

**SALE OF THE WATER SYSTEM OF THE  
ELK TWO-MILE PUBLIC SERVICE DISTRICT  
TO WEST VIRGINIA-AMERICAN WATER COMPANY  
AND REGIONAL DEVELOPMENT AUTHORITY OF THE  
CHARLESTON-KANAWHA COUNTY , WEST VIRGINIA,  
METROPOLITAN REGION**

**Closing Date: November 16, 1999**

**SALE OF THE WATER SYSTEM  
OF THE  
ELK TWO-MILE PUBLIC SERVICE DISTRICT  
TO  
WEST VIRGINIA-AMERICAN WATER COMPANY  
AND  
REGIONAL DEVELOPMENT AUTHORITY OF THE  
CHARLESTON-KANAWHA COUNTY , WEST VIRGINIA,  
METROPOLITAN REGION**

Closing Date: November 16, 1999

1. Purchase Agreement dated January 20, 1999, by and among Elk Two-Mile Public Service District (the "District"), West Virginia-American Water Company (the "Company") and the Regional Development Authority of the Charleston-Kanawha County, West Virginia, Metropolitan Region (the "KCRDA").
2. Legal Notice of the Public Hearing for the Sale dated January 9, 1999
3. Final Commission Order from the Public Service Commission of West Virginia (the "PSC") approving the Sale effective September 22, 1999.
4. Resolution of the District adopted on November 15, 1999.
5. Legal Notice for Special Meeting of the District on Public Hearing and Adoption of the Resolution Authorizing the Sale dated November 9, 1999.
6. Excerpt of Minutes from the Special Meeting of the District held on November 15, 1999. .
7. Kanawha County Commission Approval.
8. Joint Certificate of the Company and District regarding performance of conditions precedent dated November 16, 1999.
9. Indemnification Agreement.
10. Escrow Agreement by and among the District, the Company and West Virginia Municipal Bond Commission.

11. Certificate of Defeasance for Series 1986 A Bonds.
12. Consent of Bondholder to Defeasance.
13. Receipt of Payment for Series 1986 B Bonds
14. Deeds dated November 16, 1999:
  - (A) From District to the Company recorded in the Office of the Clerk of the County Commission of Kanawha County in Deed Book 2485, at page 200.
  - (B) From District to KCRDA recorded in the Office of the Clerk of the County Commission of Kanawha County in Deed Book 2485, at page 182.
15. Bills of Sale dated November 16, 1999:
  - (A) From District to the Company
  - (B) From District to KCRDA.
16. Letters dated November 16, 1999, from District to the Company and to KCRDA, regarding outstanding judgments, liens and litigation.
17. Transfer of Business Statements by Successor Employer.
18. Opinion Letter from Jackson & Kelly PLLC Regarding Defeasance.
19. Escrow Agreement held by Jackson & Kelly PLLC for Completion of Sale



## AGREEMENT

THIS AGREEMENT, made and entered into as of this 20th day of January, 1999, by and among ELK TWO-MILE PUBLIC SERVICE DISTRICT, a public corporation organized and existing pursuant to the provisions of West Virginia Code § 16-13A-1, et seq. ("ETMPSD"), WEST VIRGINIA-AMERICAN WATER COMPANY, a West Virginia corporation with its principal office and place of business at Charleston, Kanawha County, West Virginia ("Company"), and the REGIONAL DEVELOPMENT AUTHORITY OF CHARLESTON-KANAWHA COUNTY, WEST VIRGINIA METROPOLITAN REGION, a public agency established under the provisions of Chapter 7, Article 12 of the West Virginia Code of 1931, as amended ("KCRDA").

### W I T N E S S E T H:

WHEREAS, ETMPSD is a public service district formed pursuant to the provisions of W. Va. Code § 16-13A-1, et seq., and received a certificate of convenience and necessity to provide water service to the residents located within the boundaries of ETMPSD on the northeastern corporate limits of the City of Charleston, Kanawha County, West Virginia; and

WHEREAS, ETMPSD currently provides water service to approximately 485 customers in the Elk Two-Mile and surrounding area, Kanawha County, West Virginia, pursuant to a certificate of convenience and necessity issued by the Public Service Commission of West Virginia ("Commission"), Case No. 85-588-W-CN on May 2, 1986; and

WHEREAS, the facilities of ETMPSD consist of approximately 16.1 miles of water line, ranging from 6-inch to 2-inch line; and

WHEREAS, Company is engaged generally in the business of operating as a public water utility in various counties throughout the State of West Virginia, including Kanawha County, pursuant to Certificates of Public Convenience and Necessity issued to Company by the Public Service Commission from time to time; and

WHEREAS, ETMPSD currently receives its entire source of finished water through an interconnection with facilities of Company's Kanawha Valley District transmission and distribution facilities and is party to an Operations and Maintenance Agreement dated February 8, 1983, as amended by an Amended Agreement dated May 28, 1986 between ETMPSD ("ETMPSD O&M Agreement") under which Company operates, maintains and repairs ETMPSD water system and provides meter reading and billing services for ETMPSD; and

WHEREAS, Company has been negotiating with ETMPSD, the County Commission of Kanawha County, the Regional Development Authority of the Charleston-Kanawha County, West Virginia, Metropolitan Region ("KCRDA"), and certain other Kanawha County public service districts for an overall Kanawha County water project ("Kanawha County Project") involving the purchase and consolidation of, or the operation and maintenance of, the water utility assets of those public service districts, including ETMPSD, and the construction of additional water facilities to provide or enhance water service to the citizens of Kanawha County; and

WHEREAS, Company wishes to acquire a portion of ETMPSD water system and is willing to pay and retire the debt owed by ETMPSD in exchange for ETMPSD selling and conveying certain of ETMPSD transmission and distribution lines to Company and

conveying the remainder of its water utility assets to KCRDA, all on the terms, conditions, and limitations set forth in this Agreement .

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants as contained herein, the parties agree as follows:

I. PURCHASE AGREEMENT: Company hereby agrees to purchase from ETMPSD and ETMPSD hereby agrees to sell to Company, for the price and upon the terms and conditions hereinafter set forth below, certain transmission and distribution lines and other water utility facilities, including booster station or other equipment of ETMPSD ("ETMPSD Lines") used in transferring water through ETMPSD Lines to the customers of ETMPSD and to transfer the remainder of ETMPSD water utility facilities to KCRDA.

II. CONSIDERATION: The consideration for the conveyance of ETMPSD Lines to Company and the other undertakings under this Agreement shall consist of:

A. Payment to ETMPSD: Company agrees to pay at closing ETMPSD debt ("Debt") related to the construction of ETMPSD water system, such Debt consisting of, and being limited to, a maximum of the debt outstanding as of June 30, 1998 (\$690,000). Company shall not be liable for, or under any obligation to pay, any other debt of ETMPSD incurred after September 30, 1998, except as specifically incurred with the express written prior consent and approval of Company. ETMPSD constructed the ETMPSD water system and financed the construction of the ETMPSD water system through a combination of grants and loans, and Company agrees to retire the actual amount of the Debt of ETMPSD related to the construction of ETMPSD water system at Closing to a maximum of \$690,000.

B. Transfer of a Portion of ETMPSD Water System to Company:

In exchange for the payment of the Debt, ETMPSD agrees to convey to Company at Closing the ETMPSD Lines, beginning at the terminus of Company's Kanawha Valley transmission and distribution facilities serving the ETMPSD water system, the exact amount of such ETMPSD Lines to be conveyed to Company to consist of those ETMPSD Lines with a total depreciated cost equal to the amount of the Debt paid by Company at the closing (such facilities to be conveyed to Company being hereinafter referred to as "ETMPSD Lines").

C. Transfer of Remainder of ETMPSD Water System to KCRDA:

In addition to the payment for and transfer of ETMPSD Lines, Company and ETMPSD agree, that upon consummation of the transactions provided in this Agreement, ETMPSD will transfer its right, title and interest in the remainder of ETMPSD water system to KCRDA (such portion of the ETMPSD water system being conveyed to KCRDA being hereinafter referred to as the "ETMPSD System").

D. Operation and Maintenance Agreements: ETMPSD currently has

the ETMPSD O&M Agreement in force and effect. ETMPSD understands and agrees that (i) KCRDA also currently has in place with Company various operation and maintenance agreements under which Company maintains, repairs, and replaces the water lines and facilities owned by KCRDA incident to other cooperative transactions with Company; and (ii) Company and KCRDA, as a part of the Kanawha County Project, propose to enter into a master operations and maintenance agreement for all water utility facilities owned by KCRDA ("Master O&M Agreement") in order to consolidate those earlier operations and maintenance agreements. The ETMPSD System to be conveyed to KCRDA under the terms,

conditions, limitations and undertakings contained in this Agreement will be subject to that Master O&M Agreement and will be operated and maintained by Company under the Master O&M Agreement following approval of the Kanawha County Project by the Commission. A copy of the Master O&M Agreement between Company and KCRDA to be submitted as a part of the Joint Application for the Kanawha County project is incorporated by reference in this Agreement as Exhibit 1.

E. Resolution of Repayment of Grants: Company and ETMPSD are aware that certain grants may have been given by federal, state or county agencies for the construction of ETMPSD System or ETMPSD Lines and that some or all of those grants may, by their terms, arguably require repayment of all of some portion of those grants prior to the sale of ETMPSD Lines to Company or the transfer of ETMPSD System to KCRDA. Within thirty (30) days of the execution of this Agreement, ETMPSD agrees to obtain copies of those grant agreements relating to the financing and constructing of ETMPSD water system and to provide copies of those grant agreements to Company. Company and ETMPSD further agree that, in the event that any grants exist which in the opinion of Company may require consent to sell ETMPSD Lines or may arguably require the repayment of all or any portion of such grants, ETMPSD shall file for and vigorously pursue a waiver or consent from the granting agency to permit ETMPSD to sell ETMPSD Lines without a requirement for the repayment of all or any portion of such grants. In the event that a ruling or waiver is received for the sale of ETMPSD Lines which requires that all or any portion of the grants must be repaid, then Company, at its sole option, may repay all or such portions

of grants which must be repaid or declare this Agreement null and void without further cost, expense or obligation to Company.

III. PAYMENT OF DEBT: ETMPSD agrees to use its best efforts to cooperate with Company in order to give all notices, grant all consents and take all other actions as may be necessary to provide for the payment of the Debt.

IV. OPERATION OF SYSTEM AND RATES OF CUSTOMERS:

A. Operation of ETMPSD Water System: From and after the date of Closing of the transaction contemplated by the Agreement, Company shall own and operate ETMPSD Lines acquired from ETMPSD as a part of Company's general waterworks system.

B. Rates to be Charged: Those customers served directly from the ETMPSD water system will be charged the rates and charges of Company as approved from time to time by the Commission. As provided in the Master O&M Agreement, the customers of ETMPSD to be served from KCRDA System shall, after the date of Closing, be charged those rates and charges as from time to time approved for use by KCRDA.

C. Elimination of Separate Tariff and Imposition of Surcharge: As a part of this transaction, the separate tariff of ETMPSD approved by the Commission shall be eliminated and the base rates of the customers served from ETMPSD System conveyed to KCRDA will be the rates of KCRDA which rates are designed to be the same as the rates of Company; provided, however, that all KCRDA customers currently served or served in the future from either ETMPSD Lines or ETMPSD System shall be required to pay a surcharge of \$10 per month for a total period of 10 years or 120 months ("Surcharge").

V. FINAL METER READING AND BILLING. On the Closing Date, Company meter readers will read all meters of ETMPSD's customers and provide copies of those meter readings to ETMPSD. Company will bill all customers for water service as reflected by the final meter reading at the current ETMPSD rates. All consumption reflected on the meters of ETMPSD customers on the ETMPSD Lines or the ETMPSD System after the Closing Date will be billed at either company or KCRDA rates, as appropriate, plus the Surcharges referred to in Section IV and Section VI hereof.

VI. Collection of the Surcharge.

Subject to the terms and conditions of this Agreement, Company and KCRDA agree that Company shall be responsible for collecting the Surcharges imposed on customers as follows:

A. Company Responsibilities.

(1) Beginning with the first bills rendered to all customers formerly served from the facilities of ETMPSD following approval of the Kanawha County Project, Company shall add the Surcharge of \$10.00 per month for ten (10) years, or 120 months, to all bills rendered to those customers. Within thirty (30) days after the end of each monthly billing cycle, Company shall remit to KCRDA all Surcharges collected, along with a list of those customers, if any, who have failed to pay the Surcharges.

(2) Company assumes no responsibility for the payment, prompt or otherwise, by those customers of the Surcharges, but shall act solely as collecting agent for KCRDA. In the event of a partial payment of a Company bill by those customer subject to a Surcharge, the amount of such payment shall be applied first to the Surcharge and the

balance, if any, shall be applied to the amount due for water service from Company or KCRDA.

(3) Surcharges shall be subject to all provisions of the Water Rules and Company and KCRDA tariffs applicable to payments for water service, including terminations for nonpayment thereof. Company shall employ all reasonable means at its disposal consistent with its general business practices to induce the prompt payment of Surcharges.

B. KCRDA Responsibilities: KCRDA shall indemnify and hold Company harmless from and against any and all costs, liabilities or expenses, including reasonable attorney's fees, arising from, in connection with, or related to suits, actions or proceedings related to this Agreement or the erroneous collection or failure to bill Surcharges as a result of a good faith mistake on the part of Company.

C. Adjustment and Termination of Surcharge:

(1) Until such time as Surcharges have been collected by Company and remitted to KCRDA for the time required by this Agreement, all customers served from the ETMPSD water system and all other applicants for service directly connecting to the facilities formerly owned by ETMPSD shall be assessed the monthly Surcharges as provided under this Agreement.

(2) Surcharges shall terminate when Company has collected and remitted to KCRDA Surcharges for those customers for 120 months.

VI. NONASSUMPTION OF LIABILITIES AND UNDERTAKINGS OF BUYER AND SELLER: ETMPSD and Company expressly agree that, except for (1) the

Debt of ETMPSD to a maximum of \$690,000 described in subsection A of Section II of this Agreement, and (2) the obligation to make refunds under routine extension agreements between ETMPSD and its current customers for as long as, and to the same extent as, Company or ETMPSD would have been obligated if ETMPSD had continued to own ETMPSD Lines, Company is not assuming any other liabilities, obligations or debts of ETMPSD. All other debts and liabilities of ETMPSD will be settled prior to or on the Closing Date, and any debts not settled at the Closing Date will remain solely the obligation of ETMPSD and will be paid by ETMPSD under this Agreement from the revenues generated from the final bills distributed to ETMPSD customers.

VII. ADMINISTRATIVE APPROVAL REQUIRED: Company will use its best efforts to see that, as promptly as reasonably possible after the date of the execution of this Agreement by both parties, ETMPSD, Company, KCRDA and the other public service districts, institute and prosecute with diligence a joint application to the Public Service Commission seeking approval of the proposed sale of ETMPSD Lines to Company and the transfer of ETMPSD System to KCRDA, the other transactions contemplated by this Agreement, and the Kanawha County Project and the other transactions involved in the Kanawha County Project.

VIII. EFFECTIVE DATE; CLOSING: Closing of the transaction contemplated by this Agreement shall take place within sixty (60) days after the receipt of an acceptable, final, nonappealable order from the Commission approving (i) this Agreement and the proposed sale or transfer of ETMPSD Lines or ETMPSD System to Company or KCRDA and the Kanawha County Project; and (ii) the receipt of any other required consents

or waivers. Upon agreement of ETMPSD and Company, the time of Closing may be amended.

IX. CONVEYANCE AND TRANSFERS: ETMPSD shall, at the time of Closing, transfer and convey to Company, its successors and assigns, ETMPSD Lines as described in Section I of this Agreement and to KCRDA, its successors and assigns, ETMPSD System, together with all files, plats, maps, plans, records, ledgers, and similar property, or copies thereof, that Company will need to render water service to ETMPSD customers under the O&M Agreement.

X. REPRESENTATIONS AND WARRANTIES BY ETMPSD: ETMPSD represents and warrants to Company as of the date of this Agreement and as of the Closing Date that: (a) there are no judgments, decrees or orders presently outstanding and unsatisfied against ETMPSD nor is there any litigation nor any other proceeding before any court or government or administrative department, commission, bureau, board or agency which threaten or affect ETMPSD Lines or which may in any one case or in the aggregate result in any material decrease in the value of, or constitute a lien or claim against, ETMPSD Lines to be sold hereunder; (b) this Agreement has been duly authorized, executed, and delivered by ETMPSD and is a valid and legal obligation of ETMPSD; (c) ETMPSD does not know or have reasonable grounds to know of any basis for the assertion against ETMPSD of any material claims or liabilities which would materially affect the value of ETMPSD Lines to be conveyed pursuant to this Agreement; (d) during the period from January 1, 1998, until the Closing Date, ETMPSD did not, and will not, sell, convey, lease or in any other way dispose of any of ETMPSD Lines held as of that date; (e) ETMPSD understands that

Company, in entering into this Agreement, does not intend to use, employ or hire any of ETMPSD's officers, agents or employees and that Company does not accept any responsibility for any contractual or legal obligations which ETMPSD might have to any officers, agents or employees; and (f) ETMPSD is not aware of liens or encumbrances, except for any lien securing the Debt described in Section II, subsection A, affecting title to ETMPSD Lines.

