

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #2

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**FILED**

**AUG 29 4 30 PM '95**

**OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE**

AN EXTENSION OF  
**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: Public Service Commission TITLE NUMBER: 150  
RULE TYPE: Exempt Legislative; CITE AUTHORITY W.Va. Code §§12-1-7, 24-2-1, 24-2-2, 16-13A-9 and 8-18-2  
AMENDMENT TO AN EXISTING RULE: YES  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: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON Initial Comments - 10/31/95 AT THE END OF THE REPLY COMMENT PERIOD. Reply Comments - 11/29/95 ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING

ADDRESS.

Public Service Commission

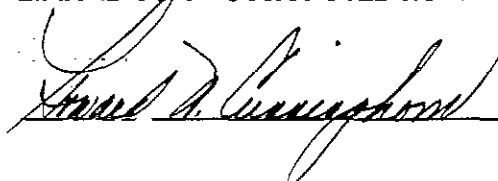
Howard M. Cunningham

201 Brooks Street

P. O. Box 812

Charleston WV 25313

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



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

P.S.C.  
Leg. Rule/Adm. Reg. 24-1  
Series III

IN THE MATTER OF amendment to the Commission's  
Rules and Regulations for the Government of  
Electric Utilities.

FISCAL NOTE

This is a fiscal note issued pursuant to W.Va. Code §§29A-3-4, 5, 9 and §24-1-7 relating to the Commission's General Order No. 184.10.

I. OBJECTIVES OF THE RULE

The objective of this rulemaking is to amend the Commission's Rules and Regulations for the Government of Electric Utilities to change certain termination notice requirements; apply certain deferred payment requirements to commercial and industrial customers; change the mechanism for calculating interest which utilities pay on customer deposits; require a life support registry and certain related requirements; require certain notice prior to utility right-of-way clearing; modify the extension rule; modify rules relating to adjustments due to malfunctioning meters; and modify the promotional practices rules.

II. COSTS OF IMPLEMENTING THE PROPOSED RULE

There will be no significant implementation cost relating to the amendments to the rule for the State of West Virginia. The cost of implementation for the utilities is difficult to estimate and remains undetermined.

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.)

None.

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

A rule will change termination notice requirements. It will allow utilities to pay a more market based interest rate on customer deposits. It will require utilities to develop a life support registry. It will require certain notice prior to right-of-way clearing. It will modify the extension rules to provide

### SUMMARY OF PROPOSED RULES

The amendments would change certain termination requirements. The amendment defines the personal notice requirements of an electric utility before it can petition the Commission for waiver of the personal notice requirement. The amendment changes the method for calculation of interest which utilities pay on customer deposits. The amendment requires utilities to develop a life support registry. It requires certain notice before right-of-way clearing and modifies the extension rules. It modifies the promotional practices rule. It modifies rules relating to adjustments due to malfunctioning meters.

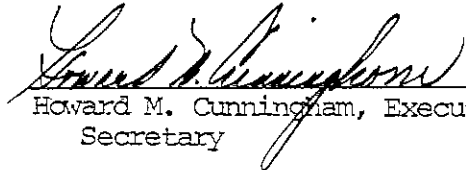
PUBLIC NOTICE

The Public Service Commission has initiated a general rulemaking to amend its Rules and Regulations for the Government of Electric Utilities. The purpose of the proposed amendments is to change certain termination requirements. They develop specific requirements of what attempts at personal contact a utility must attempt before petitioning the Commission for a waiver of the personal notice requirement. They change how the interest rate is calculated for customer deposits. The amendments modify rules relating to adjustments due to malfunctioning meters. The amendments require a life support registry and certain related requirements. They also modify the extension rules and require certain notice to landowners before a utility clears a right-of-way. The amendments modify the promotional practices rules. Anyone wishing to be provided a copy of the proposed rules should address inquiries to Howard M. Cunningham, P. O. Box 812, Charleston, WV 25323. Any person wishing to make comments on the proposed amendments shall do so in writing to the Executive Secretary on or before October 30, 1995. Any party wishing to make reply comments shall do so on or before November 29, 1995. Any person seeking a hearing on the proposed amendments shall do so in writing and state the grounds for the request before November 29.

for a more uniform method of extending utility service. It will modify the promotional practices rules. It will apply certain deferred payment requirements to commercial and industrial customers and change certain termination requirements. It will have minimal economic impact to the State as a whole.

