

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

FILED

2003 AUG 25 P 3:09

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: Public Service Commission TITLE NUMBER: 150
CITE AUTHORITY: W. Va. Code 24-1-1; 24-1-7; 24-2-1; 24-2-2; 24-2-5; 24-2-7; 24-2-8; 24-2-9; 24-3-2; 24-3-5; 16-13A-2; 16-13A-9; 8-18-23

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____
X

EXEMPT LEGISLATIVE RULE _____
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W. Va. Code 24-1-7

AMENDMENT TO AN EXISTING RULE: YES X, NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Rules and Regulations For The Government
of Sewer Utilities

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: _____

TITLE OF RULE BEING ADOPTED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS OCTOBER 24, 2003

James W. Williams
Authorized Signature

FISCAL NOTE

**P.S.C.
Series 5**

In the matter of a rulemaking to amend the Commission's Rules for the Government of Sewer Utilities 150 CSR 5 (Sewer Rules).

I. OBJECTIVES OF THE RULE

The purpose of this rulemaking has been to substantially revise the Commission's Sewer Rules. Furthermore, this rulemaking, together with a simultaneous proceeding with respect to the Commission's Rules for the Government of Water Utilities, 150 CSR 7 (Water Rules), eliminate the Commission's Rules and Regulations for the Government of Public Service Districts, 50 CSR 17. Portions of Series 17 have been amended and transferred into the Sewer Rules and the Water Rules.

II. COST OF IMPLEMENTING THE PROPOSED RULE

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

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


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

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

This rulemaking will have no significant economic impact on the state or its residents.

DATE: August 25, 2003 **AGENCY:** Public Service
Commission

**SIGNATURE OF
AUTHORIZED REPRESENTATIVE**


James D. Williams, Chairman
Public Service Commission

SUMMARY OF RULE

The Commission has substantially revised its Rules for the Government of Sewer Utilities, 150 CSR 5. The revisions include, but are not limited to: prohibition on master metering for mobile home parks; amendment of customer deposit rules pursuant to Senate Bill No. 412, codified at *W. Va. Code* 16-13A-9; clarification of notice requirements for discontinuing water service as a result of non-payment of sewer bills; inclusion of a section on moratoria against new sewer service connections; clarification of utility versus customer ownership of sewer facilities; revisions of the main extension rules which include a new manner of calculating a customer's financial contribution to the cost of an extension; the addition of a number of forms to be used by customers to apply for an extension of sewer facilities, and by utilities to calculate the costs and customer contribution for extensions, as well as a form alternate main extension agreement; the elimination of the former Commission Rules and Regulations for the Government of Public Service Districts, 150 CSR 17, and the incorporation of some of those rules into the revised Sewer Rules as well as into the revised Rules for the Government of Water Utilities.

**STATEMENT OF CIRCUMSTANCES WHICH
REQUIRE THE PROPOSED RULE**

The Sewer Rules have not been revised since 1995. Changes in a state statute as well as with utility practices since that time, have made revisions and updates appropriate. In addition, the Commission has eliminated its current Rules and Regulations for the Government of Public Service Districts, 150 CSR 17, and incorporate portions of those rules within the Sewer Rules and the revised Rules for the Government of Water Utilities.

**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 25th day of August, 2003.

GENERAL ORDER NO. 188.17

In the matter of a rulemaking to amend the Commission's Rules and Regulations for the Government of Water Utilities.

GENERAL ORDER NO. 186.12

In the matter of a rulemaking to amend the Commission's Rules and Regulations for the Government of Sewer Utilities.

COMMISSION ORDER

By Order issued July 7, 1999, the Commission promulgated proposed amendments to its Rules and Regulations for the Government of Sewer Utilities, 150 CSR 5, and the forms attached thereto (Sewer Rules), and its Rules and Regulations for the Government of Water Utilities, 150 CSR 7, and the forms attached thereto (Water Rules). The Commission proposed to shorten the rule titles to Rules for the Government of Sewer Utilities (Sewer Rules), and Rules for the Government of Water Utilities (Water Rules). Furthermore, the Commission proposed to repeal its Rules and Regulations for the Government of Public Service Districts, 150 CSR 17, and incorporate some of those rules into the new Water Rules and Sewer Rules. The Commission established comment periods in each rulemaking and numerous comments were filed.

The Executive Secretary caused notices of these rulemakings and the sixty-day comment periods to be published in newspapers, duly qualified by the Secretary of State, published and of general circulation in each of the following cities: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Grafton, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling, and Williamson. Affidavits and/or certificates of publication were received by the Commission indicating that the notices were published.

At a hearing in these matters held on March 14, 2000, certain participants requested that the Commission continue these proceedings so that interested persons could work together as a group for the purpose of suggesting revisions or changes to the Commission's proposed amendments to the Water Rules and Sewer Rules.

At the hearing and by Order issued March 20, 2000, the Commission continued these proceedings generally to permit interested persons to form a working group, to be co-chaired by Susan Riggs, Esquire and Cassius Toon, Esquire. The Commission required the working group to file a report on or before June 15, 2000, stating which of the proposed Water Rules and Sewer Rules the participants have no disagreement with, and the recommendations of the participants as to alternative provisions concerning disputed rules.

The March 20, 2000, Order further advised working group participants that the outcome of these proceedings would reflect Commission policy as to the manner in which the Commission will carry out its statutory authority to regulate public utilities providing water and sewer service. Although the Commission would carefully consider the report filed by the working group in these proceedings, it would not be bound by the report nor any recommendations made therein.

By Orders issued June 1, 2000, and July 6, 2000, the Commission granted the motion for extensions filed by the working group.

On July 28, 2000, the working group filed its report. The cover letter stated that the working group was continuing to discuss recommended modifications to provisions relating to main line extensions, and requested leave to file a supplement to its report on or before August 9, 2000.

Also on July 28, 2000, Staff filed comments of the Utilities Division on the working group report containing recommendations regarding rules in dispute.

Also on July 28, 2000, Staff's Water and Wastewater Division filed recommended rule revisions.

Also on July 28, 2000, West Virginia-American Water Company filed comments on rules in dispute.

On August 9, 2000, the working group filed a supplemental report on main line extension provisions.

On September 26, 2000, the Staff of the Commission's Utilities Division, Water and Wastewater Division and Engineering Division filed a Second Supplement to the Working Group Report containing comments regarding rules governing water and sewer line extensions.

On December 27, 2000, Morgantown Utility Board, Rural Water Association, Bradley Public Service District, Crab Orchard-MacArthur Public Service District, North Beckley Public Service District, Raleigh County Public Service District and Shady Spring Public Service District, all members of the working group, filed a response to Staff's September 26, 2000, comments.

In addition to the foregoing, several written comments have been filed in this matter from individuals and entities, since the March 14, 2000, hearing.

DISCUSSION

The Commission has carefully considered all written comments and all comments made at the hearing held in this proceeding. The Commission concludes that the attached rules reflect sound policies, serve the public interest, and reasonably resolve all the issues raised by the parties.

Included in the revisions to the Water Rules are: prohibition on master metering for mobile home parks; amendment of customer deposit rules pursuant to Senate Bill No. 412, codified at *W. Va. Code* § 16-13A-9; clarification of notice requirements for discontinuing water service; addition of a section on moratoria against new water service connections; addition of a section on local water rationing plans; clarification of utility versus customer ownership of water facilities; revisions of the main line extension rules which include a new manner of calculating a customer's financial contribution to the cost of an extension; the addition of a number of forms to be used by customers to apply for an extension of water facilities and by utilities to calculate the costs and customer contribution for extensions, as well as a form alternate main line extension agreement; amendments to the meter inspection and testing rules; and elimination of the former Commission Rules and Regulations for the Government of Public Service Districts, 150 CSR 17, and the incorporation of some of those rules into the revised Water Rules.

The Sewer Rules' revisions are similar to those in the Water Rules and include but are not limited to: prohibition on master metering for mobile home parks; amendment of customer deposit rules and changes to unconnected sewer customers pursuant to Senate Bill No. 412, codified at *W. Va. Code* §16-13A-9; clarification of notice requirements for discontinuing water service as a result of non-payment of sewer bills; inclusion of a section

on moratoria against new sewer service connections; clarification of utility versus customer ownership of sewer facilities; revisions of the main extension rules which include a new manner of calculating a customer's financial contribution to the cost of an extension; the addition of a number of forms to be used by customers to apply for an extension of sewer facilities, and by utilities to calculate the costs and customer contribution for extensions, as well as a form alternate main extension agreement; the elimination of the former Commission Rules and Regulations for the Government of Public Service Districts, 150 CSR 17, and the incorporation of some of those rules into the revised Sewer Rules.

Accordingly, this Order adopts the final rules attached hereto. The final rules are attached in both clean and blacklined versions. The blacklined versions reflect all changes from the previous Water Rules and Sewer Rules.

FINDINGS OF FACT

1. By Orders issued July 7, 1999, the Commission promulgated proposed amendments to its Rules and Regulations for the Government of Sewer Utilities, 150 CSR 5, and the forms attached thereto (Sewer Rules), and its Rules and Regulations for the Government of Water Utilities, 150 CSR 7, and the forms attached thereto (Water Rules).

2. The Commission proposed to shorten the rule titles to Rules for the Government of Sewer Utilities (Sewer Rules), and Rules for the Government of Water Utilities (Water Rules).

3. The Commission proposed to repeal its Rules and Regulations for the Government of Public Service Districts, 150 CSR 17, and incorporate some of those rules into the new Water Rules and Sewer Rules.

4. The Commission established comment periods in both rulemakings and numerous comments were filed.

5. The Executive Secretary caused notices of these rulemakings and the sixty-day comment periods to be published in newspapers, duly qualified by the Secretary of State, published and of general circulation in each of the following cities: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Grafton, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling, and Williamson. Affidavits and/or certificates of publication were received by the Commission indicating that the notices were published.

6. At a hearing in these matters held on March 14, 2000, certain participants requested that the Commission continue these proceedings so that interested persons could work together as a group for the purpose of suggesting revisions or changes to the Commission's proposed amendments to the Water Rules and Sewer Rules.

7. At the hearing and by Order issued March 20, 2000, the Commission continued these proceedings generally to permit interested persons to form a working group, to be co-chaired by Susan Riggs, Esquire and Cassius Toon, Esquire. The Commission required the working group to file a report on or before June 15, 2000, stating which of the proposed Water Rules and Sewer Rules the participants have no disagreement with, and the recommendations of the participants as to alternative provisions concerning disputed rules.

8. The March 20, 2000, Order further advised working group participants that the outcome of these proceedings would reflect Commission policy as to the manner in which the Commission will carry out its statutory authority to regulate public utilities providing water and sewer service. Although the Commission would carefully consider the report filed by the working group in these proceedings, it would not be bound by the report nor any recommendations made therein.

9. By Orders issued June 1, 2000, and July 6, 2000, the Commission granted the motion for extensions filed by the working group.

10. On July 28, 2000, the working group filed its report. The cover letter stated that the working group was continuing to discuss recommended modifications to provisions relating to main line extensions, and requested leave to file a supplement to its report on or before August 9, 2000.

11. Also on July 28, 2000, Staff filed comments of the Utilities Division on the working group report containing recommendations regarding rules in dispute.

12. Also on July 28, 2000, Staff's Water and Wastewater Division filed recommended rule revisions.

13. Also on July 28, 2000, West Virginia-American Water Company filed comments on rules in dispute.

14. On August 9, 2000, the working group filed a supplemental report on main extension provisions.

15. On September 26, 2000, the Staff of the Commission's Utilities Division, Water and Wastewater Division and Engineering Division filed a Second Supplement to the Working Group Report containing comments regarding rules governing water and sewer line extensions.

16. On December 27, 2000, Morgantown Utility Board, Rural Water Association, Bradley Public Service District, Crab Orchard-MacArthur Public Service District, North Beckley Public Service District, Raleigh County Public Service District and Shady Spring Public Service District, all members of the working group, filed a response to Staff's September 26, 2000, comments.

17. In addition to the foregoing, several written comments have been filed in this matter from individuals and entities, since the March 14, 2000, hearing.

CONCLUSION OF LAW

The attached final rules and forms reflect sound policies, serve the public interest, and reasonably resolve all the issues raised by the parties.

ORDER

IT IS THEREFORE ORDERED that the attached Rules for the Government of Sewer Utilities, 150 CSR 5, and the forms attached thereto, and Rules for the Government of Water Utilities, 150 CSR 7, and the forms attached thereto, are hereby adopted as final rules, in replacement of Rules and Regulations for the Government of Sewer Utilities, 150 CSR 5, and the forms attached thereto, and Rules and Regulations for the Government of Water Utilities, 150 CSR 7, and the forms attached thereto.

IT IS FURTHER ORDERED that the Commission's Rules and Regulations for the Government of Public Service Districts, 150 CSR 17, are hereby repealed.

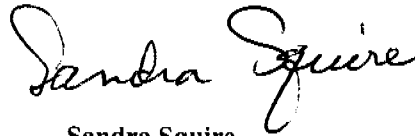
IT IS FURTHER ORDERED that the new Rules for the Government of Sewer Utilities, 150 CSR 5, and the forms attached thereto, and Rules for the Government of Water Utilities, 150 CSR 7, and the forms attached thereto, shall be effective sixty days from the date of this Order, or on October 24, 2003.

IT IS FURTHER ORDERED that, upon entry hereof, the Commission's Executive Secretary shall file a copy of this order and the rules, together with the required forms, with the Secretary of State of West Virginia.

IT IS FURTHER ORDERED that these rulemakings are hereby resolved and shall be removed from the Commission's docket of active cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this Order on all persons who have filed comments in these proceedings by First Class United States Mail, and on Commission Staff by hand delivery.

A True Copy, Teste:



Sandra Squire
Executive Secretary

JML/ljm
go18817cdwpd

FILED

TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

2003 AUG 25 P 3:09

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 5
RULES FOR
THE GOVERNMENT OF
SEWER UTILITIES

§150-5-1. General.

1.1. Scope -- These rules govern the operation and service of sewer 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, §24-2-5, §24-2-7, §24-2-8, §24-2-9, §24-3-2, §24-3-5, §16-13A-2, §16-13A-9, and §8-18-23.

1.3. Filing Date -- August 25, 2003

1.4. Effective Date -- October 24, 2003

1.5. General.

1.5.a. This rulemaking repeals the Commission's current Rules and Regulations for the Government of Public Service Districts, 150 CSR 17, and incorporates portions of those rules within these Sewer Rules. Portions of Series 17 will be incorporated into the Commission's Rules for the Government of Water Utilities, 150 CSR 7, by separate proceeding.

1.5.b. These rules are intended to insure adequate service to the public, to provide standards for uniform and fair charges and requirements by the utilities and their customers, and to establish the rights and responsibilities of both utilities and customers.

1.5.c. The adoption of these rules in no way precludes the Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility or standard, either upon complaint or upon its own motion,

or upon the application of any utility.

1.5.d. These rules will 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.a. These rules apply to all public utilities as defined in Rule 1.7.

1.6.b. If hardship results from the application of any Sewer Rule or if unusual difficulty is involved in immediately complying with any rule, application may be made to the Commission for the modification of the rule or for temporary or permanent exemption from its provisions. Provided, that no application for modification or exemption will be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

1.7. Definitions.

1.7.a. "Applicant" -- A person, firm, corporation, municipality, public service district or any other entity that applies for sewer service.

1.7.b. "Available sewer service" -- Sewer service will be deemed available to a customer when a main is installed and maintained by the utility in such location and at such distance from the user's premises as may be provided by city ordinance or by the rules of the utility: Provided, that service shall not be deemed to be available unless the sewage will flow by gravity or be transported by such other methods approved by the Bureau of Public Health including, but not limited to, vacuum and pressure systems, approved under West Virginia Code §16-1-9, from the customer's point of service into the utility service pipe.

1.7.c. Billing Related Dates --

1. "Bill due date" - The date when the utility mails the bill.

2. "Latest pay date" - The last date, which shall be no sooner than the 20th day following the date the utility mails the bill, that the bill may be paid without incurring a late payment penalty. Such date must be stated on the face of the bill.

3. "Delinquent bill" - Any bill that has not been paid within thirty (30) days of the bill due date. Such date must

be stated on the face of the bill.

1.7.d. "Commercial Service" - Means service to each separate business enterprise, occupation or institution occupying for its exclusive use any units or units of space as an entire building, entire floor, suite of rooms or a single room, and using water for such incidental use as the schedule of rates applicable to the particular installation may permit. Commercial service shall apply to all stores, offices, hotels, wholesale houses, garages, display windows, signs, theaters, barber and beauty shops, churches, opera houses, auditoriums, lodge halls, school houses, banks, bakeries and any other space occupied for commercial purposes. Any rooming house, lodging house, resort, inn or tavern renting more than four (4) rooms to strangers or transients without any previous agreement for accommodation or as to the duration of stay shall be classed as a hotel and as such it comes under the commercial classification.

1.7.e. "Commission" -- Whenever in these rules the words "Commission" or "Public Service Commission" appear, such word, or words, shall, unless a different intent clearly appears from the context, be taken to mean the Public Service Commission of West Virginia.

1.7.f. "Customer" -- Shall mean and include any such person, firm, corporation, municipality, public service district or any other entity who purchases a product or services of any utility and shall include any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or product for resale.

1.7.g. "Customer's Service Pipe" -- Shall be that portion of the service pipe from the point of service to the structure or premises, installed at the cost and expense of the customer.

1.7.h. "Governmental Unit" -- Any municipality or other political subdivision or agency of the State of West Virginia or the Federal Government.

1.7.i. "Moratorium" -- A condition imposed on a utility by the Commission prohibiting service connections and/or reactivation of service for an entire system, or a portion thereof.

1.7.j. "Payment" -- Payment is made by cash, check, credit card, debit card, or voucher accepted by the utility.

1.7.k. "Point of service" -- Means the utility's pipe

and appurtenances which connect any utility service pipe with the inlet connection of a customer's service pipe at the customer's property line or elsewhere on the customer's property if provided for in a user's agreement. The utility shall own and maintain all facilities located between the point of service and the main.

1.7.1. "Public Utility" -- Except where a different meaning clearly appears from the context, the word, or words, "Utility" or "Public Utility" when used in these rules 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 collecting, transporting, and/or treating sewage.

1.7.m. "Residential Service" -- Means service to a householder or a tenant, living in a separate house or separate apartment in an apartment building, using water and sewer for general household service. Should the owner of a multiple apartment building undertake to furnish water to his tenants as a part of their monthly rent, then such service shall be classed as "Commercial." In cases where a householder or tenant devotes some portion of the occupied building to commercial use and uses the remainder as a residence then the predominate use of water shall constitute the basis for classification as either residential or commercial.

1.7.n. "Sewer Main" -- Means sewer pipe owned, operated, or maintained by the utility located in a public right-of-way, street, alley, or private right-of-way, used for the purpose of collecting sewage and from which service connections for customers are taken. Any sewer pipe extending through a utility right-of-way across private property shall be a sewer main. Costs to install a sewer main across private property are subject to the cost-sharing provisions of Rule 5.5.

1.7.o. "Temporary Service Connection" -- One which is installed for temporary use; provided that the customer's premises is located on a lot having a curb line abutting on that part of a street or public right-of-way in which there is located a utility sewer main extending along the total frontage of the lot on said street or right-of-way, unless otherwise agreed to by the utility.

1.7.p. "Utility Service Pipe" -- Shall be that portion of the service pipe between the sewer main and the point of service, installed at the cost and expense of the utility.

§150-5-2. Records, reports and other information to be supplied to the Commission.

2.1. Records and reports.

2.1.a. Preservation of records -- All records required by these rules shall be preserved by the utility in the manner prescribed by the Commission.

2.1.b. Location of records.

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

2. If kept outside the State, such records shall be brought to the utility's office in West Virginia upon request of the Commission, or the utility may be required to pay the reasonable traveling expenses of Commission employees assigned to examine the records.

2.1.c. Reports to the Commission -- Upon Commission request, a utility shall furnish 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, or any further information in its possession respecting its rates, charges, or practices, without formal order of the Commission requiring the release of such information.

