

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
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 of West Virginia TITLE NUMBER: 150

RULE TYPE: legislative exempt CITE AUTHORITY: W. Va. Code §§24-1-1, 24-2-1.

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 35

TITLE OF RULE BEING PROPOSED: Rules Governing Innovative, Alternative Sewer Systems

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 see below Mar. 15, 2011 AT 4 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Initial Comments 4 p.m. March 15, 2011

Reply Comments 4 p.m. May 10, 2011

Public Service Comm.

201 Brooks St.

Charleston WV 25301

Attv. Richard E. Hitt

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

Michael A. Albert
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B
FISCAL NOTE FOR RULES

Rule Title: 150 C.S.R. 35, Rules Governing Innovative, Alternative Sewer Systems

Type of Rule: Exempt Legislative Interpretive Procedural Emergency

Agency: Public Service Commission of West Virginia

Address: 201 Brooks Street
Charleston, West Virginia 25301

Phone Number: Richard E. Hitt, 304-340-0450 Email: rhitt@psc.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There will be no significant implementation cost relating to this rulemaking for the State of West Virginia. The Commission does not anticipate additional costs to be incurred as a result of this rulemaking.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			N/A
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			N/A

Rule Title: 150 C.S.R. 35, Rules Governing Innovative, Alternative Sewer Systems

Rule Title: 150 C.S.R. 35, Rules Governing Innovative, Alternative Sewer Systems

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

Not applicable.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The effect of this rulemaking is to allow the development of innovative, alternative sewage treatment systems in areas of the state in which traditional sewer service is not feasible. Customers receiving sewer service via any innovative, alternative system will pay for such service at rates approved by the Public Service Commission of West Virginia.

Date: February 9, 2011

Signature of Agency Head or Authorized Representative

Michael A. Albert

Summary of the Rule

The Public Service Commission of West Virginia has proposed Rules Governing Innovative, Alternative Sewer Systems, 150 C.S.R. 35. An innovative, alternative method of providing sewer service is a public utility function and subject to Commission jurisdiction, regardless of the number of customers served by the innovative, alternative method, pursuant to W. Va. Code § 24-2-1(a).

Innovative, alternative sewage disposal systems are designed to meet the wastewater treatment needs of customers in remote areas where large public sewer facilities are not available. These systems rely on underground dispersal of treated wastes, small media based treatment facilities receiving effluent from customers and discharging treated effluent to either streams or to underground dispersal areas, home aeration units, on-site septic systems installed and/or maintained by a sewer utility, and other non-traditional technologies

The new proposed rules provide definitions, require certain information to be provided to the Commission and to customers, set forth billing provisions, and establish a pre-funding requirement for such systems. Because innovative, alternative systems may be used in the poorest areas in West Virginia, sustainability of such systems is an important concern.

Statement of Circumstances

Pursuant to W. Va. Code § 24-2-1(a), the jurisdiction of the Public Service Commission extends to all public utilities in this state, including public utilities that provide sewer service by an innovative, alternative method, as defined by the Federal Environmental Protective Agency. An innovative, alternative method of providing sewer service is a public utility function and subject to Commission jurisdiction, as a matter of law, regardless of the number of customers served by the innovative, alternative method.

On August 2, 2010, a Work Group filed proposals to add to the Rules for the Government of Sewer Utilities, 150 C.S.R. Series 5, relating to innovative, alternative sewer service. Because the concepts under review are novel and require consideration of accompanying financial issues, at least in the initial considerations the Commission chose to review the innovative, alternative sewage treatment proposals separate from the other provisions of the existing Sewer Rules. Choosing this initial approach was purely a consideration of efficiency. The Commission invited comment on whether the provisions should be ultimately incorporated into the Sewer Rules.

**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 9th day of February, 2011.

CASE NO. 10-1215-S-PC

Petition by Commission Staff to initiate a rulemaking proceeding to amend the Commission Rules for the Government of Sewer Utilities, 150 C.S.R. Series 5, regarding Innovative/Alternative Sewage Disposal Systems.

