

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

Form #5

Do Not Mark In This Box

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OFFICE OF THE  
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

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

CITE AUTHORITY: W. Va. Code §§16-13A-25, 16-13A-25(e), 24-1-1(f), 24-1-7, 24-2-1, 24-2-2, and 24-2-11.

RULE TYPE: PROCEDURAL  INTERPRETIVE

EXEMPT LEGISLATIVE RULE  yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W. Va. Code § 24-1-7

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Rules of Practice and Procedure

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE

EFFECTIVE DATE OF THIS RULE IS April 12, 2010

  
Authorized Signature

#12.60

# Public Service Commission

Richard E. Hitt, General Counsel



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

Phone: (304) 340-0450  
FAX: 1-866-336-2893  
E-mail: rhitt@psc.state.wv.us

February 10, 2010

## Via Hand Delivery

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

Re: Public Service Commission of West Virginia  
Rules of Practice and Procedure, 150 C.S.R. Series 1.

Dear Ms. Cooper:

Enclosed please find finally adopted rules in response to multiple changes in legislation occurring during the past several years. Specific statutes or bills requiring changes to the Rules of Practice and Procedure include:

1. House Bill 3280 (passed in April 2005) removed a pre-filing requirement associated with certificate filings for public service districts and removing a requirement for a notice of intent thirty days prior to a certificate filing. The bill further reduced the Commission's review time of construction projects funded by the West Virginia Infrastructure and Jobs Development Council (WVIJDC) from 270 to 180 days provided no protest is received within thirty days after notice of the application is provided. If protest is received, the 270-day clock would still apply. The bill also eliminated the Commission's ability to require reopening of an WVIJDC-funded certificate case for a change in project costs if the change does not affect project-related rates. These changes were codified at W.Va. Code §16-13A-25(e) and W.Va. Code §24-2-11(j).
2. Senate Bill 419 (passed March 10, 2006) contained changes regarding public service districts receiving WVIJDC funding and was codified at W.Va. Code §§16-13A-25, 24-2-1 and 24-2-11.
3. House Bill 2863 (passed April 10, 2009) amended the process for certificates of public convenience and necessity by adding the word "substantial" to public protest

Judy Cooper  
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and by requiring the Commission to issue a final decision within 225 days of the application filing date in cases relating to a water and sewer project where projected total costs are less than \$10 million. The bill also made the "substantial" protest amendment for wind turbine exempt wholesale generation siting certificate cases. These amendments are codified in W.Va. Code §§24-2-11 and 24-2-11c.

In addition to statutory conformance, this rulemaking adopts amendments that: 1) clarify the process by which a party may avoid web docket posting of sensitive or confidential information contained in its filings with the Commission; 2) clarify the information a utility must file with any petition to sell its franchise, permits or plant; 3) eliminate the requirement that parties file discovery responses with the Commission's Executive Secretary. Instead, parties would have served discovery responses only upon the requesting party and any other party that made a written request for the responses; 4) clarify that discovery responses are not evidence of record in a litigated case; 5) eliminate the option for utilities to include non project-related rate increases in a certificate proceeding, but did not preclude utilities from making separate rate filings on the same date of the filing of a certificate application; 6) further refine the Rule 26 checklist for certificate applications and updated contact information requirements to include email addresses and other relevant information; and 7) clarify the Commission's ability to impose deadlines for intervention in formal cases.

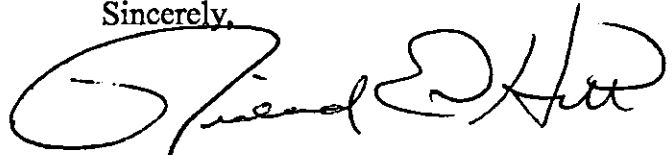
As your office is aware, by prior Order issued on July 8, 2009, the Commission promulgated proposed amendments to these Rules, and published public notice instructing interested persons to file comments and/or request a hearing by September 7, 2009. The Commission received comments from the five entities identified in the attached General Order.

Enclosed is the final Commission General Order No. 182.10 attaching the final rules in both a blacklined format indicating amendments from the proposed rules. We also enclose a CD with the clean rules in WordPerfect format. The final order contains the Commission's responses to each of the filed comments. Also enclosed are a copy of Form #5, and copies of the filed comments. Because the Commission is not part of the Cabinet structure, the Commission Order is the evidence of approval of the filing by the agency head, Chairman Michael A. Albert.

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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,

A handwritten signature in black ink, appearing to read "Richard E. Hitt". The signature is fluid and cursive, with a large initial "R" and "H".

Richard E. Hitt  
General Counsel

REH/JML/tt  
Enclosures

APPENDIX B  
**FISCAL NOTE FOR AMENDED RULES**

Rule Title: Rules of Practice and Procedure, 150 C.S.R. Series 1

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Public Service Commission of West Virginia

Address: 201 Brooks Street  
Charleston, West Virginia 25301

Phone Number: 304-340-0310 Email: jlane@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 the rulemaking. This rulemaking will have no affect on the costs or revenues of state government. This rulemaking will have no significant economic impact on the state or its residents.

**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.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs & Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
1. Estimated Total Revenues	0	0	0

Rule Title: Rules of Practice and Procedure, 150 C.S.R. Series 1

Rule Title: Rules of Practice and Procedure, 150 C.S.R. Series 1

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 rule amendments have no fiscal impact because the amendments primarily address statutory changes to certificate application pre-filing requirements and expedite the Commission's review period of certificate applications for projects funded by the West Virginia Infrastructure and Jobs Development Council. Other amendments will improve case processing. None of the amendments will impact state revenues or expenses.

Date: February 10, 2010

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 10<sup>th</sup> day of February 2010.

**GENERAL ORDER NO. 182.10**

In the matter of a rulemaking to amend the Commission's Rules of Practice and Procedure, 150 C.S.R. Series 1.

**COMMISSION ORDER**

The Commission promulgates final rule amendments pursuant to W.Va. Code §§16-13A-25, 24-2-1 and 24-2-11 and other clarifying amendments as further described on the Form No. 5 "Notice of Agency Adoption of a Procedural or Interpretive Rule or a Legislative Rule Exempt from Legislative Review."

**Background**

By Order issued July 8, 2009, the Commission promulgated proposed amendments to the Rules of Practice and Procedure, 150 C.S.R. 1 (Procedural Rules). The Order required the Executive Secretary to publish Notice of the proceeding. The required Notice advised that the purpose of the rulemaking was to bring the rules into conformance with recent statutory changes codified at W. Va. Code §§16-13A-25, 16-13A-25(e), 24-2-1, and 24-2-11. These statutory changes removed a pre-filing requirement associated with certificate filings for public service districts, removed a requirement for a notice of intent thirty days prior to a certificate filing, reduced the Commission's review time of construction projects funded by the West Virginia Infrastructure and Jobs Development Council (WVIJDC) from 270 to 180 days provided no protest is received within thirty days after notice of the application is provided (if protest is received, the 270-day clock would still apply), and eliminated the Commission's ability to require reopening of a WVIJDC-funded certificate case for a change in project costs if the change does not affect project-related rates.

Other proposed rule amendments included, but were not limited to changes to: 1) clarify the process by which a party may avoid web docket posting of sensitive or confidential information contained in its filings with the Commission; 2) clarify the information a utility must file with any petition to sell its franchise, permits or plant; 3) eliminate the requirement that parties file discovery responses with the Commission's Executive Secretary. Instead, parties would have served discovery responses only upon the requesting party and any other party that made a written request for the responses; 4) clarify that discovery responses are not evidence of record in a litigated case; 5) eliminated the option for utilities to include non project-related rate increases in a certificate proceeding,

but did not preclude utilities from making separate rate filings on the same date of the filing of a certificate application; 6) further refine the Rule 26 checklist for certificate applications and updated contact information requirements to include email addresses and other relevant information; and 7) clarify the Commission's ability to impose deadlines for intervention in formal cases.

The Notice instructed interested persons to file comments by September 7, 2009. The Notice further instructed that requests for hearing should be made by the same date.

In addition to publication of the Notice, the Executive Secretary published the proposed amendments on the Commission's website and served the Order and Notice on all regulated utilities by electronic or US Mail.

The case file contains affidavits of publication from newspapers of circulation in Mingo, Mason, Marshall, Monongalia, Cabell, Berkeley, Ohio, Harrison, McDowell, Kanawha, Logan, Randolph, Marion, Hancock, Mineral, Mercer, Wood, Raleigh, and Greenbrier.

Five entities filed comments including 1) Commission Staff; 2) Stephens Law Office, PLLC; 3) City of Follansbee by counsel Robert R. Rodecker; 4) Verizon West Virginia Inc. by counsel Joseph J. Starsick, Jr.; and 5) American Electric Power by counsel Anne C. Blankenship. No party requested a hearing.

### DISCUSSION

Based on the filed comments and continued review of the Rules, the Commission has reconsidered several of the proposed rule amendments, and made further revisions to the Procedural Rules.

#### **The Commission's responses to the comments received**

Rule 4.1.g.<sup>1</sup> Verizon West Virginia, Inc. (Verizon) asked the Commission to allow the filing of voluminous filing on a CD-ROM in any cases, and not just certificate applications and rate cases. The Commission agrees with this suggestion and made the proposed change.

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<sup>1</sup>Verizon's comment referenced Rule 4.3.c. which reflected the rule numbering in the proposed rule. The Commission has renumbered the rule as Rule 4.1.g.

Rule 4.2.<sup>2</sup> Verizon West Virginia, Inc. asked the Commission to allow email filings instead of reserving this Rule for future implementation of electronic filing. The Commission intends to move toward electronic filing, but will do so in a separate proceeding.

Rule 5.3. The Stephens Law Office requested that the Commission add a sentence to this definition to establish that the filing of a petition to intervene requires that other parties treat the filer as a party for purposes of filing papers and propounding discovery requests, until the Commission rules otherwise by Order. The Commission agreed with this suggestion and added the requested sentence.

Rule 6.2.b. Verizon asked the Commission to require that telephone numbers be included in a formal complaint. The Commission agreed with this suggestion and added this requirement.

Rule 7.1. Verizon asked the Commission to delete the last sentence allowing a defendant to a formal complain to file an answer without an attorney. The Commission deleted the subject sentence as unnecessary.

Proposed Rule 7.3.<sup>3</sup> American Electric Power (AEP) suggested that the Commission adopt a uniform service of filing requirement and delete separate references to service and certificate of service throughout the Rules. The Commission agreed with this suggestion and the general service requirements now appear at Rule 4.3.

Rule 7.4.<sup>4</sup> AEP suggested the addition of a 10-day deadline for a complainant to file a response disputing a defendant's statement that it has satisfied a complaint. The Commission agreed with this suggestion.

Proposed Rule 9.3.b Verizon and AEP objected to the Commission proposal to add a rule allowing filed responses to filed replies to Motions, Filings, Responses; etc., on grounds that the new rule would create 3-part structure of filings which would be unnecessary and lead to repetition and delay. The Commission agrees with this comment and has deleted the proposed rule.

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<sup>2</sup>Verizon's comment referenced Proposed Rule 4.3.d. The Commission has renumbered the rule as Rule 4.2.

<sup>3</sup>Proposed Rule 7.3 has been deleted for the reasons explained in this response.

<sup>4</sup>AEP's comment referenced Proposed Rule 7.5. The Commission renumbered the Rule as Rule 7.4.

Rule 9.5.<sup>5</sup> AEP opposed the addition to this rule, but the Commission determined that the rule is an appropriate addition because it serves to clarify the Commission's ability to issue rulings on an expedited basis if circumstances require.

Rule 10.3.c.2. AEP asked the Commission not to require that all affidavits of publication be filed within ten (10) days of the publication on grounds that this did not allow sufficient time. The Commission amended the filing requirement to thirty (30) days from the date of publication.

Rule 10.3.c.3. The City of Follansbee asked the Commission to clarify that municipalities that have provided public notice as required by W. Va. Code § 24-2-4b need not provide further notice as required by this rule. The Commission agrees with the City's suggestion and added a phrase to the beginning of this rule to make that clarification.

Proposed Rule 10.3.c.3.A. AEP questioned the need for and purpose of this proposed rule. While the Commission's purpose was to avoid confusion in rate filings, the Commission decided to delete the proposed rule, and take steps outside of this rulemaking proceeding to address the potential for confusion. Specifically, the Commission intends to begin incorporating yet-to-be-implemented project-related rates into utility tariffs with appropriate descriptions of when the rates will become effective.

Rule 10.3.h. The City of Follansbee asked that the Commission clarify that the procedure set forth in the third sentence of this Rule applies to all public utilities and not only to public service districts with WVIJDC approval and funding for projects. The Commission agrees with the City's interpretation but believes the rule does not require clarification. The third sentence, which requires utilities with WVIJDC project approval to notify the Commission of a change in project costs not affecting rates or scope of a project, applies to all utilities with WVIJDC approval/funding, and not only to public service districts.

Rule 10.4.a. AEP asked the Commission to strike the word "two" in this rule to avoid unintentional exclusion of contracts involving more than two utilities. The Commission agree with this suggestion.

Rule 10.6. Verizon asked the Commission to either delete this Rule or state that the rule is not applicable to telecommunications utilities. The Commission disagrees with Verizon's comments.

Rule 12.2.b. Verizon commented that this rule should specify that a hearing panel must consist of a combination of Commission members, Administrative Law Judges or designated Commission employees. The Commission does not agree with this limitation.

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<sup>5</sup>AEP's comment referenced Proposed Rule 9.4. The Commission has renumbered the Rule as 9.5.

Rule 12.3.b.<sup>6</sup> AEP commented that the Commission should add a phrase noting that the Commission may limit party participation by Order. The Commission agrees with this suggestion and added a phrase to that effect at the end of the rule.

Rule 12.6.a. Consistent with its comment on Rule 5.3., the Stephens Law Office requested that the Commission add a sentence to this rule to establish that the filing of a petition to intervene requires that other parties treat the filer as a party for purposes of filing papers and propounding discovery requests, until the Commission rules otherwise by Order. The Commission agreed with this suggestion and added the requested sentence.

Rule 12.6.c. AEP requested inclusion of a provision stating that parties to a proceeding have an opportunity to be heard upon an outside entity's filing of a petition to intervene. The Commission added a provision stating that parties may file responses to petitions to intervene within ten (10) days, but noted that the Commission may act on a petition to intervene before the expiration of the ten (10) days.

Rule 13.6. In response to comments filed by Commission Staff, the Commission reconsidered its original proposal to end the practice of parties filing responses to discovery requests with the Executive Secretary. The finally adopted rule restores the requirement to file a copy of such responses with the Executive Secretary. The Commission added a clarification, however, that responses to discovery requests are not part of the evidentiary record of a case unless identified responses are made a part of the record by the parties or by Commission Order.

Rule 13.6.d. Verizon requested that the rules require both responses and objections to discovery requests to be filed on the same due date. Verizon believes that a ten (10) day objection period was too early, and that both objections and responses should be due in twenty (20) days. The Commission does not agree that the due dates should be the same, but the Commission extended the objection period from ten (10) to fourteen (14) days.

Rule 13.8. Verizon objected to the Commission's deletion of a sentence that read, "The evidence to be admitted at hearing shall be competent material and relevant to the issue." The Commission continues to regard the sentence as unnecessary because parties are free to address the reliability and/or relevance of information presented at hearing by making evidentiary objections.

Rule 17.1. The Commission does not agree with AEP's request to add the word "request" to the first sentence.

Rules 17.3 and 17.4. The Commission agrees with AEP's suggestion to replace "final Order" with simply "Order."

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<sup>6</sup>AEP's comment referenced Proposed Rule 12.4.a. The Commission has renumbered the Rule as 12.3.b.