2.2. Filing of rate schedules.

2.2.a. Tariffs containing rates and rules of each utility shall be filed in the manner prescribed by the Commission in "Rules for the Government and Filing of Tariffs", 150 C.S.R. 2 effective as amended or modified by the Commission.

2.2.b. Municipal rates -- Rates for municipal sewer and combined water and sewer utilities shall be adopted, and tariffs shall be filed, in accordance with the Commission's "Rule for the Government and Filing of Tariffs," 150 C.S.R. 2, effective as amended or modified by the Commission.

2.3. Utility's special rules.

2.3.a. A utility desiring to establish any rule(s), supplementing the rules of the Commission shall first make application to the Commission for authority to establish such a rule(s), clearly stating the reasons for the rule(s).

2.3.b. On and after ninety (90) days from the effective

date of these Rules, any utility's special rules and regulations now on file with the Commission which conflict with these rules, will become null and void, unless they subsequently have been ratified and approved by the Commission.

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

2.4. Financial and statistical report.

2.4.a. Each utility shall file annually a financial and statistical report upon forms to be furnished by the Commission. The report shall be based upon the accounts set up in conformity with Rule 2.5. The report shall be filed on or before three (3) months following the end of the utility's fiscal year or on such date as the Commission may direct.

2.4.b. Upon written request and for good cause shown, the Commission may approve or disapprove, through its Executive Secretary, by letter, a reasonable extension of time to file the financial and statistical report. Such application is to be made before the expiration of the time for filing the report.

2.5. Uniform system of accounts.

2.5.a. All sewer utilities shall maintain their accounts and records in compliance with the Uniform System of Accounts as promulgated in 1958 by the National Association of Regulatory Utility Commissioners for Class A and B sewer utilities and Class C and D sewer utilities.

2.5.b. Observance of the system of accounts applicable to the utility by appropriate class is obligatory upon all persons having direct charge of the books and accounts of the utility. For the purpose of securing uniformity in the applications of this system, all questions of doubtful interpretation of accounting rules are to be submitted to the Commission for consideration and decision.

2.5.c. The classification of sewer utilities for purposes of keeping accounts in accordance with the Uniform System of Accounts shall be as follows:

<u>Classification</u>	<u>Revenue Level</u>
A	\$800,000 or more

B	\$400,000 - \$799,999
C	\$100,000 - \$399,999
D	less than \$100,000

2.6. Maps and records.

2.6.a. Each utility shall keep on file suitable maps, plans, and records showing the entire layout of every pumping station, treatment plant, transmission and collection line, with the location, size and capacity of each plant, size of each transmission and collection line, and customer's service, and other facilities used in the collection and treatment of sewage.

2.6.b. In the case of new construction or property acquired from others, the addition to such maps and records should be made by the end of the next calendar year, following the year in which the construction is done or property acquired. All drawings shall have the scale clearly shown and be of sufficient detail to accurately depict the project or property.

2.6.c. In general, where present maps of existing facilities are not entirely up-to-date, special surveys to locate any plant or facilities will not be required immediately, but maps must be updated as prescribed by the Commission.

2.7. Management audits.

2.7.a. Scope -- To establish a procedure for examination of management practices and policies to determine whether the utility 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.

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

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

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

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

3. Focused -- An in-depth investigation of one (1) or several specific areas of a utility's management and operations.

2.7.c. 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.

2.7.d. Conduct and control --

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

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

3. 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.

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

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

2.7.f. Implementation of recommendations --

1. Draft report.

A. Upon completion of the audit a draft 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.

2. Final report.

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

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

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

4. 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.

5. 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.

6. A management audit report and implementation plan adopted pursuant thereto and any follow-up audit may be used by parties in a general rate case subsequent to the management audit. Such audits and implementation plans may be a factor in the

determination of just and reasonable rates if introduced as an exhibit and subjected to normal due process procedures.

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

§150-5-3. Meter requirements.

3.1. Scope -- In general, sewer service charges shall be based upon the volume of water delivered to the customer's property. This volume is measured by the water meter serving the premises. In cases where a significant volume of the water delivered to the premises is not returned to the sanitary sewer system or water from another source is discharged to the sanitary sewer system the customer may request, or the utility may require, special flow measuring devices to properly measure the volume of waste water entering the sanitary sewer system. Such special flow measuring devices shall be furnished, installed, and maintained by and at the expense of the customer with the approval of the utility. In some situations suitable formulae may be used to determine waste water flow in lieu of special metering devices. Such formulae shall be approved by both the customer and the utility and are subject to the approval of the Commission. All flow meters used in serving bulk or resale customers shall be owned and operated by the utility providing service to the bulk or resale customer.

3.2. Sewer flow measuring devices -- Where sewer flow measuring devices are used for billing purposes, the utility shall test these devices for accuracy on an annual basis. The measuring devices shall also be maintained in good working order and shall be adjusted or repaired to be as nearly correct as is commercially practicable.

3.3. Prohibitions on master metering.

3.3.1. Reserved.

3.3.2. Mobile home parks -- For mobile home parks constructed on or after the effective date of these rules, each mobile home in a mobile home park shall be individually sewered with taps installed at the lot line of each mobile home. The lot owner shall be responsible for payment of any applicable tap fees. All utility easements and mains constructed within the mobile home park will become the property of the utility by agreement between the (i) owner of the mobile home park or the lot owner, whichever is applicable, and (ii) the utility. The agreement must be approved

by order of the Commission prior to construction of any main. Lines extending from the mobile home to the tap will be considered customer service lines and maintenance of those lines will be the responsibility of the applicable lot owner.

§150-5-4. Customer relations.

4.1. Customer information.

4.1.a. Information as to service -- Each utility shall, upon request, give its customers such information and assistance as is reasonable, in order that customers may enjoy safe and efficient service.

4.1.b. Explanation of computing bills -- Each utility shall adopt some means of informing its customers as to the method of computing bills, either by 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.

4.1.c. 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 in obtaining the best rate for his service requirements. The responsibility for the selection, however, rests with the applicant. In the event the customer's use of service changes such that a rate schedule other than the one initially selected becomes 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 them with a copy of the utility's rate or rates applicable to the type of service to be furnished to all classes of customers with a concise written explanation of the rates, and an identification of any classes of customer for whom rates are not summarized.

4.1.d. Posting of law, rates, rules, and collection agents.

1. 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 of forms of contracts and applications applicable to the territory served from that office;

B. A copy of the Public Service Commission Law of this State; and

C. A copy of these rules.

2. A suitable placard in large type shall be conspicuously posted in the utility's business office giving information to customers that a copy of the law, the rules of the Commission, and the schedules of rates are available for their inspection.

3. Once a year, or as often as a utility changes collection agents, each utility shall publicize by newspaper or bill insert to its customers its collection agents to whom customers may deliver payment of sewer bills.

4.1.e. Application for sewer service.

1. All applicants desiring sewer service may be required to make written application at the office of the utility on printed forms provided therefor setting forth in said application all purposes for which sewer will be used upon their premises. The utility may require the applicant to provide identification at the time of application for service. All applicants for service shall be required to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he shall state the name and address of the owner or owners of the premises to be served.

2. Any change in the identity of the contracting customer at a premises will require a new application for sewer service, and the utility may, after reasonable notice, discontinue sewer service until such new application has been made and accepted, but the former customer shall remain liable for sewer service furnished to said premises until he has given notice in writing to the utility to discontinue sewer service. In the event the customer of record has died or has become incapable of being responsible for sewer service, that individual's spouse may become the customer of record without being required to complete a new application for sewer service, or paying a new deposit.

3. In the event that a publicly or privately owned water utility, city, incorporated town, other municipal corporation or other public service district, owns and operates water facilities within the same service territory as the public service district providing sewer service to the area, then the sewer public service district shall provide the customer with a proper receipt

and shall instruct the customer to present said receipt to the water utility when application for water service is made.

4.1.f. Public service district's notice of availability of sewer service and billing after notice.

1. Notice by publication - When sewer service is made available by a public service district to customers in an area which has not previously been served by the district, the district shall publish a notice in a newspaper of general circulation in the area affected once a week for two consecutive weeks, with the second notice being published at least thirty (30) days prior to the date that the district intends to begin billing for services. The notice shall state, at a minimum, the following information: (1) that sewer services are available; (2) the date that the district will begin billing for services as authorized by West Virginia Code §16-13A-9 and Rule 4.3. of the Commission's Rules for the Government of Sewer Utilities; (3) the district's rates; (4) that West Virginia Code §16-13A-9 authorizes the district to petition the circuit court to compel connection to the sewer system; (5) the location and telephone number of the district's business office; and (6) the amount of the bill to be rendered as provided by W.Va. Code §16-13A-9, in the event a customer does not connect to the system.

2. Publication is not required when service is extended to a single customer at the customer's request.

3. Personal notice - In addition to notice by publication, when sewer service is made available to customers in an area which has not previously been served by the district, the district shall provide notice with at least the information as described in section 1. above, to all potential new customers by certified mail, return receipt requested, by personal service with signed and dated receipt, or by posting a notice on the premises. If the premises to be served is not inhabited by the owner, notice shall be given to the owner by certified mail, return receipt requested, in addition to giving notice to the customer inhabiting the premises. In the event that the district is not able to effect personal notice after a good faith effort, or if the district believes that the requirements of this section create an undue hardship on the district, the district may petition the Commission for a waiver of the requirements of personal notice provided in this section.

4. Customers of public service sewer districts who are not connected to the sewer system after appropriate notice has been given of availability of service pursuant to West Virginia

Code §16-13A-9 and Rule 4.1.f. shall be billed based on water consumption as provided in W.Va. Code §16-13A-9.

4.2. Customer deposits.

4.2.a. Security deposits.

1. Security deposits for utilities other than public service districts -- A utility, other than a public service district, may require the applicant or customer to make a deposit with it initially, and from time to time, to secure payment of sewer service rates and charges. Such deposit shall not be more than one-twelfth (1/12) of the annual estimated charge for residential service and or one sixth (1/6) of the annual estimated charge for all other service. The utility shall not be bound to supply sewer service until this condition is fulfilled. After the customer has paid bills for service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit plus accrued interest. Calculation of the above twelve (12) month period shall commence from the first regular payment or following the payment of a delinquent bill or bills. Interest at the rate as calculated in accordance with Rule 4.2.a.7. below, shall be paid from the date of deposit until the date of refund of the security deposit. The utility shall have a reasonable time, not to exceed thirty (30) days, 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.

2. Security deposits for public service districts -- All new applicants for residential or other sewer service from a public service district shall make a deposit of (i) fifty dollars (\$50.00), or (ii) two-twelfths (2/12) of the annual estimated charge for sewer service, whichever is greater, with the district to secure the payment of sewer service rates and charges. The district shall not be bound to supply sewer service until this condition is fulfilled. In any case where a deposit is forfeited to pay service rates and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit, as described above, has been remitted to the district.

3. Return of deposit to customers who are not tenants - After a customer who is not a tenant has paid bills for service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit plus accrued interest. Calculation of the above twelve (12) months' period shall commence from the first regular payment or following

the payment of a delinquent bill or bills.

4. Return of deposit by district to a customer who is a tenant - A district is not required to return a deposit to a customer who is a tenant until the time the tenant discontinues service with the district. After a customer who is a tenant discontinues service with the district, the utility shall promptly and automatically refund the deposit plus accrued interest.

5. Interest at the rate as determined in accordance with Rule 4.2.a.8. shall be paid from the date of deposit until the date of refund of the security deposit. All customer security deposits shall be placed in an interest bearing account at a local federally insured financial institution. The district shall have a reasonable time, not to exceed thirty (30) days, 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.

6. Rule 4.2.a.5. requires public service districts to segregate security deposits in interest bearing accounts at federally insured institutions. Upon proper showing by complaint or otherwise, the Commission may require any other utility to likewise segregate customer deposits.

7. The interest rate to be paid by all sewer utilities other than public service districts 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.

8. The interest rate to be paid by public service districts shall be determined as follows. The Staff of the Commission shall determine a rate which a typical small investor could receive at federally insured banks in West Virginia in the last quarter of each calendar year. The Staff shall by January 15 of each year report to the Commission its rate with supporting information. The Commission will issue an order setting the rate to be paid 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.

9. A current customer of a public service district who requests service at another location within the jurisdiction of the district and who has made payment of bills for the previous twelve (12) months without a delinquency, is not required to pay a deposit for service at the new location because that customer is not a new applicant for service under West Virginia Code §16-13A-9. The preceding sentence shall not apply to multiple service locations. Multiple service locations shall require multiple deposits. In the event the customer of record has died, or has become incapable of being responsible for sewer service, that individual's spouse may become the customer of record without being required to complete a new application for sewer service, or paying a new deposit.

10. All new applicants for residential or other service from a combined water and sewer public service district shall deposit (i) a minimum of fifty dollars (\$50.00), or (ii) two-twelfths (2/12) of the annual estimated charge for sewer service, whichever is greater, for each of the services to be rendered.

11. 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.

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

13. Unclaimed deposits -- Should a utility have retained, through no fault of its own, deposits made by customers whose 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 county(ies) in which it operates and in which the deposits were made, showing as of the thirty-first (31st) day of December immediately preceding, the amount of each such deposit, together with the interest due thereon, and notifying

depositors listed therein that their deposits are being held to their credit and will be returned upon request. The utility will not be liable for any interest on such deposits after publication of such lists. Upon completion of the above procedure, the utility shall follow the provisions of the Uniform Unclaimed Property Act, codified at Chapter 36, Article 8, Section 1, et seq. of the Code of West Virginia with regard to the disposition of any unclaimed deposit.

14. 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.

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

4.2.b. Guaranty agreement.

1. A utility, other than a public service district, 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 may, upon request, receive copies of disconnection notices sent to the customer whose account has been guaranteed; Provided that the limitations herein fixed upon the terms of a guaranty agreement shall not apply to industrial customers.

2. A guaranty agreement shall terminate after the customer has satisfactorily paid bills for service for twelve (12) consecutive months, or when the customer gives notice to the utility of discontinuance of service at the location covered by the guaranty agreement, or six (6) 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. Upon termination of a guaranty agreement, or whenever the utility deems the same insufficient as to amount of surety, a cash deposit or a new or additional guaranty may be required upon reasonable written notice to the customer.

3. Application in case of receiver or trustee -- The aforesaid provisions shall apply in the case of a receiver or trustee, operating a business under court order that requires utility service.

4.3. Billing information.

4.3.a. All bills for sewer service shall state whether

the charge is based upon quantities of water consumed at the premises, flat rate or other charge. Bills shall be rendered periodically, and if based upon metered water consumption they shall show the readings of the water meter at the beginning and end of the period for which the bill is rendered, the date of the water meter readings, the number of cubic feet or gallons of water supplied, and the authorized rate. If the utility must, for any reason, render an estimated bill, the bill shall be clearly marked as an estimated bill. All bills shall state "This utility is regulated by the Public Service Commission of West Virginia" and "Rates available upon request."

4.3.b. First and last bills, monthly or quarterly, for sewer service rendered for periods of five (5) days more or five (5) days less than the normal billing period, will be computed in accordance with the rate applicable to that service, by the amount of sewer blocks, and the minimum charge as set forth in that rate will be prorated on the basis of the number of days in the period in question, to the total number of days in the normal period.

4.3.c. Utilities desiring to adopt mechanical billing of such nature as to render compliance with all the terms of Rule 4.3.b., impractical, may make application to the Commission for relief from part of these terms. After consideration of the reasons given when asking for relief, the Commission may allow the omission of part of these requirements.

4.3.d. On all bills which include charges for items other than authorized sewer charges, 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.e. Each bill shall bear on its face the latest pay date and the date it shall be a delinquent bill if not paid. On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

1. When a utility receives a customer payment at a time when both a delinquent bill and a current bill are outstanding, the utility will apply the payment first to the current bill, and apply any leftover amounts to the delinquency. Provided, that this rule shall not apply to payments from customers whose delinquencies have been addressed in a deferred payment agreement. If a termination notice has been issued then the payment should first be applied to the delinquent amount that is the subject of the termination notice.

4.4. Adjustment of bills.

4.4.a. Fast meters -- If the water utility makes a refund to the customer pursuant to Rule 4.4.a. of the Commission's "Rules for the Government of Water Utilities," 150 C.S.R. 3, the sewer utility will make a corresponding adjustment to the sewer charges associated with the same period of time based on the corrected meter reading and the applicable sewer rates.

4.4.b. Dead Meters -- At any time that a water utility calculates water usage and bills for water service pursuant to the provisions in Rule 4.4.b. of the Commission's "Rules for the Government of Water Utilities," 150 C.S.R. 3, the sewer utility will bill for sewer service for the corresponding time period based on the water usage calculated and billed by the water utility.

4.4.c. Leaks on the customer's side of the meter.

1. Each utility shall develop and implement a written policy concerning the adjustment of customer bills where they are based upon metered water consumption or are actually metered sewer lines, and the bill reflects unusual water usage which can be attributed to leakage on the customer's side of the point of service. Leaking commodes, dripping faucets, malfunctioning appliances and similar situations shall not constitute leaks which entitle the customer to a recalculated bill. The policy shall be maintained in the utility's office for inspection by the public and shall be applied in a non-discriminatory manner to all customers. The reasonableness of the utility's policy or practice with respect to a policy shall be subject to Commission review in a formal complaint proceeding.

2. The policy shall provide for a recalculated bill to reflect the utility's incremental cost of treating or purchasing the treatment of the sewage, as contained in the utility's tariff, for all amounts above the customer's historic usage. Historic usage shall be defined as the average usage of the preceding twelve (12) months or actual period of service if less than twelve (12) months. If using the historic usage would result in an unreasonable calculation, adjustments may be made. If such adjustments are made, the utility should advise its customer that a dispute regarding such adjustments may be taken to the Commission in the form of an informal complaint. Any amounts which the customer can prove did not enter the sanitary sewer system shall be credited at full tariff rates.

3. As an alternative to using the incremental cost of treating or purchasing the treatment of the sewage, the utility

may, at its option, use an adjustment which allows it to recover the Commission's estimate of "typical incremental cost" per thousand gallons of sewage on usage above the historic usage. The Commission shall from time to time establish its estimate of "typical incremental cost" by order.

4. However, in future rate cases the utility's incremental cost of treating or purchasing the treatment of the sewage shall be determined and the rate placed in an appropriate tariff as the leak adjustment rate. After a rate has been determined in a rate case, the utility shall not have the option to use the Commission's estimate of "typical incremental cost" found in Rule 4.4.c.3.

4.5. Complaints.

4.5.a. 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. In the event that the complaint is not resolved, the utility shall, before service is discontinued, notify the customer that he may file an informal or formal complaint with the Commission.

4.5.b. Record 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.c. Disposition of records -- Records of complaints shall not be destroyed until a summary has been prepared for permanent record, showing the character of complaints made, the number of each type received in each month, and the disposition of the complaints.

4.6. Disputed bills.

4.6.a. In the event of a dispute between the customer and the utility respecting any bill, the utility shall conduct an investigation and report the result thereof to the customer. In the event that the complaint is not resolved, the utility shall, before water or sewer service is discontinued, notify the customer that he may file an informal or formal complaint with the Commission.

4.7. Customer discontinuance of service.

4.7.a. Any customer requesting service to be discontinued shall give notice thereof to the utility during regular business hours. Unless a different period shall be mutually

agreed upon by written contract, service will be discontinued by the end of the next business day. Until the utility shall have such notice, the customer may be held responsible for all service rendered.

4.8. Utility discontinuance of service.

4.8.a. Consideration of health and sanitation require that sewer service should not be discontinued because of non-payment of service charges unless the utility has first acquired the approval of the Commission. The sewer utility shall make use of such legal remedies as may be available for the collection of delinquent accounts prior to application to the Commission for other relief.

4.8.b. Notice of discontinuance.

1. In the case of a sewer utility requesting termination of water service for non-payment of sewer service, service shall actually be discontinued no sooner than ten (10) days following the date that a sewer utility has mailed to a customer a statement that sewer bills are delinquent.

2. Where conditions hazardous to life or property are found to exist on the customer's premises, or where the utility's regulating, measuring or collection equipment or facilities have been tampered with, the water may be shut off without notice in advance.

