

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Public Service Commission of West Virginia TITLE NUMBER: 150 C.S.R.

RULE TYPE: Legislative Exempt CITE AUTHORITY: W.Va. Code §§16-13A-1c, 2, 8, and 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: 36

TITLE OF RULE BEING PROPOSED: Rules Governing Stormwater Utilities

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THE INITIAL COMMENT PERIOD WILL END ON July 2, 2012 AT 4:00 p.m. REPLIES TO THE INITIAL COMMENTS WILL BE ACCEPTED UNTIL August 31, 2012 AT 4:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Sandra Squire, Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
Post Office Box 812
Charleston, West Virginia 25323

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL.

Summary of the Rule

The Public Service Commission of West Virginia has proposed Rules Governing Stormwater Utilities, 150 C.S.R. 36, effective for all public service districts operating a stormwater utility. Pursuant to W.Va. Code §24-2-1(a), any public service district created under W.Va. Code §16-13A-1 is regulated by the Public Service Commission. In 2002, the West Virginia Legislature amended W.Va. Code §16-13A-9 to allow public service districts to create stormwater utilities.

Stormwater utilities are under an environmental obligation to manage, collect, convey, treat, or store stormwater in compliance with national and state stormwater requirements. Consequently, the cost and availability of a stormwater system is determined by the overall requirements imposed on a stormwater utility to service a broad land area. Each customer within that land area will be required to fund stormwater systems within the land area. Unlike drinking water or sanitary sewer services, customers may not see a tangible service being provided by a stormwater utility. The stormwater utility, however, is mandated by the Department of Environmental Protection to provide (i) public education and outreach, (ii) public involvement and participation, (iii) illicit discharge detection and elimination, (iv) controlling runoff from construction sites, (v) controlling runoff from new development and redevelopment, and (vi) pollution prevention and good housekeeping for municipal operations. Because of the universality and variability of stormwater contributions to the waters of the state, the cost of a new or extended stormwater conveyance may not have a direct relationship to a specific stormwater customer bill or the cost to extend services to one particular area.

The new proposed rules provide definitions, require certain information to be provided to the Commission and to customers, set forth billing provisions, and provide guidance for the utility facilities, service pipes and expansion of service.

APPENDIX B
FISCAL NOTE FOR RULES

Rule Title: 150 C.S.R. 36, Rules Governing Stormwater Utilities

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. 36, Rules Governing Stormwater Utilities

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 provide regulatory guidance for public service districts desiring to create stormwater utilities. Customers receiving stormwater service from a public service district will pay for such service at rates approved by the Public Service Commission of West Virginia.

Date:

June 1, 2012

Signature of Agency Head or Authorized Representative

Michael A. Albert

**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 1st day of June 2012.

CASE NO. 10-1141-S-PC

Commission Staff's Petition to initiate a general investigation for the purposes of adopting Rules for Storm Water utilities.

GENERAL ORDER NUMBER 260

In the Matter of proposed Rules Governing Storm Water utilities, 150 C.S.R. Series 36.

COMMISSION ORDER

The Commission opens a proceeding to consider adding proposed rules relating to the provision of stormwater utility services.

BACKGROUND

On July 23, 2010, Commission Staff petitioned the Commission to open a general investigation to adopt revisions to the Commission Rules for the Government of Stormwater Utilities (Stormwater Rules), 150 C.S.R. Series 36, relating to innovative or alternative sewage disposal systems.

Staff advised that a Work Group was formed on February 17, 2007, consisting of William Rohrbaugh of the Berkeley County Public Service District, Curtis Keller of the Berkeley County Public Service District, Luke Richmond of the Beckley Sanitary Board, Jim Greene of the Morgantown Utility Board, Scott Copen of the Morgantown Utility Board, Sherry Wilkins of the West Virginia Department of Environmental Protection, William Herald of the West Virginia Bureau of Public Health, Laura Conley-Rinehart of the West Virginia Department of Transportation, James Weimer of the Engineering Division of the Commission, and Amy Swann of the Water and Wastewater Division of the Commission (Work Group).

On June 1, 2010, the Work Group submitted a copy of its proposed rules to John Auville of the Commission Legal Division. In a cover memo, the Work Group advised that

the proposed rules recognize the unique character of stormwater management and attempt to address the financial and operational issues presented by such systems.

In the petition to open a general investigation, Staff 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 at 1-2 and attached draft rules.

On August 5, 2010, Staff filed a petition to amend the proposed Stormwater Rules. The proposed amendments correct typographical errors.

On October 26, 2010, Staff filed a Final Joint Staff Memorandum. Staff advised that no public service district in the state currently has an established stormwater utility and only one district has been granted stormwater authority by its respective county commission after having met the West Virginia Department of Environmental Protection (DEP) requirements and designated watershed parameters. Utilities Division Final Memorandum at 1, attached to Final Joint Staff Memorandum. Staff recommended that the Commission publish the proposed rules for public comment.

DISCUSSION

In 2002, the West Virginia Legislature amended W.Va. Code §16-13A-9 to allow public service districts to create stormwater utilities. Because these entities would be public utilities under West Virginia law, the Commission should create rules for stormwater utilities. The stormwater utility is under an environmental obligation to manage, collect, convey, treat, or store stormwater in compliance with national and state stormwater requirements. Consequently the cost and availability of a stormwater system is determined by the overall requirements imposed on a stormwater utility to serve a particular land area. Each customer within that land area will be required to fund stormwater systems within the land area. Unlike drinking water or sanitary sewer services, customers may not see a tangible service being provided by a stormwater utility. The stormwater utility, however, is mandated by the DEP to provide (i) public education and outreach, (ii) public involvement and participation, (iii) illicit discharge detection and elimination, (iv) controlling runoff from construction sites, (v) controlling runoff from new development and redevelopment, and (vi) pollution prevention and good housekeeping for municipal operations.

The Commission appreciates the time and effort of the Work Group to draft proposed rules and will open a proceeding to receive comment on the proposed rules. A copy of the Commission-proposed Rules for the Government of Stormwater Utilities, 150 C.S.R. Series 36, appears in Attachment B to this Order. 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.

The Commission modified the rules proposed by the Work Group. Specifically, the Commission removed rules that were identical to the Rules for the Government of Sewer Utilities (Sewer Rules) and, instead incorporated by reference the pertinent Sewer Rule. The Commission removed language pertaining to the establishment of stormwater fees and program costs because these are issues that are not typically addressed in rules issued by the Commission and are discussions more appropriate for a rate case rather than a rulemaking. Several changes were made to Rule 4 pertaining to customer relations. For Rule 4.4.d., the Commission has proposed a rule and an alternative rule. The Commission specifically requests comments on this issue, including whether credits would or should be available for all classes of customers, including residential or whether credits would or should only be available for non-residential classes of customers. Additionally, the Commission modified the style, but not the substance of Rule 5.3 proposed by the Work Group. The Commission also removed a portion of Rule 5.5 determining that the explanatory language included by the Work Group was not appropriate for the rule. The Commission encourages comment on the proposed rules.

FINDINGS OF FACT

1. A Work Group proposed Stormwater Rules relating to the regulation of stormwater public service districts in the state.
2. The Commission revised the proposed Stormwater Rules.

CONCLUSION OF LAW

The Commission should receive comments on proposed rules relating to stormwater public service districts in the state.

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 10-1141-S-PC is closed and removed from the Commission docket of active cases.

