

Northern Wayne County Public Service District
P. O. Box 775, Lavalette, WV 25535

November 12, 2020

Connie Graley, Executive Secretary
Public Service Commission of West Virginia
P. O. Box 812
Charleston, WV 25323

RE: General Order Numbers 186.35

Dear Madam:

In response to the pending rule amendments required by SB 739, we here at Northern Wayne County Public Service District wish to submit the following comments:

6.8.2. Notice of discontinuance – specifically the following:

- 6.8.2.c.1.A – “Face-to-face contact”;
- 6.8.2.c.1.B – “Live conversation occurs between the utility and an adult member of the household”;
- 6.8.2.c.1.C. – “If an automated call is answered by a live person, the call must provide means for the customer to speak with a customer service representative during the automated call, such as by pressing a button or speaking a demand (Automated Telephone Contact);
- 6.8.2.c.1.D. – “An electronic message if the customer provided an email address, cell phone number or text message capability”;

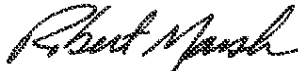
All of the above requirements does nothing but place additional burdens on to the already financially strapped Public Service Districts (PSD's) by requiring them to purchase new state-of-the-art automated phone systems and to have someone available after hours to speak with the customer. While having an additional option such as email to contact customers may be beneficial, obtaining this information from a large customer base will not be an easy task. Additionally, those customers who would respond to email and/or text messages are most likely those that pay their bills on time each month. The majority of the customers who end up on the “Monthly Turn off List” you can expect to find them there every month. A good number of those customers avoid our attempts at contacting them as they know they can use it as an excuse to try to prevent us from terminating their service. Providing additional ways to contact these types of customers and by providing additional services after hours to accommodate them will do nothing to encourage on time payment and will only delay the termination process by “expanding the playing field”.

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NWCPSD

Page 2

So my question here is if the amendments proposed in this section do very little to prevent the termination of service for those that have a repeated history of non-payment and provides only additional financial burdens and headaches for the PSD's why would anyone feel that these requirements are necessary?

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert Marsh".

Robert Marsh
General Manager

✓

UNION PUBLIC SERVICE DISTRICT

5110 WEST WASHINGTON STREET
P.O. BOX 7350
CROSS LANES, WEST VIRGINIA 25356
304-776-3131

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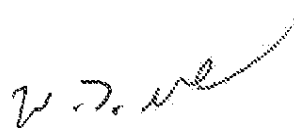
2020 DEC 18 AM 9:05

Connie Graley, Executive Secretary
Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323

Dear Executive Secretary Graley,

I am writing to relay Union Public Service District's comments to General Order # 186.35 regarding 150 C.S.R. Series 5, Rules Governing Sewer Utilities.

Specifically, we are objecting to proposed rule change 6.8.2.c.1.C.A. Currently The District places automated calls after business hours to customers who will be subject to termination of service. We are unable to use our automated dialing system during business hours because it ties up our phone lines and makes it impossible for us to respond to incoming calls from customers. Our message advises the customer to contact us during normal business hours to discuss the status of their account. The proposed rule change states that *"if an automated call is answered by a live person, the call must provide a means for the customer to speak with a customer service representative during the automated call, such as by pressing a button or speaking a demand."* We believe the proposed rule change places an undue burden on The District, and is currently impossible for us to implement as written. In order to comply with the proposed change, we would either have to outsource the calling of customers to an outside firm or hire additional staff and install additional phone lines. The District believes either of those options would impose additional costs on us that we would have to pass on to our customers in the form of a rate increase. Further, as proposed rule 6.8.2.c states in part that *"one of the telephone attempts must be made after 6 p.m.,"* and we close at 4:30, it would be impossible to connect that call to a live person in our office. We believe the better option, for both The District and our rate payers, is to allow us to play a recorded message to customers who answer our automated phone calls that instructs them to call us back during normal business hours.

Respectfully, 

Wesley Neal, Office Manager
Union Public Service District

Paw Paw Route 19 Public Service District
P.O. Box 2035
Westover, WV 26502

Phone: (304) 278-8029



Office available to public by appointment only.
(No walk-ins, call ahead to schedule an appointment)

Days of Operation:
Tuesdays, Wednesdays & Thursdays
9:00am to 2:00pm

Voice mail messages monitored on off-days

Website: PawPawWater.com

Email: PawPawH2O@gmail.com

Fax#: (304) 278-8119

December 27, 2020

Public Service Commission of West Virginia
Attention: Connie Graley, Executive Secretary
P.O. Box 812
Charleston, WV 25323

GO 188.40

Re: Paw Paw Route 19 Public Service District Business & Billing Office Reactions & Comments
Concerning proposed changes as presented in Title 150 Legislative Rule Public Service Commission Series 7 Rules for the
Government of Water Utilities.

To Whom It May Concern:

Having spoken with other water utilities and after reading comments submitted by other water utilities, we find ourselves agreeing with several of the points they have already submitted. Following are our general reactions and comments on the rule changes as presented. Some of the suggestions refer to rules with unchanged wording, but we feel some changes to those rules should also be considered. Following our general reactions, specific rule items are listed, along with our comments/concerns regarding them.

General Reactions, Comments:

- The reduction of redundant language is applauded, making rules much easier to read and understand.
- The renumbered of existing rules, will require time to be spent by staff to update all references in existing documents/policies, websites, etc.
- Regarding references to any/all rules that include wording "that except Saturdays, Sundays and state or federal holidays."

We feel that since there is postal delivery and post offices are open Saturdays, as well as banking services are available on Saturdays, we feel that the only days to be excepted should be Sundays and state or federal holidays.

Also, the length of mail delivery in rural areas is often a day or two longer, the use of calendar days vs business days (definition to be clarified) would extend the termination deadlines further and further and impact or limit the available days we have to execute actions within the 30 day timeframe given for those utilities operating with part-time office staff and part-time field staff.

- Reference to 'regular business hours' is rather vague and should state 'scheduled days and hours of operation', to accommodate the many utilities, that due to burden of costs, are currently unable to provide a full-time staff and offer a 9-5 office open Monday through Friday. Our experiences with the current COVID restrictions should show that modifications to traditional office management/structures and situations should be allowed for.

Due to our limited days of operation, we provide (as we are sure most offices do) a voicemail system that is monitored on off-days; also supply an email address where customers can leave messages when office is not available, also monitored on off-days; we maintain a website where customers or potential customers can access forms and information 24 hours a day/7 days a week. Emergency contact information is also provided on all these avenues of communication.

While it may be inconvenient to customers, on occasion, our phone/email records indicate that there are many days when the office receives no customer calls, and as no complaints have been filed with the PSC that we are aware of, we feel that we are supplying all that is necessary to manage and respond to our customer's needs, while continuing to supply water without a need for additional rate increases.

- Unless overlooked other than the reference in 6.8.1.c.3.D, we do not see any acknowledgment of current electronic methods with regard to receipt of payments or NSF's incurred through electronic payment, or notifications. The utility's attorney indicated that courts have been accepting these as a legal documents. Customers submit emails with complaints that we are required to respond to, and therefore, we feel that emailed notifications to customers should be acknowledged as a valid notification method (first attempt would be mailed via USPS 1st class, attempt to have direct phone conversation at supplied phone number and lastly to email message or email .PDF form of notification to customer provided email address, and lastly hand-delivered final notifications to customer/customer's door). We do not encourage the last method, as it can place our staff in jeopardy due to stressed and irate customers, un-attended dogs, Covid exposures, etc. and to do it safely would require two utility staff to travel together to provide protection/witness to events. In addition, most often, customers do not respond to door knocks, even if they are home.
- We feel that the current notification system of service termination is sufficient and should not be changed, due to several factors:
 - Each billcard is dated and shows the bill due date (past due date).
 - Each billcard lists any amount considered delinquent as "Past Due".
 - Customers are mailed a green reminder that they are 20-30 days past due, as a warning.
 - Customers are mailed a yellow warning notice of past due/shutoff notification when 31 or more days delinquent,

specifying what has to be paid, how to pay and by when to prevent termination of service, including charity organizations, complaint process, payment plans, etc. and encouraged to NOT wait until final deadline to act on options. Two calls are generated to customers remaining on delinquent list, before due date. For those with failed calls, phone number not in operation, etc., two notifications of same information (with request for updated phone number) are delivered on separate days, to customer's residence and left on their door, if not responding. Customers can pay electronically or leave in payment drop box; payments are monitored for any received before shutoff deadline. We accept and establish payment plan agreements for those customers who contact the office.

More than these actions, begins to feel like discrimination to the majority of customers who choose to handle their accounts in a timely fashion.

Many of our customers no longer keep a house landline phone, but have opted for a cell phone. In our rural communities, a large majority of our customers are unable to get a cell signal strong enough to make/receive calls when at their homes, and voicemail is the only option available. Many of our customers change service providers/phone numbers and do supply them to the office.

Making calls after 6pm feels invasive of the customer's family time. The customer supplied a day-time phone number and authorized its use for contact. If the customer chooses to use a voicemail system, that should be considered as a successful contact.

Making calls after 6pm will cause further financial burden due to payroll costs.

While we regret having to disconnect customer's service, the adult aged customer, has not honored the contract made with us. When they applied for service, both the applicant and the utility agreed to follow the rules and regulations, with payment of a bill for services rendered being a primary one.

Rule Item Comments/Concerns:

Item 6.1.5.b. (Page 9) and Item 6.2.1.f reference

Regarding change in identify of contracting customer at a premises, due to death or incapable of being responsible, we disagree that the remaining spouse should not be required to complete a new application. It is our feeling that the office has current and complete contact information and/or any property ownership changes on file.

We agree, however, that no new deposit should be collected for this type of change.

Item 4.2.a.6 removal

We are confused as to why this is being removed, unless it is being addressed in a different section of the rules. For bookkeeping purposes, we feel that these funds continue to be maintained in a separate account. Assures that these funds are available at all times and are not used for other purposes, as they are a liability each utility could have to pay back to customers at some point in the future and should not be considered as available for general O&M activities.

Item 6.7.1

"Customer requesting service to be discontinued shall give notice during regular business hours" & "Until the utility receives notice, the customer may be held responsible for all service rendered."

We feel that since the customer had to supply a written application to begin service, they should also be required to submit discontinuance in writing. This is specified in our written Application/Contract for Service. This Change in Service form is provided by our utility along with the security deposit receipt (and is available on website). It requires completion and signature by current customer(s) of record establishing final billing date and future contact information, and also provides information to customer how security deposit refunds (if applicable) will be handled, etc.

We do not think leaving a message on the phone, or sending an email should constitute appropriate notification. Quite often the customer does not provide complete information, and the customer is unable to be contacted by phone and may not have a voicemail box setup or able to accept messages.

Also the length of response time 'by end of the next business day' is often unreasonable with small utilities with limited staffing (often part-time). For larger utilities and municipalities, this is probably doable.

Item 6.8.1.c "two (2) attempts to notify the customer through personal contact."

Does removal of last sentence, mean we cannot proceed to terminate service if unable to make 2 personal contacts? If so, what is our next action?

Item 6.8.1.c.3.C ".... If an automated call is answered by a live person, the call must provide a means for the customer to speak with a customer service representative during the automated call, such as pressing a button or speaking a demand (Automated Telephone Contact)."

We oppose the availability of staff to provide live answer during automated calls. Our current automated dialing system, can probably provide this option, at an additional cost, however, the cost of staffing the office for live contact would be prohibitive to the utility. We feel it would be unfair to impose an additional rate increase to the majority of our customers who pay on time, in order to staff an office to accommodate this requirement just so the minority of customers who would be responding (or most often not responding) to these notifications. They were given access times and days of operation when staff can be reached, in the mailed notification.

Item 6.8.1.c.3.B-D

If left as is, should use consistent wording between rules, regarding ... 'provides a toll free call back number or call back number local to the customer's service address (Actual Telephone Contact).' D is differently worded than B&C.

Also there should be a specific notation in each of these items which defines when the particular method can be considered as

'successful', as it does in 6.8.1.c.3.D. Therefore, Item 6.8.1.c.3.E would not be necessary and therefore, less confusing.

Item 6.8.1.d

We oppose the wording restricting shutoff on "a day on which the utility's business office is not open to accept payment".

We feel that additional wording could be added to allow for other accommodations when an open office is not available, as long as services can be restored within the 24 hours window from receipt of a customer's payment. In most cases, the service is restored well before that.

Due to current COVID restrictions, many offices are not open to accept payments. Having an office not currently open to the public, in order to accommodate our customer's needs and meet your specifications, our utility offers (as we imagine most systems do) an on-line or pay-by-phone payment system managed by a 3rd party vendor (Payclix), as well as a locked Payment Drop Box installed outside our local community center, which is free, available 24 hours a day/7 days a week and is located in a lighted area.

These methods are listed in all shutoff notifications as the fastest payment methods remaining to customers in order to restore services and they DO NOT REQUIRE anyone to be in the office for the customer to submit a payment. These methods are itemized in our Customer Information Packet, on our website, on the back of the billing statement, and included in every form of contact used to notify of past due / termination.

The office is notified by email if payment is made online, emails are monitored periodically even on off-days. Payments are gathered from Payment Drop Box daily at 2pm (customers are supplied with this information in all notifications). In addition, staff checks the box a second time (daily at 7am each morning for a period of 1 week), while any customer have their meter shutoff, so that re-instatement of services can be done within the 24 hour window as allowed by the PSC.

It is our feeling that COVID restrictions may continue for some time and allowances should be made in the wording to allow for this, as long as alternate payment methods have been provided.

Item 6.8.1.f - may accept payment at the customer's premises in lieu of discontinuing service for delinquent water bill.

In light of current social unrest and potential COVID exposure, this option should be removed totally. If rule left in, we suggest the wording should also exclude acceptance of cash, only accepting checks or money orders, for the protection of the utility workers, as well as customers.

It does cause many of our habitual customers to count on this as a method of payment not requiring any effort on their part. Our current tariff allows for a reconnection charge if meter is shutoff, however there is no allowance for a trip fee in cases when the customer gives utility worker a payment, instead of shutting off the meter as directed in original workorder. It feels that is giving unfair advantage to delinquent customers as compared to our customers who make efforts and pay their bills on time, kind of reverse discrimination. We realize it is an optional rule, but we also recognize that this option often eliminates a 2nd trip needed to restore service, when a customer pays bill immediately after being shutoff.

Item 6.8.1.g NSF payments

This rule only discusses checks presented to banks with insufficient (NSF), but does not encompass payments submitted electronically or by-phone to a 3rd party vendor, which also result in NSF payments, and any associated fees added.

Wording in last paragraph should be consistent with 'successful attempt' as referenced in 6.8.1.c.2,3A-E).

Item 6.8.1.i.

Deferred Payment Agreement "provided that the customer has demonstrated an ability to pay."
... Based on what. What proof can we require.

In rule 6.8.1.i.5, you state that the "customer shall provide documentation in support of financial condition having changed" ... what form is this to be in. If we can require substantiation of financial hardship in rule 6.8.1.i.5, then we should be able to request the same initially, in rule 6.8.1.i.

Item 6.8.1.i.2 "... in twelve monthly payments.

We wish the amount of time offered to pay off be based on amount owed, rather than automatically assigned a 12-month payment plan. The maximum length of time to repay a delinquency in installments should be limited to 12 months, and then only with board approval. The offer of 2 or 3 options for a payment plan should be offered to customer and final arrangement left to be negotiated between the customer and the utility. Customer's average bills vary greatly, so a 2 month delinquency at our current rate, could be as little as \$72 or as much as, \$300, based on customer's usage.

Item 6.8.1.i.5

How many times can a customer request an adjustment to an existing payment plan to delay termination?

Item 6.8.4

How is "present customer and such previous occupant are members of the same household and were members of the same household at the time the delinquent bill was incurred" determined?

Thank you for your considerations of our comments.

Sincerely,

Nora L. Simcoe

Nora L. Simcoe
Office Administrator/Billing Clerk

cc: Emailed to PSC of WV caseinfo@psc.state.wv.us, WV Rural Water Association



PO Box 480 Mt Morris PA 15349

(mailing) www.cbpsdwater.com

186 Buckeye Road Core WV 26541 * 304-292-4003 * Fax: 304-292-5677

December 28, 2020

Public Service Commission of
West Virginia
Connie Graley, Executive Secretary
Public Service Commission of WV
PO Box 812
Charleston, WV 25323

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Emailed to caseinfo@psc.state.wv.us and hard copy mailed

Reference: Comments to proposed changes to General Order # 188.40 in the matter of revisions to the Rules Governing Water Utilities 150 C.S.R Series 7

Comment to the significant changing of Rule numbers- we are opposed. For example- the line extension rule has been commonly referred to 5.5 for several years-- based on proposed changes- that will be changed to 7.5. Most utilities will need to revamp all of their policies that reference existing rule numbers.

3.10 (1.7.j) Suggest the language to be clarified to read: Payment is made by any legal form of payment that the utility accepts.

4.1.2.a (2.1.b.1) We support the language "available during the utility regular business hours" and not as proposed "available during regular business hours" as not all utilities do not have the same hours.

4.2.a.6 - We do not understand why the requirement for security deposits to be segregated into separate banking account language is being removed. We believe the requirement should remain.

6.3.5 (4.3.e) We support: "A utility will request a delayed payment penalty applicable..." And not the word "may". This provides consistency throughout all water utilities operating in WV. It is better to explain to customers that "complain" about the 10% penalty that it is a standard throughout WV. The office staff/board then can make any necessary adjustment after the penalty is added -- if the situation warrants- such as office staff error.

6.4.3.a. (4.4.c.1)- We believe the language "in excess of 150 % of the customer's historical usage" should NOT be added. Including that language will lead to more potential abuse of the leak adjustment policy with customers requesting adjustments more often. It is potentially unfair to customers that routinely have higher uses during certain periods (pool filling, gardens, etc.)- if those customers should happen to have a leak in a month such as February -- they may not qualify because of the 150% of historical usage requirement language. IF, the language is still included in the revised rules- then a minimum usage should be added to also qualify- suggestion: AWWA 4500 gallons.

We believe the language "outside the wall leaking" is confusing- that can be inferred that leaks in the ground are not eligible because those type of leaks will "be outside of the wall"- but based on the proposed changes

those leaks only qualify if they are not visible? So, we are to assume that if a customer asks for a leak adjustment, and when we go to their residence and can clearly see where the leak is in the ground "outside the wall"- the leak will be not eligible- because while it is in the ground- it was easily visible? We believe the proposed language change is confusing.

In addition, the language allowing for two consecutive billing periods can be used for leak adjustments is not necessarily equal to all customers and/or utilities. If a utility utilizes AMR or AMI reading technology- often the customer is notified pretty quickly- the day of or the next day of discovering the customer has a potential leak. If the utility has been able to contact the customer and can readily determine how much excess water can be attributed to the leak(s)- then the leak adjustment should not only be limited to the reasonably accurate gallons and usage should cease being included in the loss amount- especially if the customer was reached and/or the utility service department personnel shut off the water meter to prevent the customer additional water loss and expense. It is unfair the other utility customers that promptly take care of repairing the leak; while other customers with a leak do not seem inclined to make the necessary repairs.

6.4.3.b (4.4.e.2) The 150% language should be eliminated or changed to include minimum of AWWA 4500 standard.

6.8.1.c.3.B. We do not believe the language should be added to the rules "provides a toll-free call back number or call back number local to the customer's service address (actual telephone contact)" should be added. The toll-free number requirement adds an additional financial burden to all customers of the utility and considering most people now use cell phones- there usually are not additional charges to call the utility. The local call back number should not be added. Several people have eliminated landlines or have made their landline phone charges to reflect all outgoing calls to cost because they only use the landlines for emergencies; no calls could be "local" to a customer. We recommend not including the language. A utility representative could always call hang up and call the customer back if the customer requests because they are paying for the call.

6.8.1.c.3.C We oppose the toll-free number language. We oppose the language requiring that an automated call must provide a means for the customer to speak with a customer service representative during the automated call. Again, this will result in additional financial burden to the utility and ultimately to all customers. A quick check resulted in one (1) automated calling system charges .05/minute for each connected call back to the office. If the office is staffed with few people and/or limited phone lines- the customer may not be able to reach a representative without leaving a message- which they can do by calling the office back. Including the language could result in undue additional financial burden.