DATE: August 29, 1995 . AGENCY: Public Service Commission

SIGNATURE OF AUTHORIZED REPRESENTATIVE:

  
Howard M. Cunningham, Executive  
Secretary

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8/28/95

TITLE 150  
LEGISLATIVE RULE  
PUBLIC SERVICE COMMISSION

SERIES 3  
RULES AND REGULATIONS FOR THE GOVERNMENT  
OF ELECTRIC UTILITIES

§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.

1.2. Authority -- West Virginia Code §§24-1-1, 24-1-7, 24-2-1 and 24-2-2.

1.3. Filing Date -- August 29, 1995

1.4. Effective Date --

1.5. Amendment of Former Rule. -- This legislative rule amends West Virginia Legislative Rule "Public Service Commission, Chapter 24-1, Series III, Rules and Regulations for the Government of Electric Utilities", filed October 7, 1988. Subsection heading of the standard format.

1.6. Authorization of rules.

1.6.1. These rules are intended to insure adequate service to the public, 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.

1.6.2. 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 the utility.

1.6.3. These rules shall not relieve in any way a utility from any of the duties under the laws of this State.

1.7. Application of rules.

1.7.1. These rules apply to public utilities as defined in regulation 1.8.

1.7.2. 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.

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.

\$150-3-2. Records, reports and other information to be supplied to the Commission.

2.1. Records and reports.

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

a. 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. 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.

2.1.2. Location of records --

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

b. If kept outside of the State they shall be brought to the utility's office in West Virginia upon the request of the Commission or the 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.

2.1.3. Reports to the Commission --

a. Each 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. Each 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 electric utility in West Virginia.

2.2. Filing of rate schedules.

2.2.1. 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 utility with the Secretary of the Commission before they become effective.

2.2.2. Manner of filing -- Tariffs containing all the rates, rules and regulations of each 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. 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. Utility's special rules -- 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. 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 utility that have not been approved by the Commission.

2.3. Financial and statistical report.

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

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

2.3.4. 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 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.

2.5. Maps and records.

2.5.1. Each 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.

2.5.2. 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.

2.5.3. The maps, plans and records required by the provisions of this rule shall be kept up to date so that the 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. 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 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.

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

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

b. 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. Focused -- An in-depth investigation of one or several specific areas of a utility's management and operations.

2.6.3. Frequency -- The Commission shall order a management audit of any utility under its jurisdiction whenever the Commission deems it necessary to investigate the operational efficiency of the 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 service functions in its West Virginia jurisdiction.

## 2.6.4. Conduct and control --

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

c. The 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 utility as its management audit coordinator, who shall be responsible to assist in the efficient performance of the management audit.

2.6.5. Costs -- It shall be the responsibility of the audited 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 utility. The Commission may allow such costs to be recovered in the utility'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 utility and its customers.

## 2.6.6. Implementation of recommendations --

## a. Draft report.

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

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

## b. 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 utility.

B. Within thirty (30) days of the final submission of the management audit report, the utility shall

file a document detailing its position on each audit recommendation. This document must state which recommendations are acceptable to the utility and the nature of the utility's disagreement with any recommendations.

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

d. The 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 utility should adopt. The utility shall not deviate from an approved implementation plan without prior notice to the Commission which specifically states the utility's reasons for departing from the approved plan.

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

f. 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. 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. Metered --

a. All electric energy sold within the State of West Virginia shall be by meter measurements, except street lighting, outdoor lighting and traffic signal service.

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

3.1.2. 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. Waste or fraud --

a. The 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. 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 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. Utility rules and regulations -- Each 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 utility, such utility shall require compliance with the following general provisions.

3.2.2. Accessibility -- All meters owned and installed by the 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.

3.2.3. Outdoor --

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

b. 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.