The representations and warranties of ETMPSD made in this Agreement shall survive the Closing Date provided herein.

XI. ACCESS TO BOOKS AND RECORDS UNTIL CLOSING DATE; CUSTOMER LISTS TO BE PROVIDED BY ETMPSD: Between the date hereof and the Closing Date, KCRDA and Company shall have the right to examine, and to obtain copies of, all books and records of ETMPSD relating to the water utility operation of ETMPSD and ETMPSD Lines and ETMPSD System to be conveyed under this Agreement and to inspect ETMPSD Lines and ETMPSD System used in the water utility operation of ETMPSD at such reasonably convenient times as Company may require. In the event the transactions contemplated by this Agreement are not consummated, all of such copies and inventories shall be returned to ETMPSD.

If, prior to the Closing Date, (i) any material discrepancies are discovered in the books and records of ETMPSD, (ii) any claims, liabilities, liens, encumbrances or defects in title which would materially affect the value of ETMPSD Lines or ETMPSD System to be conveyed pursuant to this Agreement are discovered by, or disclosed to, Company or KCRDA, or (iii) any one of the representations and warranties set forth in Section X of this

Agreement is determined by Company not to be true and correct, then, in that event, Company or KCRDA may, at their sole option, terminate this Agreement, and neither ETMPSD, Company nor KCRDA shall be further obligated hereunder or incur or be liable for any claim, loss, damages or expenses to the other as a result of such termination.

XII. BINDING EFFECT. This Agreement shall be binding upon and it shall inure to the benefit of the parties hereto, their respective successors and assigns.

XIII. NOTICES: Any notice to be given hereunder to ETMPSD shall be sent by registered mail to ETMPSD in care of Chairman, Public Service Board, Elk Two-Mile Public Service District, P. O. Box 89, Bancroft, West Virginia 25011, or to such other person and address as ETMPSD may in writing direct. Any notice to be given to Company shall be sent to Company, c/o Mr. Chris E. Jarrett, at P. O. Box 1906, Charleston, West Virginia 25327, or at such other address as Company may in writing direct. Any notice to be given to KCRDA shall be sent to KCRDA c/o President, Kanawha County Regional Development Authority, Courthouse Building, 409 Virginia Street, E., 2nd Fl., Charleston, West Virginia 25301, or at such other address as KCRDA may in writing direct.

XIV. AMENDMENTS: No amendments to this Agreement shall be effective until reduced to writing and executed by both of the parties hereto.

XV. FORCE MAJEURE: If the performance by any party of any of the covenants or agreements contained herein is delayed or prevented by reasons beyond the control of Company, such as an act of God, act of war, strike, lockout, restraint of labor from whatever cause, either partial or general, riot or civil commotion, order of court or administrative tribunal having jurisdiction over either party hereto, then and in any of those

events, such party shall be excused from such performance to the extent that it is necessarily prevented, hindered or delayed thereby, during the continuance of any such happening or event and the time for such performance shall be extended commensurate with such delays, provided, however, that such party shall notify the other parties of the happening of any such event of force majeure within a reasonable time after knowledge thereof is received by such party.

XVI. CONDITIONS PRECEDENT TO EFFECTIVENESS OF AGREEMENT. The parties hereto understand and agree that this Agreement, and the obligations of the parties hereunder, are expressly conditioned upon the following, each of which is a condition precedent to the validity and enforceability of this Agreement:

- A. This Agreement shall be approved by the Company and shall be approved by the Board of Commissioners of ETMPSD and KCRDA at meetings of ETMPSD and KCRDA.
- B. The Commission shall have entered a final, non appealable Order which approves (i) the Joint Application for the Kanawha County Project to be filed by Company, ETMPSD and KCRDA, and (ii) this Agreement and the O&M Agreement, and all of its terms, conditions, undertakings, agreements, and limitations, between ETMPSD and Company.
- C. The Commission shall not have attached to its Order any terms, conditions, or limitations which, in the sole opinion of Company, KCRDA or ETMPSD, shall adversely affect the economic feasibility of this project or the Agreement between the parties or require Company, KCRDA or ETMPSD to take any action or refrain from taking any action which might require either of them to breach any of their obligations under any Mortgage Indenture, as supplemented, or any other agreement to which either of them might be a party.

D. Company and ETMPSD shall have received such other necessary consents or waivers as may be required for the sale.

IN WITNESS WHEREOF, ETMPSD has caused this Agreement to be executed by its members as authorized by a Resolution of the ETMPSD Board and the Board of the KCRDA duly adopted and recorded at a meeting held on the 20<sup>th</sup> day of January, 1999, and Company has caused this Agreement to be executed by Chris E. Jarrett, President, also duly authorized, all as of the day and year first above written.

ELK TWO-MILE PUBLIC SERVICE  
DISTRICT

By Nita S. Schoolcraft  
its, Chairman

By Patricia E. Kenak  
its, Board Member

By Ronald W. Mullini  
its, Board Member

WEST VIRGINIA-AMERICAN WATER  
COMPANY

By Chris E. Jarrett  
Chris E. Jarrett, President

KANAWHA COUNTY REGIONAL  
DEVELOPMENT AUTHORITY

By Charles W. Hester  
its President

D. Company and ETMPD shall have received such other necessary consents or waivers as may be required for the sale.

IN WITNESS WHEREOF, ETMPD has caused this Agreement to be executed by its members as authorized by a Resolution of the ETMPD Board and the Board of the KCRDA duly adopted and recorded at a meeting held on the 21st day of January, 1999, and Company has caused this Agreement to be executed by Chris E. Jarrett, President, also duly authorized, all as of the day and year first above written.

ELK TWO-MILE PUBLIC SERVICE DISTRICT

By Nita S. Schoolcraft  
its, Chairman

By Patricia E. Kohak  
its, Board Member

By Ronald W. Mullini  
its, Board Member

WEST VIRGINIA-AMERICAN WATER COMPANY

By Chris E. Jarrett  
Chris E. Jarrett, President

KANAWHA COUNTY REGIONAL DEVELOPMENT AUTHORITY

By Charles W. Anderson  
its President





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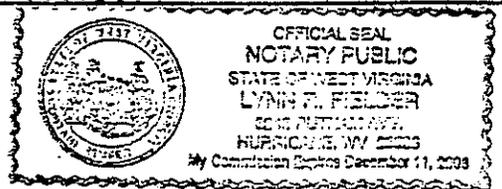
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ISSUE DATE	ID TYPE	PUB	DESCRIPTION	AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR PURCHASE ORDER #		TOTAL RUN			
01/09	LEGF	GZ	ELK TWO MILE 601776003	L458757	1X0850 8.50	6.19	52.61	
01/09	LEGF	DM	ELK TWO MILE 601776003	L458757	1X0850 8.50	6.19	52.61	105.22
TOTAL INVOICE AMOUNT								105.22

State of West Virginia, **AFFIDAVIT OF PUBLICATION**

I, Sandra Legg of  
THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER,  
THE DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER,  
published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of:  
ELK TWO MILE



OF PROPOSED SALE OF  
THE ELK TWO-MILE  
PUBLIC SERVICE  
DISTRICT WATER SYSTEM  
TO WEST VIRGINIA  
AMERICAN WATER  
COMPANY

Notice is hereby given to the customers of Elk Two-Mile Public Service District served in Kanawha County, West Virginia, that pursuant to the Chapter 16 of the West Virginia Code, including the provisions of W.Va. Code 16-13A-18a thereof, there will be a hearing held on Wednesday, January 20, 1999, at 6:30 p.m., in the Commission Hearing Room, Kanawha County Courthouse, 409 Virginia Street, East, First Floor, Charleston, West Virginia, before the Board of Commissioners of Elk Two-Mile Public Service District ("District"). The purpose of the hearing is to consider an Agreement among District, West Virginia-American Water Company ("Water Company") and Regional Development Authority of Charleston-Kanawha County, West Virginia ("KCRDA") under which District will sell a portion of its water utility assets to Water Company for a price sufficient to pay the debt of District and will transfer the remainder of its water utility property to KCRDA. KCRDA proposes to enter into a Master Operations and Maintenance Agreement ("Master O&M Agreement") with the Water Company as a part of an overall public/private partnership called the "Kanawha County Commission Water Supply Plan" ("Kanawha County Project"). Company currently provides operation, maintenance, meter reading and billing services to District under a similar O&M Agreement.

In addition to the Agreement for the sale and transfer of District's water utility system, the overall Kanawha County Project will also be considered by the County Commission of Kanawha County and, if approved by the County Commission, will be filed with the Public Service Commission. This Master O&M Agreement will provide for the operation by Water Company of the remainder of District's water utility facilities not purchased by Water Company, all pursuant to or in furtherance of the proposal of the Kanawha County Project.

As part of this public/private partnership, Water Company, the County Commission of Kanawha County and KCRDA also are contemplating the construction of additional public water supply facilities to serve currently unserved and underserved areas of Kanawha County, and the agreement for the sale or transfer of District's water utility system to Company and KCRDA is a part of the Kanawha County Project.

COMMISSIONERS  
ELK TWO-MILE PUBLIC  
SERVICE DISTRICT  
(458757)



**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 22nd day of September, 1999.

CASE NO. 99-0124-W-PWD-PC-CN

**WEST VIRGINIA-AMERICAN WATER COMPANY**

Joint application for consent to the sale of water utility assets, operation and maintenance agreement and related transactions, certain ratemaking treatment and application for a certificate of convenience and necessity for the construction of facilities by Kanawha County Regional Development Authority to provide new or enhanced water service to various areas of Kanawha County.

**COMMISSION ORDER**

On January 15, 1999, West Virginia-American Water Company (Company), the Kanawha County Commission (County Commission), the Regional Development Authority of Charleston-Kanawha County, West Virginia Metropolitan Region (KCRDA), Big Sandy Water Public Service District (Big Sandy), Chelyan Public Service District (Chelyan), Elk Two Mile Public Service District (Elk), Guthrie Public Service District (Guthrie), and Riverside Public Service District (Riverside), filed a petition for prior consent to and approval of certain transactions and, with respect to KCRDA, an application for a certificate of convenience and necessity for the construction of new facilities.

Specifically, the parties seek the Commission's consent and approval of (1) agreements of purchase between the Company or KCRDA and the Districts (Purchase Agreements); (2) a proposed Master Operation and Maintenance Agreement between the Company and KCRDA (O&M Agreement); (3) financial and funding arrangements, including a Capital Lease between the Company and the County Commission; (4) the issuance of Industrial Development Bonds; (5) certain ratemaking treatment; and (6) agreements for the purchase of water by the Company, as successor to Riverside and Big Sandy, from their current providers, the Town of Clendenin and the Town of Glasgow

(Water Supply Agreements). In addition, KCRDA seeks a certificate of convenience and necessity for the construction of transmission and distribution lines, pumping and storage facilities to serve approximately 1,683 new customers. The petition and the certificate application described above shall collectively hereinafter be referred to as the "Application", and the project contemplated by the Application shall be referred to as the "Kanawha County Project" or the "Project". Pursuant to the Application, the parties seek to provide potable water to unserved areas within Kanawha County, or to provide enhanced or more reliable water service to the residents currently served by the Districts within Kanawha County.

Total cost of the Kanawha County Project is estimated to be \$16,641,537. As currently proposed<sup>1</sup>, the public portions of the funding will consist of (1) a loan in the amount of \$9,584,077 at a forty-year term at an annual interest rate of 5.5%. Annual debt service for this loan will be in the amount of \$597,283, paid by the Company to the KCRDA; (2) a loan in the amount of \$506,152, at a forty-year term, also at an annual interest rate of 5.5%, to be repaid by the KCRDA; (3) a loan in the amount of \$2,185,308, at a ten-year term, at an annual interest rate of 5.5%, to be repaid with proceeds of a surcharge to be imposed on all new customers of the Kanawha County Project for a period of 10 years; and (4) a direct investment by the County Commission in the amount of \$1,000,000. Private funding for the project consists of a direct investment by the Company in the amount of \$3,366,000.

The Project facilities will be constructed and financed by the Company. Following completion of the acquisition or construction by the Company of the Project facilities to be located in Kanawha County, these Project facilities, along with certain other Company-owned water utility facilities, will be conveyed to the County Commission in exchange for Industrial Development Bonds (IDB Bonds) equal in value to the Company's investment in the Project facilities, pursuant to the Industrial Development Bond and Commercial Development Act, *West Virginia Code* §§ 13-2C-1, *et seq.* (The Act). The facilities conveyed to the County Commission (IDB Facilities) will then be leased by the Company from the County Commission under the above-identified Capital Lease for a period of 40 years. The IDB Facilities will be purchased by the Company for nominal consideration at the expiration of the lease period. As a consequence, under the Act, the Company will not be required to pay property tax on the IDB Facilities owned by the County Commission and leased to the Company.

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<sup>1</sup> This description of the proposed funding reflects the amendments to the funding responsibility among the parties as set forth in an Amendment to the Application filed on August 3, 1999.

As the Company will not pay taxes on the IDB facilities, the Company will pay the County Commission a Use Fee, similar to the use fees approved by the Commission in prior cases, which will, in turn, be used by the KCRDA to repay loans for this Project. See, *West Virginia-American Water Company, The County Commission of Boone County and the Danville Public Service District, Case No. 96-1338-W-PWD-CN; West Virginia-American Water Company, New Haven Public Service District and the County Commission of Fayette County, Case No. 96-1477-W-PWD-PC-CN.*

The Company will operate and maintain the IDB Facilities under the O&M Agreement, the term of which coincides with the term of the IDB Bonds.

All customers, with the exception of current customers of Elk, Guthrie, and customers to be served by the main extensions contemplated by this Project, will pay Company rates. Current customers of Elk, Guthrie, and customers to be served by the main extensions will pay an additional \$10 per month surcharge for ten years. At the end of ten years, these customers will pay rates equivalent to the Company's rates.

The Company requests that the Commission specifically approve the following ratemaking treatment in this proceeding: (1) the inclusion in rate base of the IDB Facilities to be leased by the Company under the Capital Lease between the Company and the County Commission, based on the construction cost of the new facilities and the net original cost of the facilities acquired from the Public Service Districts; (2) the inclusion of the Use Fee in the calculation of the Company's cost of service for the purpose of determining rates; and (3) the use of the ten-year, \$10 per month surcharge for the Elk and Guthrie customers, and the customers to be served from main extensions included in this Project.

By Notice of Filing Order issued January 22, 1999, the parties were required to publish notice of this proceeding in Kanawha County.

On January 22, 1999, the Company filed fully executed copies of the Purchase Agreements between the Company, KCRDA, and each of Big Sandy, Chelyan, Elk, Guthrie and Riverside.

On February 8, 1999, the Company filed an affidavit of publication indicating that notice of this proceeding was published in both the *Charleston Gazette* and the *Charleston Daily Mail* on February 3, 1999. The notice provided the public with thirty days to protest.

As of the date of this Order no protests were received either within the thirty-day protest period, or thereafter.

On August 3, 1999, the parties filed an Amendment to the Application noting a change in funding responsibility among the parties. The Amendment did not change the scope or estimated total cost of the Project.

On August 30, 1999, Commission Staff filed a Final Joint Staff Memorandum recommending that the Commission approve the Purchase Agreements, the O&M Agreement, and the Company's assumption of the Water Supply Agreements. Staff stated that the Application does not conflict with the Commission's Rules, but that a permit from the West Virginia Bureau of Public Health would be required prior to construction. The health permit would ensure that the project will be constructed in accordance with current engineering practice. Accordingly, Staff recommended that the Commission grant the KCRDA's application for a certificate of convenience and necessity contingent upon receipt of the Bureau of Public Health permit.

### DISCUSSION

The Commission finds that the Kanawha County Project will serve the public convenience and necessity by providing water service to approximately 1,683 currently unserved customers within Kanawha County and by providing enhanced or more reliable water service to customers currently served by the various Public Service Districts that are parties to this proceeding. The Purchase Agreements, the O&M Agreement, and the Company's assumption of the Water Supply Agreements are incident to the Project, are reasonable, and should be approved. The proposed public/private financing for the Project likewise is reasonable and should be approved. Furthermore, the Company's proposed ratemaking treatment of the Capital Lease, the Use Fee and the surcharges, are reasonable and appropriate.

Based on the foregoing, and as notice of the proposed Project has been published in Kanawha County and no protests have been received, the Application for Consent and Approval of Sale of Water Utility Assets, Operation and Maintenance Agreement and Related Transactions, Certain Ratemaking Treatment and a Certificate of Convenience and Necessity for the Construction of Facilities by Kanawha County Regional Development Authority, filed on January 15, 1999, and as amended by filing on August 3, 1999, shall be approved and granted.

### FINDINGS OF FACT

1. On January 15, 1999, the Company, the County Commission, the KCRDA, Big Sandy, Chelyan, Elk, Guthrie, and Riverside, filed the above-described Application.

