

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Public Service Commission TITLE NUMBER: 150

RULE TYPE: Legislative, exempt CITE AUTHORITY: W. Va. Code §§ 24-1-1, 24-1-7, 24-2-1, 24-2-2.

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety, 150 C.S.R. Series 4 (Gas Rules)

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

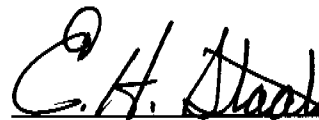
IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON Sept. 6, 2004 (initial) AT 4 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Oct. 6, 2004, 4 p.m. (reply comments)

Sandra Squire, Ex. Secretary
P.O. Box 812

201 Brooks Street
Charleston, WV 25323-0812

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



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Public Service Commission

Richard E. Hitt, General Counsel



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

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Phone: (304) 340-0317
FAX: (304) 340-0372

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August 3, 2004 OFFICE WEST VIRGINIA
SECRETARY OF STATE

Judy Cooper, Director
Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
1900 Kanawha Blvd. E.
Charleston, WV 25305-0771

Re: General Order 185.24; 150 CSR 4
Rules and Regulations for the Government of
Gas Utilities and Gas Pipeline Safety

Dear Judy:

Enclosed is a proposed rulemaking of the Public Service Commission concerning Series 4 of our rules. I have enclosed a copy of the entire rules with strike throughs and under linings indicated. Since there are no proposed changes to the existing forms, the forms have not been included with the package in an effort to minimize copies.

In addition there is a notice of rulemaking and comment period; a fiscal note; a summary of the rule; and a statement of circumstances which require the rule.

I appreciate your attention in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard E. Hitt", written over a circular stamp or mark.

Richard E. Hitt
General Counsel

REH/jb
Enclosures

G:\HOME\JBROWN\cooper-REH.wpd

FISCAL NOTE

**P.S.C.
Series 4**

GENERAL ORDER NO. 185. 24

IN THE MATTER OF amending the Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety, 150 C.S.R. Series 4, to require partial year budget plans or low income budget plans.

I. OBJECTIVES OF THE RULE

This rulemaking is to amend the Commission's Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety, 150 C.S.R. Series 4, to require West Virginia natural gas utilities to offer their residential customers either a partial year budget plan or a low income budget plan, in addition to the regular budget plan. The amendments also allow budget plans to be included in deferred payment plans.

II. COST OF IMPLEMENTING THE PROPOSED RULES

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

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

This rulemaking will have no effect on the costs or revenues of state government.


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

This rulemaking will have no significant economic impact on the state or its residents. Although the proposed rules will allow customers to spread their highest bills over several months, utilities will benefit by offering payment plans which their customers are better able to complete. Thus, the utilities' annual revenues will be leveled out over the course of the year, and perhaps utilities will see reduced write offs.

DATE: August 4, 2004

AGENCY: **Public Service Commission**

SIGNATURE OF AUTHORIZED REPRESENTATIVE:



E.H. Staats, Chairman

Summary of Rule

The Commission is proposing to revise its Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety to require West Virginia's natural gas utilities to offer their residential customers either a partial year budget plan or a low income budget plan, in addition to the regular budget plan. The amendments also allow budget plans to be included in deferred payment plans.

The Commission's budget plan requirements appear in Gas Rule 4.16.

Statement of Circumstances Which Require the Rule

Natural gas prices have increased significantly, and the Commission is concerned about the ability of utility customers, particularly low income residential customers, to make their payments. This rulemaking follows the receipt and consideration of comments regarding the possibility of amending the Gas Rules, after this year's sharp price increases.

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 4th day of August, 2004.

GENERAL ORDER NO. 185.24

IN THE MATTER OF amending the Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety, 150 C.S.R. Series 4, to require partial year budget plans or low income budget plans.

COMMISSION ORDER

By this order, the Commission promulgates proposed amendments to the budget plan portion of its Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety, 150 C.S.R. Series 4 (Gas Rules). The proposed amendments would require natural gas utilities to offer their customers either a partial year budget plan or a low income budget plan, in addition to the regular budget plan. A comment schedule is established for these proposed rule changes.

BACKGROUND

In an earlier proceeding, General Order Number 185.22, Partial Year Budget Payment Plans, the Commission recognized that natural gas prices had risen and expressed concern about the ability of some residential customers to pay the larger winter bills which could result. Accordingly, the Commission asked natural gas utilities and others to comment on whether the Commission's Gas Rules should be modified to allow partial year budget payment plans.

On April 14, 2004, the Commission dismissed General Order Number 185.22 and advised that a separate case would be opened to consider changes to the Gas Rules. "While utilities may incur some costs to administer partial-year budget payment plans, utilities also benefit from such plans because partial-year budget payment plans result in more affordable payments than deferred payment plans," the Commission wrote. Comm'n Order p. p. 3. "When payments are more affordable, the utility is less likely to suffer a large overdue amount, or, in the worst case scenario, unpaid amount. Moreover, such plans spread some utility income across the calendar year.

“Although it was suggested that a rule change was not necessary, it is administratively more efficient to address this issue once in a rulemaking, than to consider separate tariff revisions from more than half of the state’s natural gas utilities.”

As a result, the Commission issues this General Order 185.24 to propose the rule changes which appear in Attachment A. The Commission provides the reasons for the proposed changes below.

Levelized/budget wording – The existing rule uses “levelized” and “budget” to describe budget plans, but the use of two descriptive words does not seem necessary. To clarify, then, the rules are proposed to be modified to use only “budget,” which is the word more common to customers.

Types of plans available –

Provisions not Changed: The rule continues to *require* budget plans to be made available to residential customers. The rule also continues to *allow* budget plans to be offered to commercial customers.

The existing rule requires a budget plan to be “reasonably balanced between the customer and the company thereby giving no financial advantage to either party.” Thus, the Commission proposes to continue to allow utilities to establish enrollment cut off dates for the regular budget plan, in recognition that statistically, a budget plan is most financially balanced between the customer and the utility when payments begin in summer. If plans are entered into during heating season, there can be a financial advantage to the customer.

Provisions Changed: For *residential* customers, the Commission proposes to also require utilities to offer one of two new programs: either a partial year budget plan or a low income budget plan.

New Rule 4.16.1.d gives utilities the *option* to permit residential customers to enter into a regular budget plan starting *at any time of year*. If a utility does not allow this, it must provide a low income budget plan, as set forth in new Rule 4.16.2. The Commission proposes that utilities be allowed this choice, so that they each can decide whether to incur the costs and time associated with the low income plan.

The new partial year budget plan can be for several months, instead of a year. Again, the Commission proposes this difference, to provide flexibility and choice to the utilities.

On the other hand, the *low income plan* may be started at anytime and *will last for 12 months*. Further, all of these criteria must be met for the low income plan:

(1) the customer must certify that he/she has an annual household income of no more than 1.5 times the federal poverty level;

(2) if the customer qualifies for Low Income Energy Assistance (LIEAP), the customer must apply for such assistance when LIEAP funds become available. If he/she receives LIEAP while on a low income budget plan, the customer may apply the LIEAP funds a) to the monthly budget amounts or b) to reduce the monthly payment due.

(3) if there was a *previous* low income budget plan, the customer must have a) successfully completed that plan, or b) removed all prior arrearages on his/her account.

Combination of budget plans/deferred payment plans – Some utilities are reluctant to allow budgets for customers who have not fulfilled deferred payment plans or when there is an arrearage. Proposed Rule 4.16.3 states that when utilities offer a deferred payment plan, the deferred payment plan *may* include a budget or a low income budget plan. While the rule contains permissive, not mandatory language, the existence of this option should make clear that the Commission encourages utilities to adopt this approach, when appropriate.

For low income budget customers, utilities *must* offer a deferred payment plan which combines the budget plan and *any arrearage which is not more than 10 days delinquent*. See 4.16.2.c. Thus, the Commission proposes that utilities must allow one month's arrearage in low income budget plans. Utilities *may* include larger arrearages into budget plans, if they so choose.

Cooling and/or heating – The existing rule requires plans to be offered to customers “who use gas as the primary source of space heating *and* cooling.” Since some customers heat with gas, but do not cool with gas, the Commission proposes to change the language to customers “who use gas as the primary source of space heating *and/or* cooling.”

Notice of availability – Now, customers have to be notified once a year that budgets are available. The Commission proposes to require utilities to advise new customers, *when they apply for service*, that budgets are available. See Rule 4.16.3.b.(2).

Provisions reorganized – Provisions such as notice, which apply equally to all plans, are gathered together, instead of repeated in each of the sections, to reduce the risk of inadvertent inconsistency among the plans.

DISCUSSION

Based upon the comments reviewed earlier this year, the Commission decided to issue proposed rules to modify the budget plan requirements. Such rules have been developed, and in sum, all utilities must offer a plan from each of the columns below:

Regular Budget Plan

1. Must offer to all residentials
2. May offer to commercials
3. Requires monthly payments of about equal amounts (year-long)
4. May have cut-off date to enter plan

Regular Budget w/Variable Entry

1. Same
2. Same
3. Monthly payments may be made for less than a year
4. May enter at any time during the year

OR

Low Income Budget Plan

1. Must offer if customer meets 3 tests:
 - A. Income no more than 1.5 times federal poverty level
 - B. If qualifies for LIEAP, must apply for and use LIEAP funds
 - C. Any previous arrearages paid
2. May be started at anytime and will last for 12 months.

Notice should be provided of the proposed rule amendments, and a comment schedule should be established. See Attachment B.

FINDING OF FACT

The Commission has promulgated proposed rule amendments regarding budget payment plans.

CONCLUSION OF LAW

A comment schedule should be established, and notice should be provided.

ORDER

IT IS THEREFORE ORDERED that the changes in the attached Rules and Regulations for the Government of Natural Gas Utilities, 150 C.S.R. Series 4, are promulgated as Commission proposed legislative rules. See Attachment A.

IT IS FURTHER ORDERED that the following procedural schedule is adopted:

Deadline for written initial comments September 6, 2004, 4 p.m.

Deadline for written reply comments October 6, 2004, 4 p.m.

IT IS FURTHER ORDERED that all persons must set forth specific comments regarding the proposed amendments. Any party seeking a hearing on the proposed rules shall make a specific written request before the close of the initial comment period and shall explicitly state the grounds upon which the request is made. All comments should be addressed to Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, W. Va. 25323.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall cause publication, one time, of the notice attached as Exhibit B in a newspaper, duly qualified by the Secretary of State, published and of general circulation in each of the following cities: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling and Williamson. The Executive Secretary shall file the affidavits of publication as soon as they are received.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall file a copy of these rules with the Office of the Secretary of State.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall provide a copy of these proposed rules to any person upon request.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order upon all parties of record **and all natural gas utilities operating in West Virginia** by United States First Class Mail, and upon Commission Staff by hand delivery.

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TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

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SERIES 4
RULES AND REGULATIONS FOR
THE GOVERNMENT OF GAS UTILITIES
AND GAS PIPELINE SAFETY

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§150-4-1. General.

1.1. Scope -- These rules govern the operation and service of gas utilities subject to the jurisdiction of the Public Service Commission pursuant to West Virginia Code §24-2-1.

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

1.3. Filing Date -- ~~May 22, 1996~~ August, 2004.

1.4. Effective Date -- ~~July 21, 1996~~ _____.

1.5. Authorization of rules.

1.5.1. These rules are intended to define good operating practices, which can normally be expected.

1.5.2. They are intended to ensure adequate service and to prevent unfair charges to the public, and to protect the utilities from unreasonable demands.

1.5.3. 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 additional service, equipment, facility, or standard either upon complaint or upon its own motion, or upon the application of any utility.

1.5.4. These regulations shall not relieve in any way a utility from any of its duties under the laws of this State.

1.6. Application of rules.

1.6.1. These rules apply to public utilities as defined in Regulation 1.7.

1.6.2. 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 in the Commission for the modification of the rule or for

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temporary or permanent exemption from its provisions: **Provided,** That no utility shall submit application for such modification or exemption without submitting therewith a full and complete justification for such action.

1.7. Definitions.

1.7.1. Commission -- Whenever in these rules and regulations the words "Commission" or "Public Service Commission" occur, such word or words shall, unless a difference intent clearly appears from the context, be taken to mean the Public Service Commission of West Virginia.