Rule 18.1. Verizon disagreed with the proposed rule deleting the first sentence. The Commission does not agree with Verizon that a party has a right to file a brief or present argument and prefers to have briefing at the Commission's discretion.

Rule 19.3. Stephens Law Office asked that petitions for reconsideration of Commission Orders in cases filed pursuant to W.Va. Code §§ 24-2-11a or 24-2-11c be due in thirty (30) days from the date of mailing of the Commission's Order, instead of in ten (10) days. The Commission disagrees with this request but added flexibility to the rule by noting that the Commission may establish another deadline, not to exceed thirty (30) days.

Rule 21.1. The Commission agreed with Commission Staff's request to insert "cash flow statement" and "fiscal year" in this rule in Order to insure the filing of appropriate financial data and to recognize differing accounting reporting periods.

Rule 26.3.b.<sup>7</sup> The Commission had proposed to amend the rule by continuing to allow requests for non project-related rate increases in the context of a certificate case, but to provide that the Commission would deem such requests to be a Tariff Rule 42A filing. Staff recommended that the Commission disallow all non-project related rate requests in the context of a certificate case. Upon review, the Commission had decided to withdraw the proposed amendment and leave the rule substantially as is was. The Commission believes, however, that applicants should be prohibited from filing non-project related rates with proposed effective dates in the context of a certificate case, and the Commission intends to seek legislative relief to prevent such filings.

Rule 26.3.c.<sup>8</sup> Staff requested that the Commission require applicants to provide additional information regarding the number of customers currently served by private wells and expected revenues. The Commission agrees with Staff's request.

Rule 26.9.b.<sup>9</sup> Staff opposed the Commission's proposed amendment to this rule, but the Commission believes the rule amendments will result in more efficient case processing, and that the language of the rule provides adequate protection to the public.

Form 14 The Commission agrees with Staff's suggested amendments to the form Order requiring public notice of the filing of a certificate case.

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<sup>7</sup>Staff's comment referenced Proposed Rule 26.2.3.a.2. The Commission has renumbered the rule as 26.3.b.

<sup>8</sup>Staff's comment referenced Proposed Rule 26.1.3.a.3. The Commission has renumbered the rule as 26.3.c.

<sup>9</sup>Staff's comment referenced Proposed Rule 26.1.9.b. The Commission has renumbered the rule as 26.9.b.

## **Additional Commission revisions to the Proposed Rules.**

Rule 1.7.a. The Commission decided it would better serve the public by providing contact information for the agency at the outset of the Rules.

Rule 2.1. The Commission deleted superfluous text from this proposed rule. Unless legally protected from public disclosure as a trade secret, all filings in Commission case files are available to the public upon request and payment of applicable retrieval and/or copy fees.

Rul 4.1.f. and 4.1.g. The Commission clarified the process to file documents under seal, and to file voluminous filings in PDF format on CD or DVD.

Rule 4.3.c. The Commission added a provision that except for formal complaint cases, case service lists will be available on the Commission's internet web site. Formal complaint service lists are not included in the rule to avoid publication of personal mailing and email addresses and phone numbers.

Rule 7.4. The Commission modified this rule to facilitate the dismissal of formal complaint cases that are resolved prior to hearing.

Rule 9.1.b. The Commission added a requirement that motions for extension of time and motions to toll be accompanied by a statement that the movant has contacted, or taken reasonable steps to contact, all parties and that the parties have agreed to the motion or have no objection to the motion.

Rule 9.4. The Commission added this rule because the prior rules did not specifically address the time for parties to respond to a Staff memorandum.

Rules 10.3.c.6 and 19.5.b. The Commission added these rules to clarify the public notice requirements for petitions to reopen certificate cases for approval of project-related rates higher than those originally approved by the Commission.

Rule 10.11. The Commission modified this rule to clarify that a hearing is not necessary in every application proceeding.

Rule 12.3.b. The Commission added a phrase to this Rule to advise parties that the Commission may limit party participation in some proceedings, such as in cases with multiple intervenors who share common interests.

Rule 12.4. The Commission added this rule to clarify the different roles of intervenors and protestants.

Rule 13.7.a. These rule modifications will assist hearing participants in bringing the correct number of copies of evidence documents to a hearing.

Rule 26. The Rule 26 checklist for water and sewer utility applications for certificates of convenience and necessity is now a list of required items, instead of merely guidance on completing an application.

Form 14 In addition to the modifications responsive to the Staff comment, the Commission revised the Form 14 Notice of Filing for Certificate Applications to more clearly set forth non project-related rate increase requests from project-related rate increase requests.

Form 14-A The Commission developed this new form public notice that is applicable to petitions to reopen certificate proceedings that request higher project-related rates than those originally approved.

### FINDINGS OF FACT

1. The Commission issued proposes rule amendments to its Rules of Practice and Procedure on July 8, 2009 and established a public comment period.

2. Five interested parties, 1) Commission Staff; 2) Stephens Law Office, PLLC; 3) City of Follansbee by counsel Robert R. Rodecker; 4) Verizon West Virginia Inc. by counsel Joseph J. Starsick, Jr.; and 5) AEP by counsel Anne C. Blankenship, filed comments regarding the proposed rule amendments.

3. No party requested a hearing on the rule amendments.

4. The Commission has considered and deliberated on the filed comments.

### CONCLUSIONS OF LAW

1. It is appropriate to adopt final rules in this proceeding to bring the Rules of Practice and Procedure into conformance with recent statutory changes codified at W.Va. Code §§16-13A-25, 16-13A-25(e), 24-2-1, and 24-2-11.

2. The recent statutory changes removed a pre-filing requirement associated with certificate filings for public service districts, removed a requirement for a notice of intent thirty days prior to a certificate filing, reduced the Commission's review time of construction projects funded by the WVIJDC from 270 to 180 days provided no protest is received within thirty days after notice of the application is provided (if protest is received, the 270-day clock would still apply), and eliminated the Commission's ability to require reopening of a WVIJDC-funded certificate case for a change in project costs if the change does not affect project-related rates.

3. The final revised rules should be adopted because the revisions address the statutory changes and make other appropriate revisions to the Rules of Practice and Procedure to clarify filing requirements and improve case processing.

### ORDER

IT IS THEREFORE ORDERED that the Executive Secretary of the Commission shall submit the final Rules of Practice and Procedure, 150 C.S.R. 1, attached hereto, to the Secretary of State.

IT IS FURTHER ORDERED that the Final Rules shall be effective as of April 12, 2010.

IT IS FURTHER ORDERED that Attachment A hereto shows the modifications comparing the Proposed Rules to the Final Rules.

IT IS FURTHER ORDERED that the rules submitted to the Secretary of State shall be accompanied by the required Form No. 5 "Notice of Agency Adoption of a Procedural or Interpretive Rule or a Legislative Rule Exempt from Legislative Review."

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order, with Attachment A on the parties that filed comments in this proceeding, by United States Mail and on Commission Staff by hand delivery.

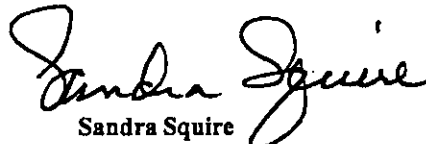
IT IS FURTHER ORDERED that the Executive Secretary provide copies of the final rules to interested parties who address inquiries to Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, Post Office Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that the Executive Secretary cause a true and accurate copy of the final rules to be posted upon the Commission's website.

IT IS FURTHER ORDERED that, upon entry hereof, this case shall be removed from the Commission's open docket.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order and the attached Notice on all regulated utilities in the State by electronic mail, or, if electronic mail is not available, by United States Mail, and on Commission Staff by hand delivery.

A True Copy, Teste:

  
Sandra Squire  
Executive Secretary

JML/tt  
go18210ca.wpd

150CSR1

2010 FEB 10 PM 2:15

ATTACHMENT A  
COMMISSION OF STATE

**TITLE 150  
PROCEDURAL RULES  
PUBLIC SERVICE COMMISSION**

**SERIES 1  
RULES OF PRACTICE AND PROCEDURE**

**§150-1-1. General.**

1.1. Scope. -- The following rules govern the organizational operations of the Public Service Commission and set forth the various requirements for the administrative process and procedures followed by the Commission and all parties wishing to make use of the Commission as an administrative forum.

1.2. Authority. -- W. Va. Code §§ 24-1-1(f), 24-1-7, 24-2-1 and 24-2-2.

1.3. Filing Date. -- February 10, 2010

1.4. Effective Date. -- April 12, 2010

1.5. RESERVED

1.6. Application of rules.

If hardship results from the application of any rule contained within these Rules of Practice and Procedure, or if unusual difficulty is involved in immediately complying with any rule, or upon other good cause shown, an applicant may request that the Commission grant a temporary or permanent modification, exemption or waiver from its provisions. The Commission will not consider any application for modification, exemption or waiver in the absence of a full and complete justification for such action.

1.7. Rule 1, General offices and hearings.

1.7.a. The contact information for the Commission is:

Public Service Commission of West Virginia  
201 Brooks St.  
P.O. Box 812  
Charleston, WV 25323  
Main switchboard telephone 304-340-0300  
Main telefax 304-340-0325  
Web site: [www.psc.state.wv.us](http://www.psc.state.wv.us)

1.7.b. The general offices of the Commission shall be kept open, in charge of the Executive Secretary, or some other competent person, each working day from 9 a.m. until 5 p.m., for the purpose of filing complaints, applications and petitions, issuing and returning notices, and making and directing interlocutory motions, orders, rules and other proceedings preparatory to the hearing of cases on the Commission's formal docket.

1.7.c. Public sessions of the Commission for hearing motions, evidence or oral argument, or for public conference, shall be held at the Commission's offices at 201 Brooks Street, Charleston, WV, or such other places as may be designated by it, at such time as may be set upon notice by the Commission, subject to change upon such notice as may be practical.

**§150-1-2. Rule 2, Executive Secretary to Furnish Information.**

2.1. The Executive Secretary of the Commission will, upon request, advise any party as to the form of petition, complaints, answer or other paper desired to be filed in any case.

**§150-1-3. Rule 3, Records.**

The Executive Secretary shall keep and index the following records:

3.1. Formal Docket stating each formal case of complaint, investigation, application or petition, with a file number corresponding to the number of the case, together with brief chronological notations of the proceedings in the case.

3.2. Order Books recording, on the day of filing, all recommended and final Commission orders. The Executive Secretary shall keep and maintain separate Order Books for utility and motor carrier orders, and for General Orders.

**§150-1-4. Rule 4, Filings and Service of Filings.**

**4.1. Filings.**

4.1.a. The Executive Secretary shall stamp with the date of receipt all communications addressed to the Commission and file all petitions, applications, answers, pleadings, reports, exhibits, depositions, transcripts, orders and other papers or documents shall be filed in the general offices kept by the Executive Secretary, and shall be stamped showing the date of the receipt thereof.

4.1.b. All papers, of whatever character, offered for filing in any case shall show the title and style of the case and the docket number. The Executive Secretary is not required to file unidentified papers.

4.1.c. All papers, other than complaints and engineering plans and specifications, offered for filing in any case shall include an original and twelve (12) copies. One of the twelve (12) copies shall be filed unbound (or bound only with paper clips or binder clips to facilitate document scanning.) The foregoing requirement applies to discovery requests. A party shall file one copy of its engineering plans and specifications. A party shall file only the original complaint. A pro se complainant shall file only originals of any paper filed in a case. A party may make filings by facsimile provided that the faxed document is addressed to the Executive Secretary, does not exceed 20 pages, the fax includes a certificate that the filer mailed the original to the Executive Secretary on the same day that the facsimile was sent and that the filer faxed the filing at the same time to all other parties in the case, if possible. The original mailed to the Executive Secretary must be accompanied by the requisite number of copies. The filing party must comply with all other notice and service requirements. A party may obtain a date-stamped copy of its filing by a request which includes an additional copy of the filing along with a stamped, self-addressed envelope.

4.1.d. A party or an entity seeking party status, that is not a corporation or limited liability company, including foreign and professional limited liability companies, may make any filings with the Commission by either a duly authorized person or by an attorney at law. A party or entity seeking party status that is a corporation or limited liability company, may file preliminary filings by either a duly authorized person or an attorney at law. A party or entity seeking party status that is a corporation or limited liability company making filings that are not preliminary filings must do so by an attorney at law. Professionals other than attorneys, retained by a party or an entity seeking party status, may not file pleadings with the Commission but may file responses to data requests, unless the party is represented by an attorney, in which case all filings shall be made by the attorney.

1. For purposes of this rule, the following definitions apply: (1) the term "a party or an entity seeking party status" is defined as an individual, partnership, association, cooperative, limited liability company, including a foreign or a professional limited liability company, or corporation; (2) the term "attorney at law" includes attorneys admitted to practice before the Courts of this State, before the Courts of last resort of other states, or before the Supreme Court of the United States; provided that attorneys filing pleadings before the Commission who are not licensed to practice in West Virginia shall have sought and obtained permission to practice before the Commission for each proceeding in which they participate in compliance with Rule 8.0 of the Rules for Admission to the Practice of Law of the State of West Virginia; (3) the term "preliminary filings" includes pre-filings, petitions, applications, complaints, and answers; (3) the term "duly authorized person" is defined as the individual when an individual is a party or seeks party status, a partner in a partnership, the president of an association, or cooperative, or the chairman of the board, chief executive officer, or general manager of a corporation, or other entity.

4.1.e. The Executive Secretary will electronically scan all filings for posting on the Commission's web docket for public viewing, except for confidential information or information that should not be scanned as directed by the Commission. If a filer believes that a filing contains sensitive or confidential information, then the filer shall make two separate filings, one of which shall be redacted, and the other shall be un-redacted and filed under seal.

4.1.f. All filings of information under seal shall include an original and 2 copies in a sealed envelope, with a cover letter attached to the outside of the sealed envelope generally identifying the sealed information and stating that the filer intends to file the enclosed information under seal. All such filings must be accompanied by a statement that the filer will file its motion for protective treatment within one week.

4.1.g. Where possible, filers should include with voluminous filings a copy on electronic media of documents in PDF file format and, if available, an electronic version of any spreadsheet or data file exhibits. Voluminous filings containing color maps, graphs, etc. should be filed in PDF file format. The filings should be broken into individual PDF documents, each with a specific file name, with a file size of no more than 200 megabytes. An index should be provided on the cover letter stating the full path with filename and description for each file. A copy of the cover letter should also be provided on the electronic media. At this time acceptable electronic media includes CD-Rom and DVD-Rom.

4.2. RESERVED FOR ELECTRONIC FILING RULES.

4.3. Service of Filings.

4.3.a. At the same time that a party makes a filing with the Executive Secretary of the Commission, the party shall serve a copy of the filing on the attorney for each party, or on the party him or herself if not represented by an attorney, by email or first class mail. The filing party shall certify to the Executive Secretary that service has been made.

4.3.b. A party filing an answer, amendment, motion, response, reply, or Staff memorandum shall certify to the Executive Secretary that the filing party has served a copy on all other parties to a proceeding.

4.3.c. Except for formal complaint cases filed by utility customers, the Executive Secretary shall make a service list for all docketed cases available on the Commission's web docket. The service lists shall provide names and mailing addresses but shall not include telephone numbers or email addresses. To obtain a service list in a customer formal complaint case, parties or petitioners may send an electronic mail containing the case number to [caseinfo@psc.state.wv.us](mailto:caseinfo@psc.state.wv.us).

**§150-1-5. Rule 5, Parties and Protestants.**

Parties to proceedings before the Commission are known as applicants, petitioners, complainants, defendants, respondents, and intervenors.

5.1. "Complainant" means any party in a formal complaint who complains of anything done or omitted to be done in violation of any law, rule, regulation or order administered or promulgated by the Commission.