6.8.1.c.3. E. "may be used as an after-hours personal contact attempt" is unnecessary language. The four methods for attempt of personal contact could be made during the utility office hours or after hours.

6.8.1.f. (4.8.a.6.) We recommend a language change that the utility staff is not permitted to accept payment at the customer's premises. Given today's culture and danger- it isn't necessarily safe to accept payments at the door. It can become a customer said they paid x\$ versus field staff reporting they collected a different x\$. The customer often then expects to pay "the service guy" and wants to know "when they are coming." We believe it is a better practice to make it standard that utility field personnel do not collect any type of funds from the customer.

6.8.1.g (4.8.a.7.) We believe the language should remain as (5) five calendar days. The customer- in order to avoid such termination issued an NSF check- which is illegal- they already know they are issuing a check that is going to be returned- the (5) calendar days should be sufficient. We believe the language should be clarified that if the utility contacts and speaks to the customer of record- then disconnection can occur without the (5) days additional notification- provided the customer of record was directly spoken with.

6.8.1.i.2 (4.8.a.9.B) We oppose the standard deferred payment agreement being set of (12) monthly payments. This could create a labor and financial hardship and tracking issue for the utility if there are significant quantity of DPAs being tracked. It is not fair to customers by the mere fact that a customer with a DPA of \$100 can have the same (12) monthly payment installments as a customer with a \$1200 DPA. The utility's DPP should be set based on the amount of the DPA not a standard 12 months (such as payment amounts dependent on the amount of the initial bill as a guideline). It's also a challenge and or expense for billing software to be customized to track the deferrals.

6.8.1.i.6 (4.8.a.9.F) We support keeping the five (5) calendar day language

6.8.4 (4.8.d.) The "household rule" language needs to be rectified to allow unpaid charges to follow a customer- regardless or not whether the "exact" same household occupants exists. If the utility can determine that a person that resides in a residence has an outstanding balance from another location in the service territory- then the utility should be permitted to add that balance to the new location. This change will help to prevent customers merely changing names on the account (and continuing to reside at location) to by-pass paying a delinquent amount and thus essentially passing the amount onto all other customers. Simply- the balance should follow the account owner(s) to new locations regardless of the possible new household establishment- again, provided the utility has this knowledge of where the person(s) live.

6.12.3. (4.12.b.) We support the language -- "A utility will ATTEMPT to notify every affected customer" not the language that the utility WILL notify every customer. Customers often seem to change phone numbers/have voice mail not set up/ etc. and if the service department is repairing the leak- then it's unlikely there is extra staff "on hand" to hang door notices.

Water Form No 5: the language needs corrected on Utility Share line (B). The form references current Rule # 5.5.e.4 and not proposed Rule 7.5.5.b.

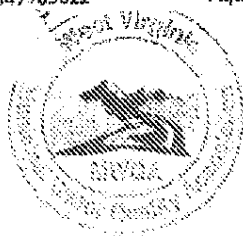
Water Form No 6: We propose the language in last paragraph should reflect that the security deposit is refunded with interest following twelve consecutive months of full and timely payments for services rendered- PROVIDED the customer is the property owner; otherwise, the security deposit refund (if any) will be calculated once the customer is no longer at the service address.

Water Form No 7: second page: the note at the bottom of the page refers to current rule numbered 5.3 or 5.5 and not the proposed Rule number.

Thank you for your consideration of our comments.

Sincerely

Clay Battelle Public Service District Board & Staff



WEST VIRGINIA MUNICIPAL WATER QUALITY ASSOCIATION

515 W. Main St.
P.O. Box 1310
Bridgeport, West Virginia 26330
304-842-8231

December 29, 2020

BOARD MEMBERS

David C. Sago
President

Eric Bennett
Vice President

Jared Cummings
Secretary/Treasurer

Dale Bailey
Shannon Bailey
Tim Ball
Brock Castlew
Steve Cooper
Jeremiah Joffe
Stephen Knipe

By Fax (304-340-0325)

10:27 PM DEC 29 2020 EXEC SEC DIV

Connie Graley
Executive Secretary
Public Service Commission of West Virginia
P.O. Box 812
Charleston, West Virginia 25323

Re: General Order No. 186.35 (Rules Governing Sewer Utilities) & General Order No. 188.40 (Rules Governing Water Utilities)

Dear Ms. Graley:

MEMBER AGENCIES

Bethlehem, Village of
Beckley Sanitary Board
Bluefield Sanitary Board
Bluewell PSD
Bourne County PSD
Bridgeport, City of
Buchanan Sanitary Board
Charleston Sanitary Board
Clarksburg Sanitary Board
Falmouth, City of
Fayetteville, Town of
Follansbee, City of
Greater Harrison County PSD
Huntington Water Quality Board
Hurricane, City of
Kenova, The City of
Martinsburg, City of
Morgantown Utility Board
Moundsville Sanitary Board
New Martinsville, City of
Parkersburg Utility Board
Phillippi, City of
Princeton Sanitary Board
Sun Valley PSD
Vienna, City of (Utility Board)
Weston Sanitary Board
Wheeling Water Department, City of
Wheeling WPCD
Williamstown Public Works

The West Virginia Municipal Water Quality Association ("WVMWQA") appreciates the opportunity to comment on the referenced proposed rule changes.

While we have made best efforts to review the extensive rules and proposed changes, with the holidays (including municipal end-of-year leave), CV-19 impacts, and the lack of any stakeholder engagement in the development of the proposed rule changes, we still believe additional time to comment is warranted. We think some stakeholder engagement always leads to a better understanding of issues and better regulatory decision-making. Accordingly, we ask that the PSC suspend the January 18 response deadline (overall but at least as to the non-Senate bill 739 changes) and, instead, initiate a stakeholder engagement period to review those proposed changes. Many of the changes are quite complicated and there is no explanation from the Commission about the effect of any of the proposed changes.

The stakeholder process we propose can be conducted virtually over the next 60 days.

Thank you for considering our attached comments and our request for some stakeholder dialogue regarding the rules and the PSC's proposed changes.

CONSULTANT MEMBERS

Burgess & Nipke
CENTEC Engineering, PLLC
Civil & Environmental Consultants, Inc.
CT Consultants, Inc.
Polenta & Associates
Strom Associates, Inc.
The Thrasher Group

GENERAL COUNSEL

Paul Calamita, AQUALAW

Sincerely,

C. WVMWQA Members

F. Paul Calamita III
General Counsel

10:27 PM DEC 29 2020 EXEC SEC DIV

**COMMENTS OF WEST VIRGINIA MUNICIPAL WATER QUALITY ASSOCIATION
REGARDING THE COMMISSION'S GENERAL ORDER NOS. 186.35 (SEWER
UTILITIES) and 188.40 (WATER UTILITIES)**

On November 10, the Public Service Commission of West Virginia ("Commission") published General Order Nos. 186.35, revising the Rules Governing Sewer Utilities in 150 CSR Series 5, and 188.40, revising the Rules Governing Water Utilities, 150 CSR Series 7 (collectively referred to as "the Order"). The predominant purpose of the Order is to implement Water and Sewer Rules that provide protection for the customers of distressed and failing water and wastewater utilities. However, the Commission also took the opportunity to propose a number of other rule amendments that go far beyond that scope of regulation.

While we appreciate the Commission's decision to extend the comment period to December 30, between CV-19, the holiday period (especially with public officials using traditional end-of-year leave), and the lack of stakeholder discussion about these changes, we have struggled to fully review the rule and develop meaningful comments. As noted in our transmittal letter, we believe the rules would benefit greatly from some stakeholder engagement and we propose such engagement as the next step over the coming two months. We reiterate our strong concern over the lack of any explanation regarding the legal/financial impacts of the proposed changes.

Nevertheless, below are the comments of the West Virginia Municipal Water Quality Association ("WVMWQA"). The MWQA comprises water, sewer, and stormwater utilities statewide. Our members seek to provide affordable and cost-effective public utility service which meets or exceeds all regulatory requirements.

I. Origin of Rulemaking

The Commission issued the current rule amendments in response to Senate Bill 739, an act related to distressed and failing water and wastewater utilities that went into effect in June of 2020. SB 739 significantly expanded the Commission's authority over distressed/failing systems by adding a new article (Article 2H, §§ 24-2H-1 to 24-2H-9) through which the Commission can identify troubled facilities and provide advice and assistance toward resolving any financial instability or managerial/operational issues.

While we understand the Commission's desire to conform and update its regulations to reflect Senate Bill 739, we are concerned with the approach of combining those changes with a host of other, unrelated changes for which there has been no stakeholder outreach to our knowledge.

Should the Commission elect to proceed with rulemaking on the current path, we offer the following proposed changes and comments for consideration.

II. Security Deposit Interest

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We agree with and appreciate the removal of the requirement that PSDs and municipalities have to segregate security deposits in accounts at federally insured institutions.

We also note that the amendments would remove the current 1% interest in the Sewer Rules that accrue on a customer's 12-month security deposit and instead have the Commission set the rate. Proposed Sewer and Waters Rule 6.2.1.e ("Interest paid on deposits will be established by the Commission by general order.").

Security deposit interest is a thorn in every public utility's side because the administrative costs to calculate and handle such interest vastly outweighs the amount to be paid. It is like sending a five-cent rebate in a letter with a 55-cent stamp. The juice is simply not worth the squeeze.

After all, we are talking about small amounts (\$50, \$100, \$200) so a year's worth of interest is literally pocket change to the customer.

While this may not seem like a major issue, the State's public utilities need every efficiency they can get as well as avoiding unnecessary administrative costs. We believe a better approach is to remove the interest requirement all together for security deposits held for 13 months or less and then leave it to Commission general order as to whether any interest shall be paid on security deposits held beyond 13 months.

III. Commission's Annual Reports

Proposed Sewer Rule 4.4.2 and Water Rule 4.4.2 would now require a utility to submit an income statement, balance sheet, and cash flow statement covering the annual report period when making an extension request for an annual financial and statistical report submission. These accompanying documents may prove problematic because utilities often need to ask for the first extension for these reports because the final fiscal balance sheets are typically not yet available from the localities.

We question the need for the submittal of the income statement, balance sheet, and cash flow statement with a request for an extension of the utility's financial reporting deadline. We ask that the Commission revise this requirement to make it conditional on the Commission requesting such information from a utility which seeks an extension request. We don't think the submittal will be necessary in every extension request case. For example, if a utility needs a short extension, it likely is not worth the additional administrative work to submit the information with the request. We suggest the regulations state something to the effect that "the Commission may require the submittal of an income statement, balance sheet, and cash flow statement in support of or following any request for an extension of annual financial reporting deadlines." In this way, the Commission can target this requirement to utilities where the information matters (such as a potentially non-viable utility) rather than for viable utilities which simply need additional time for one good reason or another.

IV. Service Laterals

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In proposed revised sewer rule 3.16 the definition of "Utility Service Pipe" would change as follows: "That portion of the service pipe between the sewer main and the Point of Service, ~~installed at the cost and expense of the utility.~~"

We don't understand the rationale behind this change. We believe the deleted language should remain with the addition of the underlined caveat (which mirrors the Point of Service definition): "That portion of the service pipe between the sewer main and the Point of Service, installed at the cost and expense of the utility (unless otherwise provided in a user's agreement)."

V. Billing Amendments -- Delay Penalty Payments & Leaks on Customer's Side of Meter

Late Payment Penalties. In Proposed Sewer Rule 6.3.5 and Water Rule 6.3.5, the Commission alters language that would automatically charge a delayed payment penalty to state that "[a] utility may request a delayed payment penalty" equal to 10 percent. We urge the Commission to leave the automatic penalty provision in place. This is a standard business practice across all societal business sectors. Having the automatic late fee is a critical safeguard toward maximizing timely utility payments which is THE most critical issue toward ensuring viable public utilities. Removal of the on-time payment incentive will undermine public utilities statewide.

Leak Adjustments. We strongly disagree with the proposed revised approach to bill adjustments for leaks on the customer's side of the meter. The practical result of these revisions is that utilities will have to waive all high bills for such leaks. The rule is too vague and the transaction costs of participating in a formal PSC proceeding almost always dwarf the outstanding bill. Thus, utilities will have to financially waive high bills due to customer leaks upon request from the customer due to the vagueness of the proposed rule and the relatively high cost of trying to enforce such bills within the PSC's administrative process.

This will remove a key incentive for customers to be reasonably vigilant to avoid leaks. This is another of the thousand cuts which hinder public utilities in West Virginia. This leak adjustment rule looks like no other we have seen. Maybe the Commission staff know better than everyone else, maybe not.

We think it needs to be much simpler and provide the appropriate incentives to minimize avoidable leaks. To that end we suggest the following:

- Only bills which are twice the typical bill are eligible to be adjusted.
- An individual customer may only have one leak adjustment (for no more than two month's bills) every three years.
- The utility will waive 50 percent of the amount above the customer's typical usage. This provision ensures that both the customer and the utility have a financial incentive to minimize avoidable leaks.

Extended Repayment Agreements. We disagree with the proposed change to Section 6.8.2.1.2 which would require utilities to offer a 12-month extended repayment plan. We think a minimum repayment period of 90 days is more appropriate with up to 12 months permissible for good cause shown. Otherwise, customers who can pay earlier will get the benefit of the full 12-month

WVMWQA Comments

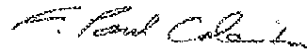
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period. That is unfair to the utility and provides another disincentive to on-time payments which are essential to maintain viable utilities.

Thank you for considering this request and reviewing our concerns.

Sincerely,



C: WVMWQA Members

F. Paul Calamita III
General Counsel

**Morgantown Utility Board**

278 Greenbag Road Post Office Box 852 Morgantown, WV 26507-0852

Phone: 304.292.8443 Email: mubmail@mub.org Website: mub.org

December 30, 2020

VIA FACSIMILE (304) 340-0325

11:16 AM DEC 30 2020 EXEC SEC

Connie Graley, Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
Charleston, West Virginia 25301

Re: General Order Number 186.35 and General Order Number 188.40

Dear Ms. Graley:

The Morgantown Utility Board ("MUB") writes to provide its comments to the proposed new *Rules Governing Sewer Utilities*, 150 C.S.R. 5, and proposed new *Rules Governing Water Utilities*, 150 C.S.R. 7, with respect to the above-referenced matters. Specifically, MUB offers the following comments:

- MUB objects to the removal of the word "shall" in Rule 6.4.3.a. The effect of the removal of the word "shall" and replacement thereof with the word "may", in conjunction with the West Virginia Supreme Court's recent decision in *City of Kenova v. The Public Service Commission of West Virginia*, places utilities in the difficult position of needing to play the role of detective when a customer experiences a water leak on the customer's side of the point of service. In other words, if a customer seeks a credit for a toilet leak and claims that he/she was unaware of the leak, utilities will necessarily need to question the customer's claim so as to determine whether the customer's claim is credible. Instead, the rule should be written to a wholly objective standard to make completely clear that water customers are not eligible for credits under any circumstances for leaking commodes, dripping faucets, malfunctioning appliances and similar leak situations.
- Also with respect to Rule 6.4.3.a, MUB objects to the inclusion of the 150% threshold for unusual water usage and the threshold of two consecutive billing periods for noticeable leaks. Neither addition aids in clarifying the Rule and, in fact, makes the Rule less flexible from a customer care standpoint.
- MUB objects to the requirement in Rule 6.8.2.c that one telephone call relative to disconnection must be made after 6 p.m. Per Rule 6.8.2.c.1.C, if the post-6 p.m. telephone call is answered by a live person, the answering party must have the option to speak to a live person. MUB, like most utilities, does not have customer service representatives available at 6 p.m. or later. Thus, MUB would be required to pay customer service representatives overtime to meet the requirements of the proposed rule and such a necessity is not reasonable. This is especially true since automated calls include a toll free number that can be called by customers during normal business hours.

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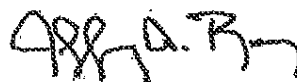
11:16 AM DEC 30 2020 EXEC SEC DIV

- MUB objects to the requirement in Rule 6.8.2.i.2 that all deferred payment plans be for a period of twelve (12) months, unless the customer requests a shorter period. Such a requirement removes the flexibility of the current Rule that allows utilities to work with their customers to determine the most reasonable payment period based on the amount of the debt and the customer's ability to pay. For years without complaint, MUB has used a "stepped" approach providing for longer payment periods for larger debts and, therefore, the proposed change to Rule 6.8.2.i.2 appears to be aimed at addressing a problem that does not exist.
- MUB respectfully requests that Rule 7.3.5 of the Sewer Rules require that the customer service pipe include the installation by the customer of a 2-way cleanout "T" near the foundation of the premises to be served. Requiring a cleanout will benefit customers from the standpoint of diagnosing and removing clogged sanitary sewer lines and will further avoid the need for utility workers to enter customer premises to assist in diagnosing and removing the cause of sewer backups.
- MUB opposes the additions to Rule 7.3.9 of the Sewer Rules in that the new language essentially authorizes long customer sanitary sewer service lines. Historically, use of long customer sanitary sewer service lines have been prohibited and should remain so for health and safety reasons.
- Rule 7.4.8.a requires utilities to repay any over payment with respect to the construction of a mainline extension within ninety (90) days after completion of the construction of the extension. Given that outside vendors are often used for construction of extensions, MUB suggests that the ninety (90) days be calculated from the later of the completion of construction or the date the utility is in receipt of all third-party vendor invoices. Said Rule also permits the utility to bill the depositor for any shortfall between the estimated cost and the actual cost, but does not provide any requirement for when that payment is due. MUB suggests that any shortfall be paid within ninety (90) days from the date of the invoice therefor.

Thank you in advance for your consideration of MUB's comments.

Sincerely,

MORGANTOWN UTILITY BOARD



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December 29, 2020

11:15 AM DEC 30 2020 EXEC SEC DIV

Mrs. Connie Graley, Executive Secretary
West Virginia Public Service Commission
201 Brooks Street
P.O. Box 812
Charleston, WV 25323

Re: General Order 186.35 - Revision to the Rules Governing Sewer Utilities; and
General Order 188.40 - Revision to the Rules Governing Water Utilities

Dear Mrs. Graley:

First, We would like to request the creation of a stakeholders group to have a more thorough review of these rules by utility representatives alongside PSC staff members. This system would provide for a more effective exchange of ideas and thoughts for improvement to these rules. We believe these rules need to be fair and equitable to both the utility and the customer, and we truly believe there still remains room for improvement to some of the rules to accomplish that goal.

We wish to offer the following comments regarding the PSC's proposed revisions of Rules and Regulations for the Government of Sewer Utilities:

Throughout the proposed rules are multiple grammatical changes that in no way change the meaning of the rule and therefore seem to be unnecessary.

4.4.1. & 4.4.2., Page 4

Due to the time needed to close-out the fiscal year financials for large utilities, as well as having the annual audit completed it is unreasonable to expect large utilities to meet a three month deadline to complete the annual report. If completed in that time frame it would likely need to be revised according to adjustments that are determined necessary by the auditors. Therefore, the report completion date should be extended to 6 months.

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Requiring the inclusion of income statements, balance sheets and cash flow statements with a request for extension is likely requesting the information that is not yet been completely reconciled or audited and would be inaccurate information, not to mention the fact it is incomplete status of this information that is the justification for the request. Therefore, we would request this requirement be eliminated.

6.2.1.c., Page 11

Reversing the inclusion of a stable interest rate from the previous rule change back to a rate to be determined by the Commission is not the solution.

The requirement to pay interest on customer security deposits should be eliminated. In many cases the interest earned on deposits is less than is required to be paid to the customer. This is an unnecessary burden on utilities for a very minimal gain to the customer when the deposit is applied in twelve months, if the customer has a good payment record. And, if the customer does not have a good payment record and the deposit is retained for a longer period of time they seem to be rewarded for their poor payment history.

6.3.5., Page 13

The inclusion of "equal to" in the second sentence requires utilities to utilize a 10% penalty and some utilities may prefer the latitude to utilize a lower penalty. We would recommend the verbiage be changed to "up to" or "not to exceed".

With the proposed changes to the last sentence of this rule it is no longer a complete sentence.

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6.4.3.a., Page 13

The inclusion of language requiring the water usage to be in excess of 150% of the customer's historical usage is a needed addition to the rule.