3. Where written notice is required it must be sent first class mail, address service requested. Written notice shall comply with Sewer Form No. 1, attached to these rules. The written notice shall become void if the utility service has not been discontinued within thirty (30) days of the date indicated on the notice for termination.

4. Prior to disconnecting water service for non-payment of a sewer bill, the water utility shall make at least two (2) attempts to notify the customer through personal contact. First, the water utility shall either telephone or visit the customer at least 24-hours prior to a scheduled disconnection. Second, the water utility shall knock on the customer's door immediately prior to a disconnection. The inability to make personal contact shall not prevent the water utility from terminating service.

5. Service shall not be discontinued on a Saturday, or Sunday, any day that is a federal or state holiday, a day on

which either the water utility's or the sewer utility's business office is not open to accept payment, or on the day before such days, unless an emergency exists.

6. All disconnections shall be performed between the hours of 8 a.m. and 4 p.m.

7. The water utility shall accept payment at the customer's premises in lieu of discontinuing service for a delinquent sewer bill. The payment must be for the entire amount of the delinquency to prevent termination. However, a utility may refuse payment by check if the customer has, during the previous twelve (12) months, attempted to make a payment by a check subsequently returned by the bank for insufficient funds.

8. If a customer has received notice of a scheduled termination, and, to avoid such termination, makes payment by check which is subsequently dishonored by the bank, the sewer utility may then request the water utility to terminate service only after it has mailed notice, by first class mail, to the customer at least five (5) calendar days, excluding state or federal 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.

9. If a bill remains unpaid thirty (30) days after it was mailed to a public service district's customer who is a tenant of property owned by another, the public service district shall immediately give notice to the tenant in the form of Sewer Form No. 2, attached to these rules, and a separate notice to the property owner. Both notices shall be mailed by United States Certified Mail, return receipt requested. The notices need only be given once per delinquency. Each successive delinquency shall require separate notification to both the tenant and the property owner, as described above. The notification to the property owner shall be sufficient if it contains the following: the name and address of the billing public service district; the address of the property where the delinquency has accrued; that the notification is being made pursuant to Rule 4.8.b.9. of the Commission's Rules for the Government of Sewer Utilities and West Virginia Code §16-13A-9; the amount owing under the present delinquency; the amount owing under prior delinquencies, if any; that non-payment of the delinquency could result in a lien upon the property where the delinquency accrued; that the amount of present billing charges are subject to the accrual of continued billings; and that, upon receipt of a written request by the property owner, the public service district will shut off and discontinue service where any rates or charges for services remain unpaid by the user of the

premises for a period of sixty (60) days after the utility mailed the bill.

10. Provided a public service district has complied with the notice requirements with respect to a tenant in Rule 4.8.b.9., a public service district shall discontinue service upon written request of the owner of the premises served when any charges for service to the premises remain unpaid by the users for a period of sixty (60) days after the utility mailed the bill.

11. If a landlord of a single-unit dwelling or a master-metered mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling is responsible for payment of a utility bill, written notice of termination in the form of Sewer Form No. 2 shall be placed at a location readily available for public inspection on the premises at least five (5) days prior to the scheduled termination of service to that mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling in order to provide notice of the scheduled termination to the tenants of said mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling. If the billing address for any single-unit service is different than the service location, a written notice in the form of Sewer Form No. 2 shall be delivered or posted at a visible location on the premises where the service is to be terminated at least five (5) days prior to the scheduled termination. This notice shall inform the occupant(s) of the date on or after which termination of service will occur and shall state the steps the occupant(s) can take to avoid termination of service.

12. A sewer customer who has been notified that water service is to be terminated for non-payment of sewer bills shall be given the opportunity to enter into a deferred payment agreement: Provided, that such 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 availability of a reasonable payment plan.

A. The details of the deferred payment agreement are to be negotiated between the utility and the customer and may consider several factors, including, but not limited to the following: Amount of the delinquency; ability of the customer to pay; payment history; time the delinquency has been outstanding; reasons why the delinquency has been outstanding; and any other relevant factors.

B. The deferred payment agreement shall include language informing the customer of the right to challenge

the reasonableness of the proposed payments to the Commission.

C. During the challenge, the utility may not terminate service; provided that the current bill must be paid by the customer on time and in full in order to protect his rights under this rule.

D. Once a deferred payment agreement has been established, the customer must pay the current bill on time and in full and make timely payments in accordance with the deferred payment agreement.

E. If the customer's financial condition significantly changes and the existing payment agreement results in hardship, the utility shall renegotiate the payment agreement, consistent with the provisions of Rule 4.8.b.12.A. The customer shall provide documentation in support of his claim that his financial condition has changed. During the renegotiation period the customer must continue to pay the current bill on time and in full and make some payment on the delinquency.

F. If the deferred payment is not received in accordance with the terms of the agreement, or the payment is made with a check subsequently dishonored by the bank, 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 state or federal holidays, prior to notifying the water utility to terminate service provided that at the option of the utility, either personal contact or telephone contact with the customer may be substituted for contact by first class mail. If the customer pays the delinquent payment within that notice period, service shall not be terminated. However, if the customer has, during the previous twelve (12) months, attempted to make payment by a check which was subsequently dishonored by the bank, the utility may refuse the customer's check and immediately terminate service without additional notice.

13. A sewer utility requesting termination of water service for non-payment of sewer bills shall provide the water utility with a copy of the notice provided to the customer as required by Rule 4.8.b.1.

14. A sewer utility will provide the water utility with a written request for termination of water service for non-payment at least twenty-four (24) hours before the end of the 10-day notice period to the customer.

4.8.c. Once a disconnected customer has paid his

delinquency in full, or the utility has agreed to enter into a deferred payment agreement with the customer, and all disconnect and or reconnect fees have been paid, the utility shall reconnect the customer's water service as soon as possible, but no later than twenty-four (24) hours from the time the customer pays all disconnect and reconnect fees.

4.8.d. Charge for reconnection.

1. Whenever the supply of water is turned off for non-payment of sewer bills, the water utility may make a charge as provided for in Rule 4.8.c. of the Commission's "Rules for the Government of Water Utilities," 150 C.S.R. 7.

4.8.e. The utility shall not refuse, deny or discontinue service to an applicant or present customer due to a delinquency in payment for service by a previous occupant of the premises to be served unless such applicant or present customer and such previous occupant are members of the same household and were members of the same household at the time the delinquent bill was incurred.

4.8.f. Combined water and sewer public service districts - Any public service district providing water and sewer service to its customers shall have the right to terminate water service for delinquency in payment of either water or sewer bills; provided that proper notice is given and procedures followed as set out in these rules.

4.8.g. Inter-utility Agreements regarding discontinuance of water service for non-payment of sewer bills.

1. In the event that any utility (whether public, private, city, incorporated town, municipal corporation or public service district) owns and operates either water facilities or sewer facilities, and a separate utility owns and operates the other kind of facilities, either water or sewer, then the two utilities shall covenant and contract with each other to shut off and discontinue the supplying of water service for the non-payment of sewer service fees and charges; provided that proper notice is given and procedures are followed as set forth in Rule 4.8.b.

2. Municipal sewer -- When sewer facilities are municipally owned and water facilities are not, the municipality providing sewer service may require the water utility to discontinue water service to any customer who is delinquent in the payment of sewer service rates and charges to the municipality. The water utility shall discontinue water service upon demand of the municipality for this purpose; however, prior to discontinuance of

any water service, the municipality shall contract with the water utility which contract shall provide that the municipality shall reimburse the water utility for all costs and expenses incurred in both the termination of water service to the delinquent sewer customer and the subsequent resumption of water service to such customer. The contract shall provide for reasonable methods and assurances so that the water utility will be protected and held harmless from claims and damages when water service is discontinued in error or in violation of the rights of the customer through the fault of the municipal sewer utility.

3. The inter-utility agreement should contain specific provisions regarding responsibilities of notice of termination, termination, reconnection, and reasonable fees based on fair and reasonable compensation.

4. Any inter-utility agreements pursuant to Rule 4.8.g.1. shall be submitted to the Commission for approval prior to any termination of water service for non-payment of sewer bills under such agreements.

5. A water utility that has terminated or reconnected service for non-payment of sewer bills, or that has made a visit to the customer's premises to terminate service, may charge the sewer utility a fee pursuant to Rule 4.8.g.3. The sewer utility may include this charge in the billing to the delinquent customer, provided that such charge is included in the sewer utility's approved tariff.

4.9. Refusal to serve applicants.

4.9.a. Non-compliance with rules -- Any utility may decline to serve an applicant until he has complied with these rules and the utility's rules set forth in a Commission approved tariff governing sewer service.

4.9.b. Applicant's facilities inadequate -- The utility may refuse to serve an applicant if the applicant's installation of sewer piping is hazardous or of such character that satisfactory service cannot be provided.

4.9.c. A bill which has been found to be contractually uncollectible by a court or could reasonably be found to be uncollectible by reason of an applicable statute of limitations shall not be used by a utility to deny or discontinue service.

4.9.d. Applicant's recourse -- In the event that the utility shall refuse to serve an applicant under the provisions of

this rule, or any other rule incorporated herein, the utility shall inform the applicant of the basis of its refusal, and the applicant may apply to the Commission for a ruling thereon. The refusal must be in writing with a copy sent to the Commission.

4.10. Access to property.

4.10.a. The utility shall, at all reasonable times, have access to service connections and other property owned by it on a customer's premises for purpose of inspection, maintenance and operation.

4.10.b. Identification for employees -- Every employee, whose duties regularly require him to enter a customer's premises, shall wear a distinguishing uniform or other 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, containing a photograph of said employee. The identification card shall contain 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.

4.11. Service interruptions.

4.11.a. Records of interruptions -- Each utility shall keep a record of all interruptions of service upon its entire system or major divisions thereof, including a statement of time, duration and cause of the interruptions.

4.11.b. Notice required -- The Bureau of Public Health, the Commission and every customer affected shall be notified in advance of any contemplated work which will result in interruption of service for any duration that may cause a health hazard, but such notice shall not be required in case of interruption due to accident, the elements, public enemies, strikes or order of court which are beyond the control of the utility.

4.12. Moratoria.

4.12.a. Conditions -- The Commission may impose a moratorium on the system, either entire or apportioned, whenever sufficient evidence exists that the existing facilities are operating in excess of design capacity, that the system capacity necessary for future demand does not exist, or when an increase in customers will result in the degradation of service to existing

customers.

4.12.b. Petition -- A utility, Commission Staff, or governmental entity may petition the Commission in writing for the imposition of a moratorium on a system. The petition should include evidence of the existence of conditions outlined in Rule 4.12.a. If the utility is the petitioner, it must state the utility's plan to remediate those conditions.

4.12.c. Imposition by state agency other than the Commission -- A utility must immediately notify the Commission in writing if a State agency other than the Commission imposes a moratorium on the utility's system.

4.12.d. Public notification of petition -- A party petitioning for a moratorium shall notify the public that such request is being made, through a Class II legal advertisement in the form of Sewer Form No. 3, "Public Notice of Filing of a petition for imposition of a moratorium" attached to these Rules, published no later than fifteen (15) calendar days from the date such request is made to the Commission. The notification shall clearly state which areas of the utility's system are affected, and that interested parties may submit comments to the Commission for consideration.

4.12.e. Exemptions -- Any prospective customer or group of prospective customers may apply to the Commission for an exemption from an existing moratorium. Such requests shall be made in writing by the prospective customer(s) to the Commission, and shall include justification for the proposed exemption.

4.12.f. Refusal of Service -- A utility may not deny service to a prospective customer on grounds of a moratorium until the Commission has imposed a moratorium. Any utility denying service to a prospective customer or group of customers due to a moratorium shall notify, in writing, all applicants for service of their right to file with the Commission a request for exemption from the moratorium.

4.12.g. Improvements to System -- A utility upon which a moratorium is imposed shall continue to seek improvements to its system necessary to lift the moratorium. The Commission may, at its discretion, require the utility to submit reports outlining all progress made toward system improvements.

§150-5-5. Utility Facilities; Service Pipes; Extension of System.

5.1. Adequacy of facilities.

5.1.a. The collecting system of every sewer utility shall be designed, constructed, maintained and operated to receive and transport the sewage from its customers' outlets to its treatment plant without undue delay.

5.1.b. Where the terrain is such that pumping or lift stations must be provided, such facilities must have the approval of the Bureau of Public Health and the Division of Environmental Protection and be operated under the rules of the Bureau of Public Health and the Division of Environmental Protection.

5.1.c. When a new sewer utility proposes to construct and operate a sewer service business, its entire plant layout shall be approved by the Bureau of Public Health and the Water Resources Division of the Division of Environmental Protection.

5.1.d. Construction and maintenance of plant -- Each utility shall at all times construct and maintain its entire plant and system to furnish safe, adequate and continuous service.

5.1.e. Inspection of plant -- Each utility shall inspect its plant and facilities in such manner and with such frequency as is necessary to insure a reasonably complete knowledge as to their conditions and adequacy at all times. Such inspections must comply with the legally applicable requirements of the Minimum Federal Safety Standards (Federal Occupational Health and Safety Administration) and the Bureau of Public Health and the Division of Environmental Protection.

5.1.f. Records of conditions -- Records necessary for the proper maintenance of the system and in accordance with the Bureau of Public Health and the Division of Environmental Protection and the Minimum Federal Safety Standards shall be kept of the conditions found. In special cases, a more complete record may be specified by the Commission.

5.1.g. Records of operation -- Each utility shall keep a record of the operation of its plant, which, so far as practical, shall show sufficient details of plant operation as is necessary to substantially reproduce its daily operations. The records shall also be maintained in accordance with the requirements of the Minimum Safety Standards and the Bureau of Public Health and the Division of Environmental Protection.

5.1.h. Report 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. Utility Service Pipe.

5.2.a. Where the service pipe is required for the immediate and continuous use for general service to premises abutting the public street or right-of-way in which mains are located, the utility will furnish, install, and maintain the utility service pipe and appurtenances between the main in the street up to the customer's point of service at or near 90 degrees to the main. All such service pipes and appurtenances shall be installed only by the utility unless by prior written agreement.

5.2.b. The utility shall determine the location of the utility service pipe.

5.2.c. The utility shall install and maintain, at its own cost and expense, all of the utility service pipe to the point of service, regardless of the side of the road on which the customer is located in reference to the main line. The utility shall designate the point of service on the customer's side of the road.

5.2.d. The utility shall not make any charge for furnishing and installing any permanent service connection, unless the utility has prior approval of the Commission to charge a tap fee and the same is set forth in the utility's tariff on file with the Commission.

5.2.e. The utility service pipe shall remain under the utility's sole control and jurisdiction.

5.2.f. The customer shall not attach any fixtures to, or make any branches in, the utility service pipe between the point of service and the main. Violation of this rule may result in termination of service pursuant to these rules.

5.2.g. Temporary service connections for construction or other temporary purposes shall be installed by the utility at the cost of the applicant.

5.2.h. Each utility shall adopt standard methods of installation where practicable. Such methods shall be set out with written descriptions and drawings to provide a clear understanding of the requirements; all of which shall be submitted to the Commission.

5.2.5. Availability defined -- Sewer service will be

deemed available to a customer when a main is installed and maintained by the utility in such location and at such distance from the user's premises as may be provided by city ordinance or by the rules of the utility: Provided, that service shall not be deemed to be available unless the sewage will flow by gravity or be transported by such other methods approved by the Bureau of Public Health including, but not limited to, vacuum and pressure systems, approved under West Virginia Code §16-1-9, from the customer's premises into the utility's facilities.

5.3. Customer Service Pipe.

5.3.a. No customer, plumber, company owner or any agent shall connect to the utility's main or to any utility service pipe, or extend the pipes therefrom to any premises for the purpose of securing sewer service, until application has been made therefor to the utility as provided in these rules and permission for doing so has been granted by the utility in writing.

5.3.b. Once an application for service has been granted, the customer shall install and maintain the customer service pipe.

5.3.c. The utility's authorized employee shall inform the customer of the location of the point of service. The customer shall install the customer service pipe to the point of service after which the utility will install the utility service pipe from the main to the point of service.

5.3.d. Where the utility's service pipe is already installed to the point of service, the customer shall connect with the utility service pipe as installed.

5.3.e. The customer service pipe shall be installed in a workmanlike manner, shall conform to all reasonable rules and regulations of the utility, and shall be maintained by the customer at his own expense.

5.3.f. The utility will specify the size, kind, quality and location of all materials used in the customer's service pipe and the customer shall comply with those specifications.

5.3.g. A customer must maintain his service pipe in good condition and free from all leaks and defects, at the customer's cost and expense. A customer's failure to comply with this rule may result in termination of water or sewer service pursuant to these rules.

5.3.h. The customer's service pipe shall be laid below

the frost line at all points and shall be placed on firm and continuous earth so as to give unyielding and permanent support; and be installed in a trench at least two feet in a horizontal direction from any other trench wherein gas pipe, water pipe, or other facilities, public or private, are or are to be installed.

5.3.i. A customer's service pipe shall not pass through or across any premises or property other than that to be served nor across any portion of the property that could practicably be sold separately from the immediate premises served and no pipes or plumbing in any premises shall be extended therefrom to adjacent or other premises.

5.3.j. The customer's service pipe and all connections and fixtures attached thereto shall be subject to the inspection of the utility before use, and all premises, including any and all fixtures within the said premises, shall at all reasonable hours be subject to inspection by a duly authorized employee of the utility.

5.3.k. The utility shall make changes and bear the full costs of changes in the customer's service pipe required due to changes in grade, relocation of mains, and other causes not related to the customer. The customer shall bear the full costs of changes in service pipe or meter location desired by the customer for his or her convenience.

5.3.l. The customer shall not attach any fixtures to, or make any branches in, the customer service pipe between the point of service and the premises served. Violation of this rule may result in termination of service pursuant to these rules.

5.3.m. The connection of surface drains to the sanitary system is prohibited. As a means to deter prohibited connections where surface or ground water is introduced into the sanitary system, the utility may add a surcharge to the customer's sewer bill where evidence of a violation exists. The surcharge shall be authorized by separate schedule to the utility's sewer tariff filed pursuant to the Rules for the Construction and Filing of Tariffs, 150 CSR 2, but the utility need not file revenue, expense, or other financial data unless otherwise ordered by the Commission. The charge for roof drains, downspouts, storm sewers or similar facilities connected to the sanitary sewer system will be calculated by the formula or rate clearly stated in the tariff, and will not be cumulative to any metered rate for sewer service. The tariff should further provide that the surcharge will not be imposed unless and until the customer is notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site

inspection that rain or surface water is being introduced into the sanitary sewer, and that the customer has thirty (30) days to divert that water from the sanitary sewer.

5.5. Extension of mains to serve new customers.

5.5.a. A sewer utility, whether publicly or privately owned, is under a public service obligation to extend its mains, and its plant and facilities to serve new customers within its service area who may apply for service.

5.5.b. Extensions shall be made in all cases in which the public convenience and necessity require the service, construction problems are not unusual or burdensome, and the extensions appear to be economically feasible.

5.5.c. For any proposed extension of mains, a reasonable relationship should exist between the per customer investment to serve new customers and the per customer investment to serve old customers.

5.5.d. Every effort shall be made by a utility to install its main line in the public road right-of-way or in a utility right-of-way abutting the public road right-of-way.

5.5.e. Extension for general sewer service.

1. The utility will respond to all inquiries regarding new sewer service, whether oral or written, by explaining all available options for obtaining service under these rules.

