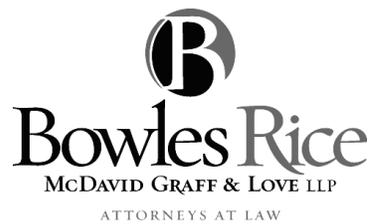


CLAYWOOD PARK PUBLIC SERVICE DISTRICT
WATER REVENUE BOND
(RISER RIDGE/LAUREL FORK EXTENSION PROJECT)
SERIES 2011 A
Date of Closing: April 15, 2011



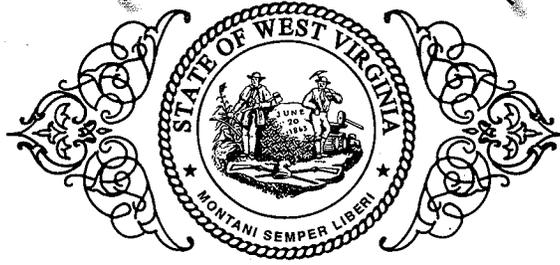
**CLAYWOOD PARK PUBLIC SERVICE DISTRICT
WATER REVENUE BOND
(RISER RIDGE/LAUREL FORK EXTENSION PROJECT)
SERIES 2011 A**

TRANSCRIPT INDEX OF CLOSING DOCUMENTS

1. Certified Copy of Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended
2. Certified Copy of the Order of the County Commission of Wood County, West Virginia, creating Claywood Park Public Service District
3. Certified Copies of Orders of the County Commissions of Wood and Wirt Counties, West Virginia, enlarging the boundaries of Claywood Park Public Service District
4. Certified Copy of Claywood Park Public Service District's Rules of Procedure
5. Certified Copies of Orders Appointing Members of the Public Service Board of Claywood Park Public Service District and their Oaths of Office
6. Certified Copy of the Minutes of the Claywood Park Public Service Board's Annual Organization Meeting on January 11, 2011
7. Certified Copy of the Minutes of the Claywood Park Public Service Board's Meeting on April 13, 2011, adopting the Bond Resolution
8. Certified Copy of the Resolution passed by the Public Service Board of the Claywood Park Public Service District, authorizing the District's Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project), Series 2011 A
9. Engineer's Certificate
10. Accountant's Certificate
11. RUS Consent to the issuance of the Series 2011 A Bonds
12. Recommended Decision of the Public Service Commission of West Virginia entered on December 13, 2010, which became final pursuant to the Commission Order entered on February 22, 2011, granting the Certificate of Convenience and Necessity to Claywood Park Public Service District for its Riser Ridge/Laurel Fork Extension Project

13. General Certificate
14. Opinion of Bowles Rice McDavid Graff & Love LLP
15. Receipt for Series 2011 A Bond and Transcripts
16. Receipt for Series 2011 A Bond Proceeds
17. Specimen Series 2011 A Bond
18. West Virginia Municipal Bond Commission New Issue Report Form

State of West Virginia



Certificate

I, Natalie E. Tennant, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13A OF THE 2010 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.



Given under my hand and the Great Seal of the State of West Virginia on
April 12, 2011

Natalie E. Tennant
Secretary of State

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section

- 16-13A-1. Legislative findings.
- 16-13A-1a. Jurisdiction of the public service commission.
- 16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
- 16-13A-1c. General purpose of districts.
- 16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the Secretary of State.
- 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
- 16-13A-3a. Removal of members of public service board.
- 16-13A-4. Board chairman; members' compensation; procedure; district name.
- 16-13A-5. General manager of board.
- 16-13A-6. Employees of board.
- 16-13A-7. Acquisition and operation of district properties.
- 16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
- 16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
- 16-13A-9a. Limitations with respect to foreclosure.
- 16-13A-10. Budget.
- 16-13A-11. Accounts; audit.
- 16-13A-12. Disbursement of district funds.
- 16-13A-13. Revenue bonds.
- 16-13A-14. Items included in cost of properties.
- 16-13A-15. Bonds may be secured by trust indenture.
- 16-13A-16. Sinking fund for revenue bonds.
- 16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.
- 16-13A-18. Operating contracts.
- 16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.
- 16-13A-19. Statutory mortgage lien created; foreclosure thereof.
- 16-13A-20. Refunding revenue bonds.
- 16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.
- 16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards.
- 16-13A-23. Validation of acts and proceedings of public service boards.
- 16-13A-24. Acceptance of loans, grants or temporary advances.
- 16-13A-25. Borrowing and bond issuance; procedure.

§ 16-13A-1. Legislative findings

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been

unable to obtain public utility services. To further this effort, and to insure that all areas of the state are benefiting from the availability of public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service commission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts.

Acts 1953, c. 147; Acts 1980, c. 60; Acts 1986, c. 81.

Cross References

County courts, authority to make grants for water and sewer systems, see § 7-1-3t.

Administrative Code References

Sewer utilities regulations, see W. Va. Code St. R. § 150-5-1 et seq.

Library References

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| Counties ⇨18. | C.J.S. Counties § 31. |
| Municipal Corporations ⇨5, 6. | C.J.S. Municipal Corporations § 11. |
| Public Utilities ⇨145. | C.J.S. Public Utilities §§ 26 to 32, 159 to 167, |
| Westlaw Topic Nos. 104, 268, 317A. | 169 to 171, 177 to 178. |

Notes of Decisions

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- Construction and application 3
- Costs 9
- Creation and enforcement of liens 7
- Eminent domain powers 4
- Property of public service district 5
- Rates and charges for service 6

Validity 1

1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6.

§ 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ☞ 123(3); Statutes ☞ 123(5)

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ☞ 4056; Municipal Corporations ☞ 4

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ☞ 4416; Municipal Corporations ☞ 408(1)

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ☞ 2355; Municipal Corporations ☞ 4

2. In general

A public service district may be created for the purpose of furnishing water or sewer services, or both water and sewer services. Code, 16-13A-1. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ☞ 5

Creation and operation of water or sanitary districts or authorities by issuance of revenue bonds payable from revenues are authorized. Code, 16-13A-1 et seq. State ex rel. Appalachian Power Co. v. Gainer, 1965, 143 S.E.2d 351, 149 W.Va. 740. Health ☞ 369; Waters And Water Courses ☞ 183.5

A county court may use Federal Revenue Sharing Funds for ordinary and necessary maintenance and operating expenses for sewage disposal, sanitation, and pollution abatement, and ordinary and necessary capital expenditures authorized by law but may not use such funds for matching purposes under any other federal-aid program. 55 W.Va. Op.Atty.Gen. 116 (June 27, 1973) 1973 WL 159152.

3. Construction and application

A public service district is a public corporation and does not come within constitutional

provision which in substance provides that all corporations shall be created by general laws and which is applicable to private corporations. Acts 1953, c. 147, § 1 et seq.; Const. art. 11, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ☞ 80(3)

4. Eminent domain powers

Where notice, hearing and order with respect to creation of public service district considered only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power to condemn real estate for sewerage facilities. Code, 16-13A-1, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Eminent Domain ☞ 32

Condemnation by public service district is not a taking of private property for private use in violation of applicable constitutional provision. Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain ☞ 13

5. Property of public service district

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ☞ 2289

6. Rates and charges for service

Relief under Federal Securities Act of 1933 was not adequate or sufficient remedy for relief sought by corporations holding sewer revenue bonds of public service district in mandamus proceeding to compel district to establish and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariff reflecting such charges with Public Service Commission, and any relief afforded under provisions of federal statute could not supersede relief which could be granted in mandamus proceeding. Securities Act of 1933, § 1 et seq., 15 U.S.C.A. § 77a et seq.; Code, 16-13A-1 et seq. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ☞ 3(8)

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operation-

Note 6

al and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 110

It was ministerial duty of chairman of public service board of public service district to sign revenue bonds and to assist in effectuating their issuance, and in view of constitutionality of statute authorizing creation of the public service board, relator's showing of legal right to require performance of such duty, was sufficient and writ of mandamus would issue. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇨ 103

7. Creation and enforcement of liens

Public service district's failure to docket notice of lien prior to date purchaser recorded deed of trust prevented district from enforcing sewer lien against purchaser. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Municipal Corporations ⇨ 712(7)

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⇨ 14.6; Municipal Corporations ⇨ 712(7); Waters And Water Courses ⇨ 203(14)

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇨ 222; Municipal Corporations ⇨ 225(1)

8. Admissibility of evidence

Extrinsic evidence relating to background and negotiations with regard to forming a public service district were not admissible in regard to construction of a contract for furnishing of water, where contract language was clear and unambiguous that district was to furnish water as customer should require. Berkeley County Public Service Dist. v. Vitro Corp. of America, 1968, 162 S.E.2d 189, 152 W.Va. 252. Evidence ⇨ 448

9. Costs

Costs of proceeding whereby constitutionality of statute authorizing creation of public service districts was tested would not be taxed against defendant who was chairman of public service board and who, honestly and in good faith, though mistakenly, endeavored to perform his duty in refusing to sign revenue bonds, and each litigant would pay his own costs. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇨ 190

§ 16-13A-1a. Jurisdiction of the public service commission

The jurisdiction of the public service commission relating to public service districts shall be expanded to include the following powers and such powers shall be in addition to all other powers of the public service commission set forth in this code:

(a) To study, modify, approve, deny or amend the plans created under section one-b of this article for consolidation or merger of public service districts and their facilities, personnel or administration;

(b) To petition the appropriate circuit court for the removal of a public service district board member or members; and

(c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters.

Acts 1986, c. 81.

Library References

Public Utilities ⇨145.

Westlaw Topic No. 317A.

C.J.S. Public Utilities §§ 26 to 32, 159 to 167,
169 to 171, 177 to 178.

Notes of Decisions

In general 1

1995, 464 S.E.2d 777, 195 W.Va. 135. Public
Utilities ⇌ 123

1. In general

Statute clearly and unambiguously gives Public Service Commission (PSC) power to reduce or increase utility rates whenever it finds that existing rate is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provision of legislation governing Commission. Code, 24-1-1 et seq., 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist.,

Legislature sought to establish in Public Service Commission (PSC) governmental entity which would protect public from unfair rates and practices by public utilities and also ensure that public utilities are given competitive return for their stockholders. Code, 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇌ 123; Public Utilities ⇌ 129

§ 16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts

Each county commission shall conduct a study of all public service districts which have their principal offices within its county and shall develop a plan relating to the creation, consolidation, merger, expansion or dissolution of such districts or the consolidation or merger of management and administrative services and personnel and shall present such plan to the public service commission for approval, disapproval, or modification: Provided, That within ninety days of the effective date of this section each county commission in this state shall elect either to perform its own study or request that the public service commission perform such study. Each county commission electing to perform its own study has one year from the date of election to present such plan to the public service commission. For each county wherein the county commission elects not to perform its own study, the public service commission shall conduct a study of such county. The public service commission shall establish a schedule for such studies upon a priority basis, with those counties perceived to have the greatest need of creation or consolidation of public service districts receiving the highest priority. In establishing the priority schedule, and in the performance of each study, the bureau of public health and the division of environmental protection shall offer their assistance and cooperation to the public service commission. Upon completion by the public service commission of each study, it shall be submitted to the appropriate county commission for review and comment. Each county commission has six months in which to review the study conducted by the public service commission, suggest changes or modifications thereof, and present such plan to the public service commission. All county plans, whether conducted by the county commission itself or submitted as a result of a public service commission study, shall, by order, be approved, disapproved or modified by the public service commission in accordance with rules promulgated by the public service commission and such order shall be implemented by the county commission.

Acts 1986, c. 81; Acts 1994, c. 61.

Cross References

Public Service Commission, participation in studies, see § 24-1-1b.

Library References

Counties \S 18, 47.
Westlaw Topic No. 104.
C.J.S. Counties \S 31, 70 to 73.

§ 16-13A-1c. General purpose of districts

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water, sewerage or stormwater services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with: (1) The diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"); (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills"); (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"); or (4) the collection, control or disposal of stormwater (herein sometimes referred to as "stormwater system" or "stormwater systems"), or (5) the management, operation, maintenance and control of stormwater and stormwater systems (herein sometimes referred to as "stormwater management program" or "stormwater management programs"). As used in this article "stormwater system" or "stormwater systems" means a stormwater system in its entirety or any integral part thereof used to collect, control or dispose of stormwater, and includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations: Provided, That the term "stormwater system" or "stormwater systems" does not include highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways. As used in this article "stormwater management program" or "stormwater management programs" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater systems, and includes, but is not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforce-

ment and any other activities required by state and federal law: Provided, however, That the term "stormwater management program" or "stormwater management programs" does not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways.

Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ☞18.	C.J.S. Counties § 31.
Gas ☞12.	C.J.S. Gas §§ 43 to 45.
Municipal Corporations ☞5, 6.	C.J.S. Municipal Corporations § 11.
Waters and Water Courses ☞183.5.	C.J.S. Waters §§ 483, 543 to 581.
Westlaw Topic Nos. 104, 190, 268, 405.	

§ 16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the Secretary of State

(a) The county commission of any county may propose the creation, enlargement, reduction, merger, dissolution, or consolidation of a public service district by any of the following methods: (1) On its own motion by order duly adopted, (2) upon the recommendation of the Public Service Commission, or (3) by petition of twenty-five percent of the registered voters who reside within the limits of the proposed public service district within one or more counties. The petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district: *Provided*, That after the effective date of this section, no new public service district shall be created, enlarged, reduced, merged, dissolved or consolidated under this section without the written consent and approval of the Public Service Commission, which approval and consent shall be in accordance with rules promulgated by the Public Service Commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included regardless of whether or not the territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: *Provided, however*, That the same territory shall not be included within the boundaries of more than one public service district except where the territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services, stormwater services or gas facilities not being furnished within such territory or part thereof: *Provided further*, That no city, incorporated town or other municipal corporation shall be included within the boundaries of the proposed district

except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

(b) The petition shall be filed in the office of the clerk of the county commission of the county in which the territory to constitute the proposed district is situated, and if the territory is situated in more than one county, then the petition shall be filed in the office of the clerk of the county commission of the county in which the major portion of the territory extends, and a copy thereof (omitting signatures) shall be filed with each of the clerks of the county commission of the other county or counties into which the territory extends. The clerk of the county commission receiving such petition shall present it to the county commission of the county at the first regular meeting after the filing or at a special meeting called for the consideration thereof.

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. Within ten days of fixing the date of hearing, the county commission shall provide the Executive Secretary of the Public Service Commission with a copy of the order or petition and notification of the time and place of the hearing to be held by the county commission. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for the publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to the hearing.

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing

the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

(e) All persons residing in or owning or having any interest in property in the proposed public service district shall have an opportunity to be heard for and against its creation, enlargement, reduction, merger, dissolution or consolidation. At the hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by the public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create, enlarge, reduce, merge, dissolve or consolidate such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of the area or that the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create, enlarge, reduce, merge, dissolve or consolidate the district as amended.

(f) If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by enlargement, reduction, merger, dissolution or consolidation, it shall refuse to enter the order, but shall enter an order creating, enlarging, reducing, merging, dissolving or consolidating the area with an existing public service district, in accordance with rules adopted by the Public Service Commission for such purpose: *Provided*, That no enlargement of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the Public Service Commission to be inadequate to provide such enlarged service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, enlarging, reducing, merging, dissolving or consolidating the district: *Provided, however*, That within ten days after the entry of an order creating, enlarging, reducing, merging, dissolving or consolidating a district, such order must be filed for review and approval by the Public Service Commission. The Public Service Commission may provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The Public Service Commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts. The provisions of this section shall not apply to the implementation by a county commission of an order issued by the Public Service Commission pursuant to this section and section one-b, of this article.

(g) The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or create or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations: *Provided*, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive, all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the Public Service Commission shall apply. The Commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: *Provided, however*, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article.

(h) A list of all districts and their current board members shall be filed by the county commission with the Secretary of State and the Public Service Commission by the first day of July of each year.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1967, c. 105; Acts 1975, c. 140; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1995, c. 125, eff. 90 days after March 11, 1995; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2005, c. 195, eff. 90 days after April 9, 2005.

Library References

Counties ⇨47.
Municipal Corporations ⇨6.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 70 to 73.
C.J.S. Municipal Corporations § 11.

Notes of Decisions

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ter and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇨ 123(3); Statutes ⇨ 123(5)

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24

1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying wa-

State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 2355; Municipal Corporations ⇨ 4

2. Creation of public service districts

Where notice, hearing and order with respect to creation of public service district considered only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power to condemn real estate for sewerage facilities. Code, 16-13A-1, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Eminent Domain ⇨ 32

Where public service district was created for purpose of furnishing water services, county court had authority to add sewerage services to the facilities of the district under appropriate proceedings. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇨ 270

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇨ 222; Municipal Corporations ⇨ 225(1)

3. District boundaries

Public service district statute that allowed county commission to designate district's boundaries did not also empower commission to make service territories exclusive, displacing Public Service Commission's (PSC) authority to determine service rights. Code, 16-13A-2. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Counties ⇨ 47

4. Notice of hearing

Provisions of statute, with respect to creation of public service districts, which relate to the filing of the petition or motion of the county court, the description of the territory to be embraced, and like provisions are mandatory; but, despite use of the word "shall," the require-

ments for posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇨ 12(3); Municipal Corporations ⇨ 12(6)

Though record with respect to creation of public service district was silent with respect to posting of notice of hearing and as to whether hearing was not more than 40 nor less than 20 days after his fixing the date for hearing as provided by statute, there was substantial compliance with statute where hearing was set some time prior to the date of the hearing, there was publication of notice more than ten days prior to the date of the hearing as required, and there were no objections either before, during or after the hearing to the creation of the district or to the procedures employed in its creation. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇨ 12(6)

5. Number of voters within district

Public service district was not void because there were not 100 legal voters owning property within the district. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇨ 6

6. Costs

Costs of proceeding whereby constitutionality of statute authorizing creation of public service districts was tested would not be taxed against defendant who was chairman of public service board and who, honestly and in good faith, though mistakenly, endeavored to perform his duty in refusing to sign revenue bonds, and each litigant would pay his own costs. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇨ 190

7. Referendum

A public service district, once created by county court, not subject to referendum on issue to continue or be abolished. 52 W.Va. Op. Atty. Gen. 33 (August 11, 1966) 1966 WL 87428.

§ 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into

contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, or for furnishing stormwater services for the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district, who possess certain educational, business or work experience which will be conducive to operating a public service district. Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the public service commission in conjunction with the division of environmental protection and the bureau of public health. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the district nor shall a former board member be hired by the district in any capacity within a minimum of twelve months after board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

Each city, incorporated town or other municipal corporation having a population of more than three thousand but less than eighteen thousand is entitled to appoint one member of the board, and each city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission which entered the order creating the district, the persons so appointed become members of the board without any further act or proceedings. If the number of members of the board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the district equals or exceeds three, then no further members shall be appointed to the board and the members so appointed are the board of the district except in cases of merger or consolidation where the number of board members may equal five.

If no city, incorporated town or other municipal corporation having a population of more than three thousand is included within the district, then the county commission which entered the order creating the district shall appoint three members of the board, who are persons residing within the district and residing within the state of West Virginia, which three members become members of the board of the district without any further act or proceedings except in cases of merger or consolidation where the number of board members may equal five.

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to make the number of members of the board equal three except in cases of merger or consolidation where the number of board members may equal five, and the member or members appointed by the governing bodies of the cities, incorporated towns or other municipal corporations included within the district and the additional member or members appointed by the county commission as aforesaid, are the board of the district. A person may serve as a member of the board in one or more public service districts.

The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of the board, if any, to be appointed by the governing body or bodies thereof, is the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the public service commission. Whenever districts are consolidated or merged no provision of this code prohibits the expansion of membership on the new board to five.

The respective terms of office of the members of the first board shall be fixed by the county commission and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four years, the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office: Provided, That any member or members of the board may be removed from their respective office as provided in section three-a of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six

years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed. The district shall provide to the public service commission, within thirty days of the appointment, the following information: The new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board. The public service commission shall notify each new board member of the legal obligation to attend training as prescribed in this section.

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chair and by appointing a secretary and a treasurer who need not be members of the board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. Duplicate records shall be filed with the county commission and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds of the public service district and shall pay same out on orders authorized or approved by the board. The secretary and treasurer shall perform other duties appertaining to the affairs of the district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and benefit of the district.

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1971, c. 72; Acts 1981, c. 124; Acts 1983, c. 166; Acts 1986, c. 81; Acts 1994, c. 61; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Law Review and Journal Commentaries

The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ? John W. Fisher, II, 98 W. Va. L. Rev. 449 (1996).

tion of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

"Yes, West Virginia, there is a special priority for the purchase money mortgage." The recog-

Library References

Counties ⇨18.
Municipal Corporations ⇨6.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

Notes of Decisions

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Standard of care 2

Tort Claims Act 7

1. In general

Board members of the Mt. Zion Public Service District cannot be compensated for performing the duties of treasurer and/or secretary

for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

2. Standard of care

Public service district owes duty of reasonable care to avoid damage to property of others with respect to maintenance of water lines. *McCloud v. Salt Rock Water Public Service Dist.*, 2000, 533 S.E.2d 679, 207 W.Va. 453. *Waters And Water Courses* ⇨ 205

3. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61-10-15. *State v. Neary*, 1987, 365 S.E.2d 395, 179 W.Va. 115. *Courts* ⇨ 55; *Judges* ⇨ 21

4. Removal of members

Public Service District board member can be removed by majority vote of registered voters. 51 W.Va. Op.Atty.Gen. 564 (November 10, 1965) 1965 WL 92492.

5. Criminal responsibility of members

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61-10-15. *State v. Neary*, 1987, 365 S.E.2d 395, 179 W.Va. 115. *Counties* ⇨ 60

6. Sale of water

Public Service Districts may sell, at wholesale, bulk water to other municipal corporations. 51 W.Va. Op.Atty.Gen. 739 (March 16, 1966) 1966 WL 87469.

7. Tort Claims Act

Tort Claims Act's protection extended to public service districts, under the Act's definition of political subdivision, which included the term "public service districts," despite general authorization for public service districts to "sue and be sued," in the Public Health statutes. *Zirkle v. Elkins Road Public Service Dist.*, 2007, 655 S.E.2d 155. *Waters And Water Courses* ⇨ 183.5

§ 16-13A-3a. Removal of members of public service board

The county commission or the public service commission or any other appointive body creating or establishing a public service district under the provisions of this article, or any group of five percent or more of the customers of a public service district, may petition the circuit court of the county in which the district maintains its principal office for the removal of any member of the governing board thereof for consistent violations of any provisions of this article, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failure to diligently pursue the objectives for which the district was created, or failure to perform any other duty either prescribed by law or required by a final order of the public service commission or for any malfeasance in public office. Any board member charged with a violation under this section who offers a successful defense against such charges shall be reimbursed for the reasonable costs of such defense from district revenues. Such costs shall be considered as costs associated with rate determination by the public service district and the public service commission. If the circuit court judge hearing the petition for removal finds that the charges are frivolous in nature, the judge may assess all or part of the court costs, plus the reasonable costs associated with the board member's defense, against the party or parties who petitioned the court for the board member's removal.

Acts 1963, c. 75; Acts 1971, c. 72; Acts 1981, c. 124; Acts 1986, c. 81.

Library References

Counties ⇨ 45.
 Public Utilities ⇨ 145.
 Westlaw Topic Nos. 104, 317A.

C.J.S. Counties § 67.
 C.J.S. Public Utilities §§ 26 to 32, 159 to 167,
 169 to 171, 177 to 178.

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is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Courts ⇨ 55; Judges ⇨ 21

1. Criminal responsibility of members

Upon becoming member of county commission, person who is pecuniarily interested in proceeds of any contract or service with public service district violates criminal conflict of interest statute; by virtue of that position, that person has some voice, influence, or control over continuation of contract. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇨ 60

2. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute

3. Sufficiency of evidence

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇨ 60

Conflict of interest indictment against county commissioner was sufficient even though it did not characterize commissioner's interest as pecuniary, and commissioner was not entitled to bill of particulars. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇨ 60

§ 16-13A-4. Board chairman; members' compensation; procedure; district name

(a) The chairman shall preside at all meetings of the board and may vote as any other member of the board. If the chairman is absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting.

(b) Salaries of the board members are:

(1) For districts with fewer than six hundred customers, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with six hundred customers or more but fewer than two thousand customers, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with two thousand customers or more, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five

dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with four thousand or more customers, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served to the Public Service Commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter.

(c) Public service districts selling water to other water utilities for resale may adopt the following salaries for its board members:

(1) For districts with annual revenues of less than fifty thousand dollars, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with annual revenues of fifty thousand dollars or more, but less than two hundred fifty thousand dollars, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with annual revenues of two hundred fifty thousand dollars or more, but less than five hundred thousand dollars, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with annual revenues of five hundred thousand dollars or more, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served and its annual revenue to the public service commission beginning on the first day of July, two thousand, and continue each fiscal year thereafter.

(d) Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules of the board.

(e) The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three, article nine-a, chapter six of this code. Emergency meetings may be called as provided for by said section. A majority of the members constituting the board also constitute a quorum to do business.

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful

misconduct in the performance of their duties. The county commission which created a district or county commissions if more than one created the district may, upon written request of the district, adopt an order changing the official name of a public service district: *Provided*, That such name change will not be effective until approved by the public service commission of West Virginia and the owners of any bonds and notes issued by the district, if any, shall have consented, in writing, to the name change. If a district includes territory located in more than one county, the county commission or county commissions changing the name of the district shall provide any county commission into which the district also extends with a certified copy of the order changing the name of the district. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2000, c. 199, eff. 90 days after March 11, 2000; Acts 2005, c. 196, eff. 90 days after April 8, 2005.

Library References

Counties ⇨68, 87.
Municipal Corporations ⇨161.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 107 to 118, 128.
C.J.S. Municipal Corporations §§ 372 to 390.

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In general 1

1. In general

Board members of the Mt. Zion Public Service District cannot be compensated for per-

forming the duties of treasurer and/or secretary for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

§ 16-13A-5. General manager of board

The board may employ a general manager to serve a term of not more than five years and until his or her successor is employed, and his or her compensation shall be fixed by resolution of the board. Such general manager shall devote all or the required portion of his or her time to the affairs of the district and may employ, discharge and fix the compensation of all employees of the district, except as in this article otherwise provided, and he or she shall perform and exercise such other powers and duties as may be conferred upon him or her by the board.

Such general manager shall be chosen without regard to his or her political affiliations and upon the sole basis of his or her administrative and technical qualifications to manage public service properties and affairs of the district and he or she may be discharged only upon the affirmative vote of two thirds of the board. Such general manager need not be a resident of the district at the time he or she is chosen. Such general manager may not be a member of the board but shall be an employee of the board.

The board of any public service district which purchases water, sewer or stormwater service from a municipal water, sewer or stormwater system or

another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water, sewer or stormwater system or public service district from which such water, sewer or stormwater service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ☞65, 68.	C.J.S. Counties §§ 101 to 103, 107 to 118.
Municipal Corporations ☞149, 161.	C.J.S. Municipal Corporations §§ 361 to 366,
Westlaw Topic Nos. 104, 268.	368, 372 to 390.

§ 16-13A-6. Employees of board

The board may in its discretion from time to time by resolution passed by a majority vote provide for the employment of an attorney, fiscal agent, one or more engineers and such other employees as the board may determine necessary and expedient. The board shall in and by such resolution fix the term of employment and compensation and prescribe the duties to be performed by such employees.

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ☞65, 68, 87.	C.J.S. Municipal Corporations §§ 361 to 366,
Municipal Corporations ☞149, 161, 170.	368, 372 to 405.
Westlaw Topic Nos. 104, 268.	
C.J.S. Counties §§ 101 to 103, 107 to 118,	
128.	

§ 16-13A-7. Acquisition and operation of district properties

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three, chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent

possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.

Acts 1953, c. 147; Acts 1967, c. 105; Acts 1981, c. 124; Acts 1982, c. 24; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

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| Counties ☞107. | C.J.S. Counties § 147. |
| Municipal Corporations ☞711. | C.J.S. Municipal Corporations § 1535. |
| Public Utilities ☞114. | C.J.S. Public Utilities §§ 5 to 9, 202 to 207. |
| Westlaw Topic Nos. 104, 268, 317A. | |

§ 16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether or not all or any part of such properties are located within the corporate limits of any city, incorporated town or other municipal corporation included within the district and may purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

The board may construct any public service properties within or outside the district necessary or incidental to its purposes and each such district may acquire, construct, maintain and operate any such public service properties within the corporate limits of any city, incorporated town or other municipal corporation included within the district or in any unincorporated territory within ten miles of the territorial boundaries of the district: Provided, That if any incorporated city, town or other municipal corporation included within the district owns and operates either water facilities, sewer facilities, stormwater facilities or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon the approval of the public service commission, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding

and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

Whenever such district has constructed, acquired or established water facilities, sewer facilities, a stormwater system, stormwater management program or gas facilities for water, sewer, stormwater or gas services within any city, incorporated town or other municipal corporation included within a district, then such city, incorporated town or other municipal corporation may not thereafter construct, acquire or establish any facilities of the same kind within such city, incorporated town or other municipal corporation without the consent of such district.

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That the power of eminent domain provided in this section does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways: Provided, however, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof.

Acts 1953, c. 147; Acts 1980, c. 60; Acts 1981, c. 124; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

- Counties ¶103, 104.
- Eminent Domain ¶6, 16.
- Municipal Corporations ¶221, 224.
- Westlaw Topic Nos. 104, 148, 268.
- C.J.S. Counties §§ 143 to 144, 147.
- C.J.S. Municipal Corporations §§ 873 to 880.
- C.J.S. Property § 17.

