

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

FILED

JUN 3 9 35 AM '93

Form #2

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

AN EXTENSION OF  
NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Public Service Commission of WV TITLE NUMBER: 150  
RULE TYPE: LEGISLATIVE; CITE AUTHORITY W.V. CODE SECTIONS 24-1-1, 24-1-7,  
24-2-1 AND 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, RULE 5.03, EXTENSION OF SYSTEM; AND RULES AND REGULATIONS FOR THE GOVERNMENT OF WATER UTILITIES,  
RULE 5.05, 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 TO JULY 2, 1993.

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 JULY 2, 1993 AT 4:00 P.M.  
ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING  
ADDRESS.

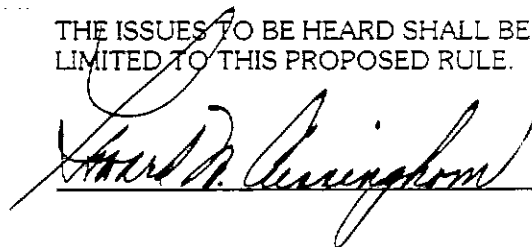
HOWARD M. CUNNINGHAM, EXECUTIVE SECRETARY

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

## BRIEF SUMMARY

The purpose of the proposed rule change is to amend the existing Rule 5.03 of the Rules and Regulations for the Government of Sewer Utilities and to amend the existing Rule 5.05 of the Rules and Regulations for the Government of Water Utilities. Sewer Rule 5.03 and Water Rule 5.05 provide for main extensions, including general specifications and utility / customer responsibilities. The proposed amendments clarify certain sections of the current rules and specify eligibility for reimbursement of advances for construction.

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 2nd day of June, 1993.

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

GENERAL ORDER NO. 188.9

The amendment of Rule 5.05, Extension of System, of the Commission's Rules and Regulations for the Government of Water Utilities.

COMMISSION ORDER REQUESTING FURTHER  
PUBLIC COMMENTS CONCERNING PROPOSED RULEMAKING

On March 26, 1991, the Commission entered General Order Nos. 186.5 and 188.9 which requested public comment on possible amendments to Rule 5.03 of the Commission's Rules and Regulations for the Government of Sewer Utilities (Sewer Rules) and Rule 5.05 of the Commission's Rules and Regulations for the Government of Water Utilities (Water Rules). As a result, the Commission proposed and instituted a proceeding to receive comments as to whether Sewer Rule 5.03 and Water Rule 5.05 should be modified. The Commission also ordered that all interested parties be given 30 days in which to file comments.

On August 19, 1992, the Commission, as a result of the many comments that were filed, scheduled this matter for a hearing. The Commission then extended the comment period to Friday, September 4, 1992. Also, in that order, the Commission's Executive Secretary was called upon to publish a copy of that order in a newspaper, published and of general circulation in the cities of: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Grafton, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling, and Williamson.

At the hearing held on September 29, 1992, the Commission, from the bench, ordered that the comment period in this proceeding be extended to December 1, 1992.

The Commission has already received and considered all comments with regard to the differential treatment of developers and the

facilities fee. However, in reviewing these comments and formulating language for a final rule, the Commission notes that there are several areas within the main extension rule that may require further consideration and clarification. Accordingly, the Commission is issuing this order for the purpose of outlining these additional areas where modification or additions to the existing language of the rule may be beneficial from a standpoint of clarity and equity.

The first area that the Commission is requesting further comments on relates to the determination of the cost of a proposed extension. The Commission notes that there have been some cases in which the determination of facilities to be included within the cost of a requested extension was an issue. Clearly, the issue of an undersized treatment plant that is not capable of handling the load associated with new customers on a proposed extension is the subject of the proposed facilities fee and would not be considered as part of the cost of making an extension. However, there may be other facilities which need to be upgraded or expanded in order to meet the loads associated with new customers. These could include upgrades of booster stations or size increases of existing upstream distribution lines of water utilities or upgrades and/or size increases in downstream interceptors or lift stations of sewer utilities.

The Commission is specifically requesting comments and/or recommendations as to whether it should clearly limit the costs which are considered within these rules to the cost of new main lines, valves, fittings and manholes.

The second issue which the Commission invites comments on is the concept of an alternative financing plan for main extensions. The Commission notes that one of the alleged problems facing many utilities is the inability to finance, either from internal cash sources or externally the investment required to meet the existing 3-1/2 year free extension limit. The Commission further notes that this "problem" may exist when extensions are requested by large groups of customers or groups of customers which include one or more commercial establishments. Thus, whether developers are included or excluded from the free extension requirement, a Commission prescribed alternate financing plan may address such problems.

The Commission is considering the establishment of an alternate customer financed main extension plan which would provide for the customers to advance to the utility 100% of the cost of a proposed extension. The utility would retain the option of using the existing rule provisions to receive and refund customer advances. The alternative plan could further provide for the utility to refund such advances to those customers on a monthly basis in the form of a credit to their monthly bill. In addition, as new customers are added to an extension financed under such a plan, the original contributors would be entitled to a portion of the revenue stream derived from the new customers rather than a lump sum payment equal to 3-1/2 years of revenue from such new customers.

The Commission finds that such an alternate plan could be made available by inclusion of the following language in its water and sewer line extension rules:

The above requirements notwithstanding, the utility may decline to finance the free extension portion of a requested extension if it can demonstrate that it has no cash to make the extension and that it has no prospect of reasonable external financing either through commercial loans or through an installment arrangement with an entity installing the extension or providing the necessary materials.