IT IS FURTHER ORDERED that General Order Number 260 is opened and the following schedule is adopted to receive written comments:

Initial Comments	4 p.m. July 2, 2012
Reply Comments	4 p.m. August 31, 2012

IT IS FURTHER ORDERED that all comments should contain this case number, General Order Number 260, and be addressed to Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that the Commission 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 Executive Secretary shall serve a copy of this order (i) by electronic service on **all public service districts operating in West Virginia** that have filed an e-service agreement, by United States First Class Mail on all public service districts operating in the state that have not filed an e-service agreement, (ii) on the members of the Work Group: William Rohrbaugh of the Berkeley County Public Service District, Curtis Keller of the Berkeley County Public Service District, Luke Richmond of the Beckley Sanitary Board, Jim Greene of the Morgantown Utility Board, Scott Copen of the Morgantown Utility Board, Sherry Wilkins of the West Virginia Department of Environmental Protection, William Herald of the West Virginia Bureau of Public Health, and Laura Conley-Rinehart of the West Virginia Department of Transportation by electronic service or United States First Class Mail, as applicable, and (iii) on Commission Staff by hand delivery.

A True Copy, Teste:



Sandra Squire
Executive Secretary

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**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 1st day of June 2012.

GENERAL ORDER NUMBER 260

Rules Governing Stormwater Utilities, 150 C.S.R. Series 36.

NOTICE OF OPPORTUNITY TO COMMENT
REGARDING RULES FOR STORMWATER UTILITIES

The Public Service Commission of West Virginia is considering adopting rules related to the provision of stormwater utility service. Under the proposed rules, users of an operating stormwater utility are the owners of real property from which stormwater affects or drains into the stormwater system. Under the proposed rules, the property owner, or user, will be responsible for receiving and paying for service from the stormwater utility unless the user has entered into a written agreement that another party shall apply for service and become the customer of the stormwater utility. See, Commission proposed Rules Governing Stormwater Utilities, 150 C.S.R. Series 36.

The Commission will receive written comments on the proposal to add rules relating to Stormwater public service districts as follows:

Initial Comments	4:00 p.m. July 2, 2012
Reply Comments	4:00 p.m. August 31, 2012

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

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION
SERIES
RULES FOR THE GOVERNMENT OF
STORMWATER UTILITIES

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§150 1. General.

1.1. Scope. These rules govern the operation and service of stormwater utilities subject to the jurisdiction of the Public Service Commission pursuant to W.Va. Code §24-2-1.

1.2. Authority. W.Va. Code §§16-13A-1c, 16-13A-2, 16-13A-8, 16-13A-9, 24-2-1.

1.3. Filing Date.

1.4. Effective Date.

1.5. General.

These rules apply to public service districts providing a stormwater utility service.

1.5.a. These rules are intended to insure adequate service to the public, 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.b. 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.c. 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 stormwater public service districts as defined in Rule 1.7.n.

1.6.b. If hardship results from the application of any Stormwater Rule or if unusual difficulty is involved in immediately complying with any 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. Billing Related Dates

1.7.a.1. "Bill due date" The date when the utility mails the bill.

1.7.a.2. "Latest pay date" The last date, which shall be no sooner than the twentieth (20th) day following the date the utility mails the bill, that the bill may be paid without incurring a late payment penalty. Such date must be stated on the face of the bill.

1.7.a.3. "Delinquent bill" Any bill issued by a public service district that has not been paid within twenty (20) days of the bill due date. Such date must be stated on the face of the bill.

1.7.b. "Best management practices" -- (BMPs) are techniques used to control stormwater runoff, sediment control, and soil stabilization, as well as management decisions to prevent or reduce nonpoint source pollution. The EPA defines a BMP as a "technique, measure or structural control that is used for a given set of conditions to manage the quantity and improve the quality of stormwater runoff in the most cost effective manner."

1.7.c. "Commission" Whenever in these rules the words "Commission" or "Public Service Commission" appear, such word, or words, shall, unless a different intent clearly appears from the context, be taken to mean the Public Service Commission of West Virginia.

1.7.d. "Contributing Area" - Any area, impervious or pervious, contributing stormwater runoff to the public stormwater facility or UCF from any given parcel of land.

1.7.e. "Conveyance" -- Any structure, swale, pipe, ditch, pond or watercourse utilized to move stormwater from a non served land area to the waters or aquifers of the State.

1.7.f. "Customer" - Shall mean the owner, tenant or occupant of any real property served by a stormwater system, and determined to be responsible for payment of public service district utility stormwater service fees.

1.7.g. “Customer’s Stormwater Facilities “ Shall be that portion of any conveyance to the stormwater system from the structure , premises or land, which may be installed at the cost and expense of the customer.

1.7.h. “Governmental Unit” Any municipality or other political subdivision or agency of the State of West Virginia or the Federal Government.

1.7.i. “Impervious Area” -- is land area covered by buildings, pavement or other materials that significantly inhibit stormwater from penetrating the soil.

1.7.j. “Maximum Extent Practicable” -- (MEP) is a constantly evolving method that establishes the level of pollutant reductions that MS4 operators must achieve through implementation of a stormwater management program.

1.7.k. “Measurable goals” -- are BMP design objectives or goals that quantify the progress of program implementation and the performance of your BMPs. They are objective markers or milestones that you (and the permitting authority) will use to track the progress and effectiveness of your BMPs in reducing pollutants to the MEP.

1.7.l. “Moratorium” A condition imposed on a Public Service District by the Commission prohibiting new stormwater connections and/or reactivation of discontinued stormwater connections for an entire system, or a portion thereof. The moratorium will be effective only within the boundaries of the PSD initiating the moratorium.

1.7.m. A Municipal Separate Storm Sewer System - (MS4) means, as presently defined in 40 CFR §122.26(b)(8), a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man made channels, or storm drains):

(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges into waters of the United States.

(ii) Designed or used for collecting or conveying stormwater;

(iii) Which is not a combined sewer; and

(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.”

1.7.m.1. The term MS4 (Municipal Separate Storm Sewer System) does not solely refer to municipally owned storm sewer systems, but rather is a term of art with a much broader application that can include, in addition to local jurisdictions, State departments of transportation, universities, local sewer districts, hospitals, military bases, and prisons. An MS4 also is not always just a system of underground pipes it can include roads with drainage systems, gutters, and ditches.

1.7.n. "Outfall" -- is the point at which a stormwater Utility Conveyance Facilities discharges into the waters of the State.

1.7.o. "Payment" Payment is made by cash, check, credit card, debit card, or voucher accepted by the utility.

1.7.p. "Pervious Area" -- is all land area that allows stormwater to infiltrate the soil.

1.7.q. "Point of Service" -- The point where the customer conveyance meets the utility conveyance at or near the property line

1.7.r. "Public Facility" -- is a stormwater facility that serves two or more properties, including but not limited to, main pipelines or conveyances that collect and transmit stormwater from and/or across two or more properties, and all sources or other connections onto a public facility. Stormwater facilities that are privately owned upon enactment of these Rules may become publicly owned facilities, and thus the responsibility of the stormwater utility, only upon ownership transfer by the private owner and acceptance by the public service district.

1.7.s. "Public Utility" Except where a different meaning clearly appears from the context, the word, or words, "Utility" or "Public Utility" or "Stormwater Utility" when used in these Rules shall mean and include any public service district engaged in the business of managing, collecting, transporting, and/or treating stormwater.

1.7.t. "Stormwater Service (Works)" -- Any method, conveyance, treatment system or storage structure determined to be necessary to meet the requirements of the Commission or the environmental authority mandating the control and quality of stormwater entering waterways and aquifers of the State.

1.7.u. "Urbanized area" -- A land area comprising one or more places central place(s) and the adjacent densely settled surrounding area urban fringe that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile. It is a calculation used by the Bureau of the Census to determine the geographic boundaries of the most heavily developed and dense urban areas.

1.7.v. "User" -- Owner of real property from which stormwater affects or drains into the stormwater system.

1.7.w. "Utility Conveyance Facilities (UCF)" -- Any part or parts of a stormwater system, including but not limited to, ditches, pipes, swales, pump stations, retention ponds, and/or any other necessary utility structure necessary for collection or conveyance of stormwater.

§150 2. Records, Reports and Other Information to be Supplied to the Commission.

2.1. Records and reports.

2.1.a. Preservation of records All records required by these rules shall be preserved by the stormwater utility in the manner prescribed by the Commission.

2.1.b. Location of records.