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- 1. **Validity**
Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying wa-

Note 1

ter and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇨ 123(3); Statutes ⇨ 123(5)

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⇨ 2289

2. In general

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 2510

3. Eminent domain powers

Although construction of new facility proposed by utility will often require taking of private property through eminent domain, absent express statutory language Public Service Commission (PSC) has no duty to review and decide issues that are inherent in eminent domain proceeding. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Public Utilities ⇨ 114

Statute providing that private property may be taken or damaged for a number of specified purposes is consonant with organic law and is constitutional. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain ⇨ 3

4. Valuation of property

Although landowner is competent to give estimate of value of property in eminent domain proceeding, that valuation is not conclusive; government agency may rely on appraisal report concerning estimated value of property to

be taken. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Evidence ⇨ 568(4)

5. Environmental assessment

Whether construction of sewage lagoons would constitute "nuisance" does not defeat Public Service Commission's (PSC) jurisdiction to issue certificate of public convenience and necessity; while PSC may assess environmental considerations, chief inquiry by PSC is need of public for project. Code, 24-2-11. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations ⇨ 708

6. Connections with sewers or drains

City, rather than sewer and water districts, was entitled to provide sewer and water services to newly developed tract that was within districts' boundaries, but was annexed to city, where such services were not previously furnished to tract. Code, 16-13A-8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⇨ 712(1); Waters And Water Courses ⇨ 201

If a tract of real estate located within a public service district has been annexed into a municipality, then, as between the municipality and the public service district, the municipality has the superior right to extend water and/or sewer service which were not being previously furnished to the tract by the public service district, and under those circumstances, a public service district would need the consent of the municipality and the Public Service Commission (PSC) in order to provide such service. Code, 16-13A-8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⇨ 712(1); Waters And Water Courses ⇨ 201; Waters And Water Courses ⇨ 202

7. Public corporation

A public service district is a public corporation and does not come within constitutional provision which in substance provides that all corporations shall be created by general laws and which is applicable to private corporations. Acts 1953, c. 147, § 1 et seq.; Const. art. 11, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇨ 80(3)

§ 16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management,

maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district. The board shall establish rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees and charges may be based upon:

(A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;

(B) The number and kind of fixtures connected with the facilities located on the various premises;

(C) The number of persons served by the facilities;

(D) Any combination of paragraphs (A), (B) and (C) of this subdivision; or

(E) May be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia division of highways.

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight, article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or fifty dollars, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or fifty dollars and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or fifty dollars. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or fifty dollars

has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the public service commission may prescribe: *Provided*, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent.

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or sewer facilities, and the district owns and operates the other kind of facilities either water or sewer, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer service fees and charges: *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the public service commission for approval. Any public service district providing water and sewer service to its customers has the right to terminate water service for delinquency in payment of either water or sewer bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer district is providing water service, and the district providing sewer service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer district that is providing water service, upon the request of the district providing sewer service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer account: *Provided, however*, That any termination of water service must comply with all rules and orders of the public service commission.

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the division of health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the division of health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where

there is gravity flow or transportation by any other methods approved by the division of health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the division of health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant or occupant and sewage will flow by gravity or be transported by other methods approved by the division of health from the house, dwelling or building into the sewer facilities, the district may charge, and the owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner, tenant or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's or occupant's specific customer class.

(e) Whenever any district has made available a stormwater system to any owner, tenant or occupant of any real property located near the stormwater system and where stormwater from real property affects or drains into the stormwater system, it is hereby found, determined and declared that the owner, tenant or occupant is being served by the stormwater system and it is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge, and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater services established under this article only after thirty-day notice of the availability of the stormwater system has been received by the owner.

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipi-

pal taxes. In addition to the other remedies provided in this section, public service districts are granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer, stormwater or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts: *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property, unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three, article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven, article eleven, chapter twenty-two of this code, is exempt from the provisions of this section.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 174; Acts 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days after March 8, 2003.

Law Review and Journal Commentaries

The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ? John W. Fisher, II, 98 W. Va. L. Rev. 449 (1996).

"Yes, West Virginia, there is a special priority for the purchase money mortgage:" The recog-

nition of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

Library References

Gas ☞14.6.
Municipal Corporations ☞712.
Waters and Water Courses ☞203.
Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.
C.J.S. Municipal Corporations § 1535.
C.J.S. Waters §§ 483, 666 to 732.

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applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A. Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ☞ 4416; Municipal Corporations ☞ 408(1)

1. Validity

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or

2. Takings

Public service district's requiring property owner to connect onto its sewer system and to abandon private sewer system located on property was not a taking of private property without just compensation. Const. Art. 3, § 9, Code, 16-13A-9; U.S.C.A. Const. Amend. 5. Kingmill Valley Public Service Dist. v. River

view Estates Mobile Home Park, Inc., 1989, 386 S.E.2d 483, 182 W.Va. 116. Eminent Domain ⇨ 2.18

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 2510

3. Public service district liens

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⇨ 14.6; Municipal Corporations ⇨ 712(7); Waters And Water Courses ⇨ 203(14)

Public service district's failure to docket notice of lien prior to date purchaser recorded deed of trust prevented district from enforcing sewer lien against purchaser. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Municipal Corporations ⇨ 712(7)

If owner, tenant or occupant of garage apartment did not receive notice that public service district's sewer facilities were available for apartment, district would have been without statutory authority to impose charges and a lien against apartment for sewer services, though the apartment was on a lot containing another dwelling which was properly subject to sewer service charges. Code, 16-13A-9, 16-13A-21. Rhodes v. Malden Public Service Dist., 1983, 301 S.E.2d 601, 171 W.Va. 645. Municipal Corporations ⇨ 712(7)

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Muni-

pal Corporations ⇨ 222; Municipal Corporations ⇨ 225(1)

4. Rates and charges for service

Statute clearly and unambiguously gives Public Service Commission (PSC) power to reduce or increase utility rates whenever it finds that existing rate is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provision of legislation governing Commission. Code, 24-1-1 et seq., 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇨ 123

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 110

Duty imposed on public service district, a public corporation and political subdivision of state, to establish rates and charges sufficient to pay cost of maintenance, operation and depreciation of properties of district and principal of and interest on all bonds issued by district is nondiscretionary duty which may be enforced by mandamus. Code, 16-13A-9. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 80

5. Notice of availability of sewer service

Issue of fact as to whether owner or tenant had received notice that public service district's sewer services were available for garage apartment, so as to allow imposition of sewer service charges and a lien against apartment, was not appropriate for resolution in mandamus proceeding. Code, 16-13A-9, 16-13A-21. Rhodes v. Malden Public Service Dist., 1983, 301 S.E.2d 601, 171 W.Va. 645. Mandamus ⇨ 174

§ 16-13A-9a. Limitations with respect to foreclosure

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that

the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought.

Acts 1982, c. 74.

Library References

Gas ☞14.6.
Municipal Corporations ☞712.
Waters and Water Courses ☞203.
Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.
C.J.S. Municipal Corporations § 1535.
C.J.S. Waters §§ 483, 666 to 732.

§ 16-13A-10. Budget

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board.

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ☞154.5.
Municipal Corporations ☞879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered

by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ☞ 110

§ 16-13A-11. Accounts; audit

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders

pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine, chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

The treasurer of each public service district shall keep and preserve all financial records of the public service district for ten years, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81.

Library References

Counties ⇨154.5.	C.J.S. Municipal Corporations §§ 1621 to
Municipal Corporations ⇨879.	1622.
Westlaw Topic Nos. 104, 268.	

§ 16-13A-12. Disbursement of district funds

No money may be paid out by a district except upon an order signed by the chairman and secretary of such board, or such other person or persons authorized by the chairman or secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the board.

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ⇨158.	C.J.S. Counties § 198.
Municipal Corporations ⇨883.	C.J.S. Municipal Corporations §§ 1626, 1635.
Westlaw Topic Nos. 104, 268.	

§ 16-13A-13. Revenue bonds

For constructing or acquiring any public service properties for the authorized purposes of the district, or necessary or incidental thereto, and for constructing improvements and extensions thereto, and also for reimbursing or paying the costs and expenses of creating the district, the board of any such district is hereby authorized to borrow money from time to time and in evidence thereof issue the bonds of such district, payable solely from the revenues derived from the operation of the public service properties under control of the district. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may bear interest at such rate or rates not exceeding eighteen percent per annum payable at such times, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption with or without premium, may be declared or become due before maturity date thereof, may be authenticated in any manner, and upon compliance with such conditions, and may contain such terms and covenants as may be provided by resolution or resolutions of the board. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof, that the bond is nonnegotiable, all such bonds shall be, and shall be treated as, negotiable instruments for all purposes. Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed nineteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized.

Acts 1953, c. 147; Acts 1970, c. 11; Acts 1970, c. 12; Acts 1970, 1st Ex. Sess., c. 2; Acts 1980, c. 33; Acts 1981, 1st Ex. Sess., c. 2; Acts 1989, c. 174.

Library References

Counties ☞174.

Municipal Corporations ☞911.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 218.

C.J.S. Municipal Corporations §§ 1647 to 1649.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such

charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 110

Two acts amending same Code section in same manner except as to maximum interest rate of bonds, enacted on same date at same legislative session, and impossible to determine which passed after the other, that having lower maximum interest rate will govern. 53 W.Va. Op.Atty.Gen. 418 (April 8, 1970) 1970 WL 116579.

§ 16-13A-14. Items included in cost of properties

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, water quality improvement activities necessary to comply with all federal and state requirements; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof.

Acts 1953, c. 147; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇨ 154.5.

Municipal Corporations ⇨ 879.

Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

§ 16-13A-15. Bonds may be secured by trust indenture

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable

and proper, not in violation of law, including covenants setting forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work shall be contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee.

Acts 1953, c. 147.

Library References

Counties ☞183.	C.J.S. Counties § 222.
Municipal Corporations ☞950(15).	C.J.S. Municipal Corporations §§ 1708 to
Westlaw Topic Nos. 104, 268.	1709.

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

§ 16-13A-16. Sinking fund for revenue bonds

At or before the time of the issuance of any bonds under this article the board shall by resolution or in the trust indenture provide for the creation of a sinking fund and for monthly payments into such fund from the revenues of the public service properties operated by the district such sums in excess of the cost of maintenance and operation of such properties as will be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish and maintain reserves therefor. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolutions.

Acts 1953, c. 147.

Library References

Counties ☞186.5.	C.J.S. Municipal Corporations §§ 1704 to
Municipal Corporations ☞951.	1705.
Westlaw Topic Nos. 104, 268.	

§ 16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the operation of the public service properties under its control and to the enforcement of the covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal or interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made with respect to the issuance of such bonds or offered as security therefor, then any holder or holders of such bonds and any such trustee under the trust indenture, if there be one, shall have the right by suit, action, mandamus or other proceeding instituted in the circuit court for the county or any of the counties wherein the district extends, or in any other court of competent jurisdiction, to enforce and compel performance of all duties required by this article or undertaken by the district in connection with the issuance of such bonds, and upon application of any such holder or holders, or such trustee, such court shall, upon proof of such defaults, appoint a receiver for the affairs of the district and its properties, which receiver so appointed shall forthwith directly, or by his agents and attorneys, enter into and upon and take possession of the affairs of the district and each and every part thereof, and hold, use, operate, manage and control the same, and in the name of the district exercise all of the rights and powers of such district as shall be deemed expedient, and such receiver shall have power and authority to collect and receive all revenues and apply same in such manner as the court shall direct. Whenever the default causing the appointment of such receiver shall have been cleared and fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided.

Acts 1953, c. 147.

Library References

Counties Ⓒ188.

Municipal Corporations Ⓒ937, 955.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 226.

C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered

by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇐ 110

§ 16-13A-18. Operating contracts

The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the resolution authorizing the issuance of bonds, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid.

Acts 1953, c. 147.

Library References

Counties ⇐114.
Municipal Corporations ⇐328.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 161.
C.J.S. Municipal Corporations §§ 1027 to 1029.

§ 16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds

In any case where a public service district owns a water, sewer, stormwater or gas system, and a majority of not less than sixty percent of the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer, stormwater or gas system to any municipality or privately-owned water, sewer, stormwater or gas system, or to any water, sewer, stormwater or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer, stormwater or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, in a newspaper published and of general circulation in the county or counties wherein the district is located, such publication to be made not earlier than twenty days and not later than seven days prior to the hearing; (2) approval by the county commission or commissions of the county or counties in which the district operates; and (3) approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer, stormwater or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer, stormwater or gas system is located to be placed in the general funds of such county commission.

Acts 1963, c. 75; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1997, c. 160, eff. 90 days after April 10, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties Ⓒ110.

Municipal Corporations Ⓒ225.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 147.

C.J.S. Municipal Corporations §§ 882 to 892.

§ 16-13A-19. Statutory mortgage lien created; foreclosure thereof

There shall be and is hereby created a statutory mortgage lien upon such public service properties of the district, which shall exist in favor of the holders of bonds hereby authorized to be issued, and each of them, and the coupons attached to said bonds, and such public service properties shall remain subject to such statutory mortgage lien until payment in full of all principal of and interest on such bonds. Any holder of such bonds, of any coupons attached thereto, may, either at law or in equity, enforce said statutory mortgage lien conferred hereby and upon default in the payment of the principal of or interest on said bonds, may foreclose such statutory mortgage lien in the manner now provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property.

Acts 1953, c. 147.

Library References

Counties Ⓒ188.

Municipal Corporations Ⓒ937, 955.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 226.

C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property

of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations Ⓒ 222; Municipal Corporations Ⓒ 225(1)

§ 16-13A-20. Refunding revenue bonds

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding

bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded.

Acts 1953, c. 147.

Library References

Counties ⇨175.

Municipal Corporations ⇨913.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 218.

C.J.S. Municipal Corporations §§ 1647 to 1648, 1651.

§ 16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption

This article is full and complete authority for the creation of public service districts and for carrying out the powers and duties of same as herein provided. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals, are required in connection therewith except as may be prescribed by this article: Provided, That all functions, powers and duties of the public service commission of West Virginia, the bureau of public health, the division of environmental protection and the environmental quality board remain unaffected by this article. Every district organized, consolidated, merged or expanded under this article is a public instrumentality created and functioning in the interest and for the benefit of the public, and its property and income and any bonds issued by it are exempt from taxation by the state of West Virginia, and the other taxing bodies of the state: Provided, however, That the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent.

Acts 1953, c. 147; Acts 1986, c. 81; Acts 1994, c. 61.

Library References

Counties ⇨18.

Municipal Corporations ⇨5.

Taxation ⇨2316, 3519.

Westlaw Topic Nos. 104, 268, 371.

C.J.S. Counties § 31.

C.J.S. Municipal Corporations § 11.

Notes of Decisions

In general 2
Validity 1

1. Validity

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953,

c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 4056; Municipal Corporations ⇨ 4

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional

delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ☞ 2355; Municipal Corporations ☞ 4

2. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl,

1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ☞ 222; Municipal Corporations ☞ 225(1)

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ☞ 123(3); Statutes ☞ 123(5)

§ 16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards

All acts and proceedings taken by any county court of this State purporting to have been carried out under the provisions of this article which have been taken, prior to the date this section takes effect, for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service districts, after notice published by any such county court having territorial jurisdiction thereof of its intention to include such additional territory after hearing thereon, are hereby validated, ratified, approved and confirmed notwithstanding any other lack of power (other than constitutional) of any such county court to create such public service districts or to include additional territory to existing public service districts or irregularities (other than constitutional) in such proceedings, relating to the appointment and qualification of more than three members to the board of any such public service district or the subsequent appointment of successors of any or all of such members, notwithstanding that no city, incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, and the appointment and qualification of such members, and further including any irregularities in the petition for the creation of any public service district, irregularities in the description of the area embraced by such district, and irregularities in the notice and publication of notice for the hearing creating such district, prior to the date this section takes effect, is hereby validated, ratified, approved and confirmed; and, further, in such cases where more than three members of the board of such districts have been so appointed prior to the date this section takes effect then such county court shall appoint, and they are hereby authorized and empowered to appoint, successors to such members in the manner as otherwise provided by this article.

Acts 1958, c. 14; Acts 1960, c. 19.

W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.

Library References

Counties ⇨18.
Municipal Corporations ⇨5.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

§ 16-13A-23. Validation of acts and proceedings of public service boards

All acts and proceedings taken by any public service board the members of which were appointed, prior to the date this section takes effect, by any county court of this State having territorial jurisdiction thereof, are hereby validated, ratified, approved and confirmed, as to defects and irregularities which may otherwise exist on account of their appointment and qualification: Provided, however, That nothing herein contained shall be construed to excuse a criminal act.

Acts 1958, c. 14; Acts 1960, c. 19; Acts 1965, c. 134.

W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.

Library References

Counties ⇨47.
Municipal Corporations ⇨166.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 70 to 73.
C.J.S. Municipal Corporations §§ 369 to 371.

§ 16-13A-24. Acceptance of loans, grants or temporary advances

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems, stormwater systems or stormwater management systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system, stormwater system or associated stormwater management system or gas facilities, or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary

advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

Acts 1958, c. 14; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 118; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties Ⓒ149.

Municipal Corporations Ⓒ864(3).

Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 185, 187.

C.J.S. Municipal Corporations §§ 1583 to 1585, 1587.

Notes of Decisions

In general 1

note, is permissible borrowing under this section. 62 W.Va. Op.Atty.Gen. 27 (May 6, 1988) 1988 WL 483331.

1. In general

The borrowing by PSD's of money from counties and/or municipalities, as evidenced by a

§ 16-13A-25. Borrowing and bond issuance; procedure

(a) Notwithstanding any other provisions of this article to the contrary, a public service district may not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four of this article without the prior consent and approval of the Public Service Commission: *Provided*, That approval of funding set forth in section eleven, article two, chapter twenty-four of this code or this section is not required if the funding is for a project which has received a certificate of public convenience and necessity after the eighth day of July, two thousand five, from the commission and where the cost of the project changes but the change does not affect the rates established for the project.

(b) The Public Service Commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, a verified statement by the board members that the public service district has complied with chapter five-g of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to:

(1) Experience with the same engineering firm; or

(2) Completion of a construction project requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver.

(c) An engineering contract that meets one or more of the following criteria is exempt from the waiver or approval requirements:

(1) A contract with a public service district that is a Class A utility on the first day of April, two thousand three, or subsequently becomes a Class A utility as defined by commission rule;

(2) A contract with a public service district that does not require borrowing and that can be paid out of existing rates;

(3) A contract where the payment of engineering fees are contingent upon the receipt of funding, and commission approval of the funding, to construct the project which is the subject of the contract; or

(4) A contract that does not exceed fifteen thousand dollars.

(d) Requests for approval or waivers of engineering contracts shall be deemed granted thirty days after the filing date unless the staff of the Public Service Commission or a party files an objection to the request. If an objection is filed, the Public Service Commission shall issue its decision within one hundred twenty days of the filing date. In the event objection is received to a request for a waiver, the application shall be considered a request for waiver as well as a request for approval in the event a waiver is not appropriate.

(e) Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the Public Service Commission in accordance with the provision of chapter twenty-four of this code when a public service district is seeking to acquire or construct public service property.

Acts 1969, 1st Ex. Sess., c. 6; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1996, c. 213, eff. 90 days after March 9, 1996; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2003, c. 184, eff. 90 days after March 7, 2003; Acts 2005, c. 193, eff. 90 days after April 9, 2005; Acts 2006, c. 190, eff. 90 days after March 10, 2006.

Library References

Counties ☞114.
Municipal Corporations ☞270.
Public Utilities ☞145.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 161.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Research References

ALR Library

101 ALR 5th 287, Remedies for Sewage Treatment Plant Alleged or Deemed to be Nuisance.

Notes of Decisions

In general 1

Certificate of public convenience and necessity 2

1. In general

Proposed sewage treatment project complied with buffer zone requirements where all parties acknowledged that distance of proposed sewage lagoons from property owners' home was further than minimum buffer-zone requirement of 300 feet; Public Service Commission relied on ample evidence in record to support claim that proposed location was both cost-effective and

environmentally sound. Code, 16-13A-25 24-2-11, 24-2-11(a). Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305 Municipal Corporations ☞ 708

2. Certificate of public convenience and necessity

Public Service district must obtain certificate of public convenience and necessity before it can acquire or construct public service property. Code, 16-13A-25. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305 Public Utilities ☞ 113

Section
16-13B-1.
16-13B-2.
16-13B-3.

16-13B-4.
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16-13B-6.
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16-13B-10.

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16-13B-14.
16-13B-15.

16-13B-16.
16-13B-17.
16-13B-18.
16-13B-19.
16-13B-20.
16-13B-21.

16-13B-22. 1

§ 16-13B-

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§ 16-13B-2

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ARTICLE 13A
PUBLIC SERVICE DISTRICTS

Section 16-13A-9.	Rules; service rates and charges; discontinuance of service; required	Section Water and sewer connections; lien for delinquent fees.
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§ 16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district. The board shall establish rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees and charges may be based upon:

- (A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;
- (B) The number and kind of fixtures connected with the facilities located on the various premises;
- (C) The number of persons served by the facilities;
- (D) Any combination of paragraphs (A), (B) and (C) of this subdivision; or
- (E) May be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways.

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight, article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or \$50, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or \$50 and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or \$50. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or \$50 has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the Public Service Commission may prescribe. *Provided*, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or

charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent. *Provided, however*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the board to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately water facilities, sewer facilities or stormwater facilities and the district owns and operates another kind of facility either water or sewer, or both, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer or stormwater service fees and charges. *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment of water, sewer or stormwater bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service, upon the request of the district providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater account. *Provided, however*, That any termination of water service must comply with all rules and orders of the Public Service Commission. *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the Division of Health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where there is gravity flow or transportation by any other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the Public Service District Board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the Division of Health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit

court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant or occupant and sewage will flow by gravity or be transported by other methods approved by the Division of Health from the house, dwelling or building into the sewer facilities, the district may charge, and the owner, tenant or occupant shall pay, the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner, tenant or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's or occupant's specific customer class.

(e) The owner, tenant or occupant of any real property may be determined and declared to be served by a stormwater system only after each of the following conditions is met: (1) The district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26; (2) the district's authority has been properly expanded to operate and maintain a stormwater system; (3) the district has made available a stormwater system where stormwater from the real property affects or drains into the stormwater system; and (4) the real property is located in the Municipal Separate Storm Sewer System's designated service area. It is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater services established under this article only after thirty-day notice of the availability of the stormwater system has been received by the owner. An entity providing stormwater service shall provide a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipal taxes. Nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill. In addition to the other remedies provided in this section, public service districts are granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer, stormwater or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts. *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property, unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three, article eleven, chapter twenty-two of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by section eleven of said article, is exempt from the provisions of this section.

(h) A public service district which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and

make it available for public review at the place of business of the governing body and the stormwater utility main office.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 174; Acts 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days after March 8, 2003; Acts 2008, c. 202, eff. March 8, 2008; Acts 2010, c. 201, eff. June 11, 2010.

§ 16-13A-15. Bonds may be secured by trust indenture

United States Code Annotated
Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

ARTICLE 13D

REGIONAL WATER AND WASTEWATER AUTHORITY ACT

§ 16-13D-11. Bonds may be secured by trust indenture

United States Code Annotated
Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

ARTICLE 13E

COMMUNITY ENHANCEMENT ACT

Section 16-13E-2. 16-13E-4.	Definitions. Petition for creation or expansion of community enhancement district; petition requirements.	Section 16-13E-10a.	Extension of vesting period for land development plans and plans; approval of phases.
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§ 16-13E-2. Definitions

For purposes of this article:

(a) "Assessment bonds" means special obligation bonds or notes issued by a community enhancement district which are payable from the proceeds of assessments.

(b) "Assessment" means the fee, including interest, paid by the owner of real property located within a community enhancement district to pay for the cost of a project or projects constructed upon or benefiting or protecting such property and administrative expenses related thereto, which fee is in addition to all taxes and other fees levied on the property.

(c) "Board" means a Community Enhancement Board created pursuant to this article.

(d) "Community enhancement district" or "district" means a community enhancement district created pursuant to this article.

(e) "Cost" means the cost of:

- (1) Construction, reconstruction, renovation and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or to be acquired by the district;
- (2) All machinery and equipment, including machinery and equipment needed to expand or enhance county or city services to the district;
- (3) Financing charges and interest prior to and during construction and, if deemed advisable by the district or governing body, for a limited period after completion of the construction;
- (4) Interest and reserves for principal and interest, including costs of municipal bond insurance and any other type of financial guaranty.

ORDERS—Wood County Court, West Virginia

OCTOBER

Term,

TWENTY-FIRST

THURSDAY, NOVEMBER 19th, 1964

NOVEMBER

19 64

OCTOBER TERM

TWENTY-SECOND DAY
SATURDAY, NOVEMBER 21st, 1964

NOVEMBER, 1964

At a regular session of the County Court, continued and held for the County of Wood, at the Court House thereof, on Saturday, the 21st day of November, 1964, Present, J. L. Amos, President of said Court, and Frank J. Harrison and Harry C. Nicely, Commissioners. The orders and proceedings of the previous session of this Court, held on Thursday, the 19th day of November, 1964, were read in open Court, approved and ordered signed.

IN RE: VASHTI C. BARNETTE - Notary Application

Upon the application of Vashti C. Barnette for appointment as a Notary Public in and for the County of Wood, it was shown to the satisfaction of this Court that said applicant is a resident of the County into which she seeks appointment, that she is competent to perform the duties of said Office, and that she is a person of good moral character.

It is hereby ordered that the application of Vashti C. Barnette be forwarded to the Secretary of State to be commissioned as a Notary Public by the Governor of this State.

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT

On the 21st day of November, 1964, this matter came upon again to be heard, this Court having heretofore on October 27, 1964, having fixed this date for a public hearing on the creation of the proposed Claywood Park Public Service District and having provided in the said Order that all persons residing in or owning or having any interest in property in the said proposed public service district might appear before the County Court at this hearing and have an opportunity to be heard for and against the creation of the said public service district.

It appearing to the Court from the certificate of the publisher thereof that notice of this hearing was duly published as required by Chapter 16, Article 13a of the Code of West Virginia, 1931, as amended, which said certificate is hereby ORDERED to be filed herein, and it further appearing to the Court that all interested persons have been afforded an opportunity of being heard for and against the creation of the said district and it further appearing to the Court that no written protests have been filed by any qualified voters registered and residing within the said proposed public service district, the Court did proceed to hear and consider testimony and evidence relating to the feasibility of the creation of the said public service district from all of which the Court does find that it is feasible and desirable to create the proposed Claywood Park Public Service District and that the construction and acquisition and maintenance, operation and improvement of the public service properties by the proposed public service district will be conducive to the preservation of public health and convenience within the area of the proposed public service district hereinafter described. It is accordingly ORDERED as follows:

1. That a public service district within Wood County, West Virginia, is hereby created and said district shall have the following boundaries:

BEGINNING on the northerly bank of the Little Kanawha River at a point in the center of Worthington Creek and thence with the center line of Worthington Creek upstream in a general northeasterly direction fifteen hundred (1500) feet more or less to a point; thence south thirty (30) degrees east eight thousand one hundred (8,100) feet more or less to a point; thence north sixty-three (63) degrees east crossing Dry Run twelve hundred (1200) feet more or less to a point; thence south seventy-three (73) degrees ten (10) minutes east eighteen hundred (1800) feet more or less to a point in the westerly controlled access right-of-way line of Interstate Route #77; thence north seventy-eight (78) degrees fifty (50) minutes west fifty-five hundred (5500) feet more or less to a point; thence north ten (10) degrees east crossing U. S. Route #50 six thousand four hundred (6,400) feet to a point; thence south forty-one (41) degrees east twenty-nine hundred (2900) feet to a point; thence south three (3) degrees east twenty-five hundred (2500) feet to a point; thence south sixty-five (65) degrees east twenty-nine hundred (2900) feet more or less to a point; thence south eight (8) degrees ten (10) minutes east twenty-two hundred (2200) feet more or less to a point; thence south forty (40) degrees twenty-five (25) minutes west crossing U. S. Route #50 five thousand four hundred (5,400) feet more or less to a point; thence west one hundred (100) feet to a point; thence south fifty (50) degrees thirty (30) minutes west crossing State Route #47 thirteen thousand two hundred (13,200) feet more or less to a point on the northerly bank of the Little Kanawha River; thence with the northerly bank of the Little Kanawha River down stream twenty-seven thousand (27000) feet more or less to the place of beginning.

2. That said public service district so created shall have the name and corporate title of Claywood Park Public Service District and shall constitute a public corporation and political subdivision of the State of West Virginia having all of the rights, powers and duties conferred

There appearing no further business to claim the attention of this Court, it is, hereby ordered that this Court do now adjourn to meet in regular session on Tuesday, the 24th day of November, 1964, at 9:30 o'clock A. M.

J. L. Amos
President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO WIT:

I JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody of files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT

and the same appears of record in my said Office in ORDER BOOK 29, Page 418

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 11th day of APRIL, 20 10.

JAMIE SIX, CLERK
WOOD COUNTY COMMISSION
By: Ruth A. McBride
Deputy

3/122
ORDERS—Wood County Court, West Virginia

JULY Term, TWENTY-SEVENTH Day SEPTEMBER 19 66
THURSDAY, SEPTEMBER 8th, 1966

JULY TERM TWENTY-NINTH DAY SEPTEMBER, 1966
TUESDAY, SEPTEMBER 13th, 1966

At a regular session of the County Court, continued and held for the County of Wood, at the Court House thereof, on Tuesday, the 13th day of September, 1966, Present, Frank J. Harrison, President of said Court, and Harry C. Nicely, Commissioner.

The orders and proceedings of the previous session of this Court, held on Saturday, the 10th day of September, 1966, were read in open Court, approved and ordered signed.

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT ENLARGEMENT
O R D E R

"On the 13th day of September, 1966, this matter came again to be heard, this Court having heretofore by order entered on August 23, 1966, fixed this date for a public hearing on the enlargement of Claywood Park Public Service District, and having provided in said order that all persons residing in, or owning, or having any interest in property in Claywood Park Public Service District, or in the proposed addition to Claywood Park Public Service District, might appear before the County Court at this hearing and have an opportunity to be heard for and against the enlargement of the said Public Service District.