2. Total cost of the Kanawha County Project is estimated to be \$16,641,537.

3. As currently proposed, the public portions of the funding will consist of (1) a loan in the amount of \$9,584,077 at a forty-year term and at an annual interest rate of 5.5%. Annual debt service for this loan will be in the amount of \$597,283, paid by the Company to the KCRDA; (2) a loan in the amount of \$506,152, at a forty-year term, also at an annual interest rate of 5.5%, to be repaid by the KCRDA; (3) a loan in the amount of \$2,185,308, at a ten-year term, at an annual interest rate of 5.5%, to be repaid with proceeds of a surcharge to be imposed on all new customers of the Kanawha County Project for a period of 10 years; and (4) direct investment by the County Commission in the amount of \$1,000,000. Private funding for the project consists of a direct investment by the Company in the amount of \$3,366,000.

4. The Project facilities will be constructed and financed by the Company. Following completion of the acquisition or construction by the Company of the Project facilities to be located in Kanawha County, these Project facilities, along with certain other Company-owned water utility facilities, will be conveyed to the County Commission in exchange for Industrial Development Bonds (IDB Bonds) equal in value to the Company's investment in the Project facilities, pursuant to the Industrial Development Bond and Commercial Development Act, *West Virginia Code* §§ 13-2C-1, *et seq.* (The Act).

5. The facilities conveyed to the County Commission (IDB Facilities) will then be leased by the Company from the County Commission under the above-identified Capital Lease for a period of 40 years. The IDB Facilities will be purchased by the Company for nominal consideration at the expiration of the lease period. As a consequence, under the Act, the Company will not be required to pay property tax on the IDB Facilities owned by the County Commission and leased to the Company.

6. The Company will pay the County Commission a Use Fee, similar to the use fees approved by the Commission in prior cases, which will, in turn, be used by the KCRDA to repay loans for this Project. See, *West Virginia-American Water Company, The County Commission of Boone County and the Danville Public Service District*, Case No. 96-1338-W-PWD-CN; *West Virginia-American Water Company, New Haven Public Service District and the County Commission of Fayette County*, Case No. 96-1477-W-PWD-PC-CN.

7. The Company will operate and maintain the IDB Facilities under the O&M Agreement, the term of which coincides with the term of the IDB Bonds.

8. All customers, with the exception of current customers of Elk, Guthrie, and customers to be served by the main extensions contemplated by this Project, will pay Company rates.

9. Current customers of Elk, Guthrie, and customers to be served by the main extensions will pay an additional \$10 per month surcharge for ten years. At the end of ten years, these customers will pay rates equivalent to the Company's rates.

10. The Company requests that the Commission specifically approve the certain ratemaking treatment for its Capital Lease, the Use Fee, and the surcharges contemplated in the Application.

11. By Notice of Filing Order issued January 22, 1999, the parties were required to publish notice of this proceeding in Kanawha County.

12. On January 22, 1999, the Company filed fully executed copies of the Purchase Agreements between the Company, KCRDA, and each of Big Sandy, Chelyan, Elk, Guthrie and Riverside.

13. On February 8, 1999, the Company filed an affidavit of publication indicating that notice of this proceeding was published in both the *Charleston Gazette* and the *Charleston Daily Mail* on February 3, 1999. The notice provided the public with thirty days to protest.

14. As of the date of this Order no protests were received either within the thirty-day protest period, or thereafter.

15. On August 3, 1999, the parties filed an Amendment to the Application noting a change in funding responsibility among the parties. The Amendment did not change the scope or estimated total cost of the Project.

16. On August 30, 1999, Commission Staff filed a Final Joint Staff Memorandum recommending that the Commission approve the Purchase Agreements, the O&M Agreement, and the Company's assumption of Water Supply Agreements.

17. Staff stated that the Application does not conflict with the Commission's Rules, but that a permit from the West Virginia Bureau of Public Health would be required prior to construction. The health permit would ensure that the project will be constructed in accordance with current engineering practice.

18. Staff recommended that the Commission grant the KCRDA's application

for a certificate of convenience and necessity contingent upon receipt of the Bureau of Public Health permit.

### **CONCLUSIONS OF LAW**

1. The Kanawha County Project will serve the public convenience and necessity by providing water service to approximately 1,683 currently unserved customers within Kanawha County and by providing enhanced or more reliable water service to customers currently served by the various Public Service Districts that are parties to this proceeding.

2. The Purchase Agreements, the O&M Agreement, and the Company's assumption of the Water Supply Agreements are incident to the Project, are reasonable, and should be approved.

3. The proposed public/private financing for the Project is reasonable and should be approved.

4. The Company's proposed ratemaking treatment of the Capital Lease, the Use Fee and the surcharges, are reasonable and appropriate.

5. Based on the foregoing, and as notice of the proposed Project has been published in Kanawha County and no protests have been received, the Application for Consent and Approval of Sale of Water Utility Assets, Operation and Maintenance Agreement and Related Transactions, Certain Ratemaking Treatment and a Certificate of Convenience and Necessity for the Construction of Facilities by Kanawha County Regional Development Authority, filed on January 15, 1999, and as amended by filing on August 3, 1999, should be approved and granted.

### **ORDER**

IT IS THEREFORE ORDERED that the KCRDA is hereby issued a certificate of convenience and necessity to construct transmission and distribution lines, pumping and storage facilities to serve approximately 1,683 new customers, as described in the Application identified above.

IT IS FURTHER ORDERED that the Purchase Agreements between the Company, the KCRDA, and each of Big Sandy, Chelyan, Elk, Guthrie and Riverside, are hereby approved.

IT IS FURTHER ORDERED that the O&M Agreement between the Company, KCRDA is hereby approved.

IT IS FURTHER ORDERED that the Company's assumption of the Water Supply Agreements between the Town of Clendenin and Big Sandy, and between the Town of Glasgow and Riverside, are hereby approved.

IT IS FURTHER ORDERED that funding for this Project is hereby approved as follows: (1) a loan in the amount of \$9,584,077 at a forty-year term and at an annual interest rate of 5.5%. Annual debt service for this loan will be the annual Use fee in the amount of \$597,283, paid by the Company to the KCRDA; (2) a loan in the amount of \$506,152, at a forty-year term, also at an annual interest rate of 5.5%, to be repaid by the KCRDA; (3) a loan in the amount of \$2,185,308, at a ten-year term, at an annual interest rate of 5.5%, to be repaid with proceeds of a surcharge to be imposed on all new customers of the Kanawha County Project for a period of 10 years; and (4) direct investment by the County Commission in the amount of \$1,000,000. Private funding for the project consists of a direct investment by the Company in the amount of \$3,366,000.

IT IS FURTHER ORDERED that the ratemaking treatment of the Capital Lease, the Use Fee and the surcharges, requested by the Company as explained above, and as further described in the Application, is hereby approved.

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

IT IS FURTHER ORDERED that the parties shall petition the Commission to reopen this proceeding for approval of any future changes in the scope, cost, or financing of this Project.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order on all parties of record by First Class United States Mail, and upon Commission Staff by hand delivery.

A True Copy, Teste:

JML:seg  
990124c.wpd

  
Sandra Squire  
Executive Secretary



RESOLUTION OF ELK TWO-MILE PUBLIC SERVICE DISTRICT AUTHORIZING THE SALE OF A PORTION OF THE DISTRICT'S WATER DISTRIBUTION SYSTEM TO THE WEST VIRGINIA-AMERICAN WATER COMPANY AND THE REMAINDER TO THE REGIONAL DEVELOPMENT AUTHORITY OF THE CHARLESTON-KANAWHA COUNTY, WEST VIRGINIA, METROPOLITAN REGION; AUTHORIZING THE PAYMENT OF ALL OUTSTANDING INDEBTEDNESS INCLUDING THE DEFEASANCE OF THE 1986 A BONDS AND THE PAYMENT OF THE 1986 B BONDS; AUTHORIZING THE CHAIRMAN AND SECRETARY TO EXECUTE AND DELIVER AN ESCROW AGREEMENT WITH RESPECT TO THE 1986 A BONDS AND THE 1986 B BONDS, A DEED, A BILL OF SALE AND ALL DOCUMENTS RELATING TO SUCH SALE; AUTHORIZING THE WEST VIRGINIA MUNICIPAL BOND COMMISSION TO TRANSFER THE SERIES 1986 A SINKING FUND AND THE SERIES 1986 A BOND RESERVE ACCOUNT TO THE ESCROW FUND CREATED BY THE ESCROW AGREEMENT TO BE USED IN THE DEFEASANCE OF THE DISTRICT'S SERIES 1986 A BONDS; AND AUTHORIZING THE WEST VIRGINIA MUNICIPAL BOND COMMISSION TO APPLY THE FUNDS IN THE SERIES 1986 B SUPPLEMENTAL SUBORDINATE RESERVE ACCOUNT AND IN THE SERIES 1986 B SUPPLEMENTAL SUBORDINATE SINKING FUND TOWARD THE PAYMENT OF THE SERIES 1986 B BONDS.

WHEREAS, Elk Two-Mile Public Service District (the "District"), a public service district and political subdivision of the State of West Virginia acting pursuant to Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), owns and operates a water distribution system in Kanawha County, West Virginia (the "System"); and

WHEREAS, a portion of the costs of acquiring and constructing the System were paid with the proceeds of the District's Waterworks Revenue Bonds, Series 1986 A in the original principal amount of \$587,450 (the "1986 A Bonds"), and the Supplemental Subordinate Waterworks Revenue Bonds, Series 1986 B in the original principal amount of

\$292,550 (the "1986 B Bonds," and together with the 1986 A Bonds, the "Bonds"), issued pursuant to a Bond Resolution adopted on May 28, 1986 (the "1986 Resolution") of which \_\_\_\_\_ and \_\_\_\_\_ respectively will be outstanding as of the date of closing; and

WHEREAS, the District has determined that it is in the best interests of the District to sell a portion of the System to the West Virginia-American Water Company (the "Company") and the remainder to the Regional Development Authority of the Charleston-Kanawha County, West Virginia, Metropolitan Region ("KCRDA") on the terms, conditions and limitations set forth in the agreement with the Company and with KCRDA providing for the sale of the System, dated January 20, 1999 (the "Agreement of Purchase"), approved by the District and pursuant to the Act; and

WHEREAS, pursuant to Section 18a of the Act, the District held a public hearing with regard to the sale; The County Commission of Kanawha County has approved the sale; and the Public Service Commission of West Virginia (the "PSC") has approved the sale in Case No. 99-0124-W-PWD-PC-CN (the "PSC Order"); and

WHEREAS, the District finds it in the best interests of the health, welfare and safety of the residents of the District that a portion of the System be sold to the Company and the remainder to KCRDA and that the Series 1986 A Bonds be defeased to their first call date and that the Series 1986 B Bonds be paid in full on the date of closing; and

WHEREAS, the 1986 Resolution essentially requires that the Bonds must be paid in full (or provision be made for payment in full) before a portion of the System can be sold; and

WHEREAS, under the 1986 Resolution, the District had established the following special funds with the Commission: (1) Series 1986 A Bond Sinking Fund and within the 1986 A Bond Sinking Fund, the Series 1986 A Bond Reserve Account (the “1986 A Bond Funds”); and (2) Series 1986 B Bonds Supplemental Subordinate Sinking Fund and within the Series 1986 B Bonds Supplemental Sinking Fund, the Series 1986 B Bonds Supplemental Subordinate Reserve Account (the “1986 B Bond Funds”); and

WHEREAS, it is in the best interests of the District to enter into an escrow agreement (the “Escrow Agreement”), the form of which is attached hereto and incorporated by reference, with the Company and the West Virginia Municipal Bond Commission (the “Commission”) providing for the defeasance of the 1986 A Bonds and creating a fund to hold cash for such purpose (the “Escrow Fund”) and providing for the payment in full of the 1986 B Bonds; and

WHEREAS, it is necessary to transfer the balances, if any, in the 1986 A Bond Funds to the Escrow Fund to be used for the defeasance of the 1986 A Bonds and to transfer the balances, if any, in the 1986 B Bond Funds to the Escrow Fund to be used for the payment of the 1986 B Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE ELK TWO-MILE PUBLIC SERVICE DISTRICT AS FOLLOWS:

1. The District hereby authorizes the sale of a portion of the System to the Company, which portion is more fully described in Exhibit A attached hereto and the transfer of the remaining portion of the System to KCRDA, which portion is more fully described in Exhibit B attached hereto.

2. The District hereby authorizes the Commission to transfer the balances from the 1986 A Bond Funds to the Escrow Fund to be used, together with other funds of the Company, for the defeasance of the 1986 A Bonds to their first call date and to transfer the balances from the 1986 B Bond Funds to the Escrow Fund to be used, together with other funds of the Company, for the payment in full of the 1986 B Bonds on the date of closing.

3. The District hereby authorizes and approves the transfer of the unpaid surcharge collections which are still outstanding as of the date of the last billing of the District to the Company.

4. The District hereby approves and authorizes the Chairman and Secretary, on behalf of the District, to execute and deliver the Escrow Agreement and all documents relating to the sale of the System, approves and authorizes the Chairman to authorize any change to any documents or matters relating to this issue and authorizes the payment of all outstanding indebtedness of the System and the closing of all activities of the District on or about the 16th day of November, 1999.

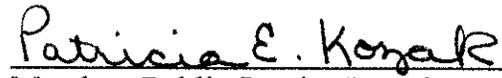
5. This Resolution shall take effect immediately upon adoption.

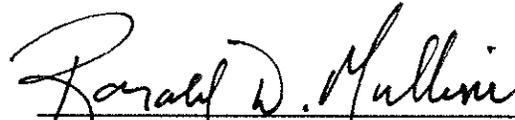
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Adopted this 15th day of November, 1999.

ELK TWO-MILE  
PUBLIC SERVICE DISTRICT

  
Chairman, Public Service Board

  
Member, Public Service Board

  
Member, Public Service Board

C0321114

CERTIFICATION

Certified as a true copy of a Resolution adopted by the Public Service Board of Elk Two-Mile Public Service District on the 15th day of November, 1999.

Dated: November 15, 1999.

[SEAL]

Patricia S. Kozak  
Secretary, Public Service Board

C0321114

Exhibit A

(See Deed at Tab 14A)

Exhibit B

(See Deed at Tab 14B)





**CHARLESTON NEWSPAPERS**

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INVOICE DATE	11/11/99
ACCOUNT NBR	014243003
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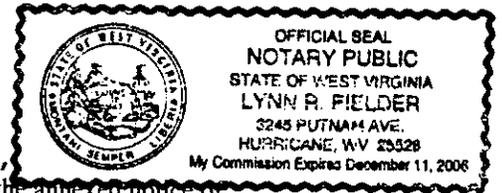
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ISSUE DATE	AD TYPE	PUB	DESCRIPTION		AD NUMBER	AD SIZE TOTAL RUN	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR	PURCHASE ORDER #					
11/10	LEGF	GZ	SPECIAL MEETING		L432409	1X0313	5.82	18.22	18.22
			690200001			3.13			
TOTAL INVOICE AMOUNT									18.22

State of West Virginia, **AFFIDAVIT OF PUBLICATION**

*Sandra Sizy*

of



THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER, published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of SPECIAL MEETING

was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County West Virginia, on the 11TH day of NOVEMBER 1999. Published during the following dates: 11/10/99, 11/10/99. Subscribed and sworn to before me this 12 day of November. Printers fee \$ 18.22

*Lynn R. Fielder*  
Notary Public of Kanawha County, West Virginia

CO331949

**LEGAL ADVERTISEMENT**

**NOTICE OF SPECIAL MEETING OF THE PUBLIC SERVICE BOARD OF ELK TWO-MILE PUBLIC SERVICE DISTRICT**

The Public Service Board of Elk Two-Mile Public Service District (the "District") will conduct a special meeting at 4:45 p.m. on Monday, November 15, 1999, at the Valley Grove Elementary School, 195 C Rutledge Road, Charleston, West Virginia, for the purpose of adopting a resolution authorizing the sale of the District's water system to West Virginia-American Water Company, authorizing and executing other documents with respect thereto and discussion of other matters relating to the proposed sale. The meeting is open to the public.

**ELK TWO-MILE PUBLIC SERVICE DISTRICT**

Nita Schoolcraft  
Chairman  
(473409)



## ELK TWO-MILE PUBLIC SERVICE DISTRICT

### EXCERPT OF MINUTES ON PUBLIC HEARING AND ADOPTION OF RESOLUTION REGARDING SALE OF DISTRICT

I, Patricia E. Kozak, Secretary of Riverside Public Service District (the "District"), hereby certify that the following is a true and correct excerpt of the minutes of a special meeting of the Public Service Board (the "Board") of the District:

The Board met in a special session pursuant to notice duly given, published and posted, copies of which are attached hereto and incorporated herein, at 4:45 p.m., prevailing time, on the 15<sup>th</sup> day of November, 1999, at the Valley Grove Elementary School, 195 C Rutledge Road, Charleston, West Virginia.

Present: Nita S. Schoolcraft - Chairman  
Patricia E. Kozak - Secretary  
Ronald Mullins - Treasurer

Also present were H. Wyatt Hanna, III, counsel for the District and Monika J. Hussell, Esq. and Beth R. Lewis, Esq. of Jackson & Kelly PLLC, counsel for West Virginia-American Water Company (the "Company"), Daniel Bickerton of the Company and Todd Dingess, C.P.A. of Smith, Cochran & Hicks, P.L.L.C..