3.2.4. 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.

3.2.5. 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.

3.2.6. 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.

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

3.2.8. Duty of customer --

a. Proper provision must be made for the installation of the utility'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 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 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. 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. Equipment --

a. 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.

b. - Each 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 utility serves more than 750 customers, it shall maintain available for use a recording voltmeter suitable for securing a record of voltage of supply.

3.4. Master metering.

3.4.1. Multiunit residential dwellings such as apartment houses, row houses, condominiums, etc., should be individually metered rather than master metered unless the 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.

3.4.2. Each electric utility 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.

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.

4.1.2. Explanation of rates -- It shall be the duty of the utility to explain to the customer, at the beginning of service, or whenever the customer shall request the utility to do so, the utility'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 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 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.

4.1.3. 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.

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

4.1.5. Posting of law, rates, rules and regulations --

a. Every 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 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 the Commission's Rules and Regulations for the Government of Electric Utilities.

b. A suitable placard in large type shall be

placed in each business office of the 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.

4.1.6. Information as to service -- Each 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. Security deposits --

a. Security deposit -- A utility may require an applicant or customer to make a deposit as a guarantee for the payment of 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 utility from loss. The utility shall not be bound to supply electricity until these conditions are 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, the utility shall promptly and automatically refund the deposit plus accrued interest. ~~Calculation of the above twelve consecutive months, the utility shall promptly and automatically refund the deposit plus accrued interest.~~ Calculation of the above twelve consecutive months period shall commence from the first regular payment or following the payment of a past due bill or bills. ~~Simple interest at the rate of eight percent (8%) per annum shall be paid at date of discontinuance of service or at the end of the above return period.~~ Provided, That the deposit remains with the utility for a period of six months or longer. 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 inform the utilities of the rate to be used for the rest of the calendar year. The simple interest shall be paid at the date of discontinuance of service or at the end of the deposit period. The 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. 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.

c. Record of deposit -- Each 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.

d. The receipt -- Concurrently with receiving a cash deposit, the 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 rate of interest to be paid thereon. Each utility shall provide reasonable records to refund the deposit of a customer, when the customer is so entitled, even if the original receipt cannot be produced. A receipt or proof of payment will not be necessary under the provisions for an automatic refund.

e. Unclaimed deposits -- Should a 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 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 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 utility shall not be liable for any interest on such deposit after publication of such lists. (See West Virginia Code §34-2-1).

#### 4.2.2. Guaranty agreement --

a. 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. 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 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 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 utility from loss, a cash deposit or a new guaranty agreement may be required upon written notice to the customer.

#### 4.2.3. 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 utility service.

#### 4.3. Billing information.

4.3.1. 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 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.

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

4.3.3. Mechanical billing -- Utilities desiring to adopt mechanical billing of such nature as to render compliance with all of the terms of Rule 4.3.1. 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.

4.3.4. Billing period -- Meters will be read as nearly as possible at regular intervals except as otherwise provided in the utility'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. 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 6.4., to determine the average error of the meter.

a. 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 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 4.4.4.). 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. After making such recalculations the utility shall refund to the customer the difference between the amount previously billed and the amount calculated as being the proper charge.

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

a. When a meter upon periodic, request or complaint test, is found to have an average error of more than two percent (2%) slow, the 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. After making such recalculations the 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.

4.4.3. 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 utility, where applicable, shall be that percentage of error as determined by the test. It is the duty of the 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.

4.4.4. Refunds -- The burden of maintaining measuring equipment, so that it will register accurately, is upon the 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 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 control.

4.4.5. Notification -- 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 utility.

4.4.6. Non-registering -- If a meter is found not to register for any period, the utility may estimate the consumption and demand, based on a like period of similar use, and any other pertinent facts. When a meter is found to be non-registering, the 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 cannot be tested for load. A utility shall retain a non-registering meter for a minimum of 60 days following a rule 4.4.5 notice.

4.5. Complaints.

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

4.5.2. Records of complaints -- The 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.

4.5.3. 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 utility respecting any bill, the 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 utility shall, before service is discontinued, comply with the provisions of Rule 4.8.