It appearing to the Court from the certificate of the publisher thereof, that notice of this hearing was duly published as required by Chapter 16, Article 13a, of the Code of West Virginia of 1931, as amended, which said certificate is hereby ORDERED to be filed herein, and it further appearing to the Court that all interested persons have been afforded an opportunity of being heard for and against the enlargement of the said district, and it further appearing to the Court that no written protests have been filed by any qualified voters resided in or residing within the said Public Service District or the proposed addition thereto, the Court did proceed to hear and consider testimony and evidence relating to the necessity, feasibility, and propriety of enlarging Claywood Park Public Service District so as to include the additional territory described in the petition heretofore filed herein, and in the notice above referred to, from all of which the Court does find that it is necessary, feasible and proper to enlarge Claywood Park Public Service District so as to include therein, the additional territory hereinafter fully described, and the Court does further find that the enlargement of Claywood Park Public Service District will be conducive to the preservation of public health and convenience within the area of the enlarged public service district. It is accordingly ORDERED as follows:

1.) That the boundaries of Claywood Park Public Service District heretofore created by this Court by order entered in the County Court of Wood County, on November, 21, 1964, be enlarged so as to include within the boundaries of the said public service district, the area described in the order last above referred to, and in addition thereto, the following addition:

BEGINNING on the Northerly bank of the Little Kanawha River at the point at which the present Southeasterly boundary of Claywood Park Public Service District intersects the said Northerly bank of the Little Kanawha River, and thence with the Northerly bank of the Little Kanawha River upstream to the mouth of Allen Run; thence with the center of Allen Run to the

District South 50° West 7,800 feet, more or less, to the place of beginning; which said area is shown on a map entitled "Addition to Claywood Park Public Service District, Wood County, West Virginia", dated August, 1966, prepared by E. Edward Norman, professional Engineer, which said map has been filed with the Clerk of the County Court of Wood County, West Virginia."

THE COUNTY COURT OF WOOD COUNTY
By: Frank J. Harrison, President."

There appearing no further business to claim the attention of this Court, it is hereby ordered that this Court do now adjourn to meet in regular session on Thursday, the 15th day of September, 1966, at 9:30 o'clock A. M.

Frank J. Harrison
President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO WIT:

I JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody of files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT ENLARGEMENT

and the same appears of record in my said Office in ORDER BOOK 32, Page 122

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 11th day of APRIL, 20 10.

JAMIE SIX, CLERK
WOOD COUNTY COMMISSION
By: Ruth A. McBride
Deputy

At a regular session of the County Court, continued and held for the County of Wood, at the Court House thereof, Thursday, March 8th, 1973, Present, Marvin H. Leach, President of said Court and Victor H. Rafferty and James A. Fittro, Commissioners.

The orders and proceedings of the previous session of this Court held on Tuesday, March 6th, 1973, were read in open Court, approved and ordered signed.

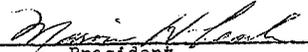
IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT

O R D E R

On this 8th day of March, 1973, the Court again considered the enlargement and reduction of Claywood Park Public Service District. The Court finds and determines that the written protests in the form of Petitions filed with the Court on March 3, 1973, do not constitute written protests by 30% or more of the qualified voters registered in or residing in the proposed boundaries of Clay/Park Public Service District. Accordingly, the Court having on February 6 and March 3 heard and considered testimony and evidence relating to the necessity, feasibility, and propriety of enlarging Claywood Park Public Service District so as to include the additional territory described in the petition heretofore filed herein, and in notice of said Public Hearing on February 6, 1973, and further did proceed to hear and consider evidence relating to the necessity, feasibility, and propriety of reducing Claywood Park Public Service District so as to remove therefrom the territory also described in the petition herein, and in the notice above referred to, and all interested persons having been afforded an opportunity to be heard for and against the enlargement and reduction of the said Public Service District the Court does find that it is necessary, feasible, and proper to enlarge Claywood Park Public Service District so as to include therein the additional territory hereinafter fully described and to reduce the said District by removing therefrom the territory described in the said petition, and the Court does further find that the enlargement and reduction of Claywood Park Public Service District will be conducive to the preservation of public health and convenience within the area of the enlarged public service district. It is accordingly ordered that the boundaries of Claywood Park Public Service District heretofore created by this Court by order entered on November 21, 1964, and enlarged by order entered on September 13, 1966, be again enlarged so as to include within the boundaries of the said Claywood Park Public Service District all of the area in Parkersburg, Clay, Walker, and Union Magisterial Districts of Wood County, West Virginia bounded and described as follows and that the District be reduced by removing therefrom that territory in Parkersburg District adjacent to the present corporate limits of the City of Parkersburg more fully shown and described upon the map or plat hereinafter referred to:

~ BEGINNING on the northerly bank of the Little Kanawha River at a point in the line of the Parkersburg Magisterial District 2600 feet, more or less, upstream from the mouth of Worthington Creek thence proceeding up the Little Kanawha River with the Parkersburg Magisterial south boundary to the Clay Magisterial boundary at Dry Run and continuing up the Little Kanawha River along the south boundary of Clay Magisterial District 47,400 feet to the mouth of Walker Creek; thence northeastward 41,700 feet to community of Doyle at the center line of the intersection of West Virginia State Route 31 and West Virginia Secondary Road No. 3/16, a common corner of Union Williams Public Service District; thence with the Union Williams Public Service District boundary westward 28,500 feet to the community of Boreman at the intersection of West Virginia Secondary Route 16 and 16/5; thence proceeding 9400 feet to the center of the intersection of Interstate Highway 77 and U. S. Route 50; thence the boundary proceeds 6200 feet, more or less, northwesterly to a point in the property line of land now owned by J. Stewart Dudley, the proposed corporation line of the City of Parkersburg; thence with the Dudley line extended S. 29° 13' W. 1500 feet, more or less, to the place of beginning, containing 35 square miles, more or less, which said area is shown on a map entitled Claywood Park Public Service District New and Enlarged Boundary Wood County, West Virginia, dated August 1, 1972, prepared by Cerrone & Vaughn, Inc., Professional Engineers, which said map is attached to the petition heretofore filed herein and made a part thereof and to which map reference is hereby made and had.
thence the boundary proceeds 10,000 feet, in a southwesterly direction to Dry Run approximately 800 feet, more or less, northeast of West Virginia State Route 47;

There appearing no further business to claim the attention of this Court, it is hereby ordered that this Court do now adjourn to meet in regular session, Saturday, March 10, 1973, at 9:00 o'clock, A. M.


President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO WIT:

I JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody of files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT

and the same appears of record in my said Office in ORDER BOOK 36, Page 161

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 11th day of APRIL, 20 10.

JAMIE SIX, CLERK
WOOD COUNTY COMMISSION
By: Beth A. McBride
Deputy

37/204

ORDERS—Wood County Court, West Virginia

APRIL

Term,

THURSDAY, JUNE 10, 1976
TWENTY THIRD Day

JUNE 19 76

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT ENLARGEMENT ORDER

ON THE 10th day of June, 1976, at 10:00 o'clock, A. M., this matter came on to be heard, this Commission having heretofore by ORDER entered on May 13, 1976, and appears of Record in Order Book No. 37, at Page 257, fix this date and time for a public hearing on the enlargement of Claywood Park Public Service District, and having provided in said Order that all persons residing in, or owning, or having any interest in property in Claywood Park Public Service District, might appear before the County Commission at this hearing and have an opportunity to be heard for and against the enlargement of the said Public Service District.

Thereupon, Claywood Park Public Service District tendered to the Commission for filing, the following:

- 1) The Affidavit of Mary P. Chevront that Notice of the time and place of this hearing was published in the Parkersburg Sentinel on the 20th day of May, 1976, which was more than ten (10) days prior to the date of this hearing.
- 2) The return of G. C. Chapman, a Deputy Sheriff in and for the County of Wood, State of West Virginia, that notice of the time and place of this hearing was posted by the said G. C. Chapman, at five (5) conspicuous places in Claywood Park Public Service District and in the proposed enlargement of Claywood Park Public Service District.

The Commission, having examined the foregoing, and the same appearing to be proper, the said affidavit and return are hereby ordered to be, and are hereby filed herein.

It further appearing to the Commission that all interested persons have been afforded an opportunity of being heard, for and against, the enlargement of the said Public Service District, and it further appearing to this Commission that no written protests have been filed by any qualified voters, registered or residing within the said Public Service District or the proposed addition thereto, the Commission did proceed to hear and consider testimony and evidence relating to the necessity and feasibility of enlarging Claywood Park Public Service District, so as to include the additional territory described in the Petition heretofore filed, herein, and in the Notice hereinabove referred to, from all of which the Commission does find that it is necessary, feasible and proper to enlarge Claywood Park Public Service District so as to include the additional territory described in said Petition, and the Commission does further find that the enlargement of Claywood Park Public Service District will be conducive to the preservation of public health, comfort and convenience within the area of the enlarged public service district.

IT IS ACCORDINGLY ORDERED, that the boundaries of Claywood Park Public Service District heretofore created by this Commission (formerly Court and successor by conversion), by Order entered on November 21, 1964, and enlarged by Order entered on September 13, 1966, and reduced and enlarged by Order entered on March 8, 1973, be again enlarged so as to include within the boundaries of the said Claywood Park Public Service District, all of the area bounded and described as follows:

BEGINNING on the northerly bank of the Little Kanawha River at a point in the line of the Parkersburg Magisterial District 2,600 ft., more or less, upstream from the mouth of Worthington Creek; thence, proceeding up the Little Kanawha River with the south boundary of Parkersburg and Clay Magisterial Districts, 73,700 ft. to the intersection of the Wood-Wirt County line (Point #2); thence, proceeding with the Wood-Wirt County line 42,000 ft., more or less, to the intersection of the Ritchie County line near the community of Estons (Point #3); thence, proceeding along the Wood-Ritchie County line 42,000 ft., more or less, to the intersection of the Wood-Ritchie-Pleasants County line (Point #4); thence, proceeding along the Wood-Pleasants County line 43,000 ft., more or less, to the mouth of Horseneck Run and Bull Run and a point on the Union-Williams Public Service District boundary (Point #5); thence, proceeding in a southwesterly direction with the Union-Williams Public Service District boundary 19,475 ft., more or less, to the community of Doyle (Point #6); thence, proceeding in a westerly direction along the Union-Williams Public Service District boundary 28,500 ft. more or less, to the community of Foreman at the intersection of West Virginia Secondary Route 16 and 46/5 (Point #7); thence, continuing in a southwesterly direction 9,400 ft. to the intersection of U. S. Route 50 and Interstate Highway I-77 (Point #8); thence, continuing in a southwesterly direction 10,000 ft. to a point on Dry Run 800 ft., more or less, from State Route 47 (Point #9); thence, proceeding in a northwesterly direction 6,200 ft., more or less to a point in the property line of land now owned by J. Stewart Dudley, the proposed corporation line of the City of Parkersburg (Point #10); thence, with the Dudley line extended S 29° 13' W 1,500 ft., more or less, to the place of beginning, containing 107sq. miles, more or less, which said area is shown on a map entitled "Claywood Park Public Service District, Wood County, West Virginia, March, 1976", prepared by Geyrons & Vaughn, Inc., Professional Engineers, which said map is on file in the office of the Clerk of the County Commission of Wood County, West Virginia.

THE COUNTY COMMISSION OF WOOD COUNTY

- s/ Victor H. Rafferty, President
- s/ James A. Pittro, Commissioner
- s/ Marvin H. Leach, Commissioner

JUNE
ENT. 23: 10, 1976

There appearing no further business to claim the attention of this Commission, it is hereby ordered that this Commission do now adjourn to meet in regular session, Thursday, June 17, 1976, at 9:00 o'clock, A. M.

Victor H. Rafferty
President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO WIT:

I JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody of files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT ENLARGEMENT.

and the same appears of record in my said Office in ORDER BOOK 37, Page 269

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 11th day of APRIL, 20 10.

JAMIE SIX, CLERK
WOOD COUNTY COMMISSION

By: Ruth A. McBride
Deputy

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO WIT:

I JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody of files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT ENLARGEMENT.

and the same appears of record in my said Office in ORDER BOOK 55, Page 575

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 11th day of APRIL, 2010.

JAMIE SIX, CLERK
WOOD COUNTY COMMISSION
By: Ruth A. McBride
Deputy

RULES OF PROCEDURE

PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

Section 1. The name of this Public Service District shall be CLAYWOOD PARK PUBLIC SERVICE DISTRICT (the "District").

Section 2. The principal office of the District will be located in Wood County, West Virginia.

Section 3. The official seal of the District shall consist of 2 concentric circles between which circles shall be inscribed Claywood Park Public Service District, and in the center "seal" as follows:

Section 4. The fiscal year of the District shall begin on the 1st day of July in each year and shall end on June 30 of the following year.

ARTICLE II
PURPOSE

Section 1. The District is organized and operated exclusively for the purposes set forth in Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act").

ARTICLE III
MEMBERSHIP

Section 1. The members of the Public Service Board of the District (the "Board") shall be those persons appointed by The County Commission of Wood County, West Virginia (the "County Commission"), or otherwise appointed pursuant to the Act, who shall serve for such terms as may be specified in the order of the County Commission or otherwise.

Section 2. Should any member of the Board resign or otherwise become legally disqualified to serve as a member of the Board, the District shall immediately notify the County Commission or other entity provided under the Act and request the appointment of a qualified person to fill such vacancy. Prior to the end of the term of any member of the Board, the District shall notify the County Commission or other entity provided under the Act of the pending termination and request the County Commission or other entity provided under the Act to enter an order of appointment or re-appointment to maintain a fully qualified membership of the Board.

Section 3. The District shall provide to the Public Service Commission of West Virginia, within 30 days of the appointment, the following information: the new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board, and such other information required under the Act.

Section 4. Each board member shall, within 6 months of taking office, successfully complete the training program established and administered by the Public Service Commission of West Virginia in conjunction with the West Virginia Division of Environmental Protection and the West Virginia Bureau for Public Health.

Section 5. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the District, nor shall a former board member be hired by the District in any capacity within a minimum of 12 months after such board member's term has expired or after such board member has resigned from the Board.

Section 6. Salaries of the board members shall be established as provided in Chapter 16, Article 13A, Section 4 of the Act. The District shall certify the number of members served to the Public Service Commission of West Virginia on the first day of July of each year. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties.

Section 7. The members of the Board are not personally liable or responsible for the obligations of the District or the Board but are answerable only for willful misconduct in the performance of their duties.

ARTICLE IV
MEETINGS OF THE BOARD

Section 1. The members of the Board shall hold regular monthly meetings on such days of each month and at such place and hour as the members shall determine from time to time. If the day stated shall fall on a legal holiday, the meeting shall be held on the following day. Special meetings of the Board may be called at any time by the Chairman or by a quorum of the Board.

Section 2. At any meeting of the Board, a majority of the members of the Board shall constitute a quorum. Each member of the Board shall have one vote at any meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. Unless otherwise waived, notice to members of regular meetings shall be by letter or telephone. Unless otherwise waived, notice to members of each special meeting shall be by letter or telephone not less than 48 hours before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted at such meeting, and no business other than that stated in the notice shall be transacted at such special meeting.

Section 4. Pursuant to Chapter 6, Article 9A, Section 3 of the Code of West Virginia, 1931, as amended, notice of the date, time, place and agenda of all regularly scheduled meetings of the Board, and the date, time, place and purpose of all special meetings of the Board, shall be made available, in advance, to the public and news media as follows:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of these Rules of Procedure and in July of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, post, and leave posted throughout the year to which it applies, at the regular meeting place of the Board and at the Wood County Courthouse, where notices customarily are posted, a notice setting forth the date, time and place of the Board's regularly scheduled meetings for the ensuing year. In addition, a copy of the agenda for each regularly scheduled meeting shall also be posted at the same location by the Secretary not less than 48 hours before such regular meeting is to be held.

The Board shall also instruct the Secretary to, and the Secretary shall, distribute to each of the newspapers and other news media listed below a notice identical to that posted:

News Media

Address

WTAP-TV

One Television Plaza
Parkersburg, West Virginia 26101

WXIL-FM, WHBR-FM,
WGGE-FM, WKYG-AM
WADC-AM

P. O. Box 1228
Parkersburg, West Virginia 26102

WRZZ-FM, WLTP-AM,
WRVB-FM, WNUS-FM,
WVVV-FM, WDMX-FM

P. O. Box 5559
Vienna, West Virginia 26105

The Parkersburg News

519 Juliana Street
Parkersburg, West Virginia 26101

The Parkersburg Sentinel

519 Juliana Street
Parkersburg, West Virginia 26101

Wirt County Journal

P. O. Box 309
Elizabeth, West Virginia 26143

Notice shall be considered distributed to a news medium when it has either been (i) pressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail or (ii) sent by facsimile transmission to such news medium. In July of each year after the adoption of these Rules of Procedure, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Board. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Secretary not less than 48 hours before such regular meeting is to be held.

In the event of any modification to the date, time, place or agenda of a regularly scheduled meeting of the Board, notice of such modification shall immediately be given to the public and news media by posting at the places and distributing to the news

media in the manner set forth above. A copy of the notice of such modification shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 2. Notice of Special Meetings. Not less than 48 hours prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post at the regular meeting place of the Board and at the Wood County Courthouse, where notices customarily are posted, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than 48 hours prior to the date set for such special meeting, the Secretary shall distribute to each of the newspapers and other news media listed in Rule No. 1 hereof, a notice identical to that posted. Amendments made to such news media list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has either been (i) addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail, or (ii) sent by facsimile transmission to such news medium.

A copy of such notice posted and distributed pursuant to this Rule No. 2 shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 3. Emergency Meetings. The Board may hold a meeting without providing the notice to the public and news media required by Rule No. 1 and Rule No. 2 hereof only in the event of an emergency requiring immediate official action. The existence for such an emergency requiring immediate official action shall be determined by the Board and shall be attested to in a certificate by the Secretary describing such emergency and setting forth the reason or reasons immediate official action is required, which certificate shall be attached to and made a part of the minutes of such emergency meeting.

Rule No. 4. Executive Sessions. The Board may hold an executive session during a regular, special or emergency meeting in accordance with Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended. During the open portion of the meeting, prior to convening an executive session, the Chairman shall identify the authorization under Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, for holding the executive session and present it to the Board and to the general public, but no decision may be made in the executive session. An executive session may be held only upon a majority affirmative vote of the Board members present. The Board may

in an executive session and exclude the public only when a closed session is required for one of the actions permitted under Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended.

Rule No. 5. Minutes. The Board shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, minutes of all meetings except minutes of executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

- (1) The date, time and place of the meeting;
- (2) The name of each Board member present and absent;
- (3) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition; and
- (4) The results of all votes and, upon the request of a Board member, the vote of each Board member, by name.

Rule No. 6. No Actions by Reference. Except as otherwise expressly provided by law, the Board may not deliberate, vote, or otherwise take official action upon any matter by reference to a letter, number or other designation or other secret device or code, which may render it difficult for persons attending a meeting to understand what is being deliberated, voted or acted upon. However, this rule does not prohibit the Board from deliberating, voting or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted upon, are available for public inspection at the meeting. The Board may not act by secret or written ballot.

Rule No. 7. Broadcasting of Meetings. Except as otherwise provided in this chapter, any radio or television station is entitled to broadcast all or any part of a Board meeting held in a room required to be open. The Board may regulate the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting, so as to prevent undue interference with the meeting. The Board shall allow the equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of the equipment may not be declared to constitute undue interference; provided, that if the Board, in good faith, determines that the size of the meeting room is such that all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the Board, acting in good faith and consistent

with the purposes of this rule, may require the pooling of the equipment and the personnel operating it.

Rule No. 8. Telephonic Meetings. Board meetings may be held by telephone conference or other electronic means. All Board members participating by telephone or other electronic means must be audible to all those personally present.

Section 5. All meetings of any committee of the Board shall be subject to the Rules of Procedure set forth in Section 4 above.

ARTICLE V OFFICERS

Section 1. The officers of the Board shall be a Chairman, Secretary and Treasurer. The Chairman shall be elected from the members of the Board. The Secretary and Treasurer need not be members of the Board.

Section 2. The officers of the Board shall be elected each year by the members at the first meeting after the first day of January of each year. The officers so elected shall serve until the next annual election by the membership and until their successors are duly elected and qualified. Any vacancy occurring among the officers shall be filled by the members of the Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the next annual organizational meeting of the Board when their successors shall be elected as hereinabove provided.

ARTICLE VI DUTIES OF OFFICERS

Section 1. When present, the Chairman shall preside as Chairman at all meetings of the Board. He/She shall, together with the Secretary, sign the minutes of all meetings at which he/she shall preside. He/She shall attend generally to the executive business of the Board and exercise such powers as may be conferred upon him/her by the Board, by these Rules of Procedure, or prescribed by law.* He/She shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements, or other documents necessary, requisite, proper or convenient to be executed by or on behalf of the Board when and if directed by the members of the Board.

Section 2. If the Chairman is absent from any meeting, the remaining members of Board shall select a temporary Chairman.

Section 3. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. If requested by the County Commission, duplicate records shall be filed with the County Commission and shall include minutes of all Board meetings. He/She shall, together with the Chairman, sign the minutes of the meetings at which he/she is present. The Secretary shall have charge of the minute book, be the custodian of deeds and other documents and papers of the Board. She shall also perform such other duties as may be required of him/her by law or as may be conferred upon him/her from time to time by the members of the Board.

Section 4. The Treasurer shall be the lawful custodian of all funds of the District and shall pay same out on orders authorized or approved by the Board. The Treasurer shall prepare or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him/her and shall prepare and submit to the Board reports and statements of the financial condition of the Board as the members may from time to time prescribe. The Treasurer shall keep and preserve all financial records of the District for 10 years and shall at all times have such records readily available for public inspection. At the end of his/her term of office, the Treasurer shall promptly deliver all financial records of the District to his successor in office. He/She shall also perform such other duties as may be required of him/her by law or as may be conferred upon him/her from time to time by the members of the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

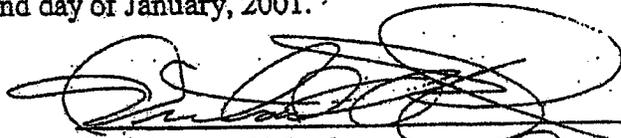
Section 5. No money may be paid out by the District except upon an order signed by the Chairman and Secretary, or such other person or persons authorized by the Chairman and the Secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the Board.

Section 6. The members and officers of the Board shall make available to the County Commission, at all times, all of its books and records pertaining to the District's operation, finances and affairs, for inspection and audit.

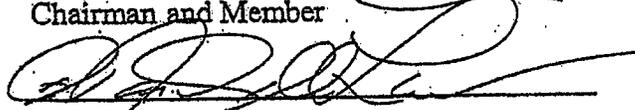
ARTICLE VII
AMENDMENTS TO RULES OF PROCEDURE

Section 1. These Rules of Procedure may be altered, changed, amended or added to at any regular or special meeting of the Board when a quorum is present and a majority of those present vote for the alteration, change, amendment or addition; but no such alteration, change, amendment or addition shall be made at any special meeting unless notice of the intention to propose such alteration, change, amendment or addition and a clear statement of the substance thereof be included in the written notice calling such special meeting.

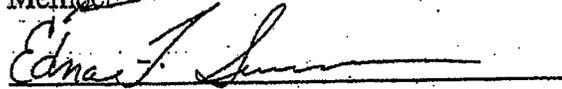
Adopted this 2nd day of January, 2001.



Chairman and Member



Member

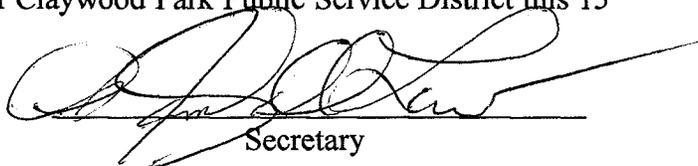


Member

CERTIFICATION

I, C. Randall Law, Secretary of the Public Service Board of the Claywood Park Public Service District, Wood and Wirt Counties, West Virginia, do hereby certify that the attached is a true and accurate copy of the Rules of Procedure of Claywood Park Public Service District and that the foregoing remain in full force and effect and have not been amended or repealed.

Given under my hand and seal of Claywood Park Public Service District this 15th day of April, 2011.



Secretary

[SEAL]

67
536

ORDERS-Wood County Commission, West Virginia

OCTOBER Term,

THURSDAY, DECEMBER 14, 2006
TWENTY FIRST Day

DECEMBER Year 2006

CASO & HARRIS, INC., SPENCER, WV RE-ORDER NO. 18979-0-05 133824517

OCTOBER TERM

THURSDAY, DECEMBER 14, 2006
TWENTY FIRST DAY

DECEMBER 2006

At a Regular Session of the County Commission, continued and held for the County of Wood at the Courthouse thereof, Thursday, December 14, 2006, Present, Gary D. Deem, President of said Commission, Robert K. Tebay, and Rick Modesitt, Commissioners.

The orders and proceedings of the previous sessions of this Commission, held on Monday, December 11, 2006, were read before the County Commission, approved and ordered signed.

IN RE: THE COUNTY COMMISSION REAPPOINTED RANDALL LAW TO THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT BOARD.

ORDER

On this date, the County Commission of Wood County, upon a motion made by Robert K. Tebay, seconded by Rick Modesitt and made unanimous by Gary D. Deem, reappointed Randall Law to the Claywood Park Public Service District Board. Said appointment is pursuant to an Order appearing in Order Book 51, at Page 433 and bearing the date of April 1, 1991, dealing with the procedure policy for appointments to Boards and Authorities. Mr. Law's new term will expire on November 1, 2012.

Approved:

THE COUNTY COMMISSION OF WOOD COUNTY

s/Gary D. Deem

Gary D. Deem, President

s/Robert K. Tebay

Robert K. Tebay, Commissioner

s/Rick Modesitt

Rick Modesitt, Commissioner

There appearing no further business to claim the attention of this Commission, it is hereby ordered that this Commission do now adjourn to meet in Regular Session, Thursday, December 21, 2006 at 9:30 o'clock A.M.



President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO WIT:

I JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody of files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: THE COUNTY COMMISSION REAPPOINTED RANDALL LAW TO THE CLAYWOOD
PARK PUBLIC SERVICE DISTRICT BOARD.

and the same appears of record in my said Office in ORDER BOOK 67 ,Page 536

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 11th day of APRIL , 20 10 .

JAMIE SIX, CLERK
WOOD COUNTY COMMISSION
By: Ruth A. McBride
Deputy

68/282

MONDAY, MAY 5, 2008
FOURTEENTH DAY

APRIL TERM

MAY 2008

At a Regular Session of the County Commission, continued and held for the County of Wood at the Courthouse thereof, Monday, May 5, 2008, Present, Robert K. Tebay, President of said Commission, Rick Modesitt, and David Blair Couch, Commissioners.

The orders and proceedings of the previous sessions of this Commission, held on Thursday, May 1, 2008, were read before the County Commission, approved and ordered signed.

IN RE: RANDALL LAW—OATH OF OFFICE—REAPPOINTED TO THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT BOARD.

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

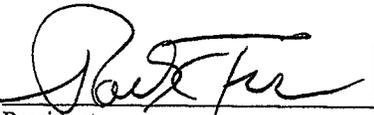
I, RANDALL LAW, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully and impartially discharge the duties of the office of REAPPOINTED TO THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT BOARD in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same, SO HELP ME GOD.

s/Randall Law

Subscribed and sworn to, before the County Commission, of Wood County, West Virginia, this 5th day of May, 2008.

Jamie Six
Clerk Wood County Court
By: Ruth A. McBride, Deputy

There appearing no further business to claim the attention of this Commission, it is hereby ordered that this Commission do now adjourn to meet in Regular Session, Thursday, May 8, 2008, at 9:30 o'clock A.M.


President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO WIT:

I JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody of files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: RANDALL LAW-OATH OF OFFICE-REAPPOINTED TO THE CLAYWOOD PARK
PUBLIC SERVICE DISTRICT BOARD.

and the same appears of record in my said Office in ORDER BOOK 68, Page 282

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 11th day of APRIL, 20 10.

JAMIE SIX, CLERK
WOOD COUNTY COMMISSION
By: Ruth A. McBride
Deputy

ORDERS-Wood County Commission, West Virginia

68/427

Monday, November 24, 2008
Sixteenth Day

October Term,

December Year 2008

~~MONDAY, NOVEMBER 24, 2008~~

CASO & HARRIS, INC., SPENCER, WV RE-ORDER No. 201288-07 (2031867)

OCTOBER TERM

SIXTEENTH DAY

NOVEMBER 2008

At a Regular Session of the County Commission, continued and held for the County of Wood at the Courthouse thereof, Monday, November 24, 2008, Present, Robert K. Tebay, President of said Commission, Rick Modesitt, and David Blair Couch, Commissioners.

The orders and proceedings of the previous sessions of this Commission, held on Thursday, November 20, 2008 were read before County Commission, approved and ordered signed.

IN RE: MICHAEL A. MILLER—APPOINTMENT AND OATH OF OFFICE—REAPPOINTED MEMBER TO THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT BOARD.

Came this day, MICHAEL A. MILLER, Reappointed Member to the Claywood Park Public Service District Board, by paper writing filed herewith, bearing date the 24th day of November, 2008, and made known to this Commission that MICHAEL A. MILLER is being hired as a reappointed Member to the Claywood Park Public Service District Board. With the approval of the County Commission the said MICHAEL A. MILLER subscribed to the following oath.

IN RE: MICHAEL A. MILLER—OATH OF OFFICE— REAPPOINTED MEMBER TO THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT BOARD.

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, MICHAEL A. MILLER, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of the office of reappointed Member to the Claywood Park Public Service District Board in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same, SO HELP ME GOD.

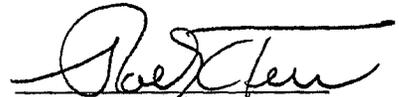
s/Michael A. Miller

Subscribed and sworn to, before the County Commission, of Wood County, West Virginia, this 24th day of November, 2008.

s/Brenda Blondin

Brenda Blondin, Deputy Clerk

There appearing no further business to claim the attention of this Commission, it is hereby ordered that this Commission do now adjourn to meet in Regular Session, Monday, December 1, 2008, at 9:30 o'clock A.M.


