prohibit the temporary assignment of employees between the LDC and its affiliates to assist in restoring power in the event of a major service interruption or assist in resolving emergency situations affecting public safety or system reliability. The LDC shall maintain documentation detailing any temporary assignment of employees as provided herein.

15.2. Transactions between an LDC and its affiliates.

15.2.a. Nothing herein shall affect utility obligation under W. Va. Code § 24-2-12.

15.2.b. Prior approvals granted to public utilities under W. Va. Code § 24-2-12 shall not be abrogated by these rules provided that transactions conducted pursuant to such prior approvals do not violate any provisions of these rules.

15.2.c. Unless otherwise approved by the Commission, any sale of a product or service by an LDC shall be governed by a tariff approved by the Commission. Tariffed products and services shall be made available to any non-affiliate on the same terms and conditions as those products and services are made available to non-regulated affiliates.

15.2.d. An LDC shall conduct its transactions with its affiliates in such a manner as to avoid cross-subsidization or cost shifting and shall not use such transactions to confer an unfair competitive advantage upon such affiliates.

15.2.e. Credit support by an LDC.

1. An LDC shall not allow an affiliate to obtain credit under an arrangement that would include a specific pledge of any assets owned by the LDC or a pledge of cash reasonably necessary for LDC operations.

2. An LDC may not share credit, investment, or financing arrangements with any of its non-regulated affiliates unless the LDC has implemented adequate safeguards satisfactory to the Commission precluding employees of an affiliate from gaining access to information in a manner that would allow or provide a means to transfer confidential information from the LDC to an affiliate, create an opportunity for preferential treatment or unfair competitive advantage, lead to customer

confusion, or create significant opportunities for cross-subsidization of affiliates. Any proposed sharing of credit, investment, or financing arrangements must have prior Commission approval by means of a petition for approval filed with the Commission.

15.3. Prohibition against preferential treatment.

15.3.a. An LDC shall not give an affiliate any undue preference or advantage over a non-affiliate nor unduly discriminate against a non-affiliate in processing a request by any customer for retail electric power supply.

15.3.b. An LDC shall apply the provisions of its tariffs to all CES providers in a nondiscriminatory manner and shall offer the same tariffed products or services to non-affiliates as are offered to affiliates.

15.3.c. Each LDC shall provide distribution service on a basis which is just, reasonable, and non-discriminatory to customers or CES providers, and such distribution service shall be comparable in quality and price and subject to the same terms and conditions to those services provided by the LDC to any similarly situated retail customer, itself or any affiliate.

15.3.d. Each LDC and/or its affiliates shall provide transmission service for the delivery of all power only under their pro-forma transmission tariff, and will comply with the OASIS and Standards of Conduct requirements promulgated by the FERC for the delivery of all power.

15.3.e. An LDC that provides any of its affiliates, or a customer of any of its affiliates, any products or services shall make the same products or services available to all non-affiliated CES providers or their customers in the same manner and on a non-discriminatory timely basis.

15.3.f. An LDC shall process all same or similar requests for any product, service, or information in the same manner and within the same period of time for its affiliates and for all non-affiliates and their respective customers.

15.3.g. An LDC shall not tie any product, service or information to any discount of rates or condition the provision of any regulated service or product to the provision or use of any non-regulated product or service.

15.3.h. Neither an LDC nor any of its affiliates shall falsely or unfairly state or imply:

1. that retail distribution service provided by the LDC for an affiliated CES provider is inherently superior, solely on the basis of the affiliation of the LDC and the affiliated CES provider;

2. that any advantage accrues as a result of dealing with an affiliate of the LDC;

3. that merchant services for retail electric energy are being provided by the LDC rather than the affiliated CES provider;

4. that retail electric energy purchased from any other CES provider is of lesser quality or reliability than that provided by an affiliated CES provider; or

5. that the LDC speaks on behalf of the affiliated CES provider, or any other affiliate.

15.3.i. An LDC shall not identify potential customers within its service territory for its affiliates. This shall not prohibit the provision of information under the provisions of Rule 15.4 of these Rules.

15.3.j. An LDC shall not solicit business on behalf of its non-regulated affiliates.

15.4. Provision of information.

15.4.a. Except at the written request of a customer, an LDC shall not disclose to any affiliated CES provider or non-affiliated CES provider, any information, including customer load and usage information, obtained in connection with providing retail electric distribution service.

15.4.b. Unless requested by a customer the employees of an LDC shall not share the following information with any affiliated or non-affiliated CES provider:

1. any market information acquired from an affiliated CES provider or a non-affiliated CES provider; or

2. any market information developed by the LDC in the course of responding to requests for retail electric distribution service, excluding information relating to the provision of general and administrative support services.

15.4.c. A non-affiliate may submit to an LDC a written standing request for, and receive, any generic customer information concerning the usage, load shape curve or other general characteristics of customers by rate classification

that the LDC provides to its non-regulated affiliates, provided that such aggregate information contains sufficient customer grouping that individual customer information is not ascertainable therefrom. A standing request made pursuant to this section shall expire one year after being received by the LDC unless renewed in writing by the non-affiliated CES provider.

15.4.d. The LDC shall contemporaneously, and in the same form and manner, make available to any non-affiliated CES provider that has submitted a standing request pursuant to Rule 15.4.c., any generic customer information concerning the usage, load shape curve or other general characteristics of customers by rate classification that the utility makes available to its affiliated CES providers.

15.4.e. The LDC may charge a reasonable fee for the provision of information to CES providers so long as such fee is the same for both non-affiliated CES providers and affiliated CES providers.

15.4.f. The LDC's non-regulated affiliates shall not have preferential access to any information about the LDC's transmission or distribution systems that is not contemporaneously and in the same form and manner available to a non-affiliate.

15.4.g. Upon a reasonably verified request by a customer, an LDC shall provide such customer with his own usage information.

15.4.h. The Commission shall maintain a list of licensed CES providers which shall be made available to the general public. If a customer requests information about CES providers, the LDC shall provide the customer with a copy of the current Commission list without any modification to the format or sequencing of information within the list.

15.4.i. Nothing in these Rules shall prohibit an LDC from providing customer information to a default power supply service provider without customer authorization as may be permitted or required by any other rule of the Commission.

15.5. Marketing and advertising.

15.5.a. An LDC shall not engage in advertising, marketing, sales calls or proposals with any of its affiliates. Such activities include, but are not limited to:

1. acting on behalf of a non-regulated affiliate in any communications and contacts with any existing or potential

customers;

2. joint promotional communications or correspondence;

3. joint presentations at trade shows, conferences, or other marketing events; and

4. providing links from an LDC's internet website to an a non-regulated affiliate's internet website.

15.5.b. An LDC shall not represent to customers or potential customers that it can offer competitive retail services bundled with its tariffed services.

15.5.c. If a customer or potential customer makes an unsolicited request to an LDC for information specifically about any of its affiliates, the LDC cannot provide any information other than the affiliated CES provider's address and telephone number.

15.5.d. Nothing in these Rules shall preclude an affiliate from using the name or logo of its affiliated LDC in advertising and solicitation materials. A disclaimer that clearly and conspicuously discloses that the affiliate is not the same company as the LDC shall accompany any such use. Such disclaimers shall not be required, however, on company vehicles, clothing, or trinkets, writing instruments, or other non-documentary materials.

15.6. Reporting requirements.

15.6.a. Within 90 days from the date of the Commission's adoption of these Rules, each LDC must file a written report with the Commission which includes the following information:

1. All internal rules, practices, and policies governing the interaction between the LDC and its affiliates;

2. All internal codes of conduct and financial record keeping requirements between the LDC and its affiliates;

3. The names and addresses of the LDC's affiliates;

4. An organizational chart depicting the structure of the LDC, its affiliates, and the relationship between the LDC and its affiliates and

5. A description of the products and services provided to and from the LDC and its affiliates.

15.6.b. A revised copy of the report required by Rule

15.6.a. must be submitted to the Commission within 30 days of any change to any of the information contained in the report. A written identification and explanation of each change must accompany the revised report.

15.7. Internal audits.

15.7.a. Each LDC shall conduct an annual audit to test compliance with these Rules. The audits shall include written reports of conclusions. The audits shall be filed with the Commission no later than September 1 of each year. Following the submission of the third annual audit, an LDC will not be required to submit any further annual audits unless otherwise ordered by the Commission.

15.8. Emergency situations.

15.8.a. Nothing in these Rules shall prohibit an LDC from taking any such actions that may be necessary to ensure the public safety and system reliability in the event of an emergency situation. The LDC shall maintain documentation of all such actions, which documentation shall be subject to review by the Commission.

15.8.b. Each time an LDC takes actions which deviate from these Rules, but which are necessary to ensure the public safety and system reliability in an emergency situation, the LDC must file a notice of such emergency situation with the Commission within 48 hours, or such time as may be reasonable due to the circumstances.

15.8.c. Within 45 days of the end of the emergency situation the LDC shall file a report with the Commission which details:

- A. a description of the emergency circumstances;
- B. the specific deviations from the requirements of these Rules; and
- C. the duration of the deviations.

The Commission may require an LDC to provide additional information regarding any emergency and the actions taken during such emergency.