5.2. "Defendant" means any party subject to the laws, rules, regulations and orders administered by the Commission against whom any complaint is filed.

5.3. "Intervener" means any person permitted by the Commission to intervene as a party in any proceeding. Commission Staff need not petition to intervene and will be considered a party in any case in which it chooses to participate. Once an individual or entity has filed with the Commission a petition for leave to intervene in a proceeding in accordance with Rule 12.6., that individual or entity is considered a party for the purposes of filing papers with the Commission in accordance with Rule 4 and propounding discovery requests on other parties in accordance with Rule 13.6, unless and until the Commission rules

otherwise by order.

5.4. "Respondent" means any party subject to the jurisdiction of the Commission to whom the Commission issues notice instituting a proceeding or investigation or inquiry of the Commission; and any party in interest or person ordered before any pending proceeding of the Commission.

5.5. "Applicant" means any party who files an application with the Commission for approval, determination, consent, certification or authorization of the Commission.

5.6. "Petitioner" means any party on whose behalf a petition is made for approval, determination, consent, certification or authorization of the Commission.

5.7. "Protestant" means any person who objects on the grounds of public or private interest to the approval, determination, consent, certification or authorization of any application, proposed tariff change, or petition which the Commission may have under consideration, and who is not a party to the proceeding (a protestant in a motor carrier case who wishes to participate as a party to a case must seek intervenor status).

#### **§150-1-6. Rule 6, Complaints.**

##### **6.1. Informal complaints.**

6.1.a. An informal complaint may be made by letter, other writing, telephone, through the Commission's Internet website, or by any other form of direct contact with Commission Staff. Commission Staff addresses an informal complaint through written correspondence or other form of communication with the utility complained against and attempts to resolve the complaint without formal hearing.

6.1.b. An informal complaint need not be in a specific format but must contain the essential elements of a formal complaint, including name, mailing address, and email address (if available) of the complainant, the correct name of the utility against which complaint is made, a clear and concise statement of the facts involved, and a request for relief. If Commission Staff takes an informal complaint over the telephone, Staff shall make a record of the foregoing essential elements.

6.1.c. The utility shall provide a response to Commission Staff by letter, other writing, telephone call or any other form of direct contact with Staff within ten (10) days of the Commission Staff's contact with the utility.

6.1.d. The informal complaint procedure is recommended in the majority of cases. If the informal complaint procedure fails to resolve the complaint the complainant may file and prosecute a formal complaint, and the informal proceeding will be discontinued. The informal complaint procedure does not preclude the filing of a formal complaint.

6.2. Formal complaints.

6.2.a. Any person or entity may complain to the Commission by petition substantially in the form of Form No. 1 attached to these Rules of anything done or omitted to be done by the public utility in violation of any of the provisions of the Public Service Commission law of West Virginia. Two or more complainants may join in one complaint if their respective causes of action are against the same defendant or defendants and involve substantially the same violation of law and like set of facts. When any defendant is operated by a receiver or trustee, both the utility and its receiver or trustee must be made defendants.

6.2.b. A formal complaint must state the names of all parties in full without abbreviation, and the mailing and email addresses and telephone number (if available) of each complainant with the name, mailing and email addresses, telephone number and West Virginia Bar ID Number of his/her attorney, if any.

6.2.c. A formal complaint shall fully and completely advise the defendant or defendants and the Commission of the provision or provisions of the law that have been or will be violated. The formal complaint shall state each distinct charge concisely in a separate paragraph. The formal complaint shall state specifically the relief sought.

6.2.d. A formal complaint shall be signed and sworn to as set forth on Form No. 1.

6.2.e. Upon the filing of a formal complaint and the issuance of an order to investigate, the Commission will require that a copy of the complaint be served on each defendant, together with a copy of an order requiring each defendant to satisfy or answer the complaint within ten (10) days. Such service shall be by email or first class mail unless otherwise ordered.

6.2.f. When issues are joined, the Commission may set a time and place for an evidentiary hearing at the Commission's offices in the City of Charleston or elsewhere in the State at the Commission's discretion. If a formal complaint does not present substantial issues of fact requiring a hearing, the Commission may issue an order on the merits based on the information contained in the file.

6.2.g. The complainant must in all cases establish the facts alleged to constitute a violation of the law, unless the defendant admits the same or fails to answer the complaint.

6.2.h. In case of failure to answer, the Commission may hear proof of facts as the Commission deems proper and reasonable, and may investigate and enter an order justified by the facts and circumstances.

6.3. General Investigations.

6.3.a. The Commission may initiate a general investigation of a public utility, or of any general issue affecting public utilities or other entities, on motion of the Commission, Commission Staff, or any other person. Any motion, other than the Commission's own motion, to initiate a general investigation shall be served on the utility in the same manner as a formal complaint is served.

6.4. Interim relief.

6.4.a. A request for interim relief may be included in a complaint. The title must clearly indicate that interim relief is requested. The pleading must allege the extraordinary facts of immediate and irreparable injury or public interest that justify the Commission granting interim relief prior to a final decision.

**§150-1-7. Rule 7, Answer.**

7.1. Answer to Formal Complaint.

Within ten (10) days from the date of service of the complaint and order as provided in Rule 6, each defendant named in the complaint shall file an answer, duly verified, and substantially in the form of Form No. 2. The Commission may shorten or extend the ten (10) day period when it deems advisable.

7.2. Answer to General Investigation.

The Commission may require an answer to a motion for initiation of a general investigation made by the Commission, Commission Staff, any other person.

7.3. Content.

The answer shall fully and completely advise the parties and the Commission of the nature of the defense, and shall admit or deny specifically and in detail each material allegation of the pleading answered.

7.4. Satisfaction.

If a defendant satisfies a formal complaint, it shall file a verified statement to that effect. The complainant shall have ten (10) days to file a response if the complainant disputes that the complaint has been satisfied. If the complainant does not file such a response, the Commission will then consider whether the proceeding should be dismissed.

7.5. Computation of Time.

In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the computed period shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday or a legal holiday. When calculating a period of time from the date of service of a notice or other paper, the date of service shall be the date the sender certifies in writing that he or she mailed an item by first class mail, or the date of personal service.

**§150-1-8. Rule 8, Amendments.**

8.1. A party may amend any application, complaint, document or other pleading prior to notice of the hearing. After notice of a hearing a party may file a written motion for leave to amend a pleading or document that may be granted in the discretion of the Commission. Any amendment shall contain the notification of service upon all known interested parties. Amendments to any application, complaint, document or other pleading shall not unduly broaden the scope of the issues originally filed with the Commission, unless the Commission in its discretion allows such amendments.

8.2. The Commission does not require that parties observe technical forms and allegations in complaints, answers or other papers.

8.3. Further statements.

The Commission may order a further pleading.

**§150-1-9. Rule 9, Motions, Staff Recommendations, Filings, Responses, Replies.**

9.1. Motions.

9.1.a. After a case is docketed based on an initial filing, all requests for Commission action shall be in the form of a motion.

9.1.b. All motions for extension of time and motions to toll must be accompanied by a statement that the movant has contacted, or taken reasonable steps to contact, all parties and that the parties have agreed to the motion or have no objection to the motion.

9.2. Response.

Unless otherwise ordered by the Commission or otherwise provided in these rules, any party wishing to respond to a motion must file the response within ten (10) days of the date the motion is served, or as otherwise ordered by the Commission.

9.3. Reply.

9.3.a. Unless otherwise ordered by the Commission, any party wishing to reply to a response must file the reply within ten (10) days of the date the response to the motion is served.

9.3.b. The original filer may file a response to the reply within five (5) days of the filing date of the reply.

9.4. Any party wishing to respond to a Staff Memorandum must file a response within ten (10) days.

9.5. The Commission need not await the filing of responses to Commission Staff memoranda, party motions, or party replies, and may issue an order ruling on a Commission Staff recommendation or any motion or reply at any time after it is filed.

**§150-1-10. Rule 10, Applications for authority or permission.**

**10.1. Change or discontinue service.**

A public utility or motor carrier subject to the Commission's jurisdiction, desiring to abandon any regular service shall file with the Commission an original and twelve (12) copies of an application for authority so to do substantially in the form of Form No. 3 attached hereto.

**10.2. Change of rates.**

A public utility or motor carrier desiring to change its rates, rules and/or regulations shall comply with the Commission's Rules for the Construction and Filing of Tariffs, 150 C.S.R. 2.

**10.3. Certificate of convenience and necessity.**

10.3.a. A public utility, person or corporation, or other entity required by statute to obtain from the Commission a certificate of convenience and necessity or a certificate of need, shall comply with the following as applicable. (For motor carrier certificates of convenience and necessity, see 150 C.S.R. 9.)

10.3.b. A public utility, person or corporation, or other entity, intending to file an application for a certificate of convenience and necessity pursuant to W. Va. Code § 24-2-11 shall, at least thirty (30) days prior to the date it intends to file its application, give the Commission notice of its intent to file an application by filing with the Commission's Executive Secretary, an original and two (2) copies of a letter of notification. The Commission may modify or waive this requirement. Provided, however, that projects approved by the West Virginia Infrastructure and Jobs Development Council need not provide the thirty-day notice.

10.3.c. 1. To file an application for a certificate of convenience and necessity pursuant to W. Va. Code § 24-2-11, a public utility, person or corporation, or other entity, may, thirty (30) days following the filing of a notice of intent to file a certificate application as required by Rule 10.3.b., file with the Commission's Executive Secretary, an original and twelve (12) copies of its application for a certificate of convenience and necessity. Each of the twelve (12) copies should be collated as a set. To be acceptable, an application shall include; (i) a completed Form No. 4, attached to these Rules, (ii) a completed Form No. 14 with the exception that the utility shall leave blank the date of the order and the case number,

and (iii) for water and sewer utilities - a completed application should include to the extent applicable all information described in the checklist appearing at Rule 26 of these Rules. The Commission may dismiss any application that is incomplete. Applicants are requested, but not required, to also email or provide on a CD the completed Form No. 14 to the Commission's Executive Secretary in Word or WordPerfect format.

2. The Executive Secretary shall assign a case number and issue in order form a completed Form No. 14 to the utility that requires the utility to publish the Notice of Filing as a Class I legal advertisement in a qualified newspaper(s), published and of general circulation in each county where the utility provides service, and to separately mail the Notice of Filing to each of its resale customers, via certified mail, return receipt requested. The utility shall file affidavits of publication provided by the newspaper(s) with the Commission as soon as possible after the Notice of Filing is published and no later than 30 days from the date of publication.

3. Except for utilities that have provided notice of project-related rate increases pursuant to W. Va. Code § 24-2-4b, and related Commission rules, if a utility seeks a project-related rate increase in a certificate application, the utility shall, within thirty (30) days of the date the Commission issues the Form No. 14 Notice of Filing, have completed the mailing of separate notices to each of its customers by one or a combination of the following methods: (i) inclusion of the Form No. 14 Notice of Filing as a bill insert; (ii) separately mailing the Form No. 14 Notice of Filing; or (iii) only for utilities that bill by postcard instead of in an envelope, and who elect not to separately mail the Form No. 14 Notice of Filing, inclusion of a statement on a postcard billing as follows: "This utility is seeking a rate increase. Details available in newspaper publications or at the utility office after [utility to insert date application filed with Commission] by calling [utility to insert utility office telephone number]."

4. Following publication of Notice, separate mailing of Notice, and filing of affidavits, the Commission may, in the absence of substantial protest, waive formal hearing and grant, deny or modify the certificate of convenience and necessity application based on the information provided.

A. For purposes of Rule 10.3 the term "substantial protest" shall mean a protest that either raises factual matters that warrant an evidentiary proceeding or a number of public protests that a reasonable person would conclude requires a hearing.

5. W. Va. Code § 24-2-11 requires the Commission to render a final decision on applications for a certificate of convenience and necessity within two hundred seventy days

of the filing of the application and within ninety days after final submission of an application for decision following a hearing. However, for applications relating to construction of water and sewer projects for which the projected total cost is less than \$10 million, the Code requires the Commission to render a final decision within two hundred twenty-five days of the filing of the application.

**NOTE: (See Rule 26 checklist for water and sewer utilities filing applications for certificates of convenience and necessity.)**

6. A petition to reopen an application for a certificate of convenience and necessity that seeks Commission approval of any change to the proposed project that will result in rates higher than the rates previously noticed to the public must comply with Rule 19.5.b.

10.3.d. A public utility, person or corporation, desiring to construct a high voltage transmission line of two hundred thousand (200,000) volts or higher, shall file a notice of intent to file an application, and an application for a certificate of convenience and necessity in accordance with Rules 10.3.a, 10.3.b. and 10.3.c. In addition to the information required by Rule 10.3.c., the application shall include all of the information required by Rule 9 of the Commission's Rules for the Government of Electric Utilities, 150 C.S.R. 3, and by W. Va. Code § 24-2-11a.

10.3.e. A person, association, firm or corporation desiring to operate as a common or contract carrier by motor vehicle in the transportation of persons or property for hire over the public highways of this State shall file an original and twelve (12) copies of an application for a certificate of convenience and necessity or a permit to operate as a common or contract motor carrier, in the form identified in section 10.1 et seq. of the Commission's Rules for the Government of Motor Carriers of Passengers and Property, 150 C.S.R. 9.

10.3.f. An owner and/or operator of a commercial solid waste facility must obtain a certificate of need before commencing any additional or new commercial solid waste facility activities not explicitly authorized by an existing certificate of need, regardless of whether such additional or new activities would require a major permit modification from the West Virginia Department of Environmental Protection, when such activities would have a significant impact upon rates, upon the applicant, upon the applicant's competitors, or upon the public. Such additional or new commercial solid waste activities include, but are not limited to, the following -- composting activities, recycling activities, and transfer station activities -- regardless of the location of such activities relative to the currently permitted commercial solid waste activity.

1. An owner and/or operator of a commercial solid waste facility shall apply for a certificate of need by filing a completed Form No. 15, attached hereto, together with twelve (12) copies of the same with the Commission's Executive Secretary. In addition to Form No. 15, the utility shall file a completed Form No. 17 leaving blank the date of the order and the case number. When the Executive Secretary's office has assigned a case number, a completed Form No. 17 will be issued to the utility as an order requiring publication of the Notice of Filing as a Class I legal advertisement in a qualified newspaper(s), published and of general circulation in each county in the watershed where the commercial solid waste facility is or will be located, and in a qualified newspaper that has statewide circulation. The utility shall file affidavits of publication provided by the newspaper(s) with the Commission as soon as possible after the Notice of Filing is published.

2. An owner and/or operator of an existing commercial solid waste facility may file an application for an amendment of a certificate of need and for expedited processing, in the form attached hereto as Form No. 16, together with twelve (12) copies of the same, and receive expedited processing of its application, if the owner and/or operator seeks to engage in additional activities within the facility's permitted acreage, if the activity is determined not to have a significant impact upon rates, upon the applicant, upon the applicant's competitors, or upon the public, regardless of whether the new activities have been classified as a major modification by the Department of Environmental Protection. In addition to Form No. 16, the utility shall file a completed Form No. 17 leaving blank the date of the order and the case number. The Executive Secretary's office shall assign a case number and issue a completed Form No. 17 as an order requiring publication of the Notice of Filing as a Class I legal advertisement in a qualified newspaper(s), published and of general circulation in each county in the watershed where the commercial solid waste facility provides, or will provide service, as indicated in its certificate application and/or its Department of Environmental Protection permit. The utility shall file affidavits of publication provided by the newspaper(s) with the Commission as soon as possible after the Notice of Filing is published.