President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO WIT:

I JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody of files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: MICHAEL A. MILLER-APPOINTMENT AND OATH OF OFFICE-REOPPOINTED MEMBER
TO THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT BOARD.

and the same appears of record in my said Office in ORDER BOOK 68, Page 427

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 11th day of APRIL, 20 10.

JAMIE SIX, CLERK
WOOD COUNTY COMMISSION
By: Ruth A. McBride
Deputy

OCTOBER TERM

MONDAY, DECEMBER 13, 2010
NINETEENTH DAY

DECEMBER 2010

691355

At a Regular Session of the County Commission, continued and held for the County of Wood at the Courthouse thereof, Thursday, December 13, 2010, Present, David Blair Couch, President of said Commission, Wayne Dunn, and Rick Modesitt, Commissioners.

The orders and proceedings of the previous sessions of this Commission, held on Thursday, December 9, 2010 and Friday December 10, 2010, were read before the County Commission, approved and ordered signed.

IN RE: THE COUNTY COMMISSION REAPPOINTED EDNA SUMMERS TO THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT.

ORDER

On this date, the County Commission of Wood County, upon a motion made by Rick Modesitt, seconded by Wayne Dunn and made unanimous by David Blair Couch, reappointed Edna Summers to the Claywood Park Public Service District. Said appointment is due to the fact that Ms. Summer's term expired November 1, 2010. Said appointment is pursuant to an Order appearing in Order Book 51, at Page 433 and bearing the date of April 1, 1991, dealing with the procedure policy for appointments to Boards and Authorities. The new term will expire November 1, 2016.

Approved:

THE COUNTY COMMISSION OF WOOD COUNTY

s/David Blair Couch

David Blair Couch, President

s/Wayne Dunn

Wayne Dunn, Commissioner

s/Rick Modesitt

Rick Modesitt, Commissioner

There appearing no further business to claim the attention of this Commission, it is hereby ordered that this Commission do now adjourn to meet in Regular Session, Thursday, December, 2010, at 9:30 o'clock A.M.


President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO WIT:

I JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody of files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: THE COUNTY COMMISSION REAPPOINTED EDNA SUMMERS TO THE CLAYWOOD
PARK PUBLIC SERVICE DISTRICT.

and the same appears of record in my said Office in ORDER BOOK 69 ,Page 355

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 11th day of APRIL , 20 10 .

JAMIE SIX, CLERK
WOOD COUNTY COMMISSION
By: Ruth A. McBride
Deputy



STATE OF WEST VIRGINIA
COUNTY OF WOOD }

TO-WIT:

I, Edna Summers, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of the office of the Claywood Park Public Service District Board in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same; SO HELP ME GOD.

Edna F. Summers

Subscribed and sworn to, before County Commission of Wood County, West Virginia, this 6th day of Dec., 2010.

Wayne D. ...
County Commission of Wood County

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CLAYWOOD PARK PUBLIC SERVICE DISTRICT
P.O.BOX 127
PARKERSBURG, WV 26102

DATE: January 11, 2011

TIME: 6:00P.M.

PLACE: Claywood Park PSD Business Office, 594 Davisville Road, Davisville, WV 26142

BOARD MEMBERS ATTENDING: Michael A. Miller, Chairman, C. Randall Law, Secretary, Edna Summers, Member.

OTHERS IN ATTENDANCE: Todd Grinstead, General Manager, Shayne Brabham, Asst. Manager.

Michael A. Miller, Chairman, presided. The Chairman called the meeting to order.

Chairman Miller called for the Board to enter into an executive session to discuss employee matters. The motion was made by Commissioner Summers, seconded by Commissioner Law, and passed unanimously to enter into an executive session at 6:03 p.m.

At 6:43 p.m. Chairman Miller called the meeting back to order and asked if there were no objections, the District would dispense with the reading of the minutes from the previous meeting. Since there were no objections, Chairman Miller stated he would turn the meeting over to Todd Grinstead, General Manager of the District

Annual Election of officers: Commissioner Summers made a motion, seconded by Commissioner Law, to elect Michael Miller as Chairman, and Commissioner Law as Secretary/Treasurer. The motion carried unanimously.

Disbursements: The December 2010 disbursements, accounts payable, and receivables were reviewed and initialed by all commissioners.

Questions and Comments from the Public: There were none.

Red Hill Sewer Project Phase 1: Nothing to discuss or report.

Red Hill Sewer Project Phase 2: Mr. Grinstead presented for approval Change Order No. 2 on contract No. 4. This Change Order will increase the project cost by \$1,000.00. A motion made by Commissioner Summers and seconded by Commissioner Law passed unanimously.

Mr. Grinstead presented for approval Requisition No. 20. for \$64,131.58. A motion made by Commissioner Summers and seconded by Commissioner Law passed unanimously.

Mr. Grinstead presented for approval a letter of request for the State Revolving Fund Program to realign the construction budget to reflect approved Change orders and Addenda to the Engineering Agreement. A motion made by Commissioner Summers and seconded by Commissioner Law passed unanimously.

Riser Ridge / laurel Fork Water Extension Project: Mr. Grinstead reported the USDA Rural Development Office has approved our request to proceed to obtain construction bids. A bid opening date is set for February 18, 2011, at 10:00 a.m. at the District Office.

Mr. Grinstead reported that the Public Service Commission is considering our request to make modifications to the customer user agreements without obtaining new signatures.

Newark Area Sewer System Project: Issues associated with rates to serve low income families were discussed. Mr. Grinstead stated the District will pursue additional grants if found available.

Loomis Ridge Tank and Booster Rehabilitation Project: Nothing to report.

Water System Improvements to serve the Town of Elizabeth: Nothing to report.

Miscellaneous: Mr. Grinstead reported he has received the health insurance renewal packet from Mountain State Blue Cross Blue Shield. The monthly renewal premium will decrease 1.78% effective March 1, 2011. Mr. Grinstead also informed the Board that new applications were completed by all employees enrolled in this insurance benefit for the possibility of qualifying for a lower rate block. A report will be given to the Board at the February 2011 meeting.

Mr. Grinstead presented to the Board a proposal to increase each employees pay rate by 4.5% and require each individual employee to begin paying the employees portion (4.5%), of the Public Employees Retirement Systems (PERS) contribution. By design, this program is structured to have the District pay 12.5% and the employee pay 4.5% of the employee's gross wages for a total contribution of 17%. Currently the District pays all of the 17% of the employee's gross wages into the WVPERS. A motion made by Commissioner Summers and seconded by Commissioner Law passed unanimously.

Mr. Grinstead reported he had received the appraisal of value for the Route 47 office property. Current value was appraised at \$150,000.00. Mr. Grinstead also reported a request for permission to sell the Route 47 office property has been submitted to the WV Public Service Commission and the USDA Rural Development Office.

Discussion about the importance of cross training employees, especially in the District's business office, took place. Concern was expressed that cross training of employees is essential to maintain adequate work performance in case of absences due to vacation, sickness or other issues that may find the District short staffed. The Board directed Mr. Grinstead to expedite the cross training process for the bookkeeping position to ensure proper coverage of this vital function.

There was also discussion about the disposal of water meters that have been taken out of service. Chairman Miller stated that whether the old meters were sold to other utilities or stripped down and scrapped (recycled), the revenue should be placed in the vehicle replacement fund or other accounts to be used for maintenance or special purchases as the district feels necessary.

Mr. Grinstead presented to the Board an Employee Grievance Procedure Policy, prepared for the District by Bob Kent of Bowles Rice McDavid Graff & Love PLLC. A motion made by Commissioner Law and seconded by Commissioner Summers passed unanimously to accept the Employee Grievance Procedure Policy as presented.

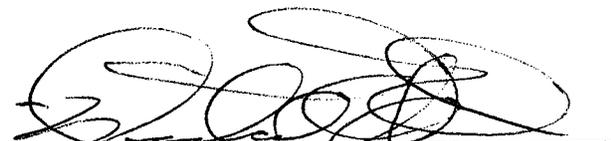
Commissioner Summers stated she has been reappointed for a three year term on the Claywood Park PSD Board, effective November 1, 2010, and has taken her oath of office from the Wood County Commission.

January 11, 2011

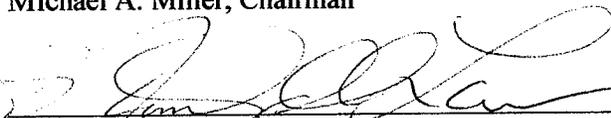
Commissioner Summers brought up for discussion that the District should look into providing diversity training for staff from the U.S. Equal Employment Opportunity Commission (EEOC). All were in agreement.

The date of the next regular meeting was set for 6:00 PM, Tuesday, February 8, 2011 at the District's business office.

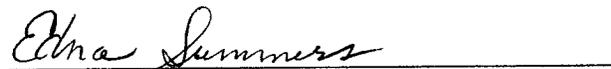
Chairman Miller asked if there were any further business to come before the Board. A motion made by Commissioner Summers and seconded by Commissioner Law passed unanimously and the meeting was adjourned.



Michael A. Miller, Chairman



C. Randall Law, Secretary / Treasurer



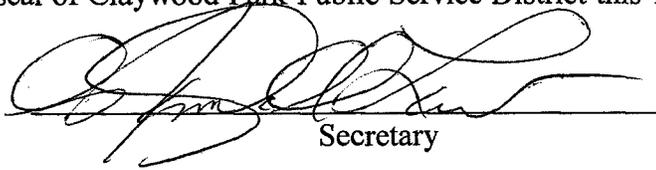
Edna Summers, Member

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CERTIFICATION

I, C. Randall Law, Secretary of the Public Service Board of the Claywood Park Public Service District, Wood and Wirt Counties, West Virginia, do hereby certify that the attached is a true and accurate copy of the Minutes of the Annual Organizational Meeting of Claywood Park Public Service District held on January 11, 2011, and that the foregoing remains in full force and effect and has not been amended or repealed.

Given under my hand and seal of Claywood Park Public Service District this 15th day of April, 2011.



Secretary

[SEAL]

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
WATER REVENUE BOND
(RISER RIDGE/LAUREL FORK EXTENSION PROJECT)
SERIES 2011 A

MINUTES ON ADOPTION OF
BOND AUTHORIZING RESOLUTION

I, C. Randall Law, Secretary of the Public Service Board of Claywood Park Public Service District, hereby certify that the following is a true and correct excerpt of the minutes of a special meeting of the said Public Service Board:

The Public Service Board of Claywood Park Public Service District met in special session, pursuant to notice duly given, on the 13th day of April, 2011, at the office of Claywood Park Public Service District in Davisville, West Virginia, at the hour of 10:00 a.m.

PRESENT: Michael A. Miller
C. Randall Law

ABSENT: Edna Summers

Michael A. Miller, Chairman, presided and C. Randall Law acted as Secretary.

The Chairman announced that a quorum of members was present and that the meeting was open for any business properly before it. Thereupon, the Chairman presented a proposed Bond Resolution in writing entitled:

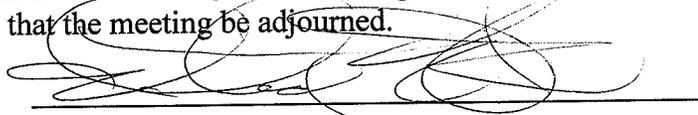
RESOLUTION AUTHORIZING THE ISSUANCE OF A WATER REVENUE BOND (RISER RIDGE/LAUREL FORK EXTENSION PROJECT), SERIES 2011 A, OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,530,000 ON A PARITY WITH THE SERIES 1975 BOND, THE SERIES 1979 BOND, THE SERIES 1993 B BOND, THE SERIES 1995 BOND, THE SERIES 1997 A BOND, THE SERIES 1998 BOND, THE SERIES 2002 BOND, THE SERIES 2003 BONDS, THE SERIES 2006 BONDS AND THE SERIES 2008 BOND, AND SENIOR TO THE SERIES 2010 A BONDS, TO FINANCE THE ACQUISITION AND CONSTRUCTION OF ADDITIONS AND IMPROVEMENTS TO THE EXISTING WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE SERIES 2011 A BOND; AUTHORIZING INTERIM CONSTRUCTION FINANCING; PROVIDING

GENERALLY FOR THE RIGHTS AND REMEDIES AND
SECURITIES OF THE HOLDER OF THE SERIES 2011 A
BOND AND THE HOLDERS OF THE INTERIM FINANCING
NOTES AND FOR A STATUTORY MORTGAGE LIEN; AND
PROVIDING WHEN THIS RESOLUTION SHALL TAKE
EFFECT

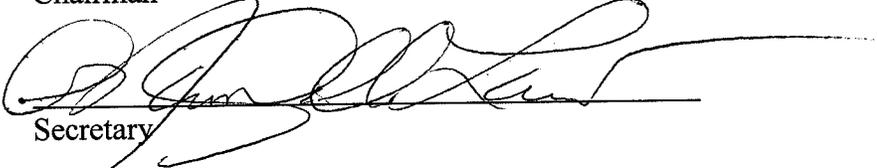
and caused the same to be read and there was discussion. Thereupon, on motion of C. Randall Law seconded by Michael A. Miller it was unanimously ordered that the said Bond Resolution be adopted and be in full force on and from the date hereof.

[Rest of page intentionally left blank]

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



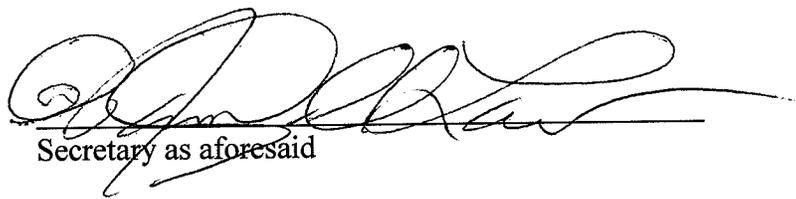
Chairman



Secretary

I further certify that the foregoing action of said Public Service Board remains in full force and effect and has not been amended or repealed.

WITNESS my signature on this 15th day of April, 2011.



Secretary as aforesaid

[SEAL]

RESOLUTION AUTHORIZING THE ISSUANCE OF A WATER REVENUE BOND (RISER RIDGE/LAUREL FORK EXTENSION PROJECT), SERIES 2011 A, OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,530,000 ON A PARITY WITH THE SERIES 1975 BOND, THE SERIES 1979 BOND, THE SERIES 1993 B BOND, THE SERIES 1995 BOND, THE SERIES 1997 A BOND, THE SERIES 1998 BOND, THE SERIES 2002 BOND, THE SERIES 2003 BONDS, THE SERIES 2006 BONDS AND THE SERIES 2008 BOND AND SENIOR TO THE SERIES 2010 A BONDS TO FINANCE THE ACQUISITION AND CONSTRUCTION OF ADDITIONS AND IMPROVEMENTS TO THE EXISTING WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE SERIES 2011 A BOND; AUTHORIZING INTERIM CONSTRUCTION FINANCING; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDER OF THE SERIES 2011 A BOND AND THE HOLDERS OF THE INTERIM FINANCING NOTES AND FOR A STATUTORY MORTGAGE LIEN; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ISSUANCE OF A \$2,530,000
WATER REVENUE BOND (RISER RIDGE/LAUREL FORK EXTENSION PROJECT),
SERIES 2011 A

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RESOLUTION AUTHORIZING THE ISSUANCE OF A WATER REVENUE BOND (RISER RIDGE/LAUREL FORK EXTENSION PROJECT), SERIES 2011 A, OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,530,000 ON A PARITY WITH THE SERIES 1975 BOND, THE SERIES 1979 BOND, THE SERIES 1993 B BOND, THE SERIES 1995 BOND, THE SERIES 1997 A BOND, THE SERIES 1998 BOND, THE SERIES 2002 BOND, THE SERIES 2003 BONDS, THE SERIES 2006 BONDS AND THE SERIES 2008 BOND AND SENIOR TO THE SERIES 2010 A BONDS TO FINANCE THE ACQUISITION AND CONSTRUCTION OF ADDITIONS AND IMPROVEMENTS TO THE EXISTING WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE SERIES 2011 A BOND; AUTHORIZING INTERIM CONSTRUCTION FINANCING; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDER OF THE SERIES 2011 A BOND AND THE HOLDERS OF THE INTERIM FINANCING NOTES AND FOR A STATUTORY MORTGAGE LIEN; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for This Resolution. This Resolution is adopted pursuant to the provisions of Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act"), other applicable provisions of law. Claywood Park Public Service District (the "Issuer") is a public service district of Wood and Wirt Counties, West Virginia, created pursuant to the Act by the County Commission of Wood County.

Section 1.02. Definitions. In addition to the definitions of certain terms set forth elsewhere in this Resolution, the following terms shall have the following meanings herein unless the context otherwise expressly requires:

"Bank" means United Bank, Inc. with respect to the Revenue Fund and the Operation and Maintenance Fund, WesBanco Bank, Inc. with respect to the Reserve Fund relating to the Series 1975 Bonds and the Series 1979 Bonds, Community Bank with respect to the Repair and Replacement Fund, the Series 1993 B Bond Reserve Account, the Series 1995 Bond Rescrve Account, the Series 1997 A Bond Reserve Account, the Series 1998 Bond Reserve

Account and the Series 2002 Bond Reserve Account, each such bank being a member of the FDIC, or any other bank which is a member of the FDIC that is subsequently designated by the Issuer to serve as the Bank as set forth in a supplemental resolution adopted by the Issuer.

“Bonds” means collectively the Series 2011 A Bond, the Series 1975 Bond, the Series 1979 Bond, the Series 1993 B Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1998 Bond, the Series 2002 Bond, the Series 2003 Bonds, the Series 2006 Bonds and the Series 2008 Bond.

“Chairman” means Chairman of the public service board of the Issuer.

“Commission” means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the function of the Commission.

“Construction Account” means the Claywood Park Public Service District Construction Account established by Section 4.01 hereof.

“Consulting Engineer” means Cerrone Associates, Inc., Wheeling, West Virginia, or any qualified engineer or firm of engineers which at any time hereafter may be retained by the Issuer as Consulting Engineer for the System.

“Event of Default” means any occurrence or event specified in Section 7.01.

“FDIC” means the Federal Deposit Insurance Corporation.

“Fiscal Year” means each 12-month period beginning on July 1 and ending on the succeeding June 30.

“Governing Body” means the Public Service Board of the Issuer, as it may now or hereafter be constituted.

“Government Obligations” means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

“Gross Revenues” means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that “Gross Revenues” does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, or any Tap Fees, as hereinafter defined).

“Herein” means in this Resolution.

“Independent Accountants” shall mean any public accountant or certified public accountant or firm of public accountants or certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the

accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

“Issuer” means Claywood Park Public Service District, of Wood and Wirt Counties, West Virginia, and, unless the context clearly indicates otherwise includes the Board of the Issuer and any commission, board or department established by the Issuer to operate and maintain the System.

“Net Revenues” means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereinafter defined.

“Notes” means the line of credit notes of the Issuer as defined in Section 3.01 hereof.

“Operating Expenses” means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Project Costs, fees and expenses, if any, of the Bank, the Purchaser and the Registrar (all as herein defined), payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds or Series 2010 A Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Prior Resolutions” means the 1975 Resolution, the 1979 Resolution the 1993 B Resolution, the 1995 Resolution, the 1997 A Resolution, the 1998 Resolution, the 2002 Resolution, the 2003 Resolution, the 2006 Resolution, the 2008 Resolution and the Series 2010 A Resolution.

“Project” means the acquisition and construction of additions and improvements to the existing water system of the Issuer known as the Riser Ridge/Laurel Project to be financed with the proceeds of the sale of the Series 2011 A Bond, as herein provided.

“Project Costs” means all those costs set out in Section 1.03(E) hereof.

“Purchaser” means United States of America as the holder of the Series 2011 A Bond.

“Qualified Investments” means and includes any of the following:

- (A) Government Obligations;
- (B) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or

certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(C) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(D) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(E) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(F) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (A) through (E) above;

(G) Repurchase agreements, fully secured by investments of the types described in paragraphs (A) through (E) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(H) Obligations of States or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" from Moody's Investors Service, Inc. or Standard & Poor's Corporation: and

(I) The West Virginia "consolidated fund" managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the West Virginia Code of 1931, as amended.

"Registrar" or "Bond Registrar" means the Secretary of the Issuer or other entity designated as such in a Supplemental Resolution and its successors and assigns.

“Resolution” means collectively this Resolution and any resolution of the Board supplemental hereto.

“Secretary” means the Secretary of the Governing Body.

“Series 1975 Bond” shall have the meaning provided in Section 1.03(G) hereof.

“Series 1979 Bond” shall have the meaning provided in Section 1.03(G) hereof.

“Series 1993 B Bond” shall have the meaning provided in Section 1.03(G) hereof.

“Series 1995 Bond” shall have the meaning provided in Section 1.03(G) hereof.

“Series 1997 A Bond” shall have the meaning provided in Section 1.03(G) hereof.

“Series 1998 Bond” shall have the meaning provided in Section 1.03(G) hereof.

“Series 2002 Bond shall have the meaning provided in Section 1.03(G) hereof.

“Series 2003 Bonds” shall have the meaning provided in Section 1.03(G) hereof.

“Series 2006 Bonds” means the Series 2006 A Bonds, the Series 2006 B Bonds and the Series 2006 C Bonds.

“Series 2006 A Bond” shall have the meaning provided in Section 1.03(G) hereof.

“Series 2006 B Bond” shall have the meaning provided in Section 1.03(G) hereof.

“Series 2006 C Bond” shall have the meaning provided in Section 1.03(G) hereof.

“Series 2008 Bond” shall have the meaning provided in Section 1.03(G) hereof.

“Series 2010 A Bonds” shall have the meaning provided in Section 1.03(H) hereof.

“System” means the existing waterworks of the Issuer, and includes the complete waterworks of the Issuer and all facilities owned by the Issuer in connection with its waterworks and other property of every nature, real or personal, now owned or hereafter owned, held or used in connection with the Issuer’s waterworks; and shall also include any and all additions, extensions, improvements, properties or other facilities at any time acquired or constructed for the Issuer’s waterworks.

“1975 Resolution” means the Resolution adopted by the Issuer, authorizing the issuance of the Series 1975 Bond.

“1979 Resolution” means the Resolution adopted by the Issuer on December 27, 1979, authorizing the issuance of the Series 1979 Bond.

“1993 B Resolution” means the Resolution adopted by the Issuer on December 1, 1993, authorizing the issuance of the Series 1993 B Bond.

“1995 Resolution” means the Resolution adopted by the Issuer on April 3, 1995, authorizing the issuance of the Series 1995 Bond.

“1997 A Resolution” means the Resolution adopted by the Issuer on August 18, 1997, authorizing the issuance of the Series 1997 A Bond.

“1998 Resolution” means the Resolution adopted by the Issuer on January 23, 1998, authorizing the issuance of the Series 1998 Bond.

“2002 Resolution” means the Resolution adopted by the Issuer on December 17, 2002, authorizing the issuance of the Series 2002 Bond.

“2003 Resolution” means the Bond Resolution adopted by the Issuer on May 20, 2003, authorizing issuance of the Series 2003 Bonds.

“2006 Resolution” means the Bond Resolution adopted by the Issuer on June 26, 2006, authorizing issuance of the Series 2006 Bonds.

“2008 Resolution” means the Bond Resolution adopted by the Issuer on May 6, 2008, authorizing issuance of the Series 2008 Bonds.

“2010 A Resolution” means the Bond Resolution adopted by the Issuer on June 8, 2010, authorizing the issuance of the Series 2010 A Bonds.

“Series 2011 A Bond” means the \$2,530,000 Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project), Series 2011 A, authorized hereby.

“Series 2011 A Bond Reserve Account” means the Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project), Series 2011 A Reserve Account created and established by Section 4.02(B) hereof.

“Series 2011 A Bond Reserve Requirement” means the maximum amount of principal and interest which will come due on the Series 2011 A Bond in the then current or any fiscal year thereafter.

“Tap Fees” means the fees, if any, paid by prospective customers of the System in order to connect thereto.

Words importing the singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Section 1.03. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) The Issuer now has a water system which requires extensions, additions and improvements to serve the residents in the Riser Ridge, Laurel Fork and other areas of Wood and Wirt Counties.

(B) The Project is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Claywood Park Public Service District and, accordingly, it is hereby ordered that there be acquired and constructed additions and improvements to the existing water system of the Issuer, particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed with the Secretary of the Issuer. The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

(C) It is necessary for the Issuer to issue its water revenue bond, in the principal amount of \$2,530,000 to finance a portion of the costs of such acquisition and construction in the manner hereinafter provided.

(D) The estimated maximum cost of the acquisition and construction of the Project is \$5,330,000, of which \$2,530,000 will be obtained from the proceeds of the sale of the Series 2011 A Bond herein authorized and the balance, not to exceed \$2,800,000, will be obtained from a grant from USDA - Rural Development (the "Rural Development Grant") in the amount of \$1,300,000 and a Small Cities Block Grant (the "Small Cities Grant") in the amount of \$1,500,000 (collectively, the "Grants").

(E) The cost of such construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the acquisition of any necessary property, real or personal, or interest therein; interest on the Series 2011 A Bond and the Notes or any note, bond, construction loan, or other indebtedness of the Issuer issued to provide interim financing of the Project in anticipation of the issuance of the Series 2011 A Bond prior to, during and for six months after completion of such construction; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the construction of the Project and the financing authorized hereby.

(F) The period of usefulness of the System after completion of the Project is not less than forty years.

(G) The only outstanding obligations of the Issuer which will rank on a parity with the Series 2011 A Bond as to liens and source of and security for payment are the following:

Waterworks Revenue Bond, Series 1975, dated March 3, 1975 ("Series 1975 Bond"), issued in the original principal amount of \$685,000, bearing interest at the rate of 5% per annum;

Water Revenue Bond, Series 1979, dated January 7, 1979 (“Series 1979 Bond”), issued in the original principal amount of \$1,100,000, bearing interest at the rate of 5% per annum;

Water Revenue Bond, Series 1993 B, dated December 1, 1993 (“Series 1993 B Bond”), issued in the original principal amount of \$410,000, bearing interest at the rate of 5% per annum;

Water Revenue Bond, Series 1995, dated April 3, 1995 (“Series 1995 Bond”), issued in the original principal amount of \$190,000, bearing interest at the rate of 4.5% per annum;

Water Revenue Bond, Series 1997 A, dated August 18, 1997 (“Series 1997 A Bond”), issued in the original principal amount of \$145,000, bearing interest at the rate of 5.5% per annum; and

Water Revenue Bond, Series 1998, dated January 23, 1998 (“Series 1998 Bond”), issued in the original principal amount of \$750,000, bearing interest at the rate of 5.25% per annum.

Water Revenue Bond, Series 2002, dated December 19, 2002 (“Series 2002 Bond”) issued in the original principal amount of \$1,250,000, bearing interest at the rate of 4.625% per annum.

Water Refunding Revenue Bonds, Series 2003, dated June 1, 2003 (“Series 2003 Bonds”), issued in the original principal amount of \$975,000, bearing interest at rates from 3.5% to 5.5% per annum.

Water Revenue Bond, Series 2006 A, dated June 28, 2006 (“Series 2006 A Bond”), issued in the original principal amount of \$4,175,000, bearing interest at the rate of 4.375% per annum.

Water Revenue Bond, Series 2006 B, dated June 28, 2006 (“Series 2006 B Bond”), issued in the original principal amount of \$870,000, bearing interest at the rate of 4.25% per annum.

Water Revenue Bond, Series 2006 C, dated June 28, 2006 (“Series 2006 C Bond”), issued in the original principal amount of \$2,563,000, bearing interest at the rate of 4.375% per annum.

Water Revenue Bond, Series 2008, dated May 8, 2008 (“Series 2008 Bond”), issued in the original principal amount of \$2,900,000, bearing interest at the rate of 4.375% per annum.

(H) The Series 2011 A Bonds and the other Bonds will rank senior and prior to the Issuer’s Water Revenue Bonds (Water Tank and Booster Station Improvements Project) Series 2010 A, dated June 21, 2010 (the “Series 2010 A Bonds”) issued in the original principal

amount of \$130,000, bearing interest at the rate of 4.99% per annum (the “Series 2010 A Bonds”).

(I) The Issuer has complied with all requirements of the law of West Virginia and the Prior Resolutions relating to authorization of the construction, acquisition and operation of the Project and issuance of the Series 2011 A Bond, or will have so complied prior to issuance of the Series 2011 A Bond including, among other things, obtaining a certificate of convenience and necessity for the Project from the Public Service Commission of West Virginia by final order, the time for a rehearing and appeal of which shall have been waived or shall have expired. The rates, charges and rules as provided by Article VI hereof shall be in full force and effect.

(J) The consent of the United States Department of Agriculture, as the holder of the outstanding Bonds other than the Series 2003 Bonds and the Series 2010 A Bonds, in writing, has been obtained and is filed in the office of the Issuer.

(K) Under the provisions of Section 6.08 of the 2003 Resolution, additional parity bonds may be issued by the Issuer only upon receipt of certain certifications by the Independent Accounts and Consulting Engineers, as such terms are defined in the 2003 Resolution, which certifications have been obtained and are filed in the office of the Issuer.

(L) Under the provisions of Section 5.14 of the 2010 A Resolution, additional bonds senior and prior to the Series 2010 A Bonds may be issued by the Issuer only upon receipt of certain certifications by the Independent Accounts and Consulting Engineers, as such terms are defined in the 2003 Resolution, which certifications have been obtained and are filed in the office of the Issuer.

(M) The Purchaser is expected by the Issuer to purchase the entire principal amount of the Series 2011 A Bond.

Section 1.04. Resolution to Constitute Contract. In consideration of the acceptance of the Series 2011 A Bond by the Purchaser, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and the Purchaser, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Purchaser as holder of the Series 2011 A Bond.