15.9. Dispute resolution procedures.

15.9.a. Each LDC shall file with the Commission, within 60 days of adoption of these Rules, an accelerated dispute resolution procedure to address alleged violations of these Rules. Such dispute resolution procedures will be in addition to existing Commission complaint procedures.

15.9.b. Each LDC shall maintain documentation of all new, pending and resolved complaints filed pursuant to the procedures established in Rule 15.9.a. The documentation shall include the date each complaint was received; the complainant's name, address and telephone number; a description of the complaint; the resolution of the complaint, and, if a complaint remains unresolved for more than 30 days after the filing of the complaint, the reason why the complaint is still pending. The documentation is subject to review by the Commission.

§150-3-16. Rules for Consumer Protection

16.1. After notice and an opportunity for hearing, the Commission may require electric service providers to take any appropriate action necessary to comply with these Rules and State law. The Commission may initiate proceedings to enforce compliance with these rules and State law by any appropriate means, including but not limited to, proceedings on the Commission's own motion, formal or informal complaint proceedings, or petitions filed by any party, including default electric service providers or CES providers.

16.2. For residential and small commercial customers, these Rules supercede any inconsistent provisions, terms, and conditions of an electric service provider's contracts, tariffs or other documents describing service offerings for the public, applicants or customers in the State. A provider shall adopt or maintain contracts, tariffs, or other documents describing service offerings for the public, applicants or customers in the State which comply with these Rules and any subsequent Commission orders. To the extent a dispute or issue cannot be resolved by reference to these Rules, the Commission's jurisdiction will apply to resolve such dispute or issue.

16.3. Definitions.

16.3.a. Biomass Power - A renewable generation resource that is primarily derived from the combustion of organic matter. Biomass fuels may be solid, liquid or gas and are derived from feedstock. Examples of such feedstock include, but are not limited to: agricultural crops and residues, industrial wood and logging residues, farm animal wastes, the organic portion of municipal solid waste, and methane gas from landfills.

16.3.b. Environmental Information - Required information on an electric service provider's generation resource mix and emissions from those generation resources.

16.3.c. Load Pattern Information - The record of a customer's electric usage.

16.3.d. Low-impact Hydro - A generation resource utilizing the force of moving or falling water that meets the following criteria: (a) ensures healthy water flows for fish, wildlife and water quality; (b) complies with state water quality standards and has not contributed to a state finding of impaired water quality; (c) provides for fish passage and protection; (d) protects, mitigates and enhances environmental conditions in the watershed; (e) does not negatively impact threatened or endangered species; (f) protects cultural resources; (g) accommodates recreational activities in the watershed; and (g) is not recommended for removal by a natural resource agency.

16.3.e. Other Hydro - Any generation resource which uses moving or falling water and which does not meet the criteria for low-impact hydro set forth in these Rules.

16.3.f. Other Sources - Known electric energy generation resources that cannot reasonably be included within any of the specific fuel categories set forth in Rule 16.10 et seq.

16.3.g. Pricing Disclosure Data - A delineation of the total price of retail electric service expressed in cents per kwh, and a table showing the expected monthly costs for an average customer using 500, 1,000 and 2,000 kwh of electricity per month at the offered price. This table shall include the total price to the customer, including, but not limited to, all applicable charges for generation, transmission and distribution, metering and billing, taxes, system benefit charges, and any and all surcharges. The Commission shall regularly publish applicable transmission and distribution charges, system benefit charges and statewide taxes and surcharges for each default service provider or LDC. These Commission-published charges shall be used by CES providers in preparing pricing disclosure data.

16.3.h. Standard Offer Contract - The terms and conditions of service generally made available to residential and small commercial customers by CES providers. The terms of a standard offer contract are contained in a standard form and do not vary among customers of a particular customer class.

16.3.i. Uniform Disclosure Page - A one-page document which contains pricing disclosure data and environmental information.

16.3.j. Unknown Purchased Resources - Electric energy generation resources neither owned or operated by a electric service provider where the electric energy generation source(s) or process cannot be reasonably identified.

16.4. General prohibitions.

16.4.a. Electric service providers shall not engage in unfair, misleading or deceptive acts or practices in the provision of electric services, or in dealings and interactions with consumers.

16.4.b. CES providers shall not engage in unfair, misleading, or deceptive acts or practices related to, without limitation, the following activities:

1. Marketing, solicitation, or sale of CES; or
2. Administration of contracts for such service.

16.4.c. Disconnection. Electric service providers shall not disconnect distribution service, cause or arrange for such disconnection, or employ the threat of such actions as a consequence of contract termination related to competitive electric supply, customer non-payment related to competitive electric supply, or for any other reason related to competitive electric supply.

16.4.d. Slamming Prohibited. Except in the case of contract assignment as provided in Rule 16.13.d., no person shall change or authorize the changing of a customer's provider of electric service without the customer's prior consent as set forth in Rule 16.7. et seq.

16.4.e. Cramming Prohibited. No person shall charge or authorize the charging of customers for electric service or other services which the customer has not ordered or agreed to, pursuant to the procedures set forth in Rule 16.7. et seq. Procedures for removing unauthorized charges are set forth in Rule 16.8. et seq.

16.4.f. Discrimination Prohibited. Each CES provider must adopt written procedures to guide its employees and agents with respect to the evaluation of applications for service from prospective customers and shall not discriminate in the provision of electricity as to availability and terms of service based on race, color, religion, national origin, sex, marital status, age, receipt of public assistance income, and exercise of rights under state or federal consumer protection laws.

16.5. Records and retention.

16.5.a. Electric service providers shall establish and maintain records required by Commission rules.

16.5.b. Unless otherwise prescribed in these Rules, all records required by these Rules shall be retained for no less than two years.

16.5.c. Unless otherwise prescribed by the Commission or its authorized representatives, all records required by these Rules shall be provided to the Commission Staff within 5 business days of its request.

16.6. Marketing and solicitation.

16.6.a. Uniform Disclosures. Each CES provider that offers to provide CES to residential or small commercial customers shall provide in marketing materials that include or accompany a service contract, the following:

1. If offering a fixed price, a uniform disclosure page, as defined in these Rules.

2. If offering a variable price, a clear and understandable explanation of the factors that will cause the price to vary, an estimated price in cents per kwh based upon the usage patterns of like customers, and a uniform disclosure page as defined in these Rules.

3. If a deposit is required, the amount of such deposit and the terms and conditions related to such deposit.

4. The uniform disclosure page supplied pursuant to Rules 16.6.a.1. and 16.6.a.2. shall disclose the effective date of the prices shown on the tables included in the pricing disclosure data. The effective date of the prices used to develop the tables must cover a time period that is relevant to the time period covered in the customer's contract for service.

16.6.b. Promotional and advertising material targeted for residential and small commercial customers shall be provided to the Commission or its Staff within five business days of a request by the Commission or its Staff.

16.6.c. Unfair, Misleading or Deceptive Practices. No CES provider may engage in marketing, solicitation, or sales acts or practices which are prohibited, unfair, misleading or deceptive in the marketing, solicitation, or sale of a competitive electric service. Such prohibited, unfair, misleading or deceptive acts or practices include, but are not limited to, the following:

1. Marketing, solicitation, or sale of CES:

A. Prior to obtaining a license from the Commission;

B. Prior to registering with the LDC serving the area within which the CES provider will offer service;

C. After suspension, revocation or termination of a license by the Commission.

2. Failing to comply with Rules 16.6.a. or 16.6.b.

3. Failing to provide in its advertisements and promotional materials that make an offer for sale a toll-free telephone number or address which the customer may call or write to request detailed information regarding the price, terms, conditions, limitations, restrictions and environmental characteristics of the service offered.

4. Jointly advertising or sharing promotional material or advertisements with any affiliated LDC in the State.

5. Claiming or implying that an advantage or disadvantage will accrue to consumers due to an affiliation with any LDC in the State.

6. Engaging in telephone solicitation of residential and small commercial customers.

7. Enrolling a customer by telephone when the customer has not initiated the enrollment call pursuant to Rule 16.7.c.2.

8. Engaging in in-person solicitation to residential customers where the CES provider's sales agent fails to wear and display a valid CES provider photo identification.

9. Advertising or marketing offers that:

A. Claim that a specific price advantage, savings or guarantee exists if it does not;

B. Claim to provide a competitive electric service when such an offer is not a bona fide offer to sell such services;

C. Offer a specific price for competitive electric service without disclosing the cost per kilowatt hour and all recurring and nonrecurring charges;

D. Fail to offer a specific price for competitive electric service without disclosing all recurring and non-recurring charges; or

E. Fail to disclose all material limitations, exclusions, and offer expiration dates.

10. Marketing, advertising, or claiming that the environmental characteristics of any generation service or energy source provides an environmental advantage that does not exist.

11. Using advertising, promotional, marketing or contract materials which contain footnotes, endnotes or comparable sections of text which are separated from the main body of text of such advertising, promotional, marketing or contract materials.

12. Using advertising, promotional, marketing or contract materials which contain text, except for headings, which is smaller in size than any other text in such advertising, promotional, marketing or contract materials..

13. Using any contest, sweepstakes, advertising, check or other promotional material which contains a contract for provision of CES, or authorizes the changing of a customer's CES provider or default service provider within such contest, sweepstakes, advertising, check or other promotional material.

16.7. Customer enrollment and switching .

16.7.a. Coordination of Customer Enrollment and Switching.