3. Upon receipt of Form No. 16, the Commission may issue the applicant an amended certificate of need without a hearing, unless the Commission determines that the planned expansion or construction has a significant impact upon rates, upon the applicant, upon the applicant's competitors, or upon the public. In the alternative the Commission may, if appropriate, issue an order requiring the applicant to file a standard application for a certificate of need in the form of Form No. 15.

10.3.g. W. Va. Code § 24-2-11(e) requires the Commission to render a final decision on any application that has received the approval of the West Virginia Infrastructure and Jobs Development Council within one hundred-eighty days after the application filing

date, but if substantial protest is received within thirty (30) days after the publication of notice, the Commission must render its final decision within two hundred seventy days of the filing of the application, or if the project is a water or sewer project with projected construction costs of less than \$10 million, within two hundred twenty-five days of the filing of the application. For purposes of 10.3.g:

1. Commission Staff shall treat all filings made pursuant to W. Va. Code § 24-2-11(e) under a one hundred-eighty (180) day deadline unless a substantial protest is timely filed after public notice in the proceeding.

2. Commission Staff filing an objection in the proceeding shall not be considered a "substantial protest" for purposes of extending the deadline.

10.3.h. A public utility whose project has received a certificate of public convenience and necessity from the Commission must notify the Commission in writing and receive approval of any change in the scope, cost, or funding of the project or any change in project-related rates prior to beginning or continuing construction on such project. Provided, however, a public utility whose project has received a certificate of public convenience and necessity from the Commission and has been approved by the West Virginia Infrastructure and Jobs Development Council, is not required to, and cannot be compelled to, reopen the proceeding if the cost of the project changes but the change does not effect the rates established for the project. In such instance the utility shall notify the Commission that there has been a change in project costs that does not affect rates or the scope of the project, with such notification to be in the form of either an affidavit signed by the utility's certified public accountant for the original certificate filing, or verification from the utility's bond counsel.

1. A utility seeking Commission approval of a change in project-related rates must provide the following information along with its filing:

- A. a letter supporting additional funding if applicable,
- B. the date of the bond closing, if any, and the date a Commission order is needed,
- C. a copy of the bid documents,
- D. a description of changes to the plans and specifications of the project,

E. a chart showing original construction cost, original project cost, and original amounts of funding from each funding agency, in addition to a showing of the revised construction cost, revised project cost, and revised amounts of funding from each funding agency,

F. proposed publication for use in notifying customers in those instances where a proposed rate increase by the utility will exceed previously noticed rates.

G. a proposed tariff containing the proposed rate change by the utility if applicable and supporting information for such increase.

#### 10.4. Contracts between utilities.

10.4.a. Whenever a public utility, except railroads other than street railroads, desires to enter into any contract with any other utility to operate its line or plant or to enter into any contract to operate the utilities' lines or plants in connection with each other (except physical connections between utilities supplying the same service or commodity for temporary purposes only) the utilities shall file an original and twelve (12) copies of a joint petition with the Commission for authority so to do, substantially in the form of Form No. 5. The petition shall set forth the names and mailing and email addresses of the petitioners, a detailed statement describing the proposed contract, the effect it will have upon the service of the petitioners, the consideration to be paid for the service to be rendered, whether or not any other utility will be affected by the proposed operation and a statement why the petition should be granted.

10.4.b. If the connection is physical between utilities supplying the same service for temporary purposes only, the utilities involved shall immediately give notice in writing of the physical connection to the Commission. The notice shall state the names and mailing and email addresses of the utilities, the utility service they provide, the location and description of the physical connection and the reason it was made.

#### 10.5. To control or acquire property of another utility.

A public utility, except railroads other than street railroads, desiring to purchase, lease or in any other manner acquire control, direct or indirect, over the franchise, licenses, permits, plant, equipment, business or other property of any other utility shall file with the Commission an original and twelve (12) copies of its application for authority so to do, substantially in the form of Form No. 6. The petition shall set forth the name and mailing and email addresses of the petitioner, the name and mailing and email addresses of the utility

whose property, etc., is sought to be acquired, the financial condition of the petitioner and of the utility whose property, etc., is sought to be acquired, the property, etc., to be acquired and location thereof, (including a detailed map of the subject property, if applicable) the terms and conditions of the proposed transaction, the effect of the proposed transaction on the service of the parties, the method of financing the transaction and whether or not any other utility will be affected, and, if so, in what respect, a statement of the reasons why the prayer of the petition should be granted, including a financial analysis supporting the decision to enter into the proposed transaction, the historic accounting treatment of the property, including account numbers used, original cost, and the date of purchase, and the proposed journal entries associated with the proposed transaction, including account numbers and amounts.

#### 10.6. Sale of franchises, permits and plant.

A public utility, except railroads other than street railroads, desiring to assign, transfer, lease, sell or otherwise dispose of its franchises, licenses, permits, plants, equipment, business or other property, or any part thereof (except tangible personal property not necessary or useful, nor which will become necessary or useful in the future, in the performance of its duties to the public), shall file with the Commission an original and twelve (12) copies of its application for authority so to do, substantially in the form of Form No. 7. Such petition shall set forth,

- 10.6.a. the name and mailing and email addresses of the petitioner,
- 10.6.b. the name and mailing and email addresses of the person, firm, corporation or utility to whom it desires to assign, transfer, sell, etc., its franchises, licenses, equipment, etc.
- 10.6.c. the financial condition of the petitioner,
- 10.6.d. analysis which led to petitioner's decision to assign, transfer, sell, etc. its franchises, licenses, equipment, etc.,
- 10.6.e. accounting history of the franchises, licenses, equipment etc., to be sold, assigned, etc., including the account numbers used, the original cost, and the date of purchase by the petitioner,
- 10.6.f. the proposed journal entries associated with the sale of the franchises, licenses, equipment etc., to be sold, assigned, etc., including account numbers and amounts,

10.6.g. brief statement of the history and corporate makeup and financial condition, if available, of the person, corporation, etc., to whom the franchises, licenses, equipment, etc., are to be sold, assigned, etc.,

10.6.h. brief narrative of how the person, corporation, etc., to whom the franchises, licenses, etc., are to be sold, assigned, etc., became aware of the petitioner's intent to assign, transfer, sell, etc. its franchises, licenses, equipment, etc.,

10.6.i. the terms and conditions of the proposed transfer, sale, etc.,

10.6.j. any proposed assignment or allocation of the book value of the franchises, licenses, equipment etc., to be sold, assigned, etc.,

10.6.k. description of method used to determine the open market value of the franchises, licenses, equipment etc., to be sold, assigned, etc.,

10.6.l. a description of the franchises, licenses, etc., including a detailed map and plans, if applicable, which are to be assigned, sold, etc.,

10.6.m. the effect of the proposed transaction on the service of the petitioner,

10.6.n. the method by which the proposed assignment, sale, etc., is to be financed,

10.6.o. whether or not any other utility will be affected and, if so, in what respect,

10.6.p. and a statement why the petition should be granted.

#### 10.7. Merger or consolidation.

A public utility, except railroads other than street railroads, desiring by any means, direct or indirect, to merge or consolidate its franchises, licenses, permits, plants, equipment, business or other property with that of any other public utility, shall file with the Commission an original and twelve (12) copies of its application for authority to do so, substantially in the form of Form No. 8. The petition shall set forth the name and mailing and email addresses of the persons forming the merger or consolidation, the financial condition of the parties to the consolidation, the franchises, licenses, permits, plants, equipment, business and other property which are the subject of the consolidation, the effect of the proposed transaction upon the service of the parties, the method by which the consolidation will be financed, including a detailed statement of the common stocks, preferred stocks, and bonds that are

proposed to be issued, if any, whether or not any other utility will be affected and, if so, in what respect, a general statement of the physical property of each of the merging parties and value thereof, and a statement of the reasons why the petition should be granted, including the name of the merged or consolidated company.

#### 10.8. Purchase of stock, bonds, etc., of another utility.

A public utility, except railroads other than street railroads, desiring to purchase, acquire, take or receive any stock, stock certificates, bonds, notes or other evidence of indebtedness of any other public utility, shall file with the Commission an original and twelve (12) copies of its application for authority to do so, substantially in the form of Form No. 9. The petition shall set forth the name and mailing and email addresses of the petitioner, the name and mailing and email addresses of the company or companies whose stock, stock certificates, bonds, notes or other evidence of indebtedness is sought to be purchased, etc., the kind, character, description, in detail, and amount, by classes, of the stocks, bonds, notes or other evidence of indebtedness that is to be purchased, etc., the price proposed to be paid for said stocks, etc., and the terms of payment, the financial condition of the petitioner, the effect of the proposed purchase upon the service, rates, and capital structure of the petitioner, the effect the proposed transaction will have upon the service of the petitioner and the utility whose stocks, etc., are to be acquired, and the reasons why the approval and consent of the Commission should be given to the proposed purchase, etc.

#### 10.9. Management contract between affiliates.

A public utility, except railroads other than street railroads, desiring by any means, direct or indirect, to enter into any contract or arrangement for management, construction, engineering, supply or financial services, or for the furnishing of any other service, property or thing, with any affiliated corporation, person or interest, shall file with the Commission an original and twelve (12) copies of its application for authority to do so, substantially in the form of Form No. 10. The petition shall set forth the name and mailing and email addresses of the affiliated corporation, person or interest with whom the contract or arrangement is to be made, a copy of the contract or arrangement to be made, a full description of the nature and character of service, property or things to be rendered the petitioner, the compensation to be paid and the terms thereof, the financial condition of the petitioner and the affiliated corporation, person or interest, the effect of the proposed arrangement upon the service of the petitioner, and, if the affiliate corporation is a utility under the jurisdiction of the Commission, the effect of the proposed transaction upon its service, and a statement of the reasons why the petition should be granted.

10.10. Consent in advance to exemption from requirements of W. Va. Code § 24-2-12.

A public utility desiring consent of the Commission in advance or exemption from the requirements of Section 12 of Article 2, of Chapter 24 of the Code of West Virginia and this rule, shall file with the Commission an original and twelve (12) copies of its petition for consent in advance or exemption from the requirements of said section, substantially in the form of Form No. 11. The petition shall set forth the name and mailing and email addresses of the petitioner, a statement of the subsection of Section 12 for which consent in advance or exemption is sought, including the reasons therefor, the effect the exempt action would have upon the service of the petitioner and any other public utility operating in this state, if any, a statement that neither party thereto is given an undue advantage over the other and the reasons therefor, a statement why the petition should be granted and its effect upon the public in this state. If, however, consent is prayed for in advance to do any of the things provided for in this rule, the petitioner shall also adhere substantially to the form and requirements of the appropriate subsection.

10.11. Notice and hearing.

When the Commission has determined that a hearing is necessary regarding an application filed pursuant to Rule 10, the applicant will be required to give notice of the time and place set by the Commission for hearing.

**§150-1-11. Rule 11, Pre-hearing Conference and Mediation.**

11.1. When conference may be required.

11.1.a. In any formal proceeding the Commission may, on its own motion or upon petition by any party, with reasonable written notice, require all interested parties to attend a prehearing conference, teleconference, or mediation.

11.1.b. Statements made in the course of settlement discussions or mediation, are not part of the record except by agreement, and shall not be used against participating parties before the Commission at hearing.

11.2. Recessing hearing for conference.

In any proceeding the Commission may, in its discretion, call the parties together for a conference prior to the taking of testimony, or may recess the hearing to hold a conference.

**§150-1-12. Rule 12, Hearings.**

12.1. General provisions.

12.1.a. The date, time and location of hearings will be scheduled by the Commission and notice will be served on all parties as may be required by statute and/or the Commission's Rules. Hearings will be held at the Commission's hearing room in the City of Charleston or elsewhere in the State at the Commission's discretion. The Commission will make an effort to set all formal hearings sufficiently in advance so that all parties have a reasonable time to prepare their cases, and so that continuances will be reduced to a minimum.

12.1.b. All hearings will be open to the public except *in camera* proceedings.

12.2. Presiding officers.

12.2.a. When evidence is to be taken in any proceeding before the Commission, the hearing will be held by one or more of the members of the Commission, an Administrative Law Judge, a hearing panel, or by one or more of the Commission's employees that shall have been duly designated by it to hold hearings. Presiding officers shall be referred to in these rules as simply "the Commission."

12.2.b. The Commission has the duty to conduct full, fair and impartial hearings; to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order; and the Commission shall possess all powers necessary to that end, including the following: To administer oaths and affirmations; to issue subpoenas and to provide for other methods of discovery; to receive evidence and rule upon all objections and motions; and to take such other action as may be necessary and appropriate to the discharge of the Commission's duties, consistent with statutory authority and the rules, regulations and policies of the Commission.

12.3. Parties.

12.3.a. Parties shall enter their appearances at the beginning of the hearing by giving their names and addresses in writing to the reporter who will include them in the record of the hearing. The Commission may also require appearances to be stated orally, so that the identities and interests of all parties present will be known to those at the hearing. Any further notice, pleading, or order in the matter which is required to be served upon parties to the proceeding may be served upon the attorney or representative of a party so

represented and the service shall be effective as service upon the party.

12.3.b. At hearing, all parties shall be entitled to enter appearances, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceeding consistent with any Commission order issued in a particular case which otherwise limits participation.

12.4. Protestant Participation.

12.4.a. Any person who is a protestant and who desires to participate in the proceeding by introducing evidence, examining and cross-examining witnesses, making arguments, and generally participating in the conduct of the proceedings consistent with any Commission order issued in a particular case which otherwise limits participation, may, within the discretion of the Commission, file a petition or move orally to do so prior to the close of the period for taking appearances. The Commission may, within its discretion, grant, deny or qualify the extent of participation by the protestant during the evidentiary proceeding and thereafter. This manner of participation does not give a protestant party status.

12.5. Termination of party status.

Notwithstanding any other provision of these rules pertaining to party status, and unless specifically authorized by the Commission for good cause shown a person may lose party status if such person has failed to enter an appearance at any hearing in the manner as prescribed in Rule 12.3. The party status of any person failing to enter an appearance may terminate at the close of the period for taking of appearances unless otherwise ordered.

12.6. Intervention.

12.6.a. Any person having a legal interest in the subject matter of any hearing or investigation pending before the Commission may petition or move orally for leave to intervene in the proceeding. Unless the Commission establishes an intervention deadline by order, petitions and oral requests to intervene may be made prior to or at the time a case is called for hearing, but not thereafter except for good cause shown. Unless and until the Commission denies or otherwise limits intervention, once an individual or entity has filed with the Commission a petition for leave to intervene in a proceeding in accordance with this rule, that individual or entity is considered a party for the purposes of making filings with the Commission in accordance with Rule 4 and propounding discovery requests on other parties in accordance with Rule 13.6. If leave is granted, the intervenor then becomes a party to the proceeding with the right to have notice of and appear at the taking of testimony, to produce

and cross-examine witnesses, and to be heard on the argument of the case.

1. The petition or motion shall disclose the name of the party intervening, the name, mailing and email addresses of the intervenor or his/her attorney, if any, as well as the West Virginia Bar ID Number of his/her attorney, if any, a clear and concise statement of the grounds for the proposed intervention, the position and interest of the petitioner or movant in the proceeding, and a concise statement of the relief desired. Leave will not be granted except on allegations reasonably pertinent to the issues already presented and which do not unduly broaden them.

12.6.b. Service of petition.

The original and twelve (12) copies of a petition for leave to intervene must be filed with the Executive Secretary.

12.6.c. Parties may file responses to petitions to intervene within ten (10) days of the date a petition was filed, but the Commission may act on a petition to intervene without awaiting the expiration of the response time.

12.6.d. Special intervention.