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF SERIES 2011 A BONDS

Section 2.01. Authorization of Series 2011 A Bond. Subject and pursuant to the provisions hereof, the Series 2011 A Bond of the Issuer, to be known as “Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project), Series 2011 A”, is hereby authorized to be issued in the principal amount of \$2,530,000, for the purpose of financing a portion of the costs of the acquisition and construction of the Project.

Section 2.02. Description of Series 2011 A Bond. The Series 2011 A Bond shall be issued in single form, No. AR-1, fully registered to the United States of America and shall be dated on the date of delivery. The Series 2011 A Bond shall bear interest from date, payable monthly at the rate of 3.625% per annum, and shall be sold at the par value thereof. The Series 2011 A Bond shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the bond form hereinafter set forth.

Section 2.03. Negotiability, Registration, Transfer and Exchange of Series 2011 A Bond. The Series 2011 A Bond shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but any Series 2011 A Bond, and the right to the principal of, and stated interest on, such Series 2011 A Bond, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 2.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar.

Whenever any Series 2011 A Bond shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new bond or bonds in authorized denominations, for a like aggregate principal amount. The Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Registrar with respect to such transfer.

No registration of transfer of any Series 2011 A Bond shall be permitted to be made after the 15th day next preceding any installment payment date on such Bond.

Section 2.04. Registrar. The Secretary of the Issuer will keep or cause to be kept at the office of the Issuer, sufficient books for the registration and transfer of the Series 2011 A Bond, and, upon presentation for such purpose, the Secretary shall register the Series 2011 A Bond initially issued pursuant hereto and register the transfer, or cause to be registered, on such books, the transfer of any Series 2008 Bond as hereinbefore provided.

Section 2.05. Execution of Series 2011 A Bond. The Series 2011 A Bond shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary.

Section 2.06. Mutilated, Destroyed, Stolen or Lost Series 2011 A Bond. In case any Series 2011 A Bond shall become mutilated, destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new bond of like tenor as the Series 2011 A Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Series 2011 A Bond or in lieu of and substitution for the Series 2011 A Bond destroyed, stolen or lost, and upon the holder of such Series 2011 A Bond furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2011 A Bond so surrendered shall be canceled and held for the account of the Issuer. If such Series 2011 A Bond shall have matured or be about to mature, instead of issuing a

substitute Series 2011 A Bond the Issuer may pay the same, and, if such bond be destroyed, stolen or lost, without surrender thereof.

Section 2.07. Series 2011 A Bond not to be Indebtedness of the Members of the Public Service Board of the Issuer. The Series 2011 A Bond shall not be or constitute an indebtedness of the members of the Public Service Board of the Issuer but shall be payable solely from the Net Revenues and from funds in the Revenue Fund.

Section 2.08. Series 2011 A Bond Secured by Pledge of Net Revenues, Funds and Unexpended Bond Proceeds. Payment of the Series 2011 A Bond shall be secured forthwith by a first lien on the Net Revenues derived from the System and the funds on deposit in the Revenue Fund on a parity with the Series 1975 Bond, the Series 1979 Bond, the Series 1993 B Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1998 Bond, the Series 2002 Bond, the Series 2003 Bonds, the Series 2006 Bonds, and the Series 2008 Bond, and senior and prior to the Series 2010 A Bonds, in addition to the statutory mortgage lien on the System provided for herein. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 2011 A Bond, and to make the payments as hereinafter provided, together with the funds on deposit in the Revenue Fund and the unexpended proceeds of the Series 2011 A Bond are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2011 A Bond as the same become due.

Section 2.09. Form of Series 2011 A Bond. Subject to the provisions hereof, the text of the Series 2011 A Bond and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(Form of Series 2011 A Bond)

WATER REVENUE BOND (RISER RIDGE/LAUREL FORK/ OAK GROVE/GRIEVES RUN
EXTENSION PROJECT),
SERIES 2011 A

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

\$2,530,000

No. AR-1

Date: _____, 2011

CLAYWOOD PARK PUBLIC SERVICE DISTRICT (the "Issuer"), for value received, promises to pay to the order of the United States of America, (the "Purchaser"), or its registered assigns, at its National Finance Office, St. Louis, Missouri, 63103, or at such other place as the Purchaser may hereafter designate in writing, the principal sum of \$2,530,000.00, plus interest on the unpaid principal balance at the rate of three and five-eighths per cent (3.625 %) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only commencing 30 days following delivery of the Series 2011 A Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof and \$10,247.00, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Series 2011 A Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount hereof is not advanced at the time of closing, the proceeds hereof shall be advanced to Issuer as requested by Issuer and approved by the Purchaser and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made hereon shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Refunds and extra payments, as defined in the regulations of the Purchaser according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Series 2011 A Bond and shall not affect the obligation of Issuer to pay the remaining installments as scheduled herein.

If the United States of America at any time assigns this Series 2011 A Bond and insures the payment thereof, Issuer shall continue to make payments to the United States of America as collection agent for the holder.

While this Series 2011 A Bond is held by an insured lender, prepayments made by Issuer may, at the option of the Purchaser, be remitted by the Purchaser to the Holder promptly or, except for final payment, be retained by the Purchaser and remitted to the Holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Issuer, except payments retained and remitted by the Purchaser on an annual installment due date basis, shall be the date of the United States Treasury check by which the Purchaser remits the payment to the Holder. The effective date of any prepayment retained and remitted by the Purchaser to the Holder on an annual installment due date basis shall be the date of the prepayment by Issuer and the Purchaser will pay the interest to which the Holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the Holder.

Any amount advanced or expended by the Purchaser for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Purchaser shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Issuer to the Purchaser without demand. Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Purchaser.

Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing rates and terms in or near its community for loans for similar purposes and periods of time.

This Series 2011 A Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing such funds for financing all or part of the costs of construction of repairs, replacements, expansions and improvements to the waterworks system (the "System") of the Issuer, is payable solely from the Revenues to be derived from the operation of the System after there have been first paid from such Revenues the reasonable current costs of operation and maintenance of the System. This Series 2011 A Bond does not constitute an indebtedness of the Issuer within any constitutional or statutory provision or limitation.

Registration of this Series 2011 A Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Secretary of the Issuer, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Resolutions hereinafter described, and upon surrender and cancellation of this Series 2011 A Bond. Upon such transfer a new Series 2011 A Bond or Series 2011 A Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Series 2011 A Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Secretary of the Issuer.

This Series 2011 A Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16,

Article 13A of the Code of West Virginia of 1931, as amended (herein called the "Act") and Resolutions of the Issuer adopted on December 27, 1979, December 1, 1993, April 3, 1995, August 18, 1997, January 23, 1998, December 17, 2002, May 20, 2003, June 26, 2006, May 6, 2008, June 8, 2010, and April 13, 2011.

If at any time it shall appear to the Purchaser that Issuer may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Issuer will, at Purchaser's request, apply for and accept such loan in sufficient amount to repay the Purchaser.

This Series 2011 A Bond is given as evidence of a loan to Issuer made or insured by the Purchaser pursuant to the Consolidated Farmers Home Rural Development Act. This Series 2011 A Bond shall be subject to the present regulations of the Farmers Home Administration and its successors and assigns and to future regulations not inconsistent with the express provisions hereof.

This Series 2011 A Bond is issued on a parity in all respects with the Series 1975 Bond, the Series 1979 Bond, the Series 1993 B Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1998 Bond, the Series 2002 Bond, the Series 2003 Bonds, the Series 2006 A Bond, the Series 2006 B Bond, the Series 2006 C Bond, and the Series 2008 A Bond, and senior and prior to the Series 2010 A Bonds, the foregoing bonds being further described in the Resolutions above described.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Series 2011 A Bond will be in default should any proceeds of the Series 2011 A Bond be used for a purpose that will contribute to excessive erosion of highly erodible land or the conversion of wetlands to produce an agricultural commodity.

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

Attest:

Secretary, Public Service Board

By: _____
Chairman, Public Service Board

[CORPORATE SEAL]

RECORD OF ADVANCES			
AMOUNT	DATE	AMOUNT	DATE
(1) \$		(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	
TOTAL \$			

(No writing on this Series 2011 A Bond except by the Issuer as Registrar.)

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Signature of Secretary or Registrar</u>
_____, 2011	United States of America Post Office Box 678 Morgantown, West Virginia 26505	_____
_____	_____	_____
_____	_____	_____

ASSIGNMENT

Pay to the Order of _____

UNITED STATES OF AMERICA

By: _____

 (Title)

ARTICLE III

INTERIM CONSTRUCTION FINANCING

Section 3.01. Authorization and General Terms. In order to pay certain Project Costs pending receipt of the gross proceeds of the Series 2011 A Bond and the Grants, the Issuer may issue and sell its Notes, in an aggregate principal amount not to exceed \$5,330,000. The Notes may be issued as evidence of a line of credit from a commercial bank or other lender, at the discretion of the Issuer, and as shall be set forth in a resolution supplemental hereto. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such date or dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the indenture or supplemental resolution, as applicable.

Section 3.02. Terms of and Security for Notes; Trust Indenture. The Notes, if issued, shall be issued with such terms and secured in the manner set forth in an indenture, if applicable (which indenture in the form to be executed and delivered by the Issuer shall be approved by the supplemental resolution), or supplemental resolution, if no indenture is used.

Section 3.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Series 2011 A Bond, the Grants, the surplus revenues, letter of credit proceeds, if any, and other sources described in an indenture or supplemental resolution. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth in an indenture or the supplemental resolution.

Section 3.04. Letters of Credit. As additional security for the Notes, the Issuer may obtain a letter or letters of credit from a bank or banks, pursuant to which such bank or banks would agree to pay the trustee to be appointed by a supplemental resolution, upon presentation by the trustee of certain certificates, the sum or sums set forth therein but not to exceed \$5,330,000 in the aggregate. In the event of a draw under any such letter of credit, the Issuer shall issue its refunding notes to the bank issuing such letter of credit. Any such letter of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

ARTICLE IV

BOND PROCEEDS; REVENUES AND APPLICATION THEREOF

Section 4.01. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Series 2011 A Bond shall be deposited on receipt by the Issuer in the Bank, in a special account hereby created and designated "Claywood Park Public Service District, Riser

Ridge/Laurel Fork Extension Project Construction Account". The moneys in the Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Bank by the pledge of Government Obligations or otherwise in a manner lawful for the securing of deposits of state and municipal funds under West Virginia law. Moneys in the Construction Account shall be expended by the Issuer solely for the purposes provided herein. Until so used, the Purchaser shall have a lien thereon for securing payment of the Series 2011 A Bond and the interest thereon.

Until completion of acquisition and construction of the Project, the Issuer will transfer from the Construction Account and pay to the Purchaser on or before the due date thereof, such sums as shall be from time to time required to make the monthly installment payments on the Series 2011 A Bond if there are not sufficient Net Revenues to make such monthly payment.

Moneys in the Construction Account shall be used solely to pay the Project Costs upon vouchers and other documentation approved by the Purchaser.

If the Issuer shall determine at any time that all funds on deposit in the Construction Account exceed the estimated disbursements on account of the Project for the ensuing ninety (90) days, the Issuer may invest such excess funds in Government Obligations which shall mature not later than eighteen (18) months after the date of such investment. All such investments and the income therefrom shall be carried to the credit of the Construction Account.

When construction of the Project has been completed and all costs have been paid or provision for such payment has been made, any balance remaining in the Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.02. Covenants of the Issuer as to Revenues and Funds. As long as the Series 2011 A Bond shall be outstanding and unpaid, or until there shall have been set apart in the Series 2011 A Bond Reserve Account hereinafter established, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2011 A Bond remaining unpaid, together with interest accrued and to accrue thereon; the Issuer further covenants with the holder of the Series 2011 A Bond as follows:

(A) Revenue Fund. The entire gross revenues derived from the operation of the System, and all parts thereof, and all tap fees received, shall be deposited as collected by the Issuer in the Revenue Fund established or continued by the Prior Resolutions. The Revenue Fund shall constitute a trust fund for the purposes provided in the Prior Resolutions and herein and shall be kept separate and apart from all other funds of the Issuer and used only for the purposes and in the manner provided herein. The holder of the Series 2011 A Bond shall have a lien on and a pledge, hereby granted, of all the Net Revenues of the System, as herein provided, and a statutory mortgage lien upon the System, granted and created by the Act, as long as the Series 2011 A Bond remains unpaid, on a parity in all respects with the holders of the Series 1975 Bond, the Series 1979 Bond, the Series 1993 B Bond the Series 1995 Bond, the Series 1997 A Bond, the Series 1998 Bond, the Series 2002 Bond, the Series 2003 Bonds, the Series 2006 A

Bond, the Series 2006 B Bond, the Series 2006 C Bond, and the Series 2008 Bond, and senior and prior to the Series 2010 A Bonds.

(B) Disposition of Revenues. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first each month transfer from the Revenue Fund and pay into the Operation and Maintenance Fund established or continued by the Prior Resolutions such sum as the Issuer may determine, in accordance with its budget, to be necessary to pay all current Operating Expenses.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously (i) pay to the National Finance Office designated in the Series 2011 A Bond the amount required to pay the interest on the Bonds, other than the Series 2003 Bonds, and to amortize the principal of the Bonds, other than the Series 2003 Bonds, over the lives of the Series 1975 Bond, the Series 1979 Bond, the Series 1993 B Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1998 Bond, the Series 2002 Bond, the Series 2006 A Bond, the Series 2006 B Bond, the Series 2006 C Bond, the Series 2008 Bond, and the Series 2011 A Bond respectively; (ii) beginning on the first day of that month which is 6 months prior to the first interest payment date on the Series 2003 Bonds, remit to the Commission for deposit in the Series 2003 Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 2003 Bonds on the next ensuing semiannual interest payment date, provided, that in the event the period to elapse between the date of such initial deposit in the Series 2003 Bonds Sinking Fund and the next ensuing semiannual interest payment date is less than or greater than 6 months, then such monthly payments shall be increased or decreased proportionately to provide, 1 month prior to the next ensuing semiannual interest payment date, the required amount of interest coming due on such date, and provided further, that the initial amount required to be transferred from the Revenue Fund and deposited in the Series 2003 Bonds Sinking Fund shall be reduced by the amount of accrued interest on the Series 2003 Bonds deposited therein and subsequent amounts required to be transferred from the Revenue Fund and deposited in the Series 2003 Bonds Sinking Fund shall be reduced by the amount of any earnings credited to the Series 2003 Bonds Sinking Fund, and (iii) beginning on the first day of that month which is 12 months prior to the first principal payment date or mandatory redemption date of the Series 2003 Bonds, remit to the Commission for deposit in the Series 2003 Bonds Sinking Fund, and in the Series 2003 Bonds Redemption Account therein in the case of Term Bonds which are to be redeemed, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Series 2003 Bonds on the next ensuing principal payment date or mandatory redemption date, provided, that in the event the period to elapse between the date of such initial deposit in the Series 2003 Bonds Sinking Fund and the next ensuing annual principal payment date or mandatory redemption date is less than or greater than 12 months, then such monthly payments shall be increased or decreased proportionately to provide, 1 month prior to the next ensuing annual principal payment date or mandatory redemption date, the required amount of principal coming due on such date, and provided further, that the amount of such deposits shall be reduced by the amount of any earnings credited to the Series 2003 Bonds Sinking Fund and not previously credited pursuant to the preceding paragraph.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously deposit pro rata (i) in the Reserve Fund established by the 1967 Resolution (the "Reserve Fund"), one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 1975 Bonds and Series 1979 Bonds outstanding until the amount in the Reserve Fund is equal to the Minimum Reserve as defined in the Prior Resolution (the "Minimum Reserve"); (ii) in the Series 1993 B Bond Reserve Account established by the 1993 B Resolution (the "Series 1993 B Bond Reserve Account"), one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 1993 B Bond until the amount in the Series 1993 B Bond Reserve Account is equal to the Series 1993 B Bond Reserve Requirement as defined in the 1993 B Resolution (the "Series 1993 B Bond Reserve Requirement"); (iii) in the Series 1995 Bond Reserve Account established by the 1995 Resolution (the "Series 1995 Bond Reserve Account"), one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 1995 Bond until the amount in the Series 1995 Bond Reserve Account is equal to the Series 1995 Bond Reserve Requirement as defined in the 1995 Resolution (the "Series 1995 Bond Reserve Requirement"); (iv) in the Series 1997 A Bond Reserve Account established by the 1997 A Resolution (the "Series 1997 A Bond Reserve Account"), one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 1997 A Bond until the amount in the Series 1997 A Bond Reserve Account is equal to the Series 1997 A Bond Reserve Requirement as defined in the 1997 A Resolution (the "Series 1997 A Bond Reserve Requirement"); (v) in the Series 1998 Bond Reserve Account established by the 1998 Resolution ("the Series 1998 Bond Reserve Account"), one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 1998 Bond until the amount in the Series 1998 Bond Reserve Account is equal to the Series 1998 Bond Reserve Requirement as defined in the 1998 Resolution (the "Series 1998 Bond Reserve Requirement"); (vi) in the Series 2002 Bond Reserve Account established by the 2002 Resolution (the "Series 2002 Bond Reserve Account"), one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 2002 Bond until the amount in the Series 2002 Bond Reserve Account is equal to the Series 2002 Bond Reserve Requirement as defined in the 2002 Resolution (the "Series 2002 Bond Reserve Requirement"); (vii) in the Series 2003 Bonds Reserve Account established by the 2003 Resolution (the "Series 2003 Bonds Reserve Account"), if not fully funded upon the issuance of the Series 2003 Bonds, one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 2003 Bond until the amount in the Series 2003 Bonds Reserve Account is equal to the Series 2003 Bonds Reserve Requirement, as defined in the 2003 Resolution (the "Series 2003 Bonds Reserve Requirement"); (viii) in the Series 2006 A Bond Reserve Account established by the 2006 Resolution (the "Series 2006 A Bond Reserve Account"), one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 2006 A Bond until the amount in the Series 2006 A Bond Reserve Account is equal to the Series 2006 A Bond Reserve Requirement as defined in the 2006 Resolution (the "Series 2006 A Bond Reserve Requirement"); (ix) in the Series 2006 B Bond Reserve Account established by the 2006 Resolution (the "Series 2006 B Bond Reserve Account"), one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 2006 B Bond until the amount in the Series 2006 B Bond Reserve Account is equal to the Series 2006 B Bond Reserve Requirement as defined in the 2006 Resolution (the "Series 2006 B Bond

Reserve Requirement”); (x) in the Series 2006 C Bond Reserve Account established by the 2006 Resolution (the “Series 2006 C Bond Reserve Account”), one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 2006 C Bond until the amount in the Series 2006 C Bond Reserve Account is equal to the Series 2006 C Bond Reserve Requirement as defined in the 2006 Resolution (the “Series 2006 C Bond Reserve Requirement”); (xi) in the Series 2008 Bond Reserve Account established by the 2008 Resolution (the “Series 2008 Bond Reserve Account”), one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 2008 Bond until the amount in the Series 2008 Bond Reserve Account is equal to the Series 2008 Bond Reserve Requirement as defined in the 2008 Resolution (the “Series 2008 Bond Reserve Requirement”); and (xii) beginning with and including the month in which the first principal installment is due upon the Series 2011 A Bond, transfer from the Revenue Fund and deposit in an account hereby designated the “Series 2011 A Bond Reserve Account” which is hereby established with the Commission, one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Series 2011 A Bond until the amount in the Series 2011 A Bond Reserve Account is equal to the Series 2011 A Bond Reserve Requirement.

After the Minimum Reserve has been accumulated in the Reserve Fund, the Series 1993 B Bond Reserve Requirement has been accumulated in the Series 1993 B Bond Reserve Account, the Series 1995 Bond Reserve Requirement has been accumulated in the Series 1995 Bond Reserve Account, the Series 1997 A Bond Reserve Requirement has been accumulated in the Series 1997 A Bond Reserve Account, the Series 1998 Bond Reserve Requirement has been accumulated in the Series 1998 Bond Reserve Account, the Series 2002 Bond Reserve Requirement has been accumulated in the Series 2002 Bond Reserve Account, the Series 2003 Bonds Reserve Requirement has been accumulated in the Series 2003 Bonds Reserve Account, the Series 2006 A Bond Reserve Requirement has been accumulated in the Series 2006 A Bond Reserve Account, the Series 2006 B Bond Reserve Requirement has been accumulated in the Series 2006 B Bond Reserve Account, the Series 2006 C Bond Reserve Requirement has been accumulated in the Series 2006 C Bond Reserve Account, the Series 2008 Bond Reserve Requirement has been accumulated in the Series 2008 Bond Reserve Account, and the Series 2011 A Bond Reserve Requirement has been accumulated in the Series 2011 A Bond Reserve Account respectively, the Issuer shall deposit monthly pro rata into the Reserve Fund, the Series 1993 B Bond Reserve Account, the Series 1995 Bond Reserve Account, the Series 1997 A Bond Reserve Account, the Series 1998 Bond Reserve Account, the Series 2002 Bond Reserve Account, the Series 2003 Bonds Reserve Account, the Series 2006 A Bond Reserve Account, the Series 2006 B Bond Reserve Account, the Series 2006 C Bond Reserve Account, the Series 2008 Bond Reserve Account, and the Series 2011 A Bond Reserve Account such part of the moneys remaining in the Revenue Fund, after such provision for payment of monthly installments on the Bonds and for payment of Operating Expenses of the System, as shall be required to maintain the Minimum Reserve, the Series 1993 B Bond Reserve Requirement, the Series 1995 Bond Reserve Requirement, the Series 1997 A Bond Reserve Requirement, the Series 1998 Bond Reserve Requirement, the Series 2002 Bond Reserve Requirement, the Series 2003 Bond Reserve Requirement; the Series 2006 A Bond Reserve Requirement, the Series 2006 B Bond Reserve Requirement, the Series 2006 C Bond Reserve Requirement, the Series 2008 Bond Reserve Requirement, and the Series 2011 A Bond Reserve Requirement, respectively.

Moneys in the Reserve Fund shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 1975 Bond and the Series 1979 Bond, as the same shall become due, for prepayments of installments on the Series 1975 Bond and the Series 1979 Bond or for mandatory prepayment of the Series 1975 Bond and the Series 1979 Bond, as provided in the Prior Resolution, the 1993 B Resolution, the 1995 Resolution, the 1997 A Resolution, the 1998 Resolution, the 2002 Resolution, the 2003 Resolution, the 2006 Resolution, the 2008 Resolution and herein, and for no other purpose.

Moneys in the Series 1993 B Bond Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 1993 B Bond as the same shall become due, for prepayment of installments on the Series 1993 B Bond or for mandatory prepayment of the Series 1993 B Bond as provided in the 1993 B Resolution, the 1995 Resolution, the 1997 A Resolution, the 1998 Resolution, the 2002 Resolution, the 2003 Resolution, the 2006 Resolution and herein, and for no other purpose.

Moneys in the Series 1995 Bond Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 1995 Bond as the same shall become due, for prepayment of installments on the Series 1995 Bond or for mandatory prepayment of the Series 1995 Bond as provided in the 1995 Resolution, the 1997 A Resolution, the 1998 Resolution, the 2002 Resolution, the 2003 Resolution, the 2006 Resolution, the 2008 Resolution and herein, and for no other purpose.

Moneys in the Series 1997 A Bond Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 1997 A Bond as the same shall become due, for prepayment of installments on the Series 1997 A Bond or for mandatory prepayment of the Series 1997 A Bond as provided in the 1997 A Resolution, the 1998 Resolution, the 2002 Resolution, the 2003 Resolution, the 2006 Resolution, the 2008 Resolution and herein, and for no other purpose.

Moneys in the Series 1998 Bond Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the 1998 Bond as the same shall become due, for prepayment of installments on the 1998 Bond or for mandatory prepayment of the 1998 Bond as provided in the 1998 Resolution, the 2002 Resolution, the 2003 Resolution, the 2006 Resolution, the 2008 Resolution and herein, and for no other purpose.

Moneys in the Series 2002 Bond Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 2002 Bond as the same shall become due, for prepayment of installments on the Series 2002 Bond or for mandatory prepayment of the Series 2002 Bond as provided in the 2002 Resolution, the 2003 Resolution, the 2006 Resolution, the 2008 Resolution and herein, and for no other purpose.

Moneys in the Series 2003 Bonds Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 2003 Bonds as the same shall become due, for prepayment of installments on the Series 2003 Bonds or for mandatory prepayment of the Series 2003 Bonds as provided in the 2003 Resolution, the 2006 Resolution, the 2008 Resolution and herein, and for no other purpose.

Moneys in the Series 2006 A Bond Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 2006 A Bond as the same shall become due, for prepayment of installments on the Series 2006 A Bond or for mandatory prepayment of the Series 2006 A Bond as provided in the 2006 Resolution, the 2008 Resolution and herein, and for no other purpose.

Moneys in the Series 2006 B Bond Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 2006 B Bond as the same shall become due, for prepayment of installments on the Series 2006 B Bond or for mandatory prepayment of the Series 2006 B Bond as provided in the 2006 Resolution, the 2008 Resolution and herein, and for no other purpose.

Moneys in the Series 2006 C Bond Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 2006 C Bond as the same shall become due, for prepayment of installments on the Series 2006 C Bond or for mandatory prepayment of the Series 2006 C Bond as provided in the 2006 Resolution, the 2008 Resolution and herein, and for no other purpose.

Moneys in the Series 2008 Bond Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 2008 Bond as the same shall become due, for prepayment of installments on the Series 2008 Bond or for mandatory prepayment of the Series 2008 Bond as provided in the 2008 Resolution and herein, and for no other purpose.

Moneys in the Series 2011 A Bond Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Series 2011 A Bond as the same shall become due, for prepayment of installments on the Series 2011 A Bond or for mandatory prepayment of the Series 2011 A Bond as provided herein, and for no other purpose.

(4) The Issuer shall next remit to holder(s) of the Series 2010 A Bonds or its/their registered assigns the installments of principal and interest due on the Series 2010 A Bonds on that date.

(5) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein may be used to prepay installments of the Bonds or for any lawful purpose.

Whenever the money in the Series 2011 A Bond Reserve Account shall be sufficient to prepay the Series 2011 A Bond in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2011 A Bond at the earliest practical date and in accordance with applicable provisions hereof.

The Bank (and any successor appointed by the Issuer) is hereby designated as Fiscal Agent for the administration of the Reserve Fund, the Series 1993 B Bond Reserve Account, the Series 1995 Bond Reserve Account, the Series 1997 A Bond Reserve Account, the Series 1998 Bond Reserve Account and the Series 2002 Bond Reserve Account as herein provided, and all amounts required therefor will be deposited by the Issuer upon transfers of

funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

The Commission is hereby designated as Fiscal Agent for the administration of the Series 2003 Bonds Reserve Account, the Series 2006 A Bond Reserve Account, the Series 2006 B Bond Reserve Account, the Series 2006 C Bond Reserve Account, the Series 2008 Bond Reserve Account, and the Series 2011 A Bond Reserve Account as herein provided, and all amounts required therefor will be deposited by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

All the funds provided for in this Section shall constitute trust funds and shall be used solely for the purposes and in the order provided herein, and until so used, the Purchaser and the holders of the Series 2003 Bonds shall have a lien thereon for further securing payment of the Bonds and the interest thereon, provided that, with respect to the respective sinking funds and reserve accounts described in this Section, only the holder of the respective series of Bonds payable therefrom or secured thereby shall have a lien thereon. The moneys in excess of the sum insured by FDIC in any of such funds shall at all times be secured, to the full extent thereof in excess of such insured sum, by the pledge of Government Obligations or otherwise in a manner lawful for securing deposits of state and municipal funds under the laws of the State of West Virginia. The Bank or the Commission shall not be a trustee as to such funds.

If on any payment date the revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

The Bank shall keep the moneys in the Reserve Fund, the Series 1993 B Bond Reserve Account, the Series 1995 Bond Reserve Account, the Series 1997 A Bond Reserve Account, the Series 1998 Bond Reserve Account and the Series 2002 Bond Reserve Account invested and reinvested to the fullest extent practicable in Qualified Investments. Earnings upon moneys in the Reserve Fund, the Series 1993 B Bond Reserve Account, the Series 1995 Bond Reserve Account, the Series 1997 A Bond Reserve Account, the Series 1998 Bond Reserve Account and the Series 2002 Bond Reserve Account, as long as the Minimum Reserve, the Series 1993 B Bond Reserve Requirement, the Series 1995 Bond Reserve Requirement, the Series 1997 A Bond Reserve Requirement, the Series 1998 Bond Reserve Requirement, and the Series 2002 Bond Reserve Requirement are on deposit and maintained therein, shall be paid annually in January into the Revenue Fund by the Bank.

The Commission shall keep the moneys in the Series 2003 Bonds Reserve Account, the Series 2006 A Bond Reserve Account, the Series 2006 B Bond Reserve Account, the Series 2006 C Bond Reserve Account, the Series 2008 Bond Reserve Account, and the Series 2011 A Bond Reserve Account invested and reinvested to the fullest extent possible in Qualified Investments. Earnings upon moneys in the Series 2003 Bonds Reserve Account, the Series 2006 A Bond Reserve Account, the Series 2006 B Bond Reserve Account, the Series 2006 C Bond Reserve Account, the Series 2008 Bond Reserve Account,, and the Series 2011 A Bond Reserve

Account as long as the Series 2003 Bonds Reserve Requirement, the Series 2006 A Bond Reserve Requirement, the Series 2006 B Bond Reserve Requirement, the Series 2006 C Bond Reserve Requirement, the Series 2008 Bond Reserve Requirement, and the Series 2011 A Bond Reserve Requirement are on deposit and maintained therein, shall be paid annually in January into the Revenue Fund by the Commission.

(C) Change of Bank as Fiscal Agent. The Issuer may designate another bank insured by FDIC as Fiscal Agent for the administration of the Reserve Fund, the Series 1993 B Bond Reserve Account, the Series 1995 Bond Reserve Account, the Series 1997 A Bond Reserve Account, the Series 1998 Bond Reserve Account and the Series 2002 Bond Reserve Account if the Bank should cease for any reason to serve or if the Board determines by resolution that the Bank or its successor should no longer serve as Fiscal Agent. Upon any such change, the Board will cause note of the change to be sent by registered or certified mail to the Purchaser.