1. Such records should be kept at the office or offices of the applicable Public Service District with stormwater authority in West Virginia and shall be available during regular business hours for examination by the Commission or its duly authorized representative.

2. If kept outside the State, such records shall be brought to the public service district's office in West Virginia upon request of the Commission, or the public service district may be required to pay the reasonable traveling expenses of Commission employees assigned to examine the records.

2.1.c. Reports to the Commission Upon Commission request, a public service district shall furnish to the Commission the results of any test or tests required to be made, or the information contained in any records required to be kept by the public service district or any further information in its possession respecting its rates, charges, or practices, without formal order of the Commission requiring the release of such information.

2.2. Filing of rate schedules and certificates of public convenience and necessity.

2.2.a. Tariffs containing rates and rules of each utility shall be filed in the manner prescribed by the Commission in "Rules for the Government and Filing of Tariffs", 150CSR2 effective as amended or modified by the Commission.

2.2.a.1. Any rate schedules established pursuant to these rules shall be based on the principal that customers shall pay rates that are based primarily on the cost of the service provided by the stormwater utility and that reflect the proportionate contributions to the total stormwater flows through the utility made by each customer class. Fee schedules

developed pursuant to these rules shall be based on the methodologies that are in accordance with this cost allocation principal and acceptable to the Commission.

2.2.b. Certificates of public convenience and necessity shall be requested pursuant to the "Rules of Practice and Procedure," 150 CSR 1.

2.3. Utility's special rules.

2.3.a. The utility shall be subject to and comply with the provisions of Rule 2.3 of the "Rules for the Government of Sewer Utilities," 150 CSR 5. Any utility establishing special rules shall include those rules in its tariff.

2.4. Financial and statistical report.

2.4.a. The utility shall be subject to and comply with the provisions of Rule 2.4 of the "Rules for the Government of Sewer Utilities," 150 CSR 5.

2.5. Uniform system of accounts.

2.5.a. All stormwater utilities shall maintain their accounts and records in compliance with the Uniform System of Accounts for sewer as promulgated in 1996 by the National Association of Regulatory Utility Commissioners for Class A, B and C sewer utilities. In the event that the sewer uniform system of accounts is insufficient for proper accounting, the utility shall apply for permission from the Commission to implement new accounts.

2.5.b. Observance of the system of accounts applicable to the utility by appropriate class is obligatory upon all persons having direct charge of the books and accounts of the utility. For the purpose of securing uniformity in the applications of this system, all questions of doubtful interpretation of accounting rules are to be submitted to the Commission for consideration and decision.

2.5.c. The classification of stormwater public service districts for purposes of keeping accounts in accordance with the Uniform System of Accounts for sewer shall be as follows:

Classification	Revenue Level
A.	\$1,000,000 or more
B.	\$200,000-\$999,999
C.	less than \$200,000

2.6. Maps and records.

2.6.a. Each utility shall keep on file suitable maps, plans, and records showing the entire layout of pipes, retention ponds, open channels, water quality devices, curbs and gutters, ditches, swales, pump stations, bio retention, stormwater wetlands, and any other technology necessary for the management of stormwater, used in the collection and treatment of stormwater.

2.6.b. In the case of new construction or property acquired from others, the addition to such maps and records should be made by the end of the next calendar year, following the year in which the construction is done or property acquired. All drawings shall have the scale clearly shown and be of sufficient detail to accurately depict the project or property.

2.6.c. In general, where present maps of existing facilities are not entirely up to date, special surveys to locate any plant or stormwater facilities will not be required immediately, but maps must be updated as prescribed by the Commission.

2.7. Management audits.

2.7.a. Scope -- The utility shall be subject to and comply with the provisions of Rule 2.7 of the "Rules for the Government of Sewer Utilities," 150 CSR 5.

§150 3. Basis of Billing for Stormwater Service

3.1 Billing for stormwater service will be based on methods approved by the Public Service Commission of West Virginia, which may include the amount of impervious surface area on the property served.

§150 4. Customer Relations.

4.1. Customer information.

4.1.a. Information as to service -- Each utility shall, upon request, give its users and/or customers such information and assistance as is reasonable, in order that customers may enjoy safe and efficient service.

4.1.b. Explanation of computing bills -- Each utility shall adopt some means of informing its users and/or customers as to the method of computing bills, either by printed description on its bills, or by a notice to the effect that the method will be explained at the office of the utility upon request.

4.1.c. Explanation of rates -- It shall be the duty of the utility to explain to the user and customer at the beginning of service, or whenever requested to do so, the utility's rates applicable to the type of service furnished to the customer and all other classes of

customers. The utility shall, on its periodic statements, annually inform its customers that, if they so request, it shall supply them with a copy of the utility's rate or rates

applicable to the type of service to be furnished to all customers with a concise written explanation of the rates, and an identification of any customer for whom rates are not summarized.

4.1.d. Posting of law, rates, rules, and collection agents.

1. Every utility shall maintain in its office for inspection by the public, the following:

A. A copy of the rates, rules and regulations of the utility, and of forms of contracts and applications applicable to the territory served from that office;

B. A copy of the Public Service Commission Law of this State;

C. A copy of the Rules for the Government of Sewer Utilities;

and

D. A copy of these rules.

2. A suitable placard in large type shall be conspicuously posted in the utility's business office giving information to customers that a copy of the law, the rules of the Commission, and the schedules of rates are available for their inspection.

3. Once a year, or as often as a utility changes collection agents, each utility shall publicize by newspaper or bill insert to its customers its collection agents to whom customers may deliver payment of stormwater bills.

4.1.e. Application for stormwater service.

4.1.e.1. Real property may be determined and declared to be served by a stormwater system only after each of the following conditions are met:

(1) where a district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 CFR 122.26,

(2) the District's authority has been properly expanded to operate and maintain a stormwater system,

(3) has made available a stormwater system where stormwater from the real property affects or drains into the stormwater system, and

(4) the real property is located in the Municipal Separate Storm Sewer System's designated service area.

4.1.e.2. Having met those four conditions, an owner of the real property (user) shall be required to make written application on printed forms provided therefore setting forth in said application all purposes for which stormwater will be managed upon their premises. If the user has agreed in writing with a third party that the third party shall pay the stormwater fee, then the third party shall apply for service. The third party shall provide the utility with a copy of the agreement. The utility may require the applicant to provide identification at the time of application for service. The applicant shall be required to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he shall state the name and address of the owner or owners of the premises to be served.

4.1.e.3. Any change in the identity of the contracting customer at a premises will require a new application for stormwater service, and, where bills are not paid, the utility may, after reasonable notice, obtain a discontinuance of water service to the premises until such new application has been made and accepted, but the former customer shall remain liable for stormwater service furnished to said premises until he has given notice in writing to the utility to discontinue stormwater service. In the event the customer of record has died or has become incapable of being responsible for stormwater service, that individual's spouse may become the customer of record without being required to complete a new application for stormwater service, or paying a new deposit. Where the former customer has provided notice of discontinuance of service in the absence of an application for service the user shall be billed. (See, 4.1.f.4).

4.1.e.4. In the event that a publicly or privately owned water utility, city, incorporated town, other municipal corporation or other public service district, owns and operates water facilities within the same service territory as the public service district providing stormwater service to the area, then the stormwater public service district shall provide the customer with a proper receipt and shall instruct the customer to present said receipt to the water utility when application for water service is made.

4.1.f. Public Service District's notice of availability of stormwater service and billing after notice.

4.1.f.1. Notice by publication -- When stormwater service is made available by a public service district to users in an area which has not previously been served by the district, the district shall publish a notice in a newspaper of general circulation in the area affected once a week for two consecutive weeks, with the second notice being published at least thirty (30) days prior to the date that the district intends to begin billing for services. The notice shall state, at a minimum, the following information: (1) that stormwater services are available; (2) the date that the district will begin billing for services as authorized by W. Va. Code §16-13A-9 and Rule 4.3. of the Commission's Rules for the Government of

Stormwater Utilities; (3) the district's rates; 4) the location and telephone number of the district's business office;

and (5) the general amount of the bill that will be the responsibility of user, in various classes even if the user has not made an application for service.