1. Any person, other than the original parties to the proceeding, who desires to appear and participate in any proceeding before the Commission, and who desires to broaden the issues of the original proceeding, shall petition in writing for leave to intervene in the proceeding. Unless otherwise ordered by the Commission, the petition shall be filed with the Commission and copies thereof shall be served on all known parties of record at least ten (10) days prior to the date of the hearing. The petition shall contain the information required by these rules. The petition shall have attached a properly verified complaint or answer, as the case may be, setting forth clearly and concisely the facts supporting the relief sought.

2. The Commission will afford the original parties the opportunity to be heard on special intervention petitions prior to or first at a hearing, or prior to a hearing. If it appears, after consideration, that the petition discloses a substantial interest in the subject matter of the hearing, or that participation of the petitioner may be in the public interest, the Commission may grant the petition by order or oral ruling at the hearing. Thereafter the petitioner shall be a party to the proceeding and shall be known as an "intervenor" with the same rights as other parties to the proceeding.

12.6.e. Limitations of intervention.

When two or more intervenors have substantially similar interests and positions, the Commission may, in order to expedite the hearing, limit the number of parties who may cross-examine, make and argue motions, or object on behalf of such intervenors.

12.7. Representation of parties and practice before Commission.

Except as provided in Rule 4, representation or appearance of parties in all formal proceedings pending before the Commission shall be only by attorneys at law admitted to practice before the Courts of this State, before the Courts of last resort of other states, or before the Supreme Court of the United States; provided that attorneys appearing before the Commission who are not licensed to practice in West Virginia shall have sought and obtained permission to practice before the Commission in compliance with Rule 8.0 of the Rules for Admission to the Practice of Law of the State of West Virginia; provided, however, that an individual may appear for and represent himself, or a partner may represent his partnership, upon permission granted in the discretion of the Commission.

12.8. Notice.

Following the entry of appearances, all notice, pleadings and orders thereafter served shall be served upon such attorneys, representatives or parties of record, as defined in these rules, entering an appearance, and such service shall be considered valid service for all purposes upon the party represented.

12.9. Continuance of hearings.

After the Commission has set the date for hearing the Commission will not grant continuances except for good and sufficient cause. A party who desires a continuance shall, immediately upon receipt of notice of the hearing, or as soon thereafter as facts requiring such continuance comes to his knowledge, file a written motion with the Commission stating in detail the reasons why a continuance is necessary. The motion shall be filed at least five (5) days prior to the date of hearing. In cases of hardship or other good cause a party may by oral motion move for a continuance at the time the proceeding is called for hearing. The Commission may grant such a continuance and may at any time order a continuance upon its own motion.

12.10. Failure to appear.

When any proceeding has been properly set for hearing and due notice given and any applicant, petitioner or complainant fails to appear without having obtained a continuance in the manner specified above, the Commission may dismiss the petition, application, or complaint with or without prejudice or may upon good cause shown, recess a hearing for a further period to be set by the Commission to enable the absent party to attend.

12.11. Conduct at hearings.

All parties to hearings, their counsel, and spectators shall conduct themselves in a respectful manner. Demonstrations of any kind at hearings shall not be permitted. The Commission may, at its discretion, recess or continue a hearing in which the parties, attorneys, witnesses or spectators, conduct themselves in a disrespectful, disorderly or contemptuous manner which interferes with or prevents the proper conduct of the hearing.

12.12. Consolidated hearings.

The Commission, upon its own motion, or upon motion by any party, may order two or more proceedings involving a similar question of law or fact to be consolidated for hearing where the rights of the parties or the public interest will not be prejudiced by such procedure.

12.13. Transcripts.

12.13.a. One copy of the transcript of testimony will be furnished by the Commission to each party to a proceeding, unless otherwise ordered.

12.13.b. Additional copies of transcripts of testimony may be obtained by any party in interest from the Executive Secretary by paying a rate to be determined by the party requiring the same and the reporter, but in no event to exceed the maximum rate stated in the then-current contract between the Commission and the reporter. Persons desiring extra copies of the transcripts of testimony shall make request therefor to the Executive Secretary of the Commission at the time of hearing.

**§150-1-13. Rule 13, Evidence.**

13.1. General.

In the investigations, preparations and hearings of cases, the Commission shall not be bound by the technical rules of pleadings and evidence, but in that respect it may exercise such discretion as will facilitate its efforts to understand and learn all the facts bearing upon

the right and justice of the matters before it. Evidence may be received which, in the opinion of the Commission, is the best evidence reasonably obtainable, having due regard to its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the Commission shall give consideration to, but shall not be bound to follow, the rules of evidence governing general civil procedures in courts of this State.

### 13.2. Testimony under oath.

All testimony to be considered by the Commission in formal hearings, except matters administratively noticed or entered by stipulation, shall be by sworn or affirmed testimony.

### 13.3. Prepared testimony.

Prepared testimony may be identified, marked and received as an exhibit. Admissibility shall be subject to the rules governing oral testimony. The party submitting prepared testimony shall supply copies to all parties of record.

### 13.4. Stipulation of facts.

The parties to any proceeding or investigation before the Commission may, by stipulation in writing filed with the Executive Secretary, or entered in the record, agree upon the facts, or any portion thereof, involved in the controversy, which stipulation shall be binding upon the parties thereto and may be regarded and used by the Commission as evidence at the hearing. It is desirable that the facts be thus agreed upon whenever practical. The Commission may, however, require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

### 13.5. Depositions.

The testimony of any witness may be taken by deposition at the instance of a party, in any proceeding or investigation at any time after the same is at issue, by the consent of the Commission. The Commission may, on its own motion, order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such deposition shall be taken in the manner prescribed by the laws of West Virginia for taking deposition in civil cases in courts of record.

### 13.6. Discovery Requests.

13.6.a. "Discovery requests" as used in these Rules, include interrogatories,

requests for the production of documents and things, and requests for admissions. Discovery requests do not include Staff or Commission requests made pursuant to statutory authority.

13.6.b. A party may serve discovery requests in writing upon the attorney for a party, if such party is represented by an attorney, or directly upon unrepresented parties, by first class mail, email or by hand delivery. Discovery requests must be pertinent to substantial issues in the proceeding. Copies of discovery requests, together with a certificate of service, shall be filed with the Executive Secretary and served upon all parties.

13.6.c. Parties served with discovery requests shall respond to each request separately and fully, in writing. The responses shall re-state each request, and give the response to that request. The party responding shall verify the responses. If responses prepared by several persons are compiled by one person the person compiling the responses shall verify the responses one time. Responses to discovery requests shall be served within twenty (20) days after such discovery requests were served, or within such specified time as may be fixed by the Commission. Responses shall be served only upon the requesting party and any other party that has made a written request for the responses. The party responding shall file one (1) copy with the Executive Secretary.

1. Responses to discovery requests are not part of the evidentiary record of a case unless identified responses are made a part of the record by the parties or by Commission order.

13.6.d. The party responding to discovery requests shall file any written objections to discovery requests within fourteen (14) days after service of discovery requests or such shorter time as directed by the Commission. The responding party may defer responses to discovery requests to which it has made objection until the Commission rules on any motion to compel. If a motion to compel is granted, the responses shall be served within ten (10) days after notice of the Commission's action, or as otherwise ordered by the Commission.

13.6.e. Objections to discovery requests not timely filed are waived, except for good cause shown.

13.6.f. The Commission will not resolve discovery disputes unless a motion is filed seeking Commission action. The parties have the responsibility to file timely discovery motions, including motions to compel the production of information or motions seeking protective orders.

13.7. Record of the case.

13.7.a. Exhibits at hearing. All maps, prints, writings, statements or documents, to be used as an exhibit at a hearing, must be accompanied by sufficient copies for each Commissioner, the court reporter and the law clerk when a case is before the Commissioners and when a case is before an ALJ one copy for the ALJ and one for the court reporter, in addition to copies needed for other parties to a case, unless the parties were previously served with the exhibit.

13.7.b. Staff Reports. Reports of investigation made in any case by the Commission, or by any employee of the Commission, whether made before or after the hearing, will become a part of the record in the case and be considered by the Commission. Upon the submission of any such report to the Commission, a copy thereof will be furnished by the Executive Secretary to each party to the proceeding. If a party desires to give further evidence with regard to such report, the party shall notify the Commission in writing ten (10) days of the filing date of the report. Whereupon the Commission may set the matter for further hearing or take such action as the circumstances of the case may require.

13.7.c. Original Documents. The Executive Secretary shall keep in his/her custody and be responsible for the original, or one counterpart, of all maps, prints, writings, statements or documents made a part of the record as aforesaid.

### 13.8. Objections.

Any evidence offered in whatever form shall be subject to appropriate and timely objection. When objection is made to the admissibility of evidence, such evidence may be received subject to later ruling by the Commission. The Commission, in its discretion, either with or without objection, may exclude inadmissible, incompetent, cumulative, or irrelevant evidence, or order the presentation of such evidence discontinued. Parties objecting to the introduction of evidence shall briefly state the grounds of objection at the time such evidence is offered. Formal exceptions to rulings considering the admissibility of evidence are not necessary and need not be taken.

### **§150-1-14. Rule 14, Subpoenas for witnesses and documents.**

14.1. Written application for subpoena must be verified by affidavit and set forth good cause and reasons supporting the issuance of the subpoena for the attendance of the witness or witnesses. Upon application of any party, or on the Commission's own action, subpoenas requiring the attendance of witnesses at any designated place of hearing before the Commission, or a member thereof, or any employee of the Commission which it shall have designated to hold such hearings, for the purpose of taking the testimony of such witness,

may be issued by the Executive Secretary or any member of the Commission or any employee of the Commission which it shall have designated to hold hearings as provided by law.

14.2. Written application for a subpoena for the production of books, papers or documents must be verified by affidavit and set forth and identify specifically the books, papers or documents sought to be produced and the reasons supporting the issuance of the subpoena. Upon written application of any party, or on the Commission's own action, subpoenas for the production of books, papers or documents may be issued by the Executive Secretary or any member of the Commission or any employee of the Commission which it shall have designated to hold hearings as provided by law.

**§150-1-15. Rule 15, Witness fees.**

15.1. Witness fees necessary and incident to hearings before the Commission shall be paid by the party at whose instance the witness is summoned. No witness fees will be allowed except on subpoena. In all cases the fee allowed will be the same as that allowed by the circuit courts of this state.

**§150-1-16. Rule 16, Service of subpoena and notice.**

16.1. All subpoenas for parties, witnesses, records or papers, and all notices relating to a subpoena, shall be served by delivering a copy thereof personally or by mail to the party to be served, or in the manner prescribed by law for service of like processes issuing out of the circuit courts of this state.

16.2. Service of subpoenas and the cost incident to the service is the responsibility of the party(ies) requesting the subpoenas.

**§150-1-17. Rule 17, Proposed orders.**

17.1. At the close of testimony in a proceeding, the Commission may require all parties of record to file proposed orders containing a discussion of the case, findings of fact and conclusions of law. The Commission shall fix the time in which such proposed orders shall be filed. No decision, report or recommended order shall be made until after the expiration of the time so fixed.

17.2. If the parties file proposed orders, findings of fact and conclusions of law shall be clearly and concisely stated and numbered. Each statement shall show specifically the testimony by appropriate transcript reference, if available, or other items of record which support that proposed finding of fact.

17.3. An original and twelve (12) copies of the proposed order accompanied by a certificate of service shall be filed with the Commission and one copy shall be filed with each attorney of record or each party.

17.4. Any party may petition the Commission for an extension of time in which to file a proposed order.

**§150-1-18. Rule 18, Briefs and oral argument.**

18.1. General.

The Commission may require the filing of briefs or the presentation of oral argument or both by the parties. Requests for the filing of briefs or oral arguments shall be made before or at the conclusion of the taking of evidence. The requirements of this rule may be altered by agreement of the parties with the consent of the Commission. Proceedings before an ALJ will include the right of a party to file findings of fact, conclusions of law and briefs.

18.2. Oral arguments.

Oral argument may be presented in lieu of or in addition to the filing of briefs. When, in the opinion of the Commission, time permits and the nature of the proceedings, the complexity or importance of the issues of fact or law involved, and the public interest warrants, the Commission may, either on its own motion or at the request of a party allow and fix a time for the presentation of oral argument, imposing such limits of time on the argument as deemed appropriate in the proceeding. Such argument shall be transcribed and bound with the transcript of testimony.

18.3. Time for filing.

Unless otherwise ordered by the Commission, briefs are to be filed simultaneously. Initial briefs shall be served 20 days after the transcript is mailed. Reply briefs shall be served 10 days after the initial briefs are mailed. Responsive briefs shall be served 10 days after the reply briefs are mailed.

**§150-1-19. Rule 19, Exceptions, Reconsideration, Further hearing, or Reopening.****19.1. Exceptions.**

A party may file exceptions to a recommended decision within fifteen (15) days from the date the recommended decision was mailed and shall serve a copy of the exceptions on the attorney for each adverse party or directly upon unrepresented parties. The exceptions must state the findings of fact and/or conclusion of law claimed to have been erroneously decided, and may be accompanied by a brief in support thereof.

**19.1.a. Reply to Exceptions.**

Within ten (10) days after such service any party may file and serve in like manner a reply to the exceptions. The reply so filed must be accompanied by a like number of copies for the use of the Commission and a certificate showing service upon the attorneys of the parties. However, the Commission may issue an order ruling on exceptions at any time after it is filed.

**19.2. Application for Further Hearing.**

If a party seeks a new hearing because of matters that have arisen since the hearing, or due to facts that were not known by the party at the time of the hearing, the matters relied upon by the party must be fully set forth. Applications for further hearing in a proceeding after the closing of testimony and before entry of a recommended decision, if the case is before an ALJ, or Commission order, if the case is before the Commission, must be made by petition, duly verified, filed with the Commission. Such petition shall state specifically the grounds relied upon, and shall be filed with the Commission and a copy served by the petitioner upon the attorney for each adverse party. The nature and purpose of the evidence to be adduced must be briefly stated, and it must not be merely cumulative. The Commission may in its discretion grant the application.

**19.3. Petition for Reconsideration.**

Petitions for reconsideration after entry of a Commission order must be made by petition, duly verified, filed with the Commission within ten (10) days from the date of mailing of the Commission order or within the time otherwise specified by the Commission not to exceed thirty (30) days from entry of the order. Such petition shall state specifically the grounds relied upon, and shall be filed with the Commission and a copy served by the petitioner upon the attorney for each adverse party.

19.3.a. Within ten (10) days after service of the petition for reconsideration any party may file a reply and a certificate showing proper service. However, the Commission may issue an order ruling on the petition at any time after it is filed.

19.4. Application for Modification of order.

Application for modification of orders which seek only to correct clerical errors, change the date when they shall take effect, or change the period of notice thereby prescribed, must be made by petition filed and served in like manner as other applications under this rule, except that, in case of unforeseen emergency satisfactorily shown by the applicant, such relief may be sought informally, by facsimile or otherwise, upon notice thereof to all parties or attorneys who appeared as aforesaid.

19.5. Application for Reopening.

An application for reopening of a proceeding more than ten (10) days after the entry of a Commission order must be made by petition of a party to the proceeding at the time of entry of the Commission order, duly verified, accompanied by a certificate showing service upon the attorneys of the other parties. If thereby any Commission order is sought to be vacated, reversed, or modified, by reason of matters which have arisen since the hearing, or by reason of facts not in possession of the petitioner at the time of the hearing, the matter so relied upon by the petitioner must be fully set forth in the petition.

19.5.a. Within ten (10) days after service of a petition to reopen any party may file a reply to the application and a certificate showing proper service. However, the Commission may issue an order ruling on the application at any time after it is filed.