1. "Customer enrollment" refers to the process whereby a customer enters into a contract for service with a CES provider.

2. "Customer switching" refers to the series of events necessary to act on a customer's decision to switch from one supplier of electric service to another. Customer switching may involve movement from default service to a CES provider, from one CES provider to another, or from a CES provider back to default service.

3. A CES provider shall coordinate customer switching with the LDC and any other CES provider which may be involved in serving the customer, including the customer's current CES provider or default service provider. Coordination of customer switching shall be in accordance with the procedures set forth in these rules and in the LDC's tariff. As part of such coordination, each CES provider shall possess the capability of electronically notifying LDCs of customer enrollment and requests for customer switching.

16.7.b. Enrollment or Switching Without Customer Consent Prohibited. CES providers are prohibited from enrolling or switching customers without the consent of the customer and proof of that consent as delineated in Rule 16.7.c. Within three business days notification of customer enrollment with a CES provider shall be forwarded or electronically transferred by the CES provider to the distribution utility involved in serving the customer, as set forth in Rule 16.7.d.

16.7.c. Enrollment Procedures. Enrollment of customers by CES providers shall be in accordance with the following rules:

1. Mailings, facsimiles, and direct enrollment.

A. Where enrollment occurs by mail, facsimile, or in-person solicitation, the applicant's signature on a contract will constitute consent to the contract.

B. Prior to entering into a contract for service, CES providers shall provide each applicant enrollment documents that contain, at a minimum, the uniform disclosure page, the terms and conditions of service, the dollar amount of any and all service fees, and the duration of the contract, consistent with Rule 16.6. et seq.

C. Before obtaining a signature from the applicant, CES providers shall provide each applicant a reasonable opportunity to read all enrollment documents; shall inform the customer that he or she will receive from the LDC a notification of customer request to switch suppliers as set forth in Rule 16.7.e.; shall inform the customer the cancellation period for the agreement and the authorization to switch suppliers is ten days from the postmarked date of mailing of the notification of customer request to switch suppliers; and shall answer any and all questions posed by any applicant about information contained in the documents.

D. Upon obtaining the applicant's signature, CES providers shall provide the applicant a legible copy of the signed contract. If a standard offer contract is used, the CES provider shall provide the applicant a copy of the standard offer contract disclosure.

2. Telephonic enrollment.

A. Where enrollment occurs by telephone, only the potential customer or an authorized person shall initiate the enrollment call. While engaged in such contact, the CES provider must make a date- and time-stamped audio recording of the complete conversation. Such conversation shall include

questions and customer acknowledgment of the following:

1. That the conversation is being recorded;
2. That the call was initiated by the customer;
3. That the customer wishes to enroll with the CES provider;
4. That he or she is the customer of record with the distribution utility or is authorized by the customer of record to switch providers; and

5. That the customer either:

(a) Has previously reviewed, understands, and agrees to the CES provider's written terms and conditions, and agrees that the written terms and conditions constitute the entire agreement; or

(b) Wishes to review the CES provider's terms and conditions during the telephone call subject to receipt of a written copy of the terms and conditions.

B. If the customer has previously reviewed, understands, and agrees to the CES provider's written terms and conditions, and agrees that the written terms and conditions constitute the entire agreement, the CES provider shall inform the customer that:

1. recording of the customer's agreement constitutes consent to enrollment;

2. the customer will receive a notification of customer request to switch suppliers from the LDC as set forth in Rule 16.7.e. of these Rules; and

3. the cancellation period for the agreement and the authorization to switch suppliers is ten days from the postmarked date of mailing of the notification of customer request to switch suppliers.

C. If the customer chooses to hear the CES provider describe the contract terms and conditions during the telephone call, the CES provider shall review and obtain customer acceptance of each of the principal terms and conditions for the service that will be provided, including, but not limited to, the following:

1. The service(s) that will be provided.

2. The price (if fixed, the price per kwh; or if variable, the basis upon which the price will vary and expressed in terms that are clear and allow for easy comparison to other offers).

3. The term of the contract.

4. An approximate service commencement date.

5. The contract termination date.

6. Any material limitations, conditions, or exclusions.

7. Any fees or costs to the customer.

8. Whether the provider will perform a credit check and require a deposit, including the amount.

9. Who will bill for the CES provider's service(s), and who will bill for distribution and transmission service.

D. If, after the customer has listened to the CES provider describe the above contract terms and provisions, the customer agrees to those terms and provisions, the CES provider shall inform the customer that:

1. recording of the customer's agreement constitutes consent to enrollment;

2. the customer will receive a notification of customer request to switch suppliers from the LDC as set forth in Rule 16.7.e.; and

3. The cancellation period for the agreement and the authorization to switch suppliers is ten days from the postmarked date of mailing of the notification of customer request to switch suppliers.

E. Following telephonic enrollment, the CES provider shall:

1. Retain the audio recording of the customer's enrollment for one year after the contract with the customer is terminated; and

2. Mail the customer a letter confirming the customer's enrollment and including a copy of the contract. The letter must also conspicuously inform the customer of the right to cancel enrollment and the authorization to switch suppliers

within ten days from the postmarked date of mailing of the notification of customer request to switch suppliers by the LDC. The letter shall provide a prescribed toll-free/local telephone number for making such cancellation.

F. In the event of any dispute involving a telephonic enrollment, the CES provider must make the audio recording of the customer enrollment available within three business days of a request by the Commission or its Staff.

3. Internet enrollment.

A. Where enrollment occurs by Internet, prior consent to the contract shall be obtained by encrypted customer input on the CES provider's Internet web site.

B. The internet enrollment website shall, at a minimum, include:

1. A copy of the CES provider's customer contract with all terms and conditions as required by Rule 16.13. et seq.

2. A conspicuous statement, within the body of the electronic version of the contract, that customers may cancel their enrollment and the authorization to switch suppliers within ten days from the postmarked date of mailing of the notification of customer request to switch suppliers by the LDC.

3. A statement of the CES provider's toll-free telephone number and Internet and electronic mail address by which the applicant may cancel the contract and authorization to switch suppliers during the cancellation period.

4. A prompt for the customer to print or save a copy of the contract.

C. Immediately following Internet enrollment, the CES provider shall send the customer an enrollment confirmation by electronic mail or regular mail.

D. Any electronic version of the contract shall be identified by version number, in order to ensure the ability to verify the particular contract to which the customer assents.

E. The CES provider shall retain and make available to the customer throughout the duration of the contract Internet access to the terms and conditions of the numbered contract version to which the customer assents.

F. In the event that a customer disputes his or her Internet enrollment with a CES provider, a signed written contract shall serve as prima facie evidence that the customer desired to enroll with the provider.

16.7.d. Transmission of Enrollment to LDC. Within three business days of confirmation of a customer enrollment, the CES provider will transmit electronically the customer enrollment to the LDC. Upon receipt of the electronic enrollment transaction, the LDC will respond to the CES with a confirmation that the electronic enrollment transaction was received and processed. If, for any reason, the electronic enrollment transaction cannot be processed by the LDC, the LDC will submit an electronic rejection transaction to the CES provider containing a rejection code identifying the reason for the rejection. All electronic data exchanges will be consistent with any Commission rules for electronic data exchange between electric distribution companies and CES providers.

16.7.e. Notification of Customer Request to Switch Suppliers. Within two business days from the receipt of an electronic notification from a CES provider that a customer has enrolled with the CES provider, the LDC will mail to the customer, and electronically notify any other CES provider currently providing retail electric service to the customer, a notification of customer request to switch suppliers. This notification will inform the customer of a pending change in the customer's generation service, the name of the new electric energy supplier and the effective date of the change. The notification will also inform the customer of its right to rescind the change by contacting the LDC at its toll-free number within ten calendar days of the postmarked date that the notification is mailed.

16.7.f. Effective Date of Customer Switching. The effective date of customer switching to a new electric service provider is the first day of the next calendar month after enrollment or the customer's next regularly scheduled meter reading date, provided notice of the enrollment is received by the LDC by the 15th day of the calendar month, or 15 days before the customer's next regularly scheduled meter reading date. The CES provider will commence service to the customer on the effective date of customer switching.

16.7.g. Multiple Switching Requests. When more than one enrollment notification is received by the LDC for a particular customer before expiration of the 15th day of the month or the 15 days before the customer's next regularly scheduled meter reading date, the LDC will process the last

enrollment notification received prior to the end of the 15th day of the month or the 15 days before the customer's next regularly scheduled meter reading date. Any prior switching transactions will be cancelled and notice of cancellation will be sent to the appropriate CES provider. CES providers are responsible for resolving any disputes between different CES providers over the electric service supply to a particular customer.

16.7.h. Customer Switching Validation. The LDC will provide to a CES provider a customer validation list containing customers' LDC account numbers, the first four letters of the account name and the customer's meter reading code. The CES provider must use this list to validate the customer information submitted to the LDC with the customer switching request.

16.8. Unauthorized charges.

16.8.a. An electric service provider shall not charge a customer for a product or service without the customer's express authorization. A CES provider may obtain a customer's authorization for an additional product or service to appear on the bill by using any of the methods set forth in Rule 16.7. et seq. (relating to Customer Enrollment and Switching). Each specific product or service which will be billed to a customer must be separately itemized and disclosed by the CES provider to the customer.