GENERAL ORDER NUMBER 186.26

In the Matter of proposed Rules Governing Innovative, Alternative Sewer Systems, 150 C.S.R. Series 35.

COMMISSION ORDER

The Commission opens a proceeding to consider adding proposed rules relating to the provision of innovative sewage treatment services.

BACKGROUND

On August 2, 2010, Commission Staff petitioned the Commission to open a general investigation to adopt revisions to the Commission Rules for the Government of Sewer Utilities (Sewer Rules), 150 C.S.R. Series 5, relating to innovative or alternative sewage disposal systems. Petition p. 1.

Staff advised that a Work Group was formed on February 16, 2007, consisting of Barry Milam from Crab Orchard-MacArthur Public Service District, Paul Hamrick from West Fork On-Site Community Cooperative, William Rohrbaugh and Curtis Keller from Berkeley County Public Service Sewer District, Jim Greene from Morgantown Utility Board, Dave Clark formerly of the Canaan Valley Institute, Robert Coontz from West Virginia Department of Environmental Protection, William Herald and Rick Hertges from West Virginia Bureau of Public Health, James Weimer from the Commission Engineering Division, and Amy Swann from the Commission Water and Wastewater Division.

On April 20, 2010, the Work Group submitted a copy of its proposed rules to Ron Robertson of the Commission Legal Division. In a cover memo, the Work Group advised that innovative or alternative systems operate across the country, providing sewer service to areas that cannot be economically served by traditional sewer systems. The proposed rules were drafted to address the financial and operational issues presented by such systems. Because alternative systems may be used in the poorest areas in West Virginia, sustainability was an important concern for the Work Group. Members of the Work Group encouraged the use, where economically viable, of these systems in West Virginia.

In the petition to open a general investigation, Staff Counsel recommended that the Commission consider adopting the Work Group proposal, with one exception. In proposed Rule 4.8.b.7, Staff Counsel recommended that "shall" be changed to "may" in the first sentence because of a law passed in 2010. Petition pp. 1-2 & attached draft rules (Aug. 2, 2010).

On September 3, 2010, Technical Staff advised that innovative and alternative sewage disposal systems are designed to meet the wastewater treatment needs of customers in remote areas where large public sewer facilities are not available. These systems rely on underground dispersal of treated wastes, small media based treatment facilities receiving effluent from customers and discharging treated effluent to either streams or to underground dispersal areas, home aeration units, on-site septic systems installed and/or maintained by a sewer utility, and other non-traditional technologies. Utilities Division Initial Memorandum p. 1, attached to Initial Joint Staff Memorandum.

DISCUSSION

The Commission appreciates the efforts of the Work Group and will open a proceeding to receive comment on proposed rules. We will require the Executive Secretary to publish notice of this proceeding and will receive written comments pursuant to the schedule set forth below. See Attachment A to this Order.

Although the Work Group proposed provisions to the Sewer Rules, the concepts under review are novel and require consideration of accompanying financial issues. At least in the initial considerations, then, it is beneficial for the Commission to review the innovative sewage treatment proposals separate from all of the other provisions of the existing Sewer Rules. Choosing this initial approach is purely a consideration of efficiency. In doing so, the Commission is not deciding that any alternative sewage treatment provisions would ultimately be adopted in a separate rule series. Indeed, the Commission invites comment on whether the provisions should be incorporated into the existing Sewer Rules.

A copy of the Commission-proposed Rules Governing Innovative, Alternative Sewer Systems, 150 C.S.R. Series 35, appears in Attachment B to this Order.

FINDING OF FACT

A Work Group proposed additions for the Commission Sewer Rules relating to alternative and innovative sewage treatment systems.

CONCLUSION OF LAW

The Commission should receive comments on proposed rules relating to alternative and innovative sewage treatment systems.

ORDER

IT IS THEREFORE ORDERED that the Staff petition to institute a proceeding to consider a possible rulemaking is granted.