However, due to recent PSC rulings and continued staff requests to provide an adjustment on bills where the only possible problem was a leaking toilet the rule has become unworkable. Utility staff spends an inordinate amount of time dealing with customers attempting to determine whether it is an adjustable leak, in accordance with our leak adjustment policy, just to have PSC staff question the validity of that policy.

Therefore, we would recommend the rule include a written policy that all utilities are required to follow. This would eliminate the question of whether a utilities policy is compliant, it would only be necessary to determine if the utility is following the rule.

6.8.2.c. – 6.8.2.c.1.E., Page 15 - 16

The proposed rule change eliminates the following verbiage "The inability to make personal contact shall not prevent the water utility from terminating service." The elimination of this sentence would imply that if contact attempt was not successful the utility could not terminate service. This would simply provide non-paying customers an even greater ability to accumulate an even larger debt to the utility. At some point you must realize that each of us, no matter what our financial capabilities are, must be responsible for our actions and indebtedness. It cannot be the utilities responsibility to provide free services to non-paying customers because of the erroneous rules implemented by the WVPSC. It is these same issues that deter investment in our infrastructure from private investors, the inability of the utility to control its financial well-being is a significant reason they are less willing to invest in municipal bonds in WV.

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These proposed rule changes need to be eliminated as delinquent customers are currently provided adequate notice of their delinquency prior to termination. Utilities should not be required to incur additional cost to provide a manned after hours phone that would not allow a customer to resolve the indebtedness as accepting payment over the phone is likely not-permissible by most entities Red Flag Rule policy.

This rule continues to unnecessarily burden the utility in expending a considerable amount of manpower related to personally notifying customers that are well aware they are delinquent on their bills and subject to termination of services. Utilities are already required to notify these customers with a termination notice by mail which makes them aware that they are delinquent on their bill and that service will be terminated if payment is not made by the specified date.

This practice continues to reward non paying customers with special notifications that are not necessary for those customers that religiously pay their bills on time. In turn the paying customers are subsidizing the non-paying customers by the fact that utility personnel are required to expend additional time for further notification of those delinquent customers, this time could be better utilized performing other work that benefits the system as a whole not just a select few.

One additional issue and most likely the most significant, we find in many cases the contact information provided by the customer was either incorrect to start with or has changed since the customer signed for service. The utility cannot be held responsible for the customer changing phones or email addresses, for whatever reason. However, the billing address seldom changes and is relatively easy to track whether or not the customer received their notice of termination. Any contact beyond that should be considered complimentary, but should not be required.

6.8.2.g., Page 16

The removal of calendar days from the 5 day notice creates additional hardship on the utility to terminate service for non-payment. The PSC continues to extend the ability of the non-paying customer to increase their indebtedness to the utility before service can be terminated. The rule states "to avoid termination, makes payment by check which is

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subsequently dishonored by the bank". Providing additional days prior to termination is a travesty to the majority of good paying customers of the utilities across this State.

Again, it is necessary that individuals are required to be responsible and abide by the commitments made, we as a society cannot continue to sponsor and condone the proliferation of irresponsibility in matters related to daily life and well-being.

6.8.2.h., Page 16

The removal of calendar days from the 5 day notice creates additional hardship on the utility to terminate service for non-payment. The PSC continues to extend the ability of the non-paying customer to increase their indebtedness to the utility before service can be terminated.

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6.8.2.i.2., Page 16

The additional language clarifies that a standard deferred payment agreement should divide the pay-off amount into twelve equal payments. This provides needed guidance and it should be unnecessary to negotiate most payment arrangements. However, dependent upon the amount owed this could unnecessarily extend the collection process.

Therefore, we would like to suggest that dollar limits with time of pay-off be included, such as:

- \$1 to \$500 – 6 months
- \$501 to \$1,000 – 12 months
- \$1,001 plus – 18 months

These are simply provided as an example and are not intended as a recommendation. We also believe there needs to be consideration given to whether the agreement signer is the property owner or a tenant.

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6.8.2.i.6., Page 17

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Again, it is necessary that individuals are required to be responsible and abide by the commitments made, we as a society cannot continue to sponsor and condone the proliferation of irresponsibility in matters related to daily life and well-being.

7.3.9., Page 23

This language would essentially legalize long service lines for sanitary sewer. This would provide relief to many utilities that occasionally find clandestine service connections crossing a separate parcel than the one being served, even PUB. But, as I recall the intent of the prohibition of sanitary sewer long service lines was actually based on health and property concerns. When a line crosses another parcel if the blockage is somewhere other than the property being served and sewer is surfacing at some point that is not impacting the customer being served, they likely have no incentive to correct the problem.

PUB and the City of Parkersburg require the installation of new connections adjacent to the property to be served prior to property being subdivided, even if it requires the property owner to construct an extension of the system.

Sewer Form No. 5, Page 45

Rule number referenced near center of page has not been updated.

Sewer Form No. 6, Page 46

Rule number referenced near center of page has not been updated.

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We have the following comments regarding the PSC's proposed revisions of Rules and Regulations for the Government of Water Utilities:

4.4.1. & 4.4.2., Page 4

Due to the time needed to close-out the fiscal year financials for large utilities, as well as having the annual audit completed it is unreasonable to expect large utilities to meet a three month deadline to complete the annual report. If completed in that time frame it would likely need to be revised according to adjustments that are determined necessary by the auditors. Therefore, the report completion date should be extended to 6 months.

Requiring the inclusion of income statements, balance sheets and cash flow statements with a request for extension is likely requesting the information that is not yet been completely reconciled or audited and would be inaccurate information, not to mention the fact it is incomplete status of this information that is the justification for the request. Therefore, we would request this requirement be eliminated.

6.2.1.e., Page 14

Reversing the inclusion of a stable interest rate from the previous rule change back to a rate to be determined by the Commission is not the solution.

The requirement to pay interest on customer security deposits should be eliminated. In many cases the interest earned on deposits is less than is required to be paid to the customer. This is an unnecessary burden on utilities for a very minimal gain to the customer when the deposit is applied in twelve months, if the customer has a good payment record. And, if the customer does not have a good payment record and the deposit is retained for a longer period of time they seem to be rewarded for their poor payment history.

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6.3.5., Page 16

The inclusion of "equal to" in the second sentence requires utilities to utilize a 10% penalty and some utilities may prefer the latitude to utilize a lower penalty. We would recommend the verbiage be changed to "up to" or "not to exceed".

6.4.3.a., Page 16

The inclusion of language requiring the water usage to be in excess of 150% of the customer's historical usage is a needed addition to the rule.

However, due to recent PSC rulings and continued staff requests to provide an adjustment on bills where the only possible problem was a leaking toilet the rule has become unworkable. Utility staff spends an inordinate amount of time dealing with customers attempting to determine whether it is an adjustable leak, in accordance with our leak adjustment policy, just to have PSC staff question the validity of that policy.

Therefore, we would recommend the rule include a written policy that all utilities are required to follow. This would eliminate the question of whether a utilities policy is compliant, it would only be necessary to determine if the utility is following the rule.

6.8.1.c.2. – 6.8.1.c.3.E., Page 18-19

The proposed rule change eliminates the following verbiage "The inability to make personal contact shall not prevent the water utility from terminating service." The elimination of this sentence would imply that if contact was not made the utility could not terminate service. This would simply provide non-paying customers an even greater ability to accumulate an even larger debt to the utility. At some point you must realize that each of us, no matter what our financial capabilities are, must be responsible for our actions and indebtedness. It cannot be the utilities responsibility to provide free services to non-paying customers because of the erroneous rules implemented by the WVPSC. It is these same issues that deter investment in our infrastructure from private investors, the inability of the utility to control its financial well-being is a significant reason they are less willing to invest in municipal bonds in WV.

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These proposed rule changes need to be eliminated as delinquent customers are currently provided adequate notice of their delinquency prior to termination. Utilities should not be required to incur additional cost to provide a manned after hours phone that would not allow a customer to resolve the indebtedness as accepting payment over the phone is discouraged by the red flag rule.

This rule continues to unnecessarily burden the utility in expending a considerable amount of manpower related to personally notifying customers that are well aware they are delinquent on their bills and subject to termination of services. Utilities are already required to notify these customers with a termination notice by mail which makes them aware that they are delinquent on their bill and that service will be terminated if payment is not made by a certain date.

This practice continues to reward non-paying customers with special notifications that are not necessary for those customers that religiously pay their bills on time. In turn the paying customers are subsidizing the non-paying customers by the fact that utility personnel are be required to expend additional time for further notification of those delinquent customers, this time could be better utilized performing other work that benefits the system as a whole not just a select few.

6.8.1.g., Page 19

The removal of calendar days from the 5 day notice creates additional hardship on the utility to terminate service for non-payment. The PSC continues to extend the ability of the non-paying customer to increase their indebtedness to the utility before service can be terminated. The rule states "to avoid termination, makes payment by check which is subsequently dishonored by the bank". Providing additional days prior to termination is a travesty to the majority of good paying customers of the utilities across this State.

Again, it is necessary that individuals are required to be responsible and abide by the commitments made, we as a society cannot continue to sponsor and condone the proliferation of irresponsibility in matters related to daily life and well-being.

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6.8.1.b., Page 19

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Again, it is necessary that individuals are required to be responsible and abide by the commitments made, we as a society cannot continue to sponsor and condone the proliferation of irresponsibility in matters related to daily life and well-being.

6.8.1.i.2., Page 20

The additional language clarifies that a standard deferred payment agreement should divide the pay-off amount into twelve equal payments. This provides needed guidance and it should be unnecessary to negotiate most payment arrangements. However, dependent upon the amount owed this could unnecessarily extend the collection process.

Therefore, we would like to suggest that dollar limits with time of pay-off be included, such as:

\$1 to \$500 – 6 months
\$501 to \$1,000 – 12 months
\$1,001 plus – 18 months

These are simply provided as an example and are not intended as a recommendation. We also believe there needs to be consideration given to whether the agreement signer is the property owner or a tenant.

6.8.2.i.6., Page 20

The removal of calendar days from the 5 day notice creates additional hardship on the utility to terminate service for non-payment. The PSC continues to extend the ability of the non-paying customer to increase their indebtedness to the utility before service can be terminated.

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Again, it is necessary that individuals are required to be responsible and abide by the commitments made, we as a society cannot continue to sponsor and condone the proliferation of irresponsibility in matters related to daily life and well-being.

We continue to be concerned about the extent to which the rules benefit non-payers to the detriment of those who pay their bills. As a public utility, we are here to provide service to the public and we take that responsibility very seriously. Most customers conduct themselves in a responsible manner. In the event they have difficulty paying a bill for some reason, they contact us and make the necessary arrangements to take care of their financial obligation.

A portion of our customers make every effort to avoid paying for the services they utilize. Too often PSC rules serve to make it even easier for the non-paying customer to utilize services for an extended time, and then skip out without paying for those services. This practice adds to the operating costs and adds to the financial burden of those who make a sincere effort to pay their bills.

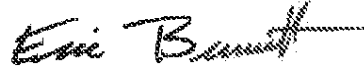
The revisions made to the notification requirements prior to termination are an unnecessary burden on the utility and simply provides non-paying customers with another avenue to avoid payment and termination.

Basic daily necessities like water and sanitary sewer service must rank higher in priority than entertainment and fast food. It is wrong to reward customers for making poor decisions relating to their priorities in life, and then allow them to ride the financial backs of those who make sound and reasonable choices. We need to revise the rules back toward the paying customers and stop encouraging and rewarding non-paying customers.

As stated previously, we believe the implementation of a stakeholders group to thoroughly review the rules in their entirety is advisable. This method provides a better dialogue between the utility and the PSC staff than provided through the standard rulemaking process. It allows the participants to actually discuss more in depth the reasoning and justification for either the utilities or the PSC's stance on an issue.

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Respectfully,
Parkersburg Utility Board

A handwritten signature in black ink, appearing to read "Eric Bennett", with a horizontal line extending from the end of the signature.

Eric Bennett, General Manager

cc:
Parkersburg Utility Board
Jeff Reed, Counsel
Erin Hall, Comptroller
Chris Pauley, Assistant Comptroller
Todd Grinstead, WVRWA Executive Director
Paul Calamita, WVMWQA General Counsel
Charlotte Lane, WVPSC Chairman



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December 30, 2020

Via Email: caseinfo@psc.state.wv.us

Ms. Connie Graley
Executive Secretary
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of West Virginia
201 Brooks Street
Charleston, West Virginia 25301

RE: GENERAL ORDER NO. 186.35
GENERAL ORDER NO. 188.40

Dear Ms. Graley:

Enclosed herein for filing in the above-referenced proceedings, please find the Initial Comments on Behalf of West Virginia Rural Water Association.

As evidenced by the Certificate of Service attached thereto, a copy of the document is being served upon Staff Attorney Linda Bouvette.

Sincerely,

Robert R. Rodecker
WV State Bar No. 3145

enclosures

cc: Linda Bouvette, Esquire
Todd Grinstead, WVRWA

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

GENERAL ORDER NO. 186.35
In the Matter of Revisions to the Rules Governing
Sewer Utilities, 150 C.S.R. Series 5

GENERAL ORDER NO. 188.40
In the Matter of Revisions to the Rules Governing
Water Utilities, 150 C.S.R. Series 7

INITIAL COMMENTS ON BEHALF OF
WEST VIRGINIA RURAL WATER ASSOCIATION

West Virginia Rural Water Association, ("WVRWA") submits its Initial Comments to the Commission's proposed rules pursuant to the Order entered by the Commission on November 10, 2020, authorizing interested parties to file Initial Comments on or before December 10, 2020, and as extended to December 30, 2020 by Order entered December 2, 2020.

The following comments will address proposed amendments to the Commission's Rules Governing Sewer Utilities, 150 C.S.R. Series 5, as set forth in General Order No. 186.35, and Rules Governing Water Utilities, 150 C.S.R. Series 7, as set forth in General Order No. 188.40. In addition, WVRWA would welcome the opportunity to meet with other stakeholders affected by the proposed rule changes to address the rules in their entirety before the implementation of proposed rule changes. This method would provide an opportunity for the exchange of thoughts and ideas on the reasoning and justification

of rules. It would also allow utility representatives to better express the potential issues and increased time and financial costs caused by the rules.

General Comments Regarding *Water Rule 6.8*, and *Sewer Rule 6.8*.

In its November 10, 2020 Order, the Commission stated that the purpose of modifying *Water Rule 6.8* and *Sewer Rule 6.8* was “to make these discontinuance of service rules similar to the *Rules for the Regulation of Electric Utilities*, 150 C.S.R. 3, and *Rules for the Regulation of Gas Utilities*, 150 C.S.R. 4.”

While there may be some unstated and unknown benefits to a “similarity” for some rules among disparate types of utilities, the members of WVRWA are either water or sewer utilities or both water and sewer utilities. Accordingly, it makes more sense to WVRWA’s members that the discontinuance of *Water* and *Sewer* service rules be similar, than that the *Water* and/or *Sewer* rules be similar with the *Electric* and *Gas* rules, and that changes to the *Water* and *Sewer* rules not be made simply for the sake of “similarity” among all utilities. Employees of the member utilities of WVRWA often are engaged in termination of water service when payment for either water or sewer service is in arrears, but not when electric or gas service is in arrears.

Making changes to the *Water* and *Sewer* rules solely for the sake of similarity or uniformity with other types of utilities while imposing additional costs on the members of WVRWA without any showing of benefit to either the utility or the customer is unreasonable. Members of WVRWA are generally small publicly-owned utilities that operate on a narrow margin while most of the electric and gas utilities that are subject to the Commission’s *Electric* and *Gas* rules are investor-owned utilities that can better

absorb the costs of regulatory compliance associated with the proposed revisions to Water Rule 6.8. and Sewer Rule 6.8.

WVRWA's members have adapted their operations to the current discontinuance of service rules and believe the current rules provide customers with ample protections. In addition, its members adhered to the Commission's request to postpone termination of service during the COVID-19 pandemic, sometimes at significant cost. WVRWA believes that the changes to Water Rule 6.8. and Sewer Rule 6.8 addressed herein are unnecessary and costly.

Notice of Discontinuance Sewer Rule 6.8.2.c. and Water Rule 6.8.1.

The Commission, without explanation beyond its reference to changes to achieve "similarity" with Electric and Gas rules provided in the November 10, 2020 Order, proposes to revise Sewer Rule 6.8.2.c. to change the length of time between the second attempt at personal contact and termination from 24 hours to 48 hours when water service is to be discontinued for a delinquency in sewer service. Similarly, the Commission proposes to change the Notice of Discontinuance Water Rule 6.8.1.c.2. to change the length of time between the second attempt at personal contact and termination from 24 hours to 48 hours when water service is being discontinued for delinquency in payment for sewer service. However, the Commission does not propose to change the length of time from 24 hours to 48 hours following the second attempt at personal contact for the termination of water service for a delinquency in payment for water service as set forth in Water Rule 6.8.1.c.1.

Implementation of the proposed revisions will add an increased burden on the water and sewer utilities by requiring a revision to both automated procedures and real time procedures that have been implemented to address the current rules with no showing of benefit to the customers. All changes in automated procedures involve time and expense in manipulating software. Changes in termination schedules to accommodate an additional twenty-four hour of delay in terminations will result in rescheduling other service operations which will lead to confusion and delay.

WVRWA does not believe the revision of the water and sewer rules related to the 24 to 48-hour period should be made uniform to address the "similarity" between water and sewer utility discontinuances with those of electric and gas utilities. Rather, WVRWA recommends that the time period of 24 hours following the second attempt at personal contact and termination be retained throughout both Sewer Rule 6.8.2.c. and Water Rule 6.8.1.c. without regard to similarity with the Electric and Gas rules.

Personal Contact provisions of Sewer Rule 6.8.2.c.1.C. and Water Rule 6.8.1.c.3.C.

Both *Sewer Rule 6.8.2.c.1.C.* and *Water Rule 6.8.1.c.3.C.* provide new language as follows:

A telephone call that reaches a voicemail or answering device and that alerts the customer to possible service disconnection and provides a toll free call back number or call back number local to the customer's service address. **If an automated call is answered by a live person, the call must provide a means for the customer to speak with a customer service representative during the automated call, such as by pressing a button or speaking a demand (Automated Telephone Contact);** (Emphasis added)

The highlighted language above would create a costly and difficult burden on members of WVRWA especially when coupled with the proposed revision to *Sewer Rule 6.8.2.c.* and *Water Rule 6.8.1.c.2.* *Sewer Rule 6.8.2.c.* and *Water Rule 6.8.1.c.2.*¹ would require one of the attempts at telephone contact to occur after 6:00 P.M. and must be before 9:00 P.M. Most utilities close their offices before 6:00 P.M. If the utility is required to have an employee available to handle call from the automated calling system after hours in order for the customer to speak with a customer service representative, it would necessitate either paying a current employee over time or require the hiring of another employee solely for the purpose of satisfying this proposed rule. While many systems do not have the capability of handling automated telephone contact, for those that do, any requirement that a customer be able to speak to a customer service representative during such a call would necessitate unreasonable software and upgrade costs to utilities that currently provide a recorded message. Typically, automated messages require the customer to contact the utility during normal business hours. This is not an unreasonable practice and does not impose an unreasonable burden on the customer to be responsible for making arrangements to address his/her billing arrearage in order to prevent termination of service.

¹ It does not appear from the language in G.O. 188.4 that the requirement to have one of the telephonic contacts occur after 6:00 P.M. is applicable where termination of water service is occurring as a result of a delinquency for water service under the provisions of *Water Rule 6.8.1.c.1.* While WVRWA does not believe it is reasonable to require telephonic notice after 6:00 P.M., if it is required for termination of water service for a delinquency for payment for sewer service it should be required for termination for a delinquency in the payment for water service as well.

Comments Regarding Distressed and Failing Water or Wastewater Utilities.