16.8.b. An electric service provider shall remove any unauthorized charge from the customer's bill no later than 45 days after a charge is determined by the provider to be unauthorized and refund or credit to the customer all money that has been paid by the customer for any unauthorized charge.

16.8.c. An electric service provider shall not terminate service to any customer for nonpayment of an unauthorized charge or take any adverse credit action, including the filing of a credit report, against a consumer for nonpayment of an unauthorized charge. This paragraph does not apply to undisputed charges or charges ultimately resolved against the consumer.

16.8.d. If an electric service provider's bill includes charges other than those of the billing ESP, the ESP shall include the following notice to any new customers on the contract or standard offer contract disclosure, and to all existing customers, either on the bill or in a separate bill insert, at least once per year:

Placing charges on your electric service bill for products

or services without your authorization is known as "cramming" and is prohibited by law. If you believe that any charge for a product or service that appears on your bill has not been authorized by you, call us immediately and request us to investigate this charge. We cannot terminate your service for disputing or refusing to pay for an unauthorized charge. We will investigate and, within 45 days, we will either remove the charge and reimburse you for prior payments made by you for an authorized charge, or submit evidence of your specific authorization for this charge. If you are dissatisfied with our investigation, you may file an informal complaint with the Public Service Commission of West Virginia, P.O. Box 812, Charleston, WV 25323, Telephone: (304)340-0300 or toll-free in West Virginia at (800) 642-8544.

16.8.e. An electric service provider shall maintain for at least 2 years a record of every customer who has experienced any unauthorized charge for a product or service on the customer's electric service bill and has notified the ESP of the unauthorized charge. The record shall contain: (1) the name of the service provider that offered the product or service; (2) the date the customer requested the ESP to remove the unauthorized charge from the customer's bill; (3) the date the unauthorized charge was removed from the customer's bill; and (4) the date and amount the customer was refunded or credited with any money that the customer had paid for the unauthorized charge.

16.9. Credit and deposits.

16.9.a. Obtaining Customer Payment History Prohibited. A CES provider shall not obtain a customer's payment history from the customer's present or past LDC.

16.9.b. Deposits. An electric service provider may require a deposit or other reasonable demonstration of creditworthiness from a customer as a condition of providing service. Any deposit required by a default electric service provider or LDC for residential customers shall not exceed one month of prospective electric service at the price offered by the default electric service provider. Any deposit required by a CES provider for a non-residential customer shall not exceed two months of prospective electric service at the price offered by the CES provider. In the application of such standards, deposits or creditworthiness procedures, the CES provider shall:

1. Provide the customer a receipt for any deposit within fourteen days of the date that the deposit is collected;

2. After the customer has paid the bill for service

for twelve consecutive months without delinquency, promptly and automatically refund the deposit principal, plus accrued interest, to the customer. Interest shall be accrued in accordance with Rule 4.2. et seq.;

3. If service to a customer is terminated while the CES provider still holds that customer's deposit, apply the deposit to the final bill and promptly refund any excess to the customer; and

4. Disclose in service contracts with customers its policies regarding creditworthiness and deposits, including the amount of any deposit, the allocation of the deposit, and the return of any deposit balance.

16.9.c. Balances Due Other Providers. A CES provider shall not require an applicant to pay the balance due another CES provider as a condition of establishing credit or providing competitive electric service.

16.9.d. Disclosure of Basis for Denial of Service. A CES provider who denies service to a consumer based on consumer-specific information obtained by the CES provider during the application process must inform the consumer in writing of the reason for the denial. This disclosure may be combined with any disclosures required by applicable federal or state law. This disclosure is not required when the CES provider notifies the customer orally that the customer is not located in a geographic area served by the CES provider, does not have the type of usage characteristics that is served by the CES provider, or is not part of a customer class served by the CES provider.

16.10 Customer access and complaint handling.

16.10.a. Customer access.

1. Each CES provider shall ensure customers reasonable access to its service representatives to make inquiries and complaints, discuss charges on customer bills, terminate service, and transact any other pertinent business.

2. Telephone access shall be toll free and afford customers prompt answer times during normal business hours, which shall be deemed to be at least 8:00 a.m. to 6:00 p.m., Eastern Time, Monday through Friday. Any recorded telephone menu of options used by a CES provider shall begin with a statement that a caller can talk to a representative of the CES provider at any time by dialing "0".

3. Each CES provider shall provide a 24-hour

automated telephone message instructing callers to report any service interruptions or electrical emergencies to their LDC.

16.10.b. Customer complaints.

1. Each CES provider shall investigate consumer complaints and provide a status report within three business days following receipt of the complaint to:

A. The consumer, when the complaint is made directly to the CES provider; or

B. The consumer and Commission Staff, when a complaint is referred to the CES provider by the Commission Staff.

2. If a CES provider's investigation is not completed within 10 business days, the CES provider shall provide status reports to the consumer, or if applicable, to the consumer and Commission Staff. Such status reports shall be provided at 5-day intervals until the CES provider's investigation is complete, unless the action that must be taken will require more than five days and the customer has been so notified.

3. The CES provider shall inform the consumer, or consumer and Commission Staff, the results of the investigation, orally or in writing, no later than five business days after completion of the investigation. The consumer or Commission Staff may request the report in writing.

4. If a consumer disputes the CES provider's report, the CES provider shall inform the consumer that the Commission Staff is available to help resolve informal complaints. The CES provider shall provide the consumer with the current address, local/toll free telephone numbers, and TDD/TTY telephone number of the Commission.

5. Each CES provider shall retain records of customer complaints, investigations, and complaint resolutions for one year after the customer terminates service and shall provide such records to the Commission Staff within three business days of request.

6. Each CES provider shall make good faith efforts to resolve disputes.

16.11 Environmental information.

16.11.a. This Section establishes a process by which customers are assured of receiving information, in a timely and consistent manner, concerning the approximate retail generation resource mix and emissions from those generation resources associated with retail electric energy offered for sale in West Virginia.

16.11.b. This Section applies to all electric service providers of electric energy in West Virginia, including default service providers. CES providers offering or providing more than one contract for power supplies shall disclose the required generation resource mix and emissions from those generation resources for each such contract.

16.11.c. Determination of environmental information.

1. Contents of environmental information.

A. Electric service providers shall specifically identify each of the following generation sources used in their generation of power: biomass power, coal-fired power, low-impact hydro power, other hydro power, natural gas-fired power, nuclear power, oil-fired power, other sources, solar power, unknown purchased resources, and wind power.

B. The electric service provider shall exercise all reasonable efforts to identify the generation source or resource used to generate the power in question.

C. The electric service provider shall maintain documentation sufficient to demonstrate the steps taken to make such identification.

D. The Commission shall publish average generation resource mix and emissions for the generation resources in the East Central Area Reliability Council (ECAR) area. This data shall be used by electric service providers to report the average generation resource mix and emissions of unknown purchased resources.

2. Methodology for determining environmental information, publication requirements and request requirements.

A. At the time of licensure, CES providers shall provide their proposed methodology for determining environmental information to the Commission for review. Default service providers shall provide their proposed methodology for determining environmental information by May 1, 2001.

B. Environmental information shall be filed with

the Commission quarterly. The Commission will compile the filings of all CES providers and publish state-wide a compilation of the information. The Commission will invoice each CES provider with a pro-rata portion of the costs of publication. The CES providers' quarterly filings of environmental information must comply with the format requirements of these rules. Such information, covering the most recent calendar quarter, shall be filed on or before the fifteenth day of each April, July, October, and January, unless otherwise directed by the Commission.

C. Environmental information, meeting the format requirement of these rules and covering the most recently available calendar year and quarter, shall be provided to customers, the Commission, the Commission's staff, the Consumer Advocate and to other interested parties upon request. If mailed, the information must be mailed within five days of the request.

D. Environmental information, meeting the format requirement of these rules and covering the most recently available calendar year and quarter, shall be provided to the Commission upon request. If mailed, the information must be mailed within five days of the Commission's request.

E. Environmental information for the most recently available calendar year and each available quarter of the then-current year, meeting the format requirement of these rules, shall be available on the CES provider's and the default service provider's internet web site.

F. Electric service providers shall maintain documentation sufficient to demonstrate the accuracy of the actual environmental information.

3. Format of environmental information to customers.

A. Content. Upon request, each customer shall receive environmental information, as detailed in Rule 16.11.c.1.

B. Format. The environmental information shall be provided in a standardized and readable format in order to facilitate comparisons by customers. The presentation of this data shall comply with each of the following requirements:

1. Generation Resource Table. A table shall be provided which contains a breakdown, on a percentage basis, of the various generation resources of the electric service provider detailed in Rule 16.11.c.1. This percentage shall be rounded to the nearest whole number. Any source detailed in Rule 16.11.c.1. that is not projected to be used shall be listed in the table as "0%." The table shall also contain a column showing a breakdown on a percentage basis of the average generation resources of ECAR. Noted conspicuously near the table should be the company name and the time period covered. This table shall be in substantially the same format as depicted in WVPSC Form EI1.