#### 4.7. Customer discontinuance of service.

4.7.1. Any customer desiring to have its service discontinued shall give at least three (3) days' notice thereof to the utility, unless a longer or shorter period shall be incorporated in any standard or special contract mutually agreed upon. Until the utility shall have such notice, the customer may be held responsible for all service rendered.

4.7.2. If service is disconnected at the request of the customer, the 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. Utility discontinuance of service.

4.8.1. Grounds for discontinuance and procedure to be followed:

a. 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 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. Form No. 14-E 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 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

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 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 decision to terminate is erroneous, (d) that he is unable to pay for such service in accordance with the requirements of the utility'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 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 decision to file an appeal with the Commission. Service may not be terminated from the date the 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.

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) The details of the deferred payment agreement are to be negotiated between the 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) 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 utility which charges interest on unpaid balances pursuant to tariff shall be precluded from charging additional interest pursuant to this rule.

(c) 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) 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) If the deferred payment is not received in accordance with the terms of the agreement, the 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 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) Once a deferred payment agreement has been established, if the customer's financial conditions significantly change and the existing payment works a hardship, the utility shall renegotiate the payment agreement, consistent with the provisions of Rule 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 utility within 10 days after the utility informs the customer of the circumstances set forth in Rule 4.8.1.a.D., and must be renewed every thirty days, starting from the date the certification is sent to the 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 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.

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 business office is not open to accept payment or on a day proceeding a day on which the utility's business office is not open to accept payment. 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 utility shall accept payment at the customer's premises in lieu of discontinuing service.

I. A utility may terminate service without notice when, absent such termination, a condition hazardous to life or property would exist. If a 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 a landlord of a master-metered apartment building, motel, hotel, or other multiple-unit dwelling is responsible for payment of a utility bill, written notice of termination shall be placed at a location readily available for public inspection at least five (5) days prior to the scheduled termination of that apartment building, motel, hotel or other multiple-unit dwelling in order to provide notice of the scheduled termination to the tenants of said apartment building, motel, hotel or other multiple-unit dwelling. This notice shall inform the tenants of the date on or after which termination of service will occur and shall

state the steps the tenants can take to avoid termination of service. If the billing address for any single unit service is different than the service location, a written notice shall be delivered or posted at a visible location on the premises where the service is to be terminated at least five (5) days prior to the scheduled termination. The notice shall inform the occupant of the date upon which, or after, termination of service will occur and shall state the steps the occupant can take to avoid termination of service.

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 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 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., and 4.8.1.a.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.~~

L. 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. 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.

M. A bill which has been found or that can reasonably be judged to be contractually uncollectible pursuant to the West Virginia Code shall not be used by a utility to deny or discontinue service.

4.8.2. Charge for reconnection -- Whenever utility service is terminated pursuant to Rule 4.8.1. above, the 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.

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

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

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

c. 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. 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.

4.8.4. 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. Non-compliance with rules and regulations -- Any 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 utility.

4.9.2. Applicant's facilities inadequate -- The 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 utility be under any obligation to inspect the wiring or appliances of the customer.

4.9.3. Applicant's recourse -- In the event that the utility shall refuse to serve an applicant under the provisions of this rule, or any other rule incorporated herein, the 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 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. Access to property.

4.11.1. The 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 reasonable access to their premises for the above purposes shall be deemed to be sufficient cause for discontinuance of service on the part of the utility.

4.11.2. 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 utility. The identification card shall contain a photograph of the employee and the telephone number of the 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.

#### 4.12. Service interruptions.

4.12.1. Record -- Each 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.

4.12.2. Notice required -- Insofar as is practical, every customer affected shall be notified in advance of any planned ~~contemplated~~ work which will result in interruption of service ~~of any long duration~~, but such notice shall not be required in case of interruption due to emergencies, ~~or~~ accidents, ~~the elements,~~ acts of God, public enemies, or strikes, ~~or orders of court~~ which are beyond the control of the utility.