For the most part, the Commission's proposed rules to carry out the provisions of the Distressed and Failing Utilities Improvement Act (the "Act") follow the provisions of *West Virginia Code §24-2H-1 et seq.* However, in a number of respects, the language in Proposed Sewer Rule 10 and Water Rule 11 differs from the Act giving rise to the need for clarification and amplification. In particular please see as follows:

1. The Act, at *Code §24-2H-4*, requires the Commission to annually prepare a list of water and wastewater utilities that **"appear to be financially unstable."** That section also states that after the completion of the list, the Commission staff **"shall"** contact each utility on the list **"and provide advice and assistance in resolving any financial instability or managerial or operational issues that are contributing to the utility's financial instability."** (Emphasis added) However, *Sewer Rule 10.2.4.* and *Water Rule 11.2.4.)* state:

Commission Staff **will offer to provide advice and assistance to resolve any financial, managerial or operational issues that are contributing to the utility's potential instability.** (Emphasis added)

The difference in language between the statute and the draft rule may not be intended to be, and may not in action actually be, different, but the inclusion of the mandatory term "shall" as included in the statute is a clear direction to the Commission and its Staff, that assistance will be provided, whereas the term "will offer" is a passive form which lacks the assurance that such service will be provided. Given the fact that distressed and failing utilities are likely, in many instances, to have shown to be less than enthusiastic about, or at least successful in, resolving their financial condition, it is important that the

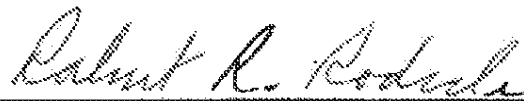
Commission and its Staff be seen to be committed to resolving these situations rather than awaiting action by the financially unstable utility. Finally, the proposed rule deviates from the statute by referring to "potential instability" in *Rules* 10.2.4 and 11.2.4 and again in *Rules* 10.2.5 and 11.2.5 when the statute refers to entities on the list required by *Code* §24-2H-4 as utilities that "appear to be financially unstable." In other words, the statute refers to utilities that "appear to be financially unstable" at present, while the rule refers to the "potential instability" of utilities at some time in the future.

2. Proposed *Sewer Rule* 10.4.3. and *Water Rule* 11.4.3 state that, in addition to its providing notice of the time, place and subject matter of a hearing to determine if a utility is distressed or failing, and whether a capable proximate utility should manage, operate, or acquire the utility, the utility under investigation shall be required to give notice to its customers of the time, place, and subject matter of the hearing as a bill insert or in print on its monthly bill statement or, **if neither form of notice is reasonably possible, by a separate mailing.** *Code* §24-2H-6(b)(4) requires the utility to give such notice either by a bill insert or on the monthly billing statement. However, if neither method of notice is reasonably possible, there is no requirement for a separate mailing. Given the fact that the utilities being investigated are "financially unstable" and the billing forms used by many utilities have limited space to provide the notice required by this proposed rule, it is respectfully submitted that the cost of a separate mailing which is not called for by the statute should not be imposed upon the utility under investigation.

Respectfully submitted,

WEST VIRGINIA RURAL WATER ASSOCIATION

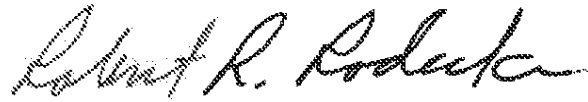
By Counsel



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CERTIFICATE OF SERVICE

I, Robert R. Rodecker, counsel for the West Virginia Rural Water Association, do hereby certify that a copy of the foregoing Initial Comments has been served upon Staff Attorney Linda Bouvette via email (lbouvette@psc.state.wv.us) on this 30th day of December, 2020.

A handwritten signature in black ink, appearing to read "Robert R. Rodecker", is written over a horizontal dotted line.

ROBERT R. RODECKER

**Public Service Commission
of West Virginia**

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



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

December 30, 2020

Connie Graley, Executive Secretary
Public Service Commission
PO Box 812
Charleston, West Virginia 25323

02:55 PM DEC 30 2020 EXEC SEC DIV

**RE: GENERAL ORDER NO. 186.35
In the Matter of Revisions to the Rules Governing
Sewer Utilities, 150-C.S.R. 5**

**GENERAL ORDER NO. 188.40
In the Matter of Revisions to the Rules Governing
Water Utilities, 150 C.S.R. 7**

Dear Ms. Graley:

Enclosed for filing in the above-referenced proceeding, please find an original and twelve copies of the *Staff Initial Comments*. A copy has been served on all parties.

Sincerely,

/s/ Linda S. Bouvette

Linda S. Bouvette
Staff Attorney
West Virginia State Bar I.D. No. 5926

LSB/vm
Enclosures

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**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

GENERAL ORDER NO. 186.35

**In the Matter of Revisions to the Rules Governing
Sewer Utilities, 150-C.S.R. Series 5**

GENERAL ORDER NO. 188.40

**In the Matter of Revisions to the Rules Governing
Water Utilities, 150 C.S.R. Series 7**

STAFF INITIAL COMMENTS

On November 10, 2020, the Commission proposed rules amending the *Rules Governing Sewer Utilities* (150 CSR Series 5) and the *Rules Governing Water Utilities* (150 CSR Series 7) to administer SB 739, the “Distressed and Failing Utilities Improvement Act” and make other administrative changes. Staff provides the following Initial Comments to the proposed changes to the Sewer Rules and the Water Rules. The Commission established deadlines for filing initial and final comments to the proposed changes.

On December 2, 2020, the Commission entered an order extending the time for public comments to the proposed rule changes, with Initial Comments due on December 30, 2020, and Final Comments due on January 18, 2020.

Initial Comments to Proposed Changes to the Sewer Rules

Section 3.7. Staff objects to the deletion of “installed at the cost and expense of the customer” in the definition of “Customer’s Service Pipe”. The Commission made clear

in Case No. 18-0780-G-390P, Hope Gas, Inc., that its longstanding policy required customers to be responsible for the cost to install the Customer Service Pipe:

The CSPP ("Customer Service Pipe Program"), however, results in a shift of the cost recovery for the customer service line from the individual customer historically responsible for the customer service line to all customers resulting in a rate increase for utility investments that are not contemplated by the Gas Rules.

Order entered October 29, 2018, p. 15. While this case concerned a gas customer service pipe, the Commission's policy applies equally to water and sewer customer service pipes. The language should remain in place to eliminate any question or concern about who bears the cost of installing the customer service pipe.

Section 3.11. Staff objects to the deletion of the language "on the customer's property" in the definition of "Point of Service". Staff believes the stricken language may require customers to maintain sewer service lines outside of their property, which until now has not been permitted. Customers may not have the ability to operate, maintain, and replace such lines nor does a sufficient incentive often exist for the customer to do so. Staff continues to recommend that long service lines not be permitted for sewer service. Staff proposes the following language: "Point of service" – the point at which the utility's pipe and appurtenances which connect the utility service pipe with the inlet connection of a customer's service pipe. For service pipes that flow by gravity, this shall be at or near the customer's property line. For systems that do not flow by gravity to the property line, the point of service may be established elsewhere on the customer's property when

necessary, and must be provided for in a user's agreement. The utility shall own and maintain all facilities located between the point of service and the main."

Section 3.13. Staff notes that the definition of "Residential Service" in the Water and Sewer Rules are different. These definitions should be the same. Staff recommends that the definition of "Residential Service" used in the Sewer Rules be adopted for use in the Water Rules.

Section 3.16. Staff objects to the deletion of the language "installed at the cost and expense of the utility." Staff sees no reason to delete clarifying language that ensures no misunderstandings may occur as to who bears the cost of installing the utility service pipe. The Commission should reinstate the language to the definition.

Section 4.4.2. The proposed rule requires a utility that is unable to timely file its annual report to submit a number of financial reports in the interim to obtain an extension of time to file the annual report. Staff is unsure who is to review these financial reports to determine whether an extension should be granted and recommends that the Commission continue with the "Show Cause" hearings for utilities that fail to timely submit their annual reports instead. In most of those proceedings, the annual reports are submitted prior to the actual hearing date. The stragglers either file after a Show Cause order has been entered with penalties or are simply unable or unwilling to file an annual report. The Commission should concentrate on those outliers rather than create additional work and expense for the utilities and their accountants who are working on the delinquent annual reports.

Section 4.6.2. The word “should” in the first line should be changed to “shall” to indicate the mandatory nature of the rule.

Section 6.1.4.b. The letter “a” should be inserted after “in large type” and before “conspicuous location”. Further, in the last line of this section, the word “are” should be stricken.

Section 6.2.1.e. Staff objects to the deletion of language that security deposits be segregated. Staff contends that the utility stands as a fiduciary with regard to the security deposit and should not be allowed to commingle the deposits with its general revenues but should keep them separate. In Case No. 14-1072-PWD-42R-PC and Case No. 14-1073-PWD-P, Lubeck Public Service District, Recommended Decision entered January 13, 2015, final on February 2, 2015, the Commission entered an order approving a surcharge to replenish the District’s security deposit account. Instead of segregating the funds as required by the existing rule, the District commingled the security deposits with its general fund and used the money to pay general operating and maintenance expenses. To avoid more issues like this, the Commission should continue to require the segregation of security deposits.

Section 6.2.1.i. Staff objects to the deletion of the language requiring some effort on the part of the utilities to return a security deposit to its customer. Staff contends that utilities should be required to make some effort to return deposits to customers before following the provisions of the Uniform Unclaimed Property Act, W.Va. Code §36-8-1, et seq. Sending checks to the last known address will be forwarded to the new address by the

U.S. Post Office or returned to the utility if no forwarding address is provided. Locally advertising the existence of the deposit will also alert customers or their families that the deposits are available from the utilities.

Section 6.3.2. Staff disagrees with the proposed language and recommends the Commission adopt the following language that is similar to language in the Commission's Electric Rules. "No adjustment will be required in billing when the deviation from the normal billing period is not more than five (5) days in the case of monthly billing, ten (10) days in the case of bi-monthly billing, and fifteen (15) days in the case of quarterly billing. When the deviation exceeds these limits, either for regular or periodic billing or for opening and closing bills, the utility will use the rate applicable to that service and shall prorate sewer blocks and minimum charges on the basis of the ratio of the number of days in the billing period in question to the number of days included in the normal billing period, which will be taken at thirty (30) days for monthly billing, sixty (60) days for bi-monthly billing, and ninety (90) days for quarterly billing."

Section 6.3.5. The last sentence is incomplete. The sentence should be changed as follows: "The delayed payment penalty provision must be included in the utility's tariff before the utility may impose it on its customers."

Section 6.4.3.a. Staff contends that the leak adjustment language in Section 6.4.3.a. of the Water Rules should be the same as the leak adjustment language in the Section 6.4.3.a. of the Sewer Rules. Attempting to place limits on leak eligibility based on the physical condition of customer's internal plumbing and the health condition of customers

is often problematic and difficult to ascertain in practice. Instead, Staff proposes that all leaks should be eligible for adjustment based on a time and frequency limit. This comports with the rationale regarding the design of the leak adjustment rate, which makes the utility financially whole whenever a customer's usage far exceeds the expected amount based on the historic usage that was used to design the existing rates. Also, it will likely decrease the number of formal complaint cases brought before the Commission regarding leak adjustments, and should decrease the associated time and costs for filing and adjudicating such formal cases. Staff proposes the following language: "6.4.3.a. Each utility shall develop and implement a written policy concerning the adjustment of customer bills where the bill reflects unusual usage in excess of ~~150~~ 200% of the customer's historical usage that can be attributed to leakage on the customer's side of the meter. ~~Leakage that is clearly noticeable such as leaking commodes, dripping faucets, malfunctioning appliances and similar above the floor, above ground, or outside of the wall leaking situations or leakage that results in unusual bills for more than two consecutive billing periods may not constitute leaks which entitle the customer to a~~ ~~re~~calculated bill. For all such leaks, the utility shall provide leak adjustments to a customer's bill; provided, however, that any individual customer shall be entitled to no more than one (1) leak adjustment in any one-year period. The policy shall be maintained in the utility's office for inspection by the public and shall be applied in a non-discriminatory manner to all customers. The reasonableness of the utility's policy shall be subject to approval by the Commission and the reasonableness of the utility's practice

with respect to implementing a policy shall be subject to Commission review in a formal complaint proceeding.”

Section 6.7.1. The word “receive” in the fourth line should be changed to “receives”.

Section 6.8.2.1. Staff objects to the language allowing a utility to develop its own termination rules. The Commission’s termination rules protect a customer’s due process rights and provide consistency throughout the state. All utilities should be required to follow the Commission’s termination rules.

Section 6.8.3. and Section 6.8.4. A utility should not be permitted to collect a disconnection or reconnection fee until and unless the utility has given notice of such fees as part of its tariff. Language to that effect should be added to these sections.

Section 7.1.7. Staff recommends that the phrase “the Minimum Safety Standards and” be deleted since the phrase is not descriptive of the current WVBPH and WVDEP administrative rules.

Section 7.3.2. Language should be added to clarify that the customer is responsible for the cost to install and maintain the customer service pipe.

Section 7.3.9. : The proposed change appears to permit and encourage long service lines in sewer systems. Consistent with Staff’s recommendations regarding Section 3.11, Staff does not recommend long service lines be permitted in sewer collection systems. Staff does not believe customers can adequately own and maintain sewer collection lines outside of their owned property, and have little incentive to do so since sewer service is

not easily terminated under the Commission's existing rules. Staff recommends that no changes be made in Section 7.3.9.

Section 7.4.5.d.2. Staff opposes the elimination of the 4,500 gal/month estimate for revenue purposes because it will result in additional work for the Commission to verify that the utility is using an accurate and appropriate estimate. A utility may always petition the Commission to approve a different amount for revenue purposes if the 4,500 gal/month is inaccurate for its operations.

Section 7.4.8.i.3. In the first line the word "any" should be changed to "a".

Section 10.1.2. In Section (b), the citation should be changed to W.Va. Code §24-2H-7.

Section 10.2.3. In the first line, "staff" should be changed to "Staff". In the second line, the "60 days" should be changed to "30 days". Staff contends that 60 days is too long to wait for a response in these situations and that quick action must be taken to prevent further decline in the ability of the utility to serve its customers.

Section 10.2.4. In the first line, the words "to provide" should be deleted.

Section 10.6.1. In the second line the word "direct" should be changed to "order" since the Commission speaks only through its orders. Disposal Service, Inc. v. City of Hurricane, Case No. 13-1012-S-C, Recommended Decision entered January 30, 2014, exceptions filed, Commission Final Order entered on May 27, 2015.

Staff recommends that a new section be added setting forth the steps an acquiring utility must take to obtain funding from the WDA Distressed Utilities Account.

Section 10.7. Approval of Plan: Distressed Utilities Fund

Section 10.7.1. To pay for improvements and/or replacement of failing utilities, an acquiring utility that is a political subdivision of the state may apply for assistance in the form of a grant from the Distressed Utilities Fund established pursuant to W.Va. Code §31-15A-9(i).

Section 10.7.2. The acquiring utility must first develop a plan and timetable for bringing the failing utility into compliance with applicable statutory and regulatory standards pursuant to W.Va. Code §24-2H-8(d). The plan must be approved by the Department of Environmental Protection.

Section 10.7.3. Once the plan is approved by the Department of Environmental Protection, it must be submitted to the Commission for approval. The acquiring utility must submit the plan and any request for the Commission to enter an order granting the utility permission to request funds from the Water Development Authority (WDA) Distressed Utilities Fund, along with any other petitions or requests related to the operation or acquisition of the failing utility filed under W.Va. Code §24-2H-8(a).

Section 10.7.4. Once the Commission has approved the plan, including ordering a specific dollar amount for improvements and/or replacement of the failing utility, the acquiring utility may file an application with the West Virginia Infrastructure and Jobs Council (IJDC) for a grant in the amount approved by the Commission from the Water Development Authority (WDA) Distressed Utilities Fund. The acquiring utility shall file the Commission's order setting forth the Distressed Utilities Fund grant amount with the

IJDC along with the plan details using the IJDC existing project application framework in W.Va. Code 31-15A-9(i).

Form 4. Form 4 refers to Sewer Rule 5.5.e.2 instead of the (proposed) Sewer Rule 7.4.5.b.

Form 5. Form 5 refers to Sewer Rule 5.5.e.4. to calculate the cost to be shared by the customers rather than (proposed) Sewer Rule 7.4.5.d.

Form 5. Form 5 refers to Sewer Rule 5.5 rather than (proposed) Sewer Rule 7.4 under the Conditions Section.

Form 6. Form 6 refers to Sewer Rule 5.5.e.4. rather than (proposed) Sewer Rule 7.4.5.d.

Initial Comments to Proposed Changes to the Water Rules

Section 3.6. Staff objects to the deletion of “installed at the cost and expense of the customer” in the definition of “Customer’s Service Pipe”. The Commission made clear in Case No. 18-0780-G-390P, Hope Gas, Inc., that its longstanding policy required customers to be responsible for the cost to install the Customer Service Pipe:

The CSPP (“Customer Service Pipe Program”), however, results in a shift of the cost recovery for the customer service line from the individual customer historically responsible for the customer service line to all customers resulting in a rate increase for utility investments that are not contemplated by the Gas Rules.

Order entered October 29, 2018, p. 15. While this case concerned a gas customer service pipe, the Commission’s policy applies equally to water and sewer customer service pipes.

The language should remain in place to eliminate any question or concern about who bears the cost of installing the customer service pipe.

Section 3.7. The words "service pipe" should be added following the word "customer's" at the end of the sentence. Staff objects to the deletion of "Any water pipe extending through a utility right of way across private property shall be a distribution main."

Section 3.11. Staff objects to the deletion of the language "on the customer's property" in the definition of "Point of Service". Striking "on the customer's property" implies that customers may be required to own and maintain service lines on property they do not own or have rights-of-entry. Only in the case of long service lines (addressed in Rule 7.4) should customers be expected to maintain lines on property they do not own. However, long service lines are an exception to the orderly development of mains and should not be encouraged to be the normal means by which customers are served. Staff proposes the following language: "Point of service" -- means point at which the utility's pipe and appurtenances connect the utility service pipe with the inlet connection of a customer's service pipe at or near the customer's property line or elsewhere if provided for in a user's agreement. The utility shall own and maintain all facilities located between the point of service and the main."

Section 3.14. Staff notes that the definition of "Residential Service" in the Water and Sewer Rules are different. These definitions should be the same. Staff recommends that the definition of "Residential Service" used in the Sewer Rules be adopted for use in the Water Rules.

Section 3.17. Staff objects to the use of the outdated term “Unaccounted for Water”. The American Water Works Association (AWWA) through publication of its Manual M36 has established best practices regarding water loss control and auditing. It has established clear, rational definitions and a standard set of performance indicators. The AWWA’s Water Loss Control Committee recommends against continued use of the imprecise term “unaccounted-for-water” as it does not exist in the best practice water audit method, and its continued use will only serve to confuse.¹ The AWWA’s rationale is further explained in Manual M36 within the water balance calculation methodology. Specifically, it argues that “the method advances the concept that all water in the system should be quantified, via measurement or estimate, as either authorized consumption or losses. Hence, no water is ‘unaccounted-for’”. Further, it specifically recommends “*that water utilities, state agencies, and drinking water stakeholders avoid the use of the imprecise term ‘unaccounted-for-water’*”.² Attached is an excerpt from Manual M36 (Figure 2-1) which shows how the water loss method defines each type of water usage and loss (Staff Exhibit 1). In Staff’s view, the amount of water defined as “Water Losses” is what should drive standards of performance for water utilities. It includes all water loss that is either apparent or real, as well as all unauthorized usage that can be measured or estimated. Regarding percentages of loss as a standard –Water Rule 7.6.1 has, for many years, required utilities to report its remedial actions should the “UFW” exceed 15%. However,

^{1,2} AWWA Manual M36

while the AWWA methodology establishes clearer definitions and processes, it does not recommend a universal percentage as a performance target for losses. Rather, it argues for each water system to have its own benchmark. Although its rationale is understandable, Staff is concerned how this may be implemented within the State's existing regulatory construct. Therefore, Staff recommends that the Commission continue to set a benchmark percentage for regulatory purposes. However, rather than applying a percentage benchmark to the imprecise term "UFW", Staff recommends it be applied to the term "Water Losses" as defined in AWWA Manual M36. It basically includes all real losses from leaks and apparent losses from unauthorized consumption, metering inaccuracies, and data errors. It is important to note that the Commission's current percentage is not a "shall not exceed" level -- it is simply a trigger for the utility to provide the Commission with a summary of remedial actions it is taking to reduce the percentage. Staff proposes the following language for Section 3.17. "Water Losses" -- amount of water loss, including both real and apparent losses, as defined by the latest version of the American Water Works Association's Manual M36 or later amended."