1.7.2. Cubic foot of gas -- The term "cubic foot of gas" or "cubic foot" as used in these rules shall have the following meanings:

a. Testing -- For the purpose of testing gas under these rules, a cubic foot of gas shall be taken to be that amount of gas which occupies a volume of one (1) cubic foot when saturated with water vapor at a temperature of sixty (60) degrees Fahrenheit and an absolute pressure equal to thirty (30) inches of mercury at thirty-two (32) degrees Fahrenheit.

b. Distribution pressure measurement -- For the purpose of measurement of gas at standard distribution pressure, a cubic foot of gas shall be taken to be the amount of gas which occupies a volume of one (1) cubic foot under the conditions existing in the customer's meter where installed.

c. High or intermediate pressure measurement -- In cases where gas is supplied through orifice or other type meters at other than standard distribution pressure, a cubic foot of gas shall be defined to be that volume of gas which, at an absolute pressure of 14.73 pounds per square inch, occupies a volume of one (1) cubic foot. The temperature of the gas shall be determined and corrected to sixty (60) degrees Fahrenheit where necessary and practical. This definition of cubic foot of gas does not affect contract or other provisions.

1.7.3. Customer -- The word "customer" used in these rules shall be construed to mean any person, group of persons, firms, corporation, institution, municipality or other service body furnished gas, service or facilities by a gas utility.

1.7.4. Customer's service -- The term "customer service" shall be defined to mean the service line extending from the property line to the inlet of the meter serving the customer.

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1.7.5. High or intermediate pressure distribution system -- A "high or intermediate pressure distribution system" shall be taken to mean one in which the gas in the mains is maintained at a pressure higher than standard distribution pressure.

1.7.6. Low pressure distribution system -- A "low pressure distribution system" shall be that portion of the utility's system in which standard distribution pressure is maintained, and from which the gas is introduced from the mains into the customer's house-piping without passing through a pressure regulating device.

1.7.7. Main -- The term "main" shall be defined to mean the pipe of any utility's gas system, located in a public highway, street, alley, or private right-of-way, and used to transport gas.

1.7.8. Public utility -- Except where a difference 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 engaged in the business of producing, furnishing, transporting, distributing or selling gas for light, heat or other purposes which are now or may hereafter be held to be a public service.

1.7.9. Service connection -- The term "service connection" shall be defined to mean the utility's pipe and appurtenances which connect any gas main in a public highway, street, alley or private right-of-way with the inlet connection of a customer's service line at the property line.

1.7.10. Standard distribution pressure -- "Standard distribution pressure" shall be the distribution pressure established by the utility under the requirements of Regulation 7.3.

§150-4-2. 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

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adopted by the Commission in its General Order No. 117-C of September 25, 1972, and effective December 1, 1972, except, as they may be hereinafter modified. No such record shall be destroyed without Commission approval. (NOTE: These regulations are published in separate pamphlet form and will be furnished upon request).

2.1.2. Location of records -- Such records shall be kept at the office or offices of the utility, and shall be open at all reasonable hours for examination by the Commission or its representative, or by others authorized by the Commission.

2.1.3. Reports to Commission --

a. Each utility shall, at such times and in such form as the Commission may prescribe, report to the Commission the results of any test or tests required to be made or the information contained in any records required to be kept by the utility.

b. Each utility shall furnish to the Commission any information in its possession, respecting its rates, charges, or practices which may from time to time be required by the Commission, and without formal order of the Commission.

c. Special reports -- Each utility shall submit to the Commission duplicate copies of routine reports made by it to the Federal Energy Regulatory Commission pertaining to any phase of its business as a gas utility in West Virginia.

2.2. Filing of rate schedules.

2.2.1. Filing required -- No rules and regulations, or schedules of rates or charges, or modification of the same, shall be effective until filed with the Commission as provided by law.

2.2.2. Where filed -- Copies of all schedules of rates and other charges, and copies of all rules and regulations, covering the relation of customer and utility, shall be filed by every utility in the office of the Commission.

2.2.3. 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 Vehicle," and such other amendments or modifications that may hereinafter be adopted.

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2.2.4. 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.

2.2.5. 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.

2.3. Financial and statistical report.

2.3.1. Every utility shall file annually a financial and statistical report upon forms to be furnished by the Commission. Said report shall be based upon the accounts set up in conformity with the Commission's order and rule as set out in Regulation 2.4. of these rules and regulations. This report shall be filed on or before March 31st of each year, or at such date as the Commission may direct.

2.3.2. Each utility shall file, monthly, gas statistical reports upon forms to be furnished by the Commission. This report shall be filed not later than forty-five (45) days following the period covered by the report.

a. In reporting all gas volumes on statistical reports (Form furnished by the Commission), measurement made at pressure above normal distribution pressure shall be adjusted to a pressure base of 14.73 pounds per square inch absolute. This applies to produced, purchased, storage, and sales measurements.

2.4. Uniform system of accounts -- All gas utilities are required to maintain their books and records in accordance with the "Uniform System of Accounts" promulgated by the Federal Power Commission (now the Federal Energy Regulatory Commission) as published in Title 18 CFR Parts 201 and 204, 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 entire layout of producing field or fields, and of each compressing or boosting station, with the location, size and character of each piece of plant equipment, pipelines, connections and other facilities used in the production and transmission of gas. Each utility shall keep similarly complete maps, plans, or records of the entire distribution system showing the size, character and location of each main, district regulator, street valve and drip, and each

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service connection, together with such other information as may be necessary.

2.5.2. 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.

2.5.3. Each gas utility shall file with the Commission a map or maps showing the lines in its system which it designates and operates as transmission lines. The utility shall, on or before April 1st of each year, file a new map; recall, revise and resubmit its old map, or advise the Commission, in writing, that no changes to the transmission lines have been made during the year.

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 audits, 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.

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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 ~~and~~ its customers.

2.6.6. Implementation of recommendations --

a. Draft report.

A. Upon completion of the audit a draft

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report shall be submitted to the utility for comments.

B. The auditor and Company 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 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.

§150-4-3. Meter requirements.

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3.1. Gas measurement requirements.

3.1.1. Gas purchased -- Every utility shall measure and record the quantity of gas purchased by it.

3.1.2. Gas sales -- Every utility shall measure and record the quantity of gas sold by it.

3.1.3. Exchange gas -- Every utility shall measure and record the gross cubic feet of gas exchanged with others.

3.1.4. Storage gas -- Every utility shall measure and record separately the quantity of gas put into storage and gas removed from storage.

3.1.5. Company gas -- Every utility shall measure where practicable and record all gas used, for any purpose, by the utility. The records shall be kept so as to indicate the division of its system, production, transmission or distribution, where the gas was used.

3.2. Use of meter.

3.2.1. Gas sold -- All gas sold by a utility shall be charged for by meter measurements.

3.2.2. Other gas -- All gas delivered as compensation for leases, rights-of-way, or other reasons, not charged for at the utility's regular schedule of charges, shall be metered and a record kept thereof.

3.3. Utility to provide meters and regulators -- Unless otherwise authorized by the Commission, each utility shall provide and install at its own expense (except as provided in Regulation 5.6.) and shall continue to own, maintain, and operate all equipment necessary for the regulation and measurement of gas, in accordance with tariff or contract provisions, to its customers. Where meters or regulators not required by these rules and regulations are furnished by the utility for the convenience of the customer, a charge for such meters or regulators may be made.

3.4. Location of meters.

3.4.1. Urban meters --

a. When meters are installed inside buildings, they should be located in a dry place not subject to excessive heat, and as near as possible to the entrance of service.

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b. When meters are located outside of buildings, they may be enclosed by a small box or other protective device specially built for that purpose.

c. The meter location in all cases shall be subject to the approval of the utility.

3.4.2. Tagging house lines -- When a number of meters are placed in the same location, each house line should be tagged close to the meter, so as to indicate the particular part of a building or premises served by such meter.

3.4.3. Rural meters -- When the distance between the utility's main and the nearest point of consumption is more than 150 feet, the meter shall be located as near to the utility's main as may be practicable. This shall apply whether or not all or part of the service line shall have been constructed by either the customer or the utility.

3.5. Meter readings.

3.5.1. Meter requirements -- Each service meter of the displacement type shall indicate clearly the cubic feet of gas registered. Where gas is metered under high pressure, or where the quantity is determined by calculation from recording devices, the utility shall show on the bill the information needed to make clear the method by which the quantity is determined.

3.5.2. Meter-reading period -- As a matter of general practice, all service meters shall be read at monthly intervals, on the corresponding day of each meter-reading period or as near thereto as practical. Approval may be granted for the reading of meters at other than monthly intervals, if the circumstances warrant.

§150-4-4. Customer relations.

4.1. Customer information.

4.1.1. 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. The information contained in the utility's safety requirements concerning customer connections required to be filed pursuant to Rule 8.3., infra, shall be furnished to all customers installing new or revising existing customer service lines.

4.1.2. Explanation of meter readings. -- Each

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utility shall adopt some means of informing its customers as to the method of reading meters, either by a printed description on its bills, or by a notice to the effect that the method will be explained at the office of the utility upon request. It is recommended that an exhibition meter be kept on display in each sales office maintained by a utility.

4.1.3. 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 him/her in obtaining the rate which is most advantageous to his/her 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.

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

a. Every utility shall maintain in its office for inspection by the public the following:

A. A copy of the rates, rules and regulations of the utility, and forms for contracts and applications applicable to the territory served from 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 Gas Utilities and Gas Pipeline Safety.

b. A suitable placard, in large type, shall be exhibited in a conspicuous location, giving information to customers that a copy of the law, the rules and regulations of the Public Service Commission and the schedule of rates are kept for their inspection.

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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 gas 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 gas 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 without a delinquency, the utility shall promptly and automatically refund the deposit plus accrued interest. Utilities may, at their discretion, refund deposits after shorter periods of time. Calculation of the above twelve consecutive month period shall commence from the first regular payment or following the payment of a delinquent bill or bills. The interest rate to be paid shall be determined as follows. The rate which utilities shall be required to pay shall be the average of the one-year United States Treasury Bill rates for October, November and December of the preceding calendar year. By January 15 of each year, Staff of the Commission shall make the necessary calculations and file with the Commission its calculations. The Commission will issue an order setting the rate to be paid by the utilities until the next annual Commission order. The simple interest shall be paid at the date of discontinuance of service or at the end of the deposit period. The 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

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or to be furnished; and (iv) the amount of the deposit and the fact that interest will be paid on the deposit. Each utility shall provide reasonable records to refund the deposit of a customer, when he/she 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 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 §24-2-1).

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 of 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 --

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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 shall be rendered periodically, and they shall show the readings of the meter at the beginning and the end of the period for which the bill is rendered, the date of the meter readings, and the number of cubic feet of gas supplied. The applicable rates shall be provided on the monthly bill.

4.3.2. Billing period -- Meters shall be read as nearly as possible at regular monthly intervals. Due to the incidence of week-ends, 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 is not more than five days or less than five days of the standard period. When the deviation exceeds these limits, the tariff consumption blocks and the 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 days for monthly billing.

4.3.3. Utilities desiring to adopt mechanical billing of such nature as to render compliance with all the terms of Rule 4.3.1. impractical may make application to the Commission for relief. After consideration of the reasons given when asking for relief, the Commission may allow the omission of any part of these requirements.

4.3.4. On all bills which include any other items than a definite authorized gas rate, the other factors used in computing the bill shall be clearly stated so that the amount may be readily verified from the information appearing upon the bill.

4.3.5. Each bill shall be due when rendered. Each bill shall become delinquent thirty (30) days after it is rendered. A bill is considered rendered when it is placed in the United States Mail or postmarked. Each bill shall bear upon its face the latest date it may be paid before becoming delinquent.