A Resolution pertaining to the sale of the water distribution system of the District (the "System") was presented entitled:

RESOLUTION OF ELK TWO-MILE PUBLIC SERVICE DISTRICT AUTHORIZING THE SALE OF A PORTION OF THE DISTRICT'S WATER DISTRIBUTION SYSTEM TO THE WEST VIRGINIA-AMERICAN WATER COMPANY AND THE REMAINDER TO THE REGIONAL DEVELOPMENT AUTHORITY OF THE CHARLESTON-KANAWHA COUNTY, WEST VIRGINIA, METROPOLITAN REGION; AUTHORIZING THE PAYMENT OF ALL OUTSTANDING INDEBTEDNESS INCLUDING THE DEFEASANCE OF THE 1986 A BONDS AND THE PAYMENT OF THE 1986 B BONDS; AUTHORIZING THE CHAIRMAN AND SECRETARY TO EXECUTE AND DELIVER AN ESCROW AGREEMENT WITH RESPECT TO THE 1986 A BONDS AND THE 1986 B BONDS, A DEED, A BILL OF SALE AND ALL DOCUMENTS RELATING TO SUCH SALE; AUTHORIZING THE WEST VIRGINIA MUNICIPAL BOND COMMISSION TO TRANSFER THE SERIES 1986 A SINKING FUND AND THE SERIES 1986 A BOND RESERVE

ACCOUNT TO THE ESCROW FUND CREATED BY THE ESCROW AGREEMENT TO BE USED IN THE DEFEASANCE OF THE DISTRICT'S SERIES 1986 A BONDS; AND AUTHORIZING THE WEST VIRGINIA MUNICIPAL BOND COMMISSION TO APPLY THE FUNDS IN THE SERIES 1986 B SUPPLEMENTAL SUBORDINATE RESERVE ACCOUNT AND IN THE SERIES 1986 B SUPPLEMENTAL SUBORDINATE SINKING FUND TOWARD THE PAYMENT OF THE SERIES 1986 B BONDS.

There were no comments from those people present nor any written protests. Thereupon, on motion of Ms. Schoolcraft, seconded by Mr. Mullins, it was unanimously ordered that said Resolution be adopted.

Following the adoption of the Resolution and pursuant to the authorization of such, the officers of the Board proceeded to execute closing documents pertaining to the sale of the System, which documents had been previously reviewed by Mr. Hanna on the District's behalf.

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

[The remainder of this page is intentionally left blank.]

I hereby certify that the foregoing action of the District remains in full force and effect and has not been amended or appealed.

WITNESS my signature on this 15th day of November, 1999.

[SEAL]

Patricia E. Konyak  
Secretary, Public Service District

CO331976



**AT A REGULAR SESSION OF THE COUNTY COMMISSION OF KANAWHA  
COUNTY, WEST VIRGINIA, CONTINUED AND HELD FOR SAID COUNTY AT  
THE COURTHOUSE THEREOF ON THURSDAY  
THE 7TH DAY OF JANUARY 1999, A.D.**

**MEMBERS: W. KENT CARPER, PRESIDENT  
and LOUIS H. BLOOM  
and HENRY C. SHORES, COMMISSIONERS  
OF THE COUNTY**

**ORDER TAKING ACTION WITH RESPECT TO THE  
KANAWHA COUNTY COMMISSION WATER SUPPLY PLAN  
AND APPROVING CERTAIN DOCUMENTS**

WHEREAS, West Virginia-American Water Company ("Company") and Regional Development Authority of Charleston-Kanawha County, West Virginia ("KCRDA"), by Agreements to be submitted to the Public Service Commission of West Virginia ("Public Service Commission") will request approval to acquire the water utility assets of the Big Sandy Water Public Service District ("Big Sandy PSD"), Elk Two-Mile Public Service District ("Elk Two-Mile PSD"), Guthrie Public Service District ("Guthrie PSD"), Chelyan Public Service District ("Chelyan PSD") and Riverside Public Service District ("Riverside PSD")(such Public Service Districts being hereinafter collectively referred to as "Districts"); and

WHEREAS, Company currently provides water to customers of Elk-Two Mile PSD, Guthrie PSD, Chelyan PSD and KCRDA pursuant to Operation & Maintenance Agreements currently in effect for those three Districts and KCRDA; and

WHEREAS, The County Commission of Kanawha County, acting through the County Commissioners ("County Commission"), believes that the responsibilities of the County Commission include assisting in bringing quality potable water at reasonable rates to the citizens of Kanawha County; developing and advancing the business prosperity, health and economic welfare of the citizens of Kanawha County; and in assisting the Districts to carry out their responsibilities under the laws of West Virginia; and

WHEREAS, in furtherance of those responsibilities, County Commission, Company, KCRDA and Districts, in cooperation and partnership with the Company, have discussed an overall arrangement envisioned as a public/private partnership called the "Kanawha County Commission Water Supply Plan" ("Kanawha County Project") for the provision and enhancement of water service within unserved and underserved areas of Kanawha County; and

WHEREAS, various documents, agreements and proposed filings, the form of all of which were presented at this meeting of the County Commission, propose to file an

Application ("Application"), and related agreements and exhibits, with the Public Service Commission of West Virginia advancing the Kanawha County Project which will seek (i) the consent to the sale or assignment by the Districts of their water utility assets to the Company or KCRDA on the basis of the Agreements ("Agreements") attached to the Application; (ii) the approval for the Kanawha County Project involving the construction by KCRDA and Company of various transmission and distribution mains and related pumping and storage facilities to be constructed as public/private partnership designed to bring water service from the Company's existing Kanawha Valley Treatment Plant ("Kanawha Treatment Plant") or from other sources to various areas of Kanawha County, including areas served or to be served by the Company or KCRDA following the acquisition or assignment of the water utility assets of the Districts to Company or KCRDA and other areas in proximity to areas served by the Company or KCRDA; (iii) approval of a Master Operations and Maintenance Agreement ("Master O&M Agreement") under which the Company and KCRDA will enter into a cooperative arrangement for the Company to operate, maintain, repair and replace the water utility facilities of the KCRDA; (iv) the imposition of a surcharge of \$10 per month for a period of ten (10) years to be paid to KCRDA by certain customers served from the Kanawha County Project, all as more fully detailed in the Application and Agreements; and (v) the proposed funding arrangement generally set forth in the Application, as amended as necessary from time to time, to fund the Kanawha County Project; and

WHEREAS, the County Commission has had the opportunity to review and ask questions about the Application, the Agreements, the Master O&M Agreement, the related documents and exhibits set forth in the Application, and the Kanawha County Project; and

WHEREAS, under the transactions described in the Application, the Agreements and the related exhibits, the Districts contemplate selling or assigning their water utility assets to the Company or the KCRDA and the KCRDA and Company will expand their territory, and assume certain responsibilities on behalf of the Districts under the Master O&M Agreement; and

WHEREAS, the County Commission believes that, in the fulfillment of its responsibilities, it should assist in the financing the cost of, or undertaking the construction of, certain portions of the Kanawha County Project in order to extend water service to currently unserved or under served areas of the County and to interconnect the existing facilities of the Company, Districts, and KCRDA with the Company's Kanawha Valley Treatment Plant or other sources of supply and the proposed and existing and facilities owned or to be owned by Company or KCRDA; and

WHEREAS, as described in the Application, Company intends to purchase the water utility assets of certain of the Districts and has constructed or intends to construct water transmission, distribution and storage facilities as a part of the Kanawha County Project to serve customers in Kanawha County (such Company-purchased or Company-

constructed facilities being hereinafter and in the Application referred to collectively as the "IDB Property"); and

WHEREAS, following completion of the acquisition or construction by the Company of the IDB Property, the IDB Property will be conveyed by Company to the County Commission pursuant to the Industrial Development Bond and Commercial Development Act W. Va. Code §§13-2C-1, et seq. (the "Bond Act") in exchange for Industrial Development Bonds ("IDB Bonds") issued by the County Commission; and

WHEREAS, the IDB Property will then be leased by the County Commission to the Company under a Capital Lease ("Capital Lease") for a period of years equal to the period of years of the debt obtained to construct the facilities, in exchange for lease payments by Company sufficient to pay debt service on the IDB Bonds; and

WHEREAS, KCRDA proposes to design, construct, and own certain other water distribution facilities ("KCRDA Facilities") more fully described in the Application and the Master O&M Agreement between the Company and KCRDA or currently owned by KCRDA; and

WHEREAS, upon completion of the construction of the KCRDA Facilities by KCRDA, Company, under the Master O&M Agreement, will assume the responsibility for operating and maintaining the KCRDA Facilities and all other water utility facilities of KCRDA and pay the KCRDA a use fee ("Use Fee") for the right to use the KCRDA Facilities; and

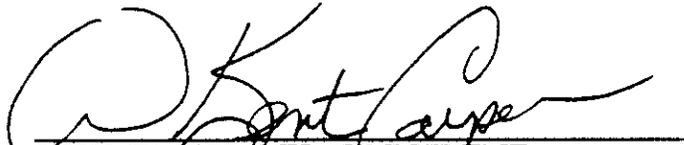
WHEREAS, County Commission and KCRDA have determined that Company, following completion of the Kanawha County Project, is the best available source of potable water for serving the customers to be served by the KCRDA Facilities and has the experience and ability to manage and operate the KCRDA Facilities and the other water utility facilities of KCRDA; and

WHEREAS, Company has sufficient treatment capacity at its Kanawha Valley Treatment Plant to supply the current and estimated future needs of the Company's customers and the customers to be served by the IDB Property and the KCRDA Facilities; and

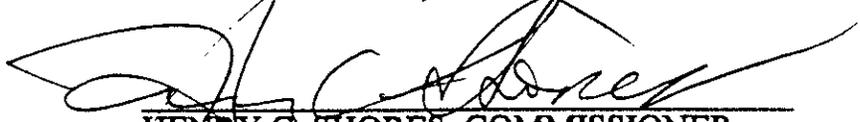
WHEREAS, County Commission believes it is in the best interests of the customers of the KCRDA for Company to operate, maintain, repair, and replace the KCRDA Facilities after their construction by the KCRDA and all other water utility facilities of KCRDA currently owned by KCRDA.

NOW, THEREFORE, it is ORDERED by The County Commission of Kanawha County, West Virginia as follows:

1. The County Commission hereby finds and determines that the Kanawha County Project will promote the health and welfare of the citizens of Kanawha County and will provide increased opportunities for economic development in Kanawha County.
2. The Kanawha County Project as presented by the Company and representatives of the KCRDA is hereby approved.
3. The proposal as outlined in the Joint Application and the Exhibits and Attachments thereto which contemplates the sale or assignment of the water utility assets of the Districts to Company or KCRDA under the terms and conditions set forth in the Agreements and the Application in order to provide services to people unserved or under served in Kanawha County is hereby approved.
4. The County Commission hereby approves the Joint Application, the Master O&M Agreement, and the Agreements between the Districts and the Company and KCRDA relating to the sale of the water utility assets of the Districts to Company and KCRDA in the form presented to this meeting with such changes or amendments as the parties may require.
5. The County Commission hereby authorizes the President of the County Commission to execute and deliver each such documents with such changes or amendments as he may approve. The signature of the President on the Application and on any other related documents shall be conclusive evidence of his approval of any such changes or amendments to such document and any changes or amendments to the Application or related or attached documents and exhibits.

  
W. KENT CARPER, PRESIDENT

  
LOUIS H. BLOOM, COMMISSIONER

  
HENRY C. SHORES, COMMISSIONER



**JOINT CERTIFICATE OF  
ELK TWO-MILE PUBLIC SERVICE DISTRICT,  
WEST VIRGINIA-AMERICAN WATER COMPANY,  
AND  
REGIONAL DEVELOPMENT AUTHORITY OF  
THE CHARLESTON-KANAWHA COUNTY, WEST VIRGINIA,  
METROPOLITAN REGION**

The undersigned, on behalf of ELK TWO-MILE PUBLIC SERVICE DISTRICT ("ETMPSD"), WEST VIRGINIA-AMERICAN WATER COMPANY (the "Company"), and THE REGIONAL DEVELOPMENT AUTHORITY OF CHARLESTON-KANAWHA COUNTY, WEST VIRGINIA, METROPOLITAN REGION ("KCRDA"), hereby certify that as of November 16, 1999, all conditions precedent contained in the Agreement dated January 20, 1999, between ETMPSD, the Company and KCRDA pertaining to the sale of ETMPSD's water system, have been fully performed and complied with.

WITNESS our signatures this 16<sup>th</sup> day of November, 1999.

ELK TWO-MILE PUBLIC SERVICE  
DISTRICT

By: *Nita Y. Schoolcraft*  
Nita Schoolcraft, Chairman

By: *Ronald D. Mullins*  
Ronald Mullins, Board Member

By: *Patricia E. Kozak*  
Patricia E. Kozak, Board Member

REGIONAL DEVELOPMENT  
AUTHORITY OF THE CHARLESTON-  
KANAWHA COUNTY, WEST VIRGINIA,  
METROPOLITAN REGION

By: *Charles V. Madigan*

Its: *President*

WEST VIRGINIA-AMERICAN  
WATER COMPANY

By: *Stephen M. Chambers*

Its: *Secretary*



## **INDEMNIFICATION AGREEMENT**

**THIS INDEMNIFICATION AGREEMENT**, dated as of the 16th day of November, 1999, is made by and between WEST VIRGINIA-AMERICAN WATER COMPANY, a West Virginia corporation (“Company”), and the ELK TWO-MILE PUBLIC SERVICE DISTRICT, a public corporation (“Elk Two-Mile”).

### **W I T N E S S E T H:**

**WHEREAS**, the Company and Elk Two-Mile have entered into an Agreement dated January 20, 1999 (the “Purchase Agreement”), whereby Elk Two-Mile agreed to transfer a portion of its water utility system (the “System”) to the Company; and

**WHEREAS**, the Company and Elk Two-Mile have consummated the transactions contemplated by the Purchase Agreement on the 16<sup>th</sup> day of November, 1999; and

**WHEREAS**, a portion of the System was constructed with grants or other funding from, or administered by, the City of Charleston, Housing & Urban Development (Small Cities Block Grant), and the Kanawha County Commission (“Agencies”); and

**WHEREAS**, Elk Two-Mile has requested that Company indemnify and hold Elk Two-Mile harmless with respect to any losses, damages, costs and expenses claimed by any of the Agencies as a result of assertions that all, or any part, of grants or other funding provided or administered by any of the Agencies must be repaid by Elk Two-Mile to the Agencies as a result of consummating the transactions under the Purchase Agreement; and

**WHEREAS**, Company and Elk Two-Mile desire to enter into this Indemnification Agreement to set forth the terms and conditions of their agreement regarding indemnification.

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants as contained herein, the Company and Elk Two-Mile agree that, subject to the provisions of the Purchase Agreement:

1. Company shall indemnify and hold Elk Two-Mile and its Chairman, Board Members, agents and employees (“Indemnitees”) harmless from and against any losses, damages, costs and expenses (including costs and expenses of litigation and reasonable attorneys’ fees) arising from or in connection with assertions by any of the Agencies against the Indemnitees that all or some portion of the grants are required to be repaid as a result of Company’s purchase of a portion of the System under the Purchase Agreement or the existence of any prior grant agreements to Elk Two-Mile from any of the Agencies.

2. If any of the Agencies notifies Indemnitees that it is asserting, may assert or has asserted a claim for or is holding Indemnitees responsible for repayment of Agency grants, in part or in full, Indemnitees shall promptly notify the Company. Indemnitees agree that they shall not repay or enter into any agreement, after the date of this Indemnification Agreement, to repay any portion of any of the Agencies’ grants without first notifying the Company in writing. In the event any of the Indemnitees repays any of the Agencies’ grants, in whole or in part, or agrees to do so, without the Company’s express written consent, the Company reserves the right to assert, and Indemnitees understand that the Company may assert, that the Company has no obligation to indemnify any of the Indemnitees under this Agreement.

3. In the event that any Indemnitees are made a party to any proceeding by any of the Agencies arising from the sale of the System to the Company, Company shall have the right to select legal counsel acceptable to Elk Two-Mile and Company to represent Company and the Indemnitees and to have the reasonable fees and expenses of such legal counsel paid by Company.

[End of Text]

**IN WITNESS WHEREOF**, Company and Elk Two-Mile have each caused this Indemnification Agreement to be executed by their respective duly authorized officers as of the date first above written.