2. The utility will, upon written request for service in the form of Sewer Form No. 4, by a prospective customer or group of prospective customers located in the same neighborhood, determine the necessary size of main required to give service and make an estimate of the cost of providing the requested service, using the form of Sewer Form No. 5, including pipe, valves, manholes, fittings, necessary materials, permits, labor costs incurred by the utility when the utility externally contracts for the construction of the extension, or internal labor costs, provided such internal or external costs are not recovered in existing rates, and other applicable related costs. When a road crossing(s) is(are) necessary to serve the customer(s) requesting service, the cost estimate shall not include costs attributable to extending the main across the first road (closest to the already existing main), but shall include the costs of installing the main across a second and any subsequent road(s). The written estimate calculated using Sewer Form No. 5 shall be provided to the customer

in the form of Sewer Form No. 6, no more than forty-five (45) days from the receipt by the utility of the written request for service. The written estimate shall include an estimated construction start date and an estimated time of construction. If the prospective customer believes that any part of the estimate is unreasonable, the customer is free to pursue an informal request for assistance from the Commission staff or to file a formal complaint with the Commission. Further, the utility and the customer shall execute a Main Line Extension Agreement. Commission Staff may be consulted to provide assistance and sample forms. The agreement must include as an attachment a copy of this extension rule. The utility shall keep an executed copy of the agreement for at least six (6) years. The length of the extension required shall be that length required to extend from the new proposed service area to the nearest point of connection to the utility system having sufficient excess capacity to provide service at maximum demand.

3. Whenever the utility is required to extend service from an existing main to property that does not immediately abut the utility's right-of-way or the public road that contains the utility main, the extension shall be considered a main extension and the cost responsibility shall be determined under Rule 5.5.e.

4. Where the cost of the extension does not exceed the estimated total net revenue as calculated below, from prospective customers whose service pipes will immediately be connected directly to the extension and from whom the utility has received applications for service upon forms provided by the utility for this purpose, the utility will install, at its own cost and expense, the necessary extension; provided, that the patronage or demand will be of such permanency as to warrant the capital expenditure involved.

A. Net revenue shall be gross revenue minus the excess usage leak adjustment rate approved for the utility, and with this difference further reduced for any revenue based taxes.

B. Revenue shall be based on 4,500 gallons per month per residential unit, unless circumstances of the applicant show this would result in significant error. For non-residential units, annual revenue shall be based on typical consumption for comparable units published by the American Water Works Association.

C. Estimated total net revenue for private, for profit, utilities will be calculated as six (6) times estimated net annual revenue. Each such utility shall file for a utility-specific line extension multiplier within twelve (12) months of the

effective date of these rules.

D. The utility-specific line extension multiplier for private, for profit, utilities shall be based on one (1) divided by the utility's net fixed charge rate. The net fixed charge rate shall equal the total of the utility's weighted cost of capital, applicable income tax rates, and the Commission approved depreciation accrual rate.

E. Estimated total net revenue for associations, municipal, and public service district utilities will be calculated as five (5) times estimated net annual revenue. If the excess leak adjustment calculated for the utility fails to include all of the incremental costs of serving a new customer that should properly be netted out from the total revenues of the utility, the utility may apply to the Commission for a determination of the proper amount to be deducted from gross revenues to arrive at an appropriate determination of net revenue.

5.5.f. Extensions beyond the limit of utility-financed extensions of general sewer service.

1. If the estimated cost of the proposed extension required in order to furnish general sewer service exceeds the utility's estimate of total net revenue as determined by Rule 5.5.e.4., such extension shall be made if the applicant or the applicant's authorized agent contracts for such extension and deposits in advance with the utility the estimated cost of the extension over and above the limit of the utility-funded portion of the extension. The utility shall not pay nor be liable for any interest on such cash deposits. The utility shall make the extension after receiving the cash deposit. The utility shall, for each bona fide new customer who, within a period of ten (10) years from the making of such extension, directly connects to the extension between its original beginning and original terminus refund to the original depositor(s), an amount equal to the estimated total net revenue of the new customer as determined by Rule 5.5.e.4., but in no event shall the aggregate refund made to the depositors exceed the original deposit. Provided, however, that associations, public service districts and municipal sewer utilities may elect to refund the estimated amount over a period of five (5) years making payments no less frequently than every six (6) months.

5.5.g. Alternate Depositor-Financed Extension Plan.

1. Qualifying utilities -- The above requirements notwithstanding, the utility may decline to finance the portion of

a requested extension that would be utility-funded, if it can demonstrate that it has no prospect of any reasonable internal or external financing through commercial loans, grants, or through an installment arrangement with an entity installing the extension or providing the necessary materials.

A. If the utility declines to finance the portion of a requested extension that would be the financial responsibility of the utility, the utility shall file for a waiver of the extension rule within sixty (60) days of the written request.

B. Before filing for a waiver, the utility must first make an estimate of the extension costs.

C. A request for a waiver by a utility shall be accompanied by supporting documentation justifying its request.

D. If the Commission finds that the utility has reasonably declined to finance the portion of the requested extension that would otherwise be utility-funded, the Commission shall authorize the use of the alternate depositor-financed extension plan as described below.

2. Description of alternate depositor-financed extension plan -- Under the alternate depositor-financed extension plan, the utility shall make the extension after:

A. receiving a cash deposit equal to the full amount of the extension cost; and

B. agreeing to give the depositor(s), who is a customer, a monthly bill credit totaling one hundred percent (100%) of the actual net bill(s) from the date service is initiated and until the total credits given equal the estimated total net revenue as defined in Rule 5.5.e.4; and

C. agreeing to refund to the original depositor(s) an amount equal to estimated total net revenue as defined in Rule 5.5.e.4. of each **bona fide** customer, other than the depositor(s), who, within a period of ten (10) years from the construction of the extension, directly connects to the extension between its original beginning and the original terminus. The refund may be spread out over a five (5) year period with the utility making payments no less frequently than every six (6) months. Such refunds shall continue until the total refunds given equal the estimated total net revenue as defined in Rule 5.5.e.4.

3. In no event shall the total refund made to the depositor(s) under Rule 5.5.g.2.C. exceed the original deposit of the depositor(s).

4. The utility shall not pay nor be liable for any interest on the cash deposits associated with line extensions.

5.5.h. General provisions.

1. Should the actual cost of the extension be less than the estimated cost, the utility will refund the difference as soon as the actual cost has been ascertained, but in no event longer than ninety (90) days after completion of construction of the extension. When the actual cost of the extension exceeds the estimate cost, then the utility will bill the depositor for the difference between the estimated and the actual cost. The customer may pay this additional amount in installments. No interest will be paid by the utility on the applicant's payment or on any balance to be refunded.

2. In estimating the cost of an extension, the estimate shall be based on the diameter of the pipe to be used; provided, that the estimated cost to the customer or customers shall not be based on a pipe diameter greater than the diameter of the main from which the extension is to be made, unless actual use estimated for the proposed customer or customers required a larger pipe.

3. Extensions made under this rule shall be and remain the property of the utility.

4. The utility reserves the right to further extend its sewer mains from and beyond the extension made under this rule, and the depositor or the depositor's agent paying for an extension shall not be entitled to any refund for the attaching of customers to such further extension or branch mains so installed.

5. In determining the length of main extensions or of sewer line to be installed in an urban area when land is subdivided in lots, the main, or sewer line (if installed by an entity other than a utility), shall be extended to fully cover the frontage of the property and if the last lot to be served is a corner lot, the terminal point of the extension made hereunder shall be located so that the sewer line ties in with the intersecting street; and further; provided that if there is no main located in the intersecting street, the terminal point of the extension shall be located at the nearest street line of the intersecting street. In rural areas or open land areas, the

extension required will be that length necessary to adequately serve the applicant.

6. Before sewer lines will be laid in any new subdivision, the road surface shall be brought to the established sub-grade as determined by the agency having jurisdiction.

7. This rule shall not be construed as prohibiting the utility from entering into an agreement with a customer that complies with the Commission approved checklist attached hereto as Sewer Form No. 7, in providing an alternate plan for a main extension. Commission Staff may be consulted to provide assistance and sample forms. In providing an alternate plan for main extensions a utility may not discriminate between customers whose service requirements are similar. The agreement shall be filed with and approved by the Commission prior to the implementation or execution of the agreement by any of the parties. The agreement shall include the name, address and phone number of the parties to the agreement. The agreement shall also include a provision explaining why the utility is not funding the extension. The agreement must attach a copy of this Rule 5.5., and a statement signed by the prospective customer that he has reviewed and understands the provisions of Rule 5.5.f. which entitle a customer to refunds and that he knowingly waives such rights, if applicable. Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility. If an entity other than the utility constructs the extension, upon completion of construction and proper utility inspection of the extension, the utility shall initiate service only after proper transfer of title to all facilities including property, plant and rights-of-way incidental to the furnishing of utility service.

8. Contract for service -- The utility shall not be required to make utility-funded extensions or refunds as described in this rule unless those to be served by such extensions shall guarantee to the utility that they will take the service at their premises within thirty (30) days after service is available or as otherwise mutually agreed in a user's agreement.

9. Construction conditions -- Construction of line extensions, as provided in this rule, will be undertaken promptly after all applications have been completed, necessary right-of-way agreements or rights of entry have been delivered to the utility, and all prospective customers have signed contracts.

10. Right-of-Way.

A. If the construction of an extension

involves the acquisition of a private right-of-way, then the prospective customer shall attempt to secure the right-of-way and deliver it to the utility free of cost before construction of the extension is started.

B. If, however, it is not reasonably possible for the prospective customer or customers to secure the right-of-way, and the construction of an extension involves the utility's incurring expense for right-of-way easements, either by purchase or condemnation, such costs shall be added to the total cost of the extension.

C. As a condition to obtaining a main extension, any property owner or developer shall grant the utility the necessary easements which would allow the utility to make future extensions into unserved areas. The granting of the necessary easements shall be made without the utility being required to pay additional consideration for the additional easements to the property owner or developer. If the property owner or developer is unwilling to grant the additional easements, the utility shall not be required to extend its main to serve the property owner or developer.

11. Upon the proper filing of a Tariff Rule 42A, 42T, or 19A rate case by the utility, the utility may seek an impact fee to be assessed against customers.

§150-5-6. Safety requirements

6.1. Accidents.

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

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

6.1.c. Asphyxiation -- Each utility shall inform its employees who must work in manholes and pits of the dangers of asphyxiation and instruct them in the practice and use of accepted rules for detection of dangerous gases, as well as the proper

procedure for treating victims.

§150-5-7 Creation or alteration of public service districts

7.1. Creation or alteration of a public service district.

7.1.a. A county commission upon entering an order on its own motion, or upon receipt of a petition, or upon receipt of a recommendation of the Commission, proposing the creation, expansion, merger, consolidation, reduction or dissolution of a public service district, pursuant to West Virginia Code §16-13A-2, shall:

1. At the same session, fix a date of hearing in the county which date shall be not more than forty (40) days nor less than twenty (20) days from the date of the action;

2. Within 10 days, provide the Executive Secretary of the Commission with a copy of the order or petition and notification of the time and place of the hearing to be held by the county commission;

3. If the territory proposed to be included is situated in more than one (1) county, when fixing the date of hearing, provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed;

4. Publish, at least ten (10) days prior to the hearing, a Class I legal advertisement meeting the requirements stated in West Virginia Code § 16-13A-2, giving notice of the hearing;

5. post notice in at least five (5) conspicuous locations in the proposed public service district as required by West Virginia Code § 16-13A-2; and

6. file with the Executive Secretary of the Commission affidavits of publication pursuant to Rule 4. above, and affidavits of posting pursuant to Rule 5. above as soon as the same are available.

7.2. Notification to the Commission of county commission action.

7.2.a. If the county commission enters an order creating, enlarging, reducing, merging, dissolving, or consolidating a public service district, the county commission

shall, within ten (10) days of entering such order, file a copy of such order with the Executive Secretary of the Commission. If the county commission declines to enter such an order, the county commission shall, within ten (10) days of declining, file with the Executive Secretary of the Commission notice that it has declined to enter any such order.

7.3. Commission hearing.

7.3.a. The Commission shall hold a hearing or hearings in each county affected by a county commission order(s) filed pursuant to Rule 7.1.a. and the Commission shall publish a Class I legal advertisement giving notice of such hearing or hearings.

7.4. Commission consideration of proposed creation or alteration.

7.4.a. After public comment and hearing the Commission shall, by order, approve, disapprove or modify a county commission order creating, expanding, merging, consolidating, reducing or dissolving a public service district. In deliberating on approval, modification or disapproval the Commission may consider, among other things:

1. the public convenience and necessity;
2. the economic feasibility, including sources of funding, costs and related benefits of the county commission's order;
3. the adequacy of facilities;
4. other facilities in the area; and
5. other possible alternatives.

Sewer Form No. 1
(Sewer Rule 4.8.b.)

(Insert Company Name Here)

**NOTICE OF SCHEDULED TERMINATION OF SERVICE
AND CUSTOMER RIGHTS**

We have scheduled your water service provided at _____
(address)
for termination on or after _____ because of your delinquent
(date)
sewer bill.

This action has been taken for the following reason(s):

(Include reason and facts resulting in decision to terminate service).

If your service is terminated you will be subject to the following additional charges involving reconnect fees and deposit requirements in order to restore service.

(Include all applicable charges, including disconnect, reconnect and/or administrative fees)

YOU HAVE THE RIGHT TO CHALLENGE THE TERMINATION IF YOU BELIEVE ANY OF THE FOLLOWING CONDITIONS APPLY TO YOU:

1. Any portion of the bill is in dispute
2. You are being charged for service not received
3. The information above is incorrect
4. You are unable to pay the bill in accordance with the billing, and termination of service would be especially dangerous to the health or safety of a member of your household
5. You are able to pay only in installments

If the reason for your challenge is 1, 2, or 3 above, you will have to pay any amount not in dispute. If the reason for your challenge is 4 or 5, we will attempt to negotiate a deferred payment agreement with you.

YOU MUST NOTIFY US BEFORE THE DATE OF TERMINATION IN ORDER TO PROTECT YOUR RIGHTS UNDER THIS RULE:

(Provide instructions for contacting the appropriate utility personnel by telephone and mail, including business hours)

You should also inform us if you are 65 years or older, or regardless of age, if you are physically, mentally, or emotionally incapacitated.

Once you have notified us of your challenge, we will schedule a meeting at the business office nearest to your residence and try to resolve your problem. At your option, the discussion of your challenge may be made over the telephone. **IF YOU ARE NOT SATISFIED WITH OUR DECISION AT THIS MEETING, YOU WILL HAVE SEVEN (7) DAYS IN WHICH TO FILE A CHALLENGE WITH THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA.** You will be required to pay your current bill while the challenge is pending. There is no charge associated with filing a challenge and you may do so without the assistance of an attorney.

To file a challenge with the PSC, you may call this toll free telephone number 1-800-642-8544 or write to this address:

Utility Challenge
Public Service Commission of West Virginia
P.O. Box 812
Charleston, West Virginia 25323

If you are in need of assistance to pay your bill you should contact the following agencies: (List agencies in service area).

If you desire the assistance of a lawyer with regard to the scheduled termination and are unable to pay for legal counsel, contact one of the following low income legal assistance organizations: (List agencies in service area).

Sewer Form No. 2
(Sewer Rule 4.8.b.9)

(Insert Public Service District Name Here)

NOTICE OF SCHEDULED TERMINATION OF SERVICE
TO CUSTOMER WHO IS A TENANT AND CUSTOMER RIGHTS

We have scheduled your water service provided at _____
for termination on or after _____ because of your delinquent
sewer bill. This action has been taken for the following reason(s):
(address)
(date)

(Include reason and facts resulting in decision to terminate service).

Because you are a tenant of property owned by another, you are hereby placed on notice that your landlord has the right, under West Virginia Code § 16-13A-9, to request this public service district to shut off and discontinue your water service once you have failed to pay any bill for sewer services within sixty (60) days of the date the utility mailed the bill to you.

If your service is terminated you will be subject to the following additional charges involving reconnect fees and deposit requirements in order to restore service.

(Include all applicable charges, including disconnect, reconnect and/or administrative fees)

YOU HAVE THE RIGHT TO CHALLENGE THE TERMINATION IF YOU BELIEVE ANY OF THE FOLLOWING CONDITIONS APPLY TO YOU:

1. Any portion of the bill is in dispute
2. You are being charged for service not received
3. The information above is incorrect
4. You are unable to pay the bill in accordance with the billing, and termination of service would be especially dangerous to the health or safety of a member of your household
5. You are able to pay only in installments

If the reason for your challenge is 1, 2, or 3 above, you will have to pay any amount not in dispute. If the reason for your challenge is 4 or 5, we will attempt to negotiate a deferred payment agreement with you.

YOU MUST NOTIFY US BEFORE THE DATE OF TERMINATION IN ORDER TO PROTECT YOUR RIGHTS UNDER THIS RULE:

(Provide instructions for contacting the appropriate utility personnel by telephone and mail, including business hours)

You should also inform us if you are 65 years or older, or regardless of age, if you are physically, mentally, or emotionally incapacitated.

Once you have notified us of your challenge, we will schedule a meeting at the business office nearest to your residence and try to resolve your problem. At your option, the discussion of your challenge may be made over the telephone. **IF YOU ARE NOT SATISFIED WITH OUR DECISION AT THIS MEETING, YOU WILL HAVE SEVEN (7) DAYS IN WHICH TO FILE A CHALLENGE WITH THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA.** You will be required to pay your current bill while the challenge is pending. There is no charge associated with filing a challenge and you may do so without the assistance of an attorney.

To file a challenge with the PSC, you may call this toll free telephone number 1-800-642-8544 or write to this address:

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P.O. Box 812
Charleston, West Virginia 25323

If you are in need of assistance to pay your bill you should contact the following agencies: (List agencies in service area).

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Sewer Form No. 3
(Sewer Rule 4.12.d.)

Public Notice of Filing of a
Petition for Imposition of a Moratorium

Case No. _____

NAME OF UTILITY _____,
a public utility.

Petition for consent and approval for
the imposition of a moratorium on the
utility system.

PUBLIC NOTICE

On _____ (date), the [Name of Utility, Commission Staff, or governmental entity] filed a petition with the Public Service Commission for approval of the imposition of a moratorium on [name of utility]'s _____ [water, sewer, or other] system serving _____ [describe areas served]. If approved, the moratorium would mean that no new customers could be served by the utility in these areas until the Commission lifts the moratorium. The _____ [name of petitioner] claims that the imposition of a moratorium is appropriate because [describe reasons and describe any plans to alleviate the circumstances giving rise to the petition, and any estimate of a date when it would be appropriate for the Commission to lift the moratorium.]

Any person wishing to protest, support, make comment, or request a public hearing about the proposed moratorium should do so in writing. Written statements should be addressed to Executive Secretary, Public Service Commission, P.O. Box 812, Charleston, WV, 25323.

NAME OF UTILITY

Sewer Form No. 4
(Sewer Rule 5.5.e.2.)

Form of written request for service
by a prospective customer or
a group of prospective customers
located in the same neighborhood

Sewer () Water and Sewer ()

Previous Customer () If so, when _____ New customer ()

Name _____

Mailing address _____ Phone _____

Property location _____

Rent () Own () Other _____

If rent: Property owners name _____

Property owner's mailing address _____ Phone _____

Type of service: Residential () Number in household _____
 Commercial () Type _____
 Industrial () Type _____

Applicant's place of employment _____

Employment address _____ Phone _____

Name of spouse _____

Spouse's place of employment _____

Spouse's employment address _____ Phone _____

I HEREBY AUTHORIZE SERVICE TO BE ESTABLISHED IN MY NAME AT THE ABOVE PROPERTY LOCATION AND AGREE TO PAY FOR SERVICE UNTIL DISCONTINUED BY MY REQUEST IN WRITING. I UNDERSTAND THAT THIS APPLICATION IS ACCEPTED SUBJECT TO THE AVAILABILITY OF SERVICE AT THIS LOCATION.

Applicant's signature _____

Date _____

Utility representative _____ Date _____

For office use only

Name _____ Account No. _____

Applicant ID _____

Sewer Form No. 4
Page 2 of 2

Deposit amount _____ Tap fee amount _____

Meter Size _____ Meter No. _____

Meter Route _____ Meter reading _____

Date on _____ Date off _____

Customer request () Termination ()

Sewer Form No. 5
(Sewer Rule 5.5.e.2.)

Form for use in determining cost estimate
to extend sewer service

Date _____

The following estimate is in response to a request to extend the Utility's sewer facilities approximately _____ feet along _____ to serve a customer or customers who desire sewer service.