IT IS FURTHER ORDERED that Case Number 10-1215-S-PC is closed and removed from the Commission's docket of active cases.

IT IS FURTHER ORDERED that General Order Number 186.26 is opened and the following schedule is adopted to receive written comments:

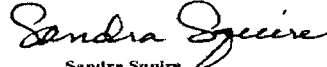
Initial Comments	4 p.m. March 15, 2011
Reply Comments	4 p.m. May 10, 2011

IT IS FURTHER ORDERED that all comments should contain this case number, General Order Number 186.26, and be addressed to Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, W. Va. 25323.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall cause publication, one time, of the notice appearing in Attachment A 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, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling and Williamson. The Executive Secretary shall file the affidavits of publication as soon as they are received.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order by electronic service on **all sewer utilities operating in West Virginia** that have filed an e-service agreement, by United States First Class Mail on all sewer utilities that have not filed an e-service agreement, and on Commission Staff by hand delivery.

A True Copy, Text:


Sandra Squire
Executive Secretary

CLW/sek
101215c.wpd

**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 9th day of February, 2011.

GENERAL ORDER NUMBER 186.26

Rules Governing Innovative or Alternative
Sewer Systems, 150 C.S.R. Series 35.

**NOTICE OF OPPORTUNITY TO COMMENT REGARDING
RULES FOR INNOVATIVE, ALTERNATIVE SEWER SYSTEMS**

The Public Service Commission of West Virginia is considering adopting rules related to the provision of innovative, alternative sewage treatment service. See Commission-proposed Rules Governing Innovative, Alternative Sewer Systems, 150 C.S.R. Series 35. These systems serve areas that cannot be economically served by traditional sewer systems and include underground dispersal of treated wastes, small media based treatment facilities receiving effluent from customers and discharging treated effluent to either streams or to underground dispersal areas, home aeration units, on-site septic systems installed and/or maintained by a sewer utility, and other non-traditional technologies. New rules have been proposed to address financial and operational issues of these types of systems, including the economic sustainability of such systems in low-income areas of the state.

The Commission will receive written comments on the proposal to add rules relating to innovative, alternative sewer systems, either in a new series or as part of the existing Rules for the Government of Sewer Utilities (Sewer Rules), 150 C.S.R. Series 5, as follows:

Initial Comments	4 p.m. March 15, 2011
Reply Comments	4 p.m. May 10, 2011

Written comments should contain the case number listed above and be addressed to the Commission's Executive Secretary, Sandra Squire, P.O. Box 812, Charleston, WV 25323.

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

FILE

2011 FEB -9 PM 3:07

SERIES 35
RULES GOVERNING
INNOVATIVE, ALTERNATIVE SEWER SYSTEMS

OFFICE OF THE SECRETARY OF STATE

§150-35-1. General.

1.1. Scope. – These rules govern the operation and service of Innovative, Alternative Sewage Disposal Service systems subject to the jurisdiction of the Public Service Commission pursuant to W. Va. Code §24-2-1.

1.2. Authority. – W. Va. Code §§24-1-1, 24-1-7, 24-2-1, 24-2-2, 24-2-5, 24-2-7, 24-2-8, 24-2-9, 24-3-2, 24-3-5, 16-13A-2, 16-13A-9, and 8-18-23.

1.3. Filing Date. – _____, 2011.

1.4. Effective Date. – _____, 2011.

1.5. General.

1.5.a. These Rules for the Government of Innovative, Alternative Sewer Systems, 150CSR35 (Innovative, Alternative Sewer System Rules), supplement the current Commission Rules for the Government of Sewer Utilities, 150CSR5 (Sewer Rules). Whenever there is any conflict between the Sewer Rules and the Innovative, Alternative Sewer System Rules for matters relating to Innovative, Alternative Sewage Disposal Service systems, the more specific provisions of the Innovative, Alternative Sewer System Rules, 150CSR35, shall apply. For matters relating to Innovative, Alternative Sewage Disposal Service systems that are not addressed in the Innovative, Alternative Sewer System Rules, the provisions in the Sewer Rules shall apply.