**WEST VIRGINIA-AMERICAN  
WATER COMPANY**

By: Stephen M. Chambers  
Its: Secretary

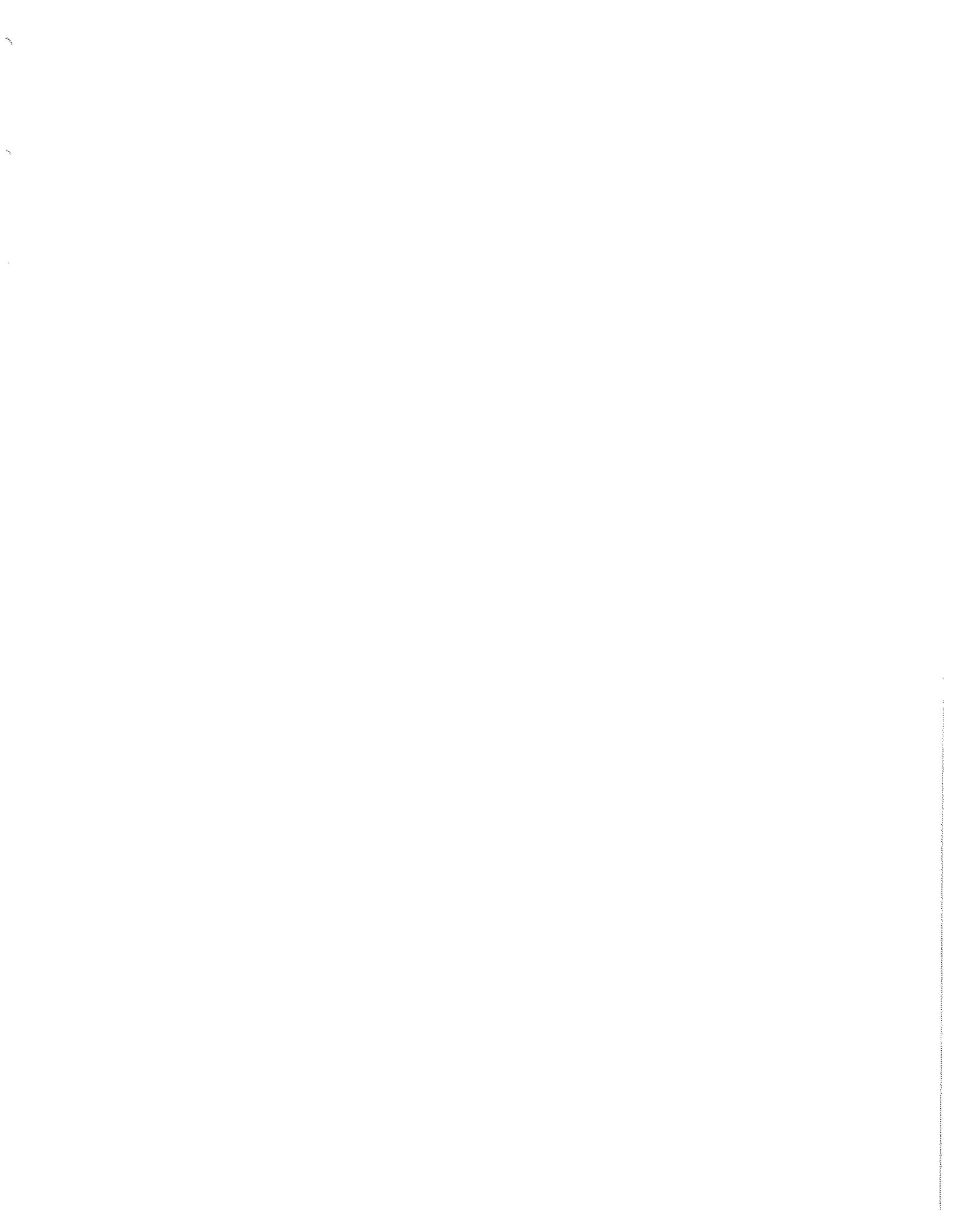
**ELK TWO-MILE PUBLIC SERVICE  
DISTRICT**

By: Nita S. Schoolcraft  
Nita Schoolcraft, Chairman

Ronald W. Mullins  
Ronald Mullins, Board Member

Patricia E. Kozak  
Patricia E. Kozak, Board Member

C0333829.1



## **ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (this "Agreement"), made and entered into as of the 16th day of November, 1999, by and among ELK TWO-MILE PUBLIC SERVICE DISTRICT, a public service district and political subdivision of the State of West Virginia (the "District"), WEST VIRGINIA - AMERICAN WATER COMPANY, a West Virginia corporation (the "Company"), and the WEST VIRGINIA MUNICIPAL BOND COMMISSION (the "Escrow Agent").

### W I T N E S S E T H:

WHEREAS, the District, pursuant to a Bond Resolution adopted on May 28, 1986 (the "1986 Resolution"), issued its Waterworks Revenue Bonds, Series 1986 A, in the original principal amount of \$587,450, of which \$549,758 is outstanding as of the date hereof (the "Series 1986 A Bonds"), and its Supplemental Subordinate Waterworks Revenue Bonds, Series 1986 B, in the original principal amount of \$292,550, of which \$195,033.28 is outstanding as of the date hereof (the "Series 1986 B Bonds"); and

WHEREAS, the Series 1986 A Bonds mature on the dates and bear interest at the rates, and are redeemable as set forth in Exhibit A attached hereto; and

WHEREAS, the Series 1986 B Bonds may be redeemed in full at anytime with the consent of the West Virginia Water Development Authority (the "Authority"); and

WHEREAS, the District has found it desirable to defease the Series 1986 A Bonds and redeem the Series 1986 B Bonds; and

WHEREAS, under the 1986 Resolution, the District had established the following special funds with the Escrow Agent: (1) Series 1986 A Bonds Sinking Fund and within the 1986 A Bonds Sinking Fund, the Series 1986 A Bond Reserve Account (the “1986 A Bond Funds”); and (2) Series 1986 B Bonds Supplemental Subordinate Sinking Fund and within the Series 1986 B Bonds Supplemental Sinking Fund, the Series 1986 B Bonds Supplemental Subordinate Reserve Account (the “1986 B Bond Funds”); and

WHEREAS, the District, pursuant to a resolution adopted on November 15, 1999 (the “Authorizing Resolution”), authorized, in conjunction with the sale of its water system, the transfer of the 1986 A Bond Funds and the Series 1986 B Bond Funds to the Escrow Fund created herein; and

WHEREAS, pursuant to the Authorizing Resolution, the Chairman and Secretary of the District are authorized to enter into this Agreement on behalf of the District; and

WHEREAS, the Company will, on behalf of the District, deposit \$728,029.08 with the Escrow Agent (the “Escrow Deposit”) which amount, together with the Series 1986 A Bond Funds is sufficient to (1) pay the principal and interest on the Series 1986 A Bonds as they come due, and, on the first permitted redemption date, being October 1, 2001, the remaining principal amount of the Series 1986 A Bonds then outstanding together with the applicable redemptions premiums and interest accrue thereon to the respective redemption dates (collectively, the “Redemption Price”) and (2) pay the principal of, interest on and premium, if any, on the Series 1986 B Bonds as of the date hereof (the “Date of Closing”); and

WHEREAS, the Escrow Deposit will be verified in the Verification Opinion, dated the date hereof of Smith Cochran & Hicks P.L.L.C., a firm of independent certified public accountants, such opinion attached hereto as Exhibit B (the “Verification Opinion”); and

WHEREAS, the District has found it desirable to appoint the Escrow Agent for the purposes of holding title to the Escrow Deposits, disbursing to the paying agent or agents such amounts as may be necessary to provide for payment of the Series 1986 A Bonds and the interest thereon when due, and the redemption premium, if any, and holding and investing and reinvesting any cash balances which may at any time not be needed for immediate disbursement and for payment of the Series 1986 B Bonds.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the mutual agreements contained herein, and in order further to secure payment of the Series 1986 A Bonds and the Series 1986 B Bonds as hereinabove provided, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives, successors and assigns, as follows:

1. The District and the Company hereby appoint the West Virginia Municipal Bond Commission, as Escrow Agent.

2. The Escrow Agent hereby acknowledges receipt of true and correct copies of the 1986 Resolution and the Authorizing Resolution, copies of which are attached hereto, made a part hereof and incorporated herein.

3. There is hereby created and established with the Escrow Agent a special and irrevocable fund designated "Elk Two-Mile Public Service District Escrow Fund (the "Escrow Fund"), to be held in the custody of the Escrow Agent separate and apart from any other funds of the District or the Escrow Agent. The deposit of monies in the Escrow Fund shall constitute an irrevocable deposit of said monies in trust for, and such monies and the investments thereof, shall be applied, except as otherwise provided herein, to the payment of the principal of and interest on the Series 1986 A Bonds, as the same become due and payable,

and on the redemption date, to pay the Redemption Price, and the payment of the principal on the Series 1986 B Bonds, all in accordance with paragraphs 4 and 7 hereof.

4. (A) Concurrently with the delivery of the Escrow Deposits, the Escrow Agent shall deposit \$728,029.08 from the Escrow Deposits to the Escrow Fund and shall transfer \$31,909.83 from the Series 1986 A Bonds Sinking Fund and \$61,540.19 from the Series 1986 A Bonds Reserve Account into the Escrow Fund (total deposit of \$821,479.11), to be used to pay the principal of and interest and premium, if any, on the Series 1986 A Bonds as the same become due and payable. Smith Cochran & Hicks P.L.L.C., independent certified public accountants, have certified, in their letter dated November 16, 1999, attached hereto as Exhibit B, that the Escrow Fund, will be sufficient to pay the principal of and interest and premium, if any, on the Series 1986 A Bonds as the same become due and payable as of the first redemption date. The District further requests that the Escrow Agent provide a notice of defeasance substantially in the form attached as Exhibit C hereto by first-class mail within ten (10) business days of the transfer of the Escrow Deposit to the Escrow Fund.

(B) The Escrow Agent shall call the Series 1986 B Bonds and apply \$173,007.03 received from the Company and shall apply \$12,715.62 from the Series 1986 B Bonds Supplemental Subordinate Sinking Fund and \$9,310.63 from the Series 1986 B Bonds Supplemental Subordinate Reserve Account (total payment of \$195,033.28), to be used to pay the principal of and interest on, and premium, if any, on the Series 1986 B Bonds in full as of the Date of Closing.

5. If requested by the District and Company, monies in the Escrow Fund may be used to purchase certain non-callable obligations of the United States Treasury Obligations ("Government Securities"), which are sufficient to pay the principal of, interest

on and premium, if any, on the Series 1996 Bonds as the same becomes due, and also pay, on the redemption dates, the Redemption Price, and provided further, that the Escrow Agent receives verification by a Certified Public Accountant of the sufficiency of the Government Securities to pay the principal of and interest on the Series 1996 Bonds as the same becomes due, and also pay, on the redemption dates, the Redemption Price. The Government Securities shall be credited to the Escrow Fund. The Escrow Agent shall deposit any proceeds, whether principal, interest or otherwise, derived from the Government Securities in the Escrow Fund.

If Government Securities are substituted for the cash held in the Escrow Fund, then any excess moneys remaining after the purchase of the Government Securities shall be remitted to the Company.

6. If requested by the District and Company to use the Escrow Deposits to purchase certain United States Treasury Obligations, the Escrow Agent may substitute other United States Treasury Obligations for the Escrow, provided that such United States Treasury Obligations being substituted must be non-callable obligations of the United States of America (“Direct Obligations”), must be sufficient to pay the principal of, interest on and premium, if any, on the Series 1986 A Bonds as the same become due, and also pay, on their redemption dates, the Redemption Price, and provided further, that the Escrow Agent receives verification by a Certified Public Accountant of the sufficiency of the Government Securities to pay the principal of and interest on the Series 1986 A Bonds as the same become due, and also pay, on their redemption dates, the Redemption Price.

7. The Escrow Agent shall transfer from the Escrow Fund and deposit directly with the Paying Agent for the Series 1986 A Bonds, in immediately available funds, on the dates set forth on Exhibit A hereto the amounts required to comply with the payments

of principal, interest, and premium, if any, of the Series 1986 A Bonds in accordance with the terms thereof.

8. The holders of the Series 1986 A Bonds shall have an express lien on all monies and assets in the Escrow Fund until paid out, used and applied in accordance with this Agreement.

9. Any excess in the Escrow Fund after the purchase of Government Securities shall be immediately transferred to the Company.

10. The Escrow Agent shall be entitled to fees for services rendered under this Agreement and reasonable expenses. The Company shall pay from its own funds, to the Escrow Agent any fees for services rendered under this Agreement. In no event shall the Escrow Agent or the paying agent or agents have any lien whatsoever upon any of the monies or assets in the Escrow Fund, for the payment of any fees or expenses.

11. The liability of the Escrow Agent for the payment of the principal of and the interest, including any redemption premium, on the Series 1986 A Bonds shall be limited to the application of the monies and assets available for such purposes in the Escrow Fund, and the Escrow Agent shall not be liable or responsible because of the failure of the District or the Company to perform any act required of either of them by this Agreement or because of the loss of any monies arising through the insolvency or the act or default or omission of any depository in which such monies shall have been deposited. The Escrow Agent shall have no responsibility to the District, the Company, or any other person in connection with this Escrow Agreement, except as specifically provided herein, and shall not be responsible for anything done or omitted to be done by it except for its own negligence or willful default in the performance of any obligation imposed on it hereunder.

12. By execution of this Escrow Agreement, the Escrow Agent accepts the duties and obligations as Escrow Agent hereunder. The Escrow Agent represents that it has all requisite power and has taken all action necessary to execute the trusts hereby created.

13. The Escrow Agent shall not have any responsibility with respect to the validity or sufficiency of this Agreement.

14. If any of the outstanding Series 1986 A Bonds are not presented for redemption on or before October 1, 2001, and monies are held by the Escrow Agent for payment thereof, but not including any funds held by the paying agent or agents for the Series 1986 A Bonds, such monies shall be held for such purposes for a period of two (2) years from the date such payment was due, at which time such monies shall be paid to the Company.

15. The Escrow Agent shall act on behalf of the District and the Company in the conduct of the proceedings for the redemption of the outstanding Series 1986 A Bonds to be redeemed in accordance with the 1986 Resolution.

16. This Agreement shall terminate on the earlier of the date on which all the outstanding Series 1986 A Bonds have been paid and discharged in accordance with the respective provisions of the 1986 Resolution or, as described in Paragraph 14 above, two (2) years after the last date on which payment on the Series 1986 A Bonds is due, and at such time the balance of the Escrow Fund shall be transferred to the Company.

17. This Agreement is made in the State of West Virginia under the Constitution and laws of such state and is to be so construed.

18. If any one or more of the covenants or agreements provided in this Agreement to be performed on the part of any of the parties hereto should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be

deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

19. The Escrow Agent joins in the execution of this Agreement for the purpose of evidencing its acceptance of the trust imposed upon it and as evidence of its power to serve as such escrow agent.

20. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused their corporate names to be affixed hereto by their proper officers thereunto duly authorized.

ELK TWO-MILE PUBLIC SERVICE DISTRICT, a public service district and political subdivision of the State of West Virginia

[SEAL]

Nita S. Schoelcraft  
Chairman

ATTEST:

Patricia E. Kozak  
Secretary

WEST VIRGINIA - AMERICAN WATER COMPANY, a West Virginia corporation

By Stephen N. Chambers  
Stephen N. Chambers, Secretary

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By \_\_\_\_\_  
Its Executive Director

CO322101

IN WITNESS WHEREOF, the parties hereto have caused their corporate names to be affixed hereto by their proper officers thereunto duly authorized.

ELK TWO MILE PUBLIC SERVICE DISTRICT, a public service district and political subdivision of the State of West Virginia

[SEAL]

\_\_\_\_\_  
Chairman

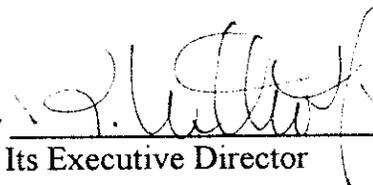
ATTEST:

\_\_\_\_\_  
Secretary

WEST VIRGINIA - AMERICAN WATER COMPANY, a West Virginia corporation

By \_\_\_\_\_  
Stephen N. Chambers, Secretary

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By  \_\_\_\_\_  
Its Executive Director

CO333371

**EXHIBIT A**

**REDEMPTION SCHEDULE FOR  
ELK TWO-MILE PUBLIC SERVICE DISTRICT  
SERIES 1986 A BONDS**

**REDEMPTION REQUIREMENTS**

<u>matured</u>	<u>principal</u>	<u>interest</u>	<u>premium</u>	<u>total</u>
4/01/00		\$26,800.70		\$26,800.70
10/01/00	\$5,238.00	26,800.70		32,038.70
4/01/01		26,545.35		26,545.35
10/01/01	5,749.00	26,545.35	\$165,029.00	
called	538,771.00			
TOTAL	549,758.00	106,692.10	165,029.00	\$821,479.11

**EXHIBIT B**

VERIFICATION OPINION OF  
SMITH COCHRAN & HICKS, P.L.L.C.



**Smith, Cochran & Hicks, P.L.L.C.**

**Certified Public Accountants**

**Beckley Bridgeport Charleston Montgomery**

**405 Capitol Street • Suite 908 • Charleston, West Virginia 25301 • 304-345-1151 • Fax 304-346-6731**

Elk-Two Mile Public Service District  
Charleston, West Virginia

West Virginia - American Water Company  
Charleston, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

Jackson & Kelly  
Charleston, West Virginia

West Virginia Municipal Bond Commission  
Charleston, West Virginia

**Elk-Two Mile Public Service District, West Virginia  
Water Revenue Bonds  
Series 1986A**

We have prepared certain calculations relating to the defeasance of the above captioned bonds (the "Bonds") prepared on behalf of the Elk-Two Mile Public Service District, West Virginia Water Development Authority and West Virginia - American Water Company. Those calculations are included as a part of this report.

Those calculations reflect that the deposit of \$728,029.08, together with amounts currently on deposit with the West Virginia Municipal Bond Commission of \$93,450.02, will be sufficient to pay the principal scheduled to mature and the interest on the Bonds beginning April 1, 2000, to and including October 1, 2001, and on that date redeem \$538,771.00 principal amount of the Bonds at a price of 130.63%.