#### 4.13. 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.

4.14. Resale of electric energy.

Electric energy shall not be furnished by a public utility to any customer for resale, unless the customer is engaged in the business of distributing electric energy as a public utility.

4.15. Residential conservation service program.

4.15.1. A public utility 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. All amounts expended by a public utility 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. All amounts expended by a public utility 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. All amounts expended by a public utility 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 in carrying out a utility program under NECPA, including Class B Energy audits, may be recovered by the utility 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.

d. All amounts expended by a public utility 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.

4.16. Reduced rates for low income residential customers.

4.16.1. Tariff filings --

Within fifteen (15) days of the adoption of this rule, every public utility, 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 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 a utility shall be twenty percent (20%) less than the rate(s) charged for the same service under that utility'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 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 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 standard residential rate schedule.

Each 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.

4.16.2. Utility's responsibility upon application for special reduced rate --

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

- a. any current customer, and
- b. 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. 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. Each 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 determination with respect to the application.

e. 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.

4.16.3. Provision of service under special reduced rate -- In determining whether an applicant is eligible to receive special reduced rates, 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 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.

4.16.4. Certification of deficiency --

Once a year, beginning in the year 1984, each 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 standard residential rates. Each such application should contain sufficient information to enable the Commission to determine the revenue deficiency experienced by the utility making the application. This information shall include a comprehensive monthly report of the utility'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 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.

#### 4.16.5. Notice to customers --

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

The 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.

#### 4.17. Notice to landowners of right-of-way clearing activity --

4.17.1. All electric utilities will make reasonable efforts to know the current identity, address and phone number of all landowners that would be impacted by right-of-way clearing activities as defined by West Virginia Code §61-3-48(a)(b) and (c).

4.17.2. Prior to engaging in any routine right-of-way clearing activity, every electric utility will provide notice to the affected landowner either in writing via first class mail, personally or by telephone. The notice will include the approximate date the clearing is to take place; the approximate scope of the work including but not limited to the clearing methods to be used; the size of the right-of-way; whether trees are to be trimmed or cutdown; and the method used

to dispose of debris caused by the utility's actions.

4.17.3. Prior notice to landowners is not required in a case of sudden emergency endangering persons, property, or the general public. However, each electric utility will provide notice after the fact to the landowner of the acts performed without prior notice by reason of emergency.

4.17.4. Whenever telephone or personal contact has been used for notification purposes, in lieu of written notice, the utility shall have the burden of proof regarding the content and context of the notification.

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

(1) Each 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.

(2) The registry will be updated by the utility at least every six months.

(3) Each utility shall inform all new customers of the registry and its purpose.

(4) Each utility will provide a reasonable notice of planned power outages to each residence or customer on the registry.

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

§150-3-5. Engineering requirements.

5.1. Standard practice.

5.1.1. 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.

5.1.2. 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.

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

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

5.2. Adequacy of facilities.

5.2.1. Generating -- The electrical generating capacity of any utility'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.

5.2.2. Distribution -- The transmission system shall be so designed, constructed, maintained and operated as to enable each electric utility 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. Export -- Where an electric utility transmits energy out of the State, the Company shall accurately meter and record the flow of such energy.

5.3.2. 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.

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

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

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

5.4.2. Methods -- Such marks shall be made with paint, stamps, brands, plates or other satisfactory method as the 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.

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

5.4.4. 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.

5.4.5. Filing method -- Each 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.

5.4.6. Pole tags -- Each 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.

~~5.5.1. Urban extensions -- All 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.~~

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

#### 5.5.1. Extension of Facilities at Customers Request --

The extension of the utility's facilities for the supply of electric service to a customer or a group of customers requesting such extension will be made in accordance with this rule. In calculating costs pursuant to this rule, the customer shall not be charged for any costs over those reasonably necessary to serve the customer. Any extension financed in whole or in part by customers will become the property of the utility and every customer participating in the financing will agree that the ownership of the line extension is vested in utility.