4.1.f.2. Publication is not required when service is extended to a single customer at the customer's request.

4.1.f.3. Personal notice -- In addition to notice by publication, when stormwater service is made available to users in an area which has not previously been served by the stormwater utility, the stormwater utility shall provide notice with at least the information as described in section (1) above, to all users by certified mail, return receipt requested, or by personal service with signed and dated receipt. In the event that the district is not able to effect personal notice after a good faith effort, or if the district believes that the requirements of this section create an undue hardship on the district, the district may petition the Commission for a waiver of the requirements of personal notice provided in this section.

4.1.f.4. Where there has been no application for stormwater service within thirty days and after appropriate notice has been given of availability of service pursuant to W.Va. Code §16-13A-9 and Rule 4.1.f., users shall be billed based on the stormwater utility's approved tariff.

4.2. Customer deposits.

4.2.a. Security deposits.

4.2.a.1. Security deposits for public service stormwater districts -- All new applicants for residential or other stormwater service from a public service district shall make a deposit of (i) fifty dollars (\$50.00), or (ii) two twelfths (2/12) of the annual estimated charge for stormwater service, whichever is greater, with the district to secure the payment of stormwater service rates and charges. In any case where a deposit is forfeited to pay service rates and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit, as described above, has been remitted to the district.

4.2.a.2. Return of deposit to customers who are not tenants -- After a customer who is not a tenant has paid bills for stormwater service for twelve (12) consecutive months without a delinquency, the utility shall promptly and automatically refund the deposit plus accrued interest. Calculation of the above twelve (12) months' period shall commence from the first regular payment or following the payment of a delinquent bill or bills.

4.2.a.3. Return of deposit by district to a customer who is a tenant -- A district is not required to return a deposit to a customer who is a tenant until the time the tenant discontinues service with the district. After a customer who is a tenant discontinues service with the district, the utility shall promptly and automatically refund the deposit plus accrued interest.

4.2.a.4. Unless otherwise ordered by the Commission by general order, interest of 1% per year shall be paid from the date of deposit until the date of refund of the security deposit. All customer security deposits shall be placed in an interest bearing account at a local federally insured financial institution.

4.2.a.5. A current customer of a public service district who terminates customer status at one location and receives stormwater service at a new location within the jurisdiction of the district and who has made payment of bills for the previous twelve (12) months without a delinquency, is not required to pay a deposit for service at the new location because that customer is not a new applicant for service under W.Va. Code §16-13A-9. Multiple service locations shall require multiple deposits. In the event the customer of record has died, or has become incapable of being responsible for stormwater service, that individual's spouse may become the customer of record without being required to make a new application for stormwater service, or paying a new deposit.

4.2.a.6. Record of deposit -- Each utility holding a cash deposit shall keep a record showing: (i) the name and current address of each depositor; (ii) the amount and date of the deposit; and (iii) each transaction concerning the deposit.

4.2.a.7. The receipt -- Concurrently with receiving a cash deposit, the utility shall deliver to the applicant for service, or customer, a receipt showing: (i) the date thereof; (ii) the name of the applicant or customer and the address of the premises served or to be served; (iii) the service furnished or to be furnished; and (iv) the amount of the deposit and the fact that interest will be paid at a Commission determined rate. Each utility shall provide automatic means to refund the deposit of a customer, when so entitled, if the original receipt cannot be produced. A receipt or proof of payment will not be necessary under the provisions for an automatic refund.

4.2.a.8. Unclaimed deposits -- Should a utility have retained, through no fault of its own, deposits made by customers whose service has been discontinued during any calendar year, it shall, on or before the first day of March, in each year, mail to the customer's last known address a check as refund of the deposit plus accrued interest, or at the utility's option, publish a list of such depositors in a newspaper published and of general circulation in each of the county(ies) in which it operates and in which the deposits were made, showing as of the thirty first (31st) day of December immediately preceding, the amount of each such deposit, together with the interest due thereon, and notifying depositors listed therein that their deposits are being held to their credit and will be returned upon request. The utility will not be liable for any interest on such deposits after publication of

such lists. Upon completion of the above procedure, the utility shall follow the provisions of the Uniform Unclaimed Property Act, codified in the W.Va. Code §36-8-1 et seq., with regard to the disposition of any unclaimed deposit.

4.2.a.9. All utilities that collect security deposits must do so in a non discriminatory manner.

4.3. Billing information.

4.3.a. The utility shall be subject to and comply with the provisions of Rule 4.3 of the “Rules for the Government of Sewer Utilities,” 150 CSR 5.

4.4. Application of credit to customer bills.

A customer may apply for a credit pursuant to a utility’s tariff when it utilizes any stormwater utility or County Planning Commission methods required by the West Virginia Department of Environmental Protection stormwater permit to capture: 1) the first one inch of rainfall from newly developed land area within the stormwater utility’s service area as a means to obtain a stormwater credit pursuant to a utility’s approved tariff or 2) for an existing developed land area where some modest amount of rainfall can be captured by the landowner to limit the utility’s investment in stormwater management. Such facilities shall be submitted to the stormwater utility for approval for a determination of the applicability of a credit to the customer’s stormwater bill. Customers are not prohibited from utilizing stormwater management technologies which capture stormwater on site, however, utilization of these technologies does not remove the customer’s obligation to pay the stormwater utility’s rates, as specified in the tariff and related credit policy.

4.4.a. Where real property receives stormwater service, each utility is authorized to establish a credit policy where credit can be applied to the stormwater utility bill for customer management technologies that capture stormwater on site.

4.4.b. Before a utility implements a credit policy, it must submit the proposed policy for review and approval by the Public Service Commission.

4.4.c. The credit policy shall allow additional credits for water quality and water quantity controls that surpass minimal requirements for these controls by federal, state or local laws and regulation. Examples may be over detention credit for providing more detention than required by regulation, or providing stream buffers where none are required.

4.4.d. Each utility may propose a policy which can apply a maximum credit toward a stormwater bill.

(Alternate proposed language – Commission would eliminate 4.4.d.)

~~4.4.d. Each utility may propose a policy which can apply a maximum credit toward a stormwater bill.~~

4.4.e. Each utility shall develop a guidance manual that specifically outlines the credit application process, forms and requirements, calculation procedure for determining the credit amount, ongoing maintenance agreements, appeals procedure to resolve disagreements. This manual shall be submitted to the Public Service Commission for review and approval.

4.5. Complaints.

The utility shall be subject to and comply with the provisions of Rule 4.5. of the “Rules for the Government of Sewer Utilities,” 150 CSR 5.

4.6. Disputed bills.

The utility shall be subject to and comply with the provisions of Rule 4.6. of the “Rules for the Government of Sewer Utilities,” 150 CSR 5.

4.7. Customer transfer of service.

The utility shall be subject to and comply with the provisions of Rule 4.7. of the “Rules for the Government of Sewer Utilities,” 150 CSR 5.

4.8. Utility discontinuance of service.

4.8.a. Notice of discontinuance.

The utility shall be subject to and comply with the provisions of Rule 4.8.b of the “Rules for the Government of Sewer Utilities,” 150 CSR 5.

4.8.b. The utility shall be subject to and comply with the provisions of Rule 4.8.c. of the “Rules for the Government of Sewer Utilities,” 150 CSR 5.

4.8.c. Charge for reconnection.

The utility shall be subject to and comply with the provisions of Rule 4.8.d. of the “Rules for the Government of Sewer Utilities,” 150 CSR 5.

4.8.d. The utility shall be subject to and comply with the provisions of Rule 4.8.e. of the “Rules for the Government of Sewer Utilities,” 150 CSR 5.

4.8.e. The utility shall be subject to and comply with the provisions of Rule 4.8.f. of the "Rules for the Government of Sewer Utilities," 150 CSR 5.

