

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #2

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: PUBLIC SERVICE COMMISSION TITLE NUMBER: 150  
RULE TYPE: EXEMPT LEGISLATIVE; CITE AUTHORITY: WEST VIRGINIA CODE §24-1-7,  
24-2-1, 24-2-2, 16-13A-9, 8-18-23  
AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: RULES AND REGULATIONS FOR THE GOVERNMENT  
OF WATER UTILITIES, RULE 4.08(5)(b)

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 May 13, 1991 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Public Service Commission

Howard M. Cunningham, Exec. Secretary

P. O. Box 812

Charleston, West Virginia 25323

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

*Howard M. Cunningham*

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Consumer Relations Department of the Public Service Commission.

4.07 CUSTOMER DISCONTINUANCE OF SERVICE

Every customer who is about to vacate any premises supplied with service by the utility, or who for any reason wishes to have service discontinued, shall give at least twenty-four (24) hours, notice thereof to the utility, specifying the date on which it is desired that service be discontinued. Until the utility shall have such notice, the customer shall be held responsible for all service rendered.

4.08 UTILITY DISCONTINUANCE OF SERVICE

(1) Notice of Discontinuance -

- (a) No utility shall discontinue service to any customer for violation of rules and regulations or for non-payment of bills, without first having tried diligently to induce the customer to comply with its rules and regulations, or to pay his bills.
- (b) Service shall actually be discontinued only after at least twenty-four (24) hours, written notice shall have been given to the customer by the utility that bills are five or more days delinquent, or that the violation of rules must cease; provided, however, that where fraudulent use of water is detected, or where the utility's regulating or measuring equipment has been tampered with, or where a dangerous condition is found to exist on the customer's premises, the water may be shut off without notice in advance. In no case shall the utility discontinue service on Friday, Saturday, Sunday, or day prior to a holiday or if an emergency exists. All disconnections shall be performed between the hours of 8 a.m. and 4 p.m.
- (c) In the case of a sewer utility requesting termination of water service for non-payment of sewer service, as provided in section (5), the sewer utility shall provide the customer written notice that the sewer utility will request termination of water service by the water utility within five (5) business days, pursuant to West Virginia Code §16-13A-9, if payment is not made in full or a payment schedule is not established as provided in section (5)(b) of this Rule. The said notice shall contain a provision notifying the customer that in the event water is terminated the customer will be responsible for and required to

pay the fees charged to the public service district by the water utility.

- (d) 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 to the customer as provided in section (1)(c) of this Rule.
- (e) 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 5-day notice period to the customer. -

(2) Charge for Reconnection -

- (a) Whenever the supply of water is turned off for violation of rules and regulations, non-payment of bills, or fraudulent use of water, the utility may make a charge as set forth in its tariff for reestablishment of service.
- (b) If service is discontinued at the request of the customer, the utility may refuse service to such customer, at the same premises, within eight (8) months, unless it shall first receive payment as set forth in the tariff for reconnecting charge.

(3) Insufficient Reasons for Disconnecting Service - The following shall not constitute sufficient cause for refusing, denying or discontinuing service to an applicant or present customer:

Delinquency in payment for service by a previous occupant of the premises to be served other than a member of the same household.

(4) Combined Water and Sewer Public Service District - 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.

(5) Discontinuance of Service by Water Utilities for Non-Payment of Sewer Charges.

(a) Inter-utility Agreements -

- (1) Public Service District - In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the

district owns and operates separately either water facilities or sewer facilities, and the district owns and operates the other kind of facilities, either water or sewer, then the district and such publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer service fees and charges; provided that proper notice is given and procedures are followed as set forth in sections (1) through (4) of these Rules.

- (2) Municipal Sewer - When any municipality owns, maintains, operates or provides sewer facilities to its residents and customers and does not own, maintain operate or provide water facilities to them when the same is provided by any other publicly or privately owned utility, municipality or public service district, the municipality providing sewer facilities may require the provider of water facilities to discontinue water service to any of its users who are delinquent in the payment of sewer service rates and charges to the municipality. The provider of water facilities is empowered and authorized hereby to 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 provider of water facilities which contract shall provide that the municipality shall reimburse the provider of water facilities for all costs and expenses incurred in both the termination of water service to the delinquent user of sewer facilities and the subsequent resumption of water service to such user. The contract shall provide for reasonable methods and assurances so that the provider of water facilities 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 user through the fault of the municipality providing sewer facilities and making the demand for discontinuance of water service to the user of such sewer facilities.