1.5.b. These rules are intended to insure adequate service to the public via Innovative, Alternative Sewer Disposal Service systems, to provide standards for uniform and fair charges and requirements by the utilities and their customers, and to establish the rights and responsibilities of both utilities and customers.

1.5.c. The adoption of these rules in no way precludes the Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility or standard, either upon complaint or upon its own motion, or upon the application of any utility.

1.5.d. These rules will not relieve in any way a utility from any of its duties under the laws of this State.

1.6. Application of rules.

1.6.a. These rules apply to all public utilities as defined in Sewer Rule 1.7, 150CSR5-1.7.

1.6.b. If hardship results from the application of any Innovative, Alternative Sewer System Rule or if unusual difficulty is involved in immediately complying with any Innovative, Alternative Sewer System Rule, application may be made to the Commission for the modification of the rule or for temporary or permanent exemption from its provisions. Provided, that no application for modification or exemption will be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

1.7. Definitions.

1.7.a. "Available Innovative, Alternative Sewage Disposal Service" – the utility, private or public, has installed and/or agreed to maintain such systems for a fee based on metered water usage when available or a flat rate.

1.7.b. "Cluster" – a small group of customers located in a remote area served by a single Innovative, Alternative sewage disposal system.

1.7.c. "Innovative, Alternative Sewage Disposal Service" – a system that relies on underground dispersal of treated wastes, small media based treatment facilities receiving effluent from customers and discharging treated effluent to either streams or to underground dispersal areas, home aeration units, individual onsite septic systems installed and/or maintained by a sewer utility and other non-traditional technologies designed to meet the wastewater treatment needs of customers in remote areas where large public sewer facilities are not available. Innovative, Alternative Sewage Disposal Service may be provided to an individual customer or a cluster. Relating to the application or interpretation of the Innovative, Alternative Sewer System Rules, the terms "Innovative," "Alternative" and "Innovative, Alternative" may be used interchangeably.

1.7.d. "User Agreement" – a written agreement between the sewer utility and the customer who receives Alternative, Innovative Sewage Disposal Service from the sewer utility.

§150-35-2. Maps and records.

2.1. Entire layout required. – In addition to the requirements of Sewer Rule 2.6, 150CSR5-2.6, each utility shall keep on file suitable maps, plans, and records showing the entire layout, with the location, size and capacity of each Innovative, Alternative treatment facility, septic tank, underground dispersal area, reserve or set-aside installation area used to provide Innovative, Alternative Sewage Disposal Service.

2.2. Electronic and paper copies required. – Because of the unique nature of Innovative, Alternative Sewer Disposal Service and to maintain the currency of the system mapping, the sewer utility shall be required to submit to the Commission as-built electronic data files for all projects, in addition to the paper copies. To comply with this requirement, the sewer utility may provide the Commission with materials that the sewer utility receives from the project designer. The electronic file must be submitted with the original reproducible drawing when the project is substantially complete. A digital representation of all structures, gravity sewers, force main sewers, septic tanks, drain fields, treatment facilities and parcels where ownership or rights of way are acquired shall be delivered in either computer-aided design (CAD) or Esri shapefiles and use the appropriate North American datum (NAD) as specified by the utility.

2.3. Specific information requirements. – The following layers, at a minimum, shall be submitted to the Commission on a computer disk in CAD or Esri shapefile format and shall be based

on the CAD Layer Standards adopted by the utility if applicable. Each type of Innovative, Alternative sewer infrastructure shall be included in a separate layer or Esri shapefile. Structures are to be defined as points or symbol objects. All gravity sewer lines are to begin and terminate at each manhole, all force main sewers shall include clean outs appropriately spaced, and all septic tanks shall be clearly identified as to type, age and size. Any data related to any structure or pipe shall be added to the attribute or object data of the associated object. Any text should be attached to the object data of that particular manhole or structure, not on the CAD drawing.