(D) Additional User Contracts. The Issuer has at least 3,695 *bona fide* users of the System, including 262 new users.

ARTICLE V

GENERAL COVENANTS

Section 5.01. General Statement. As long as the Series 2011 A Bond shall be outstanding and unpaid, or until there shall have been set apart in the Series 2011 A Bond Reserve Account a sum sufficient to prepay the entire principal of the Series 2011 A Bond remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Purchaser.

Until the payment in full of the principal of and interest on the Notes when due, and to the extent they do not materially adversely affect the holders of the Bonds, the covenants, agreements and provisions contained herein shall, where applicable, also inure to the benefit of the holders of the Notes and the trustee therefor and constitute valid and legally binding covenants of the Issuer, enforceable in any court of competent jurisdiction by the trustee or any holder or holders of the Notes as prescribed in the indenture or supplemental resolution; provided, that Section 5.05 shall not be applied to the Notes.

Section 5.02. Bonds and Notes not to be Indebtedness of the Issuer. Neither the Bonds nor the Notes shall be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No holder or holders of any Bonds or Notes shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or Notes or the interest thereon.

Section 5.03. Series 2011 A Bond Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2011 A Bond issued hereunder shall be secured forthwith by a first lien on the Net Revenues derived from the System, on parity with the lien on the Net Revenues in favor of the Holders of the Bonds and any water revenue bond subsequently

issued by the Issuer on parity with the Bonds and senior and prior to the Series 2010 A Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the interest on and principal of the Series 2011 A Bond herein authorized and to make all other payments provided for in this Resolution, are hereby irrevocably pledged in the manner provided in this Resolution to the payment of the interest on and principal of the Series 2011 A Bonds herein authorized as the same become due and for the other purposes provided in this Resolution.

Section 5.04. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Bonds and the Series 2010 A Bonds. Such rates shall also be sufficient to make the debt service payments on the Bonds and the Series 2010 A Bonds, to make all payments required herein into the Reserve Fund, the Series 1993 B Bond Reserve Account, the Series 1995 Bond Reserve Account, the Series 1997 A Bond Reserve Account, the Series 1998 Bond Reserve Account, the Series 2002 Bond Reserve Account, the Series 2003 Bonds Reserve Account, the Series 2006 A Bond Reserve Account, the Series 2006 B Bond Reserve Account, the Series 2006 C Bond Reserve Account, the Series 2008 Bond Reserve Account, and the Series 2011 A Bond Reserve Account and to pay all the necessary expenses of operating and maintaining the System during such fiscal year, and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 5.05. Statutory Mortgage. For the further protection of the holder of the Series 2011 A Bond, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Series 2011 A Bond for the benefit of the holder of the Series 2011 A Bond on a parity with the Series 1975 Bonds, the Series 1979 Bond, the Series 1993 B Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1998 Bond, the Series 2002 Bond, the Series 2003 Bonds, the Series 2006 Bonds, and the Series 2008 Bond and senior and prior to the Series 2010 A Bonds.

Section 5.06. Conditions Precedent Fulfilled; Interim Financing. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Series 2011 A Bond and the Notes, if issued, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which shall have been waived or shall have expired. The Notes, if issued, will not be payable from the Net Revenues, but shall be payable from proceeds of the Series 2011 A Bond, the Grants, surplus revenues and proceeds from a letter of credit, if any, all as shall be set forth in the indenture or a supplemental resolution authorizing the Notes.

Section 5.07. Investments. The Issuer shall invest and reinvest, and hereby instructs the Bank and the Commission to invest and reinvest, in Qualified Investments any moneys held as part of the funds and accounts created by this Resolution, other than the Revenue

Fund, to the fullest extent possible subject to applicable laws and this Resolution, and the need for such moneys for the purposes set forth herein, and the specific restrictions and provisions set forth in this Section 5.07. The Issuer may direct the Bank and the Commission in writing as to what particular permitted investments shall be made.

Except as provided herein and in the indenture, if any, any investment shall be held in and at all times be deemed a part of the fund or account in which the moneys and investments are held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the corresponding fund or account. The Bank or the Commission shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of any loss on such liquidation. The Issuer may invest funds on deposit with the Bank through the trust department of the Bank. The Bank or the Commission shall not be responsible for any losses from such investments, except losses due to its own gross negligence or willful misconduct.

Section 5.08. Wetlands Covenant. The Issuer shall not use any Series 2011 A Bond proceeds for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity. Failure to comply with this covenant shall constitute an Event of Default under Section 4.07 of the Prior Resolution.

Section 5.09. Operation and Maintenance. The Issuer will operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

Section 5.10. Sale of the System. So long as any of the Bonds other than the Series 2011 A Bond are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System, or any part thereof, except as provided in the respective Prior Resolutions relating to the respective Bonds outstanding. Additionally, so long as the Series 2011 A Bond is outstanding and except as otherwise required by law, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully the Series 2011 A Bond. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2011 A Bond, immediately be remitted to the Purchaser, and the Issuer shall direct the Purchaser to apply such proceeds to the payment of principal of and interest on the Series 2011 A Bond. Any balance remaining after the payment of the Series 2011 A Bond and interest thereon shall be retained by the Issuer unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$50,000, the Issuer shall, by resolution, determine that such property comprising a

part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Repair and Replacement Fund created or continued by the Prior Resolutions. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$50,000 but not in excess of \$200,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$50,000 and not in excess of \$200,000, shall be deposited in the Repair and Replacement Fund. Such payment of such proceeds into the Repair and Replacement Fund shall not reduce the amounts required to be paid into said fund by provisions of the Prior Resolutions. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$200,000 and insufficient to pay the Series 2011 A Bond and other Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Series 2011 A Bond and the other Bonds then outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Series 2011 A Bond and other Bonds then outstanding for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 5.11. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 5.11 and in Section 5.12, so long as the Series 2011 A Bond is outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2011 A Bond. All obligations issued by the Issuer after the issuance of the Series 2011 A Bond and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 2011 A Bond; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations. Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2011 A Bond, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2011 A Bond and the interest thereon in this Resolution, or upon the System or any part thereof.

The Issuer shall give the Purchaser prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 5.12. Parity Bonds. So long as any of the Bonds other than the Series 2011 A Bond are outstanding, the limitations on the issuance of parity obligations set forth in the respective Prior Resolutions shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2011 A Bond pursuant to this Resolution, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2011 A Bond, and must have the prior written consent of the Purchaser.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the design, construction or acquisition of extensions, improvements or betterments to the System or refunding one or more series of the Bonds or Series 2010 A Bonds, or one or more subsequent series of Parity Bonds, or both such purposes.

So long as the Series 2011 A Bond is outstanding, no Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by the Independent Accountants, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

- (1) The Bonds and Series 2010 A Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution the Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The foregoing limitation may be waived or modified by the written consent of the Registered Owner(s) of the Series 2011 A Bond, representing 75% of the then outstanding principal indebtedness.

All covenants and other provisions of this resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2011 A Bond and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Resolution or separate resolution authorized said parity Bonds required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Series 2011 A Bond on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which

rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2011 A Bond.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation and the Prior Resolutions with respect to the Series 2011 A Bond and other Bonds and Series 2010 A Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

Section 5.13. Insurance and Bonds. The Issuer hereby covenants and agrees, that so long as the Series 2011 A Bond remains outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance and bonds and worker's compensation coverage with a reputable insurance carrier or carriers or bonding company or companies covering the following risks and in the following amounts:

A. FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Repair and Replacement Fund and used only for the repairs and restoration of the damaged and destroyed properties or for the other purposes provided herein for the Repair and Replacement Fund.

B. PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

C. WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT OR COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of any additions, extensions or improvements for the System in compliance with West Virginia Code, Section 38-2-39.

D. FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

E. BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

F. FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

Section 5.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and, in the event the Issuer or any department, agency, instrumentality, officer or employee thereof shall avail himself or themselves of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 5.15. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid and to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, all delinquent rates, rentals and other changes, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services and facilities of the System to all delinquent users of services and facilities of the System and will not restore such services of the System until all billing for charges for the services and facilities of the System, plus reasonable interest penalty charges for the restoration of service, has been fully paid.

Section 5.16. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 5.17. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of the Series 2011 A Bond shall have the right at all reasonable times to

inspect the System, and all parts thereof, and all records, accounts and data of the Issuer relating thereto.

The accounting System for the System shall follow current generally accepted accounting principles, to the extent allowable under and in accordance with the rules and regulations of the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting System which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as it shall direct.

The Issuer shall file with the Purchaser, and shall mail to any Bondholder requesting the same, an annual report within 30 days following the date of receipt of the final audit containing a balance sheet, statement of revenues, expenses, and changes in retained earnings, and statement of cash flows, as prescribed by generally accepted accounting principles.

The Issuer shall also file with the Purchaser, and mail to any Bondholder requesting the same, an annual report containing the following:

A. A statement of Gross Revenues, Operating Expenses, and Net Revenues derived from the System.

B. A statement of account balances in all funds and accounts provided for herein and status of said funds.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any Holder or Holders of the Series 2011 A Bond issued pursuant to this Resolution and shall file said report with the Purchaser.

Section 5.18. Operating Budget. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year. The Issuer, by the consent and approval of the Governing Body, may from time to time amend the budget during the subject Fiscal Year provided that the budget remains balanced after such amendment. After the adoption of any such amendment, the budget, as amended, shall be the budget of the Issuer for the balance of the subject Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget until the Issuer shall have approved such expenditure by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the certificate of a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Purchaser and shall make available such budgets and all resolutions authorizing increased expenditures for operation and

maintenance of the System at all reasonable times to the Purchaser and to any Bondholder or anyone acting for and in behalf of such Bondholder who shall file his or her address with the Issuer and request in writing that copies of all such budgets, any amendments thereto and resolutions be furnished him or her and shall make available such budgets, any amendments thereto and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

ARTICLE VI

RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. The schedule of rates and charges for the services and facilities of the extension to the System initially shall be those contained in the Recommended Decision of the Public Service Commission of West Virginia entered on December 13, 2010, which became final pursuant to the Commission Order entered on February 22, 2011, and such rates are hereby adopted to be effective as provided in said Recommended Decision.

ARTICLE VII

DEFAULT AND REMEDIES

Section 7.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2011 A Bond:

(1) If default occurs in the due and punctual payment of the principal or of interest on any of the Series 2011 A Bond; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the 2011 A Bond, set forth in this Resolution, any supplemental resolution or in the Series 2011 A Bond, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Purchaser, the Commission, the Bank or any other Holder of a Series 2011 A Bond; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or

(4) If a default occurs under any of the other Bonds or any of the Prior Resolutions.

Section 7.02. Remedies. Upon the happening and continuance of any Event of Default, any Holder of the Series 2011 A Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Holder of the Series 2011 A Bond, including the right to require the Issuer to perform its duties under the Act and this Resolution relating thereto, including but not

limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2011 A Bond, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Holder of the Series 2011 A Bond, and (v) by action or bill in equity enjoin any acts in violation of the Resolution with respect to the Series 2011 A Bond, or the rights of such Holder; provided that all rights and remedies of the Holder of the Series 2011 A Bond shall be on a parity with the Holders of the other Bonds and senior and prior to the Holder(s) of the Series 2010 A Bonds.

Section 7.03. Appointment of Receiver. Any Holder of a Series 2011 A Bond, may, by proper legal action, compel the performance of the duties of the Issuer under this Bond Resolution and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Series 2011 A Bond, any Holder of a Series 2011 A Bond, shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other avenues in conformity with the provisions of this Resolution and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Resolution for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Holder of the Series 2011 A Bond, shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Holders of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Holders of such Bonds, and the curing and making good of any Event of Default with respect thereto under the provisions of this Resolution, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE VIII

PAYMENT OF BONDS

Section 8.01. Payment of Series 2011 A Bond. If the Issuer shall pay or there shall otherwise be paid, to the respective Holders of all Series 2011 A Bond, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then with respect to the Series 2011 A Bond only, the pledge of Net Revenues and other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Holder of the Series 2011 A Bond shall thereupon cease, terminate and become void and be discharged and satisfied. Except through such direct payment to the Holder of the Series 2011 A Bond, the Issuer may not defease the Series 2011 A Bond or otherwise provide for payment thereof by escrow or like manner.

ARTICLE VIX

MISCELLANEOUS

Section 9.01. Modification or Amendment. No modification or amendment of this Resolution, or of any resolution amendatory hereof or supplemental hereto, may be made without the prior consent in writing of the Purchaser.

Section 9.02. Delivery of Series 2011 A Bond. The Chairman, Secretary and Treasurer of the Issuer are hereby authorized and directed to cause the Series 2011 A Bond No. AR-1, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 9.03. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 2011 A Bond.

Section 9.04. Conflicting Provisions Repealed. All resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed, but excluding the Loan Resolution (Form FmHA 442-47) and the Prior Resolutions.

Section 9.05. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 9.06. Covenant of Due Procedure, etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, the Secretary and the Treasurer of the Board were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such service.

This Resolution shall become effective immediately upon its adoption.

Adopted April 13, 2011.

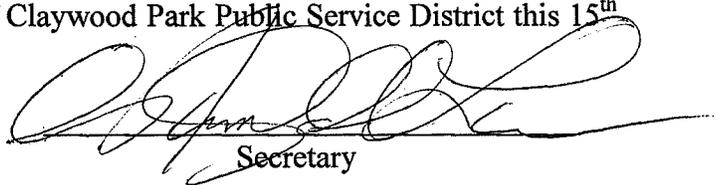


Chairman, Public Service Board

CERTIFICATION

I, C. Randall Law, Secretary of the Public Service Board of the Claywood Park Public Service District, Wood and Wirt Counties, West Virginia, do hereby certify that the attached is a true and accurate copy of the Resolution adopted by the Public Service Board on April 13, 2011, authorizing the Claywood Park Public Service District's Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project), Series 2011 A.

Given under my hand and seal of Claywood Park Public Service District this 15th day of April, 2011.



Secretary

[SEAL]

Cerrone Associates, Inc.
401 Main Street
Wheeling, WV 26003
Phone: 304.232-5550
Fax: 304.233.2512
E-mail: mail@cerrone1.com



CERRONE
Associates • Consulting Engineers

**CLAYWOOD PARK PUBLIC SERVICE DISTRICT
\$2,530,000 WATER REVENUE BOND
(RISER RIDGE/LAUREL FORK EXTENSION PROJECT)
SERIES 2011 A**

ENGINEER'S CERTIFICATE

I, Dominick P. Cerrone, Registered Professional Engineer, West Virginia Registration No. 14750, of Cerrone Associates, Inc., Consulting Engineers, Wheeling, West Virginia, hereby certify that my firm is engineer for the construction of the water system improvements (herein called the "Project") of the Claywood Park Public Service District to be constructed in Wood and Wirt Counties, West Virginia, which construction is being financed by the above-captioned Water Revenue Bond of the District.

I further certify that the Project will, to the best of my knowledge, be constructed in accordance with plans and specifications prepared by my firm and that such system is situate wholly or chiefly within the boundaries of said District.

I further certify that the Project is adequate for the purpose for which it was designed and that all necessary governmental approvals and permits for the construction thereof have been obtained or can be obtained.

WITNESS my signature on this 15th day of April, 2011.

CERRONE ASSOCIATES, INC.

By:



Dominick P. Cerrone



BASSETT & LOWE
CERTIFIED PUBLIC ACCOUNTANTS
1156 SOUTH MAIN STREET
MILTON, WEST VIRGINIA 25541
Phone: (304) 743-5573 FAX: (304) 743-1150

**CLAYWOOD PARK PUBLIC SERVICE DISTRICT
WATER REVENUE BOND
(RISER RIDGE/LAUREL FORK EXTENSION PROJECT)
SERIES 2011 A**

April 15, 2011

United States Department of Agriculture
Rural Development
1550 Earl Core Road, Suite 101
Morgantown, West Virginia 26505

Bowles Rice McDavid Graff & Love LLP
600 Quarrier Street
Charleston, West Virginia 25301

Claywood Park Public Service District
Post Office Box 127
Parkersburg, West Virginia 26102

Ladies and Gentlemen:

Based upon the rates and charges approved in the Recommended Decision of the Public Service Commission of West Virginia entered on December 13, 2010, which became the Final Order of the Public Service Commission of West Virginia pursuant to the Commission Order entered on February 22, 2011, in Case No. 10-1165-PWD-CN, for the waterworks system (the "System") of the Claywood Park Public Service District (the "Issuer"), and projected operation and maintenance expenses and anticipated customer usage as furnished to us by the Issuer, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the System, will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 110% of the maximum amount required in any year for debt service on the Issuer's Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project) Series 2011 A (the "Bond"), to be issued to the United States Department of Agriculture and all other obligations secured by or payable from the revenues of the System on a parity with or junior and subordinate to the Bond, including the Issuer's Waterworks Revenue Bond, Series 1975, the Water Revenue Bond, Series 1979, the Water Revenue Bond, Series 1993 B, the Water Revenue Bond, Series 1995, the Water Revenue Bond, Series 1997 A, the Water Revenue Bond, Series 1998, the Water Revenue Bond, Series 2002, the Water Refunding Revenue Bonds, Series 2003, the Water Revenue Bond, Series 2006 A, the Water Revenue Bond, Series 2006 B, the Water Revenue Bond, Series 2006 C, the Water Revenue Bond, Series 2008, and the Water Revenue Bonds, Series 2011 A (collectively, the "Prior Bonds").

Further, based upon information (including financial information) provided to us by the Issuer, and further based upon the certificate of Cerrone Associates, Inc., Consulting Engineers for the Issuer, which certificate is attached hereto, it is our opinion that the Net Revenues actually derived from the System during 12 consecutive months within the 18 months immediately preceding the date hereof, plus estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Bond, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Prior Bonds and the Bond.

The Net Revenues referenced above in the immediately preceding paragraph have been adjusted by adding to such Net Revenues the amount of \$170,521, which is the amount of the additional Net Revenues which, in our opinion, would have been received during the 12 consecutive months within the 18 months immediately preceding the date hereof on account of the increased rates and charges for the Issuer's waterworks system approved in the Recommended Decision of the Public Service Commission of West Virginia entered on December 13, 2010, which became the Final Order of the Public Service Commission of West Virginia pursuant to the Commission Order entered on February 22, 2011, in Case No. 10-1165-PWD-CN, the period for appeal of which has expired prior to the date hereof, if said rates had been in effect during the entirety of the said 12 consecutive month period.

Very truly yours,



**CLAYWOOD PARK PUBLIC SERVICE DISTRICT
WATER REVENUE BOND
(RISER RIDGE/LAUREL FORK EXTENSION PROJECT)
SERIES 2011 A**

CERTIFICATE OF CONSULTING ENGINEER

The undersigned authorized representative of Cerrone Associates, Inc., Consulting Engineers for the Claywood Park Public Service District (the "Issuer"), hereby certifies as follows:

We, having conducted such investigation as we have deemed necessary, believe the projected operation and maintenance expenses and anticipated customer usage referenced in the Certificate of Bassett & Lowe, Certified Public Accountants, dated April 15, 2011 (the "Certificate"), to which this Certificate is to be attached, are reasonable and accurate.

Dated: April 15, 2011.

CERRONE ASSOCIATES, INC.

By: _____

Its: _____


President



United States Department of Agriculture
Rural Development
West Virginia State Office

**CLAYWOOD PARK PUBLIC SERVICE DISTRICT
WATER REVENUE BOND (RISER RIDGE/LAUREL FORK EXTENSION PROJECT),
SERIES 2011 A**

TO WHOM IT MAY CONCERN:

United States of America acting through the Rural Utilities Service, United States Department of Agriculture (formerly the United States of America, Farmers Home Administration), as sole present holder of the Claywood Park Public Service District (the "Issuer") (i) Waterworks Revenue Bond, Series 1975 (the "Series 1975 Bond"); (ii) Water Revenue Bond, Series 1979 (the "Series 1979 Bond"); (iii) Water Revenue Bond, Series 1993 B (the "Series 1993 B Bond"); (iv) Water Revenue Bond, Series 1995 (the "Series 1995 Bond"); (v) Water Revenue Bond, Series 1997 A (the "Series 1997 A Bond"); (vi) Water Revenue Bond, Series 1998 (the "Series 1998 Bond"); (vii) Water Revenue Bond, Series 2002 (the "Series 2002 Bond"); (viii) Water Revenue Bond, Series 2006 A (the "Series 2006 A Bond"); (ix) Water Revenue Bond, Series 2006 B (the "Series 2006 B Bond"); (x) Water Revenue Bond, Series 2006 C (the "Series 2006 C Bond"); and (xi) Water Revenue Bond, Series 2008 (the "Series 2008 Bond"), hereby consents to the issuance of the Issuer's Water Revenue Bond, Series 2011 A in an aggregate principal amount not to exceed \$2,530,000 (the "Series 2011 A Bond"), on parity with respect to liens, pledges and sources of and security for payment, with the Series 1975 Bond, the Series 1979 Bond, the Series 1993 B Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1998 Bond, the Series 2002 Bond, the Series 2006 A Bond, the Series 2006 B Bond, the Series 2006 C Bond, and the Series 2008 Bond (collectively, the "Prior Bonds"), together with the Issuer's Water Refunding Revenue Bonds, Series 2003 (the "Series 2003 Bonds"), under the terms of the Bond Resolution authorizing such Series 2011 A Bond and hereby waives any requirements imposed by the Prior Bonds or the respective Resolutions authorizing the same, regarding the issuance of parity bonds which are not met by the Series 2011 A Bond; and agrees that the Prior Bonds, the Series 2003 Bonds and the Series 2011 A Bond will be on parity and of equal priority with each other as to their lien on the net revenues of the Claywood Park Public Service District water system and the statutory mortgage lien thereon.

Dated this 15th day of April, 2011.

By: 

Its: State Director

1550 Earl Core Road • Suite 101 • Morgantown, WV 26505
Phone: 304.284.4860 • 1.800.295.8228 • Fax: 304.284.4893 • TTY/TDD: 304.284.4836 • Web: <http://www.rurdev.usda.gov/wv>

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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: December 13, 2010

EXCEPTIONS
FILED

CASE NO. 10-1165-PWD-CN

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity to construct, operate and maintain an extension to its existing waterworks system to serve an additional 262 customers in the Riser Ridge, Laurel Fork, Oak Grove and Grieves Run areas of Wood and Wirt Counties.

RECOMMENDED DECISION

On July 27, 2010, Claywood Park Public Service District (District), a public water utility, filed an application with the Public Service Commission of West Virginia, pursuant to *West Virginia Code* (Code) §24-2-11 and §16-13A-25, for a certificate of public convenience and necessity to construct, operate and maintain an extension to its existing waterworks system to serve an additional 262 customers in the Riser Ridge, Laurel Fork, Oak Grove and Grieves Run areas of Wood and Wirt Counties. The District has estimated that the project will cost approximately \$5,330,000, to be funded with a \$2,530,000 loan from the United States Department of Agriculture Rural Development (RD), a \$1,300,000 RD grant and a \$1,500,000 Small Cities Block Grant (SCBG). The District proposed a 3% rate increase for its existing customers, plus a rate that is 10% higher than its existing rates for new customers.

On July 27, 2010, the Commission required that the District publish the Notice of Filing once in a newspaper duly qualified under *Code* §59-3-1, *et seq.*, published and generally circulated in Wood and Wirt Counties, providing a 30-day protest period. The Notice of Filing also provided that, if substantial protests were not received within the 30-day protest period, the Commission may waive formal hearing and grant the certificate based upon its review of the evidence submitted with the application. On August 24, 2010, the District filed publication affidavits showing that the Notice of Filing was published on August 19, 2010, in *The Parkersburg News and Sentinel*, a newspaper published and generally circulated in Wood County, and on August 18, 2010, in the *Wirt County Journal*, a newspaper published and generally circulated in Wirt County.

Fewer than five letters of protest were filed with the Commission within the 30-day protest period.

By the Referral Order entered on August 10, 2010, the Commission referred this case to the Division of Administrative Law Judges (ALJ Division) for decision on or before December 9, 2010, if substantial protest was not filed, or by January 10, 2011, if the matter was substantially protested.

On August 26, 2010, the District filed the affidavit of Todd Grinstead, its General Manager, verifying that the District had mailed a copy of the Notice of Filing to all of its customers by United States First Class Mail, postage prepaid, on August 26, 2010.

On August 27, 2010, Staff Attorney C. Terry Owen submitted the Initial Joint Staff Memorandum, attaching the August 25, 2010 Utilities and Engineering Divisions Initial Memorandum from Utilities Analyst Karen L. Buckley, Water and Wastewater Division, and from Technical Analyst Sylvie Steranka, Engineering Division, indicating that, once it had completed its investigation, Commission Staff would submit a final substantive recommendation. Commission Staff related that the District had proposed increasing the rates of all of its existing customers, except its resale customers, by 3%, and proposed no rate increase for its resale customers. The District did not present a customer class cost of service study to support its proposed rate design. Noting that, in the most recent general rate case for the District, Case No. 09-1650-PWD-19A, pursuant to a cost of service study, resale rates were increased by almost 27% while residential and commercial customers received a small rate decrease, Staff opined that, at that time, resale rates still needed to be increased by approximately 25% to generate revenues sufficient to cover the cost of service for the resale class. Accordingly, Commission Staff recommended that the District publish a Revised Notice of Filing proposing an across-the-board rate increase for all customers, including the resale class. Staff also detailed a list of items and documents that the District needed to file before Staff could complete its review and make a final substantive recommendation in this matter.

On September 29, 2010, the District filed a proposed Revised Notice of Filing in response to Staff's recommendation regarding rate design and filed revised portions of its Rule 42 exhibit and a motion requesting that notice of the redesigned rates be limited only to the resale class, since the other customer classes would experience a smaller rate increase than previously notified, i.e., a 2.3% increase instead of a 3% increase as set forth in the Notice of Filing. The District argued that only the resale customers needed to receive a copy of the Revised Notice of Filing. The District also pointed out that publication and otherwise providing notice to all of its customers, including the separate mailings, would cost approximately \$4,000.

On October 15, 2010, the District reported that, according to correspondence received from the RD, it still needed approximately 20 signatures from new potential customers requesting service before the project would fully qualify for the proposed funding and requested that the Commission toll the statutory deadline by 30 days to enable the District to obtain the necessary signatures.

On October 20, 2010, Staff Attorney Chris Howard filed the Further Joint Staff Memorandum, attaching the October 15, 2010 Utilities and Engineering Divisions Further Initial Memorandum from Ms. Buckley and Ms. Steranka. Staff acknowledged that additional signatures were needed and joined the District in requesting that the Commission toll the statutory deadline.

By the Commission Order entered on October 21, 2010, the Commission tolled the statutory Commission due date by 30 days and granted the ALJ until January 11, 2011, to render his written recommended decision.

By the Procedural Order issued on October 22, 2010, the Administrative Law Judge (ALJ) adopted a procedural schedule to process and resolve the application, including a Wednesday, December 15, 2010 hearing date. The October 22, 2010 Order held that, since the matter had not been substantially protested, the District did not have to publish a notice of public hearing, but did require that the District serve a copy of the Revised Notice of Filing on its two resale customers, i.e., the Town of Elizabeth and Mineral Wells Public Service District.

On November 2, 2010, the District submitted a letter verifying that it had served the two resale customers with a copy of the Revised Notice of Filing, as directed, and attached copies of certified mail receipts as proof.

On November 19, 2010, the District filed a letter indicating that it had now obtained the necessary 262 signed user agreements and requested that the Commission further process the application.

On November 30, 2010, Staff Attorney Howard submitted the Final Joint Staff Memorandum, attaching the November 29, 2010 Utilities & Engineering Divisions Initial Memorandum prepared by Ms. Buckley and Ms. Steranka. Together, these Memoranda comprise Commission Staff's final substantive recommendation. The project directly or indirectly affects the water service of over 6,800 water customers, i.e., the District serves approximately 3,433 customers, while the Town of Elizabeth serves approximately 1,000 customers and Mineral Wells Public Service District serves approximately 2,400 customers. The project includes the installation of approximately 33 miles of water lines; a pressure reducing valve for the Volcano area; telemetry; and a 34 gallons-per-minute (gpm) booster station at Dry Run, a 56 gpm booster station at Oak Grove and a 43 gpm booster station at Grieves Run. The project will extend service to approximately 328 potential new customers in Wood and Wirt Counties which currently do not have public water service and must rely on cisterns, low-yielding wells and otherwise insufficient private water supplies. Approximately 262 of those potential customers have signed user agreements. The project will add nine fire hydrants and provide limited fire protection service. Staff opined that the point of service needs to be corrected and redefined in the user agreements to be located at the end of a four-foot pigtail rather than at the meter. The project will cost approximately \$5,330,000, to be funded by a \$2,530,000 RD loan, a \$1,300,000 RD grant and a \$1,500,000 SCBG. The RD loan will have an interest rate of 3.625% for a 40-year term. The IJDC has approved the project. Staff opined that the project costs are reasonable, although the \$20,343 cost per customer is high. The District and its engineer should act now to develop

deductive alternatives in case bids are high. The project would increase operation and maintenance (O&M) expenses by approximately \$40,600 annually. All permits have been applied for. The plans and specifications have been approved by the West Virginia Office of Environmental Health Services (OEHS), which issued a Permit No. 18,415 for the project. The District will provide customers with a water service pressure of 120 pounds or more per square inch (psi) with a pressure regulator that will be maintained by the District. Noting that normally accepted plumbing practices consider pressure above 89 psi to be excessive, Staff recommended that the District inform customers with pressure between 80 and 120 psi that they should opt to install a pressure regulator at their expense, including the fact that high water pressure can be dangerous and can cause water heaters and other appliances to malfunction. Staff opined that the District's engineer followed the appropriate process in the evaluation and selection of the project. The project is needed, although the customer density is low and the cost per customer is a little high. The project will not benefit existing customers. Engineering Staff recommended approval of the application, subject to the District providing the pressure regulators for customers who will experience water service pressure of 120 psi or greater and notifying all customers with water pressure above 80 psi, but less than 120 psi, that they should install pressure regulator at their own expense. Also, the District must furnish as-built drawings to the Commission showing the location of each customer's meter pit and obtain new signed and revised user agreements to clarify the point of service to be at the end of a four-foot pigtail rather than at the meter.