The terms of our engagement are such that we have no obligation to update this report because of events occurring, or data or information coming to our attention subsequent to the date of this report. This report is not to be referred to or quoted without our prior written consent, except that reference thereto may be made in the closing documents and opinions of Counsel relating to the defeasance of the Bonds.

*Smith, Cochran & Hicks, P.L.L.C.*

Charleston, West Virginia  
November 16, 1999

**Elk-Two Mile Public Service District  
Water Revenue Bonds  
Series 1986A**

**Calculation of Defeasance Requirements**

	<b>Principal Called</b>	<b>Premium</b>	<b>Local P&amp;I Payments</b>	<b>Total Required for Escrow</b>
4/1/00			26,800.70	26,800.70
10/1/00			32,038.70	32,038.70
4/1/01			26,545.35	26,545.35
10/1/01	<u>690,000</u>	<u>13,800</u>	<u>32,294.35</u>	<u>736,094.35</u>
	<u>\$ 690,000</u>	<u>\$ 13,800</u>	<u>\$ 117,679.10</u>	<u>\$ 821,479.10</u>

**Calculation of Escrow Sufficiency**

Total defeasance requirements	<u>\$ 821,479.10</u>
On deposit in Debt Service Funds	\$ 31,909.83
On deposit in Debt Service Reserve	61,540.19
Balance from WV - American Water Company	<u>728,029.08</u>
	<u>\$ 821,479.10</u>

**EXHIBIT C**

**NOTICE OF DEFEASANCE**

**ELK TWO-MILE PUBLIC SERVICE DISTRICT  
\$587,450 Waterworks Revenue Bonds,  
Series 1986 A**

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of the Escrow Agreement between Elk Two-Mile Public Service District, West Virginia, West Virginia-American Water Company and the West Virginia Municipal Bond Commission, the District has defeased the above-described Bonds currently outstanding in the aggregate principal amount of \$549,758 with the sale proceeds, and has deposited with the West Virginia Municipal Bond Commission, as Escrow Agent, money sufficient to pay the principal of and interest on all outstanding Series 1986 A Bonds.

Dated this 16th day of November, 1999.

**WEST VIRGINIA MUNICIPAL BOND  
COMMISSION, as Escrow Agent**

By: \_\_\_\_\_



\$587,450  
ELK TWO-MILE PUBLIC SERVICE DISTRICT  
WATERWORKS REVENUE BONDS,  
SERIES 1986 A

CERTIFICATE OF DEFEASANCE

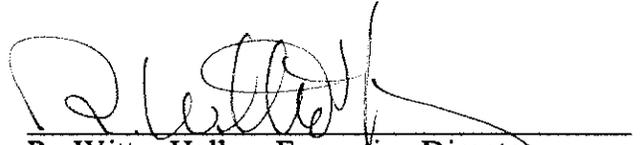
I, R. Witter Hallan, Executive Director of the West Virginia Municipal Bond Commission, as Escrow Agent (the "Escrow Agent") under the Escrow Agreement dated November 15, 1999 (the "Escrow Agreement"), by and among the Elk Two-Mile Public Service District, West Virginia (the "District"), the West Virginia-American Water Company (the "Company") and the Escrow Agent, hereby certify to the following:

1. There have been received this day the irrevocable instructions and moneys or other assets described in paragraph 4(A) of the Escrow Agreement.

2. Pursuant to the Escrow Agreement and based on the Verification Opinion of Smith, Cochran & Hicks, P.L.L.C., as of this day there are on deposit in the Escrow Fund established pursuant thereto amounts which will be sufficient without reinvestment or substitution to pay the Redemption Price of and interest on the District's Waterworks Revenue Bonds, Series 1986 A ( the "Series 1986 A Bonds") Described in Exhibit A hereto on their respective redemption dates, and as required by the Escrow Agreement, and, thus, to defease the lien on the District's Series 1986 A Bonds as of their first call date.

3. The lien of the Series 1986 A Bonds (except such lien created under the Escrow Agreement) is effectively defeased pursuant to the terms of the Resolution as of the date hereof.

IN WITNESS WHEREOF, I hereunto set my hand this 16th day of November, 1999.

  
\_\_\_\_\_  
R. Witter Hallan, Executive Director  
West Virginia Municipal Bond Commission,  
as Escrow Agent

**EXHIBIT A**

**REDEMPTION SCHEDULE FOR  
ELK TWO-MILE PUBLIC SERVICE DISTRICT  
SERIES 1986 A BONDS**

**REDEMPTION REQUIREMENTS**

<u>matured</u>	<u>principal</u>	<u>interest</u>	<u>premium</u>	<u>total</u>
4/01/00		\$26,800.70		\$26,800.70
10/01/00	\$5,238.00	26,800.70		32,038.70
4/01/01		26,545.35		26,545.35
10/01/01	5,749.00	26,545.35	\$165,029.00	
<u>called</u>	538,771.00			
<b>TOTAL</b>	<b>549,758.00</b>	<b>106,692.10</b>	<b>165,029.00</b>	<b>\$821,479.11</b>





*State of West Virginia*  
**WATER DEVELOPMENT AUTHORITY**

*180 Association Drive  
Charleston WV 25311-1571*

*Telephone (304) 558-3612  
Telecopier (304) 558-0299*

**ELK TWO-MILE PUBLIC SERVICE DISTRICT**

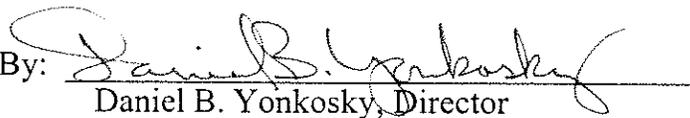
**CONSENT OF BOND HOLDER TO  
DEFEASANCE OF BONDS**

In reliance upon the Verification Opinion of Smith, Cochran & Hicks, P.L.L.C., Certified Public Accountants, and the Defeasance Opinion of Jackson & Kelly PLLC, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the entire outstanding principal amount of Waterworks Revenue Bonds, Series 1986 A (the "A Bonds") issued by the Elk Two-Mile Public Service District, hereby consents to (i) the defeasance of the A Bonds and (ii) the redemption of the A Bonds on their earliest redemption dates at the applicable redemption prices plus interest to the dates of redemption and the West Virginia Water Development Authority, the registered owner of the entire outstanding principal amount of Supplemental Subordinate Waterworks Revenue Bonds, Series 1986 B (the "B Bonds") issued by the Elk Two-Mile Public Service District, hereby consents to the payment in full of the B Bonds on the date hereof.

Dated this 16th day of November, 1999.

AUTHORITY

WEST VIRGINIA WATER DEVELOPMENT

By:   
Daniel B. Yonkosky, Director



\$292,550  
ELK TWO-MILE PUBLIC SERVICE DISTRICT  
SUPPLEMENTAL SUBORDINATE WATERWORKS REVENUE BONDS,  
SERIES 1986 B

RECEIPT OF PAYMENT

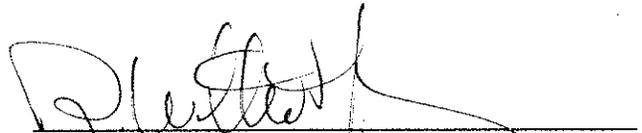
I, R. Witter Hallan, Executive Director of the West Virginia Municipal Bond Commission, as Escrow Agent (the "Escrow Agent") under the Escrow Agreement dated November 15, 1999 (the "Escrow Agreement"), by and among the Elk Two-Mile Public Service District, West Virginia (the "District"), the West Virginia-American Water Company (the "Company") and the Escrow Agent, hereby certify to the following:

1. There have been received this day the irrevocable instructions and moneys or other assets described in paragraph 4(B) of the Escrow Agreement.

2. As of this day there are on deposit in the Supplemental Subordinate Sinking Fund, established pursuant to the Resolution adopted on June 3, 1986 (the "Resolution") amounts sufficient to pay in full the Redemption Price of the District's Series 1986 B Bonds as of the date hereof.

3. The lien of the Series 1986 B Bonds is effectively released as of the date hereof.

IN WITNESS WHEREOF, I hereunto set my hand this 16th day of November, 1999.

  
\_\_\_\_\_  
R. Witter Hallan, Executive Director  
West Virginia Municipal Bond Commission





RECORDED BY DEED BK 2483 PG 200, 11/17/1999 11:49:22 AM Deed Tax 0.00, Recordings Fee 8.50, TOTAL 8.50  
Alma V. Kins, County Clerk, Kanawha County, WV

THIS DEED, Made on this 15<sup>th</sup> day of November, 1999, by and between the ELK TWO-MILE PUBLIC SERVICE DISTRICT, a public corporation organized and existing pursuant to the provisions of W. Va. Code § 16-13A-1, et seq., party of the first part, and WEST VIRGINIA-AMERICAN WATER COMPANY, a West Virginia corporation, party of the second part;

**WITNESSETH:**

That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand, and other good and valuable consideration, paid by the party of the second part to the party of the first part, the receipt and sufficiency of which is hereby acknowledged, the party of the first part does hereby GRANT and CONVEY to the party of the second part those two certain tracts or parcels of real estate, situate in Malden District, Kanawha County, West Virginia, and being more particularly bounded and described as follows:

**Tract 1**

All of that certain lot, tract or parcel of land situate, lying and being in Malden District, Kanawha County, West Virginia and being more particularly described as follows:

BEGINNING at an iron rebar with yellow plastic cap, said rebar being a corner of Raymond L. and Arlene E. Belcher and also being at the intersection of the right-of-ways of Clover Hollow Road and an old unnamed roadbed; thence with the right-of-way line of said Clover Hollow road N38° 32'W. a distance of 25.0 feet to an iron rebar with yellow cap; thence leaving the right-of-way of said Clover Hollow Road and with a new division line along and through the lands of the said Belcher the following two (2) courses and distances:

- (1) N53° 09' 47"E. a distance of 20.0 feet to an iron rebar with yellow cap.

Record No:  
Clyde M. Conditas  
Jackson & Kelly PLLC  
P.O. Box 553  
Chas. WV 25922

(2) S29° 07' 43"E. a distance of 15.0 feet to an iron rebar with yellow cap, said iron rebar being in the right-of-way of said old roadbed; thence with the right-of-way of said old roadbed S22° 45'W. a distance of 20.0 feet to the place of beginning containing 367.90 square feet, be it the same more or less and as shown on a plat of survey by Dunn Engineers, Inc. of Charleston, West Virginia, said plat dated June 25, 1986.

And being the same property conveyed to the party of the first part by Raymond L. Belcher, divorced, and Arlene E. Belcher, divorced, by deed dated August 18, 1986, and of record in the office of the Clerk of the County Commission of Kanawha County, West Virginia in Deed Book 2132, at page 107, together with any attachments thereto, reference to which is hereby made for a more complete description.

### Tract 2

All of that parcel of land situate in Malden District, Kanawha County, West Virginia, and being more particularly described as follows:

BEGINNING at an iron rebar with yellow plastic cap, said iron rebar making a new corner in the lands of Gary R. and Evelyn M. Shafer, said iron rebar bears N32° 45'W., a distance of 7.0 feet more or less from the corner of said Shafer and S. Hughart at Valley Grove Road; thence with a new division line along and through the lands of the said Shafer the following four (4) courses and distances:

- (1) N62° 00'W, a distance of 20.00 feet to an iron rebar with yellow plastic cap.
- (2) N32° 17' 21"E. a distance of 20.00 feet to an iron rebar with yellow plastic cap.
- (3) S62° 00'E, a distance of 20.00 feet to an iron rebar with yellow plastic cap.

(4) S32° 17' 21"W. a distance of 20.00 feet to the place of beginning, containing 398.88 square feet, bet it the same more or less and as shown on a plat of survey by Dunn Engineers, Inc. of Charleston, West Virginia, said plat dated June 25, 1986;

together with a 20 foot wide permanent access easement extending from the front of the above-described lot to Valley Grove Road as shown on the plat of survey referenced above. And being the same property conveyed to the party of the first part by Gary R. Shafer and Evelyn M. Shafer, his wife, by deed dated August 19, 1986, and of record in the office of the Clerk of the County Commission of Kanawha County, West Virginia in Deed Book 2132, at page 104, together with any attachments thereto, reference to which is hereby made for a more complete description.

And for and in consideration aforesaid, the party of the first part does hereby further GRANT and CONVEY unto the party of the second part all of its rights, title and interest in and to all of the easements and rights of way relating to the party of the first part's water utility system situate in Malden District, Kanawha County, West Virginia, together with all rights granted therein for the operation, maintenance, repair, replacement or the increase in size of said party of the first part's water utility system and the party of the first part does further GRANT and CONVEY all of the improvements and appurtenances therein and thereupon, relating solely to the party of the first part's water utility system, which includes but is not limited to:

1. All of those easements and rights of way identified on Exhibit A attached hereto and made a part hereof; and
2. All of the easements and rights of way of every sort, kind and description, used and/or held for use by the party of the first part, in, for and about the production,

distribution, transmission, and sale of water in the Elk Two Mile Public Service District; excepting and reserving therefrom, all those rights of way and easements conveyed by the party of the first part to the Regional Development Authority of the Charleston-Kanawha County, West Virginia, Metropolitan Region, a public corporation, by deed dated November 15, 1999, and to be recorded contemporaneously herewith; and

3. All extensions of, additions to and any other additional facilities used in connection with the extension of the water distribution system, including water mains, service lines, meters and other devices used in connection with the water service system described in paragraphs 1 and 2 above.

The party of the first part hereby covenants that it will WARRANT GENERALLY the title to the real estate and to the rights of way and easements herein conveyed and that the same are free and clear of all liens and encumbrances.

The undersigned party of the first part hereby states that the real estate transferred by this instrument is not subject to the West Virginia excise tax upon the privilege of transferring real estate for the reason that this is a transfer from a public corporation of the State of West Virginia.

The property described herein may have been obtained or improved with Federal financial assistance and therefore may be subject to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and other similarly worded Federal statutes, and the regulations issued pursuant thereto that prohibit discrimination on the basis of race, color, national origin, handicap, religion, age or sex in programs or activities receiving Federal financial assistance. Such provisions may apply for as long as the property continues to be used

for the same or similar purposes for which the Federal assistance, if any, was extended, or for so long as the purchaser owns it, whichever is later.

IN WITNESS WHEREOF, the Elk Two-Mile Public Service District, a public corporation of the State of West Virginia, has caused its name to be signed by its proper officers thereunto duly authorized.

ELK TWO-MILE PUBLIC SERVICE DISTRICT, a West Virginia public corporation

By: Nita S. Schoolcraft  
Nita Schoolcraft, Chairperson

By: Ronald W. Mullins  
Ronald Mullins, Board Member

By: Patricia E. Kozak  
Patricia E. Kozak, Board Member

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of November, 1999, by Nita Schoolcraft, Chairperson of Elk Two-Mile Public Service District, a West Virginia public corporation, on behalf of said public corporation.

My commission expires: June 30, 2009



Daniel P. Zerkow  
Notary Public

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of November, 1999, by Ronald Mullins, Board Member of Elk Two-Mile Public Service District, a West Virginia public corporation, on behalf of said public corporation.

My commission expires: June 30, 2009

Daniel P. Zerkow  
Notary Public

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of November, 1999, by Patricia E. Kozak, Board Member of Elk Two-Mile Public Service District, a West Virginia public corporation, on behalf of said public corporation.

My commission expires: June 30, 2009



Danielle F. Robertson  
Notary Public

This instrument was prepared by Steven M. Condaras, Attorney at Law, Jackson & Kelly PLLC, 1600 Laidley Tower, Post Office Box 553, Charleston, West Virginia 25322.