4.4. Adjustment of bills.

4.4.1. Fast meters -- If, upon test of any meter, the meter is found to have an average error of more than two percent (2%) fast, the utility shall refund to the customer the overcharge, based upon the corrected meter reading for a period

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equal to one half the time elapsed since the last previous test, but not to exceed six (6) months. If it can be shown that the error was due to some cause, the date of which can be fixed, the overcharge shall be computed back to, but not beyond, such date. If the meter has not been tested in accordance with Rule 6.5., ~~the period for which it has been in service beyond the regular test period shall be added to the six (6) months in computing the refund.~~

4.4.2. Slow meters -- If, upon test of any gas meter, the meter is found to have an average error of more than two percent (2%) slow, the utility may render a bill for the gas consumed, but not covered by bills previously rendered, for a period equal to one half of the time elapsed since the last previous test, but not to exceed three (3) months. If it can be shown that the error was due to some cause, the date of which can be fixed, the charge may be computed back to, but not beyond, that date.

4.4.3. Dead meters -- If a meter is found not to register for any period, the utility shall compute the gas used by taking the average of the gas used for the meter-reading period preceding and the meter-reading period following the date when the meter was found to be dead, which amount shall be assumed to be the amount of gas used by the customer during the billing period in which the meter was found dead. Exceptions will be made to this rule in case the facts clearly show that the above method does not give the correct consumption for the period.

4.4.4. Leaks on the Customer side of the meter -- Each utility shall develop and implement a written policy concerning the adjustment of customer bills where the bill reflects unusual usage which can be attributed to leakage on the customer's side of the meter. The policy shall be maintained at the utility's office for inspection and shall be applied in a uniform, non-discriminatory manner to all customers. The policy shall provide for an adjustment which subtracts out all non-gas costs for all amounts above the customer's expected usage for the relevant period.

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.

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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 result 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 results 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 his/her 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-G 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 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 such 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 customer who has been notified that gas 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 of a reasonable payment plan. The conditions surrounding the deferred payment agreement shall be as follows:

- (a) The details of the deferred payment

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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: ~~Provided, That the agreement requires payment of the current bill plus a specified amount per month on the arrearage.~~

(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 timely 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):

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(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 this subsection 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 subsection 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; or on a Friday, Saturday or Sunday. Service shall be reinstated within eight hours or less after receipt of payment.

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

H. The 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: (i) it must keep a record of the conditions causing the termination and (ii) it should make a reasonable effort to notify the customer prior to termination and shall

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inform the customer of the steps which must be taken to have service restored.

J. If the customer of record responsible for payment of a utility bill is: (a) a landlord of a master metered apartment building, motel, hotel, or other multiple unit dwelling, or (b) a third party who is a non-resident of the single service location, then written notice of termination, using Form 14-MG, shall be posted at least five (5) days prior to the scheduled termination. The notice for a master metered multiple unit dwelling shall be placed in a conspicuous common area at a location readily available for public inspection. Whenever possible, copies shall also be posted on the main doors of each dwelling in the facility. The notice for single unit dwellings occupied by third parties shall be placed on the main door of the dwelling.

K. The Commission may waive the application of any provision of this rule if it is demonstrated that the operation of any such provision will result in an undue hardship to the 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 subsections 4.8.1.a.A., 4.8.1.a.B., 4.8.1.a.F., 4.8.1.a.G., 4.8.1.a.H., 4.8.1.a.I., 4.8.1.a.J., and 4.8.1.a.K. of this rule shall apply to commercial and industrial customers of any of the utilities covered by this rule, except that conditions (d) and (e) of 4.8.1.a.B. shall not apply to commercial or industrial customers.

M. A bill which has been found to be contractually uncollectible by a Court or could reasonably be found to be uncollectible by reason of the Statute of Limitations shall not be used by a 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.

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

c. Payment -- Payment may be made by cash, check, money order or Department of Welfare voucher. Payment by personal check may be refused if, within the past 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 gas utility subject to the jurisdiction of this Commission to any customer of said utility, unless a subsection of this rule clearly indicates a different meaning.

4.8.4. A utility may petition the Commission to waive the personal contact requirement of this rule only after it has made at least three (3) attempts at personal contact. At least one of the attempts at personal contact must be an on-site visit at the service location. The utility shall leave an appropriate door hanger with relevant information in the event the on-site visit fails to accomplish personal contact. At least one attempt must be after normal working hours of 8:00 a.m. to 6:00 p.m. A telephone call may be used as an after hours personal contact attempt.

4.8.5. 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. Noncompliance with rules and regulations -- Any utility may decline to serve an applicant until he/she has complied with the State and municipal regulations governing gas service and the Commission approved rules and regulations of the utility.

4.9.2. Utility's facilities inadequate -- Until adequate facilities can be provided, a utility may decline to serve an applicant if, it does not have adequate facilities to render the service applied for, or if the desired service is of a

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character that is likely to affect unfavorably service to other customers. When service is denied on the basis of this rule, a time schedule for correcting the deficiency must be provided to the applicant.

4.9.3. Applicant's facilities inadequate -- The utility may initially refuse to serve an applicant, if the applicant's installation of piping or gas-burning equipment is regarded as hazardous or of such character that satisfactory service cannot be given.

4.9.4. Applicant's recourse -- In the event that the utility shall refuse to serve an applicant under the provisions of this rule, the utility must inform the applicant that the question may be submitted to the Commission for decision.

4.10. Change in character of service -- In case any substantial change is made by a utility in the composition of the gas, the pressure, or other conditions which would affect the efficiency of operation or adjustment of appliances, the appliances of all customers in the district affected shall be inspected and shall be readjusted, if necessary, by the utility for the new conditions without charge.

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 the customers to provide the utility reasonable access to its meters, service connections, and other property for the above purposes shall be deemed to be sufficient cause for discontinuance of service on the part of the utility.

4.11.2. Identification for employees -- Every employee, whose duties regularly require him to enter the homes of customers shall wear a distinguishing uniform or insignia identifying him as an employee of the utility 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 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 information as herein required.

4.12. Service Interruptions.

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4.12.1. Records of Interruptions - Each utility shall keep a record of any interruption of service affecting its entire system or a major division thereof, including a statement of the time, duration, and cause of the interruption.

4.12.2. Notification to Customer - Insofar as practical, every customer affected shall be notified in advance of any planned work which will result in interruption of service, but the notice shall not be required in case of interruption due to emergency, accidents, acts of God, public enemies, or strikes which are beyond the control of the utility.

4.12.3. Curtailment --

a. Each utility shall report to the Commission any planned curtailment, to any class of customers (except contractually permitted curtailment to interruptible customers), prior to such curtailment, the following information:

A. Reason for curtailment.

B. Date and hour curtailment is to begin.

C. Class or classes of customers to be curtailed. (This should include sales for resale).

D. Number of customers affected in each classification.

E. Percent of curtailment being requested in each classification.

b. As soon as the curtailment request has been cancelled, the utility shall inform the Commission.

c. The utility shall file a detailed report, not later than June 1, of each year, of all curtailments made during the year ending March 31, showing the following:

A. Date or dates curtailment was in effect.

B. Percent of curtailment by classification of customers, and number of customers affected in each classification.

C. Total Mcfs curtailed, by months and by classes of customers.

D. Names of all wholesale (sales for

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resale) customers affected by the curtailment and the amount, in percent and Mcf, for each customer.

4.13. Temporary service -- In the case of temporary service for short-term use, the utility may require the customer to pay all costs of making the service connection and removing the material after the service has been discontinued, or to pay a fixed amount in advance to cover such expense: **Provided**, however, That if the material is removed the customer shall be credited with the reasonable salvage which the utility shall receive on discontinuance.

4.14. Residential conservation service program -- A public utility subject to the jurisdiction of this Commission and to which Part I, 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), is applicable may recover reasonable costs associated with the implementation of the utility program under NECPA in the following manner:

4.14.1. 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.

4.14.2. 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.

4.14.3. 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

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operating expenses of providing utility service.

4.14.4. All amounts expended by a public utility for labor and materials for the purchase or installation of any residential energy conservation measure under Section 216 of NECPA shall be recovered from the residential customer for whom such purchase or installation is performed.

4.15. Reduced rates for low income residential customers.

4.15.1. Tariff filings --

Within fifteen (15) days of the adoption of this rule, every public utility, other than a municipality or cooperative gas utility, which provides gas 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 gas 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

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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.

4.15.2. 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

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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.

4.15.3 For the purpose of applying special reduced rates under West Virginia Code §24-2A-1, et seq., a person shall be determined to be a customer of a utility if the person is a member of a household receiving gas service and such service is provided in that person's name. However, if the person in whose name gas 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 gas 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.

4.15.4. 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.

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

4.15.6. 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.

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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.

4.15.7. 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 WV Form 214.6A and a summary report for the entire certification period by completion of attached PSC WV 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.

4.15.8. 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 hearing 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.

4.16. Budget payment plans.

4.16.1 Budget Plans

4.16.1.a Residential Customers

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(1) Each gas utility must offer to all residential customers who use gas as the primary source of space heating and/or cooling, on an optional basis, an opportunity to pay for gas service on a monthly basis under the provisions of a budget payment plan.

~~Each gas utility shall annually notify its customers of the availability and the advantages of a levelized annual payment plan.~~

(2) The residential budget payment plan shall offer monthly ~~levelized~~ payments and shall be based on the estimate of each customer's twelve monthly bills over the next application period, and shall require equal or relatively equal payments. The residential budget payment plan shall be reasonably balanced between the customer and the company thereby giving no financial advantage to either party.

~~(3) In order to keep customers informed of their performance under the budget plan, the utilities shall ensure that each bill show the amount of gas used (Mcf) during the billing period, the actual cost of present usage, the budget payment amount due and the current net credit/debit applicable to the customer's account.~~

At the utility's option, the utility may allow its residential customers to enter into a budget plan starting at any time of year, in lieu of the low income budget plan requirements set forth below.

4.16.1.b Commercial Customers - A ~~The~~ budget payment plan may be made, but is not required to be made, available to commercial customers.

4.16.2 Low income Budget Plan

4.16.2.a If the utility does not allow its residential customers to enter into a budget plan starting at any time during the year (see Residential Budget Plan requirements above), the utility must provide a low income budget plan. The low income budget plan may begin in any month and will extend for the next consecutive 12 months.

4.16.2.b To be eligible to enter a low income budget payment plan at any time during the year, a customer must meet all of the following criteria:

(1) the customer must certify that he/she has an annual household income of no more than 1.5 times the federal

poverty level;

(2) if the customer qualifies for Low Income Energy Assistance (LIEAP), the customer must apply for such assistance on his/her gas bill when the funds become available; If the customer receives assistance payments after entering into a low income budget plan, such assistance payments shall count toward the monthly payment(s) due from the customer or may be used to reduce the monthly payment due under the low income budget plan, as the option of the customer; and

(3) if a low income budget plan has been previously entered into, such plan must be successfully completed in order to be eligible for a new low income budget plan, or the customer must have removed all prior arrearage in his/her account.

4.16.2.c For customers eligible to enter a low income budget payment plan, utilities must offer a payment plan which is a combination of the budget plan and any arrearage which is not more than 10 days delinquent. Bills are due when rendered and become delinquent if not paid within 30 days.

4.16.3 General Provisions

These provisions apply to each type of budget payment plan offered by the utility.

a. Budget Plans and Deferred Payment Agreements - When utilities offer customers a deferred payment plan pursuant to Rule 4.8.1.a.C, the deferred payment plan may include a budget or a low income budget plan.

b. Notice to customers.

(1) Existing customers - Each gas utility shall annually notify its customers of the availability and advantages of ~~a levelized annual~~ each type of budget payment plan offered by the utility.

(2) New customers - The utility must also notify new customers of the availability of each such budget payment plan when new customers apply for service.

c. Information on bills - In order to keep customers informed of their performance under any the budget plan, the utilities shall ensure that each bill show the amount of gas used (Mcf) during the billing period, the actual cost of present usage, the budget payment amount due and the current net credit/debit applicable to the customer's account.

§150-4-5. Engineering requirements.

5.1. Adequacy of facilities.

5.1.1. Construction and maintenance of plant.

a. Each utility shall at all times construct and maintain its entire plant and system in such condition that it will furnish safe, adequate and continuous service.

b. The standards as set out by the United States Department of Transportation entitled "Transportation of Natural and Other Gas by Pipeline: Minimum Safety Standards" and amendments thereto, as published in Title 49 CFR Parts 191 and 192, shall be accepted as standards for construction and the maintenance of safe and adequate service.