#### 5.5.2. Free extension limit --

No financing of facilities will be required of customers under the following conditions:

a. When the estimated cost of the extension, excluding the cost of facilities specified in Rule 5.6., does not exceed estimates of the amount of net revenue (gross revenue minus the energy portion of purchased power or the fuel cost of produced power) to be derived from the customers during the first six years following completion of the extension, or

b. When, in the case of residential customers, the length of the extension is not greater than one span of primary or secondary line per customer, excluding service

drops.

5.5.3. Customer advance for construction ---

For extensions which exceed the free extension limit, financing will be required of customers in the form of customer advances for construction. The part of the estimated construction cost which is in excess of the free extension limit shall be advanced by the customer(s). Limited term financing of construction advances is permitted providing that the financing is offered at reasonable terms and conditions on a non-discriminatory basis. If actual construction cost is less than the estimate, the utility shall recalculate the customer advance and refund the difference to the customer.

If actual construction cost is greater than the estimate the utility shall recalculate the customer advance. An additional amount owed by the customer equal to or less than 10% of the advance shall be paid to the utility immediately. Any amount due in excess of ten percent of the original advance may be, at the customer's option, paid immediately to the utility, paid in installments, without interest of over a period not to exceed twelve months; or financed over a period not to exceed ten years at an interest rate equal to the interest rate paid on customer deposits.

When additional customer(s) are connected to an extension financed under this plan or new extension is made from such customer financed extension, during the initial ten year period following the date of initial connection of service, the amount of the original construction deposit per customer will be adjusted to the amount which would have been required if the extension, including the addition(s) were considered as a single project, provided that such recalculation results in lower construction deposit(s) for the original customer(s). The difference will be refunded, without interest, to the original customer(s).

5.5.4. Temporary service or limited life --

If the utility is requested to extend or add to its facilities for the purpose of supplying temporary service, or service to an operation which may have a limited life, or to meet special or unusual conditions, the utility may make such arrangements for financing its facilities as may be mutually agreed, provided that such arrangements are without preference to or discriminatin against such customer or other customers of the utility.

5.6. Service connections.

5.6.1. Meter -- No 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.

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

a. When the distance from the utility'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. 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.

5.6.3. Transformers -- In no case shall a 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.

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

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

~~5.6.6. Exceptions -- Nothing in the foregoing Rule shall prevent the 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. Incandescent --

a. 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.

#### 5.7.2. Gaseous Tube --

a. 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. 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. Meter test shop -- Each 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 desiring to have tests made by another 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.

##### 6.2. Meter test records.

###### 6.2.1. Reporting --

a. A complete record of all tests and adjustments with sufficient data to allow checking or test calculations shall be recorded by the meterman.

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

###### 6.2.2. Meter records --

a. All meters shall be identified by either a utility assigned number or by the use of the manufacturer's serial number.

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

6.2.3. Reports to Commission -- Each 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 meterman performing the test. The seal shall be of a type acceptable to the Commission. Those 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. Utilities using a snap tin type seal shall have the seal stamped in a similar manner.

6.4. Accuracy requirements for watthour meters.

6.4.1. Installation accuracy --

a. Before being installed for the use of any customer, every watthour meter, whether new, repaired or removed from service for any cause, shall be in good order and shall be adjusted to be correct to within one percent (1%) of correct registration at light and heavy load and is to be without creep.

b. 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 laboratory.

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

d. 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 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 (1/2%) 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.

6.4.2. 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.

6.4.3. Meter test loads --

a. 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. The final average accuracy of complaint and request tests shall be determined as equal to one-half (1/2) the algebraic sum of the accuracy of the meter at light load and the accuracy of the meter at heavy load, as shown by the results of tests made at these points. The results so obtained shall be the accuracy of the meter.

c. 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. 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.

6.4.4. Test - how made --

a. 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. 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. 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. 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.

6.5.1 Curve drawing instruments --

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

Timing element (rate) ..... 0.25 percent.

6.5.2. 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.

6.5.3. 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.

6.6.1. Watthour meters -- All watthour meters installed by the utility for the determination of customer's use of electrical energy shall be tested to insure 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 Table 150-3A at the end of this regulation.)

a. Method A -- A sampling procedure acceptable to the Commission may be used in the selection of single phase meters for test each year.

b. Method B -- The electric utility may test its watthour meters according to Table 150-3A at the end of this document.