2. Generation Resource Pie-Chart. A pie-chart shall also be provided that illustrates the environmental information from the table described in 16.11.c.3.B.1. Any source of electricity that is not used (i.e., one that is reflected as "0%" in the table) shall not be included in the pie-chart. The segments in the pie-chart shall be reflected by the following colors: biomass power - orange; coal-fired power - purple; low-impact hydro - light blue; other hydro power - blue; natural gas-fired power - gray; nuclear power - white; oil-fired power - pink; other sources - brown; solar power - yellow; unknown purchased resources - black; and wind power - red. Noted conspicuously near the chart should be the company name and the time period covered. This pie-chart shall be in substantially the same format as depicted in P.S.C. W.Va. Form EI2.

3. Emissions Table. A table shall be provided that depicts the amounts of carbon dioxide, nitrogen oxides and sulfur dioxide emissions and high-level and low-level nuclear waste attributable to the aggregate known sources of electricity for the electric service provider identified in the table described in Rule 16.1.c.3.B.1.

(a) The carbon dioxide emissions, nitrogen oxide emissions, and sulfur dioxide emissions shall be stated in pounds per 1,000 kilowatt-hours (lbs/1,000 kwh).

(b) The high-level nuclear waste shall be stated in pounds of high-level nuclear waste per 1,000 kilowatt-hours (lbs/1,000 kwh).

(c) The low-level nuclear waste shall be stated in cubic feet of low-level nuclear waste per 1,000 kilowatt-hours (ft³/1,000 kwh).

(d) Any high-level nuclear waste that is less than "0.0001" shall be depicted as "0.0001."

The table shall include a footnote to disclose the percentage of total electrical power supplied for which the electric service provider does not know the amount of emissions in paragraph (a) above or nuclear waste in paragraphs (b), (c) and (d). This table and footnote shall be in substantially the same format as WVPSC Form EI3.

16.12 Customer and load pattern information.

16.12.a. Disclosure of Billing and Payment History. An electric service provider shall not disclose a customer's billing and payment history except to credit and collection agencies.

16.12.b. Provision of Load Information to the Customer. An electric service provider shall timely provide a customer's 12-month historic usage information and 24-month billing/payment history to the customer without charge upon the customer's request. Such usage information shall indicate whether such history was based on actual meter readings and describe the method used to determine any estimated usage.

16.12.c. Generic Load Information. An LDC shall make generic customer load information by rate or tariff classification available to CES providers on a comparable and nondiscriminatory basis.

16.12.d. Provision of Load Information to Other Providers. With the prior written consent of the customer an LDC shall provide customer-specific load information to CES providers on a comparable and non-discriminatory basis.

16.12.e. Disclosure of Certain Information Prohibited. In implementing the requirements of these Rules, no LDC shall disclose a customer's account number, social security number, or telephone number, except to a credit or collection agency. This prohibition shall not affect an LDC's responsibility to provide information on a customer validation list as set forth in Rule 16.7.h.

16.13. Contracts.

16.13.a. CES providers shall arrange for the provision of competitive electric service by contracting with their customers. In their administration of such contracts, CES providers are prohibited from engaging in unfair, deceptive, misleading, and acts and practices. To the extent a contract dispute or issue regarding terms and conditions of service cannot be resolved by reference to these rules, the Commission's jurisdiction will apply to resolve such dispute or issue.

16.13.b. CES providers shall arrange for the provision of competitive electric service to customers in compliance with Rule 16.7. et seq.

16.13.c. Contract Retention. CES providers shall maintain copies of customer contracts for no less than one year after their termination.

16.13.d. Administration and Content of Contracts. CES provider shall:

A. Furnish applicants, prior to entering in a contract for service, with a legible document(s) containing, at minimum, the terms and conditions of service in plain language with accurate and understandable pricing, any switching fees, and the length of the contract;

B. Use contracts which are written in simple, non-technical language, and which contain text printed no smaller than 10 point type;

C. Allow applicants a reasonable opportunity to read such document and receive answers to any questions before signing a contract;

D. When the customer signs the contract, provide the customer a legible copy of the signed contract or standard offer contract disclosure form containing no smaller than ten-point type and stated in simple, non-technical language;

E. Not assign or transfer a customer contract to another CES provider without prior customer notification and without prior notification of the distribution utility serving the customer;

F. When assigned or transferred a contract previously administered by another licensed CES provider, comply with all terms and conditions in effect for the contract before the assignment occurred;

G. Comply in a timely manner with all valid notices to cancel or terminate the contract as provided for by the contract and by these rules; and

H.. Assign a number or date to each version of its standard offer contract form (including any change in contract price), retain such forms for no less than two years, and electronically transmit any new or revised contract forms and/or price changes to Commission Staff at least two business days prior to the effective date of any change of contract terms or price.

16.13.e. Automatic Contract Renewals. Customers with automatic contract renewal or extension provisions shall be provided written notice at least sixty days prior to termination.

1. Such notice shall be made by separate mailing (envelope or postcard), the front cover of which shall state: "important notice regarding your electric service contract."

2. The renewal/extension notice shall, at a minimum, state the renewal period and how the customer may opt not to renew or extend the contract.

3. The renewal period for contracts with automatic-renewal provisions shall not exceed the initial contract period.

4. If the automatic renewal entails any material changes to the contract, the CES provider shall notify the customer of such changes and obtain the customer's signature approving such changes.

16.13.f. Contract Expiration. Customers shall be provided at least 30 days written notice before the contract expires. Such notice shall be made by separate mailing (envelope or postcard), or by conspicuously placed bill message or bill insert. The front cover of such mailing shall contain the following statement: "important notice regarding your electric service contract termination."

16.13.g. No Limit on Right to File Complaint. No CES provider contract shall limit a customer's right to make formal or informal complaints to the Commission. Nor shall any formal or informal agreement related to mediation, arbitration, or any other alternative dispute resolution limit a customer's right to inform the Commission of any possible violations of Commission rules or orders.

16.13.h. Alternative Dispute Resolution. A CES provider that provides for an alternative dispute resolution process in a contract with a customer shall not require the customer to use the alternative dispute resolution process instead of reporting a complaint or dispute to the Commission or its Staff.

16.13.i. Contract Cancellation. Each CES provider must provide written notice to a customer at least 20 calendar days prior to cancellation of that customer's contract due to a default in the contract terms by the customer.

16.13.j. Notice to Customer.

CES providers must provide the notice of cancellation required by this subsection in a separate mailing from the customer's bill. The notice must include the following information:

A. The telephone number and hours of the CES provider's consumer contact staff;

B. The reason for cancellation;

C. Steps the customer can take to avoid cancellation, if any; and

D. Notice of the existence of other providers, including standard offer service.

16.13.k. Pre-payment meter. CES providers shall not avoid compliance with the customer cancellation notice by installing a pre-payment meter or device at the customer's location that causes the customer's electricity to be automatically disconnected for the failure to pay in advance.

16.13.l. Default service. A customer whose service from a CES provider is canceled and who does not have the right to return to default service under capped rates, and who does not select another CES provider shall receive default service at market rates.

16.14 Contract disclosure.

16.14.a. Notifications to Customers. All CES provider customer contracts shall include, but not be limited to, the following information:

A. A notification of the customer's right to prohibit the CES provider from disclosing customer-specific information and the methods the customer can use to exercise that right.

B. A notification that by signing the contract, the customer gives the CES provider the right to obtain the customer's usage history from the customer's distribution utility.

16.14.b. Information Requirements for Contracts. In addition to complying with Rule 16.14.a., all CES provider contracts shall be written in clear and unambiguous language and shall include, but not be limited to, the following information:

A. The CES provider's name, address, and a toll-free telephone number for customer contacts.

B. The services to be provided by the CES provider, the services to be provided by the distribution utility, and which entity will bill for those services.

C. The cancellation period (the number of days a customer has to cancel such contract without penalty).

D. The respective policies, procedures and any penalties for contract termination by the CES provider and by the customer after the cancellation period.

E. A notification that the CES provider may terminate the contract on at least 20 days written notice should the customer fail to pay the bill or fail to meet any agreed-upon payment arrangements.

F. The customer's right to terminate the contract without penalty in the event the customer moves outside the CES provider's service area or into an area where the CES provider charges a different price;

G. Pricing disclosure data;

H. A statement of any minimum contract terms, minimum usage requirements, minimum or fixed charges, and any applicable fees, such as start-up fees, late payment fees, early termination fees, or returned check fees;

I. The terms and conditions of service, including any restrictions and limitations associated with the service or product offered.

J. Procedures for handling complaints and disputes, including notice of customers' rights to contact the commission.

K. The telephone number for the Commission.

L. Billing intervals and any late payment fees.

M. Contract duration, including the estimated starting and expiration dates and a commitment that service shall begin no later than a specified number of days after the CES provider receives the contract.

N. Whether the contract contains an automatic renewal provision and the terms of such provision.

O. Any credit, deposit, and collection procedures, including terms and conditions associated with the return of any deposit at the time of contract termination.

P. Pursuant to Rule 16.10. et seq., the approximate generation resource mix and environmental characteristics of the power supplies provided by the CES provider.

Q. The availability of the "do not call" list as set forth in Rule 16.6. et seq.

R. An identification of any billing agent.

16.14.c. Billing Agents. Regardless of any billing agent used by a CES provider, the CES provider will remain legally responsible for service rendered and billed to the customer, and shall be identified on any bill rendered to a customer.