19.5.b. If an applicant, that has received a final Commission order granting a certificate of public convenience and necessity, files a petition to reopen seeking Commission approval of any change to the proposed project that will result in rates higher than the rates previously noticed to the public, the applicant must include with its petition a completed Form No. 14-A and will be required to provide public notice as contemplated by Rule 10.3.c. The Commission may determine that particular circumstances in a case require further notice and modification of the notice contained in Form 14-A.

**§150-1-20. Rule 20, Change of depreciation rates.**

20.1. Each public utility subject to the jurisdiction of this Commission shall, with respect to any proposed change in its depreciation rates, and at least sixty (60) days prior to the last

day of the month in which the accounts for which the effect of such change is first recorded, file with the Commission twelve (12) copies of the following information with respect to each depreciation rate proposed to change on or after the effective date of this rule:

20.1.a. A statement showing the class or subclass of plant to which the proposed changed depreciation rates are applicable, the effective date of the proposed change, the depreciation rates in effect immediately before and after such change, and the corresponding service-life, salvage and cost of removal estimates.

20.1.b. A general statement describing the method or methods employed in the development of the service-life, salvage and cost of removal estimates, and the reasons for the proposed change in the depreciation rate.

20.2. When the proposed change in depreciation rate applicable to any class or subclass of plant (1) amounts to twenty percent (20%) or more of the depreciation rate currently applied thereto, or (2) would have changed by one percent (1%) or more the aggregate annual depreciation charges for all depreciable plant if the new depreciation rate applicable to such class or subclass had been in effect during the preceding calendar year, the statements required in foregoing paragraph 20.1 shall be supplemented by copies of supporting data, calculations, and charts underlying the service-life, salvage and cost of removal estimates.

20.3. The foregoing statement shall be accompanied by an exhibit, an original and twelve (12) copies, showing the expected net change in the annual depreciation charges resulting from the revised depreciation rates and indicating the basis of determining the expected net change.

20.4. A utility proposing such a change in depreciation rates may at the end of the sixty (60) day period put such changed depreciation rates into effect providing, however, that during the sixty (60) day period the Commission does not order the suspension of such depreciation rates and set a date for a hearing on the reasonableness of such change.

**§150-1-21. Rule 21, Financial condition to accompany petitions.**

21.1. Unless otherwise ordered by the Commission, whenever a petitioner or utility is required to state its financial condition, the statement shall include a detailed income statement, cash flow statement and comparative balance sheet for latest fiscal year.

21.2. Whenever a petitioner seeks authority for a transaction pursuant to Rule 10.7, 10.8, or 10.9, the petition shall file the following, if available:

21.2.a. Amount and class of stock authorized by the certificate of incorporation and by any other public authority;

21.2.b. Amount and class of stock issued and outstanding;

21.2.c. Terms of preference of all preferred stock;

21.2.d. Brief description of each mortgage upon any property of the applicant giving date of execution, name or mortgagor, name and address of mortgagee or trustee, amount of indebtedness authorized to be secured thereby, amount of indebtedness actually accrued, amount of principal outstanding, amount of interest due and unpaid, and brief description of mortgaged property;

21.2.e. Number and amount of bonds authorized and issued, giving name of issuing company, describing each class separately, giving date of issue, par value, rate of interest, date of maturity and how secured; and, if convertible debentures are authorized or outstanding, also the dates when the conversion privilege accrues and expires, and the securities into which and the rate at which conversion may be made;

21.2.f. Other indebtedness, giving name of classes and describing security, if any.

21.2.g. Amount of interest paid during previous calendar year and rate thereof; if different rates were paid, the amount paid at each rate; and

21.2.h. Rate and amount of dividends paid upon each class of stock during previous five years.

21.3. A reference in the petition to annual or other reports filed or to be filed with the Commission will not be deemed compliance with the provisions of this rule.

**§150-1-22. Rule 22, Certified copies.**

22.1. Withdrawal of papers.

No original paper in any case shall be withdrawn from the file, except upon order of the Commission.

22.2. Certified copies.

Certified copies of papers on file in the Executive Secretary's office may be obtained by any person desiring the same upon payment to the Executive Secretary of a copying fee plus a fee for certifying such copy, as established by the Executive Secretary's office.

**§150-1-23. Rule 23, Notice of orders.**

23.1. The Executive Secretary shall serve copies of all orders issued by the Commission upon the parties of record by first class mail or by email if possible.

**§150-1-24. Rule 24, Address.**

24.1. All official communications to the Commission and all correspondence in relation thereto should be delivered or mailed to:

Executive Secretary  
Public Service Commission of West Virginia  
201 Brooks Street, P. O. Box 812  
Charleston, West Virginia 25323-0812

**§150-1-25. Rule 25, Utilities to provide and update contact information.**

25.1 Public utilities shall provide and continuously update the Commission's Executive Secretary with any changes to the following:

Name of Utility.

Mailing Address (including street address and P.O. box).

Phone Number (a number for use during standard hours of operation as well as a number to be used when the utility's office is closed).

Facsimile Number, if available.

Electronic mail (email) address of utility official responsible for receiving communications from the Public Service Commission.

**§150-1-26. Rule 26, Checklist for Applications for Certificates of Convenience and Necessity for Water and Sewer Utilities.**

The following information must be filed with a water or sewer application for a certificate of convenience and necessity. Water and Sewer utilities may apply for a waiver of any provision of this checklist for good cause, provided, that no application for a waiver will be considered by the Commission unless there is submitted therewith a full and complete

justification for such action.

26.1. Application as per Form No. 4.

26.2. Verification as per Form No. 4 or Form No. 12.

26.3. Tariff Rule 42 Accounting information:

26.3.a. The Tariff Rule 42 exhibit presents the entire system at per books (if applicable) adjusted to going-level.

26.3.b. Subject to the requirements of Tariff Rule 42, non project-related adjustments may be included in the revenue requirements of the certificate case. If the rate increase relating to non-project related adjustments is proposed to go into effect prior to a rate increase relating to project-related adjustments, then the applicant must separately set forth the proposed increases.

26.3.c. For sewer projects only, the bill analysis included in the Rule 42 Exhibit shall clearly indicate a) the number of customers who are currently served by a private well source as well as the number of customers who are projected to be served by a private well source (if applicable), and the expected revenues from both types of customers, and b) the actual and estimated amount of uncollectible revenues related to current and proposed sewer customers who are well users only.

26.3.d. All adjustments related to the proposed project are presented at Pro-Forma.

26.3.e. Project related adjustments to operation and maintenance expenses shown in the Tariff Rule 42 exhibit must agree with, and be supported by, detailed engineering calculations.

26.3.f. Proposed rate structure in tariff form together with a class cost of service study supporting both the proposed rate structure and the proposed rates.

26.3.g. Existing rate structure (if applicable) in tariff form.

26.4. Facility plan or feasibility study (if applicable).

26.5. Agreements between applicant and other utilities (if applicable).

26.6. A project map(s) showing the location of each existing or prospective customer to be served by the project cross-referenced to a list of those same customers indicating which customers have signed contracts for service and paid connection fees, which houses and buildings are plumbed and which customers have a private water supply.

26.7. Proposed bond and/or municipal rate ordinances (as applicable).

26.8. Permits and/or approvals.

26.8.a. Letter from applicant stating that applications for all necessary permits and/or approvals have been made.

26.8.b. It is preferable that any required permits are granted prior to the final order, but if the permits are not available the certificate may be issued contingent on receipt of the permit.

26.9. Letters showing funding sources.

26.9.a. Privately owned utilities - statement of projected sources of funds for the project. If debt funds are included show the expected source and cost of debt.

26.9.b. Publicly owned utilities - documents showing with reasonable certainty the availability of funds for the project. The expected interest rate and term of any loans should be stated.

26.10. Interim financing information including funding sources. The expected interest rate and term of any loans should be stated.

26.11. Name, classification, and License No. of operator(s) (as applicable).

26.11.a. Identification of initial or additional utility personnel required for the project and/or estimated overtime hours, as the case may be.

26.12. Engineering report

26.12.a. Population projections (if not identified in preliminary report).

26.12.b. Number of existing, future and potential customers. Applicants shall mail single copies of signed user agreements for water projects to the Commission's Engineering Division. The user agreements shall not be made a part of the case file.

26.12.c. Existing and estimated future water consumption or wastewater flows related to the project.

26.12.d. Design criteria and system hydraulic information.

26.12.e. Itemized construction and total project cost estimates which are no more than 1 year (12 months) old at the time of filing the certificate application.

26.12.f. Detailed operation and maintenance budget including supporting information and calculations.

26.12.g. Description of all maintenance requirements associated with the project.

26.12.h. Identification of need for renewal and replacement reserves.

26.12.i. Identification of need for the utility service to be provided, including supporting documentation such as enforcement actions from appropriate agencies.

26.12.j. Description of reasonably available alternatives that could fulfill the need, including present worth analysis of the capital, operation and maintenance expenses over each of the alternatives expected service life. Benefits and detriments of each alternative should be discussed. The selection of the preferred alternative should be explained.

26.12.k. If a third party is to provide water or sewage treatment service to the applicant, the filing should provide documentation from the treating entity that adequate capacity exists and provide projections demonstrating the expected life of such capacity. The applicant shall file the purchased services contract with this Commission.

26.12.l. Information concerning a change in operating times of existing treatment facilities that will result from the project.

26.13. Project plan drawings

26.13.a. One paper copy of the engineering design plans and project maps, or, one electronic copy of the engineering design plans and project maps in a format compatible with the Commission's electronic technology.

26.13.b. The plans and maps should be drawn to scale and show line size, type, and length.

26.13.c. Identification/numbering of customers that have applied for service and identification of customers who may be served by the project.

26.13.d. Identification of property lines for customers to be served and location of utility service lateral stubs (sewer) or utility service lines and meters (water).

26.13.e. Water storage tank and booster station drawings.

26.13.f. Sewer lift station drawings.

26.13.g. Master metering location and detailed information.

26.13.h. Treatment facility drawings.

26.14. Specifications

26.14.a. Bid quantities.

26.14.b. Equipment sizing/specifications.

26.15. Maximum service elevation information.

26.16. Proposed Notice of Filing, in the form of Form 14 attached hereto, for review by the Commission. Utilities are requested to also email the completed Form No. 14 to the Commission's Executive Secretary in Word or WordPerfect format. The utility shall not publish this form until directed to do so in a Commission order.

26.17. Copy of letter from utility providing thirty (30) day advance notice of filing pursuant to W. Va. Code § 24-2-11. If thirty (30) day notice was not required, a letter shall be filed by the public service district so stating.

26.18. If the proposed project requires modification of a public service district boundary, a statement of the status of the county commission process.

26.19. If the proposed project will infringe upon any other utility's service area or affect any other utility financially or otherwise, a statement to that effect.

26.20. Status of SHPO compliance.

26.21. Statement showing when bids are anticipated to be let.

26.22. Other information as needed.

26.23. Case number and approval date of engineering agreements involving public service district, where such approval is not exempted by W. Va. Code § 16-13A-25. If an engineering agreement involving public service districts is exempt by W. Va. Code § 16-13A-25, a copy of such agreement shall be provided.

26.24. If the project has been approved by the West Virginia Infrastructure and Jobs Development Council, documentation stating the Infrastructure project number and the date of Infrastructure approval.

**Form No. 1  
COMPLAINT  
State of West Virginia  
Public Service Commission  
Charleston**

Case No. \_\_\_\_\_

\_\_\_\_\_, Complainant

vs.

\_\_\_\_\_, Defendant

The complainant respectfully states that:

1. The defendant is an entity subject to the jurisdiction of the Public Service Commission engaged in the business of [state the public utility business of the defendant, i.e. gas, electric telephone, etc.] at \_\_\_\_\_, in the State of West Virginia.

2. The defendant has violated the laws of the State of West Virginia or the rules of the Public Service Commission governing the defendant, in the following manner:

(a) [Here state concisely the matters complained of.]

\_\_\_\_\_  
\_\_\_\_\_

(b) Here state the remedy you seek

\_\_\_\_\_

Wherefore, the complainant requests that the defendant be required to answer, and that, after due investigation, the Public Service Commission order the defendant to cease and desist from the wrongful conduct, and further order as the Public Service Commission of West Virginia deems necessary, reasonable and just.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

(Signed) \_\_\_\_\_

Signature of Complainant

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

County \_\_\_\_\_

email address \_\_\_\_\_

Phone \_\_\_\_\_

\_\_\_\_\_, Attorney, if applicable.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(Signed) \_\_\_\_\_

(Official signature and official seal of notary)

[If Complainant is signing out-of-state, please use verification Form No.12.]

[Out-of-state attorneys see Procedural Rule 4.1.d.1.]

Form No. 2

ANSWER

State of West Virginia  
Public Service Commission  
Charleston

Case No. \_\_\_\_\_

\_\_\_\_\_, Complainant

vs.

\_\_\_\_\_, Defendant

The above-named defendant, for answer (or, for answer in the nature of a cross petition) to the complaint in this proceeding, says that:

1. [Here state allegations of fact by way of admission, avoidance, or denial of the allegations of fact contained in the complaint, designating each paragraph, (a), (b), (c), etc.]

Wherefore, the defendant requests that the complaint in this proceeding be dismissed (or, requests affirmative relief as the facts alleged may justify).

(Signed)

\_\_\_\_\_  
Signature of authorized representative of Defendant

By

\_\_\_\_\_  
Title of signer (President or other officer)

Address \_\_\_\_\_

County \_\_\_\_\_

email address \_\_\_\_\_

\_\_\_\_\_, Attorney, if applicable.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Official signature and official seal of notary)

[If Defendant is signing out-of-state, please use verification Form No.12]  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 3

APPLICATION FOR AUTHORITY TO ABANDON SERVICE

State of West Virginia  
Public Service Commission  
Charleston

Case No. \_\_\_\_\_

\_\_\_\_\_  
(Name of applicant)

Application for authority to abandon \_\_\_\_\_ service  
at \_\_\_\_\_.

The undersigned, engaged in the public utility business of operating \_\_\_\_\_  
\_\_\_\_\_ at \_\_\_\_\_, with the State of West  
Virginia, with its principal office at \_\_\_\_\_,  
applies to the Public Service Commission for authority to abandon the following service:

[Here state the specifics of the nature and extent of the  
service to be discontinued.]

at \_\_\_\_\_ in \_\_\_\_\_ County, West Virginia,  
for the following reasons: [Here state facts to support this application.]

(Signed) \_\_\_\_\_  
Signature of authorized representative of applicant

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_

(Official signature and official seal of notary)

[If Applicant is signing out-of-state, please use verification Form No.12]

[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 4

APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY

State of West Virginia  
Public Service Commission  
Charleston

Case No. \_\_\_\_\_

Application of \_\_\_\_\_  
for a certificate of convenience and necessity to \_\_\_\_\_,  
\_\_\_\_\_ at \_\_\_\_\_,  
in the County of \_\_\_\_\_.

\_\_\_\_\_, the applicant herein,  
respectfully states:

1. The name and address of the applicant are \_\_\_\_\_  
\_\_\_\_\_.

2. The applicant proposes to \_\_\_\_\_  
\_\_\_\_\_,  
at \_\_\_\_\_, in the County of \_\_\_\_\_,  
(city or town)  
and furnish \_\_\_\_\_ service.