## EXHIBIT A

Date of Instrument	Deed Book/Page	Grantors	Description
02/19/86	2125/604	Elizabeth A. High	Ten foot wide right of way and easement
02/18/86	2125/607	Gary A. Hudson, et ux.	Ten foot wide right of way and easement
02/09/86	2125/589	A. R. Beckett, et ux.	Ten foot wide right of way and easement
03/22/86	2125/592	Jerry L. Bush, et vir.	Ten foot wide right of way and easement
02/04/86	2125/595	James E. Craigo, et ux.	Ten foot wide right of way and easement
02/09/86	2125/598	A. Earl Frame	Ten foot wide right of way and easement
02/24/86	2125/601	R. G. Gunno, et ux.	Ten foot wide right of way and easement
02/09/86	2125/610	Clarence E. Hutton, et ex.	Ten foot wide right of way and easement
02/04/86	2125/613	Dwight R. Kelly, et ux.	Ten foot wide right of way and easement
02/19/86	2125/616	Gary A. Legg, et ux.	Ten foot wide right of way and easement
02/02/86	2125/619	George C. Martin, et ux.	Ten foot wide right of way and easement
02/02/86	2125/622	George W. Martin, et ux.	Ten foot wide right of way and easement
02/06/86	2125/625	Jean M. McQuillen, et vir.	Ten foot wide right of way and easement
02/19/86	2125/628	John W. Milam, et ux.	Ten foot wide right of way and easement
02/18/86	2125/631	Leola K. Miller	Ten foot wide right of way and easement
02/19/86	2125/634	William B. Myrtle	Ten foot wide right of way and easement

Date of Instrument	Deed Book/Page	Grantors	Description
02/19/86	2125/637	Carl E. Pauley, et ux.	Ten foot wide right of way and easement
02/21/86	2125/706	Valley Grove United Methodist Church	Ten foot wide right of way and easement
02/04/86	2125/713	Virginia P. Rowlands, widow	Ten foot wide right of way and easement
03/16/86	2125/716	Larry W. Seabolt, et ux.	Ten foot wide right of way and easement
02/02/86	2125/719	Joseph A. Skiles, et ux.	Ten foot wide right of way and easement
02/19/86	2125/722	Frank D. Skiles, et ux.	Ten foot wide right of way and easement
02/04/86	2125/725	Jesse C. Smith, et ux.	Ten foot wide right of way and easement
02/06/86	2125/728	Jon W. Spradling, et ux.	Ten foot wide right of way and easement
02/06/86	2125/731	Roy S. Spradling, Jr., et ux.	Ten foot wide right of way and easement
02/06/86	2125/734	Ruth A. Spradling, widow	Ten foot wide right of way and easement
02/10/86	2125/737	William G. Spradling, et ux.	Ten foot wide right of way and easement
02/10/86	2125/740	Gilbert T. Walker, et ux.	Ten foot wide right of way and easement
02/09/86	2125/743	David M. Spradling, et al.	Ten foot wide right of way and easement
02/09/86	2125/746	Ernest L. White, et ux.	Ten foot wide right of way and easement
02/09/86	2125/749	Harry R. White, et ux.	Ten foot wide right of way and easement
02/19/86	2125/752	Julia M. Skiles	Ten foot wide right of way and easement
01/24/86	2126/115	Tony G Asbury, et ux.	Ten foot wide right of way and easement

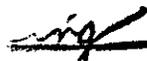
Date of Instrument	Deed Book/Page	Grantors	Description
02/03/86	2126/121	John D. Beasley, et ux.	Ten foot wide right of way and easement
01/18/86	2126/136	Masil Bowles	Ten foot wide right of way and easement
02/25/86	2126/142	Stephen Burdette, et ux.	Ten foot wide right of way and easement
02/25/86	2126/145	William D. Carte, et ux.	Ten foot wide right of way and easement
02/01/86	2126/148	Charles L. Carte, et ux.	Ten foot wide right of way and easement
02/25/86	2126/151	James A. Comuzie, et ux.	Ten foot wide right of way and easement
02/25/86	2126/154	Joseph R. Comozie, et ux.	Ten foot wide right of way and easement
02/25/86	2126/157	Donald R. Comuzie, et ux.	Ten foot wide right of way and easement
02/25/86	2126/160	Joe Comuzie, et ux.	Ten foot wide right of way and easement
02/25/86	2126/172	Josephine M. Fisher	Ten foot wide right of way and easement
02/03/86	2126/298	Roger D. Hanna	Ten foot wide right of way and easement
01/18/86	2126/304	John E. Herold, et ux.	Ten foot wide right of way and easement
01/25/86	2126/310	Michael A. Hood, et ux.	Ten foot wide right of way and easement
02/01/86	2126/313	Sherman W. Hunter, et ux.	Ten foot wide right of way and easement
01/15/86	2126/316	Bruce C. Kelly, et ux.	Ten foot wide right of way and easement
01/10/86	2126/325	Lloyd E. Kelly, et ux.	Ten foot wide right of way and easement
01/21/86	2126/331	Rickey L. Mariani	Ten foot wide right of way and easement

Date of Instrument	Deed Book/Page	Grantors	Description
01/19/86	2126/334	Robert L. Moore, et ux.	Ten foot wide right of way and easement
01/25/86	2126/337	Danny H. Pittman, et ux.	Ten foot wide right of way and easement
01/26/86	2126/340	Roy L. Peters, et ux.	Ten foot wide right of way and easement
01/25/86	2126/343	Mae E. Pittman	Ten foot wide right of way and easement
01/18/86	2126/346	David E. Rastle, et ux.	Ten foot wide right of way and easement
02/01/86	2126/352	Clarence L. Shaffer, et ux.	Ten foot wide right of way and easement
02/01/86	2126/355	Clarence L. Shaffer, et ux.	Ten foot wide right of way and easement
01/25/86	2126/358	Charles P. Sizemore	Ten foot wide right of way and easement
01/19/86	2126/364	Otis C. Stover,, et ux.	Ten foot wide right of way and easement
01/18/86	2126/367	Nora K. Stepp	Ten foot wide right of way and easement
01/18/86	2126/370	Harold E. Pierson, et ux.	Ten foot wide right of way and easement
01/18/86	2126/373	Esta M. Pierson	Ten foot wide right of way and easement
01/25/86	2126/441	Gary M. Young, et ux.	Ten foot wide right of way and easement
01/25/86	2126/444	Jane D. Taylor, et vir.	Ten foot wide right of way and easement
01/18/86	2126/450	Woodland Estates, Inc.	Ten foot wide right of way and easement
05/16/86	2126/453	J. Fountain Skiles Est.	Ten foot wide right of way and easement

C0335045

This instrument was presented to the Clerk of the County  
 Commission of Kanawha County, West Virginia  
 and the same is admitted

NOV 17 1999

Teste:  Clerk

Kanawha County Commission



THIS DEED, Made on this 15<sup>th</sup> day of November, 1999, by and between the ELK TWO-MILE PUBLIC SERVICE DISTRICT, a public corporation organized and existing pursuant to the provisions of W. Va. Code § 16-13A-1, et seq., party of the first part, and REGIONAL DEVELOPMENT AUTHORITY OF THE CHARLESTON-KANAWHA COUNTY, WEST VIRGINIA, METROPOLITAN REGION, a public corporation organized and existing pursuant to the provisions of W. Va. Code § 7-12-1, et seq., party of the second part;

**WITNESSETH:**

That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand, and other good and valuable consideration, paid by the party of the second part to the party of the first part, the receipt and sufficiency of which is hereby acknowledged, the party of the first part does hereby GRANT and CONVEY to the party of the second part all of its right, title and interest in and to those certain rights of way and easements, as identified on Exhibit A attached hereto and made a part hereof, for the installation and maintenance of water lines and related appurtenances situate in Malden Tax District, Kanawha County, West Virginia, together with all rights granted therein.

The party of the first part hereby covenants that it will WARRANT GENERALLY the title to the rights of way and easements herein conveyed and that the same are free and clear of all liens and encumbrances.

The undersigned party of the first part hereby states that the real estate transferred by this instrument is not subject to the West Virginia excise tax upon the privilege of transferring real estate for the reason that this is a transfer from a public corporation of the State of West Virginia.

Recorded In DEED BK 2485 Pg 182, 11/17/1999 11:43:08 AM Deed Tax 0.00, Recordings Fee 4.00, TOTAL 4.00  
Alma V. Kins, County Clerk, Kanawha County, WV

The Center  
for  
Economic & Policy  
P.O. Box 1033  
Chas. WV 26022

The property described herein may have been obtained or improved with Federal financial assistance and therefore may be subject to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and other similarly worded Federal statutes, and the regulations issued pursuant thereto that prohibit discrimination on the basis of race, color, national origin, handicap, religion, age or sex in programs or activities receiving Federal financial assistance. Such provisions may apply for as long as the property continues to be used for the same or similar purposes for which the Federal assistance, if any, was extended, or for so long as the purchaser owns it, whichever is later.

IN WITNESS WHEREOF, the Elk Two-Mile Public Service District, a public corporation of the State of West Virginia, has caused its name to be signed by its proper officers thereunto duly authorized.

ELK TWO-MILE PUBLIC SERVICE  
DISTRICT, a West Virginia public  
corporation

By: Nita S. Schoolcraft  
Nita Schoolcraft, Chairperson

By: Ronald W. Mullins  
Ronald Mullins, Board Member

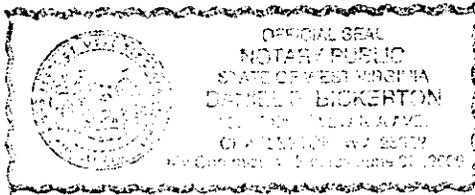
By: Patricia E. Kozak  
Patricia E. Kozak, Board Member

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of November, 1999, by Nita Schoolcraft, Chairperson of Elk Two-Mile Public Service District, a West Virginia public corporation, on behalf of said public corporation.

My commission expires: June 30, 2009



Daniel P. Bickerton  
Notary Public

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of November, 1999, by Ronald Mullins, Board Member of Elk Two-Mile Public Service District, a West Virginia public corporation, on behalf of said public corporation.

My commission expires: June 30, 2009

Daniel P. Bickerton  
Notary Public

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of November, 1999, by **Patricia E. Kozak**, Board Member of Elk Two-Mile Public Service District, a West Virginia public corporation, on behalf of said public corporation.

My commission expires: June 30, 2009



James R. Bokant  
Notary Public

This instrument was prepared by Steven M. Condaras, Attorney at Law, Jackson & Kelly PLLC, 1600 Laidley Tower, Post Office Box 553, Charleston, West Virginia 25322. This instrument was prepared without the benefit of a title examination and no representation as to title is made hereto.

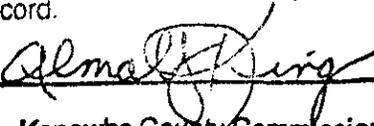
## EXHIBIT A

Date of Instrument	Deed Book/Page	Grantors	Description
03/23/86	2126/109	Maple Hill Missionary Baptist Church	Ten foot wide right of way and easement
01/18/86	2126/118	Kerry L. Barrow, et ux.	Ten foot wide right of way and easement
01/12/86	2126/124	Oliver D. Beattie, et ux.	Ten foot wide right of way and easement
01/26/86	2126/127	Raymond L. Belcher	Ten foot wide right of way and easement
01/12/86	2126/130	Raymond L. Belcher, et ux.	Ten foot wide right of way and easement
01/11/86	2126/133	Harry F. Bostic, Jr., et ux.	Ten foot wide right of way and easement
01/12/86	2126/139	Chester A. Burdette, Jr., et ux.	Ten foot wide right of way and easement
02/10/86	2126/163	Joe E. Cowley, AIF (Fenton M. Cowley Est.)	Ten foot wide right of way and easement
01/13/86	2126/166	Clyde H. Dawson, Jr.	Ten foot wide right of way and easement
01/12/86	2126/169	Charles E. Farren, et ux.	Ten foot wide right of way and easement
01/11/86	2126/175	Motie M. Fisher, et ux.	Ten foot wide right of way and easement
01/13/86	2126/295	Charles C. Gillman, et ux.	Ten foot wide right of way and easement
01/12/86	2126/301	Joseph F. Hawkins, et ux.	Ten foot wide right of way and easement
01/12/86	2126/307	Donald C. Hicks, et ux.	Ten foot wide right of way and easement
0/13/86	2126/319	Edward L. Kelly, et ux.	Ten foot wide right of way and easement
01/13/86	2126/322	Gary W. Kelly, et ux.	Ten foot wide right of way and easement

Date of Instrument	Deed Book/Page	Grantors	Description
01/13/86	2126/328	Randy L. Kelly, et ux.	Ten foot wide right of way and easement
01/13/86	2126/349	Everett Reed, et ux.	Ten foot wide right of way and easement
01/12/86	2126/361	William D. Skiles, et ux.	Ten foot wide right of way and easement
01/18/86	2126/438	Henry S. Wolf	Ten foot wide right of way and easement
01/25/86	2126/447	Nira G. Vaughan	Ten foot wide right of way and easement

C0335082

This instrument was presented to the Clerk of the County  
Commission of Kanawha County, West Virginia, on **NOV 17 1999**  
and the same is admitted to record.

Teste:  Clerk  
Kanawha County Commission





## **BILL OF SALE**

THIS BILL OF SALE is made this 16<sup>th</sup> day of November, 1999, from ELK TWO-MILE PUBLIC SERVICE DISTRICT, a public corporation organized and existing pursuant to the provisions of West Virginia Code §16-13A-1, et seq. (“Seller”), to WEST VIRGINIA-AMERICAN WATER COMPANY, a West Virginia corporation (“Buyer”), and is made pursuant to an Agreement dated January 20, 1999, by and between Seller and Buyer (the “Purchase Agreement”).

### **W I T N E S S E T H:**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby bargains, sells, transfers, assigns and sets over unto Buyer all of the property owned by Seller referred, described and listed on Exhibit 1 attached hereto and made a part hereof.

Seller hereby warrants that it is the true and lawful owner of said property; that it has the right to sell and convey the same; that said property is free and clear of all liens, security interests, encumbrances and all debts of whatever nature and description; that Seller has good, valid and absolute marketable title thereto; that Buyer shall have quiet enjoyment of said property; and that Seller shall execute such further assurance as may be requisite.

This Bill of Sale is expressly made subject to all of the terms and conditions of the Purchase Agreement, and the representations and warranties of Seller in the Purchase Agreement are incorporated herein by reference.

Seller agrees that it will deliver to Buyer all certificates of title or other evidences of ownership of said property and equipment now in Seller's possession, referred, described and listed in Exhibit 1. Further,

The property described herein may have been obtained or improved with Federal financial assistance and therefore may be subject to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and other similarly worded Federal statutes, and the regulations issued pursuant thereto that prohibit discrimination on the basis of race, color, national origin, handicap, religion, age or sex in programs or activities receiving Federal financial assistance. Such provisions may apply for as long as the property continues to be used for the same or similar purposes for which the Federal assistance, if any, was extended, or for so long as the purchaser owns it, whichever is later.

[End of Text]

IN WITNESS WHEREOF, this Agreement is effective as of the 16<sup>th</sup> day of

November, 1999.

ELK TWO-MILE PUBLIC SERVICE  
DISTRICT

By: Nita S. Schoolcraft  
Nita Schoolcraft, Chairman

By: Ronald W. Mullins  
Ronald Mullins, Board Member

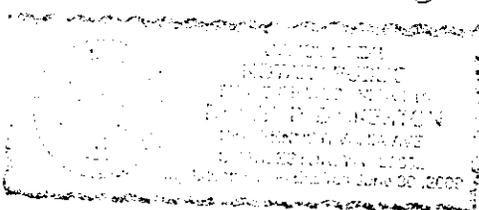
By: Patricia E. Kozak  
Patricia E. Kozak, Board Member

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me by Nita Schoolcraft.

My commission expires: June 30, 2009



Donald P. Byrket  
NOTARY PUBLIC

[SEAL]

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me by Ronald Mullins.

My commission expires: June 30, 2009

Donald P. Byrket  
NOTARY PUBLIC

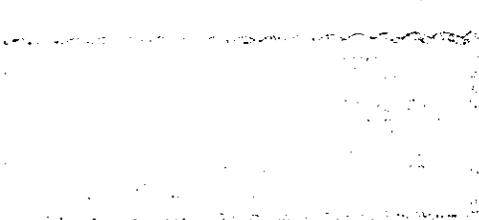
[SEAL]

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me by Patricia E. Kozak.

My commission expires: June 30, 2009



Donald P. Byrket  
NOTARY PUBLIC

[SEAL]

EXHIBIT 1

**ELK TWO-MILE PSD**  
**DETAIL OF ASSETS**

<b>ACC #</b>	<b>QTY</b>	<b>DESCRIPTION</b>	<b>PSC/ FY YEAR</b>	<b>WV-AM TO ACQUIRE</b>
<b>320</b>		<b><u>Pumping Land and Land Rights</u></b>		
		Land Hunter Road Booster	1985	\$100
		Land Clover Hollow Booster	1985	\$100
			Total	\$200
<b>325</b>		<b><u>Electric Pumping Equipment</u></b>		
		Booster Hunter Road	1985	\$13,345
		Booster Clover Hollow Road	1985	\$13,345
			Total	\$26,690
<b>343</b>		<b><u>Transmission and Distribution Mains</u></b>		
	2,700	6-inch main Baker Fork Road	1985	\$86,583
	3,000	6-inch main Westfall Hollow	1985	\$95,373
	1,000	4-inch main Westfall Hollow	1985	\$20,347
	2,000	6-inch main Martin Hollow	1985	\$63,583
	8,000	6-inch main Hunter Road	1985	\$254,329
	2,100	8-inch main Valley Grove Road	1985	\$88,793
	7,700	6-inch main Valley Grove Road	1985	\$244,791
	1,000	4-inch main Green Bottom Road	1985	\$20,347
	27,500		Total	\$874,146
			<b>GRAND TOTALS</b>	<b><u>\$901,036</u></b>



## **BILL OF SALE**

THIS BILL OF SALE is made this 16<sup>th</sup> day of November, 1999, from ELK TWO-MILE PUBLIC SERVICE DISTRICT, a public corporation organized and existing pursuant to the provisions of West Virginia Code §16-13A-1, et seq. ("Seller"), to the REGIONAL DEVELOPMENT AUTHORITY OF THE CHARLESTON-KANAWHA COUNTY, WEST VIRGINIA, METROPOLITAN REGION, a public agency established under the provisions of Chapter 7, Article 12 of the West Virginia Code of 1931, as amended ("Buyer"), and is made pursuant to an Agreement dated January 20, 1999, by and between Seller and Buyer (the "Purchase Agreement").

### **WITNESSETH:**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby bargains, sells, transfers, assigns and sets over unto Buyer all of the property owned by Seller referred, described and listed on Exhibit 1 attached hereto and made a part hereof.