16.15 Customer billing and payments.

16.15.a. Billing Arrangements. A CES provider may:

1. bill customers directly for competitive electric services;

2. arrange for the local distribution utility to bill customers for such services; or

3. arrange to bill on behalf of the local distribution utility. This billing option will be available to large industrial and commercial customers as of the starting date of customer choice, and available to all other customers no later than four years after the starting date of customer choice.

16.15.b. Application of Payments. Customers' payments will be applied first to any LDC arrearage, then to LDC current charges, then CES provider arrearage, and then to CES provider current charges.

16.15.c. Adjustments for Meter Error. Any person providing billing services shall make prompt adjustments for meter error as provided in the Commission's rules.

1. If the distribution utility bills on behalf of the CES provider, the local distribution company shall make any necessary adjustments and/or refunds to the customer's total bill for meter error as provided in Rule 4.4. et seq.

2. If the CES provider bills for its own services or bills on behalf of the local distribution company, the CES provider shall make adjustments and/or refunds to the customer's bill for meter error as provided in Rule 4.4 et seq. within 30 days after receipt of notice of meter error.

16.15.d. Frequency and Contents. Customer bills issued by or for CES providers shall be accurate and understandable, be rendered at intervals stated in the contract (but at least bimonthly for residential and small commercial customers), and contain sufficient information for customers to compute and compare the total cost of service(s) supplied by their provider to the cost of comparable service(s) supplied by competing providers. Such bills shall also include the following information:

1. The customer's name, billing address, service address, and if applicable, the customer's LDC account number, and the CES provider's account number;

2. Type of competitive service and dates of service covered by the bill;

3. The applicable billing determinants, including beginning meter reading(s), ending meter reading(s), demand meter reading(s), multiplier(s), consumption(s), and demands;

4. Whether consumption was based on actual or estimated usage;

5. The customer's historical consumption during each of the preceding twelve months, along with a total and average consumption for such 12-month period;

6. An itemized listing of all services and billing components to enable the customer to recalculate the bill for accuracy;

7. The unit price charged for competitive service, as calculated by dividing the total current-period competitive service charges by the current-period consumption;

8. An identification of the provider of each service appearing on the bill;

9. A notice in bold-face type containing clear explanation for any change in services rates, terms, or conditions of service. Such notice shall appear on the first two consecutive bills following the occurrence of such change;

10. The amount billed for the current period, any

unpaid amounts due from previous periods, any payments or credits applied to the customer's account during the current period, any late payment charges or gross and net charges, if applicable, and the total amount due and payable;

11. The due date for payment to keep the account current (not less than 21 days following the customer's receipt of the bill);

12. Current balance of the account, if a residential customer is billed according to a budget plan;

13. Options, if any, and instructions on how customers may make their payments;

14. A listing of the CES provider's toll-free telephone number and address for customer billing questions or complaints, and instructions that the customer should first contact the CES provider on such matters before contacting any state agencies;

15. A listing of the consumer assistance telephone numbers and available hours for applicable state agencies, such as the Commission;

16. The LDC's 24-hour local/toll-free telephone number for reporting service emergencies; and

17. An explanation of any codes and abbreviations used.

16.15.e. If applicable, each CES provider shall, upon request, provide customers with the name and street address/location of the nearest payment center and/or authorized payment agent.

16.15.f. If applicable, when a customer pays the bill at a payment center or to an authorized payment agent, such payment shall be credited to the customer's account as of the day it is received by such payment center or agent.

16.15.g. Each CES provider shall establish policies and procedures for handling billing disputes, requests for payment arrangements, and reporting payments to prevent termination of contracted service.

16.15.h. If the LDC bills on behalf of the CES provider, and the portion of the bill related the CES provider's service becomes delinquent, the distribution utility shall recourse the bill to the CES provider for collection. The LDC shall not discontinue service or employ the threat of discontinuance of

service to obtain collection of the portion of the bill related to the CES provider's services.

16.16. Noncompliance with rules or orders.

16.16.a. Any electric service provider that fails to comply with any rule or Commission order may be subject to any and all of the following sanctions available under the law, including but not limited to:

1. Forfeiture to the State of civil penalties as allowed by State law. Each day's continuance of the violation shall constitute ~~is~~ a separate offense.

2. Suspension, revocation or termination of the CES provider's license.

3. Rescission of a customer contract.

4. Restitution or damages to the customer.

5. Any and all other sanctions provided under State law and Commission rules.

§150-3-17. Emergency Service Rules

17.1. Definitions

17.1.a. Control Area - A portion of the electrical network bounded by metering within which generation is controlled in real-time to regulate the aggregate flow of electrical energy through the boundary to match scheduled amounts, consistent with good utility practices.

17.1.b. Control Area Operator - The person responsible for directing the control of generation in a control area in order to balance supply and scheduled control area interchange.

17.2. Emergency Service.

17.2.a. A CES provider shall procure, and deliver into the appropriate control area each hour, sufficient electric supplies to meet the requirements of its West Virginia retail customer(s).

17.2.b. In the event a CES provider fails to deliver electric energy to meet the requirements of its West Virginia retail customer(s), the default service provider shall have an obligation to assure that emergency service to meet such requirements will be delivered. This obligation of the default

service provider may be met through appropriate agreements and terms and conditions among the default service provider, the control area operator and the CES provider.

1. Payment for such emergency service will be the responsibility of the CES provider in accordance with applicable tariffs and/or contractual arrangements. The CES provider will hold the control area operator and default service provider harmless from the costs of providing emergency service. The default service provider shall be entitled to full compensation for all its out of pocket costs regarding emergency service. Payment for the costs of providing emergency service will be the responsibility of the CES provider, which may be required to provide bonding for such purposes. Bonding requirements shall be established and administered by the default service provider on a non-discriminatory basis; provided, however that any disputes regarding the bonding requirements of a default service provider shall be subject to the jurisdiction of the Commission. Nothing herein shall limit the rights of a control area operator to recover from a CES provider any sums to which the control area operator is entitled.

2. Within 24 hours of being declared in default, the CES provider shall either notify its customer(s) and the default service provider that the CES provider has been declared in default, or resume delivering electric energy into the control area.

3. If the CES provider has been declared to be in default by the control area operator, the default service provider shall notify the CES provider's customer(s) within a reasonable period of time that they will be returned to default service. Unless a customer has chosen a new CES provider, the default service provider shall return a CES provider's customers to default service no sooner than 15 days following the mailing date of the notification to the customer of the CES provider's default.

4. Unless a customer has chosen a new CES provider within 75 days of return to default service pursuant to Rule 17.2.b.3. above, such return to default service shall be considered an exercise of the customer's "right to return" under Section 11 of the Restructuring Plan and the limitations on the right to return specified in Section 11 of the Restructuring Plan shall be applicable.

§150-3-18. Rules For Employee Protection Plans.

18.1. Protection for employees of incumbent electric utilities.

18.1.a. Commission review of impact of restructuring on employees - The Commission shall, on an annual basis or as otherwise determined by the Commission, review the impact of the electric restructuring plan on the relationships between incumbent electric utilities and their employees, and directly related industries and their employees. The Commission will issue periodic reports regarding such review.

18.1.b. Employee protection plan.

1. No later than November 15, 2000 each incumbent electric utility, excluding the non-generation public systems, shall file with the Commission an employee protection plan for the protection of jobs, employee benefits, job retraining, continuity of employee contractual rights and privileges, and continuity of benefits to present and future retirees. The Commission shall conduct such hearings, and issue such orders as it deems necessary with regard to such employee protection plans.

2. Each employee protection plan filed pursuant to Rule 18.1.b.1. shall include the following provisions:

A. Incumbent electric utility employees that are terminated without fault of their own as a direct result of the restructuring plan shall receive at least the following benefits, funded by the incumbent electric utility:

1. Severance pay equal to two weeks of base pay for each full year of full-time employment, not to exceed 52 weeks.

2. Any employee entitled to receive severance pay shall be eligible to receive health care insurance at the full benefit and contribution level of employees retained by the incumbent electric utility. Duration of eligibility for health care coverage shall be equal to the total number of full weeks of severance pay entitlement or until replacement coverage is obtained through re-employment, whichever occurs first.

3. Outplacement assistance, including assistance from the incumbent electric utility in seeking out any state or federal funds available to assist employees with job retraining.

4. Other benefits and programs that may be available to such employees, such as relocation assistance, educational assistance, employee counseling services, and early retirement programs.

B. In the event that an incumbent electric utility is currently obligated by a collective bargaining agreement or other company policy to provide benefits that exceed those listed in Rule 18.1.b.2.A., the incumbent electric utility shall provide the greater benefits until the obligation is changed through good faith negotiations or modification of company policy. In no event shall the benefits offered as a whole be less than those set forth in Rule 18.1.b.2.A.

C. Any collective bargaining agreement with an incumbent electric utility shall remain in effect for the duration of the agreement. Any new entity receiving incumbent electric utility property or operations as a result of sales, transfers, reorganizations or mergers shall, as a condition thereof, honor any existing agreement, recognize the existing bargaining unit, and be required to bargain in good faith with the existing bargaining unit when the agreement expires.

§150-3-19 Rules For The System Benefits Charge and Joint Labor-Management Council.

19.1. Definitions.

19.1.a. Low Income Customer or Low Income Families
A residential customer that receives special reduced rates for electric service pursuant to W. Va. Code §24-2A-1 et seq., and any other residential customer that meets low income eligibility guidelines established by the Governor's Office of Economic Opportunity (OEO).