- a. Roads (street names)
- b. Buildings and other structures
- c. Property lines
- d. Sanitary sewer details, including
 1. Manholes
 2. Gravity sewer lines and force mains
 3. Laterals and clean outs
 4. Valves, plugs, and pump stations
 5. Septic tanks and drain fields
 6. Service lines and tap locations
- e. Water system details, including those being constructed by the sewer utility
 1. Water mains
 2. Service lines between the main and the meter
 3. Water valves
 4. Fire hydrants and hydrant valves
 5. Water meters
 6. Air release valves
 7. Blow-offs and plugs
 8. Wells
- f. Easements
- g. Other underground utilities

2.4. Pre-requisite for initiation of service. – All designs, location information and installation certifications shall be submitted to the Commission prior to initiation of Innovative, Alternative Sewage Disposal Service.

§150-35-3. Reserve account.

3.1. Pre-funding requirement. – All sewer utilities seeking to provide Innovative, Alternative Sewage Disposal Service shall provide to the Commission in the certificate of public convenience filing to construct and operate such a system evidence of the pre-funding of a reserve account equal to twelve (12) months of revenue for each customer to be served by the Innovative, Alternative Sewage Disposal Service.

3.2. Separate accounting. – The utility will keep a separate subsidiary ledger of the revenues and expenses incurred in providing Innovative, Alternative Sewage Disposal Service and segregate the funds in the reserve account from any other funds kept by the utility.

3.3. Access to reserve account. – The reserve account may be accessed to provide revenue to the sewer utility in the event that the revenues collected from customers receiving Innovative, Alternative Sewage Disposal Service are less than the projected incremental revenue levels approved by the Commission.

3.4. Commission review. – The Commission shall review the activity in the reserve account in the context of the filing of a rate case by the utility or upon motion of the Commission. If the account falls below the twelve-month (12-month) revenue requirement level at the end of any year, the Commission may consider the use of a surcharge or other means to restore the reserve account to the twelve-month (12-month) revenue requirement level.

§150-35-4. Billing.

4.1. Calculating the bill. – All bills for Innovative, Alternative Sewer Disposal Service shall state whether the charge is based upon quantities of water consumed at the premises, flat rate or other basis.

4.2. No public water. – When public water is not available to the customer, the sewer utility may issue a flat rate bill or install a water meter on the customer's water well or water supply system to the premises being served and issue a bill based upon quantities of water consumed.

4.2.a. If the utility elects to install a water meter, it must first acquire rights of way from the customer that allow the utility to access the metering equipment and inspect the customer facilities. The rights of way shall be recorded in the real property records at the Court House in the County in which the customer property is located.

4.2.b. Any water meter installed by the sewer utility pursuant to this rule shall be subject to the calibration requirement in the Commission Rules for the Government of Water Utilities, 150CSR7. The meter shall be calibrated and maintained by the utility.

4.2.c. If the sewer utility elects to install a water meter, the sewer bill may include a meter charge not to exceed \$3.00 per meter, upon Commission approval of such a charge. The Commission may review and modify this fee in a rate case.

4.3. Public service district and municipal sewer utility customers who do not connect. – Customers of public service sewer districts and municipal sewer utilities who are not connected to Available Innovative, Alternative Sewage Disposal Service after appropriate notice has been given shall be billed based on actual water consumption or the average monthly water consumption based upon the owner's, tenant's, or occupant's specific customer class.

§150-35-5. Notice of availability of Innovative, Alternative Sewage Disposal Service.

