

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

1992 AUG 19 PM 3 09

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE (COMMENT PERIOD IS BEING EXTENDED)

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

RULE TYPE: LEGISLATIVE; CITE AUTHORITY W.V. CODE 24-1-1, 24-1-7, 24-2-1 AND 24-2-2

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, 5.3 EXTENSION OF SYSTEM

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

AS A RESULT OF THE NUMBER OF COMMENTS THAT WERE RECEIVED, THE COMMISSION HAS DECIDED TO EXTEND THE COMMENT PERIOD WHICH EXPIRED ON MARCH 10, 1992, TO SEPTEMBER 4, 1992.

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN EXTENDED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES THIS COMMENT PERIOD WILL END ON SEPTEMBER 4, 1992 AT 4:00 P.M.

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

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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.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FILED

1992 AUG 19 PM 3:00

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 19th day of August, 1992.

GENERAL ORDER NO. 186.5

The amendment of Rule 5.03, Extension of System, of the Commission's Rules and Regulations for the Government of Sewer Utilities.

COMMISSION ORDER ESTABLISHING PROCEDURAL SCHEDULE

On March 26, 1991, the Commission entered General Order No. 186.5 which requested public comment on possible amendments to Rule 5.03 of the Commission's Rules and Regulations for the Government of Sewer Utilities concerning the extension of sewer service to new customers. In said order, the Commission requested specific comments regarding: (1) whether developers should be eligible for reimbursement and if so, by what procedures; (2) whether developers should be excluded from receiving free extension credits or should they be reimbursed when lots are fully developed and utilized; (3) whether a public utility should be under an obligation, and under what circumstances, to extend to uninhabited portions of their service area for speculative developments where the utility would be maintaining lines that might never be used; and, (4) whether impact fees or some form of capital contributions, should be required of developers for rapid growth areas when a particular development significantly impacts the capacity of the utility.

As a result of the many comments that were received regarding General Order No. 186.5, the Commission has decided to schedule a hearing in this proceeding. At the hearing, interested parties are invited to address the following questions which are prompted by the widely divergent comments received to date:

1. Under the current rules, certain public service districts have made little or no reimbursement to developers and yet, it has been represented that the districts' areas have experienced and continue to experience economic growth and development. How can this fact be reconciled with the construction industry's view that if developers are categorically excluded from, among other things, receiving reimbursement, the result will be stagnant economic and developmental growth?
2. As a counterpoint to the first question, the Commission invites comments on the accuracy of statements that imply that our present rules result in current customers subsidizing new

customers. To the contrary, it has historically been argued that growth, within the limits of existing capacity, should be encouraged because it results in lower, rather than higher, rates. For example, assume a typical utility serving 500 customers using 4.5 M gallons per month or 54 M gallons per year, having variable costs of \$1.50 per thousand gallons and total revenue requirements of \$5.00 per thousand gallons as follows:

| | |
|----------------------------|---------------------|
| Variable Expenses | \$ 40,500 |
| Fixed Expenses | \$ 30,500 |
| Debt Service - Surplus | \$ 71,000 |
| Interest Earned* | (<u>\$ 7,000</u>) |
| Total Revenue Requirements | <u>\$135,000</u> |

| | |
|-----------------------------|----------------------|
| Sales | 27,000 M Gallons |
| Average Revenue Requirement | \$ 5.00 Per M Gallon |

*\$100,000 Reserve Fund Earning 7% per year.

What would be the impact on the rates of this hypothetical company if it were faced with a request under existing rules for a major extension to serve 100 new customers, assuming no capacity constraints?

This question can have many answers, depending on the funding of the extension to serve the new customers. For example, assume the utility can use \$94,500 (3.5 years revenue from 100 new customers) of its reserves to fund the extension. The resulting revenue requirements would be:

| | |
|----------------------------|-------------------|
| Variable Expenses | \$ 48,600 |
| Fixed Expenses | \$ 30,500 |
| Debt Service - Surplus | \$ 71,000 |
| Interest Earned | (<u>\$ 385</u>) |
| Total Revenue Requirements | <u>\$149,715</u> |

| | |
|-----------------------------|----------------------|
| Sales | 32,400 M Gallons |
| Average Revenue Requirement | \$ 4.62 Per M Gallon |

Even though the utility has used its reserves and forgone interest earnings, all customers receive a rate reduction from \$5.00 per thousand gallons to \$4.62 per thousand gallons.

