

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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1992 JAN -7. PM 4:41

OFFICE OF THE SECRETARY OF STATE
STATE HOUSE

**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: _____

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

West Virginia Code § 24-1-7

AMENDMENT TO AN EXISTING RULE: YES , NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: V

TITLE OF RULE BEING AMENDED: Rules and Regulations for the Government of

Sewer Utilities, Rules 5.04

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

March 7, 1992

EFFECTIVE DATE OF THIS RULE IS _____

5.04 SERVICE CONNECTIONS

- (1) Where its mains are now or may hereafter be installed, the utility will install the service line and appurtenances between the main in the street up to the property line or right-of-way at or near 90 degrees to the main, provided that 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 such mains are located; and all such service pipes and appurtenances shall be installed only by the utility unless by prior written agreement.
- (2) The utility shall not make any charge for furnishing and installing any permanent service connection, unless the utility has prior approval of the Public Service Commission for establishing a tap-on or connection fee.
- (3) Temporary service connections for construction or other temporary purposes shall be installed by the utility at the cost of the applicant.
- (4) Each utility shall adopt standard methods of installation where practicable. Such method shall be set out with a written description and with drawing to the extent necessary to a clear understanding of the requirement; all of which shall be submitted to the Commission for its information.
- (5) Service pipes serving a premise shall not pass through or across any premises or property other than that to be serviced nor across any portion of the property that could practicably be sold separately from the immediate premise serviced and no pipes or plumbing in any premises shall be extended therefrom to adjacent or other premises.
- (6) The utility will make all connections to its collection mains and will specify the size, kind, quality and location of all materials used in the service line.
- (7) The utility's service pipe from the main to the property line or right-of-way will be furnished, installed and maintained by the utility and shall remain under its sole control and jurisdiction.
- (8) The utility will not, at its own cost and expense, be required to either install or maintain service pipes for temporary service connections.
- (9) The customer's service pipe from the point of service to the customer's premises shall be installed in a workmanlike manner and shall be furnished, installed and maintained by the customer at his own expense and risk.

- (10) 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.
- (11) 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; shall not be laid in driveways nor pass through premises other than that to be serviced; and shall 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.
- (12) The customer shall install his service pipe to the point of service as designated by the Manager or other authorized employee of the utility, after which the utility will install the service from the main to the designated point of service.
- (13) Where the utility's service pipe is already installed to the point of service, the customer shall connect with the service pipe as installed.
- (14) The customer shall not be expected to make all changes in the customer's service pipe required on account of changes of grade, relocation of mains, and other causes not related to the customer, said changes shall be accomplished by the utility at its expense.
- (15) No fixture shall be attached to, or any branch made in, the service pipe between the service point and the main.
- (16) There shall be no more than one service pipe required to service a single premise and each premise shall be supplied through an independent service pipe, unless otherwise approved by the utility in writing.
- (17) Customer's service pipes must be kept and maintained in good condition and free from all leaks and defects at the customer's cost and expense.
- (18) No plumber, customer, company owner or any of his agents shall connect to the utility's main or to any 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.

(19) 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 and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicles, 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.

1992 JAN -7 PM 4:41

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

IN THE MATTER OF amendment to Rule 5.04
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. 186.6.

I. OBJECTIVES OF THE RULE

The objective of this rulemaking is to amend Rule 5.04 of the Commission's Rules and Regulations for the Government of the Sewer Utilities to provide for prohibition of the connection of surface water drainage systems to the customer's service connection, and allowing sewer utilities to add a surcharge to the customer's bill as an incentive to disconnect prohibited systems.

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

Although implementation of this rule will have an initial financial impact on customers whose drains are connected to the public sewer system, the impact will be reduced to zero as the customers disconnect their roof drains. The utilities will see a reduction in operating and maintenance costs as a result of reduced flows to the treatment plant. This could result in possible rate reductions for all customers.

DATE January 7, 1992 AGENCY Public Service Commission
SIGNATURE OF AUTHORIZED REPRESENTATIVE [Signature]

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 7th day of January, 1992.

GENERAL ORDER NO. 186.6

IN THE MATTER OF THE NEED TO AMEND
RULE 5.04 Rules and Regulations
for the Government of Sewer
Utilities.

COMMISSION ORDER MODIFYING AND ADOPTING RULE

1992 JAN - 7
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By Order dated June 6, 1991, the Commission adopted amendments to Rule 5.04 of the Commission's Rules and Regulations for the Government of Sewer Utilities as proposed legislative rules of the Commission. Rule 5.04 provides for service connections, including general construction specifications and utility/customer responsibilities. The proposed amendment specifically prohibits introduction of surface or ground water into the sewer system through customer service lines, and allows the utility to add a surcharge to the customer's sewer bill for violation of provisions of this rules as an incentive for correction of said violations.