From a financial review of the project, Staff noted that the RD loan will increase the debt service requirement by approximately \$122,964. The District has obtained commitment letters for all of the financing. Staff reviewed the information contained in the original Notice of Filing, opining that the District wanted to increase rates disproportionately among customer classes and opined that the Revised Notice of Filing corrected this rate design flaw. The District proposed a 2.3% rate increase for all customer classes, compared to the rates approved in Case No. 09-1650-PWD-19A. Staff opined that the actual increase due to the project for O&M expenses would be approximately \$40,600, not approximately \$49,000 as originally estimated by the District. Commission Staff has recommended rates that would increase revenues by approximately 2%, which Staff opined would be sufficient, but not more than sufficient, to cover increased O&M expenses, debt service requirements and provide a debt service coverage ratio of approximately 120% and generate a cash flow surplus of approximately \$72,548. Staff also recommended that a leak adjustment rate of \$0.82 per 1,000 gallons. The Staff-recommended rates and charges should be implemented only after the project is certified as substantially complete. In summary, Staff recommended that the Commission grant the application; approve the financing; approve the Staff-recommended rates to become effective upon substantial completion of the project; require additional Commission approval if the project's plans or scope changes; and require additional Commission approval for changes in the funding, unless the District furnishes an affidavit prepared by a certified public accountant that any change in the funding will not affect rates. Commission Staff also recommended that the Commission require that the District develop and maintain a list of customers who will have a service pressure of 120 psi or greater and install and maintain pressure regulators for those customers; require that the District notify all customers with a pressure greater than 80 psi, but less than 120 psi, that they should install their own pressure regulators for safety and to protect appliances; require that the

District submit as-built drawings depicting the location of all customers' meter pits; require that the District revise the user agreements to redefine the service point and obtain the signatures of all affected customers; require that the District provide the engineer's certified bid tabulations as soon as available; and require that the District submit the certificate of substantial completion as soon as it becomes available.

DISCUSSION

Having considered all of the above, since no dispute remains to be resolved in this proceeding, since the District did not object to Staff's final substantive recommendation and the application is not substantially protested, the ALJ will consider the parties to have waived their rights under *West Virginia Code* §24-1-9(b) to file proposed findings of fact and conclusions of law, or briefs, in this proceeding, or to a hearing.

Since the District gave proper notice to the public of the application; since the application has not been substantially protested; since the project will serve approximately 328 potential new customers in Wood and Wirt Counties who have no public water supply and currently have to rely on cisterns, low-yielding wells and other insufficient water supplies, of whom approximately 262 potential customers have signed user agreements; since the Office of Environmental Health Services has issued Permit No. 18,415, certifying the project for construction and signifying that the project has been designed in accordance with current engineering practices; since the IJDC has approved the project; and since Staff has recommended that the Commission approve the application, the ALJ holds that the public convenience and necessity require the project and he will grant the certificate application. Since the District has obtained commitment letters for the proposed financing, and since the proposed financing is reasonable, the ALJ also will approve the proposed financing for the project, comprised of a \$2,530,000 RD loan with an interest rate of 3.625% for a 40-year term, a \$1,300,000 RD grant and a \$1,500,000 SCBG, supporting the total project cost of approximately \$5,330,000.

Since the District's existing rates are not sufficient to cover the additional O&M expenses caused by the project and the debt service required by the funding for the project; since Staff has recommended increased rates and charges that will increase revenues by approximately 2%; since the Staff-recommended rates and charges are sufficient, but more than sufficient, to cover the increased O&M expenses and debt service requirements caused by the project and will provide a debt service coverage ratio of approximately 120% and generate a cash flow surplus of approximately \$72,548, the ALJ will approve the Staff-recommended rates and charges, including the Staff-recommended leak adjustment rate of \$0.82 per 1,000 gallons, to become effective upon certification of substantial completion of the project.

Since the IJDC has approved the project for funding, the ALJ will require that the District seek prior Commission approval before commencing construction should the plans or the scope of the project change or should the rates change. However, a change in project cost or funding would not

require separate approval if such change does not affect rates and the District submits an affidavit from a certified public accountant to this effect. The ALJ also will require that the District develop and maintain a list of customers who will have a service pressure of 120 psi or greater and install and maintain pressure regulators for those customers; require that the District notify all customers with a pressure greater than 80 psi, but less than 120 psi, that they should install their own pressure regulators for safety and to protect appliances; require that the District submit as-built drawings depicting the location of all customers' meter pits; require that the District revise the user agreements to redefine the service point and obtain signatures from all affected customers; provide the engineer's certified bid tabulations as soon as available; and require that the District submit the certificate of substantial completion as soon as it becomes available. The District shall not commence construction until it has obtained the signatures of all affected customers on the revised user agreements.

FINDINGS OF FACT

1. Claywood Park Public Service District filed an application with the Commission under *Code* §24-2-11 and §16-13A-25 for a certificate of public convenience and necessity to construct, operate and maintain an extension to its existing waterworks system to serve an additional 262 customers in the Riser Ridge, Laurel Fork, Oak Grove and Grieves Run areas of Wood and Wirt Counties. The District has estimated that the project will cost approximately \$5,330,000, to be funded with a \$2,530,000 RD loan, a \$1,300,000 RD grant and a \$1,500,000 SCBG. The District initially proposed a 3% rate increase for its existing customers, plus a rate that is 10% higher than its existing rates for new customers. (See, application filed on July 27, 2010).

2. The Notice of Filing was published on August 19, 2010, in *The Parkersburg News and Sentinel*, a newspaper published and generally circulated in Wood County, and on August 18, 2010, in the *Wirt County Journal*, a newspaper published and generally circulated in Wirt County. (See, publication affidavits filed on August 24, 2010 and affidavit filed on August 26, 2010).

3. Fewer than five letters of protest were filed with the Commission within the 30-day protest period. (See, Commission's file).

4. The District filed a proposed Revised Notice of Filing in response to Staff's recommendation regarding rate design, revised portions of its Rule 42 exhibit and moved that notice of the redesigned rates be limited only to the resale class, since the other customer classes would experience a smaller rate increase than previously notified, i.e., a 2.3% increase instead of a 3% increase as set forth in the original Notice of Filing. (See, Revised Notice of Filing, filed on September 29, 2010).

5. The ALJ directed that the District serve a copy of the Revised Notice of Filing on its two resale customers only, i.e., the Town of Elizabeth and Mineral Wells Public Service District. (See, Procedural Order issued on October 22, 2010).

6. The District served the two resale customers with a copy of the Revised Notice of Filing, as directed, and attached copies of certified mail receipts as proof. (See, November 2, 2010 filing).

7. The District filed a letter indicating that it had now obtained the necessary 262 signed user agreements and requested that the Commission further process the application. (See, November 19, 2010 filing).

8. The project includes the installation of approximately 33 miles of water lines; a pressure reducing valve for the Volcano area; telemetry; and a 34 gpm booster station at Dry Run, a 56 gpm booster station at Oak Grove and a 43 gpm booster station at Grieves Run. The project will extend service to up to approximately 328 potential new customers in Wood and Wirt Counties which currently do not have public water service and must rely on cisterns, low-yielding wells and otherwise insufficient private water supplies, of which approximately 262 have signed user agreements. The project will add nine fire hydrants and provide limited fire protections service. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

9. The user agreements need to be corrected to redefine the point of service for each customer to be located at the end of a four-foot pigtail and not at the meter. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

10. The project will cost approximately \$5,330,000, to be funded by a \$2,530,000 RD loan, a \$1,300,000 RD grant and a \$1,500,000 SCBG. The RD loan will have an interest rate of 3.625% for a 40-year term. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

11. The IJDC has approved the project. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

12. The project costs are reasonable. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

13. Staff recommended that the District and its engineer act now to develop deductive alternatives in case bids are high. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

14. The project would increase O&M expenses by approximately \$40,600 annually. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

15. All permits have been applied for. The plans and specifications have been approved by the OEHS, which issued a Permit No. 18,415 for the project. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

16. The District will provide those customers with a water service pressure of 120 psi or greater with a pressure regulator that will be maintained by the District. Staff recommended that the District inform all customers with pressure of 80 psi, but less than 120 psi, that they should opt to install a pressure regulator at their expense. The notice should emphasize the fact that high water pressure can be dangerous and can cause water heaters and other appliances to malfunction. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

17. The District's engineer followed the appropriate process in evaluating and selecting the project. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

18. Staff opined that the project is needed, although the customer density is low and the cost per customer is a little high. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

19. The project will not benefit existing customers. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

20. Staff recommended approval of the application, subject to the District providing the pressure regulators for customers who will experience water service pressure of 120 psi or greater and notifying all customers with water pressure above 80 psi, but less than 120 psi, that they should install their own pressure regulators, emphasizing that high water pressure is dangerous and can damage appliances. The District should develop and maintain a list of all customers with a service pressure of 120 psi or greater. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

21. Staff recommended that the District furnish as-built drawings to the Commission showing the location of each customer's meter pit and obtain new signed and revised user agreements to clarify the point of service to be at the end of a four-foot pigtail rather than at the meter. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

22. The RD loan will increase the debt service requirement by approximately \$122,964. The District has obtained commitment letters for all of the financing. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

23. After reviewing the information contained in the original Notice of Filing, Staff opined that the District originally wanted to increase rates disproportionately among customer classes and that the Revised Notice of Filing corrected this rate design flaw. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

24. The project will increase O&M expenses by approximately \$40,600. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

25. The Staff-recommended rates will increase revenues by approximately 2% and will cover increased O&M expenses and debt service requirements and provide a debt service coverage ratio of approximately 120% and generate a cash flow surplus of approximately \$72,548. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

26. Staff recommended that the Commission grant the application; approve the financing; approve the Staff-recommended rates to become effective upon substantial completion of the project; require additional Commission approval if the project's plans or scope changes; and require additional Commission approval for changes in the funding, unless the District furnishes an affidavit prepared by a certified public accountant that any change in the funding will not affect rates. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

27. Staff recommended that the Commission require that the District submit as-built drawings depicting the location of all customers' meter pits; revise the user agreements to redefine the service point and obtain signatures from all affected customers; provide the engineer's certified bid tabulations as soon as available; and submit the certificate of substantial completion as soon as it becomes available. (See, Final Joint Staff Memorandum, with attachment, filed on November 30, 2010).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the proposed project.
2. The proposed financing for the project should be approved.
3. While the District's existing rates are not sufficient to support the proposed project, the Staff-recommended rates are sufficient, but not more than sufficient, to support the project and should be approved for all service rendered on and after the date the project has been certified as substantially complete.
4. Should the scope, plans or financing for the project change, the District must obtain prior Commission approval before commencing construction. Changes in project costs do not require separate approval if those changes do not affect rates and the District submits an affidavit from a certified public accountant to this effect.
5. It is reasonable to require that, prior to commencing construction, the District revise the user agreements to redefine and correct the point of service for each customer to be located at the end of a four-foot pigtail and not at the meter and to obtain the signatures of all affected customers.
6. It is reasonable to require that the District provide all customers whose water service pressure is 120 psi or greater with a pressure regulator that will be maintained by the District. It is also reasonable to require that the District inform all customers with pressure of 80 psi, but less than

120 psi, that they should install a pressure regulator at their expense. The notice should emphasize the fact that high water pressure can be dangerous and can cause water heaters to malfunction.

7. It is reasonable to direct that the District and its engineer act now to develop deductive alternatives in case bids are high.

8. It is reasonable to require that the District obtain all permits prior to commencing construction.

9. It is reasonable to require that the District provide the engineer's certified bid tabulations as soon as it becomes available for each contract associated with the project.

10. It is reasonable to require that the District file the certificate of substantial completion as soon as it becomes available.

11. It is reasonable to require that the District furnish as-built drawings to the Commission showing the location of each customer's meter pit as soon as they are available and within 60 days of filing the certificate of substantial completion.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of public convenience and necessity filed with the Commission on July 27, 2010, by Claywood Park Public Service District, pursuant to *Code* §24-2-11 and §16-13A-25, to construct, operate and maintain an extension to its existing waterworks system to serve an additional 262 customers or more in the Riser Ridge, Laurel Fork, Oak Grove and Grieves Run areas of Wood and Wirt Counties, be, and hereby is, granted.

IT IS FURTHER ORDERED that the proposed financing for the project, totaling approximately \$5,330,000, to be funded with a \$2,530,000 loan from the United States Department of Agriculture Rural Development loan with an interest rate not to exceed 3.625% for a 40-year term; a \$1,300,000 United States Department of Agriculture Rural Development grant; and a \$1,500,000 Small Cities Block Grant, be, and hereby is, approved.

IT IS FURTHER ORDERED that the Staff-recommended rates and charges, attached as Appendix A, be, and hereby are, approved for all service rendered by Claywood Park Public Service District on and after the date that the certificate of substantial completion is filed.

IT IS FURTHER ORDERED that, within thirty (30) days of certifying that the project is substantially complete, Claywood Park Public Service District file an original and at least five (5) copies of a proper tariff setting forth the rates and charges hereby approved.

IT IS FURTHER ORDERED that, if it has not already done so, Claywood Park Public Service District and its engineer act now to develop deductive alternatives in case bids are high.

IT IS FURTHER ORDERED that, as soon as it becomes available, Claywood Park Public Service District submit a copy of the engineer's certified tabulation of bids to the Commission, making the bids a part of the Commission's file in this case, for each contract associated with the project.

IT IS FURTHER ORDERED that, should the scope, plans or financing for the project change, Claywood Park Public Service District must obtain prior Commission approval before commencing construction. Changes in project costs or funding do not require separate approval if those changes do not affect rates and the District submits an affidavit from a certified public accountant to this effect.

IT IS FURTHER ORDERED that, prior to commencing construction, Claywood Park Public Service District revise the user agreements to correct and redefine the point of service for each customer to be located at the end of a four-foot pigtail and not at the meter and obtain the signatures of all affected customers.

IT IS FURTHER ORDERED that, prior to commencing construction, Claywood Park Public Service District obtain all required permits.

IT IS FURTHER ORDERED that, prior to providing service to any customers under this project, Claywood Park Public Service District provide all customers with a water service pressure of 120 psi or greater with a pressure regulator that will be maintained by the District.

IT IS FURTHER ORDERED that, prior to providing service to any customers under this project, Claywood Park Public Service District inform all customers with water pressure of 80 psi, but less than 120 psi, that they should install a pressure regulator at their expense. The notice must emphasize the fact that high water pressure can be dangerous and can cause water heaters and other appliances to malfunction.

IT IS FURTHER ORDERED that Claywood Park Public Service District file the certificate of substantial completion as soon as it becomes available after the project engineer has performed the substantial completion inspection.

IT IS FURTHER ORDERED that Claywood Park Public Service District furnish as-built drawings to the Commission showing the location of each customer's meter pit as soon as they are available and within 60 days of filing the certificate of substantial completion.

IT IS FURTHER ORDERED that, should the scope, plans or financing for the project change, Claywood Park Public Service District obtain prior Commission approval before commencing construction. Changes in project cost or funding do not require separate approval if those changes do not affect rates and the District submits an affidavit from a certified public accountant to this effect.

IT IS FURTHER ORDERED that, if this project requires the use of Division of Highways' rights-of-way, Claywood Park Public Service Commission comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

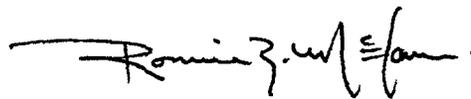
IT IS FURTHER ORDERED that this matter be, and hereby is, removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary serve a copy of this order upon the Commission by hand delivery; by electronic service upon all parties of record who have filed an e-service agreement with the Commission; and by United States Certified Mail, return receipt requested, upon all parties of record who have not filed an e-service agreement with the Commission.

Leave hereby is granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this Recommended Decision is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this Recommended Decision shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's recommended decision by filing an appropriate petition in writing with the Executive Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's recommended decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Ronnie Z. McCann
Deputy Chief Administrative Law Judge

RZM:s
101165ab.wpd

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 10-1165-PWD-CN

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity to construct, operate and maintain an extension to its existing waterworks system to serve an additional 262 customers in the Riser Ridge, Laurel Fork, Oak Grove and Grieves Run areas of Wood and Wirt Counties.

APPROVED RATES

SCHEDULE 1

APPLICABILITY

Applicable within the entire territory served, except Deerwalk Extension area, Camp Barbe/Rt.14, Walker-Kites Run area and Mountwood Park.

AVAILABILITY

Available for general domestic, commercial and industrial water service.

RATES (For two months billing)

First 6,000 gallons used per month	\$7.66 per 1,000 gallons
Next 14,000 gallons used per month	\$5.63 per 1,000 gallons
Next 20,000 gallons used per month	\$4.36 per 1,000 gallons
Next 60,000 gallons used per month	\$3.84 per 1,000 gallons
All over 100,000 gallons used per month	\$3.08 per 1,000 gallons

RATES (For one month billing)

First 3,000 gallons used per month	\$7.66 per 1,000 gallons
Next 7,000 gallons used per month	\$5.63 per 1,000 gallons
Next 10,000 gallons used per month	\$4.36 per 1,000 gallons
Next 30,000 gallons used per month	\$3.84 per 1,000 gallons
All over 50,000 gallons used per month	\$3.08 per 1,000 gallons

SCHEDULE 1 (Continued)

<u>MINIMUM CHARGE</u>	<u>Monthly</u>	<u>Bi-Monthly</u>
5/8-inch meter	\$ 22.98	\$ 45.96
3/4-inch meter	\$ 34.47	\$ 68.94
1-inch meter	\$ 57.45	\$ 114.90
1-1/4-inch meter	\$ 83.88	\$ 167.75
1-1/2-inch meter	\$ 114.90	\$ 229.80
2-inch meter	\$ 183.84	\$ 367.68
3-inch meter	\$ 344.70	\$ 689.40
4-inch meter	\$ 574.50	\$1,149.00
6-inch meter	\$1,149.00	\$2,298.00
8-inch meter	\$1,838.40	\$3,676.80

PRIVATE FIRE PROTECTION SERVICE

For Private Fire Hydrants	\$16.96 per month per tap
For Sprinkler System	\$56.53 per month

BILLING PROCEDURE

Monthly meter reading and billing for all rental property accounts, and industrial, commercial or school accounts that request monthly billing. On all other accounts, meter reading and billing shall be on a bi-monthly basis.

TRAILER COURTS

House trailers, either mobile or immobile, located on sites other than a park or court shall be billed in the same manner as any family or business unit.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serv and applicant.

A tap fee of \$100.00 will be charged to any customer applying for service before construction in completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$350.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

SCHEDULE 1 (Continued)

CHARGE FOR RECONNECTION (\$20.00)

Whenever the supply of water is turned off for violation of the rules and regulations, nonpayment of bills, or fraudulent use of water, the District shall make a charge of \$20.00 for reestablishing service.

DELAYED PAYMENT PENALTY

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

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of a discontinuance of service for nonpayment, an administrative fee of \$10.00 shall also be collected in addition to the delinquent water bill.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the water utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

LEAK ADJUSTMENT RATE

\$0.82 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or two-twelfths (2/12ths) of the average annual usage of the applicant's specific customer class, whichever is greater.

SCHEDULE 2

APPLICABILITY

Applicable within the Deerwalk Extension area, Camp Barbe/Rt.14 Extension area and Mountwood Park.

AVAILABILITY

Available for general domestic, commercial and industrial water service.

SCHEDULE 2 (Continued)

RATES (For two months billing)

First 6,000 gallons used per month	\$13.26 per 1,000 gallons
Next 14,000 gallons used per month	\$ 9.74 per 1,000 gallons
Next 20,000 gallons used per month	\$ 7.63 per 1,000 gallons
Next 60,000 gallons used per month	\$ 6.78 per 1,000 gallons
All over 100,000 gallons used per month	\$ 5.31 per 1,000 gallons

RATES (For one month billing)

First 3,000 gallons used per month	\$13.26 per 1,000 gallons
Next 7,000 gallons used per month	\$ 9.74 per 1,000 gallons
Next 10,000 gallons used per month	\$ 7.63 per 1,000 gallons
Next 30,000 gallons used per month	\$ 6.78 per 1,000 gallons
All over 50,000 gallons used per month	\$ 5.31 per 1,000 gallons

MINIMUM CHARGE

	<u>Monthly</u>	<u>Bi-Monthly</u>
5/8-inch meter	\$ 39.78	\$ 79.56
3/4-inch meter	\$ 59.67	\$ 119.34
1-inch meter	\$ 99.45	\$ 198.90
1-1/4-inch meter	\$ 145.20	\$ 290.39
1-1/2-inch meter	\$ 198.90	\$ 397.80
2-inch meter	\$ 318.24	\$ 636.48
3-inch meter	\$ 596.70	\$1,193.40
4-inch meter	\$ 994.50	\$1,989.00
6-inch meter	\$1,989.00	\$3,978.00
8-inch meter	\$3,182.40	\$6,364.80

PRIVATE FIRE PROTECTION SERVICE

For Private Fire Hydrants	\$16.96 per month per tap
For Sprinkler System	\$56.53 per month

BILLING PROCEDURE

Monthly meter reading and billing for all rental property accounts, and industrial, commercial or school accounts that request monthly billing. On all other accounts, meter reading and billing shall be on a bi-monthly basis.

TRAILER COURTS

House trailers, either mobile or immobile, located on sites other than a park or court shall be billed in the same manner as any family or business unit.

SCHEDULE 2 (Continued)

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serv and applicant.

A tap fee of \$100.00 will be charged to any customer applying for service before construction in completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$350.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

CHARGE FOR RECONNECTION (\$20.00)

Whenever the supply of water is turned off for violation of the rules and regulations, nonpayment of bills, or fraudulent use of water, the District shall make a charge of \$20.00 for reestablishing service.

DELAYED PAYMENT PENALTY

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

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of a discontinuance of service for nonpayment, an administrative fee of \$10.00 shall also be collected in addition to the delinquent water bill.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the water utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

LEAK ADJUSTMENT RATE

\$0.82 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all consumption above the customer's historical average usage.

SCHEDULE 2 (Continued)

SECURITY DEPOSIT

A deposit of \$50.00 or two-twelfths (2/12ths) of the average annual usage of the applicant's specific customer class, whichever is greater.

SCHEDULE 3

APPLICABILITY

Applicable in Walker-Kites Run area.

AVAILABILITY

Available for general domestic, commercial and industrial water service.

RATES (For two months billing)

First 6,000 gallons used per month	\$9.22 per 1,000 gallons
Next 14,000 gallons used per month	\$6.77 per 1,000 gallons
Next 20,000 gallons used per month	\$5.30 per 1,000 gallons
Next 60,000 gallons used per month	\$4.70 per 1,000 gallons
All over 100,000 gallons used per month	\$3.67 per 1,000 gallons

RATES (For one month billing)

First 3,000 gallons used per month	\$9.22 per 1,000 gallons
Next 7,000 gallons used per month	\$6.77 per 1,000 gallons
Next 10,000 gallons used per month	\$5.30 per 1,000 gallons
Next 30,000 gallons used per month	\$4.70 per 1,000 gallons
All over 50,000 gallons used per month	\$3.67 per 1,000 gallons

MINIMUM CHARGE

	<u>Monthly</u>	<u>Bi-Monthly</u>
5/8-inch meter	\$ 27.66	\$ 55.32
3/4-inch meter	\$ 41.49	\$ 82.98
1-inch meter	\$ 69.15	\$ 138.30
1-1/4-inch meter	\$ 100.96	\$ 201.92
1-1/2-inch meter	\$ 138.30	\$ 276.00
2-inch meter	\$ 221.28	\$ 442.56
3-inch meter	\$ 414.90	\$ 829.80
4-inch meter	\$ 691.50	\$1,383.00
6-inch meter	\$1,383.00	\$2,766.00
8-inch meter	\$2,212.80	\$4,425.60

SCHEDULE 3 (Continued)

PRIVATE FIRE PROTECTION SERVICE

For Private Fire Hydrants	\$16.96 per month per tap
For Sprinkler System	\$56.53 per month

BILLING PROCEDURE

Monthly meter reading and billing for all rental property accounts, and industrial, commercial or school accounts that request monthly billing. On all other accounts, meter reading and billing shall be on a bi-monthly basis.

TRAILER COURTS

House trailers, either mobile or immobile, located on sites other than a park or court shall be billed in the same manner as any family or business unit.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serv and applicant.

A tap fee of \$100.00 will be charged to any customer applying for service before construction in completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$350.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

CHARGE FOR RECONNECTION (\$20.00)

Whenever the supply of water is turned off for violation of the rules and regulations, nonpayment of bills, or fraudulent use of water, the District shall make a charge of \$20.00 for reestablishing service.

DELAYED PAYMENT PENALTY

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

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of a discontinuance of service for nonpayment, an administrative fee of \$10.00 shall also be collected in addition to the delinquent water bill.

SCHEDULE 3 (Continued)

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the water utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

LEAK ADJUSTMENT RATE

\$0.82 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or two-twelfths (2/12ths) of the average annual usage of the applicant's specific customer class, whichever is greater.

SCHEDULE 4

APPLICABILITY

Applicable for Town of Elizabeth and Mineral Wells Public Service District.

AVAILABILITY

Available for sales for resale.

RATE

\$2.72 per 1,000 gallons

**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 February 2011.

CASE NO. 10-1165-PWD-CN

CLAYWOOD PARK PUBLIC SERVICE DISTRICT,
a public utility, Parkersburg, Wood County.

Application for a certificate of convenience and necessity to construct operate and maintain an extension to its existing waterworks system to serve an additional 262 customers in the Riser Ridge, Laurel Fork, Oak Grove and Grieves Run areas of Wood and Wirt Counties.

COMMISSION ORDER

The Commission grants Exceptions to the Recommended Decision, allowing a revision in User Agreements as to the point of service.

BACKGROUND

On July 27, 2010, Claywood Park Public Service District (District) applied for a certificate of convenience and necessity to construct, operate and maintain an extension to its existing waterworks system to serve an additional 262 customers in the Riser Ridge, Laurel Fork, Oak Grove and Grieves Run areas of Wood and Wirt Counties. The District estimated the project cost at \$5,330,000, to be funded with a \$2,530,000 loan from the United States Department of Agriculture Rural Development (RD) with an interest rate of 3.625 percent for a 40-year term, a \$1,300,000 RD grant, and a \$1,500,000 Small Cities Block Grant. The District proposed a 3 percent rate increase for all customers. We note that the Recommended Decision indicated that the District proposed rates for new customers were 10 percent higher than the rates for existing customers. This was not accurate. The District did not request a higher rate for new customers and the Recommended Decision did not include a higher rate for new customers.

Fewer than five letters of protest were filed with the Commission within the protest period.

On November 30, 2010, Commission Staff filed a Final Joint Staff Memorandum with the Utilities and Engineering Divisions Initial Memorandum attached thereto, together comprising the Staff final recommendation. The project directly or indirectly affects the water service of over 6,800 water customers. The District serves approximately 3,433 customers. The Town of

Elizabeth and Mineral Well Public Service District are resale customers of the District, collectively serving approximately 3,400 customers. The project includes the installation of approximately 33 miles of water lines; a pressure reducing valve for the Volcano area; telemetry; and a 34 gallons-per-minute (gpm) booster station at Dry Run, a 56 gpm booster station at Oak Grove and a 43 gpm booster station at Grieves Run. The project will add nine fire hydrants and provide limited fire protection service. The project will extend service to approximately 328 potential new customers in Wood and Wirt Counties currently without public water service. Approximately 262 of those potential customers have signed user agreements.

Staff noted in its memorandum that the District has applied for all required permits, the IJDC has approved the project, and the plans and specifications have been approved by the West Virginia Office of Environmental Health Services. Staff maintained that project costs are reasonable, although the \$20,343 cost per customer is high, and recommended that the District and its engineer move forward to develop deductive alternatives in case bids are high. The project would increase operation and maintenance (O&M) expenses by approximately \$40,600 annually.

Staff recommended rates that would increase revenues by approximately 2 percent, which would be sufficient but not more than sufficient to cover increased O&M expenses, debt service requirements and provide a debt service coverage ratio of approximately 120 percent and generate a cash flow surplus of approximately \$72,548. Staff also recommended a leak adjustment rate of \$0.82 per 1,000 gallons. Staff maintained that its recommended rates and charges should be implemented only after the project is certified as substantially complete.

Staff recommended approval of the application, subject to the District providing the pressure regulators for customers who will experience water service pressure of 120 per square inch (psi) or greater and notifying all customers with water pressure above 80 psi, but less than 120 psi, that they should install pressure regulator at their own expense. Upon review of the engineering drawings and the "Water Service Line Construction Specifications" for the project submitted by the District, Staff determined that the point of service should be corrected in the user agreement to reflect that the point of service is located at the end of a four-foot pigtail and not at the meter, as the user agreement specified.

In summary, Staff recommended that the Commission (i) grant the application, (ii) approve the financing, (iii) approve the Staff-recommended rates to become effective upon substantial completion of the project, (iv) require additional Commission approval if project plans or scope changes, and (v) and require additional Commission approval for changes in the funding, unless the District furnishes an affidavit prepared by a certified public accountant that any change in the funding will not affect rates. With regard to the point of service, Staff recommended that the District furnish as-built drawings to the Commission showing the location of each customer meter pit and "issue a revision to the User agreement to all customers who have signed it to clarify that the point of service is to be located at the end of a 4-foot pigtail on the customer's side of the meter and not at the meter, as previously stipulated." (Emphasis added). Final Joint Staff Memorandum, p. 3.

On December 13, 2010, the ALJ issued a Recommended Decision granting the application for a certificate of public convenience and necessity, approving the proposed project financing, and approving the Staff-recommended rates and charges for all service rendered the District on and after the filing date of the certificate of substantial completion. The ALJ ordered that, prior to commencing construction, the District revise the user agreements to specify that the point of service for each customer is to be located at the end of a four-foot pigtail, not at the meter and obtain the signatures of all affected customers.