4.8.f. Inter-utility Agreements regarding discontinuance of water service for non-payment of stormwater bills.

The utility shall be subject to and comply with the provisions of Rule 4.8.g. of the "Rules for the Government of Sewer Utilities," 150 CSR 5.

4.9. Refusal to serve applicants.

The utility shall be subject to and comply with the provisions of Rule 4.9. of the "Rules for the Government of Sewer Utilities," 150 CSR 5.

4.10. Access to property.

The utility shall be subject to and comply with the provisions of Rule 4.10. of the "Rules for the Government of Sewer Utilities," 150 CSR 5.

4.11. Service interruptions.

The utility shall be subject to and comply with the provisions of Rule 4.11. of the "Rules for the Government of Sewer Utilities," 150 CSR 5.

4.12. Moratoria.

The utility shall be subject to and comply with the provisions of Rule 4.12. of the "Rules for the Government of Sewer Utilities," 150 CSR 5.

§150 5. Utility Facilities; Service Pipes; Expansion of Service.

5.1. Adequacy of facilities.

5.1.a. The collecting and conveyance system of every stormwater utility shall be designed, constructed, maintained and operated to receive and transport the stormwater from its customers' facilities to its stormwater outfall within the design limits of its West Virginia Department of Environmental Protection stormwater permit for new and existing facilities and related Commission certificate of public convenience and necessity. The discharge water quality shall meet its' MEP at its outfall.

5.1.b. Construction and maintenance of System -- Each stormwater utility shall at all times construct and maintain its facilities to furnish safe, adequate, reliable and continuous service.

5.1.c. Inspection -- Each utility shall inspect its plant and stormwater facilities in such manner and with such frequency as is necessary to insure a reasonably complete knowledge as to their conditions and adequacy at all times. Such inspections must comply with the legally applicable requirements.

5.1.d. Records of conditions -- Records necessary for the proper maintenance of the system and in accordance with the Department of Environmental Protection shall be kept of the conditions found. In special cases, a more complete record may be specified by the Commission.

5.1.e. Records of operation -- Each utility shall keep a record of the operation of its facilities, which, so far as practical, shall show sufficient details of facility operation as is necessary to substantially reproduce its daily operations. The records shall also be maintained in accordance with the requirements of the West Virginia Department of Environmental Protection.

5.1.f. Report to Commission -- Each utility shall, upon request of the Commission, file with the Commission a statement regarding the condition and adequacy of its plant, equipment, and facilities, and of its operations, maintenance and service in such form as the Commission may require.

5.2. Utility Conveyance Facilities (UCFs).

5.2.a. Where the UCFs are required, the utility will furnish, install, and maintain the UCF and appurtenances up to the point of service. All such UCFs and appurtenances shall be installed only by the utility unless by prior written agreement.

5.2.b. The utility shall determine the location of the UCF.

5.2.c. The utility shall install and maintain, at its own cost and expense, the UCF to the point of service, regardless of the side of the road on which the customer is located except where there is a state WVDOT maintained stormwater conveyance facility which provides for conveyance to the UCF. The utility shall designate the point of service on the customer's side of the road.

5.2.d. The utility shall not make any charge for furnishing and installing any permanent service connection, unless the utility has prior approval of the Commission to charge a connection fee and the same is set forth in the utility's tariff on file with the Commission.

5.2.e. The UCF shall remain under the utility's sole control and jurisdiction.

5.2.f. The customer shall not attach any fixtures to, or make any branches in, the UCF. Violation of this rule may result in termination of service pursuant to these rules.

5.2.g. Temporary service connections for construction or other temporary purposes shall be installed by the utility at the cost of the applicant.

5.2.h. Each utility shall adopt standard methods of installation where practicable. 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.

5.2.i. Availability defined -- Stormwater service and other related services such as outreach and education will be deemed available to a customer when a UCF is installed and maintained by the utility in such location and at such distance from the user's property as may be provided by the rules of the utility. Provided, that service shall not be deemed to be available unless the stormwater will flow by gravity or be transported by such other methods from the user's property into the utility's facilities.

5.3. Customer Stormwater Facilities

5.3.a. When a discrete hard-piped customer facility is not required:

5.3.a.1. A user's or customer's stormwater contribution to the utility may not necessarily occur through discrete "hard piped" infrastructure but rather, may be diffuse stormwater runoff from any portion of the property. rates, as specified in the tariff and related credit policy.

5.3.a.2. Once an application for service has been granted, the user or customer shall install and maintain the customer facilities.

5.3.a.3. The utility's authorized employee shall inform the user or customer of the location of the point of service. The customer shall install the customer stormwater facilities to the point of service after which the utility will install the utility conveyance facilities to the point of service.

5.3.a.4. Where the utility's service pipe and or conveyance is already installed to the point of service, the customer shall connect with the utility facilities as installed.

5.3.a.5. The customer's stormwater facilities service pipe shall be installed such as to follow the natural ebb and flow of the topographic features of the surrounding area or be constructed such that it is non erosive and stable where grading is required. All installation specifications provided by the stormwater utility must be followed prior to obtaining service.

5.3.b. When discrete hard-piped customer facilities are required:

5.3.b.1. No customer, plumber, company owner or any agent shall connect to the UCF from any premises for the purpose of securing stormwater service, until application has been made therefore to the utility as provided in these rules and permission for doing so has been granted by the utility in writing.

5.3.b.2. The customer service pipe shall be installed in a workmanlike manner, shall conform to all reasonable rules and regulations of the utility, and shall be maintained by the customer at his own expense.

5.3.b.3. The utility will specify the size, kind, quality and location of all materials used in the customer's service pipe and/or conveyance and the customer shall comply with those specifications.

5.3.b.4. A customer must maintain his service connection in good condition and free from defects, at the customer's cost and expense. A customer's failure to comply with this rule may result in termination of water or sewer service pursuant to these rules.

5.3.b.5. A customer's service pipe shall not pass through or across any premises or property other than that to be served nor across any portion of the property that could practicably be sold separately from the immediate premises served and no connections in any premises shall be extended therefrom to adjacent or other premises.

5.3.b.6. The customer's service pipes 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 attached thereto, shall at all reasonable hours be subject to inspection by a duly authorized employee of the utility.

5.3.b.7. The utility shall make changes and bear the full costs of changes in the customer's service pipe required due to changes in grade, relocation of the utility pipe, and other causes not related to the customer. The customer shall bear the full costs of changes in the customer's service pipe desired by the customer for his or her convenience.

5.3.b.8. The customer shall not attach any fixtures to, or make any branches in, the customer service connection between the point of service and the premises served. Violation of this rule may result in termination of service pursuant to these rules.

5.3.b.9. The connection of surface stormwater drains to any sanitary system is prohibited. The utility shall require immediate disconnection where evidence of a violation exists.

5.4. Expansion of technologies to serve new customers.

5.4.a. A stormwater utility, is under a public service obligation to extend its technologies to serve new customers within its service area who may apply for stormwater management service.

5.4.b. Extensions shall be made in all cases in which the public convenience and necessity require the technology, construction problems are not unusual or burdensome, and the extensions appear to be economically feasible.

5.4.c. For any proposed extension of technologies or installation of conveyances, a reasonable relationship should exist between the per customer investment to serve new customers and the per customer investment to serve old customers.

5.4.d. Every effort shall be made by a utility to install its stormwater conveyances in the public road right of way or in a utility right of way abutting the public road right of way.

5.4.e. Extension for general stormwater technology.

1. The utility will respond to all inquiries regarding new stormwater service, whether oral or written, by explaining all available options for obtaining service under these rules.