6.6.2. 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.

6.6.3. 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. Procedure -- Upon formal written application to the Public Service Commission by a customer, a test supervised by an engineer of the Commission, shall be made upon the customer's meter. The 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.

6.7.2. 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 utility the cost of making such test.

## 6.8. Request test.

Each 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 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 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. General requirement -- Each 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 meters.

6.9.2. Qualification -- A 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 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.

6.9.3. Experience requirement -- No employee of a utility shall be authorized to test and repair meters, or to supervise such tests and repairs, unless he 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 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. 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. Power.

a. 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. 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. Measurement point --

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

c. 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.

7.2.4. 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 utility will limit the voltage fluctuation to give proper secondary voltage within the limits prescribed, assuming proper equipment is supplied by the customer.

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

7.2.6. 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.

7.2.7. Emergency service -- A greater variation in voltage than specified in this rule will be allowed for emergency service, but standby service must comply with the rules unless covered by a special contract.

#### 7.3. Voltage surveys.

7.3.1. Instruments -- Each utility shall provide itself with one (1) or more portable indicating voltmeters, and

every 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.

7.3.2. Every 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 customers, and the Commission or its representative, for a period of at least one (1) year.

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

7.3.4. 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 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.

7.5.1. 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.

7.5.2. 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.

7.5.3. 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.

##### 7.6.1. Current variation --

a. 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. 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.

7.6.2. -- 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.

8.1.1. Records -- Each 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.

8.1.2. Electric shock -- Each 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.

8.2.1. 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.

8.2.2. Every 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. General -- In the interest of safety to the customer and as a measure of protection to the property of the 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 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.

8.3.2. Application required --

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

b. 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 utility to pursue such practice, but the Commission specifically reserves the right at any time to withdraw such authority for proper cause shown.

c. A utility 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. Utility rules and regulations -- Each 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 a utility, such utility shall require compliance with

the following general provisions:

8.4.2. General location -- The overhead wire entrance must be located on the exterior of the building nearest the utility'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. For all new service entrances, the utility shall be consulted and its approval of the location of the service entrance secured.

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

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

8.4.8. 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 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 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. 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. 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 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. 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. 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. 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. 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. 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. 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. 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. 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. 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 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 utility plant and the 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/utility cost standpoint.

##### 10.2. Prohibited promotional practices.

A public utility 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. The financing of land or the construction of any building when same is not owned or otherwise possessed by the utility or its affiliate;

10.2.2. The furnishing of consideration to any person for work done or to be done on property not owned or otherwise possessed by the 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. 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;

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

10.2.5. 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 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;

10.2.6. 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;

10.2.7. 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;

10.2.8. 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-utility dealers in such appliances or equipment;

10.2.9. The furnishing of consideration to any person for any advertising or publicity purpose of such person; except for payments not exceeding one-half ( $\frac{1}{2}$ ) 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;

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

10.2.11. 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., a utility may:

10.3.1. 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 or those with a reasonable employment connection to the utility such as a retiree. 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 management or be in a valid union contract. The plan must be filed with the Commission in accordance with these rules.

10.3.2. 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 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, 1996, a schedule setting forth each of the promotional practices being engaged in by the utility or its affiliates 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. A utility or its affiliate may not continue to engage in any promotional practice after January 1, 1996 unless a schedule regarding promotional practices has been filed with the Commission.

10.6. Filing of Proposed Practices

10.6.1. A public utility or its affiliate 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 in 10.5.3. above has been on file with the Commission for a period of at least 30 days.

10.6.2. The Commission may issue an order approving a new promotional practice to become effective before the expiration of the 30-day period.

10.6.3. 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.

10.6.4. 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.

10.6.5. A public utility or its affiliate requesting authorization under 10.6.4. shall provide information or data to show that:

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

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

c. 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.

10.6.6. A public utility's or its affiliate's proposed promotional practice filing under 10.6.4. shall include:

a. A complete description of the proposed promotional practice;

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

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

10.7. Annual Report

Each public utility 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 affiliates 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.