- (b) 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 inability to make payment in full. The terms of such deferred payment agreement shall be set forth as follows:

Payment of the current bill plus a specific amount per month on the arrearage as provided in the agreement. A customer who is paying under a deferred payment agreement may have water service terminated without further notice if payment is not made pursuant to the terms of the agreement.

- (1) 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 bill; ability of the customer to pay; payment history; time the debt has been outstanding; reasons why the debt has been outstanding; and any other relevant factors.
  - (2) Once a deferred payment agreement has been established, if the customer's financial conditions change and the existing payment works a hardship, the utility shall renegotiate the payment agreement.
  - (3) The utility shall inform the customer of the right to appeal the reasonableness of the proposed payments to the Public Service Commission.
  - (4) During such appeal, service may not be terminated, provided, however, that any amount not in dispute must be paid by the customer in order to protect his rights under this rule.
  - (5) If deferred payment is not received, the utility may terminate service only after it has given written notice, by first class mail, to the customer at least five (5) calendar days prior to notifying the water utility to terminate service. If the customer makes the delinquent payment within that notice period, service shall not be terminated.
- (c) The contract should contain specific provisions regarding responsibilities of notice of termination, termination, re-connection and provision for fair and reasonable compensation based upon the actual cost of providing such service by the water utility in the termination process. Such compensation may be based on disconnection and re-connection charges in the water utility's tariff or as otherwise agreed between the parties.
- (d) Any contracts entered into by a public service district pursuant to section (5) shall be submitted to the Public Service Commission for approval prior to any termination of water service for non-payment of sewer bills under such contracts.

- (e) A water utility that has terminated or reconnected service for non-payment of sewer bills may charge the sewer utility a fee pursuant to section (5)(c) of these Rules. The sewer utility may include this charge in the billing to the delinquent customer.

*(6) // NOTICE // USER // NOT // PROPERTY // OWNER // // IN // THE // EVENT // THE  
 user // is // a // tenant // the // property // owner // shall // be // given // notice  
 of // any // said // delinquency // by // certified // mail // return // receipt  
 requested // within // thirty // (30) // days // of // such // delinquency // The  
 user // shall // be // given // notice // by // first // class // mail //*

#### 4.09 REFUSAL TO SERVE APPLICANT

- (1) Non-compliance with Rules and Regulations - Any utility may decline to serve an applicant until he has complied with the State and municipal regulations governing water service and the Commission approved rules and regulations of the utility.
- (2) Applicant's Facilities Inadequate - The utility may refuse to serve an applicant if, in its judgment, the applicant's installation of piping equipment is regarded as hazardous or of such character that satisfactory service cannot be given.
- (3) Applicant's Recourse - In the event that the utility shall refuse to serve an applicant under the provisions of this rule, the utility must inform the applicant that the question may be submitted to the Commission for decision.
- (4) In the case of the establishment of a new utility and/or extensions, the utility has received applications for service and has accepted the tap-fee for same; the utility will immediately upon receiving bids for such installation determine the feasibility of serving the areas in question and immediately advise the applicants. In the event an area is deemed unfeasible to serve, the tap-fee deposit will be returned to the applicant immediately.

It is suggested the utility design this application form to reflect the above procedures.

#### 4.10 CHANGE IN CHARACTER OF SERVICE

In case any substantial change is made by a utility in the pressure, or other conditions which would affect the efficiency of operation or adjustment of appliances, the appliances of all customers in the district affected shall be inspected and shall be readjusted, if necessary, by the utility for the new conditions without charge. Where circumstances require, the utility shall furnish and install suitable pressure regulating devices.

IN THE MATTER OF amendment to Rule 4.08  
of the Commission's Rules and Regulations  
for the Government of Water 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.

I. OBJECTIVES OF THE RULE

The objective of this rulemaking is to amend Rule 4.08(5)(b) of the Commission's Rules and Regulations for the Government of the Water Utilities to provide for notice to be given to customers prior to termination when a customer defaults on an installment payment arrangement on an arrearage.

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

This rule should prevent residents from incurring additional re-connection fees which result because of termination due to missing payments on a deferred payment arrangement.

DATE April 11, 1991 AGENCY Public Service Commission

SIGNATURE OF AUTHORIZED REPRESENTATIVE