19.1.b. Weatherization Assistance - Home energy education, family budgeting counseling, and physical energy conservation, such as retrofitting or modifying a structure.

19.2. Establishment of the system benefits charge.

19.2.a. Pursuant to Section 19 of the restructuring plan, a system benefits charge (SBC) of \$.0003 (0.3 mils) per kilowatt hour on all retail electric energy delivered to retail customers in the State is hereby imposed.

19.2.b. The minimum monthly SBC to any retail customer shall be \$0.60 and the maximum monthly SBC to any retail customer shall be \$ 450.00.

19.2.c. Assessment and collection of the SBC shall begin on the starting date of customer choice.

19.2.d. The SBC shall be in effect for a period of ten years from the starting date of customer choice, and may be

extended pursuant to Commission action.

19.2.e. Low income customers receiving "special reduced rates" pursuant to W. Va. Code §24-2A-1 et seq. shall be exempted from the requirement to pay the SBC.

19.3. Collection and distribution of revenues from the system benefits charge.

19.3.a. The SBC shall be reflected in an appropriate tariff of, and collected by, each LDC. Collection of the SBC is subject to the Commission's jurisdiction.

19.3.b. Any person served through multiple meters, or at multiple delivery points, at a single location or on contiguous properties, shall be treated as a single retail customer, provided, however, that the customer has the burden of demonstration that it is a single retail customer.

19.3.c. The Commission shall establish a trust account to receive payments of SBC revenues collected by LDCs. LDCs shall remit all SBC revenues to the Commission on a monthly basis. All SBC revenues collected during a calendar month shall be remitted to the Commission by the twenty-fifth day of the calendar month immediately following.

19.3.d. The Commission shall transfer the SBC revenues to the OEO, and the Joint Labor-Management Council on a regular monthly basis. The SBC revenues shall be distributed as follows:

1. Two-thirds of the revenues generated from the SBC shall be deposited in a trust fund account administered by the OEO, for the benefit of low income customers and low income families.

2. One-third of the revenues generated from the SBC shall be deposited in the trust fund account established by the Joint Labor-Management Council pursuant to Rule 19.5.c.

19.4. Protection for low income customers and low income families.

19.4.a. Distribution of revenue generated from the SBC.

1. The OEO, shall establish a trust fund account to receive SBC revenues from the Commission. The OEO, is empowered to disburse such revenues for the benefit of low income customers and low income families in accordance with the restructuring plan.

2. The revenues deposited in the trust fund account, as specified in Rule 19.4.a.1., shall be distributed through the OEO's existing weatherization provider system as

follows:

A. Fifty percent (50%) of the revenues shall be used to assist low income customers in the payment of electric bills.

B. Fifty percent (50%) of the revenues shall be used to provide weatherization assistance to low income families.

19.4.b. The OEO, shall file with the Commission, no later than January 31 of each year, an annual report of its activities to assist low-income customers and low-income families and its disbursement of funds.

19.4.c. Modification of distribution.

1. Any person²² may make application to the Commission after the third, ~~fifth~~, and seventh ^{7th} years of the starting date, requesting modification of the distribution of the SBC revenues for the benefit of low income³ customers and low income families as set forth in Rule 19.4.a..² above.

2. Notwithstanding Rule 19.4.c.1., the Commission shall not modify the amount and applicability of the SBC to low income customers and low income families.

19.5. Protection for employees in directly related industries.

19.5.a. Joint Labor-Management Council.

1. No later than November 15, 2000, the Commission shall establish the Joint Labor-Management Council.

2. The Joint Labor-Management Council shall be composed of eight members, four of which shall be appointed by the West Virginia AFL-CIO, and four of which shall be appointed by the West Virginia Chamber of Commerce. Of the members appointed by the West Virginia AFL-CIO, at least one shall be a representative of workers in the mining industry and at least one shall be a representative of workers in the construction industry. Of the members appointed by the West Virginia Chamber of Commerce, at least one shall be a representative of the mining industry and at least one shall be a representative of the construction industry.

19.5.b. The purpose of the Joint Labor-Management Council is:

1. to review and monitor the effects of the restructuring plan on employees in industries directly related to the electric utility industry, such as mining, construction and transportation;

2. to determine if any employees in industries

directly related to the electric utility industry have been terminated without fault of their own as a direct result of the restructuring plan; and if so,

3. to provide assistance with retraining, education, counseling, and outplacement for such employees within the limits of the resources provided in the restructuring plan.

19.5.c. The Joint Labor-Management Council shall establish a trust fund account to receive and disburse SBC revenues from the Commission. The Joint Labor-Management Council is empowered to disburse such revenues in accordance with the restructuring plan.

19.5.d. The Joint Labor-Management Council is empowered to work with other funds and programs which provide worker retraining, education, counseling and outplacement in order to maximize the resources available for such activities.

19.5.e. The Joint Labor-Management Council may promulgate internal rules as necessary.

19.5.f. The Joint Labor-Management Council shall file with the Commission, no later than January 31 of each year, an annual report of its activities and disbursement of funds.

19.5.g. Any undisbursed SBC funds remaining in the trust fund account administered by the Joint Labor-Management Council at the end of the tenth year following the starting date shall be disbursed as directed by the Commission.

~~P.S.C. W. VA. FORM NO. 14-E~~
Attachment A
Page 1 of 2

ELECTRIC FORM NO. 1
Page 1 of 2

(Insert Company Name Here)

NOTICE OF SCHEDULED TERMINATION OF SERVICE
AND CUSTOMER RIGHTS

We have scheduled your _____ service
provided at

_____ for termination
(address)

on or after _____
(date)

This action has been taken for the following reason(s):

(Include reason and facts resulting
in decision to terminate service).

If your service is terminated you may be subject to additional
charges involving reconnect fees and deposit requirements in order
to restore service.

YOU HAVE THE RIGHT TO CHALLENGE THE TERMINATION IF YOU BELIEVE ANY
OF THE FOLLOWING CONDITIONS APPLY TO YOU:

1. Any portion of the bill is in dispute
2. You are being charged for service not received
3. The information above is incorrect
4. You are unable to pay the bill in accordance with the
billing, and termination of service would be specially
dangerous to the health or safety of a member of your
household
5. You are able to pay only in installments

If the reason for your challenge is 1, 2, or 3 above, you will
have to pay any amount not in dispute. If the reason for your
challenge is 4 or 5, we will attempt to negotiate a deferred payment
plan with you.

YOU MUST NOTIFY US BEFORE THE DATE OF TERMINATION IN ORDER TO
PROTECT YOUR RIGHTS UNDER THIS RULE:

(Provide instructions for contacting the appropriate
local distribution company personnel by telephone and
mail, including business hours)

~~P.S.C. W.Va. Form No. 14-E~~
~~Attachment A~~
~~Page 2 of 2~~

Electric Form No. 1
Page 2 of 2

You should also inform us if you are 65 years or older, or regardless of age, if you are physically, mentally, or emotionally incapacitated.

Once you have notified us of your challenge, we will schedule a meeting at the business office nearest to your residence and try to resolve your problem. At your option, the discussion of your challenge may be made over the telephone. IF YOU ARE NOT SATISFIED WITH OUR DECISION AT THIS MEETING, YOU WILL HAVE SEVEN DAYS IN WHICH TO FILE AN APPEAL WITH THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA. You will be required to pay your current bill while the appeal is pending. There is no charge associated with filing an appeal and you may do so without the assistance of an attorney.

To file an appeal with the PSC, you may call this toll free telephone number 1-800-642-8544 or write to this address:

Local Distribution Company Appeal
Public Service Commission of West Virginia
P.O. Box 812
Charleston, West Virginia 25323

If you are in need of assistance to pay your bill you should contact the following agencies: (List agencies in service area).

If you desire the assistance of a lawyer with regard to the scheduled termination and are unable to pay for legal counsel, contact one of the following low income legal assistance organizations: (List agencies in service area).

~~P.S.C. W.Va. FORM NO. 14-ME~~
Electric Form No. 2

notice

The electric service at this building,
 _____, is scheduled for
 (address)

termination on or after _____.
 (date)

This action has been taken for the following reason(s):

**(Include reasons and facts resulting
 in decision to terminate service.)**

In order to avoid termination one of the following steps may be taken:

- a. the current customer must pay its bill or enter into arrangement to pay with the local distribution company or
- b. one or more tenants must apply for service in their own names becoming a new customer of the local distribution company. The new customer will not be responsible for the delinquency incurred by the former customer.
- c. Although either of these steps will avoid termination, you are encouraged to seek legal advice and assistance regarding other rights that you may have.

Electric Form No. 3

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered by the Public Service Commission of West Virginia, in the
City of Charleston on the _____ day of _____, 200 .

CASE NO. _____

[Name and address of applicant]

Application for a license to operate as
a competitive electric service provider
within the State of West Virginia.

NOTICE OF FILING
OF APPLICATION TO BE LICENSED AS A
COMPETITIVE ELECTRIC SERVICE PROVIDER

WHEREAS, on _____, 200 , the [name and address of
applicant] filed an application, duly verified, for a license to operate as
a competitive electric service provider within the State of West Virginia
[may specify certain areas of the State if not proposing to provide
statewide service]; and

WHEREAS, [name of applicant] has proposed to provide [identify the
type(s) of services to be provided] to retail customers [if only proposing
to serve certain classes of customers, identify those classes].