5.1.2. Inspection of plant -- Each utility shall inspect its plant and facilities in such manner and with such frequency as may be necessary to ensure a reasonably complete knowledge as to their conditions and adequacy at all times. Such inspections must comply with the requirements of the Federal Minimum Safety Standards, as published in Title 49 CFR Part 192.

5.1.3. Records of conditions -- Records of the conditions found necessary for the proper maintenance of the system and in accordance with the Federal Minimum Safety Standards shall be kept of the conditions found. In special cases, a more complete record may be specified by the Commission.

5.1.4. Records of operation -- Each utility shall keep a record of the operation of its plant, which, so far as practical, shall show such details of plant operation as may be necessary to substantially reproduce its operations. The records shall also be maintained in accordance with the requirements of the Minimum Safety Standards.

5.1.5. Reports to Commission -- Each utility shall, upon request of the Commission, file with the Commission a statement regarding the condition and adequacy of its plant, equipment, and facilities, and of its operations and service in such form as the Commission may require.

5.2. Interstate operation -- Every utility shall measure and record separately the quantity of gas which it exports out of the State of West Virginia, and the quantity imported into West Virginia.

5.3. Lost and unaccounted for gas.

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5.3.1. Waste -- all practices in the production, distribution, consumption, or use of natural gas which are wasteful are hereby expressly prohibited.

5.3.2. Determination of - Required -- Each utility shall determine either by measurement or by estimate, the amount of gas "lost and unaccounted for" in each division of its system, that is, production, transmission and distribution; and report, separately, to the Commission in its annual report, the amount of such "lost and unaccounted for" gas and the length in feet of each size of pipe, in each division. In reporting "lost and unaccounted for" gas, the utility shall show, when data is available, amounts attributable to billing lag and pressure differences.

5.3.3. Production and transmission system --

a. In case the amount of "lost and unaccounted for" gas is not determined from measurement, the utility shall make pressure drop tests each year on selected lines in the production and/or transmission system. The 3-inch equivalent length of lines or lines tested shall be not less than five percent (5%) of the total miles of 3-inch equivalent main in such systems.

b. In selecting lines for pressure drop tests, the utility shall consult with the Public Service Commission regarding locations for making such tests, and shall advise the Commission of the time and place such tests are to be made in order that the Commission may send a representative to witness the test, if it so desires.

5.3.4. Distribution systems -- Utilities shall measure gas into their distribution plants for the purpose of obtaining data necessary to conduct a safe operation of the system.

5.3.5. Basis of estimates -- When reporting the amount of "lost and unaccounted for" gas which has been determined by estimate, the utility shall set out in detail the manner in which the estimate was made, including in such explanation all known facts and methods used in making the estimate.

5.4. Installation of services and meters.

5.4.1. Displacement meters -- All gas utilities shall adopt standard methods for installing meters. Such methods shall be set out with a written description and with drawings to

the extent necessary for a clear understanding of the requirements, and submitted to the Commission for approval. Copies of approved standard methods shall be made available to prospective customers and contractors, or others engaged in the business of placing pipe for gas utilization (residential only).

5.4.2. Orifice meters -- All orifice meter settings shall be constructed and maintained in accordance with accepted good practice. (Accepted good practice at present is best indicated by the American Gas Association Gas Measurement Committee Report No. 3, or amendments thereto). All orifice meters installed in accordance to American Gas Association Gas Measurement Committee Report No. 2 need not be remodeled in accordance with Committee Report No. 3 unless the utility elects to do so.

5.4.3. Service connection -- In connecting its distribution mains to the customer's premises, the utility shall furnish, install and maintain the following, which shall remain its property: the pipe between its main and the property line abutting the utility's main, a street connection, stopcock and curb box. All of the foregoing shall be designated as "service connection."

5.4.4. Customer's service -- The customer shall furnish and lay the necessary pipe to make connection from the property line abutting the utility's main, to the place of consumption, and shall keep the service line in good repair. The service line shall be installed and tested in accordance with the Minimum Safety Standards and the utility's safety requirements concerning customer connections required to be filed pursuant to Rule 8.3., infra. The customer shall not make any change in or interfere with said customer's service line without approval of the utility.

5.4.5. Inspection of customer's service by utility -- In the installation of a customer's service line, the customer must not install any tees or branch connection, and must leave the trench open and pipe uncovered until it is examined by an inspector of the utility, and shown to be free of any irregularity or defect.

5.5. Extension of mains -- Extensions shall be made to the utility's mains in accordance with the following provisions:

5.5.1. Free extensions --

a. Whenever an extension of a utility's distribution system is necessary in order that an applicant or

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group of applicants may receive service in the territory within which the utility operates, the utility shall extend its mains, without cost to the applicant or applicants, for a distance of 100 feet for each applicant who actually takes the service when gas is available.

b. Nothing contained herein shall be construed to prohibit a utility from making, at its expense, longer free extensions than herein prescribed, should its judgment so dictate, provided like free extensions are made to other applicants under similar conditions.

5.5.2. Extensions subject to surcharge -- When an extension of a utility's mains, longer than that provided for in Rule 5.5.1.a. of this regulation, is necessary in order that an applicant or a group of applicants may receive service, the utility shall install the additional main according to the following provisions:

a. The utility shall build the entire extension at its own cost.

b. The total construction cost of the extension shall be determined in accordance with the Commission's classification of accounts for gas utilities, and from such total construction cost there shall be deducted:

A. Costs incident to any increase in the size of the main in excess of 4-inch pipe size, (unless larger pipe size is necessary to provide adequate and satisfactory service) increase in length necessary for future expansion or to continue a construction plan of the utility; and costs necessary to correct inadequate capacity.

B. The total construction cost of that portion of the extension constituting a free extension, which includes meters, service regulators, and service connections.

c. The remaining cost shall be used as a base for determining the surcharge.

d. The cost per foot of the extension shall be based upon the average installed cost per foot for the entire extension after deducting the items enumerated in Rule 5.5.2.b. above, paragraphs A. and B.

e. The total surcharge shall be twelve percent (12%) per annum of the surcharge base.

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f. The twelve percent (12%) per annum shall be equally divided between all customers: **Provided**, however, That in case an industrial or commercial customer desires to be served from the proposed extension, such customer shall assume that proportion of the twelve percent (12%) per annum which is represented by the ratio of such customer's estimated annual consumption to the total estimated annual consumption of all customers on the proposed extension. The remainder the monthly surcharge shall be divided between the remaining customers.

g. In order to limit the number of different surcharges, all monthly surcharges shall be adjusted to the nearest five (5) cents.

h. Surcharges will be adjusted downward only, at the end of each calendar year, to adjust for additional customers who have been added to the extension during the year. Such adjustment of surcharges shall be continued until the computed surcharge is to two and one-half (2 ½) cents or less, at which time the extension attains the status of a free extension, and the surcharge shall be discontinued entirely.

5.5.3. Extensions not more than 200 feet per customer -- When an extension of the utility's mains to serve an applicant or group of applicants amounts to more than one hundred (100) feet, but not more than two hundred (200) feet, per applicant, the utility shall make the extension and each applicant will be subject to a surcharge on the number of feet of main installed greater than the free extension of one hundred (100) feet per applicant.

5.5.4. Extensions more than 200 feet per customer --

a. When an extension of the utility's mains, to serve an applicant or group of applicants, amounts to more than two hundred (200) feet per customer, the total cost of the excess footage over two hundred (200) feet per customer shall be deposited with the utility by the applicant or applicants, or through their authorized agent, based on the average estimated cost per foot of the total extension. This deposit shall be subject to refund as hereinafter provided. Each customer receiving gas service from such extension will be billed under rates plus the surcharge applicable as set forth herein above.

b. At the end of each calendar year, for a period of ten years, the utility will refund to the customer or customers, or their duly authorized agent, who paid for the excess footage over 200 feet per customer, the cost of additional footage over 200 feet of pipe, in place, but not to exceed 200

feet for each additional customer, as of December 31, each year, but in no case shall the total amount refunded exceed the amount paid the utility. After ten (10) years no refund will be made. No reduction in surcharge will be made until all parties who paid for the extension over two hundred (200) feet per customer have been reimbursed, or until ten (10) years have elapsed since completion of construction, and when either of such occurrences shall take place then Rule 5.5.2.h. hereof shall apply.

c. Each additional customer added to the extension (as stated in Rule 5.5.2.d.), after original surcharge has been established, shall pay the applicable surcharge.

5.5.5. Term of agreement -- The term of the contract shall be for one (1) year except that the utility may require a longer term, not to exceed for (4) years, for commercial and industrial customers. At the expiration of the initial term, the agreement will continue in effect from year thereafter, unless the customer shall notify the utility, in writing, of a desire to cancel the contract, not less than thirty (30) days prior to the termination of the initial contract period, or thirty (30) days prior to the termination of any contract year thereafter.

5.5.6. Construction conditions --

Construction of line extensions, as provided in this rule, shall be undertaken promptly after all negotiations have been completed and necessary right-of-way agreements have been delivered to the utility, all prospective customers have signed contracts, and after not less than fifty percent (50%) of the contract signers have completed the piping of their premises and are ready to receive service. The mains shall be constructed over the most practicable route. The surcharge shall be based on the number of customers who actually take the service when gas is available to them.

5.5.7. Right-of-way -- With respect to the item "right-of-way", it is the purpose of this rule that utilities shall not in general be required to build line extensions over private rights-of-way. If the construction of an extension involves the utility's incurring expense for right-of-way easements, either by purchase or condemnation, the cost of said right-of-way, together with all costs of securing, and other related costs, shall be included in the cost of the extension.

5.5.8. Customer service lines -- The customer shall supply the service line, all rights-of-way, railway and other crossing permits, and all construction necessary to bring the terminus of his piping to a location where it can be connected to

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the utility's "service connection" as fixed and provided for in these rules and regulations.

5.5.9. Exception to extension rule --

a. ~~The utility may be relieved by the Commission from making extensions under the foregoing rule after presenting to the Commission data showing the purposes for the proposed extension to be of a temporary, unreliable or intermittent nature or if unusual conditions make the cost of the extension economically prohibitive.~~

b. Nothing contained herein shall be construed to prohibit a utility from making extension of mains under difference arrangements, should its judgement so dictate, provided the above rule is fully explained to the applicant or applicants, and like arrangements are made to other applicant or applicants under similar conditions.

5.5.10. Extension of an extension --

a. If an extension is made to an existing extension, subject to surcharge, and the surcharge computed for the new extension is equal to or less than the surcharge on the existing extension, the existing extension and the addition thereto shall be considered as one extension and a new surcharge shall be determined which will be applicable to all customers on the combined extensions.

b. An extension to an extension which requires surcharges greater than those prevailing on the extension from which it originates, will be considered as a separate extension. When the surcharges become equal, the two shall be considered as a single extension.

5.5.11. Extensions applicable in real estate subdivisions --

a. The applicant desiring an extension to a prospective real estate subdivision shall pay the entire cost of the extension. The utility may require the applicant to deposit an amount equal to the estimated cost of the project before construction is started, which deposit shall not draw interest. At the end of each calendar year, for a period of ten (10) years, the utility will refund to the applicant who paid for the extension, or his authorized agent, a sum equivalent to the cost of 100 feet of pipe installed in the extension for each

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additional customer as of December 31st, but in no case will the total amount refunded exceed the amount paid to the utility. After ten (10) years from the completion of the extension no refund will be made.

~~b. Customers locating on an extension made under Rule 5.5.11. will not be charged an extension surcharge.~~

5.6. Main line high-pressure taps to serve rural customers.

5.6.1. Equipment furnished by utility -- When an applicant, or number of applicants, not large enough to merit the installation of an intermediate or low pressure distribution system, desire gas service which must be supplied from a transmission or field line, the utility shall, without cost to the customer, make the tap, install a stop cock, metering and appurtenant equipment, exclusive of the regulator or regulators, oil seal or other type pressure relief device, and the line. All meters and regulators installed according to this rule shall be housed at the expense of the customer.