Cost Estimate

Sewer line (_____ - inch PVC) _____	feet @ \$ _____/foot	= \$ _____
Excavation/installation _____	feet @ \$ _____/foot	= \$ _____
Materials (fittings, valves, stone, etc.)		= \$ _____
Permits/rights-of-way (Health, Highways, etc.)		= \$ _____
Restoration (seeding, gravel, etc.)		= \$ _____
Related cost (engineering, legal, etc.)		= \$ _____
	TOTAL	= \$ _____

Cost Share of Customers and Utility

A. Total estimated cost of extension	\$ _____
B. Utility Share: (estimated total net revenue per customer calculated pursuant to Rule 5.5.e.4.) \$ _____ per customer	
x _____ customers =	\$ _____
C. Customer share: estimated cost to be paid by customers (A-B)	= \$ _____

Conditions

If the potential customers shall deposit with the Utility, in advance, the total sum of \$ _____, (customers share from "C" above), a tap fee of \$ _____ per customer, and a \$ _____ security deposit per customer, the Utility will apply for the necessary permit applications and begin construction as soon as possible.

If the actual cost to construct the extension is less than the estimated cost, the Utility will refund the difference to the original depositors. If the actual cost exceeds the estimated cost the Utility will bill the depositors for the difference.

The customers will be required to sign an application for service and/or a users agreement when the tap fees and deposits are made.

This main line extension estimate is made in accordance with Sewer Rule 5.5 of the Rules for the Government of Sewer Utilities.

Sewer Form No. 6
(Sewer Rule 5.5.e.2.)
Form of cost estimate to be
provided to applicants for service

Dear Mr. Customer:

We have received a petition for a sewer main extension and have estimated the construction cost to extend the main to serve the properties of the _____ (insert number) petitioners. This estimate is summarized below:

Sewer line _____ feet at \$ _____/ foot	_____
Excavation/Installation _____ feet at \$ _____/ foot	_____
Materials (fittings, valves, stone, etc.)	_____
Permits/Rights-of-way (Health, Highways, etc.)	_____
Restoration (seeding, gravel, etc.)	_____
Related Cost (engineering, legal, etc.)	_____
Total Estimated Extension Construction Cost	_____
Minus Utility's Share (estimated total net revenue per customer pursuant to Sewer Rule 5.5.e.4.)	_____
Estimated Cost to be Paid by Customers	_____
Estimated Cost per Customer	_____

When the "customer's share" referenced above is deposited with the Utility, the Utility will apply for the necessary permit applications and begin construction as soon as possible. If the actual cost to construct the extension is less than the estimated cost, the Utility will refund the difference to the original depositors. If the actual cost exceeds the estimated cost, the Utility will bill the depositors for the difference. This difference must be settled before service can actually be connected.

All customers will be required to sign an extension agreement and an application for service and/or a users agreement and pay a tap fee of \$_____, and a security deposit of \$_____ prior to receiving service. The security deposit is refunded with interest following twelve consecutive months of full and timely payments for services rendered.

The estimated start date of construction is _____.

The estimated duration of construction is _____ days.

Should you have any questions, you may contact Barbara Manager or John Foreman at _____ between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Sincerely,

Sewer Form No. 7

(Sewer Rule 5.5.h.7)

Form of Commission Check-List for Alternate Main Extension Agreements

This form sets forth the minimum amount of information that should be included in a proposed alternate main extension agreement.

- 1. Name of developer, mobile home park owner or prospective customers(s).
- 2. General location or description of area to be served.
- 3. Indication that the developer, owner or prospective customer(s) has/have read Water Rule 5.5, Sewer Rule 5.3, or both in their entirety.
- 4. Indication that the developer, owner or prospective customer(s) understand(s) the Rules.
- 5. Having read and understood the Rules, the developer, owner or prospective customer(s) choose(s) to enter into the alternate main line extension agreement.
- 6. If the developer, owner or prospective customer(s) waive(s) reimbursement, the agreement should contain the waiver.
- 7. A copy of the applicable Rule(s) must be attached to the agreement.
- 8. A statement as to who will bear the cost of inspection, if any.
- 9. If the customer is to bear the cost of inspection, a statement of the maximum amount of the cost of inspection.
- 10. If the developer, owner or prospective customer(s) wish(es) to waive the right of receiving an estimate of the cost of the extension if constructed by the utility, a statement reflecting the waiver.
- 11. A statement as to the type of testing to be required.
- 12. A statement as to who will bear the cost of testing, if any.
- 13. If the customer is to bear the cost of the testing, a statement of the maximum amount of the cost of the testing.
- 14. A statement as to who will install the service connections.
- 15. If the developer, owner or prospective customer(s) is/are to install the service connections, a statement that the utility will not charge a tap fee.
- 16. A statement that the tap fee, if any to be charged, is the approved tap fee in the utility's tariff.
- 17. A statement that the utility is to be indemnified and held harmless against any and all claims for injuries and/or damages which may arise from problems associated with the construction of the extension by the developer, owner or prospective customer(s).

- 18. A statement that the ownership of the extension will be conveyed to the utility prior to its connection to the utility's system.
- 19. A statement indicating who will be responsible for preparing the plans for the extension.
- 20. If the developer, owner or prospective customer(s) is/are to be responsible for the preparation of the plan for the extension, a statement that the developer, owner or prospective customer(s) will provide plans to the Staff of the Public Service Commission if required.
- 21. The number of prospective customers to be served by the extension, the number of lots to be served, or some other general indication of the size of the area to be served by the extension.
- 22. If the initial cost estimate has not been waived, the estimate must be set forth in the agreement.
- 23. A warranty indicating that the developer, owner or prospective customers will warrant the system for a period of one year after completion of the construction, or after system is placed into service.
- 24. The agreement should not be executed before being sent to the Commission for approval.
- 25. A statement as to who will obtain and pay for necessary permits.
- 26. A statement as to who is responsible for the cost of the construction.
- 27. A statement as to who is responsible for the cost of the material.
- 28. A statement describing the extension, including length, diameter and any major components such as fire hydrants, etc.

NOTE: A paragraph such as "The Developer/Customer waives his rights under paragraph 5.3 or 5.5 of the Commission's Rules" will not be acceptable as a catch-all for the requirements listed above. Each item must be addressed in the agreement.

Public Service Commission

Richard E. Hitt, General Counsel



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

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

September 11, 2003

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

Re: 150 C.S.R 7 (Water Rules)
150 C.S.R. 5 (Sewer Rules)

Dear Judy:

The Commission, on its own review, found a few errors in its recent final rules issued for water and sewer utilities. Specifically, during the regular 2003 legislative session, the Legislature passed Senate Bill No. 412 which has been codified at West Virginia Code §16-13A-9. Although our previous rules picked up some of the changes necessary as a result of that legislation, it did not pick up all of the changes.

Therefore, the corrective rules change Water Rule 1.7.B.(3) and Sewer Rule 1.7.C.(3) to reflect that public service district bills are delinquent 20 days from the bill due date instead of 30 days. Second, these corrective rules eliminate provisions that would hold the landlord responsible for delinquent tenant bills. Finally, instead of summarizing, language from Senate Bill No. 412, regarding what a PSD may charge to a customer that refuses to connect to a sewer system. I have also enclosed the Commission's corrective order dated September 11, 2003.

I have enclosed a diskette which contains a clean copy of the rules as well as a strike-through and underlined version of the rules.

If there are any problems or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Hitt". The signature is stylized with a large, sweeping initial "R" and a cursive "Hitt".

Richard E. Hitt
General Counsel

REH/cbd

Enclosure

H:\CDODD\WPDOCS\RICKMISC\COOPER38waterrules.wpd

**TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION**

**SERIES 5
RULES FOR
THE GOVERNMENT OF
SEWER UTILITIES**

§150-5-1. General.

1.1. Scope -- These rules govern the operation and service of sewer 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, §24-2-5, §24-2-7, §24-2-8, §24-2-9, §24-3-2, §24-3-5, §16-13A-2, §16-13A-9, and §8-18-23.

1.3. Filing Date -- August 25, 2003

1.4. Effective Date -- October 24, 2003

1.5. General.

1.5.a. This rulemaking repeals the Commission's current Rules and Regulations for the Government of Public Service Districts, 150 CSR 17, and incorporates portions of those rules within these Sewer Rules. Portions of Series 17 will be incorporated into the Commission's Rules for the Government of Water Utilities, 150 CSR 7, by separate proceeding.

1.5.b. These rules are intended to insure adequate service to the public, to provide standards for uniform and fair charges and requirements by the utilities and their customers, and to establish the rights and responsibilities of both utilities and customers.

1.5.c. The adoption of these rules in no way precludes the Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility or standard, either upon complaint or upon its own motion, or upon the application of any utility.

1.5.d. These rules will 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.a. These rules apply to all public utilities as defined in Rule 1.7.

1.6.b. If hardship results from the application of any Sewer Rule or if unusual difficulty is involved in immediately complying with any rule, application may be made to the Commission for the modification of the rule or for temporary or permanent exemption from its provisions. Provided, that no application for modification or exemption will be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

1.7. Definitions.

1.7.a. "Applicant" -- A person, firm, corporation, municipality, public service district or any other entity that applies for sewer service.

1.7.b. "Available sewer service" -- Sewer service will be deemed available to a customer when a main is installed and maintained by the utility in such location and at such distance from the user's premises as may be provided by city ordinance or by the rules of the utility: Provided, that service shall not be deemed to be available unless the sewage will flow by gravity or be transported by such other methods approved by the Bureau for Public Health including, but not limited to, vacuum and pressure systems, approved under West Virginia Code §16-1-9, from the customer's point of service into the utility service pipe.

1.7.c. Billing Related Dates --

1. "Bill due date" - The date when the utility mails the bill.

2. "Latest pay date" - The last date, which shall be no sooner than the 20th day following the date the utility mails the bill, that the bill may be paid without incurring a late payment penalty. Such date must be stated on the face of the bill.

3. "Delinquent bill" - Any bill issued by a public service district that has not been paid within twenty (20) days of the bill due date; or any bill issued by a sewer utility that is not a public service district within thirty (30) days of the bill

due date. Such date must be stated on the face of the bill.

1.7.d. "Commercial Service" - Means service to each separate business enterprise, occupation or institution occupying for its exclusive use any units or units of space as an entire building, entire floor, suite of rooms or a single room, and using water for such incidental use as the schedule of rates applicable to the particular installation may permit. Commercial service shall apply to all stores, offices, hotels, wholesale houses, garages, display windows, signs, theaters, barber and beauty shops, churches, opera houses, auditoriums, lodge halls, school houses, banks, bakeries and any other space occupied for commercial purposes. Any rooming house, lodging house, resort, inn or tavern renting more than four (4) rooms to strangers or transients without any previous agreement for accommodation or as to the duration of stay shall be classed as a hotel and as such it comes under the commercial classification.

1.7.e. "Commission" -- Whenever in these rules the words "Commission" or "Public Service Commission" appear, such word, or words, shall, unless a different intent clearly appears from the context, be taken to mean the Public Service Commission of West Virginia.

1.7.f. "Customer" -- Shall mean and include any such person, firm, corporation, municipality, public service district or any other entity who purchases a product or services of any utility and shall include any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or product for resale.

1.7.g. "Customer's Service Pipe" -- Shall be that portion of the service pipe from the point of service to the structure or premises, installed at the cost and expense of the customer.

1.7.h. "Governmental Unit" -- Any municipality or other political subdivision or agency of the State of West Virginia or the Federal Government.

1.7.i. "Moratorium" -- A condition imposed on a utility by the Commission prohibiting service connections and/or reactivation of service for an entire system, or a portion thereof.

1.7.j. "Payment" -- Payment is made by cash, check, credit card, debit card, or voucher accepted by the utility.

1.7.k. "Point of service" -- Means the utility's pipe

and appurtenances which connect any utility service pipe with the inlet connection of a customer's service pipe at the customer's property line or elsewhere on the customer's property if provided for in a user's agreement. The utility shall own and maintain all facilities located between the point of service and the main.

1.7.l. "Public Utility" -- Except where a different meaning clearly appears from the context, the word, or words, "Utility" or "Public Utility" when used in these rules 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 collecting, transporting, and/or treating sewage.

1.7.m. "Residential Service" -- Means service to a householder or a tenant, living in a separate house or separate apartment in an apartment building, using water and sewer for general household service. Should the owner of a multiple apartment building undertake to furnish water to his tenants as a part of their monthly rent, then such service shall be classed as "Commercial." In cases where a householder or tenant devotes some portion of the occupied building to commercial use and uses the remainder as a residence then the predominate use of water shall constitute the basis for classification as either residential or commercial.

1.7.n. "Sewer Main" -- Means sewer pipe owned, operated, or maintained by the utility located in a public right-of-way, street, alley, or private right-of-way, used for the purpose of collecting sewage and from which service connections for customers are taken. Any sewer pipe extending through a utility right-of-way across private property shall be a sewer main. Costs to install a sewer main across private property are subject to the cost-sharing provisions of Rule 5.5.

1.7.o. "Temporary Service Connection" -- One which is installed for temporary use; provided that the customer's premises is located on a lot having a curb line abutting on that part of a street or public right-of-way in which there is located a utility sewer main extending along the total frontage of the lot on said street or right-of-way, unless otherwise agreed to by the utility.

1.7.p. "Utility Service Pipe" -- Shall be that portion of the service pipe between the sewer main and the point of service, installed at the cost and expense of the utility.

§150-5-2. Records, reports and other information to be supplied to the Commission.

2.1. Records and reports.

2.1.a. Preservation of records -- All records required by these rules shall be preserved by the utility in the manner prescribed by the Commission.

2.1.b. Location of records.

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

2. If kept outside the State, such records shall be brought to the utility's office in West Virginia upon request of the Commission, or the utility may be required to pay the reasonable traveling expenses of Commission employees assigned to examine the records.

2.1.c. Reports to the Commission -- Upon Commission request, a utility shall furnish 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, or any further information in its possession respecting its rates, charges, or practices, without formal order of the Commission requiring the release of such information.

2.2. Filing of rate schedules.

2.2.a. Tariffs containing rates and rules of each utility shall be filed in the manner prescribed by the Commission in "Rules for the Government and Filing of Tariffs", 150 C.S.R. 2 effective as amended or modified by the Commission.

2.2.b. Municipal rates -- Rates for municipal sewer and combined water and sewer utilities shall be adopted, and tariffs shall be filed, in accordance with the Commission's "Rule for the Government and Filing of Tariffs," 150 C.S.R. 2, effective as amended or modified by the Commission.

2.3. Utility's special rules.

2.3.a. A utility desiring to establish any rule(s), supplementing the rules of the Commission shall first make application to the Commission for authority to establish such a rule(s), clearly stating the reasons for the rule(s).

2.3.b. On and after ninety (90) days from the effective

date of these Rules, any utility's special rules and regulations now on file with the Commission which conflict with these rules, will become null and void, unless they subsequently have been ratified and approved by the Commission.

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

2.4. Financial and statistical report.

2.4.a. Each utility shall file annually a financial and statistical report upon forms to be furnished by the Commission. The report shall be based upon the accounts set up in conformity with Rule 2.5. The report shall be filed on or before three (3) months following the end of the utility's fiscal year or on such date as the Commission may direct.

2.4.b. Upon written request and for good cause shown, the Commission may approve or disapprove, through its Executive Secretary, by letter, a reasonable extension of time to file the financial and statistical report. Such application is to be made before the expiration of the time for filing the report.

2.5. Uniform system of accounts.

2.5.a. All sewer utilities shall maintain their accounts and records in compliance with the Uniform System of Accounts as promulgated in 1958 by the National Association of Regulatory Utility Commissioners for Class A and B sewer utilities and Class C and D sewer utilities.

2.5.b. Observance of the system of accounts applicable to the utility by appropriate class is obligatory upon all persons having direct charge of the books and accounts of the utility. For the purpose of securing uniformity in the applications of this system, all questions of doubtful interpretation of accounting rules are to be submitted to the Commission for consideration and decision.

2.5.c. The classification of sewer utilities for purposes of keeping accounts in accordance with the Uniform System of Accounts shall be as follows:

<u>Classification</u>	<u>Revenue Level</u>
A	\$800,000 or more

B	\$400,000 - \$799,999
C	\$100,000 - \$399,999
D	less than \$100,000

2.6. Maps and records.

2.6.a. Each utility shall keep on file suitable maps, plans, and records showing the entire layout of every pumping station, treatment plant, transmission and collection line, with the location, size and capacity of each plant, size of each transmission and collection line, and customer's service, and other facilities used in the collection and treatment of sewage.

2.6.b. In the case of new construction or property acquired from others, the addition to such maps and records should be made by the end of the next calendar year, following the year in which the construction is done or property acquired. All drawings shall have the scale clearly shown and be of sufficient detail to accurately depict the project or property.

2.6.c. In general, where present maps of existing facilities are not entirely up-to-date, special surveys to locate any plant or facilities will not be required immediately, but maps must be updated as prescribed by the Commission.

2.7. Management audits.

2.7.a. Scope -- To establish a procedure for examination of management practices and policies to determine whether the utility 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.

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

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

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

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

3. Focused -- An in-depth investigation of one (1) or several specific areas of a utility's management and operations.

2.7.c. 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.

2.7.d. Conduct and control --

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

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

3. 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.

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

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

2.7.f. Implementation of recommendations --

1. Draft report.

A. Upon completion of the audit a draft 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.

2. Final report.

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

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

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

4. 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.

5. 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.

6. A management audit report and implementation plan adopted pursuant thereto and any follow-up audit may be used by parties in a general rate case subsequent to the management audit. Such audits and implementation plans may be a factor in the

determination of just and reasonable rates if introduced as an exhibit and subjected to normal due process procedures.

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

§150-5-3. Meter requirements.

3.1. Scope -- In general, sewer service charges shall be based upon the volume of water delivered to the customer's property. This volume is measured by the water meter serving the premises. In cases where a significant volume of the water delivered to the premises is not returned to the sanitary sewer system or water from another source is discharged to the sanitary sewer system the customer may request, or the utility may require, special flow measuring devices to properly measure the volume of waste water entering the sanitary sewer system. Such special flow measuring devices shall be furnished, installed, and maintained by and at the expense of the customer with the approval of the utility. In some situations suitable formulae may be used to determine waste water flow in lieu of special metering devices. Such formulae shall be approved by both the customer and the utility and are subject to the approval of the Commission. All flow meters used in serving bulk or resale customers shall be owned and operated by the utility providing service to the bulk or resale customer.

3.2. Sewer flow measuring devices -- Where sewer flow measuring devices are used for billing purposes, the utility shall test these devices for accuracy on an annual basis. The measuring devices shall also be maintained in good working order and shall be adjusted or repaired to be as nearly correct as is commercially practicable.

3.3. Prohibitions on master metering.

3.3.1. Reserved.

3.3.2. Mobile home parks -- For mobile home parks constructed on or after the effective date of these rules, each mobile home in a mobile home park shall be individually sewered with taps installed at the lot line of each mobile home. The lot owner shall be responsible for payment of any applicable tap fees. All utility easements and mains constructed within the mobile home park will become the property of the utility by agreement between the (i) owner of the mobile home park or the lot owner, whichever is applicable, and (ii) the utility. The agreement must be approved

by order of the Commission prior to construction of any main. Lines extending from the mobile home to the tap will be considered customer service lines and maintenance of those lines will be the responsibility of the applicable lot owner.

§150-5-4. Customer relations.

4.1. Customer information.

4.1.a. Information as to service -- Each utility shall, upon request, give its customers such information and assistance as is reasonable, in order that customers may enjoy safe and efficient service.

4.1.b. Explanation of computing bills -- Each utility shall adopt some means of informing its customers as to the method of computing bills, either by 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.

4.1.c. 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 in obtaining the best rate for his service requirements. The responsibility for the selection, however, rests with the applicant. In the event the customer's use of service changes such that a rate schedule other than the one initially selected becomes 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 them with a copy of the utility's rate or rates applicable to the type of service to be furnished to all classes of customers with a concise written explanation of the rates, and an identification of any classes of customer for whom rates are not summarized.

4.1.d. Posting of law, rates, rules, and collection agents.