3. Service is (is not) now rendered by an existing utility, corporation or person  
identified as \_\_\_\_\_.

4. Attached is a copy of the certificate of existence issued by the Office of the  
West Virginia Secretary of State.

5. If applicable, the West Virginia Infrastructure and Jobs Development Council  
Project Number and date of Infrastructure approval: \_\_\_\_\_  
\_\_\_\_\_

6. A certificate should be issued for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**NOTE:** This application must be accompanied by information required by Tariff

Rule 42. Water and Sewer utilities must include information required by the Checklist set forth in Rule 26 of the Commission's Rules of Practice and Procedure.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Signed) \_\_\_\_\_  
Signature of authorized representative of applicant

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(Official signature and official seal of notary)

[If Applicant is signing out-of-state, please use verification Form No.12]  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 5

APPLICATION FOR AUTHORITY TO  
CONTRACT WITH ANOTHER PUBLIC UTILITY

State of West Virginia  
Public Service Commission  
Charleston

Case No. \_\_\_\_\_

Application of \_\_\_\_\_, a  
public utility, for authority to operate its line or plant in connection with \_\_\_\_\_  
\_\_\_\_\_, a public utility (collectively, petitioners).

The petitioners state that:

1. The name and address of the petitioners are \_\_\_\_\_  
\_\_\_\_\_.
2. [State the service rendered by the petitioners.]
3. [State detailed information regarding the proposed contract.]
4. [State the effect it will have upon the service of the petitioners.]
5. [The consideration to be paid for the service to be rendered under the  
contract is as follows: A copy of the written contract must be filed as an  
exhibit attached to the petition.]
6. [State whether any other utility will be affected by the proposed contract.]
7. [State why the petition should be granted.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

(Signed) \_\_\_\_\_  
Signature of authorized representative of applicant

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Official signature and official seal of notary)

[If Applicant is signing out-of-state, please use verification Form No.12]  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 6

FORM OF PETITION FOR PURCHASE, LEASE OR OTHER  
ACQUISITION OF CONTROL OF ONE PUBLIC UTILITY  
BY ANOTHER PUBLIC UTILITY

State of West Virginia  
Public Service Commission  
Charleston

Case No. \_\_\_\_\_

Petition of \_\_\_\_\_ for the  
consent and approval to the (purchase, lease, etc.) of the \_\_\_\_\_

\_\_\_\_\_, the petitioner herein states  
that:

1. The name and address of the petitioner are \_\_\_\_\_.
2. The name and address of the utility whose property, etc., is sought to be  
acquired are \_\_\_\_\_.
3. The financial condition of the petitioner and of the utility whose property (or  
other) is sought to be acquired is \_\_\_\_\_.

[Petitioner will adhere to the provisions of Rule 21 and provide that information  
either as a part of its petition or as an attached exhibit.]

4. The petitioner desires to (purchase, lease, or other) the (franchises, licenses,  
property, other) at \_\_\_\_\_, as follows:
  - a. [State the terms and conditions of the sale, lease, etc., with copy of any  
agreements attached as an exhibit to the petition.]
  - b. [State the effect of the proposed transaction upon the service of the  
parties thereto.]
  - c. [State the method of financing the proposed transaction.]

d. [State whether any other utility will be affected and, if so, in what respect.]

e. [State the reasons why the petition should be granted.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Signed) \_\_\_\_\_  
Signature of authorized representative of petitioner

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Official signature and official seal of notary)

[If Petitioner is signing out-of-state, please use verification Form No.12]  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 7

**FORM OF PETITION FOR ASSIGNMENT, TRANSFER, LEASE, SALE OR  
OTHER DISPOSITION OF THE FRANCHISES, LICENSES, PERMITS,  
PLANTS OR BUSINESS OF A PUBLIC UTILITY TO ANY OTHER  
PERSON OR CORPORATION**

**State of West Virginia  
Public Service Commission  
Charleston**

Case No. \_\_\_\_\_

Petition of \_\_\_\_\_  
for the consent and approval to the (assignment, transfer, sales, etc.) of the  
\_\_\_\_\_ to  
\_\_\_\_\_.

\_\_\_\_\_, the petitioner herein states that:

1. The mailing address, phone number, fax number, and email address of the  
petitioner is \_\_\_\_\_.

2. The name, mailing address, phone number, fax number, and email address of  
the assignee, lessee, purchaser, other, are \_\_\_\_\_.

3. The financial condition of the petitioner is \_\_\_\_\_.

[Petitioner will adhere to the provisions of Rule 21 and provide that information either  
as a part of its petition or as an attached exhibit.]

4. The assignee, lessee, or purchaser is \_\_\_\_\_.

[Give brief description of the assignee, purchaser, other, including the financial  
condition, if available, corporate history, etc.]

5. [State the franchises, licenses, permits, plants, equipment, business or other  
property sought to be assigned, sold.]

6. [State the terms and conditions of the proposed assignment, sale, lease, or other, with copy of the agreement attached as an exhibit to the petition.]

7. [State the effect of the proposed transaction upon the service of the petitioner.]

8. [State the method by which the proposed assignment, lease, sale, other, is to be financed.]

9. [State whether any other utility will be affected and, if so, in what respect.]

10. [State the reasons why the petition should be granted.]

11. [If less than all, or substantially all, of the transferor's assets are being conveyed and the petition relates to specific pieces of property, state the accounting history of the franchises, licenses, equipment, other to be sold, assigned, or otherwise disposed, including the account numbers used, the original cost, and the date of purchase by the petitioner.]

12. [A brief statement of the history and corporate makeup and financial condition, if available, of the person corporation, or other, to whom the franchises, licences, equipment, or other, are to be sold, assigned, or otherwise disposed of.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Signed) \_\_\_\_\_  
Signature of authorized representative of petitioner

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

---

(Official signature and official seal of notary)

[If Petitioner is signing out-of-state, please use verification Form No.12]  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 8

**FORM OF PETITION FOR APPROVAL OF CONSOLIDATION OR  
MERGER OF PUBLIC UTILITY COMPANIES**

**State of West Virginia  
Public Service Commission  
Charleston**

Case No. \_\_\_\_\_

Petition of \_\_\_\_\_  
for consent and approval to the merger or consolidation of the \_\_\_\_\_  
\_\_\_\_\_ of said companies into a new corporation to  
be known as \_\_\_\_\_.

\_\_\_\_\_, petitioners herein state that:

1. The name and address of the petitioner are \_\_\_\_\_  
\_\_\_\_\_.

2. The financial condition of each of the petitioners is \_\_\_\_\_  
\_\_\_\_\_.

[Petitioners will adhere to the provisions of Rule 21 and provide the information either  
as a part of their petition or as an attached exhibit.]

3. [State franchises, licenses, permits, plants, equipment, business or other  
property that is the subject of the merger or consolidation.]

4. [State the terms and conditions of the proposed merger or consolidation, with  
copy of merger agreement attached as an exhibit to the petition.]

5. [State the effect of the proposed merger or consolidation upon the service of  
the parties thereto.]

6. [State the method by which the proposed merger or consolidation will be  
financed and add as a part of the petition, or as an attached exhibit, a statement in respect to  
each kind of securities or evidence of indebtedness to be issued as follows:

(a) Total number of shares authorized

- (b) Total number of shares to be issued
  - (c) Par value per share
  - (d) Total par value to be issued, or, without par value, the amount of the stated capital
  - (e) Voting power
  - (f) If preferred stock, state dividend rate, whether cumulative or participating, and terms of preference over other issues
  - (g) If stock, or any part thereof, is to be held by the consolidated company or by an affiliate, trustee or other agency, state the name of such company, trustee or agency
  - (h) Give the same information with respect to any bonds and other indebtedness or obligations of the new company
  - (i) If the securities of the new company are to be exchanged for those of the merging companies, state in detail the method employed in evaluating each kind of security for exchange purposes.]
7. [State whether any other utility will be affected and, if so, in what respect.]
8. [Give a general statement of the physical property of each of the merging companies and the value thereof.]
9. [State the reasons why the petition should be granted and the name of the consolidated or merged company.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Signed) \_\_\_\_\_  
Signature of authorized representative of petitioner

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Official signature and official seal of notary)

[If Petitioner is signing out-of-state, please use verification Form No.12]  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 9

FORM OF PETITION FOR CONSENT TO AND APPROVAL OF THE  
PURCHASE BY ONE UTILITY OF THE STOCK AND  
BONDS OF ANOTHER UTILITY

State of West Virginia  
Public Service Commission  
Charleston

Case No. \_\_\_\_\_

Petition of \_\_\_\_\_  
for consent and approval to the purchase of the stock, etc., of \_\_\_\_\_

\_\_\_\_\_.

\_\_\_\_\_, petitioner states that:

1. The name, mailing address, phone number, fax number, and email address of the petitioner are \_\_\_\_\_

\_\_\_\_\_.

2. The name, mailing address, phone number, fax number, and email address of the public utility whose stock, etc., are to be purchased are \_\_\_\_\_

\_\_\_\_\_.

3. [State the kind, character, and description, in detail, and the amount, by classes, of the stocks, bonds, notes, or other, to be purchased.]

4. [State the price proposed to be paid for the items described in paragraph 3 and the terms and conditions of sale. If sale is by written agreement, a copy of the agreement must be attached to the petition as an exhibit.]

5. That the financial condition of the petitioner is \_\_\_\_\_.

[Petitioner will adhere to the provisions of Rule 21 and provide the information either as a part of the petition or as an attached exhibit.]

6. [State the effect of the proposed purchase upon the service and rates of the petitioner and the utility whose stock, or other property, are sought to be acquired.]

7. [State the reasons why the Commission's consent and approval should be given to the proposed purchase.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

(Signed) \_\_\_\_\_  
Signature of authorized representative of petitioner

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Official signature and official seal of notary)

[If Petitioner is signing out-of-state, please use verification Form No.12]  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 10

FORM OF PETITION FOR CONSENT AND APPROVAL  
TO ENTER INTO SERVICE CONTRACT BETWEEN A PUBLIC  
UTILITY AND AN AFFILIATED CORPORATION, PERSON OR INTEREST

State of West Virginia  
Public Service Commission  
Charleston

Case No. \_\_\_\_\_

Petition of \_\_\_\_\_  
for consent and approval of a contract for management (or other) services, with  
\_\_\_\_\_ an affiliated \_\_\_\_\_.

\_\_\_\_\_, petitioner states that:

1. That the name, mailing address, phone number, fax number, and email address  
of the petitioner are \_\_\_\_\_.

2. That the name, mailing address, phone number, fax number, and email address  
of the affiliate with whom the petitioner desires to enter into a \_\_\_\_\_  
\_\_\_\_\_ contract are \_\_\_\_\_ and that it is incorporated under the  
laws of the State of \_\_\_\_\_.

[If a foreign corporation, attach to the petition as an exhibit a certified copy of the  
articles of incorporation.]

3. That \_\_\_\_\_, an affiliate of the  
petitioner, agrees to render the following services, property or thing: [State the nature and  
character of the services, property or thing to be rendered, in detail, and attach to the petition  
as exhibit a copy of the proposed contract.]

4. That in consideration of these services, the petitioner agrees to pay  
\_\_\_\_\_ the following: [State  
amount to be paid and terms thereof, in detail.]

5. That the financial condition of the petitioner and the affiliate, \_\_\_\_\_  
\_\_\_\_\_, is \_\_\_\_\_.

[Petitioner will adhere to the provisions of Rule 21 and provide the information either as a part of the petition or as an attached exhibit.]

6. [State the effect of the proposed arrangement on the service of the petitioner, and, if the affiliate is a utility subject to the jurisdiction of the Public Service Commission of West Virginia, the effect of the proposed arrangement upon its service.]

7. [State the reasons why the petition should be granted.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

(Signed) \_\_\_\_\_  
Signature of authorized representative of petitioner

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Official signature and official seal of notary)

[If Petitioner is signing out-of-state, please use verification Form No.12  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 11

APPLICATION FOR CONSENT IN ADVANCE OR EXEMPTION FROM  
THE REQUIREMENTS OF SECTION 12, ARTICLE 2, OF  
CHAPTER 24 OF THE CODE, AS AMENDED

State of West Virginia  
Public Service Commission  
Charleston

Case No. \_\_\_\_\_

Application of \_\_\_\_\_  
for consent in advance or exemption from the requirements of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, petitioner states that:

1. That the name, mailing address, phone number, fax number, and email address of the petitioner are \_\_\_\_\_

2. That the petition requests consent in advance or exemption from the requirements of subsection \_\_\_\_\_ of section 12 of article 2 of chapter 24 of the Code, which reads \_\_\_\_\_ for the following reasons: \_\_\_\_\_

3. [State the effect thereof upon the service of the petitioner and any other utility operated in this state, if any.]

4. [State whether either party thereto is given an undue advantage over the other and the reasons therefor.]

5. [If consent in advance is requested to do any of the things provided for in Rules 10.4, 10.5, 10.6, 10.7, 10.8 and 10.9, the petitioner shall here insert such pertinent and applicable provisions set forth in the appropriate rule and form.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Signed) \_\_\_\_\_

Signature of authorized representative of applicant

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Official signature and official seal of notary)

[If Applicant is signing out-of-state, please use verification Form No.12]  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 12

VERIFICATION

State of West Virginia  
Public Service Commission  
Charleston

[When required by a particular rule.]

Case No. \_\_\_\_\_

Case Name \_\_\_\_\_

State of \_\_\_\_\_.

County of \_\_\_\_\_, ss.

\_\_\_\_\_ [your name], the  
\_\_\_\_\_ [complainant, petitioner, applicant]  
named in the foregoing Case Number.

\_\_\_\_\_ being duly sworn, says that the facts and  
allegations therein contained are true, except so far as they are therein stated to be on  
information, and that, so far as they are therein stated to be on information, he believes them  
to be true.

\_\_\_\_\_  
Affiant (Signature).

Taken, sworn to and subscribed before me this \_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_, County of  
\_\_\_\_\_.

My commission expires on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

Notary

SEAL

**Form No. 13**

**[RESERVED]**

Form No. 14

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered by the Public Service Commission of West Virginia, in the City of Charleston  
on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

CASE NO. \_\_\_\_\_

NAME OF APPLICANT:

\_\_\_\_\_

Application for a Certificate of Convenience and  
Necessity to construct \_\_\_\_\_

\_\_\_\_\_

COMMISSION ORDER

On \_\_\_\_\_, \_\_\_\_\_, the \_\_\_\_\_  
filed an application, duly verified, for a Certificate to construct certain additions and  
improvements to the \_\_\_\_\_ system in  
\_\_\_\_\_ County.

Pursuant to §24-2-11, West Virginia Code, IT IS ORDERED that the  
\_\_\_\_\_ give notice of the filing of said application, by publishing a  
copy of the attached Notice of Filing once in a qualified newspaper as provided in W. Va.  
Code §59-3-1 et seq., published and of general circulation in counties where service is  
provided, making due return to this Commission of proper certification of publication within  
thirty (30) days from the date of publication.

IT IS FURTHER ORDERED that within thirty (30) days of the date of this Order,  
\_\_\_\_\_ shall have completed the mailing of separate notices to each of its customers by one or  
a combination of the following methods: (i) inclusion of the Form No. 14 Notice of Filing  
as a bill insert; (ii) separately mailing the Form No. 14 Notice of Filing; or (iii) only for  
utilities that bill by postcard instead of in an envelope, and who elect not to separately mail  
the Form No. 14 Notice of Filing, inclusion of a statement on a postcard billing as follows:  
"This utility is seeking a rate increase. Details available in newspaper publications or at the  
utility office after [utility to insert date application filed with Commission] by calling [utility

to insert utility office telephone number],” and the utility shall have made due return to this Commission of its affidavit as proper certification that the notice was provided.

[Utility to insert the following if it has resale customer(s): IT IS FURTHER ORDERED that within thirty (30) days of the date of this Order \_\_\_\_ separately mail the Form No. 14 Notice of Filing to each of its resale customers, via certified mail, return receipt requested, and shall have made due return to this Commission of its affidavit as proper certification that the notice was provided.]

IT IS FURTHER ORDERED that in the absence of substantial protest received within the stated thirty (30) day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with the application and the Commission’s review thereof.