5.6.2. General provisions --

a. All such installations shall have at least one (1) regulator and shall also be provided with excess pressure protection. This safety device shall be installed near the customer's meter and shall be set to relieve any pressure in excess of ten (10) ounces, unless higher pressure is necessary in order to furnish service.

b. The number of regulators required shall be determined by the maximum operating pressure existing in the line at any time during the preceding twelve (12) month period, unless changes in operating conditions are contemplated that would require more regulators, in which case additional regulators may be required.

c. On lines in which the maximum pressure does not exceed sixty (60) pound gauge, a service type regulator shall be used. When the maximum gauge pressure existing in the line does not exceed one hundred fifty (150) pounds, two or more regulators shall be used to reduce the pressure. On lines in which the maximum gauge pressure exceeds one hundred fifty (150) pounds, sufficient regulators for safe operation shall be installed.

§150-4-6. Inspections and test.

6.1. Meter testing facilities and equipment.

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6.1.1. Testing facilities -- Each utility shall provide or have access to such laboratory meter-testing equipment and other equipment and facilities as may be necessary to make the tests required of it by these rules or other orders of the Commission. The apparatus and equipment so provided shall be ~~subject to the approval of the Commission, and it shall be~~ available at all times for the inspection or use of any member or authorized representative of the Commission.

6.1.2. Test required -- Each utility shall, as a minimum requirement, make such tests as are prescribed under these rules with such frequency, and in such manner, and at such places as are herein provided or as may be approved or ordered by the Commission.

6.1.3. General testing equipment -- Each utility furnishing metered gas service shall own and maintain the equipment and facilities necessary for accurately testing all types and sizes of meters employed for the measurement of gas, unless arrangements shall have been made to have such testing done in a shop or laboratory containing equipment that is acceptable to the Commission. All alterations, accidents or repairs to meter-proving equipment, subject to proof by the Commission, which might affect the accuracy of such equipment or the method of operating it, shall be promptly reported in writing to the Commission. Testing instruments and equipment must be periodically checked against a standard in accordance with accepted engineering practice. The accuracy of all provers and methods of operating them will be checked from time to time by a representative of the Commission.

6.1.4. Equipment for testing small capacity meters -
- Each utility shall be required, except as provided in Rule 6.1.3. above, to own and maintain a meter prover of approved type and of a capacity of not less than 5 cubic feet for the testing of small capacity meters. Each meter prover shall be supplied with all accessories needed for accurate meter testing and shall be located in a room suitable for the work to be done, protected from drafts and excessive changes of temperature. The utility shall maintain this equipment in good condition and correct adjustment, so that it shall be capable of determining the accuracy of any service meter to within one half ($\frac{1}{2}$) of one percent (1%).

6.1.5. Equipment for testing large capacity meters -
- Each utility furnishing metered gas service through orifice or large displacement meters, shall have available, except as provided in Rule 6.1.3. above, and maintain in proper adjustment proving equipment suitable for determining the accuracy of any

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orifice or large displacement meter to within one half ($\frac{1}{2}$) of one percent (1%). The accuracy of all provers and methods of operating them shall be established from time to time by a representative of the Commission.

~~6.2. Meter test records.~~

6.2.1. Data required -- All records of tests shall contain complete information concerning the test, including the date and place where the test was made, the name of the person making the test, and the result. Whenever any gas service meter is tested, the original test record shall be preserved, including the information necessary for identifying the meter, the reason for making the test, the reading of the meter upon removal from service, and the result of the test, together with all data taken at the time of test in sufficiently complete form to permit the convenient checking of the methods employed and the calculations made. This record shall be kept until a subsequent test of the meter has been made, but in no case less than six (6) months, and must not be destroyed until all pertinent data has been entered on the meter record.

6.2.2. Meter record -- A complete record shall be kept of all tests and inspections made under these rules. The record to be known as the "meter record" shall be kept and shall indicate for each meter owned or used by any utility the date of purchase, its identification, a record of the use, repairs, and tests to which it has been subjected, and the general results of such tests.

6.3. Tagging, sealing and capping meters.

6.3.1. Tagging meters -- Each meter shall either be marked or accompanied by a record card when installed. The marking or card must show the date of the last test if the meter is tested on a time basis or the registration (index reading) and date if the meter may be tested on either a time or registration basis. In no case shall the elapsed time between the date of test and the date of installation exceed for (4) months.

6.3.2. Sealing meters -- All meters tested for installation shall be sealed at the time of test 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 a die, which shall bear the initials of the utility. Utilities using a snap tin type seal shall have the seal shall have the seal stamped in a similar manner.

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6.3.3. Capping meters -- All incoming meters must be capped when removed from service and awaiting test. All meters that have been tested and sealed or are ready for installation must be capped when sealed and kept capped until installed.

~~6.4. Accuracy requirements for gas meters.~~

6.4.1. Installation test -- Every gas meter, whether new or repaired, or that has been removed from service for any cause, shall be in good order and shall be correct at all test rates of flow to within one percent (1%) before being installed:

Provided, however, That, in case of an emergency, a meter not meeting the requirements of this rule may be installed temporarily.

6.4.2. Method of determining the accuracy of small meters -- For the purpose of determining compliance with this rule, the registration of a displacement meter shall be determined by one test at a rate of flow of approximately one fifth (1/5) of its rated capacity and a second test at approximately the rated capacity of the meter. The capacity of the meters for test purposes shall be the capacity at 1/2 inch differential pressure. The test at the two (2) rates of flow shall agree within, plus or minus one percent (1%). The accuracy of the meter shall be determined by taking one half (1/2) the algebraic sum of the errors at check and capacity flow, which shall be considered as its accuracy in determining compliance with Rule 6.4.1. and for the purpose of computing refunds; unless unusual load conditions indicate that a higher or lower rate of flow should be used, in which case the test record must show the rate of flow used.

6.4.3. Meter prover required -- All tests to determine the accuracy of any gas service meter used to measure gas at standard distribution pressure shall be made with a bell type prover; unless, because of unusual capacity or construction of the meter, such method of test shall be considered impracticable and another approved method of test shall be used.

6.4.4. Method for testing large displacement meters

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a. All tests on large displacement meters shall be made with approved testing apparatus. It is recommended that such meters be tested in the place of permanent location on the customer's premises whenever practicable. When critical flow provers or low pressure flow provers are used for making such tests, it is recommended that the accuracy be determined at three or more rates of flow, ranging from ten percent (10%) of the

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rated capacity up to flow at maximum operating rate.

b. In such tests, when testing with the critical flow prover, the meter shall be operated at a static pressure which approximates average operating static pressure. When similar tests are made with a low pressure flow prover, average operating pressure should be maintained on the meter under test and the prover operated at a range of low pressure required for such a prover. However, in installation where meters operating on pressures higher than standard distribution pressure are limited in their maximum operating dial rate so as to keep the differential pressure equal to or less than two (2) inches, low pressure flow prover tests may be run with low pressure on the meter. In the flow tests by either method, the maximum dial rate should be such that it will ensure tests being run at meter differential pressure equivalent to normal operating meter differential pressure in all cases.

6.4.5. Method for testing orifice meters --

a. All tests on orifice meters shall be made in the place or permanent location on the customer's premises, with approved testing apparatus. The accuracy of the differential pressure registration shall be determined on a rising and falling pressure throughout the entire operating range of the gauge.

b. The static pressure registration shall be determined at two (2) or more points including operating pressure.

6.4.6. Methods for determining accuracy of large displacement meters -- For determining the accuracy of large displacement meters, take the algebraic average of the errors determined at the various rates of flow at which the meter was tested, which shall be considered as its accuracy in determining compliance with Rule 6.4.1. and for the purpose of computing refunds; except where the rates of flow at which the meter has been registering in service can be definitely established, in which case the weighted average error shall be determined and used.

6.4.7. Method of determining accuracy of orifice gauges -- The accuracy of the differential element in all orifice meter gauges must be verified by use of a manometer or other approved methods. The accuracy of the static element must be verified by the use of either a dead weight type gauge, an accurate indicating spring gauge or other approved methods. When an orifice meter gauge is tested and the differential and/or static element is found to be within two percent (2%), plus or

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minus, of the chart reading, such elements may be considered as accurate in compliance with Rule 4.4. of these rules. When the differential or static element is found to be in error, the respective element shall be adjusted to as near correct reading as practical.

6.5. Periodic tests.

6.5.1. Periodic test schedule -- All types of meters in service shall be periodically tested according to the schedule below:

a. Displacement meters.

A. Group One -- Displacement meters operating on a gauge pressure of less than two (2) pounds, and having a rated capacity of not more than 1,000 cubic feet per hour at $\frac{1}{2}$ inch differential pressure, shall be tested at least every fifteen (15) years.

B. Group Two -- Displacement meters operating on any pressure and having a rated capacity of more than 1,000 cubic feet per hour at $\frac{1}{2}$ inch differential pressure, or smaller displacement meters if measuring gas at two (2) pounds gauge pressure or more, shall be tested on the basis of the index reading (cubic feet of gas passed at the normally prevailing pressure) according to the following schedule:

Normal Gauge Pressure	Index Registration Between Tests
Less than 2 pounds	5800x The rated Hourly Capacity at one-half (.5) inch Differential Pressure.
2 to 25 pounds	4500x The rated Hourly Capacity at one-half (.5) inch Differential Pressure.
26 to 75 pounds	3000x The rated Hourly Capacity at one-half (.5) inch Differential Pressure.
76 to 200 pounds	2000x The rated Hourly Capacity at one-half (.5) inch Differential Pressure.
Over 200 pounds	1250x The rated Hourly Capacity at one-half (.5) inch Differential Pressure.

No meter in "group two" shall be allowed to remain in service longer than two (2) years without a test; however, such meters shall be tested free upon request, if such requests are

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not made more often than once each year.

b. Orifice meters.

A. Meters measuring not more than 2,000 Mcf ~~per month on the average shall have their differential and static recording gauges tested at least once every six (6) months.~~

B. Meters measuring 2,000 Mcf or more per month shall have their differential and static recording gauges tested at least once every two (2) months.

C. The diameter and condition of orifice plates, meter runs, straightening vanes, shall be checked at least once every year. The gravity of the gas determined at least once every six (6) months: **Provided**, however, That where previous or subsequent test records show that the specific gravity has not varied by an amount which would make an error in the measurement greater than is consistent with accepted engineering practice, the specific gravity of the gas may be determined at longer intervals, not to exceed one (1) year.

D. Nothing contained in this rule shall prevent the utility from removing and testing a meter at any time earlier than prescribed at its election.

c. Rotary meters.

A. For the purpose of testing rotary type meters the manufacturer's certificate of original test shall be accepted for original installation.

B. Subsequent tests shall be made by differential drop method at a period not to exceed one (1) year.

C. This differential drop test is to be compared to differential curve developed at operating pressure for various index rates at flow after meter installation. (This procedure is recommended as the original factory differential curve using air at approximate rates of flow is not applicable under operating condition measuring gas under pressure).

6.5.2. Reports to Commission.

a. Every utility shall make reports to the Commission on Form E.D. No. 1, or such other forms as may be prescribed. Such reports shall contain complete information regarding meters tested, meters past due for tests, refunds, and all other information requested on the form.

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b. A utility need not report meters in "group one" as being past due for test unless the meter is more than ninety (90) days past the fifteen (15) year test period.

c. The provisions of this section shall not ~~relieve the utility of any of the requirements of Rule 4.4~~ regarding the manner of computing refunds due to fast meters.

d. Reports must be filed not later than thirty (30) days after the expiration of the period covered by the reports.

6.6. Complaint test.

6.6.1. Application for test -- Upon the written application to the Commission by a customer, a test will be made of the customer's meter, as soon as practicable, supervised by a representative of the Commission.

6.6.2. Fee for test -- The application for the test shall be accompanied by a remittance of the amount fixed below as the fee for testing. This fee shall be retained by the Commission. However, if the meter is found to be more than two percent (2%) fast or slow, the utility shall reimburse the customer for the amount of the fee paid by him to the Commission for the meter test. The amount of the fee to be paid for a meter test shall be as follows:

For each gas service meter:

Not exceeding a rated capacity of 300 cu ft/hr -- \$5.00

Exceeding 300 cu ft/hr but not exceeding 1,000 cu ft/hr
-- \$5.00

Exceeding 1,000 cu ft/hr -- \$10.00

Orifice meters -- \$10.00

6.6.3. Restrictions upon utility -- This rule shall not interfere with the practice of a utility with reference to its tests of meters, except that in the event of application by a customer to the Commission for a complaint test as herein provided, the utility shall not knowingly remove, interfere with, or adjust the meter to be tested without the prior written consent of the customer, and approval of the Commission.