Section 3.18. Staff objects to the deletion of the language "installed at the cost and expense of the utility". Staff contends the existing language makes it clear that utility service lines are installed by the utility at its cost. The proposed change may encourage utilities to require customers to own and maintain water lines not located on the customer's property. Staff does not recommend that customers be required to maintain facilities outside of their property, as this could create uncertainties regarding the point of

service and associated maintenance responsibilities. Staff proposes the following language: "Utility Service Pipe" -- That portion of the service pipe between the distribution main and the curb cock or the inlet connection of the coppersetter at or near the customer's property line or point of service, regardless of the side of the road on which the customer is located in reference to the main line. The Utility Service Pipe is installed and maintained by the utility at its cost and expense."

Section 4.4.2. The proposed rule requires a utility that is unable to timely file its annual report to submit a number of financial reports in the interim to obtain an extension of time to file the annual report. Staff is unsure who is to review these financial reports to determine whether an extension should be granted and recommends to the Commission it continue with the "Show Cause" hearings for utilities that fail to timely submit their annual reports instead. In most of these proceedings, the annual reports are submitted prior to the actual hearing date. The stragglers either file after a Show Cause order has been entered with penalties or are simply unable or unwilling to file an annual report. The Commission should concentrate on those outliers rather than create additional work and expense for the accountants that are working on the delinquent annual reports.

Section 4.6.2. The word "should" in the first line should be changed to "shall" to indicate the mandatory nature of the rule.

Section 5.1. Staff opposes the proposed language as unnecessary since tap fees can simply be applied for each service and minimum bill rates are sufficient to provide proper cost recovery for each service and tap. The proposed language may imply that utilities are

permitted to add additional charges outside of standard tap fees and minimum bills. Staff proposes the following language: "Utility to provide meters. -- Unless otherwise authorized by the Commission, each utility shall provide and install at its own expense (except as provided in Water Rules 6.1.6.d. and 7.2) and shall continue to own, maintain, and operate all equipment necessary for the regulation and measurement of water, in accordance with tariff or contract provisions, to its customers. Where a customer requests additional meters for the customer's convenience and the utility furnishes additional meters, the utility may impose a charge to recover the actual reasonable installation costs of the additional service(s). A utility will own and operate any meters used to serve a bulk or resale customer."

Section 6.1.4.b. The word "are" in the third line should be deleted.

Section 6.1.6.b. The word "connections" should be changed to "connection".

Section 6.2.1.i. Staff objects to the deletion of the language requiring some effort on the part of the utilities to return a security deposit to its customer. Staff contends that utilities should be required to make some effort to return deposits to customers before following the provisions of the Uniform Unclaimed Property Act, W.Va. Code §36-8-1, et seq. Sending checks to the last known address will be forwarded to the new address by the U.S. Post Office or returned to the utility if no forwarding address is provided. Locally advertising the existence of the deposit will also alert customers or their families that the deposits are available from the utilities.

Section 6.3.2. Staff disagrees with the proposed language and recommends the Commission adopt the following language that is similar to language in the Commission's Electric Rules. "No adjustment will be required in billing when the deviation from the normal billing period is not more than five (5) days in the case of monthly billing, ten (10) days in the case of bi-monthly billing, and fifteen (15) days in the case of quarterly billing. When the deviation exceeds these limits, either for regular or periodic billing or for opening and closing bills, the utility will use the rate applicable to that service and shall prorate water blocks and minimum charges on the basis of the ratio of the number of days in the billing period in question to the number of days included in the normal billing period, which will be taken at thirty (30) days for monthly billing, sixty (60) days for bi-monthly billing, and ninety (90) days for quarterly billing."

Section 6.3.5. The last sentence is incomplete. The sentence should be changed as follows: "The delayed payment penalty provision must be included in the utility's tariff before the utility may impose it on its customers."

Section 6.4.3.a. Staff contends that the leak adjustment language in Section 6.4.3.a. of the Water Rules should be the same as the leak adjustment language in Section 6.4.3.a. of the Sewer Rules. Attempting to place limits on leak eligibility based on the physical condition of customer's internal plumbing and the health conditions of customers is often problematic and difficult to ascertain in practice. Instead, Staff proposes that all leaks should be eligible for adjustment based on a time and frequency limit. This comports with the rationale regarding the design of the leak adjustment rate, which makes the

utility financially whole whenever a customer's usage far exceeds the expected amount based on the historic usage that was used to design the existing rates. Also, it will likely decrease the number of formal complaint cases brought before the Commission regarding leak adjustments, and should decrease the associated time and costs for filing and adjudicating such formal cases. Staff proposes the following language: "6.4.3.a. Each utility shall develop and implement a written policy concerning the adjustment of customer bills where the bill reflects unusual usage in excess of ~~150~~ 200% of the customer's historical usage that can be attributed to leakage on the customer's side of the meter. ~~Leakage that is clearly noticeable such as leaking commodes, dripping faucets, malfunctioning appliances and similar above the floor, above ground, or outside of the wall-leaking situations or leakage that results in unusual bills for more than two consecutive billing periods may not constitute leaks which entitle the customer to a recalculated bill.~~ For all such leaks, the utility shall provide leak adjustments to a customer's bill; provided, however, that any individual customer shall be entitled to no more than one (1) leak adjustment in any one-year period. The policy shall be maintained in the utility's office for inspection by the public and shall be applied in a non-discriminatory manner to all customers. The reasonableness of the utility's policy shall be subject to approval by the Commission and the reasonableness of the utility's practice with respect to implementing a policy shall be subject to Commission review in a formal complaint proceeding."

Section 6.8.1.c.1. Staff recommends that this language be consistent with the same provision in the Commission's Sewer Rules and change "twenty-four" to "forty-eight" in the third line.

Section 6.8.1.c.2. The word "sewer," should be added to the second line following the words "owning the".

Section 6.8.1.m. Staff objects to the language allowing a utility to develop its own termination rules. The Commission's termination rules protect a customer's due process rights and provide consistency throughout the state. All utilities should be required to follow the Commission's termination rules.

Section 6.8.2. and Section 6.8.3. A utility should not be permitted to collect a disconnection or reconnection fee until and unless the utility has given notice of such fees as part of its tariff. Language to that effect should be added to these sections.

Section 7.1.6. Staff contends this section should be updated as reflected in the Staff comments to Section 3.17 herein. Staff proposes the following language: "Each utility shall determine either by actual measurement or by estimate the amount of ~~"Unaccounted for Water"~~ "Water Losses" as defined in Water Rule 3.17 in each division of its system and report, separately, to the Commission in its annual report. If the reported ~~Unaccounted for Water~~ Water Losses is in excess of fifteen percent (15%) of the water supply delivered into the transmission and distribution system on an annual basis, the utility will state remedial actions it proposes to take. A utility may seek assistance from

the Commission regarding remediation of ~~unaccounted for water~~ Water Losses in excess of fifteen percent (15%).”

Section 7.55.d.2. Staff opposes the elimination of the 4,500 gal/month estimate for revenue purposes because it will result in additional work for the Commission to verify that the utility is using an accurate and appropriate estimate. A utility may always petition the Commission to approve a different amount for revenue purposes if the 4,500 gal/month is inaccurate for its operations.

Section 7.3.10. Staff is concerned that the added language may encourage long service lines instead of first pursuing the orderly development of mains. Staff recommends that language be included to clarify that main extensions are preferred to long service lines. Staff suggests the following language: “Except in the case of long-service lines, a customer’s service pipe shall not pass through or across any premises or property other than that to be served. If a property served as of [insert effective date of these rules] is later subdivided resulting in the original customer’s service pipe crossing the subdivided property that will be occupied by a new customer, the original customer and new customer must have separate service pipes. Should a main line extension not be practical under the provisions of Water Rule 7.5, the original customer must obtain a right-of-way for the original customer’s service pipe on subdivided sections of property before title of such section passes to a new owner, and the original customer shall be served through a Long Service Line as defined in Water Rule 7.4.”

Section 7.5.5.d.2. Staff opposes the elimination of the 4,500 gal/month estimate for revenue purposes because it will result in additional work for the Commission to verify that the utility is using an accurate and appropriate estimate. A utility may always petition the Commission to approve a different amount for revenue purposes if the 4,500 gal/month is inaccurate for its operations.

Section 7.5.6.a. Staff contends that the phrase "bona fide customer" should be defined as a customer who connects with thirty (30) days of completion of the extension as provided in Section 7.5.8.h.

Section 7.8.4. Staff contends that a limit should be placed on a customer's water pressure in compliance with the ratings on customer equipment installed in the home. Staff recommends the following language: "A customer's pressure shall be no less than twenty (20) p.s.i. at peak demand on system or thirty (30) p.s.i. static pressure at the terminus of the utility's service line (meter box or curb box) unless the customer has waived this requirement. For all new customers desiring service on and after October 24, 2003, a customer's pressure shall be no greater than ~~one hundred thirty five (135)~~ one hundred fifteen (115) p.s.i. unless the customer has waived this requirement. The utility shall keep on file all the aforesaid waivers, in accordance with Water Rule 4.1."

Staff has reviewed various plumbing codes and did not find any that recommend water pressure in excess of one hundred (100) p.s.i for homes. Staff notes that the cost of increasing water pressure to provide adequate pressure to customers by using booster stations and other facilities is included in the water utility cost of service spread across

customers. The cost of reducing pressure as high as 135 p.s.i., known to be in excess of recommended pressures for homes, is shifted onto individual customers rather than being included in the water utility cost of service to be spread across all customers. The *Commission Rules for the Government of Gas Utilities and Gas Pipeline Safety* require the natural gas utility to install pressure regulating devices on customer meters served by distribution systems and under the ratemaking process the cost of regulators is included in the cost of service to be spread across customers. The Staff recommended revision to this rule is consistent with the approach required by natural gas utilities on distribution systems and presents an approach for customers where the pressure should be reduced that is symmetrical to the approach where pressure should be increased.

Section 11.1.2. In Section (b), the citation should be changed to W.Va. Code §24-2H-7.

Section 11.2.3. In the first line, “staff” should be changed to “Staff”. In the second line, the “60 days” should be changed to “30 days”. Staff contends that 60 days is too long to wait for a response in these situations and that quick action must be taken to prevent further decline in the ability of the utility to serve its customers.

Section 11.2.4. In the first line, the words “to provide” should be deleted.

Section 11.6.1. In the second line the word “direct” should be changed to “order” since the Commission speaks only through its orders. Disposal Service, Inc. v. City of Hurricane, Case No. 13-1012-S-C, Recommended Decision entered January 30, 2014, exceptions filed, Commission Final Order entered on May 27, 2015.

Staff recommends that a new section should be added setting forth the steps a proximate capable utility must take to obtain funding from the WDA Distressed Utilities Account. Staff recommends the following provisions be added:

Section 11.7. Approval of Plan: Distressed Utilities Fund

Section 11.7.1. To pay for improvements and/or replacement of failing utilities, an acquiring utility that is a political subdivision of the state may apply for assistance in the form of a grant from the Distressed Utilities Fund established pursuant to W.Va. Code §31-15A-9(i).

Section 11.7.2. The acquiring utility must first develop a plan and timetable for bringing the failing utility into compliance with applicable statutory and regulatory standards pursuant to W.Va. Code §24-2H-8(d). The plan must be approved by the Bureau of Public Health.

Section 11.7.3. Once the plan is approved by the Bureau of Public Health, it must be submitted to the Commission for approval. The acquiring utility must submit the plan and any request for the Commission to enter an order granting the utility permission to request funds from the Water Development Authority (WDA) Distressed Utilities Fund, along with any other petitions or requests related to the operation or acquisition of the failing utility filed under W.Va. Code §24-2H-8(a).

Section 11.7.4. Once the Commission has approved the plan, including ordering a specific dollar amount for improvements and/or replacement of the failing utility, the acquiring utility may file an application with the West Virginia Infrastructure and Jobs

Council (IJDC) for a grant in the amount approved by the Commission from the Water Development Authority (WDA) Distressed Utilities Fund. The acquiring utility shall file the Commission's order setting forth the Distressed Utilities Fund grant amount with the IJDC along with the plan details using the IJDC existing project application framework in W.Va. Code §31-15A-9(i).

Form 5. Form 5 refers to Water Rule 5.5.e.4. to calculate the cost to be shared by the customers rather than (proposed) Water Rule 7.5.5.d.

Form 7 in "Note" section the phrase "paragraph 5.3 or 5.5" should be changed to "paragraph 7.3 or 7.5".

Respectfully submitted this 30th day of December, 2020.

STAFF OF THE PUBLIC SERVICE
COMMISSION OF WEST VIRGINIA

By Counsel,

/s/ Linda S. Bouvette

.....
LINDA S. BOUVETTE, Staff Attorney
West Virginia State Bar I.D. 5926

Water From Own Sources (corrected for known errors)	System Input Volume	Water Exported	Authorized Consumption	Billed Authorized Consumption	Billed Water Exported	Revenue Water		
		Water Supplied		Unbilled Authorized Consumption	Billed Metered Consumption			
					Billed Unmetered Consumption			
					Unbilled Metered Consumption			
Water Imported			Apparent Losses	Real Losses	Unbilled Unmetered Consumption	Non-revenue Water		
					Unauthorized Consumption			
					Customer Metering Inaccuracies			
					Systematic Data Handling Errors			
				Real Losses	Leakage on Transmission and Distribution Mains			
					Leakage and Overflows at Utility's Storage Tanks			
					Leakage on Service Connections Up to Point of Customer Metering			

Notes: All data in italics are for

Note: All data in volume for the period of reference, typically one year.

Figure Z-1 Water balance

Water From Own Sources (corrected for known errors) 3,518.48	System Input Volume 4,402.18	Water Exported 0	Authorized Consumption 3,457.44	Billed Authorized Consumption 3,258.20	Billed Water Exported 0	Revenue Water 3,258.20				
		Water Supplied 4,402.18		Unbilled Authorized Consumption 199.24	Billed Metered Consumption 3,258.20		Unbilled Metered Consumption 18.43			
					Billed Unmetered Consumption 0			Unbilled Unmetered Consumption 183.83		
					Apparent Losses 205.32				Unauthorized Consumption 11.8	Non-revenue Water 1,143.98
				Water Losses 844.72			Customer Metering Inaccuracies 154.3			
							Real Losses 738.50	Systematic Data Handling Errors 32.58		
								Leakage on Transmission and Distribution Mains	Leakage and Overflows at Utility's Storage Tanks	
				Leakage on Service Connections Up to Point of Customer Metering						
							(individual leakage components not quantified)			

Notes: All data in million m³

Note: All data in million gallons volume for the period of reference, calendar year 2006.

Figure Z-2 Water balance for County Water Company—2006 calendar year

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

GENERAL ORDER NO. 186.35

**In the Matter of Revisions to the Rules Governing
Sewer Utilities, 150-C.S.R. 5**

GENERAL ORDER NO. 188.40

**In the Matter of Revisions to the Rules Governing
Water Utilities, 150 C.S.R. 7**

CERTIFICATE OF SERVICE

I, Linda S. Bouvette, Counsel for the Public Service Commission of West Virginia, do hereby certify that a copy of the foregoing "Staff Initial Comments" has been served upon the following party of record by first class mail, this 30th day of December, 2020.

Earl Burks
General Manager
Union Public Service District
PO Box 7350
Cross Lanes WV 25356-7350

Eric Bennett
Manager
Parkersburg Utility Board
125 Nineteenth Street
Parkersburg WV 26101-2596

F. Paul Calamita, Esq.
Counsel, WV Municipal Water Quality
Association
PO Box 1310 Bridgeport WV 26330

Jeffrey A. Ray, Esq.
General Counsel
Morgantown Utility Board
278 Greenbag Road
Morgantown WV 26501

Nora Simcoe
Office Administrator/Billing Clerk
Paw Paw Route 19 Public Service
District
PO Box 2035
Westover WV 26502

Linda Chisler
Business Manager
Clay Battelle Public Service District
186 Buckeye Road Core WV 26541-
7148

/s/ Linda S. Bouvette

LINDA S. BOUVETTE, Staff Attorney
West Virginia State Bar I.D. 5926

WILLIAM F. ROHRBAUGH
ATTORNEY AT LAW
142 N. Queen Street
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Martinsburg, WV 25402-3090

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Tel. No. (304) 596-6640
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December 30, 2020

Connie Graley, Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
Post Office Box 812
Charleston, WV 25323

Re: GENERAL ORDER NO. 186.35
GENERAL ORDER NO. 188.40

Dear Ms. Graley:

Enclosed for filing, in the above-referenced proceedings, please find the
"INITIAL COMMENTS ON BEHALF OF THE BERKELEY COUNTY PUBLIC
SERVICE SEWER DISTRICT."

As evidenced by the Certificate of Service attached to the initial comments, a
copy of the same is being contemporaneously served upon Staff Attorney Linda
Bouvette.

Thank you for your anticipated cooperation in this matter. Should you have
questions, please do not hesitate to contact me.

Very truly yours,

s/ William F. Rohrbaugh
WVSB No. 5048

Enclosure

xc: Curtis B. Keller, General Manager, BCPSSD

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

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CLERK OF COURTS
JAN 3 2021

GENERAL ORDER NO. 186.35
In the Matter of Revisions to the Rules Governing
Sewer Utilities, 150 C.S.R. Series 5

GENERAL ORDER NO. 188.40
In the Matter of Revisions to the Rules Governing
Water Utilities, 150 C.S.R. Series 7

**INITIAL COMMENTS ON BEHALF OF THE
BERKELEY COUNTY PUBLIC SERVICE SEWER DISTRICT**

The Berkeley County Public Service Sewer District ("Sewer District") hereby submits its Initial Comments to the Commission's proposed rules pursuant to the Commission Order entered on November 10, 2020, authorizing interested parties to file Initial Comments on or before December 10, 2020, and the Commission Order entered on December 10, 2020, extending the due date for Initial Comments to December 30, 2020.

The Sewer District notes that the West Virginia Rural Water Association ("WVRWA") has submitted or shall submit on this date Initial Comments to the proposed rule changes, and hereby affirmatively states that it concurs with the WVRWA's Initial Comments and incorporates the same by reference, as if fully set forth herein. Like the WVRWA, the Sewer District welcomes the opportunity to meet with other stakeholders and exchange ideas and information regarding the proposed regulatory changes. The comments which follow will supplement certain of the WVRWA's comments and address an area upon which the WVRWA has not commented.

Notice of Discontinuance of Sewer Service, Sewer Rule 6.8.2.c and Water Rule 6.8.1

As delineated in the WVRWA's Initial Comments, the proposed changes to the above Water and Sewer Rules would extend the waiting period between the second attempt at personal contact and termination, from twenty-four (24) to forty-eight (48) hours, for non-payment of sewer services. The proposed extension of the waiting period, however, has not been shown to materially benefit the delinquent customers, while upsetting long established procedures employed by water and sewer utilities in this state.

Inexplicably, the proposed rule changes do not include a parallel increase in the waiting period to terminate water service for non-payment of water services under Water Rule 6.8.1.c.1. As a result, the proposed regulatory changes would make the procedure for water termination different for non-payment of sewer charges than that applicable for non-payment of water services. This difference in the waiting periods is unwieldy and wholly unnecessary.

Personal Contact Requirement of Sewer Rule 6.8.2.c.1.C and Water Rule 6.8.1.c.3.C

As discussed in the WVRWA's Initial Comments, this rule change would require water and sewer utilities to provide interactive automated calls at great expense to the utilities. While this makes sense for very large utilities such as electric and gas companies, it would require the much smaller water and sewer utilities to incur significant costs under an unfunded mandate. Implementing such a change for the sake of making the water and sewer rules similar to those applicable to electric and gas utilities is like comparing the nutritive requirements of apples and watermelons.

Although such a system might provide a small benefit to delinquent customers, the Public Service Commission has a responsibility to protect ALL customers, not just the small minority of delinquent ones.