A copy of the Commission Order of June 6, 1991, was served on all sewer utilities in West Virginia and the Commission's Staff. Further, the Commission afforded interested parties thirty (30) days from the date of the Order to submit comments on the proposed rules. Comments were received from the Morgantown Utility Board, the Fairmont Sanitary Sewer Board, South Putnam Public Service District, Ohio County Public Service District, the City of Madison Sanitary Board, and Bradley Public Service District.

Based on its review of the proposed rule, and the comments received, the Commission concludes that the proposed rules shall be approved, as amended herein.

DISCUSSION

In its comments, the Morgantown Utility Board noted that storm flows should be billed at a higher rate than normal domestic sewage flows, similar to a demand charge for electric utilities. Further, the Board requested clarification on what rate is to be charged and how it is to be calculated (Variable C in the

promulgated formula). The Commission found these comments to be reasonable.

Included in the proposed rule was the following formula:

$$S = A \times R \times .0006233 \times C$$

- S - The surcharge in dollars.
- A - The area under roof and/or the area of any other water collecting surface connected to the sanitary sewer, in square feet.
- R - The measured monthly rainfall, in inches.
- .0006233 - A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water.
- C - The approved rate per thousand gallons of metered water usage.

The Commission notes this formula was derived from an operating sewer utility's existing rates, and variable C quantified the volumetric rate charged by that utility. It is the Commission's intent that the rates for general sewage service be used in calculating the surcharge, unless the utility can support a separate stormwater or demand rate with cost-based documentation. Furthermore, although it is intended the surcharge be calculated separately from the regular bill for sewer service, only the volumetric component of the rate should be used, without the application of any customer charge or minimum charge.

The Commission recognizes that the various sewer rate structures used throughout West Virginia - flat rate, uniform block, or declining block - do not easily lend themselves to one particular formula, and therefore will not specify a formula by the rule. However, the formula or basis for the surcharge shall be clearly stated in the utility's tariff schedule.

Accordingly, the Commission amends proposed Sewer Rule 5.04(19) as follows:

(19) The connection of surface drains to the sanitary system is prohibited. As a means to deter prohibited connections where surface or groundwater 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 and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle, 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 a 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 the water from the sanitary sewer.

FINDINGS OF FACT

1. By Order entered June 6, 1991, the Commission adopted amendments to Rule 5.04 of the Commission's Rules and Regulations for the Government of Sewer Utilities, as proposed legislative rules.

2. The Commission's intent in initiating the rulemaking proceeding was to give sewer utilities an enforcement tool in removing stormwater from the sanitary system introduced through prohibited connections to the customer service line.

3. Interested parties were afforded thirty (30) days in which to submit comments on the proposed rule. Comments were received from the Morgantown Utility Board, the Fairmont Sanitary Sewer Board, South Putnam Public Service District, Ohio County Public Service District, the City of Madison Sanitary Board, and Bradley Public Service District.

4. The Commission has reviewed its proposed rule and considered the comments filed by the interested parties.

5. Based on the considerations above and its own evaluation, the Commission has modified its originally promulgated rulemaking.

CONCLUSIONS OF LAW

1. The Commission concludes that it is in the public interest to adopt the proposed rules, as modified, as the final rules of the Commission.

2. West Virginia Code §24-1-7 states that any rule finally adopted by the Public Service Commission may not become effective any sooner than sixty (60) days after the filing of the said rule in the State Register.

ORDER

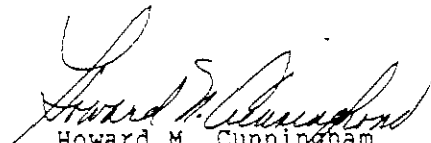
IT IS, THEREFORE, ORDERED that the rules attached hereto be, and hereby are, adopted as the final rules of the Commission, effective sixty (60) days from the date of this Order.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall file two (2) copies of these finally adopted rules with the Office of the Secretary of State for inclusion in

the State Register, as required by West Virginia Code
§29A-1-3(b).

IT IS FURTHER ORDERED that the Executive Secretary of the
Commission serve a copy of this Order upon all parties in this
matter by United States First Class Mail and upon Commission
Staff by hand delivery.

A True Copy, Teste:



Howard M. Cunningham
Executive Secretary