6.7. Request tests.

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6.7.1. Action required -- If any customer shall request in writing a test of the accuracy of the meter used by her/him, and the meter is not due for periodic test, the utility shall notify the customer of the conditions under which the test will be made by the utility. If the customer shall then request ~~the utility to proceed with the test and remits an amount equal~~ to one half of the scheduled cost of the complaint test (See Rule 6.6.) but not less than five dollars (\$5.00), the utility shall make the test promptly. If, when tested, the meter is found to be more than two percent (2%) fast or slow, the amount advanced shall be promptly refunded to the customers. If the meter is not found to be more than two percent (2%) in error, the utility shall retain the amount advanced by the customer for the test.

6.7.2. Customer's privilege -- A customer may be present when the utility conducts the tests on his/her meter or, if he/she desires, may send an expert or other representative appointed by her/him.

6.7.3. Report to customer -- A report giving the name of the customer requesting the test, the date of the request, the location of the premises where the meter had been installed, the type, make, size, and serial number of the meter, the date of removal, the date tested, the result of the test, and the amount of refund if the meter was found more than two percent (2%) fast, shall be supplied to such customer within ten (10) days after the completion of the test.

6.8. Meter testing employees.

6.8.1. Meterman required -- Every utility shall have in its employ, or shall have access to, one or more competent metermen whose duty it shall be to perform such tests as may be necessary to determine the accuracy of the utility's meters.

6.8.2. Certification of meterman -- A utility desiring to certify an employee as a meterman 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 of the type shown on the card.

6.8.3. Experience required -- No employee of a utility shall be authorized to test meters unless he has had at least six (6) months' experience in a utility gas meter shop, or

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equivalent experience, part of which time must have been spent working on the type meter for which authority to test has been requested. All tests must be made by an authorized meterman.

§150-4-7. Standards of quality of service.

7.1. Heating value requirements.

7.1.1. Minimum heating value -- The minimum average monthly heating value of any gas delivered into a distribution system shall not be less than one thousand (1,000) Btu per cubic foot for gas transported into West Virginia. When gas produced within this State has a heating value of less than one thousand (1,000) Btu per cubic foot, the utility shall furnish the Commission an analysis of the gas along with any other information the Commission may desire, prior to the delivery of the gas into a distribution system.

7.1.2. Extraction of hydrocarbons -- No gas treated for the extraction of hydrocarbons shall be delivered for distribution where the heating value has been reduced lower than one thousand (1,000) Btu per cubic foot.

7.1.3. Reports to Commission --

a. Each utility shall report to the Commission, annually the average heating value of its gas delivered into its system.

b. A utility whose natural gas is treated by itself or others for the extraction of hydrocarbons shall report to the Commission the extractions in accordance with the Uniform System of Accounts as prescribed by the Federal Energy Regulatory Commission, Account Nos. 770 through 791.

c. A utility whose natural gas is treated for the extraction of hydrocarbons shall report to the Commission the annual average heating value and specific gravity of the gas entering and leaving each extraction plant.

7.1.4. Method of determining heating value --

a. Each utility shall determine the average heating value of its gas by calorimeter, A. J. W. Headlee formula or other approved methods.

b. Determination of heating value shall be made of gas drawn from parts of the distribution system or pipelines remote from the laboratory, with such frequency and in such

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manner as is necessary to establish the average monthly heating value.

c. The heating value shall be the total heating value expressed at 14.73 psi absolute pressure and saturated with water vapor when determined by calorimeter or chemical analysis.

d. Calorimeter accuracy, as well as the method of determining heating value, shall be subject to the approval of a designated representative of the Commission.

7.1.5. Record of tests --

a. Each utility shall adopt a standard form for recording the results of heating value tests. Each determination of heating value shall be recorded originally upon the form adopted for that purpose, and the records shall be retained for a period of three (3) years. Where heating value is determined by an approved type recording calorimeter or recording gravitometer, the charts removed from such calorimeter or gravitometer will be deemed sufficient to comply with this rule.

b. It is not the intent of this rule that recording calorimeters or recording gravitometers be installed but the method of determining the average heating value shall be approved by a representative of the Commission.

7.2. Purity requirements.

7.2.1. All natural gas distributed in this State shall be free from dangerous or objectionable quantities of impurities such as hydrogen sulphide, nitrogen or other combustible or noncombustible, noxious, or toxic gases, or other impurities. A gas shall be considered free from undesirable impurities when the quantity of any impurity present is within the limits recognized as allowable in good practice.

7.3. Gas pressure requirements.

7.3.1. Pressure districts -- A utility shall divide the territory served by it into pressure districts and shall specify for each district or for the territory as a whole (which will then be regarded as a single district) the maximum pressure to be maintained within that district. The pressure adopted must be filed with the Commission.

7.3.2. Maximum pressure -- The maximum pressure specified for any district shall not be greater than 15 inches (8.5 ozs.) of water column.

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7.3.3. Minimum pressure -- The pressure at the outlet of any low-pressure customer's service meter shall never be less than one half of the maximum pressure specified for the district in which the meter is located. In no case shall the minimum pressure be less than 3.5 inches (2 ozs.) of water column, unless due to insufficient capacity of the service line owned by the customer.

7.3.4. Changing pressure districts -- After notifying the Commission, the utility may be at liberty to change the maximum pressure for any district with the provision that when any such change is made, all customer's appliances located within the territory for which the specified maximum is changed shall, if necessary, be readjusted by and at the expense of the utility.

7.3.5. Exceptions --

a. Higher pressures may be allowed by the Commission in exceptional cases after the presentation of factual data showing that adequate service cannot be supplied with existing facilities, and that it is impractical to make the necessary changes immediately. In all such cases the utility shall formulate a plan for eliminating the high pressure condition as soon as practical and economically possible.

b. A utility supplying gas shall not be deemed to have violated the provisions of this rule if it can be shown that variations from said pressures are due to:

A. Use of gas by the customer in violation of contract or rules of the utility or Commission.

B. Infrequent fluctuations of short duration due to unavoidable conditions of operation.

7.3.6. Pressure gauges -- Every utility shall maintain and operate, on the low pressure side of each district regulatory serving fifty or more customers, at least one recording gas pressure gauge of suitable range. When more than one regulator is used to serve a single pressure district, recording pressure gauges need not be installed for each regulator. However, a sufficient number of recording pressure gauges shall be installed and operated in each distribution system to furnish a continuous record of the pressure prevailing in all parts of the plant.

7.3.7. Pressure surveys -- Every utility shall make at least one pressure survey during the period of peak load

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(December, January or February) each year on each of its distribution plants. The pressures recorded shall be the pressures prevailing at the outlet of customers' meters in districts where the lowest pressures prevail. These records shall be available to representatives of the Commission at all times, and shall be preserved for a period of three years. The Commission may, in addition, require the utility to file a summary report of the pressure survey each year.

7.4. Measurement of gas under high pressure.

7.4.1. Pressure-recording equipment required -- When gas is measured through displacement meters at a pressure greater than standard distribution pressure, such meters shall be equipped with reliable pressure-volume recording gauges or other devices for accurately determining in accordance with contract or other tariff provisions the quantity of gas that has passed through the meter.

7.4.2. Determination of multiplier -- In computing the volume of gas on a given pressure base from a pressure volume chart, the multiplier shall be obtained by the weighted average method, which method consists of determining the average pressure for each unit volume indicated on the chart.

7.4.3. Determination of static and differential pressure --

a. In computing the volume of gas at a given pressure base from an orifice meter chart, or charts, the average static pressure and the average differential pressure shall be determined for periods not exceeding one (1) hour; and where pressure variations are extreme during the hour, such average should be determined for fifteen (15) minute intervals.

b. Mechanical devices may be substituted for the above manual method of computing orifice meter charts.

7.5. Special rules for utilities furnishing manufactured or mixed gas.

7.5.1. Calorimeter equipment and laboratory.

a. Calorimeter required -- Each utility selling manufactured or mixed gas shall provide and maintain a calorimeter of an approved type, and all necessary accessories therefor, unless provision is otherwise made, with the approval of the Commission, for the regular determination of the heating value of the gas sold.

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b. Location of calorimeter -- The calorimeter shall be installed in a laboratory, or other building, so located as to ensure that thoroughly mixed, stabilized, and representative samples of the gas, delivered to the customers, are used for the tests.

c. Calorimeter accuracy -- The accuracy of all calorimeters, as well as the methods of making heating value tests, shall be subject to the approval of a designated representative of the Commission.

d. Additional test -- Determinations of heating value shall be made of gas drawn from parts of the distribution system or pipelines remote from the laboratory with such frequency and in such manner as is necessary to establish the stability of the gas or for other test purposes.

7.5.2. Heating value tests --

a. Frequency of tests -- Every utility selling manufactured gas, or a mixture of manufactured and natural gas, or a gas obtained by thermal treatment or other process for modifying the composition of natural gas, shall determine the heating value of the gas distributed to its customers daily or more frequently if necessary or required by the Commission.

b. Records of tests -- Each utility shall adopt a standard form for recording the results of heating value tests. Each determination of heating value shall be recorded originally upon the form adopted for that purpose, and the records shall be retained for such period as the Commission may designate. Where heating value is determined by an approved type recording calorimeter, the charts removed from such a calorimeter, will be deemed sufficient to comply with this rule. The average heating value for each day and the monthly average heating value determined by these tests shall be recorded. These records must not be destroyed without Commission approval.

7.5.3. Heating value requirements --

a. Authorized standard of heating value -- The monthly average heating value of the gas furnished by each utility supplying manufactured or mixed gas in each community or territory served shall be not less than the standard heating value authorized by the Commission for the utility in that community. Unless otherwise ordered by the Commission, the authorized standard for each community shall be the standard of heating value currently in effect and approved by the Commission for the community. The authorized standard shall be subject to

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change at the option of the utility under the following conditions:

A. The Commission shall be notified in writing of the intention to change the standard of heating value. ~~The notification shall be accompanied by a complete statement of the reasons for making the change, and by all available data regarding the cost and character of any alterations to plant, process, or materials used, which will be involved in the change.~~

B. No change of standard shall take effect, and no expenditures shall be incurred for the alteration of plant or equipment for the purpose of supplying gas at the new proposed standard until the Commission shall have approved the change of standard, or until thirty (30) days after the notification, data and schedules required by this rule shall have been submitted to the Commission. However, the provisions of this rule shall not be interpreted as forbidding expenditures for engineering services, experimental or development work needed to determine the character and cost of the proposed change.

C. The utility shall make, without charge to its customers, such adjustments and replacement of appliance parts as may be necessary to ensure all customers as safe, efficient and satisfactory service after the change of standard before.

b. Average heating value -- To obtain the average total heating value of a gas, the results of all tests of heating value made on any day shall be averaged, and the average of all the daily averages shall be taken as the monthly average:

Provided, That in cases of unusual difficulty in maintaining uniformity of heating value, the daily and monthly weighted averages shall be determined if the variations exceed five percent (5%) above or below the authorized standard.

c. Maximum and minimum limits -- The heating value of the gas shall be maintained with as little deviation as practicable; and to this end the weighted average total heating value on any one day should not fall below the monthly authorized standard by more than five percent (5%). Variations above the approved standard heating value will be allowed; provided the gases are interchangeable as determined by application of the interchangeability rule of the American Gas Association.

d. Heating value of gas transported -- The heating value of gas which is compressed for transmission shall be determined after compression and cooling to a temperature approximately equal to the temperature of the transmission mains.

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Where gas is distributed to different territories at different pressures, which result in more than negligible differences in condensation, the territories will be considered to be served with gases of different heating values.

e. ~~Stability of gas -- No utility shall~~ distribute gas which contains combustible constituents which will condense under the conditions of its distribution to the extent of more than three percent (3%) of the total heating value of the gas. Periodic tests shall be made to determine compliance with this requirement.