1. 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 of forms of contracts and applications applicable to the territory served from that office;

B. A copy of the Public Service Commission Law of this State; and

C. A copy of these rules.

2. A suitable placard in large type shall be conspicuously posted in the utility's business office giving information to customers that a copy of the law, the rules of the Commission, and the schedules of rates are available for their inspection.

3. Once a year, or as often as a utility changes collection agents, each utility shall publicize by newspaper or bill insert to its customers its collection agents to whom customers may deliver payment of sewer bills.

4.1.e. Application for sewer service.

1. All applicants desiring sewer service may be required to make written application at the office of the utility on printed forms provided therefor setting forth in said application all purposes for which sewer will be used upon their premises. The utility may require the applicant to provide identification at the time of application for service. All applicants for service shall be required to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he shall state the name and address of the owner or owners of the premises to be served.

2. Any change in the identity of the contracting customer at a premises will require a new application for sewer service, and the utility may, after reasonable notice, discontinue sewer service until such new application has been made and accepted, but the former customer shall remain liable for sewer service furnished to said premises until he has given notice in writing to the utility to discontinue sewer service. In the event the customer of record has died or has become incapable of being responsible for sewer service, that individual's spouse may become the customer of record without being required to complete a new application for sewer service, or paying a new deposit.

3. In the event that a publicly or privately owned water utility, city, incorporated town, other municipal corporation or other public service district, owns and operates water facilities within the same service territory as the public service district providing sewer service to the area, then the sewer public service district shall provide the customer with a proper receipt

and shall instruct the customer to present said receipt to the water utility when application for water service is made.

4.1.f. Public service district's notice of availability of sewer service and billing after notice.

1. Notice by publication - When sewer service is made available by a public service district to customers in an area which has not previously been served by the district, the district shall publish a notice in a newspaper of general circulation in the area affected once a week for two consecutive weeks, with the second notice being published at least thirty (30) days prior to the date that the district intends to begin billing for services. The notice shall state, at a minimum, the following information: (1) that sewer services are available; (2) the date that the district will begin billing for services as authorized by West Virginia Code §16-13A-9 and Rule 4.3. of the Commission's Rules for the Government of Sewer Utilities; (3) the district's rates; (4) that West Virginia Code §16-13A-9 authorizes the district to petition the circuit court to compel connection to the sewer system; (5) the location and telephone number of the district's business office; and (6) the amount of the bill to be rendered as provided by W.Va. Code §16-13A-9, in the event a customer does not connect to the system.

2. Publication is not required when service is extended to a single customer at the customer's request.

3. Personal notice - In addition to notice by publication, when sewer service is made available to customers in an area which has not previously been served by the district, the district shall provide notice with at least the information as described in section 1. above, to all potential new customers by certified mail, return receipt requested, by personal service with signed and dated receipt, or by posting a notice on the premises. If the premises to be served is not inhabited by the owner, notice shall be given to the owner by certified mail, return receipt requested, in addition to giving notice to the customer inhabiting the premises. In the event that the district is not able to effect personal notice after a good faith effort, or if the district believes that the requirements of this section create an undue hardship on the district, the district may petition the Commission for a waiver of the requirements of personal notice provided in this section.

4. Customers of public service sewer districts who are not connected to the sewer system after appropriate notice has been given of availability of service pursuant to West Virginia

Code §16-13A-9 and Rule 4.1.f. shall be billed based on actual water consumption or the average monthly water consumption based upon the owner's, tenant's, or occupants's specific customer class.

4.2. Customer deposits.

4.2.a. Security deposits.

1. Security deposits for utilities other than public service districts -- A utility, other than a public service district, may require the applicant or customer to make a deposit with it initially, and from time to time, to secure payment of sewer service rates and charges. Such deposit shall not be more than one-twelfth (1/12) of the annual estimated charge for residential service and or one sixth (1/6) of the annual estimated charge for all other service. The utility shall not be bound to supply sewer service until this condition is fulfilled. After the customer has paid bills for service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit plus accrued interest. Calculation of the above twelve (12) month period shall commence from the first regular payment or following the payment of a delinquent bill or bills. Interest at the rate as calculated in accordance with Rule 4.2.a.7. below, shall be paid from the date of deposit until the date of refund of the security deposit. The utility shall have a reasonable time, not to exceed thirty (30) days, 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.

2. Security deposits for public service districts -- All new applicants for residential or other sewer service from a public service district shall make a deposit of (i) fifty dollars (\$50.00), or (ii) two-twelfths (2/12) of the annual estimated charge for sewer service, whichever is greater, with the district to secure the payment of sewer service rates and charges. The district shall not be bound to supply sewer service until this condition is fulfilled. In any case where a deposit is forfeited to pay service rates and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit, as described above, has been remitted to the district.

3. Return of deposit to customers who are not tenants - After a customer who is not a tenant has paid bills for service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit plus accrued interest. Calculation of the above twelve (12) months'

period shall commence from the first regular payment or following the payment of a delinquent bill or bills.

4. Return of deposit by district to a customer who is a tenant - A district is not required to return a deposit to a customer who is a tenant until the time the tenant discontinues service with the district. After a customer who is a tenant discontinues service with the district, the utility shall promptly and automatically refund the deposit plus accrued interest.

5. Interest at the rate as determined in accordance with Rule 4.2.a.8. shall be paid from the date of deposit until the date of refund of the security deposit. All customer security deposits shall be placed in an interest bearing account at a local federally insured financial institution. The district shall have a reasonable time, not to exceed thirty (30) days, 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.

6. Rule 4.2.a.5. requires public service districts to segregate security deposits in interest bearing accounts at federally insured institutions. Upon proper showing by complaint or otherwise, the Commission may require any other utility to likewise segregate customer deposits.

7. The interest rate to be paid by all sewer utilities other than public service districts 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.

8. The interest rate to be paid by public service districts shall be determined as follows. The Staff of the Commission shall determine a rate which a typical small investor could receive at federally insured banks in West Virginia in the last quarter of each calendar year. The Staff shall by January 15 of each year report to the Commission its rate with supporting information. The Commission will issue an order setting the rate to be paid 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.

9. A current customer of a public service district who requests service at another location within the jurisdiction of the district and who has made payment of bills for the previous twelve (12) months without a delinquency, is not required to pay a deposit for service at the new location because that customer is not a new applicant for service under West Virginia Code §16-13A-9. The preceding sentence shall not apply to multiple service locations. Multiple service locations shall require multiple deposits. In the event the customer of record has died, or has become incapable of being responsible for sewer service, that individual's spouse may become the customer of record without being required to complete a new application for sewer service, or paying a new deposit.

10. All new applicants for residential or other service from a combined water and sewer public service district shall deposit (i) a minimum of fifty dollars (\$50.00), or (ii) two-twelfths (2/12) of the annual estimated charge for sewer service, whichever is greater, for each of the services to be rendered.

11. 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.

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

13. Unclaimed deposits -- Should a utility have retained, through no fault of its own, deposits made by customers whose 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 county(ies) in which it operates and in which the deposits were made, showing as of the thirty-first (31st) day of December immediately preceding, the amount of each such deposit, together with the interest due thereon, and notifying

depositors listed therein that their deposits are being held to their credit and will be returned upon request. The utility will not be liable for any interest on such deposits after publication of such lists. Upon completion of the above procedure, the utility shall follow the provisions of the Uniform Unclaimed Property Act, codified at Chapter 36, Article 8, Section 1, et seq. of the Code of West Virginia with regard to the disposition of any unclaimed deposit.

14. 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.

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

4.2.b. Guaranty agreement.

1. A utility, other than a public service district, 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 may, upon request, receive copies of disconnection notices sent to the customer whose account has been guaranteed; Provided that the limitations herein fixed upon the terms of a guaranty agreement shall not apply to industrial customers.

2. A guaranty agreement shall terminate after the customer has satisfactorily paid bills for service for twelve (12) consecutive months, or when the customer gives notice to the utility of discontinuance of service at the location covered by the guaranty agreement, or six (6) 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. Upon termination of a guaranty agreement, or whenever the utility deems the same insufficient as to amount of surety, a cash deposit or a new or additional guaranty may be required upon reasonable written notice to the customer.

3. Application in case of receiver or trustee -- The aforesaid provisions shall apply in the case of a receiver or trustee, operating a business under court order that requires utility service.

4.3. Billing information.

4.3.a. All bills for sewer service shall state whether

the charge is based upon quantities of water consumed at the premises, flat rate or other charge. Bills shall be rendered periodically, and if based upon metered water consumption they shall show the readings of the water meter at the beginning and end of the period for which the bill is rendered, the date of the water meter readings, the number of cubic feet or gallons of water supplied, and the authorized rate. If the utility must, for any reason, render an estimated bill, the bill shall be clearly marked as an estimated bill. All bills shall state "This utility is regulated by the Public Service Commission of West Virginia" and "Rates available upon request."

4.3.b. First and last bills, monthly or quarterly, for sewer service rendered for periods of five (5) days more or five (5) days less than the normal billing period, will be computed in accordance with the rate applicable to that service, by the amount of sewer blocks, and the minimum charge as set forth in that rate will be prorated on the basis of the number of days in the period in question, to the total number of days in the normal period.

4.3.c. Utilities desiring to adopt mechanical billing of such nature as to render compliance with all the terms of Rule 4.3.b., impractical, may make application to the Commission for relief from part of these terms. After consideration of the reasons given when asking for relief, the Commission may allow the omission of part of these requirements.

4.3.d. On all bills which include charges for items other than authorized sewer charges, 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.e. Each bill shall bear on its face the latest pay date and the date it shall be a delinquent bill if not paid. On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

1. When a utility receives a customer payment at a time when both a delinquent bill and a current bill are outstanding, the utility will apply the payment first to the current bill, and apply any leftover amounts to the delinquency. Provided, that this rule shall not apply to payments from customers whose delinquencies have been addressed in a deferred payment agreement. If a termination notice has been issued then the payment should first be applied to the delinquent amount that is the subject of the termination notice.

4.4. Adjustment of bills.

4.4.a. Fast meters -- If the water utility makes a refund to the customer pursuant to Rule 4.4.a. of the Commission's "Rules for the Government of Water Utilities," 150 C.S.R. 3, the sewer utility will make a corresponding adjustment to the sewer charges associated with the same period of time based on the corrected meter reading and the applicable sewer rates.

4.4.b. Dead Meters -- At any time that a water utility calculates water usage and bills for water service pursuant to the provisions in Rule 4.4.b. of the Commission's "Rules for the Government of Water Utilities," 150 C.S.R. 3, the sewer utility will bill for sewer service for the corresponding time period based on the water usage calculated and billed by the water utility.

4.4.c. Leaks on the customer's side of the meter.

1. Each utility shall develop and implement a written policy concerning the adjustment of customer bills where they are based upon metered water consumption or are actually metered sewer lines, and the bill reflects unusual water usage which can be attributed to leakage on the customer's side of the point of service. Leaking commodes, dripping faucets, malfunctioning appliances and similar situations shall not constitute leaks which entitle the customer to a recalculated bill. The policy shall be maintained in the utility's office for inspection by the public and shall be applied in a non-discriminatory manner to all customers. The reasonableness of the utility's policy or practice with respect to a policy shall be subject to Commission review in a formal complaint proceeding.

2. The policy shall provide for a recalculated bill to reflect the utility's incremental cost of treating or purchasing the treatment of the sewage, as contained in the utility's tariff, for all amounts above the customer's historic usage. Historic usage shall be defined as the average usage of the preceding twelve (12) months or actual period of service if less than twelve (12) months. If using the historic usage would result in an unreasonable calculation, adjustments may be made. If such adjustments are made, the utility should advise its customer that a dispute regarding such adjustments may be taken to the Commission in the form of an informal complaint. Any amounts which the customer can prove did not enter the sanitary sewer system shall be credited at full tariff rates.

3. As an alternative to using the incremental cost of treating or purchasing the treatment of the sewage, the utility

may, at its option, use an adjustment which allows it to recover the Commission's estimate of "typical incremental cost" per thousand gallons of sewage on usage above the historic usage. The Commission shall from time to time establish its estimate of "typical incremental cost" by order.

4. However, in future rate cases the utility's incremental cost of treating or purchasing the treatment of the sewage shall be determined and the rate placed in an appropriate tariff as the leak adjustment rate. After a rate has been determined in a rate case, the utility shall not have the option to use the Commission's estimate of "typical incremental cost" found in Rule 4.4.c.3.

4.5. Complaints.

4.5.a. 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. In the event that the complaint is not resolved, the utility shall, before service is discontinued, notify the customer that he may file an informal or formal complaint with the Commission.

4.5.b. Record 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.c. Disposition of records -- Records of complaints shall not be destroyed until a summary has been prepared for permanent record, showing the character of complaints made, the number of each type received in each month, and the disposition of the complaints.

4.6. Disputed bills.

4.6.a. In the event of a dispute between the customer and the utility respecting any bill, the utility shall conduct an investigation and report the result thereof to the customer. In the event that the complaint is not resolved, the utility shall, before water or sewer service is discontinued, notify the customer that he may file an informal or formal complaint with the Commission.

4.7. Customer discontinuance of service.

4.7.a. Any customer requesting service to be discontinued shall give notice thereof to the utility during regular business hours. Unless a different period shall be mutually

agreed upon by written contract, service will be discontinued by the end of the next business day. Until the utility shall have such notice, the customer may be held responsible for all service rendered.

4.8. Utility discontinuance of service.

4.8.a. Consideration of health and sanitation require that sewer service should not be discontinued because of non-payment of service charges unless the utility has first acquired the approval of the Commission. The sewer utility shall make use of such legal remedies as may be available for the collection of delinquent accounts prior to application to the Commission for other relief.

4.8.b. Notice of discontinuance.

1. In the case of a sewer utility requesting termination of water service for non-payment of sewer service, service shall actually be discontinued no sooner than ten (10) days following the date that a sewer utility has mailed to a customer a statement that sewer bills are delinquent.

2. Where conditions hazardous to life or property are found to exist on the customer's premises, or where the utility's regulating, measuring or collection equipment or facilities have been tampered with, the water may be shut off without notice in advance.

3. Where written notice is required it must be sent first class mail, address service requested. Written notice shall comply with Sewer Form No. 1, attached to these rules. The written notice shall become void if the utility service has not been discontinued within thirty (30) days of the date indicated on the notice for termination.

4. Prior to disconnecting water service for non-payment of a sewer bill, the water utility shall make at least two (2) attempts to notify the customer through personal contact. First, the water utility shall either telephone or visit the customer at least 24-hours prior to a scheduled disconnection. Second, the water utility shall knock on the customer's door immediately prior to a disconnection. The inability to make personal contact shall not prevent the water utility from terminating service.

5. Service shall not be discontinued on a Saturday, or Sunday, any day that is a federal or state holiday, a day on

which either the water utility's or the sewer utility's business office is not open to accept payment, or on the day before such days, unless an emergency exists.

6. All disconnections shall be performed between the hours of 8 a.m. and 4 p.m.

7. The water utility shall accept payment at the customer's premises in lieu of discontinuing service for a delinquent sewer bill. The payment must be for the entire amount of the delinquency to prevent termination. However, a utility may refuse payment by check if the customer has, during the previous twelve (12) months, attempted to make a payment by a check subsequently returned by the bank for insufficient funds.

8. If a customer has received notice of a scheduled termination, and, to avoid such termination, makes payment by check which is subsequently dishonored by the bank, the sewer utility may then request the water utility to terminate service only after it has mailed notice, by first class mail, to the customer at least five (5) calendar days, excluding state or federal 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.

9. If a landlord of a single-unit dwelling or a master-metered mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling is responsible for payment of a utility bill, written notice of termination in the form of Sewer Form No. 2 shall be placed at a location readily available for public inspection on the premises at least five (5) days prior to the scheduled termination of service to that mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling in order to provide notice of the scheduled termination to the tenants of said mobile home park, apartment building, motel, hotel or other multiple or single-unit dwelling. If the billing address for any single-unit service is different than the service location, a written notice in the form of Sewer Form No. 2 shall be delivered or posted at a visible location on the premises where the service is to be terminated at least five (5) days prior to the scheduled termination. This notice shall inform the occupant(s) of the date on or after which termination of service will occur and shall state the steps the occupant(s) can take to avoid termination of service.

10. A sewer customer who has been notified that water service is to be terminated for non-payment of sewer bills shall be given the opportunity to enter into a deferred payment

agreement: Provided, that such 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 availability of a reasonable payment plan.

A. The details of the deferred payment agreement are to be negotiated between the utility and the customer and may consider several factors, including, but not limited to the following: Amount of the delinquency; ability of the customer to pay; payment history; time the delinquency has been outstanding; reasons why the delinquency has been outstanding; and any other relevant factors.

B. The deferred payment agreement shall include language informing the customer of the right to challenge the reasonableness of the proposed payments to the Commission.

C. During the challenge, the utility may not terminate service; provided that the current bill must be paid by the customer on time and in full in order to protect his rights under this rule.

D. Once a deferred payment agreement has been established, the customer must pay the current bill on time and in full and make timely payments in accordance with the deferred payment agreement.

E. If the customer's financial condition significantly changes and the existing payment agreement results in hardship, the utility shall renegotiate the payment agreement, consistent with the provisions of Rule 4.8.b.10.A. The customer shall provide documentation in support of his claim that his financial condition has changed. During the renegotiation period the customer must continue to pay the current bill on time and in full and make some payment on the delinquency.

F. If the deferred payment is not received in accordance with the terms of the agreement, or the payment is made with a check subsequently dishonored by the bank, 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 state or federal holidays, prior to notifying the water utility to terminate service provided that at the option of the utility, either personal contact or telephone contact with the customer may be substituted for contact by first class mail. If the customer pays the delinquent payment within that notice period, service shall not be terminated. However, if the customer has, during the previous twelve (12) months, attempted to make payment

by a check which was subsequently dishonored by the bank, the utility may refuse the customer's check and immediately terminate service without additional notice.

11. A sewer utility requesting termination of water service for non-payment of sewer bills shall provide the water utility with a copy of the notice provided to the customer as required by Rule 4.8.b.1.

12. A sewer utility will provide the water utility with a written request for termination of water service for non-payment at least twenty-four (24) hours before the end of the 10-day notice period to the customer.

4.8.c. Once a disconnected customer has paid his delinquency in full, or the utility has agreed to enter into a deferred payment agreement with the customer, and all disconnect and or reconnect fees have been paid, the utility shall reconnect the customer's water service as soon as possible, but no later than twenty-four (24) hours from the time the customer pays all disconnect and reconnect fees.

4.8.d. Charge for reconnection.

1. Whenever the supply of water is turned off for non-payment of sewer bills, the water utility may make a charge as provided for in Rule 4.8.c. of the Commission's "Rules for the Government of Water Utilities," 150 C.S.R. 7.

4.8.e. The utility shall not refuse, deny or discontinue service to an applicant or present customer due to a delinquency in payment for service by a previous occupant of the premises to be served unless such applicant or present customer and such previous occupant are members of the same household and were members of the same household at the time the delinquent bill was incurred.

4.8.f. Combined water and sewer public service districts - Any public service district providing water and sewer service to its customers shall have the right to terminate water service for delinquency in payment of either water or sewer bills; provided that proper notice is given and procedures followed as set out in these rules.

4.8.g. Inter-utility Agreements regarding discontinuance of water service for non-payment of sewer bills.

1. In the event that any utility (whether public, private, city, incorporated town, municipal corporation or public

service district) owns and operates either water facilities or sewer facilities, and a separate utility owns and operates the other kind of facilities, either water or sewer, then the two utilities shall covenant and contract with each other to shut off and discontinue the supplying of water service for the non-payment of sewer service fees and charges; provided that proper notice is given and procedures are followed as set forth in Rule 4.8.b.

2. Municipal sewer -- When sewer facilities are municipally owned and water facilities are not, the municipality providing sewer service may require the water utility to discontinue water service to any customer who is delinquent in the payment of sewer service rates and charges to the municipality. The water utility shall discontinue water service upon demand of the municipality for this purpose; however, prior to discontinuance of any water service, the municipality shall contract with the water utility which contract shall provide that the municipality shall reimburse the water utility for all costs and expenses incurred in both the termination of water service to the delinquent sewer customer and the subsequent resumption of water service to such customer. The contract shall provide for reasonable methods and assurances so that the water utility will be protected and held harmless from claims and damages when water service is discontinued in error or in violation of the rights of the customer through the fault of the municipal sewer utility.