Seller hereby warrants that it is the true and lawful owner of said property; that it has the right to sell and convey the same; that said property is free and clear of all liens, security interests, encumbrances and all debts of whatever nature and description; that Seller has good, valid and absolute marketable title thereto; that Buyer shall have quiet enjoyment of said property; and that Seller shall execute such further assurance as may be requisite.

This Bill of Sale is expressly made subject to all of the terms and conditions of the Purchase Agreement, and the representations and warranties of Seller in the Purchase Agreement are incorporated herein by reference.

Seller agrees that it will deliver to Buyer all certificates of title or other evidences of ownership of said property and equipment now in Seller's possession, referred, described and listed in Exhibit 1.

The property described herein may have been obtained or improved with Federal financial assistance and may be subject to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and other similarly worded Federal statutes, and the regulations issued pursuant thereto that prohibit discrimination on the basis of race, color, national origin, handicap, religion, age or sex in programs or activities receiving Federal financial assistance. Such provisions may apply for as long as the property continues to be used for the same or similar purposes for which the Federal assistance, if any, was extended, or for so long as the purchaser owns it, whichever is later.

[End of Text]

IN WITNESS WHEREOF, this Agreement is effective as of the 16<sup>th</sup> day of

November, 1999.

ELK TWO-MILE PUBLIC SERVICE  
DISTRICT

By: *Nita S. Schoolcraft*  
Nita Schoolcraft, Chairman

By: *Ronald D. Mullins*  
Ronald Mullins, Board Member

By: *Patricia E. Kozak*  
Patricia E. Kozak, Board Member

C0333826.1

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me by Nita Schoolcraft.

My commission expires: June 30, 2009



David C. Bickett  
NOTARY PUBLIC

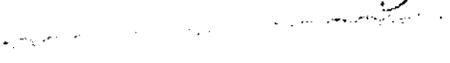
[SEAL]

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me by Ronald Mullins.

My commission expires: June 30, 2009



David C. Bickett  
NOTARY PUBLIC

[SEAL]

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me by Patricia E. Kozak.

My commission expires: June 30, 2009



David C. Bickett  
NOTARY PUBLIC

[SEAL]

EXHIBIT 1

**ELK TWO-MILE PSD**  
**DETAIL OF ASSETS**

<b>ACC #</b>	<b><u>QTY</u></b>	<b><u>DESCRIPTION</u></b>	<b>PSC/ FY YEAR</b>	<b>KC RDA TO ACQUIRE</b>
<b>343</b>		<b><u>Transmission and Distribution Mains</u></b>		
	8,360	8-inch main ETM/Rutledge Road	1985	\$353,479
	10,300	6-inch main ETM/Rutledge Road	1985	\$327,449
	6,300	6-inch main Baker Fork Road	1985	\$199,537
	24,960	Total		\$880,465
		<b>GRAND TOTALS</b>		<b><u>\$880,465</u></b>



***ELK TWO-MILE PUBLIC SERVICE DISTRICT***

November 16, 1999

West Virginia-American Water Company  
Post Office Box 1906  
Charleston, West Virginia 25327

Re: Sale of a Portion of Water System

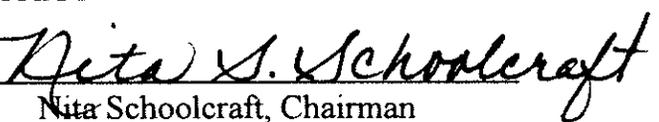
Dear Sir or Madam:

With respect to the sale of a portion of its water distribution system (the "System") to the West Virginia-American Water Company, Elk Two-Mile Public Service District wishes to inform you that there are no judgments, decrees or orders presently outstanding and unsatisfied against the System, nor is there any litigation nor any other proceedings before any court or government or administrative department, commission, bureau, board or agency which threaten or affect the water utility assets of the System or which may result in any decrease in the value of or constitute a lien or claim against the water utility assets to be sold.

Very truly yours,

ELK TWO-MILE PUBLIC SERVICE  
DISTRICT

By:

  
Nita Schoolcraft, Chairman

***ELK TWO-MILE PUBLIC SERVICE DISTRICT***

November 16, 1999

Regional Development Authority of the  
Charleston-Kanawha County, West  
Virginia, Metropolitan Region  
Courthouse Building  
409 Virginia Street, East, 2<sup>nd</sup> Floor  
Charleston, West Virginia 25301

Re: Sale of a Portion of Water System

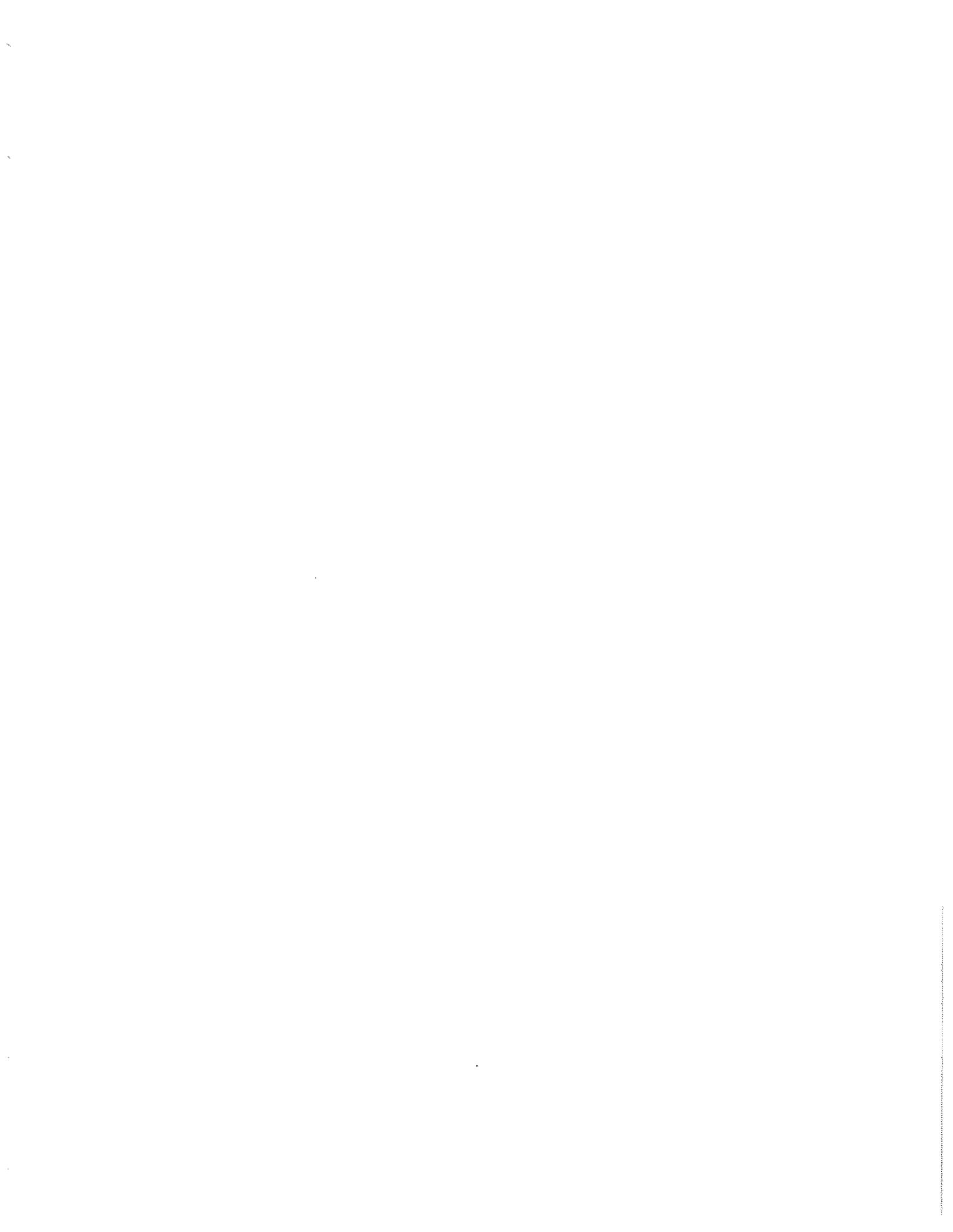
Dear Sir or Madam:

With respect to the sale of a portion of its water distribution system (the "System") to the Regional Development Authority of the Charleston-Kanawha County, West Virginia, Metropolitan Region, Elk Two-Mile Public Service District wishes to inform you that there are no judgments, decrees or orders presently outstanding and unsatisfied against the System, nor is there any litigation nor any other proceedings before any court or government or administrative department, commission, bureau, board or agency which threaten or affect the water utility assets of the System or which may result in any decrease in the value of or constitute a lien or claim against the water utility assets to be sold.

Very truly yours,

ELK TWO-MILE PUBLIC SERVICE  
DISTRICT

By:   
Nita Schoolcraft, Chairman



# TRANSFER OF BUSINESS

## Supplement to Employer's Initial Statement

WEST VIRGINIA BUREAU OF EMPLOYMENT PROGRAMS  
112 California Avenue  
Charleston, West Virginia 25305

### STATEMENT BY SUCCESSOR EMPLOYER

1. Name of Predecessor Elk Two-Mile Public Service District Account No. \_\_\_\_\_  
Trade Name, If Any \_\_\_\_\_  
Address of Operation Route 6, Box 224A, Charleston, WV 25311  
Present Address of Predecessor Route 6, Box 224A, Charleston, WV 25311

2. On What Date Did You Acquire the Business? 11/16/99

3. Did You Acquire All of the Predecessor's Business in West Virginia, or Only Part?  All  Part  
If You Acquired Only Part, (a) What Part of the Business Did You Acquire? A portion of the Water Utility Assets  
(b) What Percentage of the Business Did You Acquire? 51%

4. Have You Continued the Business of Your Predecessor Without Interruption?  
 Yes  No If "No" - - -  
Did You Resume the Business of Your Predecessor After Interruption?  Yes  No  
Do You Plan To Resume the Business of Your Predecessor?  Yes  No  
If "Yes," When Do You Expect To Resume the Business? \_\_\_\_\_

5. Did You Continue or Resume, or Do You Plan To Resume, the Same Business As That of Your Predecessor?  Yes  No  
If "No," Explain: \_\_\_\_\_

6. If You Continued or Resumed the Business, Do You Employ Substantially the Same Employees as Those Your Predecessor Employed in Connection with the Assets Transferred?  Yes  No

7. **CERTIFICATION:**  
Name of Successor: West Virginia-American Water Company Date: Nov. 16, 1999  
By: Stephen N. Chambers Title: Secretary

#### STATEMENT OF PREDECESSOR

8. I Hereby Certify That All Information on Succession Furnished by the Successor is True and That It is in Accordance With the Terms of Transfer.  
Name of Predecessor: Elk Two-Mile Public Service District Date: Nov. 16, 1999  
By: Nita S. Schoolcraft Title: Chairperson



# JACKSON & KELLY PLLC

ATTORNEYS AT LAW

1600 LAIDLEY TOWER  
P. O. BOX 553

CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

<http://www.jacksonkelly.com>

1144 MARKET STREET  
WHEELING, WEST VIRGINIA 26003  
TELEPHONE 304-233-4000

1660 LINCOLN STREET  
DENVER, COLORADO 80264  
TELEPHONE 303-390-0003

175 EAST MAIN STREET  
LEXINGTON, KENTUCKY 40595  
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N.W.  
WASHINGTON, D. C. 20037  
TELEPHONE 202-973-0200

MEMBER OF LEX MUNDI  
THE WORLD'S LEADING ASSOCIATION  
OF INDEPENDENT LAW FIRMS.

300 FOXCROFT AVENUE  
MARTINSBURG, WEST VIRGINIA 25401  
TELEPHONE 304-263-8800

256 RUSSELL AVENUE  
NEW MARTINSVILLE, WEST VIRGINIA 26155  
TELEPHONE 304-455-1751

6000 HAMPTON CENTER  
MORGANTOWN, WEST VIRGINIA 26505  
TELEPHONE 304-599-3000

412 MARKET STREET  
PARKERSBURG, WEST VIRGINIA 26101  
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE  
FAIRMONT, WEST VIRGINIA 26554  
TELEPHONE 304-368-2000

November 16, 1999

Elk Two-Mile Public Service District  
Route 6, Box 224 A  
Charleston, WV 25311

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311-1571

West Virginia-American Water Company  
P.O. Box 1906  
Charleston, WV 25327

Re: Elk Two-Mile Public Service District Waterworks  
Revenue Bonds, Series 1986 A  
Elk Two-Mile Public Service District Waterworks Supplemental  
Subordinate Revenue Bonds, Series 1986 B

Ladies & Gentlemen:

We have acted as special counsel with respect to the defeasance of \$587,4500 in principal amount of Elk Two-Mile Public Service District (the "District") Waterworks Revenue Bonds, Series 1986 A (the "Series 1986 A Bonds") and the payment in full of the District's Supplemental Subordinate Waterworks Revenue Bonds, Series 1986 B (the "Series 1986 B Bonds" and together with the Series 1986 A Bonds, the "Bonds"), issued with respect to a bond resolution of the District dated May 28, 1986 (the "Bond Resolution"). We have reviewed the mathematical verification certificate of Smith Cochran & Hicks, P.L.L.C., Certified Public Accountants, dated the date hereof and the Escrow Agreement, dated November 16, 1999, by and among the District, the West Virginia-American Water Company and the West Virginia Municipal Bond Commission, as Escrow Trustee. Based upon and in reliance upon the foregoing, we are of the opinion that (1) the Escrow Agreement has been duly authorized, executed and delivered by the parties thereto, and is enforceable on behalf of the West Virginia Water Development Authority as owner of the Series 1986 A Bonds, (2) the Escrow Agreement irrevocably pledges cash and/or Government Securities to the defeasance of the Series 1986 A Bonds to their first call dates, which pledge is not subject to modification or amendment, cash to the payment in full of the Series 1986 B Bonds, and (3) based upon and

Series 1986 A Bonds under the Bond Resolution, have been defeased pursuant to the terms of the Bond Resolution and the lien on the revenues pledged for the payment of the Series 1986 B Bonds has been released and the Series 1986 B Bonds have been payed in full, as of the date hereof.

Very truly yours,

*Jackson & Kelly PLLC*

CO322223



## **ESCROW AGREEMENT**

THIS ESCROW AGREEMENT ("Agreement") is made as of the 15th day of November, 1999, by and among ELK TWO-MILE PUBLIC SERVICE DISTRICT, a public service district and political subdivision of the State of West Virginia (the "District"), and WEST VIRGINIA - AMERICAN WATER COMPANY, a West Virginia corporation (the "Company") and the REGIONAL DEVELOPMENT AUTHORITY OF THE CHARLESTON-KANAWHA COUNTY, WEST VIRGINIA, METROPOLITAN REGION (the "KCRDA").

### W I T N E S S E T H:

WHEREAS, the District, the Company and KCRDA entered into an Agreement of Purchase dated January 20, 1999, whereby the Company agreed to purchase certain portions of the District's water system (the "System") with the remainder conveyed to KCRDA; and

WHEREAS, the Company has undertaken to defease the District's Waterworks Revenue Bonds, Series 1986 A (the "Series 1986 A Bonds") issued in the original principal amount of \$587,450, and to pay in full the District's Supplemental Subordinate Waterworks Revenue Bonds, Series 1986 B (the "Series 1986 B Bonds") issued in the original principal amount of \$292,550.

NOW, THEREFORE, in consideration of the premises and mutual promises herein made, and in consideration of the agreements herein contained, and intending to be legally bound hereby, the parties agree as follows:

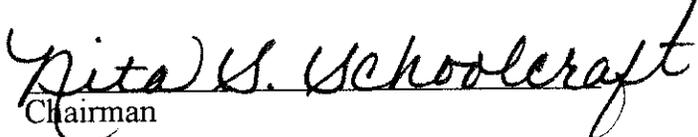
1. The documents executed by the parties hereto (the "Documents") shall be held in escrow by the law firm of Jackson & Kelly PLLC ("Jackson & Kelly") until the conditions in Paragraphs 2 and 3 hereof shall have been satisfied.

2. Jackson & Kelly shall not release the Documents unless and until the Company places cash and/or government securities in an escrow account with the West Virginia Municipal Bond Commission in an amount sufficient to defease the Series 1986 A Bonds and to pay the Series 1986 B Bonds in full.

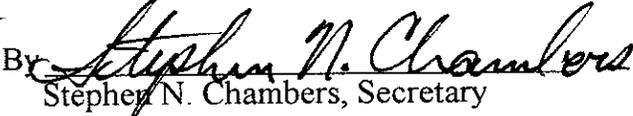
3. Jackson & Kelly shall not release the Documents until the Company and KCRDA have received a title opinion from Jackson & Kelly reasonably satisfactory to the both the Company and KCRDA.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement  
as of the day and year first above written.

ELK TWO-MILE PUBLIC SERVICE  
DISTRICT, a public service district and  
political subdivision of the State of West  
Virginia

  
Chairman

WEST VIRGINIA - AMERICAN WATER  
COMPANY, a West Virginia corporation

By:   
Stephen N. Chambers, Secretary

REGIONAL DEVELOPMENT AUTHORITY  
OF THE CHARLESTON-KANAWHA  
COUNTY, WEST VIRGINIA,  
METROPOLITAN REGION

  
By: *President*