2. The utility will, upon written request for service in the form of Stormwater Form No. 4, by a prospective customer or group of prospective customers located in the same neighborhood, determine the necessary size of conveyance required to give service and make an estimate of the cost of providing the requested service, using the form of Stormwater Form No. 5, including pipe, conveyances, retaining structures, necessary materials, permits, labor costs incurred by the utility when the utility externally contracts for the construction of the extension, or internal labor costs, provided such internal or external costs are not recovered in existing rates, and other applicable related costs. When a road crossing(s) is (are) necessary to serve the customer(s) requesting service, the cost estimate shall not include costs attributable to extending the conveyance under the first road (closest to the already existing conveyance), but shall include the costs of installing the main across a second and any subsequent road(s). The written estimate calculated using Stormwater Form No. 5 shall be provided to the customer in the form of Stormwater Form No. 6, no more than forty five (45) days from the receipt by the utility of the written request for service. The written estimate shall include an estimated construction start date and an estimated time of construction. If the prospective customer believes that any part of the estimate is unreasonable, the customer is free to pursue an informal request for assistance from the Commission staff or to file a formal complaint with the Commission. Further, the utility and the customer shall execute a Stormwater Extension Agreement. Commission Staff may be consulted to provide assistance and sample forms. The agreement must include as an

attachment a copy of this extension rule. The utility shall keep an executed copy of the agreement for at least six (6) years. The length of the extension required shall be that length required to extend from the new proposed stormwater service area to the nearest point of connection to the utility stormwater system having sufficient capacity to provide service.

3. Whenever the utility is required to extend service from an existing conveyance to property that does not immediately abut the utility's right of way or the public road that contains the utility conveyance, the extension shall be considered a main extension and the cost responsibility shall be determined under Rule 5.5.e.

4. Where the cost of the extension of the UCF does not exceed the estimated total revenue as calculated below, from prospective customers whose stormwater conveyances will immediately be connected directly to the extension and from whom the utility has received applications for stormwater service upon forms provided by the utility for this purpose, the utility will install, at its own cost and expense, the necessary extension; provided, that the patronage or demand will be of such permanency as to warrant the capital expenditure involved.

A. For residential units, annual revenue shall be based on the average monthly bill per residential unit over the past sixty months multiplied by twelve, unless circumstances of the applicant show this would result in significant error. For non residential units, annual revenue shall be based on the actual impervious area designated in the application.

B. Estimated total revenue for public service district utilities will be calculated as five (5) times estimated annual revenue.

5.4.f. Extensions beyond the limit of utility financed extensions of stormwater service.

1. If the estimated cost of the proposed extension required in order to furnish stormwater service exceeds the utility's estimate of total revenue as determined by Rule 5.5.e.4., such extension shall be made if the applicant or the applicant's authorized agent contracts for such extension and deposits in advance with the utility the estimated cost of the extension over and above the limit of the utility funded portion of the extension. The utility shall not pay nor be liable for any interest on such cash deposits. The utility shall make the extension after receiving the cash deposit. The utility shall, for each bona fide new customer who, within a period of ten years from the making of such extension, directly connects to the extension between its original beginning and original terminus refund to the original depositor(s), an amount equal to the estimated total revenue of the new customer as determined by Rule 5.5.e.4., but in no event shall the aggregate refund made to the depositors exceed the original deposit. Provided, however, public service districts may elect to refund the estimated amount over a period of five years making payments no less frequently than every six months.

5.4.g. General provisions.

1. Should the actual cost of the extension be less than the estimated cost, the utility will refund the difference as soon as the actual cost has been ascertained, but in no event longer than ninety (90) days after completion of construction of the extension. When the actual cost of the extension exceeds the estimate cost, then the utility will bill the depositor for the difference between the estimated and the actual cost. The customer may pay this additional amount in installments. No interest will be paid by the utility on the applicant's payment or on any balance to be refunded.

2. In estimating the cost of an extension, the estimate shall be based on the individual design of the receiving UCF unless actual use estimated for the proposed customer or customers required a different design.

3. Extensions made under this rule shall be and remain the property of the utility.

4. The utility reserves the right to further extend its UCF from and beyond the extension made under this rule, and the depositor or the depositor's agent paying for an extension shall not be entitled to any refund for the attaching of customers to such further extension or branch facilities so installed.

5. In determining the length of UCF extensions to be installed in an urban area when land is subdivided in lots, a UCF shall be extended to fully cover the drainage area of all subdivided and cleared lots ready for construction. The design of the UCF shall meet all future capacity needs of all finished lots as Platted in the property records submitted to the County or other entity having jurisdiction over new construction planning. In rural areas or open land areas, the extension required will be that length necessary to adequately serve the applicant and to meet the stormwater utility obligations.

6. This rule shall not be construed as prohibiting the utility from entering into an agreement with a customer that complies with the Commission approved checklist attached hereto as Stormwater Form No. 7, in providing an alternate plan for a UCF extension. Commission Staff may be consulted to provide assistance and sample forms. In providing an alternate plan for UCF extensions a utility may not discriminate between customers whose service requirements are similar. The agreement shall be filed with and approved by the Commission prior to the implementation or execution of the agreement by any of the parties. The agreement shall include the name, address and phone number of the parties to the agreement. The agreement shall also include a provision explaining why the utility is not funding the extension. The agreement must attach a copy of this Rule 5.5., and a statement signed by the prospective customer that he has reviewed and understands the provisions of Rule 5.5.f. which entitles a customer to refunds and that he knowingly waives

such rights, if applicable. Failure to obtain Commission approval will result in the loss of the right to obtain reimbursement from the utility. If an entity other than the utility constructs the extension, upon completion of construction and proper utility inspection of the extension, the utility shall initiate service only after proper transfer of title to all facilities including property, plant and rights of way incidental to the furnishing of utility service.

7. Commencement of service -- The utility shall not be required to make utility funded extensions or refunds as described in this rule unless those to be served by such extensions shall guarantee to the utility that they will take service at their premises within ninety days after service is available or as otherwise mutually agreed in a user's agreement.

8. Construction conditions -- Construction of UCF technologies, as provided in this rule, will be undertaken promptly after all applications have been completed, necessary right of way agreements or rights of entry have been delivered to the utility, and all prospective customers have signed user agreements that have received the prior approval of the Commission.

9. Right of Way.

A. If the construction of an extension involves the acquisition of a private right of way, then the prospective customer shall attempt to secure the right of way and deliver it to the utility free of cost before construction of the extension is started.

B. If, however, it is not reasonably possible for the prospective customer or customers to secure the right of way, and the construction of an extension involves the utility's incurring expense for right of way easements, either by purchase or condemnation, such costs shall be added to the total cost of the extension.

C. As a condition to obtaining a UCF extension, any property owner or developer shall grant the utility the necessary easements which would allow the utility to make future extensions into unserved areas. The granting of the necessary easements shall be made without the utility being required to pay additional consideration for the additional easements to the property owner or developer. If the property owner or developer is unwilling to grant the additional easements, the utility shall not be required to extend its main UCF to serve the property owner or developer.

§150 6. Safety requirements

The utility shall be subject to and comply with the provisions of Rule 6 of the “Rules for the Government of Sewer Utilities,” 150 CSR 5.

§150 7 Creation or alteration of public service districts

The utility shall be subject to and comply with the provisions of Rule 7 of the “Rules for the Government of Sewer Utilities,” 150 CSR 5.

Stormwater Form No. 1
(Stormwater Rule 4.8.b.)

(Insert Company Name Here)

**NOTICE OF SCHEDULED TERMINATION OF SERVICE
AND CUSTOMER RIGHTS**

We have scheduled your water service provided at
_____ for termination on or after _____
(address) (date)

because of your delinquent stormwater bill.

This action has been taken for the following reason(s):

(Include reason and facts resulting in decision to terminate service).

If your service is terminated you will be subject to the following additional charges involving reconnect fees and deposit requirements in order to restore service.