FOR THE COMMISSION

\_\_\_\_\_  
Executive Secretary

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

CASE NO. \_\_\_\_\_

NAME OF APPLICANT:

\_\_\_\_\_

Application for a Certificate of Convenience and  
Necessity to construct \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE OF FILING**

On \_\_\_\_\_, \_\_\_\_\_, the \_\_\_\_\_  
filed an application, duly verified, for a Certificate to construct certain additions and  
improvements to the \_\_\_\_\_ system in  
\_\_\_\_\_ County.

[Insert a general description of the project and the location of the project  
by reference to public highways or streets.]

[Insert a list and description of the alternative project deductions and additions  
that the applicant intends to make  
in the event project modification becomes necessary]

The application is on file with and available for public inspection at the Public Service  
Commission, 201 Brooks Street, in Charleston, West Virginia.

The \_\_\_\_\_ (Applicant) estimates that  
construction will cost approximately \$ \_\_\_\_\_. It is proposed that the  
construction will be financed as follows (state sources of funding here):  
\_\_\_\_\_ in the amount of \$ \_\_\_\_\_;  
\_\_\_\_\_ in the amount of \$ \_\_\_\_\_;  
\_\_\_\_\_ in the amount of \$ \_\_\_\_\_;  
\_\_\_\_\_ in the amount of \$ \_\_\_\_\_.

The utility anticipates charging the following \_\_\_\_\_ rates for its customers:

[insert appropriate chart]

MINIMUM MONTHLY BILL for \_\_\_\_\_ [insert unit of measurement] \$ \_\_\_\_\_ per month

**DELAYED PAYMENT PENALTY**

The above tariff is net. On all accounts not paid in full within twenty (20) days of the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

**CONNECTION CHARGE (if applicable)**

Prior to construction - \$ \_\_\_\_\_.

After construction passes the premises to be served, charge for connection to system - \$ \_\_\_\_\_.

[If applicable] These rates represent the following non project-related increases to become effective prior to substantial completion of the project:

	(\$)INCREASE	(%)INCREASE
Residential	_____	_____
Commercial	_____	_____
Industrial	_____	_____
Resale	_____	_____
Other	_____	_____

These rates represent the following project-related increases to become effective upon substantial completion of the project unless otherwise ordered:

	(\$)INCREASE	(%)INCREASE
Residential	_____	_____
Commercial	_____	_____
Industrial	_____	_____
Resale	_____	_____
Other	_____	_____

(If no rate increase involved, concisely describe nature of filing)

Resale customers of \_\_\_\_\_ include \_\_\_\_\_ (list all resale customers by name).

The proposed increased rates and charges related to the project will produce approximately \$\_\_\_\_\_ annually in additional revenue, an increase of \_\_\_\_\_%. The total increase granted will not exceed this estimate unless further notice is provided.

The proposed increased rates and charges not related to the project will produce approximately \$\_\_\_\_\_ annually in additional revenue, an increase of \_\_\_\_\_%. The total increase granted will not exceed this estimate unless further notice is provided.

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges among the various classes of customers are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing.

Anyone desiring to protest or intervene should file a written protest or request to intervene within thirty (30) days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or request to intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or request to intervene. Requests to intervene must comply with the rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and requests to intervene should be addressed to Sandra Squire, Executive Secretary, P. O. Box 812, Charleston, West Virginia 25323.

In the absence of substantial protest received within thirty (30) days of this publication, the Commission may waive formal hearing and grant the application based on the Commission's review of the evidence submitted with the application.

Form No. 14-A

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered by the Public Service Commission of West Virginia, in the City of Charleston  
on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

CASE NO. \_\_\_\_\_ (Reopened)

NAME OF APPLICANT:

Application for a Certificate of Convenience and  
Necessity to construct \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

COMMISSION ORDER

On \_\_\_\_\_, \_\_\_\_\_, the \_\_\_\_\_  
filed a petition to reopen this prior proceeding in which the Commission granted a Certificate  
to construct certain additions and improvements to the \_\_\_\_\_  
system in \_\_\_\_\_ County.

Pursuant to §24-2-11, West Virginia Code, IT IS ORDERED that the  
\_\_\_\_\_ give notice of the filing of said application, by publishing a  
copy of the attached Notice of Filing once in a qualified newspaper as provided in W. Va.  
Code §59-3-1 et seq., published and of general circulation in counties where service is  
provided, making due return to this Commission of proper certification of publication within  
30 days from the date of publication.

IT IS FURTHER ORDERED that within thirty (30) days of the date of this Order,  
\_\_\_\_\_ shall have completed the mailing of separate notices to each of its customers by one or  
a combination of the following methods: (i) inclusion of the Form No. 14-A Notice of Filing  
as a bill insert; (ii) separately mailing the Form No. 14-A Notice of Filing; or (iii) only for  
utilities that bill by postcard instead of in an envelope, and who elect not to separately mail  
the Form No. 14-A Notice of Filing, inclusion of a statement on a postcard billing as follows:  
"This utility is seeking a rate increase. Details available in newspaper publications or at the  
utility office after [utility to insert date application filed with Commission] by calling [utility  
to insert utility office telephone number]," and the utility shall have made due return to this  
Commission of its affidavit as proper certification that the notice was provided.

[Utility to insert the following if it has resale customer(s): IT IS FURTHER ORDERED that within thirty (30) days of the date of this Order \_\_\_\_ separately mail the Form No. 14-A Notice of Filing to each of its resale customers, via certified mail, return receipt requested, and shall have made due return to this Commission of its affidavit as proper certification that the notice was provided.]

IT IS FURTHER ORDERED that in the absence of substantial protest received within the stated thirty (30) day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with the application and the Commission's review thereof.

FOR THE COMMISSION

\_\_\_\_\_  
Executive Secretary

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

CASE NO. \_\_\_\_\_ (Reopened)

**NAME OF APPLICANT:**

Application for a Certificate of Convenience and  
Necessity to construct \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE OF FILING**

On \_\_\_\_\_, \_\_\_\_\_, in a prior proceeding the Public Service Commission granted the \_\_\_\_\_ (Applicant) a Certificate to construct certain additions and improvements to the \_\_\_\_\_ system in \_\_\_\_\_ County. The \_\_\_\_\_ now requests that the Commission authorize higher project-related rates than were previously approved.

[Insert a general description of the project and the location of the project by reference to public highways or streets.]

The application is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia.

The \_\_\_\_\_ (Applicant) originally estimated that the costs of its project would be \$ \_\_\_\_\_, but now estimates that the costs will be \$ \_\_\_\_\_.

The increased costs would be financed as follows (state sources of funding here):

\_\_\_\_\_ in the amount of \$ \_\_\_\_\_ ;  
\_\_\_\_\_ in the amount of \$ \_\_\_\_\_ ;  
\_\_\_\_\_ in the amount of \$ \_\_\_\_\_ ;  
\_\_\_\_\_ in the amount of \$ \_\_\_\_\_ .

The following chart shows the difference in rates that the utility anticipates charging its customers from those the Commission previously authorized:

[insert appropriate chart of previously authorized and newly requested rates]

These rates are project-related increases to become effective upon substantial completion of the project unless otherwise ordered. The following chart indicates the average rate impact of the newly estimated rates over those previously noticed:

	(\$) Increase Previously Noticed	(%) Increase Previously Noticed	Additional (\$) Increase	Additional (%) increase
Residential	_____	_____	_____	_____
Commercial	_____	_____	_____	_____
Industrial	_____	_____	_____	_____
Resale	_____	_____	_____	_____
Other	_____	_____	_____	_____

Resale customers of \_\_\_\_\_ include  
\_\_\_\_\_ (list all resale customers by name).

The proposed increased rates and charges related to the project will produce approximately \$ \_\_\_\_\_ annually in additional revenue, an increase of \_\_\_\_\_%. The total increase granted will not exceed this estimate unless further notice is provided.

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges among the various classes of customers are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing.

Anyone desiring to protest or intervene should file a written protest or request to intervene within thirty (30) days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or request to intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or request to intervene. Requests to intervene must comply with the rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and requests to intervene should be addressed to Sandra Squire, Executive Secretary, P. O. Box 812, Charleston, West Virginia 25323.

In the absence of substantial protest received within thirty (30) days of this publication, the Commission may waive formal hearing and grant the application based on the Commission's review of the evidence submitted with the application.

Form No. 15

COMMERCIAL SOLID WASTE FACILITY  
APPLICATION FOR CERTIFICATE OF NEED

State of West Virginia  
Public Service Commission  
Charleston

Case No. \_\_\_\_\_ (leave blank)

Fax No. \_\_\_\_\_

1. Applicant Name \_\_\_\_\_ Phone No. \_\_\_\_\_  
fax number \_\_\_\_\_, email address \_\_\_\_\_ mailing address  
\_\_\_\_\_.

2. Name in which certificate of need will read (if different from No. 1).  
\_\_\_\_\_

3. Is proposed certificate holder a sole proprietorship \_\_\_\_\_, partnership \_\_\_\_\_,  
corporation \_\_\_\_\_, or limited liability company \_\_\_\_\_? (If holder is a corporation,  
attach list of stockholders owning five percent (5%) or more of the stock with  
addresses.)

4. Does proposed certificate holder hold any other authority from the Public Service  
Commission pertaining to operation of commercial solid waste facilities or solid  
waste collection companies? \_\_\_\_\_. If so, please describe.  
\_\_\_\_\_  
\_\_\_\_\_

5. Is application for new construction \_\_\_\_\_, operation \_\_\_\_\_,  
expansion \_\_\_\_\_, or major modification \_\_\_\_\_?

6. Location and address of proposed or existing facility, including phone and Fax  
numbers, and email address, if applicable:

email address \_\_\_\_\_ Fax No. \_\_\_\_\_

\_\_\_\_\_ Phone No. \_\_\_\_\_

Street or P.O. Box

City

County

Zip

7. Describe the proposed and/or existing geographic area served by the facility.  
\_\_\_\_\_  
\_\_\_\_\_
8. What is the approximate number of proposed and/or existing customers served?  
\_\_\_\_\_.
9. What is the average monthly tonnage of solid waste which is presently being disposed of at the facility, if applicable? \_\_\_\_\_
10. What is the average monthly tonnage of solid waste which the applicant proposes to dispose of at the facility? \_\_\_\_\_
11. What is the total monthly tonnage of solid waste for which the facility is currently authorized by the Division of Environmental Protection and the Public Service Commission, if applicable? \_\_\_\_\_
12. What is the total monthly tonnage of solid waste for which the applicant seeks Public Service Commission authorization? \_\_\_\_\_
13. What is the status of the applicant's permit application at the Division of Environmental Protection, if applicable? (Attach copies of any permits or operating authority which has been issued by DEP to the applicant).  
\_\_\_\_\_  
\_\_\_\_\_
14. What is the projected lifespan of the facility? \_\_\_\_\_
15. What are the current capacities and lifespans of any other solid waste facilities within the State of West Virginia with which the current or proposed facility competes or will compete for solid waste disposal business? \_\_\_\_\_  
\_\_\_\_\_
16. Provide the name, address, phone number and Fax number of the person to whom requests for further information should be directed.  
\_\_\_\_\_  
\_\_\_\_\_

17. Provide any preliminary engineering studies addressing at a minimum the following areas: (a) cell life calculations; (b) pre-development and development cost estimates; (c) preliminary site plan.

**ATTENTION: THIS APPLICATION MUST BE ACCOMPANIED BY FINANCIAL DATA WHICH CONFORM WITH RULE 42 OF THE COMMISSION'S RULES FOR THE CONSTRUCTION AND FILING OF TARIFFS.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

(Signed) \_\_\_\_\_  
Signature of authorized representative of applicant

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Official signature and official seal of notary)

[If Applicant is signing out-of-state, please use verification Form No.12]  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 16

COMMERCIAL SOLID WASTE FACILITY APPLICATION  
FOR CERTIFICATE OF NEED  
AND FOR EXPEDITED PROCESSING

State of West Virginia  
Public Service Commission  
Charleston

Case No. \_\_\_\_\_ (leave blank)

1. Applicant Name \_\_\_\_\_ Phone No. \_\_\_\_\_

Fax No. \_\_\_\_\_ email address \_\_\_\_\_

Contact Person \_\_\_\_\_

\_\_\_\_\_ Street or P.O. Box

\_\_\_\_\_

City

County

Zip

2. Is this application for a new certificate \_\_\_\_\_, operation \_\_\_\_\_, or major modification  
\_\_\_\_\_?  
(Attach full description).

3. Name and address of proposed certificate holder, if different.

\_\_\_\_\_

4. Describe the proposed and/or existing geographic area served by the facility, if different from  
area currently served. (Attach additional pages as necessary).

\_\_\_\_\_

5. Will the new activity have any impact upon rates, upon the applicant, other commercial solid  
waste facilities, the applicant's competitors, or the public? (Attach additional pages as  
necessary).

6. What is the number of proposed and/or existing customers served, if different from current  
customer base? \_\_\_\_\_

7. What is the average monthly tonnage presently disposed of, or proposed to be disposed of, at the facility? \_\_\_\_\_
8. What is the total monthly tonnage of solid waste for which the facility is permitted, and/or is seeking a permit from the Division of Environmental Protection?  
\_\_\_\_\_
9. What is the status of the permitting process, if any, at the Division of Environmental Protection? \_\_\_\_\_

(Attach copies of any permits or operating authority issued by DEP).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Signed) \_\_\_\_\_  
Signature of authorized representative of applicant

\_\_\_\_\_  
Title of signer (President or other officer)

\_\_\_\_\_, Attorney.

Attorney Address \_\_\_\_\_

Attorney email address \_\_\_\_\_

Attorney Fax No. \_\_\_\_\_

Attorney WV Bar ID No. \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(Official signature and official seal of notary)

[If Applicant is signing out-of-state, please use verification Form No.12]  
[Out-of-state attorneys see Procedural Rule 4.1.d.1]

Form No. 17

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

Entered by the Public Service Commission of West Virginia in the City of Charleston  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CASE NO. \_\_\_\_\_

NAME OF APPLICANT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Application for a Certificate of Need.

**NOTICE OF FILING**

On \_\_\_\_\_, \_\_\_\_\_, the \_\_\_\_\_  
\_\_\_\_\_ filed an application, duly verified, for a Certificate to  
construct \_\_\_\_\_ at \_\_\_\_\_  
County. The application is on file with and available for public inspection at the Public  
Service Commission, 201 Brooks Street, in Charleston, West Virginia.

Rates are proposed as follows:

Residential MSW: \_\_\_\_\_ per ton

Commercial Waste: \_\_\_\_\_ per ton

Minimum Charge: \_\_\_\_\_

Other: \_\_\_\_\_ (attach additional explanation if necessary)

Pursuant to §24-2-11, West Virginia Code, IT IS ORDERED that the  
\_\_\_\_\_ give notice of the filing  
of said application, by publishing a copy of this order once in a qualified newspaper,  
published and of general circulation in each county in the wasteshed where the commercial  
solid waste facility is or will be located, as indicated in its certificate application and/or in  
its State Division of Environmental Protection permit, [and in a qualified newspaper that has

statewide circulation,]<sup>1</sup> making due return to this Commission of proper certificate of publication immediately after publication. Anyone desiring to protest or intervene should file a written protest or request to intervene within thirty (30) days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or request to intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or request to intervene. Requests to intervene must comply with the rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and requests to intervene should be addressed to Sandra Squire, Executive Secretary, P. O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within the stated thirty (30) day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with the application and the Commission's review thereof.

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<sup>1</sup> Bracketed text only applicable to applications for a certificate of need pursuant to Rule 10.3.f.1. and is not applicable for applications for amendments of a certificate of need pursuant to Rule 10.3.f.2.