Pursuant to the Commission's Rules for the Licensing of Competitive
Electric Service Providers, IT IS ORDERED that the [name of applicant] give
notice of the filing of said application, by publishing a copy of this
order once in a newspaper duly qualified by the Secretary of State,
published and of general circulation in each of the following [Cities
of/Counties of] _____, making due return to this
Commission of proper certification of publication immediately after
publication [or on or before _____, 200]. Anyone
desiring to make objection to said application must do so in writing,
within fifteen (15) days after the publication of this notice, to the
Public Service Commission of West Virginia, P.O. Box 812, Charleston, West
Virginia, 25323.

IT IS FURTHER ORDERED that if no protests are received within said 15
day period, the Commission may waive formal hearing and grant the
application of [name of applicant] based on the evidence submitted with
said application and the Commission's review thereof.

 Executive Secretary

VERIFICATION

STATE OF _____

COUNTY OF _____ to wit:

_____ of the _____
(Officer, Partner or Owner) (Company)

the applicant(s) named in the foregoing application, being duly sworn, says that he knows the contents of said application, and that the facts therein are true and are accurately based upon the books and records of the company.

(Title)

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

My Commission expires _____, 19____.

(Notary Public)

Contact Officer _____

Telephone Number _____

FORM CONCERNING METER TESTING
(Front)
Qualification Card for Electric Meter Testers

Name _____ Age _____ Date _____
 Address _____
 Title _____
 Employer _____ Shop Location _____
 Supervisor-Name _____ Title _____

Type of Work	General Experience Company	Years
_____	_____	_____
_____	_____	_____
_____	_____	_____

Type of Meter Years	*Meter Test Experience Nature of Work		Company
Shop Testing -			
Single Phase Meters _____	_____	_____	_____
Polyphase Meters _____	_____	_____	_____
Demand Meters _____	_____	_____	_____
Field Testing -			
Single Phase Meter _____	_____	_____	_____
Polyphase Meters _____	_____	_____	_____
Demand Meters _____	_____	_____	_____
Shop Testing and Repairing -			
Single Phase Meter _____	_____	_____	_____
Polyphase Meters _____	_____	_____	_____
Demand Meters _____	_____	_____	_____
Field Testing and Repairing -			
Single Phase Meter _____	_____	_____	_____
Polyphase Meters _____	_____	_____	_____
Demand Meters _____	_____	_____	_____
Remarks _____	_____		_____

*State, under remarks, in detail the type or kind of work done on meters.

Should this application be approved, I will test, or supervise the testing of, all electric meters in accordance with the Rules and Regulations for the Government of Electric Utilities of the Public Service Commission of West Virginia, and will not seal or approve for installation any meter that does not meet all of the requirements of the Rules and Regulations for the Government of Electric Utilities of the Public Service Commission of West Virginia.

 Signature

(Back)

Certificate of Competency

I, _____
Name Title
of the _____ certify

Electric Company

that I have read the questions and answers on this card, relative to the experience of _____ and that they are true and

(Name of Employee)

correct to the best of my knowledge and belief. I further certify that the above named employee is competent to test and repair _____

Single Phase

_____ Meters and will, in my opinion, faithfully and honestly discharge the duties of meterman.
Polyphase Demand

Signature

(Must hold a valid test card from PSC)

To be Completed by the Public Service Commission

The above employee has been authorized to test, or to supervise such tests of, Electric Meters as shown below.

	Shop Testing	Field Testing	Shop Testing and Repairing	Field Testing and Repairing
Single Phase Meters _____	_____	_____	_____	_____
Polyphase Meters _____	_____	_____	_____	_____
Demand Meters _____	_____	_____	_____	_____

Engineer

(Front)

**Electric Meter Testing Card
Public Service Commission
of West Virginia**

No. _____ Date _____

Name of Employee

is hereby authorized to test the following type of types of electric meters:

	Shop Testing	Field Testing	Shop Testing and Repairing	Field Testing and Repairing
Single Phase Meter _____				
Polyphase Meters _____				
Demand Meters _____				
Utility _____				
Shop location _____				

Engineer

(Over)

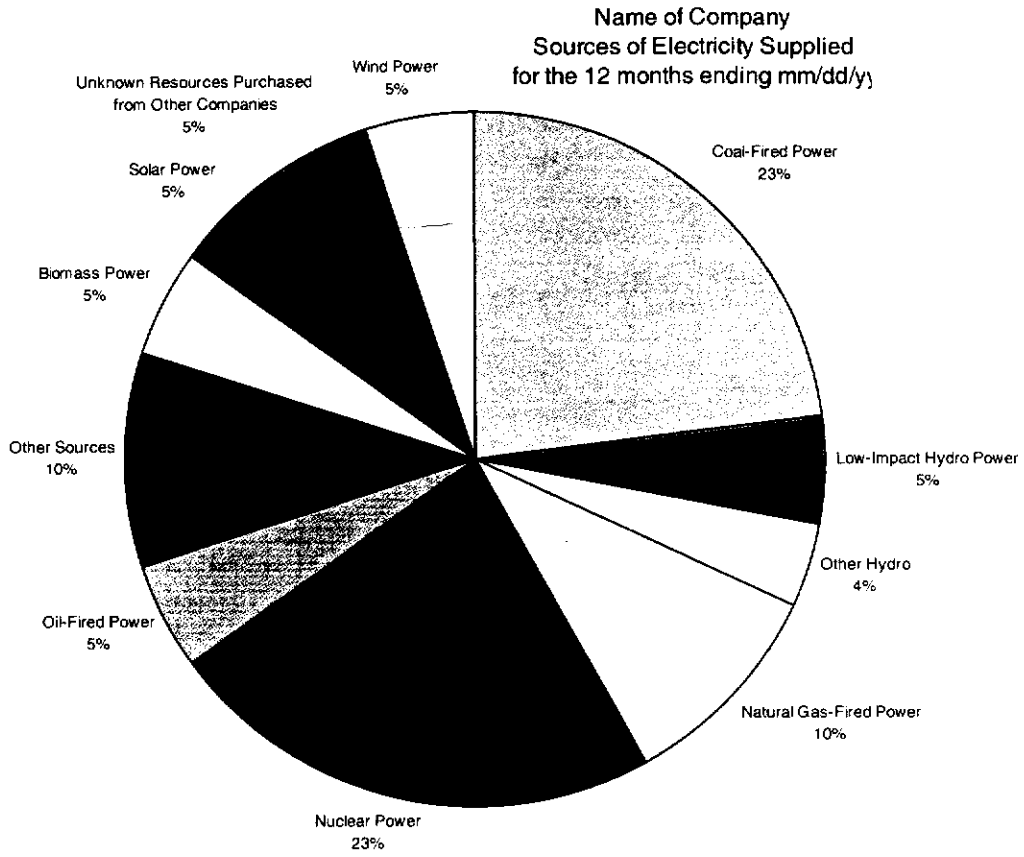
(Back)

This card must be returned to the Utilities Division, Public Service Commission of West Virginia by the _____ when _____ leaves the employ of the company or ceases to serve as meterman.

COMPANY NAME
PROJECTED ENVIRONMENTAL DISCLOSURE DATA
For the period MM/DD/YY through MM/DD/YY

Fuel Sources (listed alphabetically)	Company Average	ECAR Average
Biomass Power	5%	1%
Coal-Fired Power	23%	75%
Low-Impact Hydro Power	5%	0%
Other Hydro	4%	2%
Natural Gas-Fired Power	10%	5%
Nuclear Power	23%	10%
Oil-Fired Power	5%	0%
Other Sources	10%	0%
Solar Power	5%	0%
Unknown Purchased Resources	5%	7%
Wind Power	5%	0%

Form EI2



Form E13

**NAME OF COMPANY
AVERAGE AMOUNT OF EMISSIONS
AND NUCLEAR WASTE**

**Per 1000 kilowatt hours (kWh)
Produced from KNOWN sources
For the 12 months ending mm/dd/yy**

	Company Average	ECAR Average
Carbon Dioxide	__ lbs/1,000kwh	__ lbs/1,000kwh
Nitrogen Oxides	__ lbs/1,000kwh	__ lbs/1,000kwh
Sulfur Dioxide	__ lbs/1,000kwh	__ lbs/1,000kwh
High-Level Nuclear Waste	__ lbs/1,000kwh	__ lbs/1,000kwh
Low-Level Nuclear Waste	__ cf/1,000kwh	__cf/1,000kwh

Public Service Commission

Richard E. Hitt, General Counsel



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

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

August 16, 2000

Judy Cooper, Director
Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
1900 Kanawha Blvd. E.
Charleston, WV 25305-0771

RE: Rules and Regulations for the
Government of Electric Utilities

Dear Judy:

Enclosed for filing is the proposed rulemaking regarding Rules and Regulations for the Government of Electric Utilities.

In addition, I have enclosed a fiscal note, a summary of proposed rules, a statement of circumstances, and a notice of comment period on proposed rules.

If you have any questions or concerns, please do not hesitate to bring them to my attention as soon as possible.

Sincerely,

Richard E. Hitt / *by C. W. Watson*
Richard E. Hitt
General Counsel

REH/CWS/jb
Enclosures