3. The inter-utility agreement should contain specific provisions regarding responsibilities of notice of termination, termination, reconnection, and reasonable fees based on fair and reasonable compensation.

4. Any inter-utility agreements pursuant to Rule 4.8.g.1. shall be submitted to the Commission for approval prior to any termination of water service for non-payment of sewer bills under such agreements.

5. A water utility that has terminated or reconnected service for non-payment of sewer bills, or that has made a visit to the customer's premises to terminate service, may charge the sewer utility a fee pursuant to Rule 4.8.g.3. The sewer utility may include this charge in the billing to the delinquent customer, provided that such charge is included in the sewer utility's approved tariff.

4.9. Refusal to serve applicants.

4.9.a. Non-compliance with rules -- Any utility may decline to serve an applicant until he has complied with these

rules and the utility's rules set forth in a Commission approved tariff governing sewer service.

4.9.b. Applicant's facilities inadequate -- The utility may refuse to serve an applicant if the applicant's installation of sewer piping is hazardous or of such character that satisfactory service cannot be provided.

4.9.c. A bill which has been found to be contractually uncollectible by a court or could reasonably be found to be uncollectible by reason of an applicable statute of limitations shall not be used by a utility to deny or discontinue service.

4.9.d. Applicant's recourse -- In the event that the utility shall refuse to serve an applicant under the provisions of this rule, or any other rule incorporated herein, the utility shall inform the applicant of the basis of its refusal, and the applicant may apply to the Commission for a ruling thereon. The refusal must be in writing with a copy sent to the Commission.

4.10. Access to property.

4.10.a. The utility shall, at all reasonable times, have access to service connections and other property owned by it on a customer's premises for purpose of inspection, maintenance and operation.

4.10.b. Identification for employees -- Every employee, whose duties regularly require him to enter a customer's premises, shall wear a distinguishing uniform or other 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, containing a photograph of said employee. The identification card shall contain 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.

4.11. Service interruptions.

4.11.a. Records of interruptions -- Each utility shall keep a record of all interruptions of service upon its entire system or major divisions thereof, including a statement of time, duration and cause of the interruptions.

4.11.b. Notice required -- The Bureau for Public Health,

the Commission and every customer affected shall be notified in advance of any contemplated work which will result in interruption of service for any duration that may cause a health hazard, but such notice shall not be required in case of interruption due to accident, the elements, public enemies, strikes or order of court which are beyond the control of the utility.

4.12. Moratoria.

4.12.a. Conditions -- The Commission may impose a moratorium on the system, either entire or apportioned, whenever sufficient evidence exists that the existing facilities are operating in excess of design capacity, that the system capacity necessary for future demand does not exist, or when an increase in customers will result in the degradation of service to existing customers.

4.12.b. Petition -- A utility, Commission Staff, or governmental entity may petition the Commission in writing for the imposition of a moratorium on a system. The petition should include evidence of the existence of conditions outlined in Rule 4.12.a. If the utility is the petitioner, it must state the utility's plan to remediate those conditions.

4.12.c. Imposition by state agency other than the Commission -- A utility must immediately notify the Commission in writing if a State agency other than the Commission imposes a moratorium on the utility's system.

4.12.d. Public notification of petition -- A party petitioning for a moratorium shall notify the public that such request is being made, through a Class II legal advertisement in the form of Sewer Form No. 3, "Public Notice of Filing of a petition for imposition of a moratorium" attached to these Rules, published no later than fifteen (15) calendar days from the date such request is made to the Commission. The notification shall clearly state which areas of the utility's system are affected, and that interested parties may submit comments to the Commission for consideration.

4.12.e. Exemptions -- Any prospective customer or group of prospective customers may apply to the Commission for an exemption from an existing moratorium. Such requests shall be made in writing by the prospective customer(s) to the Commission, and shall include justification for the proposed exemption.

4.12.f. Refusal of Service -- A utility may not deny service to a prospective customer on grounds of a moratorium until

the Commission has imposed a moratorium. Any utility denying service to a prospective customer or group of customers due to a moratorium shall notify, in writing, all applicants for service of their right to file with the Commission a request for exemption from the moratorium.

4.12.g. Improvements to System -- A utility upon which a moratorium is imposed shall continue to seek improvements to its system necessary to lift the moratorium. The Commission may, at its discretion, require the utility to submit reports outlining all progress made toward system improvements.

§150-5-5. Utility Facilities; Service Pipes; Extension of System.

5.1. Adequacy of facilities.

5.1.a. The collecting system of every sewer utility shall be designed, constructed, maintained and operated to receive and transport the sewage from its customers' outlets to its treatment plant without undue delay.

5.1.b. Where the terrain is such that pumping or lift stations must be provided, such facilities must have the approval of the Bureau for Public Health and the Department of Environmental Protection and be operated under the rules of the Bureau for Public Health and the Department of Environmental Protection.

5.1.c. When a new sewer utility proposes to construct and operate a sewer service business, its entire plant layout shall be approved by the Bureau for Public Health and the Water Resources Division of the Department of Environmental Protection.

5.1.d. Construction and maintenance of plant -- Each utility shall at all times construct and maintain its entire plant and system to furnish safe, adequate and continuous service.

5.1.e. Inspection of plant -- Each utility shall inspect its plant and facilities in such manner and with such frequency as is necessary to insure a reasonably complete knowledge as to their conditions and adequacy at all times. Such inspections must comply with the legally applicable requirements of the Minimum Federal Safety Standards (Federal Occupational Health and Safety Administration) and the Bureau for Public Health and the Department of Environmental Protection.

5.1.f. Records of conditions -- Records necessary for the proper maintenance of the system and in accordance with the Bureau for Public Health and the Department of Environmental

Protection and the Minimum Federal Safety Standards shall be kept of the conditions found. In special cases, a more complete record may be specified by the Commission.

5.1.g. Records of operation -- Each utility shall keep a record of the operation of its plant, which, so far as practical, shall show sufficient details of plant operation as is necessary to substantially reproduce its daily operations. The records shall also be maintained in accordance with the requirements of the Minimum Safety Standards and the Bureau for Public Health and the Department of Environmental Protection.

5.1.h. Report 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. Utility Service Pipe.

5.2.a. Where the service pipe is required for the immediate and continuous use for general service to premises abutting the public street or right-of-way in which mains are located, the utility will furnish, install, and maintain the utility service pipe and appurtenances between the main in the street up to the customer's point of service at or near 90 degrees to the main. All such service pipes and appurtenances shall be installed only by the utility unless by prior written agreement.

5.2.b. The utility shall determine the location of the utility service pipe.

5.2.c. The utility shall install and maintain, at its own cost and expense, all of the utility service pipe to the point of service, regardless of the side of the road on which the customer is located in reference to the main line. The utility shall designate the point of service on the customer's side of the road.

5.2.d. The utility shall not make any charge for furnishing and installing any permanent service connection, unless the utility has prior approval of the Commission to charge a tap fee and the same is set forth in the utility's tariff on file with the Commission.

5.2.e. The utility service pipe shall remain under the utility's sole control and jurisdiction.

5.2.f. The customer shall not attach any fixtures to, or make any branches in, the utility service pipe between the point of service and the main. Violation of this rule may result in termination of service pursuant to these rules.

5.2.g. Temporary service connections for construction or other temporary purposes shall be installed by the utility at the cost of the applicant.

5.2.h. Each utility shall adopt standard methods of installation where practicable. Such methods shall be set out with written descriptions and drawings to provide a clear understanding of the requirements; all of which shall be submitted to the Commission.

5.2.i. Availability defined -- Sewer service will be deemed available to a customer when a main is installed and maintained by the utility in such location and at such distance from the user's premises as may be provided by city ordinance or by the rules of the utility: Provided, that service shall not be deemed to be available unless the sewage will flow by gravity or be transported by such other methods approved by the Bureau for Public Health including, but not limited to, vacuum and pressure systems, approved under West Virginia Code §16-1-9, from the customer's premises into the utility's facilities.

5.3. Customer Service Pipe.

5.3.a. No customer, plumber, company owner or any agent shall connect to the utility's main or to any utility service pipe, or extend the pipes therefrom to any premises for the purpose of securing sewer service, until application has been made therefor to the utility as provided in these rules and permission for doing so has been granted by the utility in writing.

5.3.b. Once an application for service has been granted, the customer shall install and maintain the customer service pipe.

5.3.c. The utility's authorized employee shall inform the customer of the location of the point of service. The customer shall install the customer service pipe to the point of service after which the utility will install the utility service pipe from the main to the point of service.

5.3.d. Where the utility's service pipe is already installed to the point of service, the customer shall connect with the utility service pipe as installed.

5.3.e. The customer service pipe shall be installed in a workmanlike manner, shall conform to all reasonable rules and regulations of the utility, and shall be maintained by the customer at his own expense.

5.3.f. The utility will specify the size, kind, quality and location of all materials used in the customer's service pipe and the customer shall comply with those specifications.

5.3.g. A customer must maintain his service pipe in good condition and free from all leaks and defects, at the customer's cost and expense. A customer's failure to comply with this rule may result in termination of water or sewer service pursuant to these rules.

5.3.h. The customer's service pipe shall be laid below the frost line at all points and shall be placed on firm and continuous earth so as to give unyielding and permanent support; and be installed in a trench at least two feet in a horizontal direction from any other trench wherein gas pipe, water pipe, or other facilities, public or private, are or are to be installed.

5.3.i. A customer's service pipe shall not pass through or across any premises or property other than that to be served nor across any portion of the property that could practicably be sold separately from the immediate premises served and no pipes or plumbing in any premises shall be extended therefrom to adjacent or other premises.

5.3.j. The customer's service pipe and all connections and fixtures attached thereto shall be subject to the inspection of the utility before use, and all premises, including any and all fixtures within the said premises, shall at all reasonable hours be subject to inspection by a duly authorized employee of the utility.

5.3.k. The utility shall make changes and bear the full costs of changes in the customer's service pipe required due to changes in grade, relocation of mains, and other causes not related to the customer. The customer shall bear the full costs of changes in service pipe or meter location desired by the customer for his or her convenience.

5.3.l. The customer shall not attach any fixtures to, or make any branches in, the customer service pipe between the point of service and the premises served. Violation of this rule may result in termination of service pursuant to these rules.

5.3.m. The connection of surface drains to the sanitary

system is prohibited. As a means to deter prohibited connections where surface or ground water is introduced into the sanitary system, the utility may add a surcharge to the customer's sewer bill where evidence of a violation exists. The surcharge shall be authorized by separate schedule to the utility's sewer tariff filed pursuant to the Rules for the Construction and Filing of Tariffs, 150 CSR 2, but the utility need not file revenue, expense, or other financial data unless otherwise ordered by the Commission. The charge for roof drains, downspouts, storm sewers or similar facilities connected to the sanitary sewer system will be calculated by the formula or rate clearly stated in the tariff, and will not be cumulative to any metered rate for sewer service. The tariff should further provide that the surcharge will not be imposed unless and until the customer is notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or surface water is being introduced into the sanitary sewer, and that the customer has thirty (30) days to divert that water from the sanitary sewer.

5.5. Extension of mains to serve new customers.

5.5.a. A sewer utility, whether publicly or privately owned, is under a public service obligation to extend its mains, and its plant and facilities to serve new customers within its service area who may apply for service.

5.5.b. Extensions shall be made in all cases in which the public convenience and necessity require the service, construction problems are not unusual or burdensome, and the extensions appear to be economically feasible.

5.5.c. For any proposed extension of mains, a reasonable relationship should exist between the per customer investment to serve new customers and the per customer investment to serve old customers.

5.5.d. Every effort shall be made by a utility to install its main line in the public road right-of-way or in a utility right-of-way abutting the public road right-of-way.

5.5.e. Extension for general sewer service.

1. The utility will respond to all inquiries regarding new sewer service, whether oral or written, by explaining all available options for obtaining service under these rules.

2. The utility will, upon written request for

service in the form of Sewer Form No. 4, by a prospective customer or group of prospective customers located in the same neighborhood, determine the necessary size of main required to give service and make an estimate of the cost of providing the requested service, using the form of Sewer Form No. 5, including pipe, valves, manholes, fittings, necessary materials, permits, labor costs incurred by the utility when the utility externally contracts for the construction of the extension, or internal labor costs, provided such internal or external costs are not recovered in existing rates, and other applicable related costs. When a road crossing(s) is(are) necessary to serve the customer(s) requesting service, the cost estimate shall not include costs attributable to extending the main across the first road (closest to the already existing main), but shall include the costs of installing the main across a second and any subsequent road(s). The written estimate calculated using Sewer Form No. 5 shall be provided to the customer in the form of Sewer Form No. 6, no more than forty-five (45) days from the receipt by the utility of the written request for service. The written estimate shall include an estimated construction start date and an estimated time of construction. If the prospective customer believes that any part of the estimate is unreasonable, the customer is free to pursue an informal request for assistance from the Commission staff or to file a formal complaint with the Commission. Further, the utility and the customer shall execute a Main Line Extension Agreement. Commission Staff may be consulted to provide assistance and sample forms. The agreement must include as an attachment a copy of this extension rule. The utility shall keep an executed copy of the agreement for at least six (6) years. The length of the extension required shall be that length required to extend from the new proposed service area to the nearest point of connection to the utility system having sufficient excess capacity to provide service at maximum demand.

3. Whenever the utility is required to extend service from an existing main to property that does not immediately abut the utility's right-of-way or the public road that contains the utility main, the extension shall be considered a main extension and the cost responsibility shall be determined under Rule 5.5.e.

4. Where the cost of the extension does not exceed the estimated total net revenue as calculated below, from prospective customers whose service pipes will immediately be connected directly to the extension and from whom the utility has received applications for service upon forms provided by the utility for this purpose, the utility will install, at its own cost and expense, the necessary extension; provided, that the patronage or demand will be of such permanency as to warrant the capital

expenditure involved.

A. Net revenue shall be gross revenue minus the excess usage leak adjustment rate approved for the utility, and with this difference further reduced for any revenue based taxes.

B. Revenue shall be based on 4,500 gallons per month per residential unit, unless circumstances of the applicant show this would result in significant error. For non-residential units, annual revenue shall be based on typical consumption for comparable units published by the American Water Works Association.

C. Estimated total net revenue for private, for profit, utilities will be calculated as six (6) times estimated net annual revenue. Each such utility shall file for a utility-specific line extension multiplier within twelve (12) months of the effective date of these rules.

D. The utility-specific line extension multiplier for private, for profit, utilities shall be based on one (1) divided by the utility's net fixed charge rate. The net fixed charge rate shall equal the total of the utility's weighted cost of capital, applicable income tax rates, and the Commission approved depreciation accrual rate.

E. Estimated total net revenue for associations, municipal, and public service district utilities will be calculated as five (5) times estimated net annual revenue. If the excess leak adjustment calculated for the utility fails to include all of the incremental costs of serving a new customer that should properly be netted out from the total revenues of the utility, the utility may apply to the Commission for a determination of the proper amount to be deducted from gross revenues to arrive at an appropriate determination of net revenue.

5.5.f. Extensions beyond the limit of utility-financed extensions of general sewer service.

1. If the estimated cost of the proposed extension required in order to furnish general sewer service exceeds the utility's estimate of total net revenue as determined by Rule 5.5.e.4., such extension shall be made if the applicant or the applicant's authorized agent contracts for such extension and deposits in advance with the utility the estimated cost of the extension over and above the limit of the utility-funded portion of the extension. The utility shall not pay nor be liable for any interest on such cash deposits. The utility shall make the extension after receiving the cash deposit. The utility shall, for

each bona fide new customer who, within a period of ten (10) years from the making of such extension, directly connects to the extension between its original beginning and original terminus refund to the original depositor(s), an amount equal to the estimated total net revenue of the new customer as determined by Rule 5.5.e.4., but in no event shall the aggregate refund made to the depositors exceed the original deposit. Provided, however, that associations, public service districts and municipal sewer utilities may elect to refund the estimated amount over a period of five (5) years making payments no less frequently than every six (6) months.

5.5.g. Alternate Depositor-Financed Extension Plan.

1. Qualifying utilities -- The above requirements notwithstanding, the utility may decline to finance the portion of a requested extension that would be utility-funded, if it can demonstrate that it has no prospect of any reasonable internal or external financing through commercial loans, grants, or through an installment arrangement with an entity installing the extension or providing the necessary materials.

A. If the utility declines to finance the portion of a requested extension that would be the financial responsibility of the utility, the utility shall file for a waiver of the extension rule within sixty (60) days of the written request.

B. Before filing for a waiver, the utility must first make an estimate of the extension costs.

C. A request for a waiver by a utility shall be accompanied by supporting documentation justifying its request.

D. If the Commission finds that the utility has reasonably declined to finance the portion of the requested extension that would otherwise be utility-funded, the Commission shall authorize the use of the alternate depositor-financed extension plan as described below.

2. Description of alternate depositor-financed extension plan -- Under the alternate depositor-financed extension plan, the utility shall make the extension after:

A. receiving a cash deposit equal to the full amount of the extension cost; and

B. agreeing to give the depositor(s), who is

a customer, a monthly bill credit totaling one hundred percent (100%) of the actual net bill(s) from the date service is initiated and until the total credits given equal the estimated total net revenue as defined in Rule 5.5.e.4; and

C. agreeing to refund to the original depositor(s) an amount equal to estimated total net revenue as defined in Rule 5.5.e.4. of each **bona fide** customer, other than the depositor(s), who, within a period of ten (10) years from the construction of the extension, directly connects to the extension between its original beginning and the original terminus. The refund may be spread out over a five (5) year period with the utility making payments no less frequently than every six (6) months. Such refunds shall continue until the total refunds given equal the estimated total net revenue as defined in Rule 5.5.e.4.

3. In no event shall the total refund made to the depositor(s) under Rule 5.5.g.2.C. exceed the original deposit of the depositor(s).

4. The utility shall not pay nor be liable for any interest on the cash deposits associated with line extensions.

5.5.h. General provisions.

1. Should the actual cost of the extension be less than the estimated cost, the utility will refund the difference as soon as the actual cost has been ascertained, but in no event longer than ninety (90) days after completion of construction of the extension. When the actual cost of the extension exceeds the estimate cost, then the utility will bill the depositor for the difference between the estimated and the actual cost. The customer may pay this additional amount in installments. No interest will be paid by the utility on the applicant's payment or on any balance to be refunded.

2. In estimating the cost of an extension, the estimate shall be based on the diameter of the pipe to be used; provided, that the estimated cost to the customer or customers shall not be based on a pipe diameter greater than the diameter of the main from which the extension is to be made, unless actual use estimated for the proposed customer or customers required a larger pipe.

3. Extensions made under this rule shall be and remain the property of the utility.

4. The utility reserves the right to further extend

its sewer mains from and beyond the extension made under this rule, and the depositor or the depositor's agent paying for an extension shall not be entitled to any refund for the attaching of customers to such further extension or branch mains so installed.

5. In determining the length of main extensions or of sewer line to be installed in an urban area when land is subdivided in lots, the main, or sewer line (if installed by an entity other than a utility), shall be extended to fully cover the frontage of the property and if the last lot to be served is a corner lot, the terminal point of the extension made hereunder shall be located so that the sewer line ties in with the intersecting street; and further; provided that if there is no main located in the intersecting street, the terminal point of the extension shall be located at the nearest street line of the intersecting street. In rural areas or open land areas, the extension required will be that length necessary to adequately serve the applicant.

6. Before sewer lines will be laid in any new subdivision, the road surface shall be brought to the established sub-grade as determined by the agency having jurisdiction.