A different answer is produced if the utility's reserves are not available for construction of the extension. What would happen if the utility borrowed \$94,500 to construct the extension and agreed to a ten year payback at 7% annual interest? Now, the average revenue requirements would be as follows:

| | |
|----------------------------|---------------------|
| Variable Expenses | \$ 48,600 |
| Fixed Expenses | \$ 30,500 |
| Debt Service - Surplus | \$ 71,000 |
| New Debt Service | \$ 13,167 |
| Interest Earned | (<u>\$ 7,000</u>) |
| Total Revenue Requirements | <u>\$156,267</u> |

| | |
|-----------------------------|----------------------|
| Sales | 32,400 M Gallons |
| Average Revenue Requirement | \$ 4.82 Per M Gallon |

Here, even if the utility is required to borrow money to provide funds equal to 3 1/2 years revenue from the 100 new customers to be added, it can pay back the new loan over a ten year period and still reduce rates from \$5.00 per thousand gallons to \$4.82 per thousand gallons. Thus, rather than being subsidized, the new customers provide a benefit to existing customers by allowing fixed costs to be spread over greater billing units.

Mathematically, it can be demonstrated that the above assumptions result in rate reductions of varying amounts depending upon the term of the loan related to the extension. Even if the loan were amortized over a six year period, the hypothetical example presented would result in no change in rates and all customers would be all served at \$5.00 per thousand gallons.

The Commission invites comments on whether the benefits of adding new customers through the spreading of fixed costs over a larger customer base justifies expenditures on the part of the utility as provided for in existing Commission rules.

3. The Commission recognizes the economics of adding new customers at some cost to the utility without increasing rates of current customers depends on the relationship between fixed and variable costs of the individual utility. Furthermore, the Commission recognizes that some utilities purchase treatment, thereby incurring a larger percentage of variable costs than do utilities that have their own treatment facilities. The Commission invites interested utilities to provide an analysis of the economics of adding new customers based on their own revenue requirements and the relationship between fixed and variable costs within those revenue requirements. These analyses may show that some utilities must pay significantly less than 3 1/2 years revenue from each customer added while still maintaining or reducing existing rates while other utilities may be able to pay significantly more than 3 1/2 years revenue from new customers while maintaining or reducing existing rates.
4. In view of the differences in economics that are highly dependent on individual utility costs, the Commission invites interested parties to discuss the advisability of a formula that would produce a utility-specific threshold level that would limit a utility's investment in line extensions to a level that could be amortized by net revenue (gross revenue less out of pocket costs) from the new customers to be added.
5. The Commission recognizes that regardless of the economics of adding new customers, access to funds may be a significant problem for some utilities. It may be possible that even though all customers could benefit by the utility borrowing money to

fund line extension for new customers, such borrowings are not possible because of the financial circumstances of the utility. The Commission would appreciate comments from utilities which believe they are in such circumstances and explanations as to why the utilities are unable to borrow money for line extension projects which are assured of producing net revenue sufficient to amortize the debt associated with such projects.

6. As an adjunct to the issue of funding capability, the Commission notes that if it determines that line extensions to properties being developed by real estate developers would require some utility investment, the question would be raised as to whether the developers should advance all of the funds and receive a pay back based on the Commission formula over an extended period, similar to the way the utility would pay back a borrowing from a local bank. Such a mechanism might be responsive to a utility that does not have access to borrowed capital for credit reasons.
7. Based on comments received, the Commission believes that additional emphasis should be placed on the permanence of the revenues to be obtained from an extension project. The Commission is contemplating amending its rules to exclude temporary facilities, or non-permanent facilities, from its calculation of the utility share of line extension projects. Accordingly, the Commission invites additional comments on the wording of a Rule that would address this issue.

ORDER

IT IS, THEREFORE, ORDERED that this proceeding shall be set for hearing on Tuesday, September 29, 1992, at 9:30 a.m., in the Commission's Hearing Room, 201 Brooks Street, Charleston, West Virginia.

IT IS FURTHER ORDERED that the comment period be extended to Friday, September 4, 1992. Accordingly, all interested parties shall file comments on or before 4:00 p.m., Friday, September 4, 1992.

IT IS FURTHER ORDERED that all sewer utilities subject to the Commission's jurisdiction and other interested parties, including the Consumer Advocate Division, be notified of the hearing and extension of the comment period.

IT IS FURTHER ORDERED that the Commission's Executive Secretary file a copy of the notice of the extension of the comment period of the proposed rule with the Office of the Secretary of State.

IT IS FURTHER ORDERED that any party desiring to address the initial issues raised by the Commission, the specific questions raised herein, or to propose language to be incorporated into the Commission's rules, shall file comments on or before 4:00 p.m.,

Friday, September 4, 1992. However, previously filed comments are already part of the record in this matter and need not be refiled.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall cause a copy of this order to be published once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in each of the following cities: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Grafton, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling, and Williamson.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall provide copies of this order to interested parties who address inquires to: Howard M. Cunningham, Executive Secretary, Public Service Commission of West Virginia, Post Office Box 812, Charleston, West Virginia 25323.

A True Copy, Teste:



Pamela J. Hicks
Acting Secretary