Leak Adjustment Requirements under Sewer Rule 6.4.3.a

Former Sewer Rule 4.4.c.1 has for many years provided that Sewer Districts do not have to provide leak adjustments for “leaking commodes, dripping faucets, malfunctioning appliances and similar situations.” Unfortunately, it is virtually impossible to prove that any of the listed events have occurred inside of a customer’s home, because the customer controls all of the information and necessary access to make this determination. The Sewer District respectfully submits that, instead of the utility, the customer should bear the burden of proving that a leak occurred outside of the customer’s home. The customer can easily meet his or her burden of proof by determining the existent of a leak in the exterior service line. This would eliminate the need for complaint filings for most leak adjustments and save utilities’ other customers from having to foot the bill for leaks solely within the control of the complaining customer.

s/ William F. Rohrbaugh (WVSB No. 5048)
P.O. Box 3090
Martinsburg, WV 25402
(304) 596-6640
williamrohrbaugh@outlook.com

CERTIFICATE OF SERVICE

On the 30th day of December 2020, I, William F. Rohrbaugh, counsel for the Berkeley County Public Service Sewer District, do hereby certify that a copy of the foregoing INITIAL COMMENTS ON BEHALF OF THE BERKELEY COUNTY PUBLIC SERVICE SEWER DISTRICT, has been served upon Staff Attorney Linda Bouvette via email (lbouvette@psc.state.wv.us).

s/ William F. Rohrbaugh

JACKSONKELLY PLLC

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December 30, 2020

Via Email

Ms. Connie Graley
Executive Secretary
Public Service Commission
of West Virginia
201 Brooks Street
Charleston, West Virginia 25323

Re: General Order No. 186.35
In the Matter of Revisions to the Rules
Governing Sewer Utilities, 150 C.S.R. 5,

and

General Order No. 188.40
In the Matter of Revisions to the Rules
Governing Water Utilities, 150 C.S.R. 7.

Dear Ms. Graley:

Enclosed for filing in the referenced matters are the Comments of West Virginia-American Water Company on the proposed rule changes recently promulgated by the Commission.

Sincerely yours,


Stephen N. Chambers

cc: Robert O. Passmore, Esq.

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GENERAL ORDER NUMBER 186.35

In the Matter of Revisions to the Rules Governing Sewer Utilities, 150 C.S.R. Series 5,

and

GENERAL ORDER NUMBER 188.40

In the Matter of Revisions to the Rules Governing Water Utilities, 150 C.S.R. Series 7.

Comments of West Virginia-American Water Company on Proposed Rule Changes

Unless otherwise noted, the rules cited below reference the proposed new numbering of the rules.

Water Rule 4.1.2.a. / Sewer Rule 4.1.2.a.

The proposed changes include replacing the word "Such" with the word "Required" at the beginning of the sentence. The Company would remove "Required," capitalize "records" and add "or accessible" after "kept."

The proposed addition of "Required" creates confusion with Rule 4.1.2.b as to which records are "required records" and which are merely "records." As such, it appears to create two tiers of records, one which can and one which cannot be kept outside the state. Removal of "Required" eliminates any confusion and is consistent with there being one type of record.

The Company believes adding "or accessible" acknowledges and ensures utilities have the flexibility to establish and use secure cloud computing and other technologies to store electronic records. As such, while a record may be "kept" on a remote server the key to this rule is that the record be "accessible" at the utility office.

Water Rule 4.4.1. / Sewer Rule 4.4.1.

The Company would increase the time for the report to be filed from three to four months.

The Company has found that three months is normally an insufficient amount of time for audited financial results to be available and therefore the Company has had to, in most instances, seek an extension. Expanding the time by one month will resolve this in most instances and avoid the need to seek an extension. Furthermore, the proposed change to Water Rule 4.4.2 and Sewer Rule 4.4.2 requiring the filing of income statements, balance sheets, and cash flow statements in order to obtain an extension significantly raises the effort needed to request an extension. This can, in most instances, be avoided by expanding this time by one month.

Water Rule 4.4.2. / Sewer Rule 4.4.2.

The proposed change adds a requirement that applications for extensions must be accompanied with an income statement, balance sheet, and cash flow statement. In the last sentence, the Company would add after "An application for extension" the phrase "of greater than 30 days."

For the reasons described in its foregoing comments to the proposed changes to Water Rule 4.4.1./Sewer Rule 4.4.1, the Company believes this new requirement is unnecessary for short extensions while audited financial reports are prepared. As such, the Company believes that allowing a 30-day extension without these filing requirements will give diligent utilities who need only a short extension the flexibility to focus their efforts on filing the final, audited financial records.

Water Rule 4.6.1. / Sewer Rule 4.6.1.

The Company would remove "on file" from this rule.

The phrase "on file" implies paper records or even individual computer files will exist for these maps, plans and records. As records are moved to geographic information systems there are few paper records. Removing "on file" does not change the requirement to keep these records but rather modernizes the rule and allows flexibility in the manner of keeping these records.

Water Rule 6.1.5.a. / Sewer Rule 6.1.5.a.

The Company would add "Applications received over the phone or by other methods may require the same information and have the same effect as a written application."

The Company believes this addition will clarify that offering other, more customer convenient, methods of making an application does not diminish the scope of information that may be collected nor the effect of using such other application methods.

Water Rule 6.1.5.b. / Sewer Rule 6.1.5.b.

The Company would change "he has" to "such former customer."

The Company supports changing the Rules to use gender-neutral pronouns to be inclusive to all of its customers.

The Company further notes that "reasonable notice" in this Rule is not defined and as such it is unclear if this notice differs from the disconnection notice requirements later in the rules.

Water Rule 6.1.5.d.

The Company would remove the word "only" after the word "subject," and after the word "rules," would add "and the utility tariff."

The Company believes that the Rules and the tariff both need to be fulfilled and that this change is consistent with the interplay between the Rules and utility tariffs.

Water Rule 6.1.5.e.

The Company would add "or municipal corporation" after all instances of "public service district" except the second instance. Furthermore, the Company would add after "until such time as" the phrase "the sewer provider or."

Municipal corporations also provide sewer service in areas where they do not provide the water service and as such the rule should encompass these instances.

The Company believes that the rule should reflect that the notification that the sewer deposit has been paid can come from the applicant but that it can also be provided directly to the water provider from the sewer provider.

The Company also recommends appropriate changes to Sewer Rule 6.1.5.c to achieve the same result.

Water Rule 6.1.6.b.

Either "a" should be deleted or "Connections" should be made singular.

Water Rule 6.2.1.h.

The Company would change "he is" to "the customer."

The Company supports changing the Rules to use gender-neutral pronouns to be inclusive to all of its customers.

Water Rule 6.4.3.a.

The Company would first add after "unusual usage" the phrase "defined as usage." The Company would also change "unusual bills" (in the phrase "unusual bills for more than two consecutive billing periods") to "unusual usage."

The Company would move the phrase "or leakage that results in unusual bills for more than two consecutive billing periods" to a new sentence reading: "Leakage, of any cause, that results in unusual usage for more than two consecutive billing periods may not constitute leaks which entitle the customer to a recalculated bill beyond two billing periods."

The Company believes the strong language in the prior rule not allowing leak adjustments for non-hidden leaks (particularly commode leaks) was a proper allocation of responsibility where a customer bore the responsibility to keep their plumbing system in good repair and would not be subsidized by their fellow ratepayers through leak adjustments for their failure to exercise proper diligence in their home maintenance. However, in practice the harsh effect of this rule on individual customers resulted in complaint cases where the customer would attempt find a way to classify a leak as "hidden" from their knowledge even if it was a leak squarely not qualifying for an adjustment under the plain language of the Water Rule. The Company believes there may be fewer formal complaints under this revision however the language needs clarification to separate two concepts. The first concept is the new "clearly noticeable" standard for non-hidden leaks related to commodes, appliances, etc. The second concept is one the Company has long embraced

that leaks should be adjusted, under most circumstances, only for two billing periods that show "unusual usage." The principle behind this concept is that a customer would be put on notice of a leak in the first billing period and then during the second billing period have the leak repaired. If the customer was not diligent in repairing the leak and it continued into a third or more billing periods then they should not receive an adjustment for those additional periods. The Company agrees that this concept should be supported by the permissive "may" because there are instances where a customer, acting with reasonable diligence, cannot get a leak repaired (e.g. weather prevents work being completed) within two billing periods. By separating these concepts with its proposed edits, the Company believes the rule more clearly describes these two concepts.

Water Rule 6.5.1.

The Company would change "he" to "the customer."

The Company supports changing the Rules to use gender-neutral pronouns to be inclusive to all of its customers.

Water Rule 6.7.1.

The Company would replace "by the end of the next business day" with "within 72 hours, excluding weekends and holidays."

The discontinuation of service, while important, is not as vital as other customer requests (for example starting service) and the Company believes that 72 hours is a more appropriate maximum time period to complete these requests and would give it greater flexibility in scheduling work based on priority.

Water Rule 6.8.1.c.2.

The revision adds the sentence "For any category of telephone contact, a call must be placed no earlier than 8 a.m. and no later than 9 p.m. and one of the telephone attempts must be made after 6 p.m."

The Company comments that as drafted, this sentence would only apply to calls made related to terminations for nonpayment of sewer bills and not to calls related to terminations for nonpayment of water bills under either 6.8.1.c.3 or 6.8.1.c.1. Secondly, the revision presupposes that both attempts at personal contact will be by telephone and as such it essentially renders the other methods of personal contact listed in 6.8.1.c.3 useless if one telephone call is made because a second is required.

Water Rule 6.8.1.c.3.B.

The Company would delete "and that alerts the customer to possible service disconnection and provides a toll free call back number or call back number local to the customer's service address"

A live telephone conversation can be terminated by either caller at any point in the call. The Company believes that these requirement for what information must be passed along in order to constitute a valid Actual Telephone Contact would render some calls ineffective if the customer hangs up on the Company representative. While the Company does not dispute that this

information would and should be provided, it thinks it is inappropriate to make it a requirement for what would constitute an actual telephone contact because it would let the customer control if that contact were valid.

Water Rule 6.8.1.c.3.E.

The Company is unclear what an "after-hours personal contact attempt" is and where that requirement resides. It is believed that it is related to Water Rule 6.8.1.c.2. and the hours of 6 p.m. to 9 p.m., but the language of the revision is unclear.

Water Rule 6.8.1.e.

The Company would change the hours for disconnections to be between 7:30 a.m. to 4:30 p.m.

This change would better match the Company's work schedule and give it greater flexibility in working disconnection orders.

Water Rule 6.8.1.i.2.

The Company objects to the change contained in this rule.

The Company needs flexibility in determining deferred payment plan agreements. Having a standard 12 month plan for customers will limit the Company's ability to negotiate appropriate agreements tailored to customer's needs and circumstances. To the extent these plans are longer than the Company typically offers they are likely to increase uncollectable expense. If the Commission believes that having a set standard plan term is essential, then the Company would encourage a 6 month plan as being more reasonable, with a 12 month payment plan being the standard term for customers served under a low-income reduced rate tariff.

Water Rule 6.8.2.

The Company would add to the end of the rule "or where a sewer utility requested the disconnection no later than twenty-four (24) hours from the time the sewer utility notifies the water utility the customer may be reconnected."

A water utility will not necessarily know when a disconnected sewer customer makes payment; therefore the Company believes this change triggers the reconnection time limit based on when the water utility is notified of the payment and thus avoids problems where a sewer utility was not diligent in providing the water utility with notification.

Water Rule 6.9.1.

The Company would change "he has" to "the applicant."

The Company supports changing the Rules to use gender-neutral pronouns to be inclusive to all of its customers.

Water Rule 7.4.1.

The Company would delete the added last sentence to this rule.

The Company agrees, in principle, with the concept that long service lines are (1) disfavored, and (2) are made to individual, specific customers to serve that customer alone. The issue is that the customer who enters into and takes responsibility for a long service line may, unbeknownst to the Company, then extend service off of that line to their neighbors. The revision to the rule would put the Company in the position of having to police long service lines to make sure this does not happen. While it may be possible to draft a revision to this rule that places the burden on the customer to branch that service to others the Company believes that situation is already covered elsewhere in the rules and therefore this language is unnecessary.

Water Rule 7.5.8.g.

The Company would change "he" (in the phrases "he has" and "he knowingly") to "the prospective customer".

The Company supports changing the Rules to use gender-neutral pronouns to be inclusive to all of its customers.

Water Rule 7.7.

The Company believes the Commission should consider including a provision and/or additional rules addressing procedures to be followed in the event of an appeal to the Commission, pursuant to W.Va. Code 16-1-9, of the denial by a utility of a customer request for a waiver of the requirement to install a backflow prevention assembly.

Water Rule 7.8.4.

The Company would change "new customers" to "new service locations" and "a customer's pressure" to "the pressure at that location" and add "applying for service at that location" before "has waived."

Water pressure is determined at a service location and this change clarifies that the maximum pressure is determined by the service location and not by when the customer at that location changes and recognizes that any new areas served need to be designed and constructed to meet the post 2003 pressure requirements.

Water Rule 8.4.1.

The Company believes that 15 years is more appropriate for meters less than ¾" in size.

Since the 1990s the Company has operated under a waiver allowing it a 15 year test window on its smaller meters and it would encourage the Commission to apply this same test window to other utilities.

Water Rule 11.6.6.a.

The Company would replace "outstanding loans, tax obligations, required grant repayment, liens and indebtedness owed by the failing utility" with "indebtedness (loans and grants) to take free and clear title to the assets." It further would replace "those obligations" with "that indebtedness."

The purpose of the acquisition price is to acquire the title to the assets free and clear. Adding additional items to the acquisition price will unnecessarily increase acquisition prices and reward entities that engaged in unsecured transactions with a failing utility. The acquiring entity and the customers should not act as the guarantor of all obligations undertaken by a failing utility but rather only those obligations necessary for the assets to be acquired free and clear. While the parties may agree to provide a higher purchase price to satisfy other obligations the Commission should keep the minimum low.



City of Milton

1139 Smith Street • Milton, West Virginia 25541
Phone (304)743-3032 • Fax (304)743-1872

Mayor
Tom Canterbury

Acting Recorder
Benita Ryalls

Council
Tennis Adkins
Carl Harshbarger
Robert "Bob" Legg
Dakota Miller
Cecil Taylor

December 30, 2020

Connie Graley, Executive Secretary
Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323

RE: General Order Number 186.35 and General Order Number 188.40

Dear Ms. Graley:

Pursuant to the Commission Order of December 2, 2020, extending the comment period for the above referenced General Orders, please find the comments regarding certain provisions of the above-mentioned Orders on behalf of Milton, West Virginia, hereinafter referred to as City.

Water Rule 6.8.1.c.1: requiring two (2) attempts to notify by personal contact on two (2) separate business days at least twenty-four (24) hours prior to scheduled termination of water service due to non-payment.

Sewer Rule 6.8.1.c.2: requiring two (2) attempts to notify by personal contact on two (2) separate business days at least forty-eight (48) hours prior to scheduled termination of water service due to non-payment of sewer bill.

Comment: City currently sends a termination notice, and attempts to contact the customer on two separate business days at least 24 hours prior to termination of service. City is of the opinion that the 24 hour notice is sufficient for both water and sewer.

Water Rule 6.8.1.c.3.C and Sewer Rule 6.8.2.c.1.C: both rules requiring that if an automated call is answered by a human, the call must provide a means for the customer to speak with a customer service representative during the automated call.

Comment: City currently uses an automated calling system during business hours. If the City is compelled to use a system whereby a customer service representative is available during an automated call, this places an undue burden on the City; we would either have the financial burden of outsourcing the customer calls, or hiring additional staff and adding more phone lines.

A practical example of the impact of this proposed rule on the City would be as follows: With the current automated system calls go out all at once to approximately three hundred (300) customers. If only 15% (45) of those calls are answered by a person who wishes to speak to a utility representative, only the first three (3) would be able to speak with someone about

Ms. Connie Graley
December 30, 2020
Page 2

their bill, the remaining individuals would either go to voicemail or get a busy signal. City only has three (3) employees that work in the office who could answer these calls.

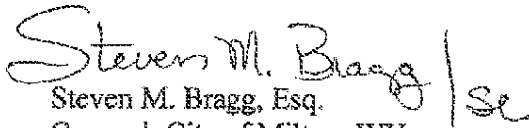
At some point the customer must shoulder the responsibility of paying their bills. To now compel small municipalities to expend limited resources to attempt to get customers to simply pay their water/sewer bills is unreasonable and over-burdensome, especially given the measures taken by the City, exclusive of the automated calls, to give customers notice of possible termination.

Section 150.7.77: Distressed and Failing Water or Wastewater Utilities.

Comment: Certainly the PSC has an interest in any distressed and failing water or wastewater utility, however the proposed rule change leaves the utility without any representation as to determining if said water or wastewater utility is indeed distressed and/or failing. It is the position of the City that the utility companies should be afforded representation both during development of proposed rule changes, as well as representation during the determination process.

Thank you for your consideration in this matter.

Very Truly Yours,


Steven M. Bragg, Esq.
Counsel, City of Milton, WV

Danese Public Service District

15059 Stanaford Rd., Drawer C, Danese WV 25831

Phone 304-438-6686 fax 304-438-6687

Danese.psd@gmail.com

January 14, 2021

General Order Numbers 186.35, 186.40

Connie Graley, Executive Secretary

Public Service Commission Of West Virginia

PO Box 812

Charleston WV 25323

Dear Ms. Graley,

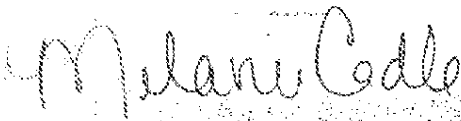
I am writing this letter in response to some of the proposed changes to the Rules Governing Sewer Utilities and Water Utilities. I will address each concern in order as they are listed in the rules.

1. 6.4.3a page 16 leak adjustments. Although all other changes see to benefit the customer this one seems to go to the extreme in the other direction. In excess of 150% the customer's historical usage is not a reasonable amount. Please correct me if I am not using the correct calculations. Say a customer uses an average of 4,000 gallons a month. By my understanding I could only give this customer an adjustment if they had a leak to where their usage is greater than 10,000 gallons. Meaning their bill, on our rates, went from \$50.03 to \$113.69 and they can't receive any help. I understand wanting to put a percentage but I do feel that 150% is too much.
2. 6.8.1 Notice of discontinuance. I am putting all my concerns for this section all together rather than listing each subsection separately. My first concern is requiring that "one telephone attempt must be made after 6 p.m." In the days when most people had land lines this may have been a good rule but in the day we are living in the majority of people have cell phones. Most have them with them 24/7. If they ignore you before 6 p.m. they will ignore after 6 p.m. This would also cause many to have to stay over their normal working hours and may lead to a burden for the utility.

If I understand further down that "Actual Personal Contact" must be made to be able to disconnect. If this is correct you are setting up small utilities to go under. When we pull up to a residence our vehicles are marked with our logo. The customer, who has received a bill and a late notice in the mail, who knows they haven't paid their bill, will not answer the door. Especially if they know that we can't turn off the water without speaking to them. These are the same customers who will not answer their phone, will not set up voicemails or they will get a new number and not notify us. Although some fall on hard times most of the people on our cut off list are the same people each month. They know the system and how to play it. If personal contact must be made in order to terminate service many small, already struggling, systems will go under because they will have no way to collect their bill. This brings me to the payment deferral agreement. To say that an agreement must have 12 monthly payments is absurd. So if we finally make contact, which could take months if the new rules go into effect the bill could be enormous and now you are saying that we have to give them a year to pay this off. They end up paying 2 months then they move. We then are stuck with no way to collect.

I know there are other issues that you will hear about from other utilities but these I feel are tying the hands of the utilities. If these go into effect you are setting up for many utilities to go under. We do not need to keep making a way for customers, who know they owe a bill for the service they are using daily, to shirk their responsibility. They need to be made accountable for their actions. If given the opportunity I would like to discuss these changes in person.

Thank you for your time,

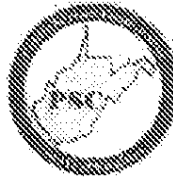


Melanie Cadle
Operations Manager

Public Service Commission of West Virginia

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

Phone: (304) 340-0390
Fax: (304) 340-0325



January 15, 2021

Connie Graley, Executive Secretary
Public Service Commission
PO Box 812
Charleston, West Virginia 25323

02:46 PM JAN 15 2021 EXEC SEC DIV

RE: GENERAL ORDER NO. 186.35
In the Matter of Revisions to the Rules Governing
Sewer Utilities, 150-C.S.R. 5

GENERAL ORDER NO. 188.40
In the Matter of Revisions to the Rules Governing
Water Utilities, 150 C.S.R. 7

Dear Ms. Graley:

Enclosed for filing in the above-referenced proceeding, please find an original and twelve copies of the *Staff Final Comments*. A copy has been served on all parties.