7. This rule shall not be construed as prohibiting the utility from entering into an agreement with a customer that complies with the Commission approved checklist attached hereto as Sewer Form No. 7, in providing an alternate plan for a main extension. Commission Staff may be consulted to provide assistance and sample forms. In providing an alternate plan for main extensions a utility may not discriminate between customers whose service requirements are similar. The agreement shall be filed with and approved by the Commission prior to the implementation or execution of the agreement by any of the parties. The agreement shall include the name, address and phone number of the parties to the agreement. The agreement shall also include a provision explaining why the utility is not funding the extension. The agreement must attach a copy of this Rule 5.5., and a statement signed by the prospective customer that he has reviewed and understands the provisions of Rule 5.5.f. which entitle a customer to refunds and that he knowingly waives such rights, if applicable. Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility. If an entity other than the utility constructs the extension, upon completion of construction and proper utility inspection of the extension, the utility shall initiate service only after proper transfer of title to all facilities including property, plant and rights-of-way incidental to the furnishing of utility service.

8. Contract for service -- The utility shall not be required to make utility-funded extensions or refunds as described in this rule unless those to be served by such extensions shall guarantee to the utility that they will take the service at their premises within thirty (30) days after service is available or as otherwise mutually agreed in a user's agreement.

9. Construction conditions -- Construction of line extensions, as provided in this rule, will be undertaken promptly after all applications have been completed, necessary right-of-way agreements or rights of entry have been delivered to the utility, and all prospective customers have signed contracts.

10. Right-of-Way.

A. If the construction of an extension involves the acquisition of a private right-of-way, then the prospective customer shall attempt to secure the right-of-way and deliver it to the utility free of cost before construction of the extension is started.

B. If, however, it is not reasonably possible for the prospective customer or customers to secure the right-of-way, and the construction of an extension involves the utility's incurring expense for right-of-way easements, either by purchase or condemnation, such costs shall be added to the total cost of the extension.

C. As a condition to obtaining a main extension, any property owner or developer shall grant the utility the necessary easements which would allow the utility to make future extensions into unserved areas. The granting of the necessary easements shall be made without the utility being required to pay additional consideration for the additional easements to the property owner or developer. If the property owner or developer is unwilling to grant the additional easements, the utility shall not be required to extend its main to serve the property owner or developer.

11. Upon the proper filing of a Tariff Rule 42A, 42T, or 19A rate case by the utility, the utility may seek an impact fee to be assessed against customers.

§150-5-6. Safety requirements

6.1. Accidents.

6.1.a. Records -- Each utility shall keep a record of

every accident occurring in connection with the operation of its treatment plant, property and equipment whereby any person shall have been killed or seriously injured, or any substantial amount of property damaged or destroyed, with a full statement of the cause of such accident and the precautions taken to prevent similar accidents in the future.

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

6.1.c. Asphyxiation -- Each utility shall inform its employees who must work in manholes and pits of the dangers of asphyxiation and instruct them in the practice and use of accepted rules for detection of dangerous gases, as well as the proper procedure for treating victims.

§150-5-7 Creation or alteration of public service districts

7.1. Creation or alteration of a public service district.

7.1.a. A county commission upon entering an order on its own motion, or upon receipt of a petition, or upon receipt of a recommendation of the Commission, proposing the creation, expansion, merger, consolidation, reduction or dissolution of a public service district, pursuant to West Virginia Code §16-13A-2, shall:

1. At the same session, fix a date of hearing in the county which date shall be not more than forty (40) days nor less than twenty (20) days from the date of the action;

2. Within 10 days, provide the Executive Secretary of the Commission with a copy of the order or petition and notification of the time and place of the hearing to be held by the county commission;

3. If the territory proposed to be included is situated in more than one (1) county, when fixing the date of hearing, provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed;

4. Publish, at least ten (10) days prior to the hearing, a Class I legal advertisement meeting the requirements stated in West Virginia Code § 16-13A-2, giving notice of the hearing;

5. post notice in at least five (5) conspicuous locations in the proposed public service district as required by West Virginia Code § 16-13A-2; and

6. file with the Executive Secretary of the Commission affidavits of publication pursuant to Rule 4. above, and affidavits of posting pursuant to Rule 5. above as soon as the same are available.

7.2. Notification to the Commission of county commission action.

7.2.a. If the county commission enters an order creating, enlarging, reducing, merging, dissolving, or consolidating a public service district, the county commission shall, within ten (10) days of entering such order, file a copy of such order with the Executive Secretary of the Commission. If the county commission declines to enter such an order, the county commission shall, within ten (10) days of declining, file with the Executive Secretary of the Commission notice that it has declined to enter any such order.

7.3. Commission hearing.

7.3.a. The Commission shall hold a hearing or hearings in each county affected by a county commission order(s) filed pursuant to Rule 7.1.a. and the Commission shall publish a Class I legal advertisement giving notice of such hearing or hearings.

7.4. Commission consideration of proposed creation or alteration.

7.4.a. After public comment and hearing the Commission shall, by order, approve, disapprove or modify a county commission order creating, expanding, merging, consolidating, reducing or dissolving a public service district. In deliberating on approval, modification or disapproval the Commission may consider, among other things:

1. the public convenience and necessity;
2. the economic feasibility, including sources of funding, costs and related benefits of the county commission's order;
3. the adequacy of facilities;
4. other facilities in the area; and

5. other possible alternatives.

Sewer Form No. 1
(Sewer Rule 4.8.b.)

(Insert Company Name Here)

**NOTICE OF SCHEDULED TERMINATION OF SERVICE
AND CUSTOMER RIGHTS**

We have scheduled your water service provided at _____
(address)
for termination on or after _____ because of your delinquent
(date)
sewer bill.

This action has been taken for the following reason(s):

(Include reason and facts resulting in decision to terminate service).

If your service is terminated you will be subject to the following additional charges involving reconnect fees and deposit requirements in order to restore service.

(Include all applicable charges, including disconnect, reconnect and/or administrative fees)

YOU HAVE THE RIGHT TO CHALLENGE THE TERMINATION IF YOU BELIEVE ANY OF THE FOLLOWING CONDITIONS APPLY TO YOU:

1. Any portion of the bill is in dispute
2. You are being charged for service not received
3. The information above is incorrect
4. You are unable to pay the bill in accordance with the billing, and termination of service would be especially dangerous to the health or safety of a member of your household
5. You are able to pay only in installments

If the reason for your challenge is 1, 2, or 3 above, you will have to pay any amount not in dispute. If the reason for your challenge is 4 or 5, we will attempt to negotiate a deferred payment agreement with you.

YOU MUST NOTIFY US BEFORE THE DATE OF TERMINATION IN ORDER TO PROTECT YOUR RIGHTS UNDER THIS RULE:

(Provide instructions for contacting the appropriate utility personnel by telephone and mail, including business hours)

You should also inform us if you are 65 years or older, or regardless of age, if you are physically, mentally, or emotionally incapacitated.

Once you have notified us of your challenge, we will schedule a meeting at the business office nearest to your residence and try to resolve your problem. At your option, the discussion of your challenge may be made over the telephone. **IF YOU ARE NOT SATISFIED WITH OUR DECISION AT THIS MEETING, YOU WILL HAVE SEVEN (7) DAYS IN WHICH TO FILE A CHALLENGE WITH THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA.** You will be required to pay your current bill while the challenge is pending. There is no charge associated with filing a challenge and you may do so without the assistance of an attorney.

To file a challenge with the PSC, you may call this toll free telephone number 1-800-642-8544 or write to this address:

Utility Challenge
Public Service Commission of West Virginia
P.O. Box 812
Charleston, West Virginia 25323

If you are in need of assistance to pay your bill you should contact the following agencies: (List agencies in service area).

If you desire the assistance of a lawyer with regard to the scheduled termination and are unable to pay for legal counsel, contact one of the following low income legal assistance organizations: (List agencies in service area).

Sewer Form No. 2
(Sewer Rule 4.8.b.9)

(Insert Utility name here)

NOTICE OF SCHEDULED TERMINATION

We have scheduled water service provided at _____
(address) for termination on or after _____ (date) because
of your landlord's delinquent sewer bill.

To notify the Public Service Commission, you may call this toll free
telephone number, 1-800-642-8544, or write to this address:

Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323

If you desire the assistance of a lawyer with regard to the scheduled
termination and are unable to pay for legal counsel, contact one of the following
low income legal assistance organization: (List agencies in service area).

Sewer Form No. 3
(Sewer Rule 4.12.d.)

Public Notice of Filing of a
Petition for Imposition of a Moratorium

Case No. _____

NAME OF UTILITY _____,
a public utility.

Petition for consent and approval for
the imposition of a moratorium on the
utility system.

PUBLIC NOTICE

On _____ (date), the [Name of Utility, Commission Staff, or governmental entity] filed a petition with the Public Service Commission for approval of the imposition of a moratorium on [name of utility]'s _____ [water, sewer, or other] system serving _____ [describe areas served]. If approved, the moratorium would mean that no new customers could be served by the utility in these areas until the Commission lifts the moratorium. The _____ [name of petitioner] claims that the imposition of a moratorium is appropriate because [describe reasons and describe any plans to alleviate the circumstances giving rise to the petition, and any estimate of a date when it would be appropriate for the Commission to lift the moratorium.]

Any person wishing to protest, support, make comment, or request a public hearing about the proposed moratorium should do so in writing. Written statements should be addressed to Executive Secretary, Public Service Commission, P.O. Box 812, Charleston, WV, 25323.

NAME OF UTILITY

Sewer Form No. 4
(Sewer Rule 5.5.e.2.)

Form of written request for service
by a prospective customer or
a group of prospective customers
located in the same neighborhood

Sewer () Water and Sewer ()

Previous Customer () If so, when _____ New customer ()

Name _____

Mailing address _____ Phone _____

Property location _____

Rent () Own () Other _____

If rent: Property owners name _____

Property owner's mailing address _____ Phone _____

Type of service: Residential () Number in household _____
 Commercial () Type _____
 Industrial () Type _____

Applicant's place of employment _____

Employment address _____ Phone _____

Name of spouse _____

Spouse's place of employment _____

Spouse's employment address _____ Phone _____

I HEREBY AUTHORIZE SERVICE TO BE ESTABLISHED IN MY NAME AT THE ABOVE PROPERTY LOCATION AND AGREE TO PAY FOR SERVICE UNTIL DISCONTINUED BY MY REQUEST IN WRITING. I UNDERSTAND THAT THIS APPLICATION IS ACCEPTED SUBJECT TO THE AVAILABILITY OF SERVICE AT THIS LOCATION.

Applicant's signature _____

Date _____

Utility representative _____ Date _____

For office use only

Name _____ Account No. _____

Applicant ID _____

Sewer Form No. 4
Page 2 of 2

Deposit amount _____ Tap fee amount _____
Meter Size _____ Meter No. _____
Meter Route _____ Meter reading _____
Date on _____ Date off _____
Customer request () Termination ()

Sewer Form No. 5
(Sewer Rule 5.5.e.2.)

Form for use in determining cost estimate
to extend sewer service

Date _____

The following estimate is in response to a request to extend the Utility's sewer facilities approximately _____ feet along _____ to serve a customer or customers who desire sewer service.

Cost Estimate

Sewer line (_____ - inch PVC) _____	feet @ \$ _____/foot	= \$ _____
Excavation/installation _____	feet @ \$ _____/foot	= \$ _____
Materials (fittings, valves, stone, etc.)		= \$ _____
Permits/rights-of-way (Health, Highways, etc.)		= \$ _____
Restoration (seeding, gravel, etc.)		= \$ _____
Related cost (engineering, legal, etc.)		= \$ _____
	TOTAL	= \$ _____

Cost Share of Customers and Utility

A. Total estimated cost of extension	\$ _____
B. Utility Share: (estimated total net revenue per customer calculated pursuant to Rule 5.5.e.4.) \$ _____ per customer	
x _____ customers =	\$ _____
C. Customer share: estimated cost to be paid by customers (A-B)	= \$ _____

Conditions

If the potential customers shall deposit with the Utility, in advance, the total sum of \$ _____, (customers share from "C" above), a tap fee of \$ _____ per customer, and a \$ _____ security deposit per customer, the Utility will apply for the necessary permit applications and begin construction as soon as possible.

If the actual cost to construct the extension is less than the estimated cost, the Utility will refund the difference to the original depositors. If the actual cost exceeds the estimated cost the Utility will bill the depositors for the difference.

The customers will be required to sign an application for service and/or a users agreement when the tap fees and deposits are made.

This main line extension estimate is made in accordance with Sewer Rule 5.5 of the Rules for the Government of Sewer Utilities.

Sewer Form No. 6
 (Sewer Rule 5.5.e.2.)
 Form of cost estimate to be
 provided to applicants for service

Dear Mr. Customer:

We have received a petition for a sewer main extension and have estimated the construction cost to extend the main to serve the properties of the _____ (insert number) petitioners. This estimate is summarized below:

Sewer line _____ feet at \$ _____/ foot	_____
Excavation/Installation _____ feet at \$ _____/ foot	_____
Materials (fittings, valves, stone, etc.)	_____
Permits/Rights-of-way (Health, Highways, etc.)	_____
Restoration (seeding, gravel, etc.)	_____
Related Cost (engineering, legal, etc.)	_____
Total Estimated Extension Construction Cost	_____
Minus Utility's Share (estimated total net revenue per customer pursuant to Sewer Rule 5.5.e.4.)	_____
Estimated Cost to be Paid by Customers	_____
Estimated Cost per Customer	_____

When the "customer's share" referenced above is deposited with the Utility, the Utility will apply for the necessary permit applications and begin construction as soon as possible. If the actual cost to construct the extension is less than the estimated cost, the Utility will refund the difference to the original depositors. If the actual cost exceeds the estimated cost, the Utility will bill the depositors for the difference. This difference must be settled before service can actually be connected.

All customers will be required to sign an extension agreement and an application for service and/or a users agreement and pay a tap fee of \$_____, and a security deposit of \$_____ prior to receiving service. The security deposit is refunded with interest following twelve consecutive months of full and timely payments for services rendered.

The estimated start date of construction is _____.

The estimated duration of construction is _____ days.

Should you have any questions, you may contact Barbara Manager or John Foreman at _____ between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Sincerely,

Sewer Form No. 7
(Sewer Rule 5.5.h.7)

Form of Commission Check-List for Alternate Main Extension Agreements

This form sets forth the minimum amount of information that should be included in a proposed alternate main extension agreement.

- 1. Name of developer, mobile home park owner or prospective customers(s).
- 2. General location or description of area to be served.
- 3. Indication that the developer, owner or prospective customer(s) has/have read Water Rule 5.5, Sewer Rule 5.3, or both in their entirety.
- 4. Indication that the developer, owner or prospective customer(s) understand(s) the Rules.
- 5. Having read and understood the Rules, the developer, owner or prospective customer(s) choose(s) to enter into the alternate main line extension agreement.
- 6. If the developer, owner or prospective customer(s) waive(s) reimbursement, the agreement should contain the waiver.
- 7. A copy of the applicable Rule(s) must be attached to the agreement.
- 8. A statement as to who will bear the cost of inspection, if any.
- 9. If the customer is to bear the cost of inspection, a statement of the maximum amount of the cost of inspection.
- 10. If the developer, owner or prospective customer(s) wish(es) to waive the right of receiving an estimate of the cost of the extension if constructed by the utility, a statement reflecting the waiver.
- 11. A statement as to the type of testing to be required.
- 12. A statement as to who will bear the cost of testing, if any.
- 13. If the customer is to bear the cost of the testing, a statement of the maximum amount of the cost of the testing.
- 14. A statement as to who will install the service connections.
- 15. If the developer, owner or prospective customer(s) is/are to install the service connections, a statement that the utility will not charge a tap fee.
- 16. A statement that the tap fee, if any to be charged, is the approved tap fee in the utility's tariff.
- 17. A statement that the utility is to be indemnified and held harmless against any and all claims for injuries and/or damages which may arise from problems associated with the construction of the extension by the developer, owner or prospective customer(s).

- 18. A statement that the ownership of the extension will be conveyed to the utility prior to its connection to the utility's system.
- 19. A statement indicating who will be responsible for preparing the plans for the extension.
- 20. If the developer, owner or prospective customer(s) is/are to be responsible for the preparation of the plan for the extension, a statement that the developer, owner or prospective customer(s) will provide plans to the Staff of the Public Service Commission if required.
- 21. The number of prospective customers to be served by the extension, the number of lots to be served, or some other general indication of the size of the area to be served by the extension.
- 22. If the initial cost estimate has not been waived, the estimate must be set forth in the agreement.
- 23. A warranty indicating that the developer, owner or prospective customers will warrant the system for a period of one year after completion of the construction, or after system is placed into service.
- 24. The agreement should not be executed before being sent to the Commission for approval.
- 25. A statement as to who will obtain and pay for necessary permits.
- 26. A statement as to who is responsible for the cost of the construction.
- 27. A statement as to who is responsible for the cost of the material.
- 28. A statement describing the extension, including length, diameter and any major components such as fire hydrants, etc.

NOTE: A paragraph such as "The Developer/Customer waives his rights under paragraph 5.3 or 5.5 of the Commission's Rules" will not be acceptable as a catch-all for the requirements listed above. Each item must be addressed in the agreement.

**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 12th day of September, 2003.

GENERAL ORDER NO. 188.17

In the matter of a rulemaking to amend the Commission's Rules and Regulations for the Government of Water Utilities.

GENERAL ORDER NO. 186.12

In the matter of a rulemaking to amend the Commission's Rules and Regulations for the Government of Sewer Utilities.

COMMISSION CORRECTIVE ORDER

By Order issued August 25, 2003 in these proceedings, the Commission adopted final Rules for the Government of Water Utilities, 150 CSR 7 (Water Rules) and Rules for the Government of Sewer Utilities, 150 CSR 5 (Sewer Rules) to take effect October 24, 2003.

Upon review, the Commission has found that specific rule provisions require correction to be in full compliance with Senate Bill No. 412, codified at *W. Va. Code* § 16-13A-9.

Accordingly, by this Order the Commission corrects the definition of "Delinquent Bill" set forth in Water Rule 1.7.b.(3) and Sewer Rule 1.7.c.(3) to reflect that public service district bills are delinquent 20 days from the bill due date, rather than the 30 days set forth for municipal and private utilities.

Secondly, this Order deletes Water Rules 4.8.a.(9) and (10) and Sewer Rules 4.8.b.(9) and (10). Likewise, Water Form No. 2 and Sewer Form No. 2 have been amended. These corrections are made to reflect that *W. Va. Code* § 16-13A-9, does not allow landlords to be held responsible for tenant bills.

Finally, Sewer Rule 4.1.f.(4) is amended to restate, rather than summarize, language from *W. Va. Code* § 16-13A-9.

Accordingly, this Order adopts the corrected rules attached hereto in both clean and blacklined versions. The blacklined versions reflect all changes from the previous Water Rules and Sewer Rules.

FINDING OF FACT

By Order issued August 25, 2003 in these proceedings, the Commission adopted final Rules for the Government of Water Utilities, 150 CSR 7 (Water Rules) and Rules for the Government of Sewer Utilities, 150 CSR 5 (Sewer Rules) to take effect October 24, 2003.

CONCLUSION OF LAW

Upon review, the Commission has found that specific rule provisions require correction to be in full compliance with Senate Bill No. 412, codified at *W. Va. Code* § 16-13A-9.

ORDER

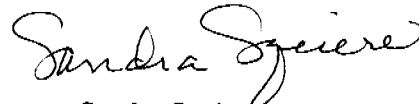
IT IS THEREFORE ORDERED that the corrected Rules for the Government of Sewer Utilities, 150 CSR 5, and the forms attached thereto, and Rules for the Government of Water Utilities, 150 CSR 7, and the forms attached thereto, are hereby adopted as final rules in lieu of those attached to the Order issued August 25, 2003.

IT IS FURTHER ORDERED that, upon entry hereof, the Commission's Executive Secretary shall file a copy of this order and both the clean and blacklined rules with the Secretary of State of West Virginia.

IT IS FURTHER ORDERED that these rulemakings are hereby resolved and shall be removed from the Commission's docket of active cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this Order on all persons who have filed comments in these proceedings by First Class United States Mail, and on Commission Staff by hand delivery.

A True Copy, Teste:


Sandra Squire
Executive Secretary

JML/ljm
go18817cewpd