10.8. Prohibition of discrimination for promotional practices.

10.8.1. A public utility or its affiliate 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.

10.8.2. A public utility or its affiliate 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.

10.8.3. A public utility or its affiliate 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.

10.8.4. A public utility or its affiliate 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.

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

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

e. set forth the name(s) and address(es) of the

electric consumer(s), the name(s) of the 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.

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.

11.2.2. 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.

11.2.3. The Commission may within a reasonable time:

a. 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. 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. 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.

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

11.3.3. 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.

11.3.4. In the event that more than one utility is affected, each utility's share of the assessment shall be determined by multiplying the total award by the ratio of that utility'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.

11.3.5. 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. 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. 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. Payment of costs under this rule shall be made by the affected utility or utilities 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.

11.4.2. All monies paid to electric consumer intervenors by an affected 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. 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. "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. "Purchase" means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.

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

d. "System emergency" means a condition on a utility'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. "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. "Avoided costs" means the incremental costs to an 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. "Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the 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 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. "Supplementary Power" means electric energy or capacity or both supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.

i. "Back-up power" means electric energy or capacity or both supplied by an electric utility to replace

energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

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

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

l. "Commission" means Public Service Commission of West Virginia.

#### 12.2. Scope.

12.2.1. 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 electric utilities.

12.2.2. Negotiated rates or terms -- Nothing in Rule 12. et seq.

a. Limits the authority of any 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. Affects the validity of any contract entered into between a qualifying facility and an electric utility for any purchase.

#### 12.3. Cost data to be supplied by electric utilities.

12.3.1. Each utility required to file data with the Federal Energy Regulatory Commission under 18 C.F.R. 292.302, Availability of 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. Any data submitted by an electric utility under Rule 12.3. shall be subject to Commission review. In any such review, the electric utility has the burden of coming forward with justification for its data.

#### 12.4. Electric utility obligation under Rule 12. et seq.

12.4.1. Obligation to purchase from qualifying

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

- a. Directly to the electric utility; or
- b. Indirectly to the electric utility in accordance with Rule 12.4.4.

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

12.4.3. Obligation to interconnect --

a. Any 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 electric utility would become subject to regulation as a public utility under Part II of the Federal Power Act, then the electric utility will not be required to interconnect.

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

12.4.4. Transmission to other electric utilities -- If a qualifying facility agrees, an 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 electric utility. Any 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 electric utility. The rate for purchase by the 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.

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

12.5. Procedure for establishing rates for purchases.

12.5.1. 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 12.6.4. 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.

12.5.2. If 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. Prefiled testimony shall be required unless waived by the Commission for good cause shown.

b. The Commission shall make such order a necessary to reasonably resolve the controversy.

#### 12.6. Rates for purchases.

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

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

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

#### 12.6.2. Relationship to avoided costs:

a. 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.

b. Rates for purchases of new capacity shall equal the avoided costs determined after consideration of the factors set forth in Rule 12.6.4. of this Rule, regardless of whether the 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.

c. 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. and is sufficient to encourage cogeneration and small power production.

d. 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.

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

a. 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 avoided costs calculated at the time of delivery; or

b. 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.

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

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

b. 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 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 system; and

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

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

d. 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 electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity.

12.6.5. Periods during which purchases are not required.

a. Any electric utility which gives reasonable notice pursuant to Rule 12.6.5.b., 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. 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 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. A claim by an 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. 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 electric utility.

12.7.2. 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.

12.7.3. Upon request of a qualifying facility, each 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 ability to render adequate service to its customers or will place an undue burden on the electric utility, then the Commission may waive such requirement(s).

a. 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 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 facilities.

#### 12.8. Interconnection costs.

12.8.1. Each qualifying facility shall be obligated to pay any interconnection costs as defined in Rule 12.1.1.g.

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 12.5.2.

12.8.2. 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 period.

During a system emergency:

12.9.1. 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;

12.9.2. An 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.

During system maintenance periods:

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

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