(Include all applicable charges, including disconnect, reconnect and/or administrative fees)

YOU HAVE THE RIGHT TO CHALLENGE THE TERMINATION IF YOU BELIEVE ANY OF THE FOLLOWING CONDITIONS APPLY TO YOU:

1. Any portion of the bill is in dispute
2. You are being charged for service not received
3. The information above is incorrect
4. You are unable to pay the bill in accordance with the billing, and termination of service would be especially dangerous to the health or safety of a member of your household
5. You are able to pay only in installments

If the reason for your challenge is 1, 2, or 3 above, you will have to pay any amount not in dispute. If the reason for your challenge is 4 or 5, we will attempt to negotiate a deferred payment agreement with you.

YOU MUST NOTIFY US BEFORE THE DATE OF TERMINATION IN ORDER TO PROTECT YOUR RIGHTS UNDER THIS RULE:

(Provide instructions for contacting the appropriate utility personnel by telephone and mail, including business hours)

You should also inform us if you are 65 years or older, or regardless of age, if you are physically, mentally, or emotionally incapacitated.

Once you have notified us of your challenge, we will schedule a meeting at the business office nearest to your residence and try to resolve your problem. At your option, the discussion of your challenge may be made over the telephone. **IF YOU ARE NOT SATISFIED WITH OUR DECISION AT THIS MEETING, YOU WILL HAVE SEVEN (7) DAYS IN WHICH TO FILE A CHALLENGE WITH THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA.** You will be required to pay your current bill while the challenge is pending. There is no charge associated with filing a challenge and you may do so without the assistance of an attorney.

To file a challenge with the Public Service Commission, you may call this toll free telephone number 1-800-642-8544 or write to this address:

Utility Challenge
Public Service Commission of West Virginia
P.O. Box 812
Charleston, W. Va. 25323

If you are in need of assistance to pay your bill you should contact the following agencies: (List agencies in service area).

If you desire the assistance of a lawyer with regard to the scheduled termination and are unable to pay for legal counsel, contact one of the following low income legal assistance organizations: (List agencies in service area).

Stormwater Form No. 2
(Stormwater Rule 4.8.b.9)

NOTICE OF SCHEDULED TERMINATION

We have scheduled water service provided at _____
(address)

for termination on or after _____ because of your landlord's delinquent
(date)
stormwater bill.

To notify the Public Service Commission, you may call this toll free telephone number, 1-800-642-8544, or write to this address:

Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323

If you desire the assistance of a lawyer with regard to the scheduled termination and are unable to pay for legal counsel, contact one of the following low income legal assistance organization: (List agencies in service area).

Stormwater Form No. 3
(Stormwater Rule 4.12.d.)

Public Notice of Filing of a Petition for Imposition of a Moratorium

Case No.

NAME OF UTILITY,
a public utility.

Petition for consent and approval for
the imposition of a moratorium on the
utility stormwater system.

PUBLIC NOTICE

On _____ the _____
(date) [Name of Utility, Commission Staff, or governmental entity]

filed a petition with the Public Service Commission for approval of the imposition of a
moratorium on _____
(name of utility) (stormwater)
System serving _____
[describe areas served].

If approved, the moratorium would mean that no new customers could be served by
the stormwater utility in these areas until the Commission lifts the moratorium. The
_____ claims that the imposition of a moratorium is
[name of petitioner]

Appropriate because _____
[describe reasons and describe any plans to alleviate the circumstances giving rise to the
petition, and any estimate of a date when it would be appropriate for the Commission to lift
the moratorium.]

Any person wishing to protest, support, make comment, or request a public hearing
about the proposed moratorium should do so in writing. Written statements should be
addressed to Executive Secretary, Public Service Commission, P.O. Box 812, Charleston,
WV, 25323.

NAME OF UTILITY

Stormwater Form No. 4
(Stormwater Rule 5.5.e.3.)

Form of written request for service by a prospective customer or
a group of prospective customers located in the same neighborhood

() Stormwater

Previous Customer () If so, when New customer ()
Name
Mailing address Phone
Property location
Rent () Own () Other
If rent: Property owners name
Property owner's mailing address Phone
Type of service: Residential () Number in household
 Commercial () Type
 Industrial () Type

Applicant's place of employment
Employment address Phone
Name of spouse
Spouse's place of employment
Spouse's employment address Phone

I HEREBY AUTHORIZE STORMWATER SERVICE TO BE ESTABLISHED AND
BILLED IN MY NAME AT THE ABOVE PROPERTY LOCATION AND AGREE TO
PAY FOR SERVICE UNTIL DISCONTINUED BY MY REQUEST IN WRITING. I
UNDERSTAND THAT THIS APPLICATION IS ACCEPTED SUBJECT TO THE
AVAILABILITY OF SERVICE AT THIS LOCATION.

Applicant's signature
Date
Utility representative Date

For office use only

Name Account No.

Applicant ID

Deposit amount Tap fee amount

Meter Size _____ Meter No.

Meter Route

Meter reading

Date on

Date off

Customer request () Termination ()

Stormwater Form No. 5
(Stormwater Rule 5.5.e.3.)

Form for use in determining cost estimate to extend sewer service

Date

The following estimate is in response to a request to extend the Utility's sewer facilities approximately _____ feet along to serve a customer or customers who desire sewer service.

Cost Estimate

UCF extension

Culverts (inch PVC)	feet	@	\$	/foot	=	\$
Excavation/installation	feet	@	\$	/foot	=	\$
Materials (fittings, valves, stone, etc.)					=	\$
Permits/rights of way (Health, Highways, etc.)					=	\$
Restoration (seeding, gravel, etc.)					=	\$
Related cost (engineering, legal, etc.)					=	\$
	TOTAL				=	\$

Cost Share of Customers and Utility

- A. Total estimated cost of extension \$
- B. Utility Share: (estimated total net revenue per customer calculated pursuant to Rule 5.5.e.4.)\$ per customer
x customers = \$
- C. Customer share: estimated cost to be paid by customers (A B) = \$

Conditions

If the potential customers shall deposit with the Utility, in advance, the total sum of \$ _____, (customers share from "C" above), a tap fee of \$ _____ per customer, and a \$ _____ security deposit per customer, the Utility will apply for the necessary permit applications and begin construction as soon as possible.

If the actual cost to construct the extension is less than the estimated cost, the Utility will refund the difference to the original depositors. If the actual cost exceeds the estimated cost the Utility will bill the depositors for the difference.

The customers will be required to sign an application for service and/or a users agreement when the tap fees and deposits are made.

This main line extension estimate is made in accordance with Sewer Rule 5.5 of the Rules for the Government of Sewer Utilities.

Stormwater Form No. 6
(Stormwater Rule 5.5.e.3.)

Form of cost estimate to be provided to applicants for service

Dear Mr. Customer:

We have received a petition for a stormwater UCF extension and have estimated the construction cost to extend the UCF to serve the properties of the (insert number) petitioners. This estimate is summarized below:

Stormwater conveyance	feet at \$	/ foot
Excavation/Installation	feet at \$	/ foot
Permits/Rights of way (WVDEP, Highways, etc.)		
Restoration (seeding, gravel, etc.)		
Related Cost (engineering, legal, etc.)		
Total Estimated Extension Construction Cost		

When the “customer’s share” referenced above is deposited with the Utility, the Utility will apply for the necessary permit applications and begin construction as soon as possible. If the actual cost to construct the UCF extension is less than the estimated cost, the Utility will refund the difference to the original depositors. If the actual cost exceeds the estimated cost, the Utility will bill the depositors for the difference. This difference must be settled before service can actually be connected.

All customers will be required to sign an extension agreement and an application for service.

The estimated start date of construction is _____.

The estimated duration of construction is _____ days.

Should you have any questions, you may contact Barbara Manager or John Foreman at _____ between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Sincerely,

Stormwater Form No. 7
(Stormwater Rule 5.5.g.6)

Form of Commission Check List for Alternate Stormwater UCF Extension Agreements

This form sets forth the minimum amount of information that should be included in a proposed alternate UCF extension agreement.