7.5.4. Purity requirements -- All manufactured gas distributed in this State shall be free from dangerous or objectionable quantities of impurities such as hydrogen sulphide, nitrogen or other combustible or noncombustible, noxious, or toxic gases, or other impurities. A gas shall be considered free from undesirable impurities when the quantity of any impurity present is within the limits recognized as allowable in good practice.

7.5.5. Tests of purity --

a. Each utility supplying manufactured or mixed gas shall test the gas daily for the presence of hydrogen sulphide by an approved method.

b. Each utility selling more than 100,000,000 cubic feet of manufactured or mixed gas per year shall provide and maintain such apparatus and facilities as are necessary for the determination of total sulphur and ammonia in the gas; and each such utility shall periodically (preferably semimonthly) determine the amount of total sulphur and ammonia in the gas distributed by it, and shall keep a record of the results of all such tests: **Provided**, however, That any such utility supplying only water, gas or oil, or mixture of these, shall not be required to provide apparatus for or make determinations of the amount of ammonia in the gas.

§150-4-8. Safety requirements.

8.1. Accidents.

8.1.1. Every 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 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.

8.2. Odorization of natural gas.

8.2.1. Where and when used -- Each utility furnishing natural gas to domestic or commercial customers, churches, schools or public buildings, shall determine whether or not the presence of gas can be detected by odor when diluted with air at a concentration of not more than twenty percent (20%) of lower explosive limits. If the presence of gas cannot be detected, then that gas shall be odorized as stated in Rules 8.2.2. and 8.2.3.

8.2.2. Safety of odorant -- The odorant used shall be harmless and nontoxic and shall be noncorrosive to materials such as steel, iron, brass, bronze or leather, and shall not be soluble in water to a greater extent than two and one-half (2 ½) parts, by weight of odorant to one hundred (100) parts, by weight of water.

8.2.3. Specifications -- The odorant to be introduced into natural gas shall be of such character as to indicate by distinctive odor the presence of gas when such gas is present in concentrations not greater than one percent (1%) by volume. By this, it is meant that the gas shall be given an odor by adding an agent that will vaporize, dissolve in or be mixed with the gas so as to produce an odor readily perceptible to normal or average olfactory sense of a person coming from fresh ungasified air when gas is present in concentrations of not more than one part to ninety-nine (99) parts air.

8.2.4. Report to Commission -- Each utility shall file with the Commission a report of its plan for odorization.

8.2.5. Notice to customer --

a. The utility shall give notice to its customers in the area in which gas has been odorized.

b. It is not intended from these rules that an odorant be introduced into main transmission, field or gathering lines. However, if a church, school or public building is supplied with gas service from any of the above lines, the service line and building piping to such church, school or public building shall be tested by pressure drop method.

8.3. Approval of standard safety requirements concerning customer connections.

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8.3.1. Every utility shall include a statement in its tariff on file with the Commission which shall list or set forth the title of the publication listing all safety requirements and provisions adopted by the utility governing the installation and maintenance of customers' gas appliances, service lines or piping. Each utility shall keep a copy of such safety requirements and provisions available for public inspection at each of its offices.

§150-4-9. Rules and regulations governing gas pipeline safety.

9.1. Intentions.

9.1.1. Pursuant to the powers vested and the authority given under Chapter 24B, Code of West Virginia, the Public Service Commission of West Virginia prescribes, adopts and issues the following rules and regulations governing the transportation of natural and other gas by pipeline. These rules are intended to ensure uniformity and are designed to decrease accidents, save human lives, reduce property loss, and otherwise benefit the pipeline companies and the public.

9.1.2. The adoption of these rules and regulations shall in no way preclude the Public Service Commission from altering them or amending them in whole or part, and from requiring any additional information either upon complaint, its own motion, or upon application of any pipeline company. These rules and regulations are intended to supplement the statute and shall not relieve in any way a pipeline company of its duties under the laws of this State.

9.2. Application of rules.

9.2.1. These rules shall apply to (i) all pipeline companies, and (ii) interstate transmission facilities, as hereinafter defined.

9.3. Adoption of federal regulations.

9.3.1. The regulations promulgated by the Office of Pipeline Safety of the United States Department of Transportation, published in Title 49 CFR Parts 191, 192, 195 and 199, shall apply to all pipeline companies and interstate transmission facilities.

9.4. Rules of practice and procedure.

9.4.1. The Rules of Practice and Procedure adopted by the Commission where appropriate and applicable shall apply to

all pipeline companies.

9.5. Definitions.

9.5.1. When used in these rules:

a. "Act of 1968" means the act of Congress known as the Natural Gas Pipeline Safety Act of 1968;

b. "Commission" means the Public Service Commission of West Virginia;

c. "Director" means the director of the Gas Pipeline Safety Section of the Commission;

d. "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive;

e. "Interstate transmission facilities" means facilities used in the transportation of gas which are subject to the jurisdiction of the Federal Energy Regulatory Commission under the act of Congress known as the Natural Gas Act;

f. "Operator" means a person who engages in the transportation of gas or hazardous liquids by pipeline;

g. "Person" means any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

h. "Pipeline company" means a person engaged in the operation of pipeline facilities or the transportation of gas subject to the provisions of Chapter 24B of the West Virginia Code;

i. "Pipeline facilities" means, without limitation, new and existing pipe, pipe right-of-way and any equipment, facility, or building used in the transportation of gas or the treatment of gas during the course of transportation; or used in the transportation of hazardous liquid or the treatment of hazardous liquid during the course of transportation; but "right-of-way" used in Chapter 24B of the West Virginia Code, as amended, does not authorize the Commission to prescribe the location of routing of any pipeline facility.

j. "Rural" means those locations which lie outside the limits of any incorporated or unincorporated city,

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town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area which the Director may define as a nonrural area;

k. "System" means all pipeline facilities used by a particular operator in the transportation of gas, including but not limited to, line pipe, valves and other appurtenances connected to line pipe, compressor units, fabricated assemblies associated with compressor units, metering (including customers' meters) and delivery stations, and fabricated assemblies in metering and delivery stations;

l. "Transportation of gas" means the gathering, transmission or distribution of gas by pipeline or its storage.

9.6. Accidents or incidents.

9.6.1. Every operator shall report to the Commission all accidents or incidents involving its pipeline facilities operated within the State of West Virginia that cause personal injuries requiring hospitalization, fatality, or estimated damage to the property of the operator, or others, or both, totaling fifty thousand dollars (\$50,000) or more.

9.6.2. The Commission shall be notified of all such accidents or incidents as soon as possible, consistent with public welfare and safety. In those instances where a telephonic report to the Department of Transportation is required, a similar report of the accident or incident shall be made by telephone or telegraph to:

Public Service Commission
Gas Pipeline Safety Division
P. O. Box 812
Charleston, West Virginia 25323
Telephone: Area Code (304) 340-0473

9.6.3. Every operator shall furnish to the Commission, within thirty (30) days after the occurrence of a reportable accident or incident, a written report of such accident or incident, together with a summary of the operator's investigation as to the cause and circumstances surrounding the accident or incident. The report shall be made on the Commission form designated Accident or Incident Report, or on a form acceptable to the Commission showing the same information. Such report shall also contain the precautions taken, or to be taken, to prevent similar accidents or incidents in the future.

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a. If certain information is not available, the incomplete report should be submitted indicating this unavailability. When the information becomes available, a supplemental report will be submitted.

~~9.6.4. Operators that submit reports of accidents or incidents to federal agencies are permitted to file copies of such reports with this Commission in lieu of the report required by Rule 9.6.3.~~

9.7. Inspection and maintenance plans.

9.7.1. Every operator shall file with the Commission a plan for the inspection and maintenance of pipeline facilities owned or operated by it, and shall subsequently file any changes in such plan. The plan shall cover gas transmission facilities, distribution facilities, and those gathering or production facilities located in nonrural areas. The essential requirements stated in title 49 CFR Part 192.605, shall be covered by the plan. If at any time the Director finds that such plan is inadequate to achieve safe operation, the Director shall, after notice and opportunity for a hearing, require such plan to be revised. (NOTE: It is not the intent to require the operators that have complied with the provisions of this rule to refile upon the effective date of these rules and regulations).

9.7.2. Any change in the inspection and maintenance plan required by Rule 9.7.1. must be filed with the Commission within ten (10) days of the effective date of said change.

9.8. Major construction.

9.8.1. Every operator shall notify the Commission of all important additions to its system at least thirty (30) days prior to the commencement of any construction.

a. The requirements of Rule 9.8.1. shall not apply to gathering pipelines in rural areas.

b. An important addition is a single project, other than well drilling, involving an estimated expenditure of two hundred fifty thousand dollars (\$250,000) or more for transmission pipeline construction, fifty thousand dollars (\$50,000), or more, for distribution pipeline construction or an amount equivalent to ten percent (10%) or more of the total value of the system in service, whichever is less.

9.8.2. The report shall include the following:

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a. Description and location of project and expected starting and completion dates, along with the name, address and telephone number of the person to be contacted regarding the project.

b. Maximum allowable operating pressure.

c. Location class.

d. Material specifications in sufficient detail to permit appraisal of the safety aspects of the facility.

e. Pressure testing procedures to be used.

9.8.3. Every operator shall place on file with the Commission information concerning the welding and inspection procedures to be followed during the construction of new facilities.

9.9. Completion report.

9.9.1. Within sixty (60) days after the completion of an addition, a report shall be filed with the Commission which certifies that the facilities were constructed according to the previously submitted major construction report required by Rule 9.8. The completion report shall also include the pressure test data for the project.

9.10. Maximum Penalties.

9.10.1. Any person who violates any provision of these rules and regulations or orders issued thereunder, shall be subject to the criminal and civil penalties ascribed and imposed by Chapter 24, Article 4, Sections 1 through 5, inclusive, and Chapter 24B, Article 4, Section 6, all of the Code of West Virginia. Such sanctions and penalties include, but are not limited to, a civil penalty to be imposed by the Commission of not to exceed one thousand dollars (\$1,000) for each violation for each day that the violation persists: **Provided**, That the maximum civil penalty shall not exceed two hundred thousand dollars (\$200,000) for any related series of violations, with the right of appeal in all cases to the Supreme Court of Appeals.

9.11. Availability of information.

9.11.1. Information concerning the implementation of the Natural Gas Pipeline Safety Act may be obtained from the Office of Pipeline Safety, Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590, or the Gas Pipeline Safety

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Division, Public Service Commission of West Virginia, 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

§150-4-10. 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 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;

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10.2.6. The provision of free, or at less than cost or value, installation, operation, repair, modification or maintenance of appliances, equipment, or piping 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 nonutility 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 gas service;

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, retirees and their spouses. The plan must not require the employee to take energy from the utility. The plan must be a reasonable employee benefit. The plan must be approved by the utility's 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, 1997, a schedule setting forth each of the promotional practices being engaged in by the utility or subsidiaries which operate in West Virginia as of that date.

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

10.5.3. The schedule shall set forth:

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

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

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

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

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

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

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

10.5.4. A utility or its subsidiaries which operate in West Virginia may not continue to engage in any promotional practice after January 1, 1997 unless a schedule regarding promotional practices has been filed with the Commission.

10.6. Filing of Proposed Practices

10.6.1. A public utility or its subsidiaries

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operating in West Virginia may not offer or grant any additional promotional practice or vary any existing promotional practice, directly or indirectly, or in concert with others, or by any means whatsoever, until a schedule showing the addition or variation, in the form prescribed 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 subsidiary operating in West Virginia 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 subsidiary operating in West Virginia 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 subsidiaries operating in West Virginia during the period covered by the annual report. The report shall show in reasonable detail the amounts expended with respect to each promotional practice offered or granted.

10.8. Prohibition of discrimination for promotional practices.

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

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

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

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

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

§150-4-11. Inspections, Enforcement and Appeals.

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11.1. Enforcement Procedures -- Intrastate Gas §150-4-11. Inspections, Enforcement and Appeals, and Hazardous Liquid Pipeline Operators.

The purpose and scope of the Intrastate Enforcement Procedures is to describe the enforcement authority and sanctions exercised by the Public Service Commission of West Virginia - Gas Pipeline Safety for achieving and maintaining pipeline safety. It also prescribes the procedures governing the exercise of that authority and the imposition of those sanctions.

11.2 Definitions

11.2.1. "Operator" means a person who engages in the transportation of gas or hazardous liquids by pipeline.