5.1. Public service districts and municipal sewer utilities.

a. Publication and personal service required, generally. – When Innovative, Alternative Sewage Disposal Service is made available to customers in an area that has not previously been served by the municipal sewer utility or public service district, the municipal sewer utility or public service district shall publish a notice in a newspaper of general circulation in the area affected and provide notice by personal service to customers in the area affected.

b. When publication is not required. – Publication is not required when Innovative, Alternative Sewage Disposal Service is extended to a single customer at the customer's request.

c. Notice by publication. – The municipal sewer utility or public service district shall publish notice of the availability of Innovative, Alternative Sewage Disposal Service once a week for two consecutive weeks, with the second notice being published at least thirty (30) days prior to the date that the municipal sewer utility or public service district intends to begin billing for services.

d. Notice by personal service. – The municipal sewer utility or public service district shall provide notice to all potential customers either by certified mail, return receipt requested, by personal service with signed and dated receipt, or by posting a notice on the premises. If the premises to be served is not inhabited by the owner, notice shall be given to the owner by certified mail, return receipt requested, in addition to giving notice to the inhabitant of the premises. In the event that the municipal sewer utility or public service district is not able to effect personal notice after a good faith effort, or if the municipal sewer utility or public service district believes that the requirements of this section create an undue hardship, the municipal sewer utility or public service district may petition the Commission for a waiver of the requirements to provide personal notice.

e. Notice requirements. – Both the published and personal notice shall state, at a minimum, the following information:

1. that sewer services are available
2. the date that the municipal sewer utility or public service district will begin billing for sewer services
3. the municipal sewer utility's or public service district's rates
4. that the municipal sewer utility may petition the circuit court to compel connection to the sewer system, or that W. Va. Code §16-13A-9 authorizes the public service district to petition the circuit court to compel connection to the sewer system,
5. the location and telephone number of the municipal sewer utility's or the public service district's business office
6. the amount of the bill to be rendered by the municipal sewer utility or by the public service district as provided by W. Va. Code §16-13A-9, in the event a customer does not connect to the system.

5.2. Utilities other than public service districts and municipal sewer utilities – All of the publication and personal service provisions set forth above apply, except that the publication and personal notice shall not state that the sewer utility may petition the circuit court to compel connection to the sewer system.

§150-35-6. Customer User Agreement and educational outreach.

6.1. User Agreement required. – Any provider of Innovative, Alternative Sewage Disposal Service shall require all new customers to sign a User Agreement accepting for at least 10 years the type of Innovative, Alternative Sewage Disposal Service to be provided and the method by which billing will occur. If the facilities include on-site treatment of effluent, the User Agreement shall define all of the requirements and responsibilities of the customer with the appropriate charges noted. The User Agreement shall be recorded in the real property records at the Court House in the County in which the customer property is located.

6.2. Educational outreach required. – Any provider of Innovative, Alternative Sewage Disposal Service that files a certificate of public convenience and necessity application for facilities to provide such service must submit a customer education and outreach plan as a part of the certificate application.

6.3. Customer education and outreach plan requirements. – The customer education and outreach plan must include, at least, the following:

a. If septic tanks are a component of the collection and treatment system, an outlined method for disseminating information regarding septic system maintenance, prohibited waste stream discharges and customer responsibilities. The plan should clearly define the charges that the sewer utility will assess if a customer fails to follow the tank maintenance requirements. The plan also should clearly delineate septic tank ownership and maintenance responsibilities (including regular pumping of tanks and associated costs) and the replacement schedule. If existing septic tanks are to be incorporated into the new collection and treatment system, and a cost-sharing arrangement is to be implemented for tank and/or onsite system maintenance activities, the education and outreach plan must provide a complete detail of related costs and responsibilities.

b. The education and outreach plan information shall be presented to the customer when the customer applies for Innovative, Alternative Sewage Disposal Service.

c. Customer outreach and education will occur thereafter at least every 2 years.

d. The customer education and outreach plan and all related information must be available at the sewer utility's business office during normal business hours.

§150-35-7. Certificate of Public Convenience and Necessity.

7.1. Certificate required. – Any utility or entity installing Innovative, Alternative Sewage Disposal Service facilities that will serve 25 or more customers must apply for a certificate of public convenience and necessity for the construction and operation of those facilities.