Sincerely,

/s/ *Linda S. Bouvette*

Linda S. Bouvette
Staff Attorney
West Virginia State Bar I.D. No. 5926

JLSB/vm

Enclosures

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**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

GENERAL ORDER NO. 186.35

**In the Matter of Revisions to the Rules Governing
Sewer Utilities, 150-C.S.R. Series 5**

GENERAL ORDER NO. 188.40

**In the Matter of Revisions to the Rules Governing
Water Utilities, 150 C.S.R. Series 7**

STAFF REPLY COMMENTS

On November 10, 2020, the Commission proposed amendments to the *Rules Governing Sewer Utilities* (150 CSR Series 5) and the *Rules Governing Water Utilities* (150 CSR Series 7) to administer SB 739, the “Distressed and Failing Utilities Improvement Act” and make other administrative changes. The Commission established deadlines for filing initial and reply comments to the proposed changes.

On December 2, 2020, the Commission entered an order extending the time for public comments to the proposed rule changes, with Initial Comments due on December 30, 2020, and Reply Comments due on January 18, 2021.

The following entities submitted Initial Comments to the proposed changes to the Sewer and Water Rules:

- Berkeley County Public Service District
- Clay-Battelle Public Service District
- Commission Staff
- City of Milton
- Morgantown Utility Board
- Northern Wayne County Public Service District

- Parkersburg Utility Board
- Paw Paw Route 19 Public Service District
- West Virginia-American Water Company
- West Virginia Municipal Water Quality Association
- West Virginia Rural Water Association

A majority of the commenters that filed initial comments requested an opportunity to meet with other stakeholders affected by the proposed changes to determine if a consensus on certain issues could be reached. Staff objects to the proposal for a rulemaking “workgroup” since the comment process established by the Commission’s procedural order, affords all stakeholders, regardless of size, equal opportunity to express their viewpoint on the proposed changes. Staff is also concerned that a “workgroup” process will significantly delay the rulemaking proceedings without any guarantee of a consensus between the parties at the conclusion of its efforts.

Reply Comments to Proposed Changes to the Rules

Disconnection of Non-Paying Customer

Water Rule 6.8.1.c.1. and Sewer Rule 6.8.2.c. should retain the time period of twenty-four hours following the second attempt rather than having Water Rule 6.8.1.c.1. require twenty-four hours and Sewer Rule 6.2.c. requiring forty-eight hours following the second attempt. Staff notes that the proposed rules are consistent when it pertains to water service being terminated for non-payment of sewer or stormwater services, in that both the Water and Sewer Rules requiring forty-eight hours’ notice prior to the scheduled termination.

Water Rule 6.8.1.c. and Sewer Rule 6.8.2.c. both require that one of the attempts to notify a customer through personal contact must take place after 6 p.m. Most of the

commenters objected to this requirement, stating that small utilities do not have a customer service representative available after 6 p.m. To comply with this requirement would be a financial hardship on these small utilities.

The same is true in requiring the presence of an actual employee to respond to a customer contacted through the utility's automated system rather than directing the customer to call back during regular office hours pursuant to the changes made to Water Rule 6.8.1.c.3.C. and Sewer Rule 6.8.2.1.C. Mandating the presence of an actual employee defeats the purpose of the automated system and results in increased costs for the utility to the detriment of their paying customers.

Several commenters claimed the deletion of "calendar days" in Sewer Rule 6.8.2.g. and 6.8.2.h. and in Water Rule 6.8.1.g. would cause a hardship on a utility trying to terminate service for non-payment.

Deferred Payment Arrangements

A number of commenters objected to the proposed changes to the deferred payment arrangement (DPA) language set forth in Sewer Rule 6.8.2.i.2. and Water Rule 6.8.1.i.2. The changes appear to mandate a twelve (12) month DPA for all delinquencies despite the language in the previous sections regarding the negotiation between the utility and the non-paying customer of a DPA. Most commenters stated that a flexible DPA policy was needed so that smaller debts could be repaid more quickly than twelve (12) months and payment of larger debts could be extended over a longer period of time.

Leak Adjustments

Most of the entities objected to proposed changes to the leak adjustment rule in Sewer Rule 6.5.4.a. and Water Rule 6.4.3. One suggested that the burden of showing that the leak occurred outside the customer's home should be on the customer, not the utility (Berkeley County PSD). One found the inclusion of language requiring the leak to exceed 150% of the customer's historical usage to be a needed addition to the Leak Adjustment Rule but suggested that a written policy that all water and sewer utilities must follow that clearly identifies when a leak adjustment is required would eliminate questions regarding or challenges to individual utility leak adjustment policies. Others suggested that the 150% was inappropriate.

The West Virginia Municipal Water Quality Association (WVMWQA) suggested that a customer be limited to one leak adjustment every 3-5 years and that the utility waive 50% of the excess usage and adjust on the basis of the remaining usage to ensure incentives to vigilantly repair leaks.

Staff continues to believe that its proposed leak adjustment language eliminates all the issues raised by the commenters and removes the uncertainty of whether a leak adjustment is appropriate.

Each utility shall develop and implement a written policy concerning the adjustment of customer bills where the bill reflects unusual usage in excess of 200% of the customer's historical usage that can be attributed to leakage on the customer's side of the meter. For all such leaks, the utility shall provide leak adjustments to a customer's bill; provided, however, that any individual customer shall be entitled to no more than one (1) leak adjustment in any one-year period. The policy shall be maintained in the utility's office for inspection by the public and shall be applied in a non-discriminatory manner to all customers. The reasonableness of the utility's

policy shall be subject to approval by the Commission and the reasonableness of the utility's practice with respect to implementing a policy shall be subject to Commission review in a formal complaint proceeding.

Staff objects to the WVMWQA's assertion that bills are "waived" whenever a leak adjustment is applied. This infers that the utility receives no revenue whatsoever from a leak-adjusted bill, which is false. The leak adjustment rate, when calculated correctly, is designed to provide the utility with sufficient revenue to recover its incremental costs above the customer's historical usage. In the case of sewer bills, however, the excess usage may require elimination from the bill if it is determined that the leaked water did not flow into the utility's sewer collection system.

The West Virginia Supreme Court of Appeals recognized that a water or sewer utility is made whole when a leak adjustment is made:

It is also important to note that a leak adjustment does not adversely impact the City or its other customers financially. In a case where a customer is awarded a leak adjustment, the customer's account is credited the amount of excess revenue billed, net of the actual variable costs attributed to leaked water. In this manner, the utility is reimbursed for the actual variable cost of the water it produced. So, with the payment of a leak-adjusted bill, the City is made whole for the actual expenses incurred in producing the additional water but does not receive revenues over and above those costs.

City of Kenova v. The Public Service Commission of West Virginia, Case No. 19-0919

(PSC Case No. 18-1232-S-C), Order entered May 20, 2020, page 7, footnote 20.

Annual Reports

Regarding Water Rule 4.4.1 and Sewer Rule 4.4.1., larger utilities suggested that the three month deadline following the close of a utility's fiscal year was too short to prepare an annual report and suggested that four – six months following the close of the

fiscal year was more appropriate (Parkersburg Utility Board, WVAWC). Further, requiring the submittal of financial statements when requesting an extension pursuant to proposed Water Rule 4.4.1 and Sewer Rule 4.4.1, may result in additional costs and the likely filing of inaccurate or incomplete documents.

Security Deposit Issues.

Several commenters suggested that the Commission eliminate the requirement to pay interest on security deposit accounts as set forth in Water and Sewer Rules 6.2.1.e, because in most cases, the cost to pay the interest is more than the interest itself.

Other commenters agreed with the Commission's proposed elimination of the requirement to segregate security deposits in an interest bearing account while others disagreed. Staff's position is that those funds do not belong to the utility and should be kept segregated until returned to the customer.

Late Payment Penalties.

The Commission eliminated the mandatory language for the imposition of a late payment penalty in Sewer and Water Rules 6.3.5. Some commenters contend that the elimination of a mandatory penalty would result in an increase in late payments.

Sewer Long Service Lines.

Several commenters noted that the proposed change to Sewer Rule 7.3.9 would authorize the use of long customer sanitary sewer lines. These lines have long been prohibited by the Commission since the owner usually has very little incentive to make the necessary repairs and, on occasion, has no authority to enter the neighboring property to make the repair.

Sewer Cleanout

Morgantown Utility Board (MUB) requested that Sewer Rule 3.7 be modified to require that the customer service pipe include the installation by the customer of a 2-way cleanout "T" near the foundation of the premises to be served.

Operating Hours

Some commenters are concerned that the proposed changes do not reflect current operations of small utilities. MUB noted that the rules reference 'regular business hours' which may be different depending on the utility. It recommended that the term 'scheduled days and hours of operation' be used instead to accommodate the many small utilities that are unable to provide full-time staff.

MUB raise a concern over the repayment of overpayments and underpayments with regard to the construction of a mainline extension set forth in Water Rule 7.4.8. and Sewer Rule 7.5.8. It took the position that overpayments should be made within 90 days from the later of receipt of the completion of construction or receipt of all third-party vendor invoices and shortfalls be repaid within 90 days from the date of the invoice.

Distressed and Failing Water or Wastewater Utilities

The West Virginia Rural Water Association filed comments on proposed Sewer Rule 10 and Water Rule 11, noting that certain provisions in the proposed rules did not follow the statutory requirements. The first deviation is with the provision of advice and assistance to utilities that "appear to be financially unstable." In Sewer Rule 10.2.4. and Water Rule 11.2.4. the language is "will offer to provide advice and assistance" while W.Va. Code §24-2H-4 says that Staff will provide advice and assistance. The second

deviation from W.Va. Code §24-2H-4 is that it refers to entities on the list as those that “appear to be financially unstable” while the rules reference utilities that are “potentially unstable”. Finally, Sewer Rule 10.4.3. and Water Rule 11.4.3. require the distressed or failing utility to give notice to its customers of the determination hearing by either bill insert or printed on its monthly bill. W.Va. Code §24-2H-6(b)(4). The proposed rule requires a separate mailing if neither a bill insert or notice on the monthly bill is appropriate. The commenter stated there was no provision in the statute for a separate mailing if the named method of giving notice was inappropriate.

West Virginia-American Water Company (WVAWC) suggests that Water Rule 11.6.6.a. and Sewer Rule 10.6.6.a. replace “outstanding loans, tax obligations, required grant repayments, liens and indebtedness owed by the failing utility” with “indebtedness (loans and grants) to take free and clear title to the assets”.

WVAWC also had a number of smaller changes that the Commission should consider in drafting the final rules, including a proposal to make both sets of rules gender-neutral. WVAWC also suggested that the Commission develop a process for backflow prevention complaints. Staff contends that the Commission’s current complaint process is suitable for these types of complaints.

Finally, in addition to the comments set forth above, Staff incorporates by reference the Staff Initial Comments filed on December 30, 2020, and strongly urges the Commission to consider them in its deliberations.

Respectfully submitted this 15th day of January, 2021.

STAFF OF THE PUBLIC SERVICE
COMMISSION OF WEST VIRGINIA

By Counsel,

/s/ Linda S. Bouvette

LINDA S. BOUVETTE, Staff Attorney
West Virginia State Bar I.D. 5926

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

GENERAL ORDER NO. 186.35

**In the Matter of Revisions to the Rules Governing
Sewer Utilities, 150-C.S.R. 5**

GENERAL ORDER NO. 188.40

**In the Matter of Revisions to the Rules Governing
Water Utilities, 150 C.S.R. 7**

CERTIFICATE OF SERVICE

I, Linda S. Bouvette, Counsel for the Public Service Commission of West Virginia, do hereby certify that a copy of the foregoing "Staff Final Comments" has been served upon the following party of record by first class mail, this 15th day of January, 2021.

Earl Burks
General Manager
Union Public Service District
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Cross Lanes, WV 25356-7350

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/s/ Linda S. Bouvette

LINDA S. BOUVETTE, Staff Attorney
West Virginia State Bar I.D. 5926



Morgantown Utility Board

278 Greenbag Road Post Office Box 852 Morgantown, WV 26507-0852

Phone: 304.292.8443 Email: mubmail@mub.org Website: mub.org

January 18, 2020

VIA ELECTRONIC MAIL -- caseinfo@psc.state.wv.us

Connie Graley, Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
Charleston, West Virginia 25301

09:36 AM JAN 19 2021 EXEC SEC DIV

Re: General Order Number 186.35 and General Order Number 188.40

Dear Ms. Graley:

The Morgantown Utility Board ("MUB") writes to provide its reply comments to the proposed new *Rules Governing Sewer Utilities*, 150 C.S.R. 5, and proposed new *Rules Governing Water Utilities*, 150 C.S.R. 7, with respect to the above-referenced matters. Specifically, MUB offers the following reply comments:

- MUB concurs with the comments of various commentators that a stakeholder group should be created to more thoroughly review and revise the proposed new rules. This is especially important now that the effected water and sewer utilities are now aware that the PSC Staff was not consulted by those unknown individuals at the Commission who drafted the proposed new rules. Even if stakeholder forums would delay implementation of the new rules, that fact should not trump the goal of ensuring that the new rules are clear and fair to all concerned.
- **Rule 3.7.** MUB concurs with the comments of Staff that the phrase "installed at the cost and expense of the customer" should remain in the definition of "Customer Service Pipe".
- **Rule 4.4.1.** MUB concurs with various commentators that extending the deadline for filing annual reports to a period greater than three (3) months is advisable.
- **Rule 4.4.2.** MUB concurs with the comments of various commentators that requiring the submission of an income statement, balance sheet and cash flow statement as part of a request for an extension to file the utility's annual report should be struck from the new rules. Requiring submission of those financial statements is illogical given that the likely reason an extension would be requested is because those documents are not yet complete.
- **Rule 6.3.2.** MUB disagrees with Staff's proposed changes to this Rule. The changes proposed by Staff will require water and sanitary sewer utilities to change long established billing practices merely for the purpose of mirroring the practices of electric utilities.

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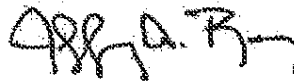
- **Rule 6.3.5.** MUB concurs with those commentators who assert that "may" should be replaced with the word "shall" in Rule 6.3.5. The imposition of the 10% penalty provides impetus for customers to timely pay their bills and provides utilities with a small reimbursement for the additional time and effort necessary to collect delinquent accounts. Using the discretionary word "may" also will likely lead to unwarranted customer complaints against utilities that continue to impose the 10% penalty.
- **Rule 6.4.3.** Comments with respect to Rule 6.4.3 (leak adjustments) were quite varied. MUB again suggests that the most prudent course of action is for the Commission to adopt a wholly objective rule that simply prohibits a leak adjustment for any leak inside a customer's premises. Such an objective standard should result in a reduction in complaints against water utilities for refusing to provide a leak credit when the leak is within the customer's premises. Such a rule also will avoid water utilities from being compelled to play the role of investigator when a customer claims that they were not aware of a leak inside of their premises as will be necessary under the proposed rule. For these reasons, MUB respectfully disagrees with the position of Staff as reflected in its comments to Rule 6.4.3.
- **Water Rule 6.7.1.** MUB concurs with the comments of West Virginia-American Water Company that 72 hours, excluding weekends and holidays, is a reasonable period of time within which to discontinue water service at the request of a customer rather than "by the end of the next business day."
- **Water Rule 6.8.1 and Sewer Rule 6.8.2.c.** MUB concurs with the comments of various commentators noting the inconsistency created by requiring notice of forty-eight (48) hours prior to terminating water service for failure to pay for stormwater service or sanitary sewer service, but retaining the twenty-four (24) hour notice for terminating water service for the failure to pay for water service. Both notice periods should remain at twenty-four (24) hours as delinquent customers are provided ample opportunity to pay their bills prior to termination of service.
- **Water Rule 6.8.1 and Sewer Rule 6.8.2.c.** Similarly, the added requirements for termination of water service as the result of a customer failing to pay for stormwater service or sanitary sewer service is not justifiable. As aptly discussed by the Danese Public Service District, most delinquent customers are well versed in the termination procedures. Those who have received the delinquency notice in the mail will simply avoid any further personal contact, thereby preventing termination of water service and result in the inability to collect outstanding invoices. The language that the "inability to make personal contact shall not prevent the water utility from terminating service" should remain as it related to termination of water service based on the failure to pay for stormwater service or sanitary sewer service.
- **Water Rule 6.8.4 and Sewer Rule 6.8.5.** MUB concurs with the comments that a customer's balance should "follow" that customer to a new residence and that utilities may deny services until the balance due at the prior location is paid in full.

- **Rule 7.3.2.** MUB concurs with Staff that language should be added to this Rule to make clear that the customer service pipe shall be installed at the sole cost and expense of the customer.
- **Water Rule 7.8.4.** MUB disagrees with the Staff's suggestion that the maximum psi be lowered from 135 psi to 115 psi. The 135 psi was a negotiated standard that has been relied upon by water utilities for nearly two decades. Lowering the maximum psi as suggested by Staff is not addressing any known customer complaints and, therefore, is merely a solution in search of a problem.

Thank you in advance for your consideration of MUB's reply comments.

Sincerely,

MORGANTOWN UTILITY BOARD



Jeffrey A. Ray
General Counsel
jray@mub.org



WEST VIRGINIA MUNICIPAL WATER QUALITY ASSOCIATION

515 W. Main St.
P.O. Box 1310
Bridgeport, West Virginia 26330
304-842-8231

January 18, 2021

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Stephen Kalpe

By Fax (304-340-0325)

Connie Graley
Executive Secretary
Public Service Commission of West Virginia
P.O. Box 812
Charleston, West Virginia 25323

Re: General Order No. 186.35 (Rules Governing Sewer Utilities) & General Order No.
188.40 (Rules Governing Water Utilities)
Reply Comments

08:36 AM JAN 19 2021 EXEC SEC DIV

MEMBER AGENCIES

Barboursville, Village of
Beckley Sanitary Board
Bluefield Sanitary Board
Bluewell PSD
Boone County PSD
Bridgeport, City of
Buckhannon Sanitary Board
Charleston Sanitary Board
Clarksburg Sanitary Board
Falmouth, City of
Fayetteville, Town of
Folinsbee, City of
Greater Harrison County PSD
Huntington Water Quality Board
Hurricane, City of
Kenova, The City of
Martinsburg, City of
Morgantown Utility Board
Moundsville Sanitary Board
New Martinsville, City of
Parkersburg Utility Board
Phillippi, City of
Princeton Sanitary Board
Sun Valley PSD
Vienna, City of (Utility Board)
Weston Sanitary Board
Wheeling Water Department, City of
Wheeling WPCD
Williamstown Public Works

Dear Ms. Graley:

The West Virginia Municipal Water Quality Association ("WVMWQA") appreciates the opportunity to submit these reply comments on the referenced proposed rule changes.

At the outset, we reiterate our concerns about the lack of any stakeholder engagement in the development of the proposed rule changes. Trying to discuss various options and compromises by reply comments is inefficient and ineffective in our view.

We incorporate by reference our December 30 initial comments and renew our request for a stakeholder process to be conducted virtually over the next 60 days.

Sincerely,

C: WVMWQA Members

F. Paul Calamita III
General Counsel

CONSULTANT MEMBERS

Burgess & Niple
CENTEC Engineering, PLLC
Civil & Environmental Consultants, Inc.
CT Consultants, Inc.
Folenta & Associates
Smond Associates, Inc.
The Thresher Group

GENERAL COUNSEL

Paul Calamita, AQUALAW

08:36 AM JAN 19 2021 EXEC SEC DIV

**REPLY COMMENTS OF WEST VIRGINIA
MUNICIPAL WATER QUALITY ASSOCIATION
REGARDING THE COMMISSION'S GENERAL ORDER NOS. 186.35 (SEWER
UTILITIES) and 188.40 (WATER UTILITIES)**

Disconnection of Nonpaying Customer.

We believe that the Sewer rules should retain the 24-hour waiting period following second notice before shutting off sewer service. Water Rule 6.8.1.c and Sewer Rule 6.8.2.c.

In both the water and sewer rules we continue to object to the requirement that one of the contacts before disconnection come after 6 p.m. We think contacts during business hours (9-5) are more than adequate. Water Rule 6.8.1.c and Sewer Rule 6.8.2.c.