11.2.2. "Gas" means natural gas, flammable gas or gas which is toxic or corrosive.

11.2.3. "Hazardous Liquid" means (a) petroleum or any petroleum product; and (b) any substance or material which is in liquid state (excluding liquified natural gas) when transported by pipeline facilities and which, as determined by the Commission, may pose an unreasonable risk to life or property when transported by pipeline facilities: **Provided**, that a hazardous liquid as herein defined shall not be construed so as to include or permit the regulation of any substance transported through pipeline or otherwise when used in the operation of coal mines, coal processing plants or coal slurry pipelines: **Provided**, however, that the Commission shall not determine that any substance or material is a hazardous liquid under this section if the Secretary of Transportation has not determined that the substance or material is a hazardous liquid under regulations promulgated in accordance with Section 202(2) of the Hazardous Liquid Pipeline Safety Act of 1979.

11.2.4. "Pipeline" means all parts of those physical facilities through which gas or a hazardous liquid moves in transportation including but not limited to pipe, valves and other appurtenance attached to pipe, compressor units, pumping units, metering stations, delivery stations, regulator stations, holders, break-out tanks and fabricated assemblies.

11.2.5. "Person" means any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association or joint-stock association, and includes any trustee, receiver, assignee or personal representative thereof.

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11.2.6. "Transportation of gas" means the gathering, transmission or distribution of gas by pipeline or its storage.

11.2.7. "Transportation of hazardous liquids" means the movement of hazardous liquids by pipeline, or their storage incidental to such movements; ~~except that it shall not include any such movement through gathering lines in rural locations or on-shore production, refining or manufacturing facilities or storage, or in-plant piping systems associated with any of such facilities.~~

11.2.8. "Pipeline facility" means, without limitation, new and existing pipe, pipe rights-of-way and any equipment, facility or building used in the transportation of gas or the treatment of gas during the course of transportation, or used in the transportation of hazardous liquid or the treatment of hazardous liquid during the course of transportation; but "right-of-way" as used in Chapter 24B of the West Virginia Code, as amended, does not authorize the Commission to prescribe the location or routing of any pipeline facility.

11.3. Jurisdiction

The West Virginia Legislature has empowered the Public Service Commission to prescribe and enforce safety standards and to regulate safety practices of persons engaged in the transportation of gas or hazardous liquids by pipeline to the extent permitted by the "Natural Gas Pipeline Safety Act of 1968" ("Act of 1968") and the "Hazardous Liquid Pipeline Safety Act of 1979" ("Act of 1979") and any amendments thereto as set forth and adopted in Chapter 24B of the West Virginia Code, as amended.

The regulations issued under the "Act of 1968" and the "Act of 1979" promulgated by the Office of Pipeline Safety of the United States Department of Transportation and published in Title 49, CFR (Code of Federal Regulations) Parts 191, 192, 195 and 199 apply to all pipeline companies.

The Safety Standards of the Act (the Pipeline Safety Regulations) apply to the design, installation, inspection, testing, construction, extension, operation, replacement and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection and testing are not applicable to pipeline facilities in existence on the date such standards are adopted.

The Commission is authorized to prescribe additional safety standards that apply to intrastate operators. Such safety standards shall be practicable and designed to meet the needs for

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pipeline safety. When prescribing and enforcing such standards, the Commission will consider:

11.3.1. Relevant available pipeline safety data;

~~11.3.2. whether such standards are appropriate for the particular type of pipeline transportation;~~

11.3.3. the reasonableness of any proposed standards;
and

11.3.4. the extent to which such standards will contribute to public safety.

Whenever the Commission finds a particular facility to be hazardous to life or property, it is empowered to require the person operating such facilities to take steps necessary to remove such hazards.

11.4. Authority to Inspect

The Commission has the power to investigate all methods and practices of pipeline companies; to require the maintenance and filing of reports, records and other information in such form and detail as the Commission may prescribe; to enter upon and to inspect the property, buildings, plants, and offices of such pipeline companies; and to inspect books, records, papers and documents relevant to the enforcement of the rules and regulations.

11.5. Inspection Intervals

Upon presentation of appropriate credentials, the Commission or its designated employee is authorized to enter upon, inspect and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining the compliance of such persons with the rules and regulations or Commission orders issued thereunder.

A review of the operator's operating, maintenance and emergency procedures will be conducted at intervals not to exceed 18 months under normal circumstances. Master meter inspections will be performed at 2 ½ year intervals under normal circumstances. However, this does not preclude inspections and/or reviews of the procedures more frequently as deemed necessary.

Inspections shall ordinarily be conducted pursuant to

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one of the following:

- 11.5.1. routine scheduling;
- 11.5.2. a complaint received from a member of the public;
- 11.5.3. information obtained from a previous inspection;
- 11.5.4. pipeline accident or incident; or
- 11.5.5. whenever deemed appropriate by the Commission or the Director of Gas Pipeline Safety.

11.6. Inspection of the Operators

An attempt will be made, in accordance with 11.5., to inspect every operator, with priority given to inspecting those systems with greater risk potential. In determining the potential risk of a pipeline system, the following factors may be considered:

- 11.6.1. the ratio of total steel pipe to coated steel pipe;
- 11.6.2. the ratio of total steel pipe to cathodically protected steel pipe;
- 11.6.3. leaks per mile of pipe;
- 11.6.4. leaks per number of services;
- 11.6.5. unaccounted-for-gas volumes and percentages;
- 11.6.6. the number of accidents or facility failures;
- 11.6.7. footage of cast iron pipe in the system; and
- 11.6.8. past history of the operator.

The inspection will include a thorough review of the operator's records concerning inspection, operation, maintenance and emergency procedures. Field inspection will include operational checks of corrosion control provisions, overpressure and regulating equipment, odorization, repaired leaks, emergency valves and any other components of the facility.

11.7. Verbal Notice to Operator of Violation

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When an inspection of an operator's records or facilities, or both, indicate that the operator is in apparent violation of a pipeline safety regulation, the investigator will give verbal notice of the alleged violation to the operator before concluding the inspection.

Any documentation of physical evidence necessary to support the alleged violation may be obtained during the inspection or requested by letter immediately after the conclusion of the visit.

The operator may institute on-site corrective measures when a violation exists. However, enforcement of such alleged violations will proceed.

11.8. Written Formal Notice of Violation

After evidence of an alleged violation is collected and the violation report is written, notice and opportunity to respond will be afforded the operator by a certified letter from the Pipeline Safety Director. The letter will notify the operator of the results of the on-site inspection and will specifically cite the regulation(s) the operator is allegedly violating. Further, the letter may contain a proposed civil penalty or a compliance order. A written response from the operator shall be submitted to the Pipeline Safety Director within 30 days of the time the operator receives the violation notice.

11.9. Options Open to the Operator

Alternatives open to the operator to respond to the violation notice are:

11.9.1. submit a written statement to the Pipeline Safety Director indicating corrective measures have achieved compliance;

11.9.2. submit a written plan of action to the Pipeline Safety Director outlining the corrective measures that will be taken to achieve compliance and when compliance is anticipated; or

11.9.3. request an informal conference with the Pipeline Safety staff to discuss the violations.

The alleged violations may be resolved at this stage if the information submitted in Subsection 11.9.1. or Subsection 11.9.2. of this section is accepted by the Pipeline Safety staff.

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Such acceptance shall be verified by a written statement issued by the Pipeline Safety Director following a reinspection of the operator's facilities. However, if the operator selects the third option, an informal conference will be scheduled as explained below.

11.10. Informal Conference

After receiving a request for an informal conference, a date and time will be arranged. At this conference the basis of the alleged violation will be reviewed. The operator may explain the company's position and may present alternatives for solution of the problem. The Gas Pipeline Safety staff will be represented by the investigator involved and by such other members of the Commission staff as designated by the Pipeline Safety Director.

The violation may be resolved at this stage. If agreement cannot be reached, enforcement procedures shall continue.

11.11. Commission Action

If the proposed solution as outlined is not satisfactory to the Gas Pipeline Safety Staff, the violation shall be referred to the Public Service Commission for formal resolution in either of the following manners:

11.11.1. The Commission may seek an injunction or mandamus in a state circuit court in cases where immediate action is necessary; or

11.11.2. The Commission may issue a show-cause order and/or schedule a hearing requiring the operator to demonstrate why the operator should be subject to the penalties set forth in West Virginia Code Chapter 24B, Article 4, Section 6, as amended. This section permits civil penalties of \$1,000 for each violation, with total fines not to exceed \$200,000 for any related series of violations subject to standards as hereinafter noted. Any civil penalty imposed by the Commission shall be based on:

- a. the appropriateness in relation to the size of the business of the person charged,
- b. the gravity of the violation,
- c. the good faith of the person charged in attempting to achieve compliance,

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- d. the history of prior violations, and
- e. other matters as justice may require.

11.11.3. The Commission may, pursuant to hearing, ~~order an operator to take corrective action. Failure to obey~~ such an order can result in:

- a. fines under West Virginia Code, Chapter 24B, Article 4, Section 6,
- b. action by the Commission against the operator in a state circuit court,
- c. action by the Commission against the operator in the West Virginia Supreme Court of Appeals, or,
- d. action by the Commission against the operator in any federal circuit court having jurisdiction.

11.12. Hazardous Facility Order

11.12.1. Whenever the Commission or the Director of Gas Pipeline Safety shall find a particular facility to present an imminent hazard to life or property, it shall be empowered to require the owner or operator of the facility to take immediate steps necessary to correct such hazards. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate.

11.12.2. An opportunity shall be given for a hearing as soon as practicable after the issuance of any order hereunder, in accordance with Chapter 24B, Article 4, Section 1, of the West Virginia Code, as amended and, in no event later than ten (10) days after suspension of the use of a major facility. The Director of Pipeline Safety shall rescind or suspend a "hazardous facility order" whenever he determines that the facility is no longer hazardous to life or property. When appropriate, however, such a rescission or suspension may be accompanied by a notice of violation issued under 11.8. of the procedures.

11.13. Appeal

Any operator subject to an order from the Public Service Commission may petition the Commission for reconsideration of the order under Rule 19 of the Commission's Rules of Practice and Procedure. Moreover, any operator aggrieved by an order of the Public Service Commission may seek

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relief from the West Virginia Supreme Court of Appeals under West Virginia Code, Chapter 24B, Article 6, Section 1.

ED. NOTE: 67 All forms are available from the P.S.C.:

ORDER OF FORMS

1. Qualification Card For Meterman
2. Meterman's Card
3. Form E.D. No. 1 - Gas Utility Report (Front)
4. (Back) - Verification (E.D. No. 1)
5. 609-A Page 1 of 2 - Gas Statistic-West Virginia
6. 609-A Page 2 of 2 - Gas Statistic-West Virginia
7. 609-B Page 1 of 2 - Gas Statistics-All States
8. 609-B Page 2 of 2 - Gas Statistics-All States
9. Certification of Revenue Deficiency 214.6
10. Certification of Revenue Deficiency 214.6A
11. Verification (Attached to 214.6 and 214.6A)
12. P.S.C. W.Va. Form No. 14-G - Page 1 of 2
13. P.S.C. W.Va. Form No. 14-G - Page 2 of 2
14. P.S.C. W.Va. Form No. 14-MG

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 4th day of August, 2004.

GENERAL ORDER NO. 185.24

IN THE MATTER OF amending the Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety, 150 C.S.R. Series 4, to require partial year budget plans or low income budget plans.

NOTICE OF RULEMAKING & COMMENT PERIOD

On August 4, 2004, the Public Service Commission of West Virginia started a rulemaking to amend its Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety, 150 C.S.R. Series 4, to require natural gas utilities to offer partial year budget plans or low income budget plans, in addition to regular budget plans. Anyone interested may obtain a copy of the proposed rules from Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, West Virginia 25323. Written comments on the proposed rules may be filed with the Commission's Executive Secretary, according to this schedule:

Deadline for written initial comments	September 6, 2004, 4 p.m.
Deadline for written reply comments	October 6, 2004, 4 p.m.

Anyone seeking a hearing on the proposed rules shall make a specific written request no later than the end of the initial comment period, and shall explicitly state the grounds upon which the request for a hearing is made.

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA