

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

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SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: PUBLIC SERVICE COMMISSION OF WEST VIRGINIA TITLE NUMBER: 150

RULE TYPE: LEGISLATIVE; CITE AUTHORITY 24-1-1, 24-1-7, 24-2-1 & 24-2-2

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Rules and Regulations for the
Government of Sewer Utilities, 5.3 Extension of System

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

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON March 10, 1992 AT 4:00 ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Howard M. Cunningham, Executive Secretary

WV Public Service Commission

201 Brooks St., P.O. Box 812

Charleston, WV 25323

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

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

BRIEF SUMMARY

The purpose of the proposed rule change is to amend the existing Rule 5.3 of the Rules and Regulations for the Government of Sewer Utilities. Sewer Rule 5.3 provides for main extensions, including general specifications and utility/customer responsibilities. The proposed amendments clarify certain sections of the current rule, specify eligibility for reimbursement of advances for construction, and enables utilities in high growth areas to add impact of facilities fees to the tariff.

5.3. EXTENSION OF MAINS

The following rules shall apply to all ordinary extensions of existing systems in the usual course of business:

a. General Provisions

1. A sewer utility, whether publicly or privately owned, is under a public service obligation to extend its plant and facilities to serve new customers within its service area who may apply for service.
2. Extensions shall be made in all cases in which public convenience and necessity require the service, and construction problems are not unusual or burdensome.
3. All extensions made under this rule shall be constructed by the utility or the utility's authorized agent.
4. Extensions made under this rule shall be and remain the property of the utility.
5. The utility reserves the right to further extend its mains from and beyond the terminus of each main extension made under this rule. Refunds for the connection of customers to the subsequent extension shall not apply to the prior extension.
6. The utility shall not be required to undertake construction of main extensions until an executed extension agreement, deposits, and rights-of-way have been delivered to the utility and all prospective customers have signed individual service contracts.
7. This rule shall not be construed as prohibiting the utility from providing a different plan for main extensions so long as no discrimination is practiced between customers whose service requirements are similar. However, such plan shall be filed with the Commission as a supplemental rule pursuant to Rule 2.2.d.1.
8. In singular and unusual extensions the utility may request a waiver of this rule in whole or in part. The utility's petition shall be filed pursuant to Rule 1.6.b.

b. Extension Classifications

All line extensions will fall into one of the following classifications:

1. Service to Existing Homes and Businesses

A. The utility will, upon written request for service by a prospective customer or group of prospective customers located in the same neighborhood, make an estimate of the cost of the proposed extension including pipe, fittings, manholes, cleanouts, and all other costs such as labor, equipment rental, permits, and related items.

B. Where the cost of the extension does not exceed three and one-half (3-1/2) times the estimated normal annual revenue from prospective customers whose service pipes will be immediately connected to the extension and from whom the utility has received individually executed service applications, the utility will install the necessary extension at its own cost and expense.

C. If the estimated cost of the extension exceeds three and one-half times the utility's estimate of immediate normal annual revenue, such extension will be made if the applicants execute an extension contract and deposit in advance with the utility the estimated cost over and above the free extension limit. The utility shall refund to the original depositors, an amount equal to three and one-half (3-1/2) times the normal annual revenue for each new residential customer or three and one-half 3-1/2 times the actual annual revenue of each new commercial customer directly connected to the extension within ten (10) years of its completion. Refunds shall be made within the next fiscal year after the new customer is connected.

D. Normal annual revenue shall be based on 150 gallons per day for residential units, and American Water Works Association or other estimates of consumption for various commercial units.

E. The total refund will be limited to the amount deposited or the amount accrued for connections within ten (10) years of completion, whichever is less.

2. Service to Development along the Public Right-of-Way

A. The utility will, upon written request for service by owner(s) of undeveloped property along the public right-of-way, make an estimate of the cost of the proposed extension including pipe, manholes, fittings, necessary materials, and miscellaneous items such as labor, equipment rental, and permits.

B. Such extension shall be made if the applicant(s) execute an extension contract and deposit in advance with the utility the total estimated cost of the extension.

C. The utility shall refund to the original depositor(s), an amount equal to three and one-half (3-1/2) times the normal annual revenue for each residential customer or three and one-half (3-1/2) times the actual annual revenue of each commercial customer directly connected to the extension within ten (10) years of its completion. Refunds shall be made within the next fiscal year after the new customer is connected.

D. The total refund will be limited to the amount deposited or the amount accrued from connections within the ten year period, whichever is less.

E. The utility may allow the developer to construct the extension as a turnkey project, or may allow the use of developer's labor and equipment to install utility-supplied material. All work performed by the developer shall be in conformance with the utility's design and installation requirements. At the completion of construction the lines and rights-of-way shall be conveyed to the utility.

3. Service to Subdivisions

A. The developer(s) requesting an extension to a prospective real estate subdivision or within a single parcel to be developed shall pay the entire cost of the extension. No reimbursement will be made for any portion of main constructed within the development.

B. In situations where a portion of the main extension is constructed along the public right-of-way in order to reach the real estate subdivision, the developer may receive reimbursement for said portion of the extension. The total cost of the extension shall be prorated for the length of main within the public-right-of-way.

C. The utility shall refund to the developer(s) an amount equal to three and one-half (3-1/2) times the normal annual revenue for each residential customer and three and one-half (3-1/2) times the actual annual revenue for each commercial customer directly connected to the portion of the extension outside of the subdivision. Refunds shall be made within the next fiscal year after the new customer is connected.

D. The amount of the refund will be limited to the prorated cost of the extension outside of the subdivision or the amount accrued from connections to that portion of the extension within ten (10) years of completion, whichever is less.

E. The utility may allow the developer to construct the extension as a turnkey project. All work performed by the developer shall be in conformance with the utility's design and installation requirements. At the completion of construction the lines and rights-of-way shall be conveyed to the utility.

c. Construction Conditions

1. The length of extension required shall be that length needed to extend from the nearest main having sufficient excess capacity to provide service at peak flow, to the new service territory. Where a main is constructed below the utility's hydraulic grade line, lift station facilities shall be included in the extension cost estimate. Where an existing lift station must be upgraded to serve the proposed extension, such modification shall be included in the extension cost estimate.

2. Where a sewer system utilizes grinder pump, vacuum valve, or septic tank effluent technology, only main lines shall be included in the extension cost estimate. Grinder pumps, vacuum valves, and septic tanks shall be classified as customer service units of property.

3. In urban areas where land is subdivided into lots, the main shall be extended to fully cover the frontage of the property. If the last lot to be served is a corner lot, the main shall be extended to the nearest intersecting street line.

4. In rural areas, the main shall be extended the length necessary to adequately serve the applicant(s).

5. Before sewer lines will be laid hereunder in any new subdivision, the road surface shall be brought to the established subgrade as determined by the agency having jurisdiction.

6. Collection mains shall be sized based on hydraulic considerations, and so designed in conjunction with existing facilities as to maintain orderly development of the system.

7. If the construction of an extension involves the acquisition of right-of-way across private property, then the prospective customer whenever reasonably possible, shall secure the right-of-way and deliver it to the utility free of cost before construction is started.

d. Adjustment of Cost of Extension

1. The estimated cost of an extension shall be based on the size of pipe to be used. Where larger pipe is required for reasons not related to the parties requesting the extension, the utility shall be responsible for the difference in cost.

2. Should the actual cost of the extension be less than the estimated cost, the utility will refund the difference. When the actual cost of the extension exceeds the estimated cost, then the utility will bill the depositor for the difference.

3. No interest will be paid by the utility on any customer advances for construction or on any unrefunded balances.

4. Where it is not reasonably possible for the prospective customer to secure private rights-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.

e. Facilities Fees

1. Publicly owned sewer associations, public service districts, and municipally owned utilities may assess a capital surcharge, construction reserve fee, or facilities fee to each developer, based on the number of planned connections or estimated usage in each development.

2. The amount or schedule of facilities fees shall be added to the utility's authorized tariff through established tariff filing procedures.

3. Utilities will be allowed to charge facilities fees when the annual growth rate of new connections exceeds five percent (5%), when the existing sewage treatment facilities are operating at seventy-five percent (75%) of nominal capacity, or when treatment is provided by another utility under long term contract.

4. Proceeds from the collection of facilities fees shall be deposited in a special account and shall be used for the construction or purchase of additional treatment capacity.

IN THE MATTER OF amendment to Rule 5.3,
Extension of System, of the Commission's
Rules and Regulations for the Government
of Sewer Utilities.

FISCAL NOTE

This is a fiscal note issued pursuant to West Virginia Code §§29A-3-4, 5 and 9 and West Virginia Code §24-1-7, relating to the Commission's General Order No. 186.5.

I. OBJECTIVES OF THE RULE

The objective of this rulemaking is to amend Rule 5.3, Extension of System, of the Commission's Rules and Regulations for the Government of the Sewer Utilities to provide for extension of service rules to existing homes and businesses; to developments along public rights-of-ways; and service to subdivisions.

II. COST OF IMPLEMENTING THE PROPOSED RULES

There will be no significant implementation cost relating to the rulemaking for the State of West Virginia or for the persons affected by the proposed rules.

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 cost and revenues of State Government.

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

Much of the amended rule codifies the practice of permitting alternate main extension plans for developers and will result in fewer filings, less paperwork, with little or no change causing an economic impact on the state or its residents. Some developers may experience an increase in some start up costs that may be recovered in sales.

The Commission foresees that there may become an unpredictable positive economic impact of this rule on the State and its residents as a result of providing an orderly mechanism for growth and stability in rates to residents.

DATE January 10, 1992 AGENCY WV Public Service Commission

SIGNATURE OF AUTHORIZED REPRESENTATIVE 