Also, we object to the proposal that the customer have the option of talking with a customer service representative in response to an automated call. We believe including in the automated call instructions to call the utility during normal business hours is more than adequate. Water Rule 6.8.1.c.3.C and Sewer Rule 6.2.8.1.C.

We also continue to object to the change from "calendar days" to "business days" relating to shutting off customers for non-payment. Sewer Rule 6.8.2.g and h and Water Rule 6.8.1.g.

Deferred Payment Arrangements.

We continue to object to the fixed 12-month delinquent account repayment agreement term.

We continue to believe it should either be left to the utilities or based upon a graduated time period based upon the amount of the arrearage. Sewer Rule 6.8.2.i.2. and Water Rule 6.8.1.i.2. We suggest:

- < \$500: up to six months
- \$500 to \$1000: up to 12 months
- >1000: up to 18 months

Leak Adjustments.

We are willing to support the Staff's proposal that leak adjustments be given where usage was more than 200% of historical usage. However, we disagree that individual customers should be eligible for one such adjustment per year. Instead, we propose as a compromise that a second (or subsequent) requested leak adjustment within a three-year period shall be credited at 50

WVMWQA Comments
January 18, 2021
Page 2

percent above their historical usage level. That provides a necessary incentive for property owners to be vigilant about leaks on their side of the water meter. Sewer Rule 6.5.4.a. and Water Rule 6.4.3. We also do not think utilities need to have separate leak adjustment policies and, instead, the PSC's rules should simply clarify the eligibility for adjustments that we suggest above.

Annual Reports.

Regarding Water Rule 4.4.1 and Sewer Rule 4.4.1., we continue to believe that the three month deadline following the close of a utility's fiscal year is too short to prepare an annual report. Instead, the rules should allow six months following the close of the fiscal year for systems serving a population of 10,000 or more.

Security Deposits.

We continue to object to a requirement to pay interest on security deposits held 13 months or shorter. If the PSC insists on imposing disproportionate accounting costs on public utilities to track and pay these de minimis interest amounts, we suggest the rule provide that the utility hold the funds in an interest bearing account and pay interest based upon what the account actually paid.

This will reduce administrative costs and prevent the indignity of other customers rewarding customers who have to provide security deposits by paying them higher than market interest on their deposit. Water and Sewer Rules 6.2.1.e.

Late Payment Penalties.

We believe utilities should have the option of imposing a late payment penalty of "up to 10 percent." Sewer and Water Rules 6.3.5.

Service Laterals.

In proposed revised sewer rule 3.16 the definition of "Utility Service Pipe" would change as follows: "That portion of the service pipe between the sewer main and the Point of Service, ~~installed at the cost and expense of the utility.~~"

We don't understand the rationale behind this change. We believe the deleted language should remain with the addition of the underlined caveat (which mirrors the Point of Service definition): "That portion of the service pipe between the sewer main and the Point of Service, installed at the cost and expense of the utility (unless otherwise provided in a user's agreement)."

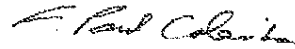
WVMWQA Comments

January 18, 2021

Page 3

Thank you for considering this request and reviewing our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Paul Calamita III".

C: WVMWQA Members

F. Paul Calamita III
General Counsel



FACSIMILE TRANSMITTAL SHEET

TO: CONNIE GRALEY,
WV PUBLIC SERVICE COMMISSION

FROM: PAUL CALAMITA

DATE: 1/18/2021

FAX NUMBER: 304-340-0325

TOTAL NO. OF PAGES INCLUDING
COVER: 5

Re: *GENERAL ORDER NO. 186.35 & GENERAL ORDER NO. 188.40 –
REPLY COMMENTS*

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

6 S. 5th Street · Richmond, Virginia 23219
Telephone: 804-716-9021 · Facsimile: 804-716-9022



1300 Chase Tower • 707 Virginia Street East • Charleston, WV 25301

Mailing Address: P.O. Box 2031 • Charleston, WV 25327

Telephone (304) 345-8900 • Fax (304) 345-8909

www.kaycasto.com

E-Mail: rodecker@kaycasto.com

Direct: 304/391-8838

January 19, 2021

Via Email: caseinfo@psc.state.wv.us

03:23 PM JAN 19 2021 EXEC SEC DIV

Ms. Connie Graley
Executive Secretary
Public Service Commission
of West Virginia
201 Brooks Street
Charleston, West Virginia 25301

RE: GENERAL ORDER NO. 186.35
GENERAL ORDER NO. 188.40

Dear Ms. Graley:

Enclosed herein for filing in the above-referenced proceedings, please find the Reply Comments on Behalf of West Virginia Rural Water Association.

As evidenced by the Certificate of Service attached thereto, a copy of the document is being served upon Staff Attorney Linda Bouvette.

Sincerely,

Robert R. Rodecker
WV State Bar No. 3145

enclosures

cc: Linda Bouvette, Esquire
Todd Grinstead, WVRWA

03:23 PM JAN 19 2021 EXEC SEC DIV

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

GENERAL ORDER NO. 186.35
In the Matter of Revisions to the Rules Governing
Sewer Utilities, 150 C.S.R. Series 5

GENERAL ORDER NO. 188.40
In the Matter of Revisions to the Rules Governing
Water Utilities, 150 C.S.R. Series 7

REPLY COMMENTS ON BEHALF OF
WEST VIRGINIA RURAL WATER ASSOCIATION

West Virginia Rural Water Association, ("WVRWA") submits its Reply Comments to the Commission's proposed rules pursuant to the Order entered by the Commission on December 2, 2020.

The following comments will address the Initial Comments submitted by the Staff of the Commission to the proposed amendments to the Commission's Rules Governing Sewer Utilities, 150 C.S.R. Series 5, as set forth in General Order No. 186.35, and Rules Governing Water Utilities, 150 C.S.R. Series 7, as set forth in General Order No. 188.40.

In addition to the Reply Comments, WVRWA would like to reiterate its suggestion in its Initial Comments that it would welcome the opportunity to meet with other stakeholders affected by the proposed rule changes to address the proposed rule changes and the Staff's Initial Comments before the implementation of rule changes.

Comments Regarding Scope of Staff's Initial Comments

It is evident by the breadth of the Staff's Initial Comments that WVRWA's suggestion of a meeting of stakeholders to discuss the Commission's proposed Rule changes and the Staff's Initial Comments is in order.

In its November 10, 2020 Order, the Commission stated that the purpose of the proposed rules was primarily to implement the statutory amendments resulting from the enactment of SB 739 relating to the Distressed and Failing Utilities Improvement Act. In addition, the Commission proposed a number of other changes including renumbering rules, amending water leak language, modification of rules related to interest on deposits, and modifying Water Rule 6.8. and Sewer Rule 6.8 related to discontinuance of service. However, as reflected by the Staff's Initial Comments, the proposed rules go far beyond the scope of the proposed rules as presented in the November 10, 2020 Order. That is not to say that the Staff Comments are not well-taken, but rather to emphasize that the notice provided as to the scope of the proposed rules was insufficient.

Specific Reply Comments to Staff Initial Comments

Sewer Rule 3.7 and Water Rule 3.6.

WVRWA agrees with Staff's comment regarding the proposed change in language regarding it being the customer's responsibility to pay for the cost of installing the "customer service pipe."

Sewer Rule and Water Rule 3.11.

WVRWA disagrees with Staff's comment regarding "Point of Service".

Sewer Rule 3.13 and Water Rule 3.14.

WVRWA agrees with Staff's comment that the definition for "Residential Service" in the Water and Sewer rules should be the same.

Sewer Rule and Water Rule 6.4.3.a.

WVRWA agrees with Staff's comments that the Water and Sewer rules should be the same but has not had sufficient time for the Association's membership to address the Staff's proposed change.

Sewer Rule 7.3.2.

WVRWA agrees with Staff's comment regarding the customer's responsibility for the cost to install and maintain the customer service pipe.

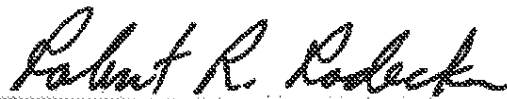
CONCLUSION

The WVRWA's failure to submit a reply to the other Initial Comments submitted by Staff should not be deemed to reflect agreement with such comments. Instead, failure to reply reflects the fact that the WVRWA has not had sufficient time to receive input from its members.

Respectfully submitted,

WEST VIRGINIA RURAL WATER ASSOCIATION

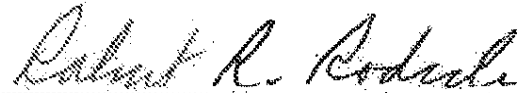
By Counsel



Robert R. Rodecker [WV State Bar No. 3145]
John R. McGhee, Jr. [WV State Bar No. 5205]
Kay Casto & Chaney PLLC
Post Office Box 2031
Charleston, West Virginia 25327
Telephone: 304/345-8900
rrodecker@kaycasto.com
jmcghee@kaycasto.com

CERTIFICATE OF SERVICE

I, Robert R. Rodecker, counsel for the West Virginia Rural Water Association, do hereby certify that a copy of the foregoing Reply Comments has been served upon Staff Attorney Linda Bouvette via email (lbouvette@psc.state.wv.us) on this 19th day of January, 2021.

A handwritten signature in cursive script, reading "Robert R. Rodecker", is written over a horizontal line.

ROBERT R. RODECKER

GENERAL ORDER NUMBER 186.35

In the Matter of Revisions to the Rules Governing Sewer Utilities, 150 C.S.R. Series 5,

and

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GENERAL ORDER NUMBER 188.40

In the Matter of Revisions to the Rules Governing Water Utilities, 150 C.S.R. Series 7.

Reply Comments of West Virginia-American Water Company on Proposed Rule Changes

Unless otherwise noted, the rules cited below reference the proposed new numbering of the rules.

Water Rule 6.4.3.a./Sewer Rule 6.4.3.a.

The respective current rules were intended to provide a clear delineation between leaks that qualify for a bill adjustment and those that do not. Unfortunately, the rules have been applied inconsistently, thereby complicating efforts to resolve complaints about leak adjustments. Under the existing rules, customers have a perverse incentive to deny attributing high usage to a "plumbing" leak and instead tend to attribute such usage to meter inaccuracy, main breaks, and other speculative and spurious causes to avoid the plumbing leak adjustment disqualification even though hourly usage data typically reflects continuous or intermittent usage that is strongly indicative of a plumbing leak. Alternatively, some customers will acknowledge a plumbing leak but argue that customer physical infirmity, customer absence from the home, the remote location of the leaking plumbing or appliance, or other factors render a plumbing leak effectively "hidden" to their perception. Staff's proposed revision benefits the utilities by creating a floor of 200% for a leak to be eligible for adjustment, thus eliminating small leaks indistinguishable from normal usage variations. Staff would also remove any distinction between a "hidden" and "plumbing" leak which benefits customers and has been a source of administrative conflict in informal and formal complaints. Staff would also limit customers to only one leak per year thus providing some incentive for customers to fix continuing leaks. While the Company believes that Staff's proposals would reduce formal complaints regarding leak adjustments, Staff's changes do not provide sufficient incentive for customers to repair plumbing leaks promptly. Consequently, the Company recommends that if Staff's proposed changes are adopted, the limitation of one adjustment per year should be coupled with a limitation that any such leak adjustment would be for a maximum of two consecutive billing periods absent any significant mitigating circumstances such as an estimated bill that masked leak related high usage for the estimated billing period. Absent this additional change, customers could accrue high bills and then seek an adjustment for 3, 4, 6 or even 12 months, without ever adequately addressing their plumbing problems.

Water Rule 7.8.4.

The Company objects to Staff's proposed reduction of the current high-pressure limit from 135 p.s.i. to 115 p.s.i. The existing high-pressure limit, which is the only high-pressure limit to ever exist under the Water Rules, was adopted in 2003 after a lengthy and comprehensive review of the water rules pursuant to General Order No. 188.17. In that proceeding, the Commission originally proposed a limit of 106 p.s.i., but it ultimately adopted the recommendation of 135 p.s.i. proposed a "Working Group" consisting of Commission Staff and numerous other representatives of a wide range of water and sewer utilities. The Working Group arrived at the consensus recommendation of 135 p.s.i. after considerable discussion and debate. Though not as clear from the filings of the Working Group and other filings by individual utilities that participated in the Working Group as the 135 p.s.i. limit, it was also the clear consensus of the Working Group that the 135 p.s.i. limit should be applied only to new services established after the effective date of the rule. This concept is implicit in the language of the rule specifying that the pressure limit is "[f]or all new customers desiring service on and after October 24, 2003" This limitation reflected the valid concern of water utilities that applying the new pressure limit to existing services would require the utilities to incur considerable costs to install pressure limiting devices on numerous services in which any potential high pressure issues had already been addressed by the customers.

As others have noted in their comments, water utilities have focused since 2003 on meeting the current high-pressure limit in all new services and have designed main extensions and water system hydraulics accordingly. Reducing the pressure limit will, once again, present water utilities with a situation where potentially large capital investments will be required to comply with the lower pressure limit. Given the significant financial impact of Staff's proposed change, the Company urges the Commission not to adopt Staff's recommended reduction in the maximum allowed pressure, at least not without considerable further investigation of the engineering, legal and ratemaking implications of the proposed change. The Company also requests that the Commission clarify and confirm that the existing high-pressure limit, and any future revised high pressure limit are prospective and apply only to new services established after the effective date of any rule change.

Directors

Gregory S. Rhoe, Chairman
Lynn Leatherman, Vice Chairman
Ruby Kern, Treasurer
Wayne Dunham, Secretary
Brett Hersh, Parliamentarian



Jim Ouellet, PE
Executive Director

January 19, 2021

Ms. Connie Graley
Executive Secretary
WV Public Service Commission
PO Box 812
Charleston, WV 25323

186.36

RE: GENERAL ORDER NUMBER 188.40 - RULES GOVERNING WATER UTILITIES 150
C.S.R. SERIES 7

Dear Secretary Graley,

Thank you for the opportunity to share some feedback with respect to the referenced item. Thank you for taking the initiative to visit the regulations with the hope that certain concepts can be modified to better serve the public in an equitable and efficient manner. Your recent and longstanding expression of support for those of us providing the most important services are very much appreciated.

Some thoughts are as follows:

It goes without saying folks in the utility business take great effort to ensure the delivery of the services. The very last action we ever wish to take is to terminate service. The disproportionate amount of time dedicated to the same delinquent customers is not equitable to the majority of customers nor is it necessary at present levels.

Every dollar spent addressing the termination of repetitively delinquent customers is a dollar that the responsible customers must pay. The fees associated with delinquent accounts, in the case of the Berkeley Water District, do not come close to covering the actual cost associated with the process of termination.

May we offer the following with the simple objective of improving equitable and fair business practices to all residents:

1. Proposed section 6.8.1.c.3.C.A - Please do not implement a practice that automated reminder calls be required to have a live person be available to discuss the matter. I believe the vast majority of water/wastewater systems in the State of WV do not have manned 24 hour call centers. We are part of the community and customers know how to reach us if they wish to do so. We do not see the practice as adding value to the process.

We would also like to see the required "personal contacts" made reduced from two to one. Once again, this is simply an expense being incurred by the responsible citizens to lower the bar for the less responsible citizens. One effort to contact folks who are scheduled to be terminated is all that is warranted. It should be performed 48 hours before termination day.

2. As a side note, please consider the present approach with respect to addressing customer complaints. In the few years I have been in WV, I am perplexed over the formality and cost the Commission invests over a customer complaint. The process requires the citizens of WV to incur an expense of many thousands of dollars to address a utility bill of say \$50. It is quite unique and is questionable if it is in the best interest of anyone who wishes to operate an efficient form of government. If there is a chance of improving the process, I would be glad to share thoughts you may wish to consider.

The old 5.5 rule, now the 7.5 rule, has become a means for developers to enhance their profits on the back of the existing customers. The intent of the provision has been twisted here in Berkeley County and is now helping to finance subdivisions with more than 500 new housing units via the rates being paid by existing customers. I hope we have a chance to share with you the unexpected adverse consequences on our existing customers due to this provision. Please consider the following with the objective of being fair to the rate payers:

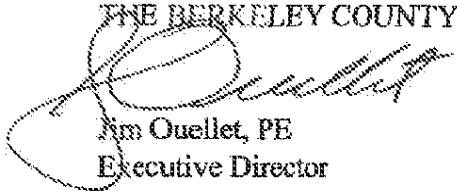
1. Section 7.5 should state that the utility has at its discretion to limit the 7.5 rule to not more than 5 housing units. Extensions requested for more than 5 units can be done under the alternate main line extension.

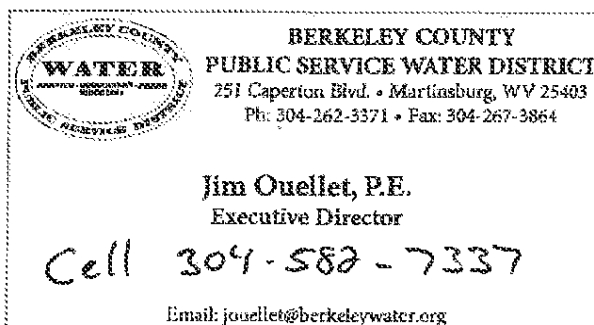
Please allow us to elaborate on section 7.5 and share the consequences being experienced from the antiquated concept, if you would, before adopting the revised regulations.

Once again, thank you for the opportunity to share some thoughts. If the ideas proffered have any merit with respect to having the best State possible, I would be glad to elaborate and provide examples on matters which will hopefully assist with the aforementioned objective.

Sincerely yours,

THE BERKELEY COUNTY PUBLIC SERVICE WATER DISTRICT


Jim Ouellet, PE
Executive Director



From: Paw Paw Rt. 19 PSD Office [pawpawh20@gmail.com]
Sent: Wednesday, January 27, 2021 10:00 AM
To: Docket Notify Emails
Subject: [External] Regarding Rule Changes PSC Case GO 188.40

CAUTION: External email. Do not click links or open attachments unless you verify sender.

We were prompted to send this informal email as a result of a recent conversation with a PSC representative regarding alternate contact methods for delivery of the initial shutoff/termination notifications and what options a utility has. The situation involved a past due/shutoff notification that was mailed first-class and returned (4 days later in this case, sometimes longer) labeled with USPS yellow sticker as undeliverable. In this particular case, the customer has been notified at least 4 times previously of this situation and directed to clear up with USPS. Your representative resolved the current situation, however, it left many questions that we feel should be addressed, particularly in light of the Case GO 188.40 that is on-going at the moment.

It is our assumption that if a past due/termination notification cannot be delivered by mail, we cannot proceed with two personal contact attempts. Since the notices have a deadline already established, what is allowable after this, do we re-mail the notification? do we call the customer? what if a customer can't be reached by phone? or not accepting calls?, is leaving a voicemail acceptable? what if voicemail box not set up or full?, is texting ever acceptable? can we reach out by email if a customer has provided an email (see suggested scenario below)? Are we required to hand-deliver notice to customer's door?

How far are we required to go. Is it our responsibility to correct postal issues or the customer's? All types of contact information supplied by the customer on a contract would suggest permission to use that method, if the primary method fails.

Suggested email scenario: as a courtesy, would it be allowable to, email the customer to notify them of this mail situation and include a .pdf of the original notification, as long as the email contains rhetoric that specifies that it was mailed on mm/dd/yyyy and returned on mm/dd/yyyy and that the original deadlines remain the same.

Suggested hand-delivery scenario: As a courtesy, hand-deliver to the customer's door along with a notice stating the same information as mentioned in the email. This can be hindered by weather and available time of staff and would obviously increase the costs to the district.

This particular situation reinforces our opinion that ALL rules and regulations being issued should recognize, allow, include or acknowledge current communication technologies, in addition to traditional methods, or specify that they cannot be used for the particular rule being referenced. As a utility, to avoid confusion and redundancy in language, we believe that allowable customer contact methods should be addressed as a matter of general rule and be stated in individual rules only if NOT being considered as a valid method.

Your consideration of our comments would be appreciated.

Nora Simcoe

Office Administrator/Billing Clerk
Paw Paw Rt. 19 Public Service District
P.O. Box 2035, Westover, WV 26502
(304)278-8029; fax# (304)278-8119
(Available in office 9am-2pm on: Tues, Wed, Thurs)

10:41 AM JAN 27 2021 EXEC SEC DIV