7.2. Certificate not required. – Any utility or entity installing Innovative, Alternative Sewage Disposal Service facilities shall be exempt from the Commission's certificate of public convenience and necessity review for construction on all systems serving less than 25 customers.

§150-35-8. Installation; Acceptance of facilities; Initiation of service.

8.1. Utility service pipe when septic tanks are used. – For Innovative, Alternative Sewage Disposal Service facilities using septic tanks, the point of service shall be the customer inlet pipe to the septic tank. If the septic tank is located on an adjacent property, the point of service is the customer's property line with any adjoining customers.

8.2. Standard installation for systems with on-site effluent treatment. – For Innovative, Alternative Sewage Disposal Service facilities using septic tanks with individual on-site effluent dispersal fields or other on-site effluent treatment technologies, the sewer utility shall adopt standard methods of installation where practicable that meet, as a minimum, all existing West Virginia Bureau for Public Health requirements. Such methods shall be set out with written descriptions and drawings to provide a clear understanding of the requirements, all of which shall be submitted to the Commission. The customer using the on-site system shall also be provided with written information outlining the care of the tank and dispersal field and the charges for violation of those practices.

8.3. Acceptance of facilities. – Prior to acceptance of any Innovative, Alternative Sewage Disposal System facilities, the sewer utility shall require from its Engineering Department and/or its contracted Engineer or Engineering Inspector a certification stamped with the seal of a Registered Professional Engineer stating that all construction and/or installation requirements per the Engineering drawings have been met and meet any and all current Bureau for Public Health or the Department of Environmental Protection standards that apply to each installation and/or part of the system. The certification shall include record photographs of all valve installations, video records of at least fifty percent (50%) of each size of total pipe length installed prior to burial, video records of all tank installations prior to initiation of service, concrete strength reports, water tightness testing of all tanks and manufacturers and/or vendor certifications that all materials supplied meet all pertinent standards. A designated employee of the sewer utility, a member of the Bureau for Public Health or a contract Inspector hired by the utility with at least five years of pertinent utility construction experience shall review and approve all video recordings of the new installation prior to release of any construction payments. The sewer utility may supply a full time inspector to review all construction installations prior to burial to meet the review requirement.

8.4. Approval by the Commission – The sewer utility shall file each contract for Commission review and receive approval from the Commission before the sewer utility may take ownership of any Innovative, Alternative Sewage Disposal Service facility.

8.5. Initiation of service. – Prior to initiation of service of any Innovative, Alternative Sewage Disposal Service facility, the sewer utility shall receive a complete set of as-built drawings in both hard printed copy and fully executable electronic AutoCad files. The utility shall also receive all electronic files from any aerial photography, geologic studies and any other files required to complete the installation.

8.6. Designation of area served. – Innovative, Alternative Sewage Disposal Service facilities may only be installed in accordance with the certificate approved by the Commission.

Public Service Commission
Of West Virginia

201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323



Phone: (304) 340-0300
FAX: (304) 340-0325

February 9, 2011

Judy Cooper, Director
Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0771

Via Hand Delivery

Re: Public Service Commission; Rules Governing Innovative, Alternative Sewer Systems, 150 C.S.R. Series 35

Dear Ms. Cooper:

Enclosed for filing is a copy of proposed rules in the above new series. The rules are promulgated under the Commission's existing rulemaking authority, exempt from legislative rulemaking review pursuant to W. Va. Code § 24-1-7.

Also enclosed are a notice of a comment period, a fiscal note, a summary of the rule, and a statement of circumstances.

Because the Commission is not part of the Cabinet structure, the Commission Order is the evidence of the approval of the filing by the agency head, Chairman Michael A. Albert.

Please date stamp the enclosed three extra copies of the filing packet and return them with our messenger. If you have any questions or if there are any problems please bring them to my attention.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Richard E. Hitt".

Richard E. Hitt
General Counsel

cc: Cynthia L. Wilson, Law Clerk