- 1. Name of developer, mobile home park owner or prospective customers(s).
- 2. General location or description of area to be served.
- 3. Indication that the developer, owner or prospective customer(s) has/have read Stormwater Rule 5.5, Stormwater Rule 5.3, or both in their entirety.
- 4. Indication that the developer, owner or prospective customer(s) understand(s) the Rules.
- 5. Having read and understood the Rules, the developer, owner or prospective customer(s) choose(s) to enter into the alternate UCF extension agreement.
- 6. If the developer, owner or prospective customer(s) waive(s) reimbursement, the agreement should contain the waiver.
- 7. A copy of the applicable Rule(s) must be attached to the agreement.
- 8. A statement as to who will bear the cost of inspection, if any.
- 9. If the customer is to bear the cost of inspection, a statement of the maximum amount of the cost of inspection.
- 10. If the developer, owner or prospective customer(s) wish(es) to waive the right of receiving an estimate of the cost of the extension if constructed by the utility, a statement reflecting the waiver.
- 11. A statement as to the type of testing to be required.
- 12. A statement as to who will bear the cost of testing, if any.
- 13. If the customer is to bear the cost of the testing, a statement of the maximum amount of the cost of the testing.
- 14. A statement as to who will install the UCF service connections.

- 15. If the developer, owner or prospective customer(s) is/are to install the service connections, a statement that the utility will not charge a tap fee.
- 16. A statement that the connection fee, if any to be charged, is the approved connection fee in the utility's tariff.
- 17. A statement that the utility is to be indemnified and held harmless against any and all claims for injuries and/or damages which may arise from problems associated with the construction of the extension by the developer, owner or prospective customer(s).
- 18. A statement that the ownership of the UCF will be conveyed to the utility prior to its connection to the utility's system.
- 19. A statement indicating who will be responsible for preparing the plans for the UCF extension.
- 20. If the developer, owner or prospective customer(s) is/are to be responsible for the preparation of the plan for the UCF, a statement that the developer, owner or prospective customer(s) will provide plans to the Staff of the Public Service Commission if required.
- 21. The number of prospective customers to be served by the UCF, the number of lots to be served, or some other general indication of the size of the area to be served by the UCF
- 22. If the initial cost estimate has not been waived, the estimate must be set forth in the agreement.
- 23. A warranty indicating that the developer, owner or prospective customers will warrant the system UCF installation for a period of one year after completion of the construction, or after system is placed into service.
- 24. The agreement should not be executed before being sent to the Commission for approval.
- 25. A statement as to who will obtain and pay for necessary permits.
- 26. A statement as to who is responsible for the cost of the construction.
- 27. A statement as to who is responsible for the cost of the material.

- 28. A statement describing the UCF extension, including length, diameter conveyance methods and any major components such as, pump stations, etc.

NOTE: A paragraph such as “The Developer/Customer waives his rights under paragraph 5.3 or 5.5 of the Commission’s Rules” will not be acceptable as a catch all for the requirements listed above. Each item must be addressed in the agreement.

Stormwater Form No. 8
(Stormwater Rule 5.5g.8)

Application for Stormwater Service and
User's Agreement

Street Address _____
City _____, WV
Zip Code _____ - _____

Phone: (304) - • Fax (304) - ----PLEASE PRINT ALL INFORMATION----

SERVICE ADDRESS: Street/City: _____ Subdivision: _____
Service Start Date: Date: _____ (NOTE: Service start date cannot be back-dated)

APPLICANT: Name _____
 Social Security #: _____
Mailing Address: Street/City/State/Zip: _____
Telephone: Home: _____ Cell: _____
 Work: _____ Email: _____

CO-APPLICANT/SPOUSE: Name: _____
 Social Security #: _____
Telephone: Cell: _____ Other: _____
 Work: _____ Email: _____

PROPERTY/LAND OWNER: Name: _____
 (If same as applicant, print "same.")
Mailing Address: Street/City/State/Zip: _____
Telephone: Home: _____ Cell: _____
 Work: _____

Type of Service: Residential Commercial Industrial
 If not Residential ~ Nature of Business: _____
Have you had service with (insert utility name) before? NO YES If yes, list account
number(s) or address: _____

Applicant hereby certifies that he/she has made themselves familiar with the provisions of this agreement as set-out in the attached Regulations and understands that this is an application for service. The Stormwater Utility has the right to reject the application and return the Application Fee and/or Deposit if it is not feasible to serve the property in accordance with the West Virginia Public Service Commission's Rules and Regulations for the Government of Stormwater Utilities. By signing this application for stormwater service, applicant(s) and Owner acknowledges and agrees to these conditions and that the information provided above is true and accurate to the best of applicant's knowledge.

Signature of Applicant: _____ Date: _____
Signature of Co-Applicant/Applicant: _____ Date: _____
Applicant(s) ~ Attach copy of Driver's License

General Regulations:

1. Failure of a User to pay stormwater charges duly imposed shall result in the automatic imposition of the following penalties:

- Accounts not paid within twenty (20) days from the billing date will be subject to a penalty of the net amount as established by the West Virginia Public Service Commission.
- Accounts not paid within (32) days from the billing days will result in either 1.) the termination of water service, 2.) the filing of a lien on the property with the User subject to all filing costs or 3.) both. After water service is terminated, the customer will be required to pay the delinquent amount owed, a security deposit if not already on deposit with the District, and a disconnection and/or reconnection fee (as provided for in the District's stormwater tariff) before water service will be restored.

2. In accordance with W.Va. Code §16-13A-9; if the applicant is a tenant, they shall state the name and address of the owner of the premises to be served.

- Premises is defined as the land & dwellings located on the land.

3. All new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or (insert amount here) for stormwater, with the District to secure payment. If the User is a tenant, the District is not required to return the deposit until the time the tenant discontinues service with the District.

4. The User agrees to, and does herewith; pay an application fee of (insert amount here) for stormwater to the District. In the event that the District, for reasons beyond its control, cannot make said connection, the application fee will be refunded.

5. Customers may appeal to the Consumer Relations Department of the WVPSC by writing to:

Utility Complaints
Sewer/Stormwater/Water
P.O. Box 812
Charleston, WV 25323

Or by calling the WVPSC Consumer Relations Department at:
1-800-642-8544 (Toll Free Telephone Number)

Security Deposits:

The WVPSC requires the District to collect security deposits from new customers for stormwater service, as well as additional deposits from delinquent customers as deemed necessary. After a user, who is not a tenant, has paid bills for services for twelve (12) consecutive months without a delinquency, the District shall promptly and automatically credit to the User's account the deposit plus accrued interest. Interest will be paid at a rate determined by the WVPSC. Past due accounts will result in reevaluation of the security deposit period and the possibility of an additional twelve (12) months security deposit.

Stormwater Regulations:

1. The User shall install at its own expense all District required connections to the Utility Conveyance Facility (UCF) from the dwelling or place of use. The Owner's stormwater conveyance(s) shall connect with the District UCF at the locations provided by the District. The User shall construct his conveyance in accordance with the Stormwater Rules and local Ordinance(s).
2. The District shall have final authority in any question of location of any connection to its UCF system; and shall determine the adequacy of capacity to serve the User.
3. The User is expressly forbidden to connect additional conveyances to the District UCF and may not extend or allow extension of the UCF without authorization from the District.
4. The User shall be ready for his conveyance to be connected to the District UCF system and commence to use the service from the system on the date the service is made available to the User by the District. Stormwater service charges to the User shall commence on the date service is made available, regardless of whether the User's conveyance is completed and ready to be connected to the UCF system.
5. The user agrees to grant to the District, its successors and assigns, a perpetual easement in the form of Public Service Commission Rules for the Government of Stormwater, Form 9.

By signing the application, the User has agreed that they have read and understand all rules and regulations stated above.

Public Service Commission

Richard E. Hitt, General Counsel



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

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FAX: 1-866-336-2893
E-mail: rhitt@psc.state.wv.us

June 1, 2012

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 Stormwater Utilities, 150 C.S.R. Series 36

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: Susan M. Stewart, Law Clerk