If the utility declines to finance the free extension portion of a requested extension, the utility shall file for a waiver of the free extension rule within twenty (20) days of the customer's request. A request for waiver by the utility shall be accompanied by supporting documentation justifying its request. If the Commission finds that the utility has reasonably declined to finance the free extension portion of the requested line, the Commission shall authorize the use of the alternate customer-financed extension plan discussed below. As an alternative, the customer may agree to a customer-financed extension plan, in which case the filing and waiver shall not be necessary.

Under the alternate customer-financed extension plan, the utility shall make the extension after receiving a cash advance equal to the full amount of the extension cost, and agreeing to give the customer(s) a monthly bill credit until it has credited an aggregate amount equal to the lesser of the cost of the extension or 3.5 years gross revenue received from the customer(s) who advanced the extension cost to the utility. In addition to this credit, the utility shall also accumulate a monthly credit which shall be an amount not to exceed, in aggregate, 3.5 years of gross revenue from any new customers connected to the extension financed by such original contributors within 10 years of the original in-service date of the extension. This additional credit shall be distributed to the contributing customers pro-rata to their initial contributions by direct payment as determined by the utility but no less frequently than once every 6 months.

The monthly credit referred to above shall equal a percentage of the amount billed to the customers on the line extension. For utilities that purchase all of their sewer treatment from another utility, the percentage shall be 100% of the billed amount minus that percentage that represents annual (purchased sewer treatment) cost plus variable pumping costs divided by total annual revenue. For utilities that treat all, or a portion of their own (sewerage) the percentage shall be 100% minus that percentage that represents annual variable pumping and

treatment costs (not to include labor or maintenance)  
divided by annual revenue.

The Commission invites comments on the above provision. Specifically, the Commission would be interested in comments on the criteria which would allow a utility to request such a plan in lieu of the required free extension limit and whether the utilities could reasonably administer such a plan. In making these comments, parties should keep in mind that such a plan would be a utility requested alternative to the existing free extension requirement. Since implementation of such a plan would be at the discretion of the utility, mere objections to the administration of the plan without recommended alternatives would not be particularly beneficial to the Commission's consideration of this matter.

A third issue which the Commission would invite comments on is whether the estimation of 3-1/2 years revenue is more difficult when commercial and industrial customers are involved. If such difficulty exists, would the legitimate question of the level of commercial and industrial revenue during the first 3-1/2 years of service be a reasonable criterion for invoking an alternate customer financed extension plan. Under this approach there would be no need to estimate the expected revenue during the first 3-1/2 years from such commercial and industrial customers or to debate whether such customer is likely to be on the system for the full 3-1/2 years. Instead, the customer could finance the entire line extension but be entitled to a credit on his monthly bills until such time as the credit aggregated to an amount equal to the first 3-1/2 years of gross revenue paid to the utility.

A fourth issue the Commission invites comments on is the reasonableness of requiring multiple customers on a requested line extension to advance equal amounts to the utility. Specifically, the Commission notes that when multiple customers are involved in a requested line extension, some may be located much closer to existing lines than others. As a result, the closer customers may be subsidizing a portion of the line extension which is not needed to serve them. More importantly, if such a situation is perceived by such customers they may refuse to become part of a group requesting a line extension thereby reducing the economic viability of such extension. To address this potential problem, the Commission is considering the addition of the following provision to its water and sewer line extension rules:

Unless such an approach can be proven to be unreasonable, the gross costs of all extensions shall be considered to be spread equally to the entire length of the extension. Whenever contributions are required, such contributions shall be pro-rated among applicants using each segment of the requested extension before subtracting each applicant's free extension limit. Any applicant's unused free extension limit shall be pro-rated among all other applicants in proportion to their individual contributions.

The Commission invites comments as to the reasonableness of such a proposal and the ability of utilities to administer line extension advances given such a proration requirement.

A final issue which the Commission invites comments on relates to addition of new customers on a line for which construction advances from other customers remain outstanding. Under the existing rule, the customers who advanced the cost of the extension are entitled to a credit based on revenue from the the new customer(s); however, they may still have significant amounts advanced to the utility. The new customer(s), however, do not contribute to the cost of the extension. The Commission invites comments on a modification of this approach that would require a recalculation of the total customer advance requirement and a reallocation of such requirement to all customers on the extension, including the new customer(s). The Commission specifically invites comments on whether such a plan, if implemented, should apply to new customers applying for service on existing extensions or only to new extensions constructed after the effective date of the new rule.

IT IS, THEREFORE, ORDERED that a comment period be provided on this matter and comments filed with the Public Service Commission on or before July 2, 1993. All interested parties who file shall set forth specific comments concerning the above issues.

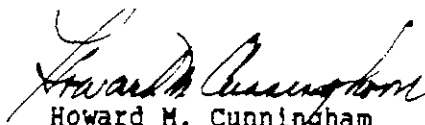
IT IS FURTHER ORDERED that the Commission's Executive Secretary shall provide copies of this Commission Order Requesting Further Comments to all interested parties who address inquires to: Howard M. Cunningham, Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, WV 25323.

IT IS FURTHER ORDERED that the Commission's Executive Secretary file a Notice of Extension of Comment Period and a copy of this order with the Secretary of State's Office.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record, and all water and sewer utilities by United States First Class Mail and upon Commission Staff by hand delivery.

ARC  
PGM:sn

A True Copy, Teste:

  
Howard M. Cunningham  
Executive Secretary