On December 27, 2010, the District filed Exceptions to the following ordering paragraph in the Recommended Decision:

IT IS FURTHER ORDERED that, prior to commencing construction, Claywood Park Public Service District revise the user agreements to correct and redefine the point of service for each customer to be located at the end of a four-foot pigtail and not at the meter and obtain the signatures of all affected customers. (Recommended Decision, p.11)

The District objected to being required to obtain new signatures on user agreements because over the course of months, the District obtained more than 262 signed user agreements. Revising the agreement and obtaining new signatures prior to commencing construction would be very time consuming, increase the cost of the project, and delay bidding and construction as a result. The District is also concerned that some users may be out of the District for the winter or that properties have been conveyed.

In addition, the District noted that the Engineering and Technical Staff recommended that:

(8) The District issues a revision to the User Agreement to all customers who have signed it to clarify that the point of service is to be located at the end of a 4-foot pigtail and not at the meter as previously stipulated. Final Joint Staff Memorandum, Utilities and Engineering Divisions Initial Memorandum, p. 9.

The District requested that the Staff recommendation be adopted, so that it would not be required to obtain new signatures on the user agreements before commencing construction but would, instead, issue a clarification of the user agreement to all prospective users. The District attached to its Exceptions a copy of the "Water Service Line Construction Specifications", which addresses connecting at the pigtail and will provide necessary clarification to users. The District agreed with the Recommended Decision in all other respects.

On January 5, 2011, Staff filed a response, stating that it has no objection to the Commission granting the relief the District seeks. Staff agreed that requiring the District to revise the user agreements and to obtain signatures of the affected customers on the revised agreements could delay the bidding process and construction, and eventually result in higher project costs.

To avoid any confusion regarding the point of attachment of the user service line to District facilities, Staff recommended that the District issue a revision to its user agreement and provide a copy of the revised agreement to customers who had already signed agreements, as the District agreed to do in its Exceptions. Staff agreed with the District that the issuance of the "Water Service Line Construction Specifications" to all prospective users specifically addresses the point of connection and will clarify any potential misunderstanding.

DISCUSSION

The Commission agrees with the District and Staff that, for the reasons set forth in the District Exceptions and the Staff response thereto, the District should not be required to obtain new signatures on revised user agreements before commencing project construction. It is sufficient and reasonable for the District, instead, to provide a revised copy of the user agreement to customers who have already signed agreements, as the District requested in its Exceptions. In addition, the Commission agrees with Staff and the District that issuing the "Water Service Line Construction Specifications" to all prospective users specifically addresses the point of connection and will clarify any potential misunderstanding. The Commission will, therefore, grant the Exceptions to the Recommended Decision.

Although the revised user agreements correct and redefine the point of service for each customer as being located at the end of a four-foot pigtail and not at the meter, the Commission, wishes to clarify another related matter. The pigtail, which extends from the outlet side of the meter and connects to the customer service pipe, is the District's responsibility. Any leak occurring in the pigtail or where the pigtail connects to either the customer service line or the meter, even if recorded through the meter, is entirely the responsibility of the District.

FINDINGS OF FACT

1. The District applied for a certificate of convenience and necessity to construct, operate and maintain an extension to its existing waterworks system to serve an additional 368 potential new customers in Wood and Wirt Counties, 262 of which have signed user agreements.

2. Staff recommended, among other things, that (i) the Commission grant the application and (ii) the District issue a revised user agreement to all customers who have signed it to clarify that the point of service is to be located at the end of a four-foot pigtail on the customer side of the meter and not at the meter, as the user agreement specified.

3. The ALJ issued a Recommended Decision granting the application for a certificate and ordered the District, prior to commencing construction, to revise the user agreements to specify that the point of service for each customer is to be located at the end of a four-foot pigtail, *not at the meter and obtain the signatures of all affected customers.*

4. The District filed Exceptions to the Recommended Decision, objecting to being required to obtain new signatures prior to commencing construction and requesting, as Staff

recommended, that it be allowed to issue a revision to the user agreement to all customers who have signed it to clarify that the point of service is to be located at the end of a four-foot pigtail and not at the meter.

5. In its response to the Exceptions, Staff did not object to the District (i) providing a revised copy of the user agreement to customers who have already signed it and (ii) issuing the "Water Service Line Construction Specifications" to all prospective users.

CONCLUSIONS OF LAW

1. To avoid delay the bidding process and construction, and higher project costs, it is reasonable for the District to (i) provide a revised copy of the user agreement to customers who have already signed an agreement and (ii) issue the "Water Service Line Construction Specifications" to all prospective users.

2. The issuance of a revised copy of the user agreement to customers who have already signed a user agreement and the issuance of the "Water Service Line Construction Specifications" to all prospective users will clarify that the point of service is to be located at the end of a four-foot pigtail, and not at the meter.

3. The pigtail, which extends from the outlet side of the meter and connects to the customer service pipe, is the District's responsibility, as is any leak occurring in the pigtail or where the pigtail connects to either the customer service line or the meter.

ORDER

IT IS THEREFORE ORDERED that the Exceptions to the Recommended Decision are granted.

IT IS FURTHER ORDERED that the District provide a revised copy of the user agreement to customers who have already signed an agreement and issue the "Water Service Line Construction Specifications" to all prospective users.

IT IS FURTHER ORDERED that the pigtail that extends from the outlet side of the meter and connects to the customer service pipe is the responsibility of the District.

IT IS FURTHER ORDERED that on entry of this Order this case shall be removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand delivery.

A True Copy. Testor:


Sandra Squire
Executive Secretary

MEB/lld
101165c.wpd

GENERAL CERTIFICATE

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project),
Series 2011 A

CERTIFICATE OF:

1. Award of Series 2011 A Bond
2. No Litigation
3. Governmental Approvals
4. No Adverse Financial Change; Indebtedness
5. Signatures, etc.
6. Certification of Copies of Documents
7. Incumbency and Official Name
8. Delivery and Payment
9. Land and Rights of Way
10. Meetings, etc.
11. Contractors' Insurance, etc.

We, the undersigned Chairman and Secretary of the Public Service Board of Claywood Park Public Service District, of Wood and Wirt Counties, West Virginia (the "District"), and the undersigned Counsel for the District, hereby certify in connection with the Claywood Park Public Service District Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project), Series 2011 A, dated on the date hereof, in the principal amount of \$2,530,000, bearing interest at the rate of 3.625% per annum, as follows:

1. Award of Series 2011 A Bond: The entire issue of the Series 2011 A Bond has been duly awarded to the United States of America pursuant to a Letter of Conditions, from the Department of Agriculture and as further described in Section 2.02 of the Resolution authorizing the issuance of the Series 2011 A Bond.

2. No Litigation: No controversy or litigation of any nature is now pending, or to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the issuance and delivery of the Series 2011 A Bond, nor questioning the proceedings and authority by which the District authorized the issuance and sale of the Series 2011 A Bond, nor in any manner affecting the validity or enforceability of the Series 2011 A Bond or any provisions made or authorized for the payment thereof; nor questioning the existence of the District or the title of the members and officers of the Public Service Board thereof to their respective offices; nor questioning the construction and acquisition of additions and improvements to the water system of the District (the "Project"), construction of which is being financed out of the proceeds of the sale of the Series 2011 A Bond; nor questioning the rates and charges for the services of the Water System.

3. Governmental Approvals: All applicable approvals and certificates required by law for construction and operation of the Project have been duly and timely obtained and remain in full force and effect.

4. No Adverse Financial Change; Indebtedness: There has been no adverse financial change in the financial condition of the District since the approval by RUS of a loan to assist in construction and acquisition of the Project.

The only outstanding obligations of the Issuer which will rank on a parity with the Series 2011 A Bond as to liens and source of and security for payment are the following:

Waterworks Revenue Bond, Series 1975, dated March 3, 1975 ("Series 1975 Bond"), issued in the original principal amount of \$685,000, bearing interest at the rate of 5% per annum, the current unpaid balance of which is \$133,675.41;

Water Revenue Bond, Series 1979, dated January 7, 1980 ("Series 1979 Bond"), issued in the original principal amount of \$1,100,000, bearing interest at the rate of 5% per annum, the current unpaid balance of which is \$444,990.77;

Water Revenue Bond, Series 1993 B, dated December 1, 1993 ("Series 1993 B Bond"), issued in the original principal amount of \$410,000, bearing interest at the rate of 5% per annum, the current unpaid balance of which is \$327,081.62;

Water Revenue Bond, Series 1995, dated April 3, 1995 ("Series 1995 Bond"), issued in the original principal amount of \$190,000, bearing interest at the rate of 4.5% per annum, the current unpaid balance of which is \$152,640.41;

Water Revenue Bond, Series 1997 A, dated August 18, 1997 ("Series 1997 A Bond"), issued in the original principal amount of \$145,000, bearing interest at the rate of 5.5% per annum, the current unpaid balance of which is \$107,167.55;

Water Revenue Bond, Series 1998, dated January 23, 1998, ("Series 1998 Bond"), issued in the original principal amount of \$750,000, bearing interest at the rate of 5.25% per annum, the current unpaid balance of which is \$655,786.99;

Water Revenue Bond, Series 2002, dated December 19, 2002, ("Series 2002 Bond"), issued in the original principal amount of \$1,350,000, bearing interest at the rate of 4.625% per annum, the current unpaid balance of which is \$1,248,713.07;

Water Refunding Revenue Bonds, Series 2003, dated June 1, 2003 ("Series 2003 Bonds"), issued in the original principal amount of \$975,000, bearing interest at rates from 3.5% to 5.5% per annum, the current unpaid balance of which is approximately \$760,000.

Water Revenue Bond, Series 2006 A, dated June 28, 2006, ("Series 2006 A Bond"), issued in the original principal amount of \$4,175,000, bearing interest at the rate of 4.375% per annum, the current unpaid balance of which is \$4,032,132.32;

Water Revenue Bond, Series 2006 B, dated June 28, 2006, ("Series 2006 B Bond"), issued in the original principal amount of \$870,000, bearing interest at the rate of 4.25% per annum, the current unpaid balance of which is \$840,835.44;

Water Revenue Bond, Series 2006 C, dated June 28, 2006, ("Series 2006 C Bond"), issued in the original principal amount of \$2,563,000, bearing interest at the rate of 4.375% per annum, the current unpaid balance of which is \$2,417,514.60; and

Water Revenue Bond, Series 2008, dated May 3, 2008, ("Series 2008 Bond"), issued in the original principal amount of \$2,900,000, bearing interest at the rate of 4.375% per annum, the current unpaid balance of which is \$2,860,326.38.

The Series 2011 A Bond will be issued on parity with the prior bonds enumerated above as to liens and source of and security for payment.

The Series 2011 A Bond and the foregoing bonds will rank senior and prior to the following bond as to liens and source of and security for payment:

Water Revenue Bonds (Water Tank and Booster Station Improvement Project), Series 2010 A, dated June 21, 2010, (the "Series 2010 A Bonds"), issued in the original principal amount of \$130,000, bearing interest at the rate of 4.99% per annum, the current unpaid balance of which is approximately \$125,180.96.

All of these obligations are held by FmHA, its successors or assigns with the exception that the Series 2003 Bonds and the Series 2010 A Bonds are held by others. The District is not in default in any of the terms contained in the above described bonds nor the resolutions authorizing them.

5. Signatures, etc.: The undersigned Chairman and Secretary, for the District on the date hereof, officially executed and sealed the Series 2011 A Bond with the official corporate seal of the District, an impression of which seal is on this certificate above our signatures and the undersigned Chairman and Secretary are the duly elected, qualified and serving officials as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Series 2011 A Bond for the District.

6. Certification of Copies of Documents: The copies of the documents listed below, attached hereto or delivered herewith or heretofore are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded or amended or changed in any way unless modification appears from later documents also listed below:

Minutes of the Board Meeting organizing the District for the current year, on January 11, 2011

Final Order of the County Commission of Wood County creating the District

Final Orders of the County Commissions of Wood and Wirt Counties enlarging the boundaries of the District

Orders of the County Commission of Wood County appointing the members of the Public Service Board of the District and their Oaths of Office

Rules of Procedure of the District

Bond Resolution adopted by the Public Service Board on April 13, 2011

Minutes on adoption of the Bond Resolution

Recommended Decision of the Public Service Commission of West Virginia, entered December 13, 2010, which became final pursuant to the Commission Order entered on February 22, 2011, granting the Certificate of Convenience and Necessity

7. Incumbency and Official Name: The proper corporate title of the District is "Claywood Park Public Service District" and its principal office and place of business are in Wood County, West Virginia. The governing body of the District is its Public Service Board consisting of three members and their respective offices, dates of commencement and termination of current terms of office are as follows:

<u>Office</u>	<u>Name</u>	<u>Date of Commencement of Term</u>	<u>Date of Expiration of Term</u>
Chairman	Michael A. Miller	November 1, 2008	November 1, 2014
Secretary	C. Randall Law	November 1, 2006	November 1, 2012
Member	Edna Summers	November 1, 2010	November 1, 2016

All of the foregoing officers took, subscribed to and filed their oaths of office in accordance with law prior to entering upon their official duties; all of those required to give bonds or undertakings filed such bonds or undertakings at the place and in the manner required by law; all of them have otherwise duly qualified for office and were or are the acting officers for their respective periods above stated; and no proceedings for the removal from office of any such officer have been taken or are pending or threatened.

The duly appointed Counsel for the District is Steven R. Hardman, Esquire, of Bowles Rice McDavid Graff & Love LLP, of Parkersburg, West Virginia.

8. Delivery and Payment: On the date hereof, Series 2011 A Bond No. AR-1 was delivered to United States Department of Agriculture at Parkersburg, West Virginia, by the

undersigned Chairman, and at the time of such delivery, the Series 2011 A Bond had been duly and fully executed and sealed on behalf of the District in accordance with the Bond Resolution.

At the time of delivery of the Series 2011 A Bond, the amount of \$146,500 was received by the undersigned Chairman.

9. Land and Rights of Way: All land in fee simple and all rights of way and easements necessary for the construction, operation and maintenance of the Water System and the Project have been acquired or can and will be acquired by purchase, or if necessary, by condemnation by the District and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation are, in the opinion of the undersigned, within the ability of the District to pay for the same without jeopardizing the security of or payments on the Series 2011 A Bond.

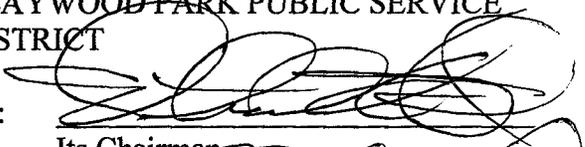
10. Meetings, etc.: All actions, resolutions, orders and agreements taken by and entered into by or on behalf of the District in any way connected with the construction, operation and financing of the Water System and the Project were authorized or adopted at meetings of the Public Service Board duly and regularly called and held pursuant to the Rules of Procedure of the District and all applicable statutes, and a quorum of duly elected, qualified and acting members of the Board was present and acting at all times during all such meetings.

11. Contractors' Insurance, etc.: All contractors have been required to maintain Workers' Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Letter of Conditions and Commitment of FmHA and the Bond Resolution.

WITNESS our signatures and the official corporate seal of CLAYWOOD PARK PUBLIC SERVICE DISTRICT on the 15th day of April, 2011.

[SEAL]

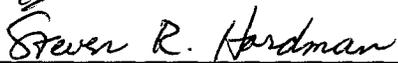
CLAYWOOD PARK PUBLIC SERVICE
DISTRICT

By: 

Its Chairman

By: 

Its Secretary


Counsel

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April 15, 2011

Claywood Park Public Service District
Post Office Box 127
Parkersburg, West Virginia 26102

Re: \$2,530,000 Water Revenue Bond
(Riser Ridge/Laurel Fork Extension Project)
Series 2011 A

Ladies and Gentlemen:

We have examined a record of the proceedings relating to the issue of the Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project), Series 2011 A, of Claywood Park Public Service District, Wood and Wirt Counties, West Virginia (the "District"), in the principal amount of \$2,530,000 dated on the date hereof, bearing interest from the date of delivery (the "Series 2011 A Bond"). The Series 2011 A Bond bears interest at the rate of 3.625% per annum and is represented by a single bond numbered AR-1.

The Series 2011 A Bond has been authorized by Resolution duly enacted on April 13, 2011, by the Public Service Board of the District, which is the governing body of the District (the "Bond Resolution").

Interest only on the Series 2011 A Bond is payable in monthly installments for the first 24 months after delivery; and thereafter, principal of and interest on the Series 2011 A Bond are payable in monthly installments of \$10,247.00 to and including the 480th month after the date of the Series 2011 A Bond, the final installment to be in the sum of the unpaid principal and interest due on the date thereof.

Principal installments on the Series 2011 A Bond are subject to payment in advance as provided therein and in the Bond Resolution.

The Bond Resolution and the Series 2011 A Bond provide that the issue is for the purpose of financing the costs of construction and acquisition of additions and

Claywood Park Public Service District
April 15, 2011
Page 2

improvements to the existing water distribution system of the District (herein called the "System").

The Series 2011 A Bond has been awarded to the United States of America at par. There are outstanding obligations of the District which rank on a parity with the Series 2011 A Bond as to liens and source of and security for payment, which are the Revenue Bonds of the District dated May 3, 2008, June 28, 2006 (Series 2006 A, Series 2006 B, and Series 2006 C), June 1, 2003, December 19, 2002, January 23, 1998, August 18, 1997, April 3, 1995, December 1, 1993, January 7, 1979 and March 3, 1975, issued in the original principal amounts of \$5,900,00, \$4,175,000, \$870,000, \$2,563,000 \$975,000, \$1,250,000, \$750,000, \$145,000, \$190,000, \$410,000, \$1,100,000, and \$685,000, respectively (collectively, the "Prior Bonds"), which are held by the United States Department of Agriculture, Farmers Home Administration or its successors or assigns, except with respect to the Series 2003 Bonds dated June 1, 2003, which are held by others. There are also outstanding obligations of the District which rank junior and subordinate to the Series 2011 A Bond as to liens and source of and security for payment, which are the Water Revenue Bonds (Water Tank and Booster Station Improvement Project), Series 2010 A of the District dated June 21, 2010, issued in the original principal amount of \$130,000 (the "Series 2010 A Bonds"), which are held by United Bank, Inc..

It is our opinion that:

1. The District is a duly organized and presently existing public service district and a political subdivision of the State of West Virginia with full power and authority to construct and maintain the System and issue and sell the Series 2011 A Bond, all under the provisions of Chapter 16, Article 13A, of the Code of West Virginia of 1931, as amended, (the "Act") and other applicable provisions of law.

2. The members and officers of the Public Service Board of the District have been duly and properly appointed and elected, have taken the requisite oaths and are authorized to act in their respective capacities in behalf of the District.

3. The District has legally and effectively adopted the Bond Resolution and other resolutions in connection with the Series 2011 A Bond and has sold and delivered the Series 2011 A Bond to the United States of America.

4. The execution and delivery of the Series 2011 A Bond and other documents by the District will not conflict with or cause a breach or default on the District's part under any other agreement to which the District is a party.

5. The Series 2011 A Bond constitutes a valid and legally enforceable special obligation of the District secured by and payable solely from a first lien on and pledge of the net revenues of the System on a parity with the lien of the District's Prior Bonds and senior

Claywood Park Public Service District
April 15, 2011
Page 3

and prior to the lien of the District's Series 2011 A Bond, all in accordance with the terms of the Series 2011 A Bond and the Bond Resolution.

6. The Series 2011 A Bond is not being issued on the basis that the interest thereon is or will be excluded from gross income for federal income tax purposes; therefore, the interest on the Series 2011 A Bond is not excluded from gross income for federal income tax purposes. We express no opinion regarding other federal tax consequences arising with respect to the Series 2011 A Bond.

7. The Series 2011 A Bond is, by statute, exempt from all taxation by the State of West Virginia and other taxing bodies of the State.

8. To the best of our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transaction contemplated by that certain Letter of Conditions, dated July 25, 2008, from the United States Department of Agriculture to the District, the Bond Resolution, construction of the Project, operation of the System or the validity of the Series 2011 A Bond or the issuance of the Series 2011 A Bond or the collection or pledge of the net revenues of the System therefor or for the Series 2011 A Bond.

It is to be understood that the rights of the holders of the Series 2011 A Bond and the enforceability of the Series 2011 A Bond, the Bond Resolution and liens and pledges set forth therein may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights (to the extent constitutionally applicable) and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

Sincerely yours,

BOWLES RICE MCDAVID GRAFF & LOVE LLP

Bowles Rice McDavid Graff Love LLP

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

\$2,530,000 Water Revenue Bond
(Riser Ridge/Laurel Fork Extension Project)
Series 2011 A

RECEIPT FOR SERIES 2011 A BOND AND TRANSCRIPTS

The undersigned, for the United States Department of Agriculture, hereby certifies as follows:

1. On the 15th day of April, 2011, at Parkersburg, West Virginia, the undersigned received from the Claywood Park Public Service District the single Claywood Park Public Service District Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project), Series 2011 A, No. AR-1 (the "Series 2011 A Bond"), in the principal amount of \$2,530,000 dated as of the date hereof, bearing interest at the rate of 3.625% per annum, payable in monthly installments as stated in the Series 2011 A Bond.

2. At the time of such receipt, the 2011 A Bond had been executed and sealed by the Chairman and Secretary of the Public Service Board of the District.

3. At the time of such receipt, there was paid to the District the sum of \$146,500.00 from the proceeds of the Series 2011 A Bond.

4. At the time of such receipt, there was also received by the undersigned three sets of Bond transcript documents.

WITNESS my signature on the 15th day of April, 2011.

UNITED STATES OF AMERICA
DEPARTMENT OF AGRICULTURE

By:

Virginia McDonald

Its:

Area Specialist

(Title)

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

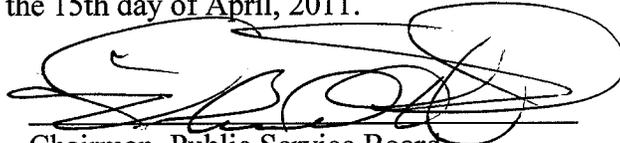
\$2,530,000 Water Revenue Bond
(Riser Ridge/Laurel Fork Extension Project)
Series 2011 A

RECEIPT FOR SERIES 2011 A BOND PROCEEDS

The undersigned, for the Claywood Park Public Service District, Wood and Wirt Counties, West Virginia, hereby certifies that on the 15th day of April, 2011, at Parkersburg, West Virginia, the undersigned received from the United States Department of Agriculture \$146,500 of the proceeds from the single Claywood Park Public Service District Water Revenue Bond (Riser Ridge/Laurel Fork Extension Project), Series 2011 A No. AR-1 (the "Series 2011 A Bond"), in the principal amount of \$2,530,000 dated as of April 15, 2011, bearing interest at the rate of 3.625% per annum, payable in monthly installments as stated in the Series 2011 A Bond.

At the time of such receipt, the Series 2011 A Bond had been executed and sealed by the Chairman and Secretary of the Public Service Board of the District.

WITNESS my signature on the 15th day of April, 2011.



Chairman, Public Service Board
Claywood Park Public Service District

WATER REVENUE BOND
(RISER RIDGE/LAUREL FORK/ OAK GROVE/GRIEVES RUN
EXTENSION PROJECT),
SERIES 2011 A
CLAYWOOD PARK PUBLIC SERVICE DISTRICT

\$2,530,000

Date: April 15, 2011

NO. AR-1

CLAYWOOD PARK PUBLIC SERVICE DISTRICT (the "Issuer"), for value received, promises to pay to the order of the United States of America, (the "Purchaser"), or its registered assigns, at its National Finance Office, St. Louis, Missouri, 63103, or at such other place as the Purchaser may hereafter designate in writing, the principal sum of \$2,530,000.00, plus interest on the unpaid principal balance at the rate of three and five-eighths per cent (3.625%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only commencing 30 days following delivery of the Series 2011 A Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof and \$10,247.00, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Series 2011 A Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount hereof is not advanced at the time of closing, the proceeds hereof shall be advanced to Issuer as requested by Issuer and approved by the Purchaser and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made hereon shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Refunds and extra payments, as defined in the regulations of the Purchaser according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Series 2011 A Bond and shall not affect the obligation of Issuer to pay the remaining installments as scheduled herein.

If the United States of America at any time assigns this Series 2011 A Bond and insures the payment thereof, Issuer shall continue to make payments to the United States of America as collection agent for the holder.

While this Series 2011 A Bond is held by an insured lender, prepayments made by Issuer may, at the option of the Purchaser, be remitted by the Purchaser to the Holder promptly or, except for final payment, be retained by the Purchaser and remitted to the Holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Issuer, except payments retained and remitted by the Purchaser on an annual installment due date basis, shall be the date of the United States Treasury check by which the Purchaser remits the payment to the Holder. The effective date of any prepayment retained and remitted by the Purchaser to the Holder on an annual installment due date basis shall be the date of the prepayment by Issuer and the Purchaser will pay the interest to which the Holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the Holder.

Any amount advanced or expended by the Purchaser for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Purchaser shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Issuer to the Purchaser without demand. Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Purchaser.

Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing rates and terms in or near its community for loans for similar purposes and periods of time.

This Series 2011 A Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing such funds for financing all or part of the costs of construction of repairs, replacements, expansions and improvements to the waterworks system (the "System") of the Issuer, is payable solely from the Revenues to be derived from the operation of the System after there have been first paid from such Revenues the reasonable current costs of operation and maintenance of the System. This Series 2011 A Bond does not constitute an indebtedness of the Issuer within any constitutional or statutory provision or limitation.

Registration of this Series 2011 A Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Secretary of the Issuer, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Resolutions hereinafter described, and upon surrender and cancellation of this Series 2011 A Bond. Upon such transfer a new Series 2011 A Bond or Series 2011 A Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Series 2011 A Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of

the State of West Virginia, but may only be transferred by transfer of registration hereof with the Secretary of the Issuer.

This Series 2011 A Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (herein called the "Act") and Resolutions of the Issuer adopted on December 27, 1979, December 1, 1993, April 3, 1995, August 18, 1997, January 23, 1998, December 7, 2002, May 20, 2003, June 26, 2006, May 6, 2008, June 8, 2010, and April 13, 2011.

If at any time it shall appear to the Purchaser that the Issuer may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Issuer will, at Purchaser's request, apply for and accept such loan in sufficient amount to repay the Purchaser.

This Series 2011 A Bond is given as evidence of a loan to Issuer made or insured by the Purchaser pursuant to the Consolidated Farmers Home Rural Development Act. This Series 2011 A Bond shall be subject to the present regulations of the Farmers Home Administration and its successors and assigns and to future regulations not inconsistent with the express provisions hereof.

This Series 2011 A Bond is issued on a parity in all respects with the Series 1975 Bond, the Series 1979 Bond, the Series 1993 B Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1998 Bond, the Series 2002 Bond, the Series 2003 Bonds, the Series 2006 A Bond, the Series 2006 B Bond, the Series 2006 C Bond, and the Series 2008 A Bond, and senior and prior to the Series 2010 A Bonds, the foregoing bonds being further described in the Resolutions above described.

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COPY

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Series 2011 A Bond will be in default should any proceeds of the Series 2011 A Bond be used for a purpose that will contribute to excessive erosion of highly erodible land or the conversion of wetlands to produce an agricultural commodity.

CLAYWOOD PARK
PUBLIC SERVICE DISTRICT
By:  **COPY**

Chairman, Public Service Board

[CORPORATE SEAL]

Attest:

 **COPY**

Secretary, Public Service Board

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$146,500.00	April 15, 2011	(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	
TOTAL \$			

(No writing on this Series 2011 A Bond except by the Issuer as Registrar.)

Date of
Registration

April 15, 2011

In Whose Name
Registered

United States of America
Post Office Box 678
Morgantown, West Virginia 26505

Signature of
Secretary or Registrar



ASSIGNMENT

Pay to the Order of

UNITED STATES OF AMERICA

By: _____

(Title)

**WEST VIRGINIA MUNICIPAL BOND COMMISSION
NEW ISSUE REPORT FORM**

Suite 500
8 Capitol Street, Charleston, WV 25301
(304) 558-3971

Date of Report: April 15, 2011

ISSUE: Claywood Park Public Service District Water Revenue Bond
(Riser Ridge/Laurel Fork Extension Project) Series 2011 A

ADDRESS: P. O. Box 127 COUNTY: Wood and Wirt Counties
Parkersburg, West Virginia 26102

PURPOSE OF ISSUE: New Money Refunding
ISSUE DATE April 15, 2011 Refunds issue(s) dated: _____
CLOSING DATE: April 15, 2011

ISSUE AMOUNT: \$ 2,530,000 RATE: 3.625%
1st DEBT SERVICE DUE: Not Applicable 1st PRINCIPAL DUE: Not Applicable
1st DEBT SERVICE AMOUNT: \$ Not Applicable PAYING AGENT: None

BOND COUNSEL: Bowles Rice McDavid UNDERWRITER'S COUNSEL: _____
Graff & Love LLP
Contact Person: Camden P. Siegrist Contact Person: _____
Phone: (304) 347-1129 Phone: _____

CLOSING BANK: WesBanco Bank, Inc. ESCROW TRUSTEE: _____
Contact Person: Joe Campbell, Vice President Contact Person: _____
Phone: (304) 480-2500 Phone: _____

KNOWLEDGEABLE ISSUE CONTACT: OTHER: _____
Contact Person: Todd Grinstead Contact Person: _____
Position: General Manager Function: _____
Phone: (304) 422-6042 Phone: _____

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: \$ _____
Capitalized Interest: _____
By: _____ Wire _____ Reserve Account: \$ _____
_____ Check _____ Other: _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By: _____ Wire _____ To Escrow Trustee: \$ _____
_____ Check _____ To Issuer: \$ _____
_____ IGT _____ To Cons. Invest. Fund \$ _____
_____ To _____ \$ _____

NOTES: The applicable Bond Resolution, a copy of which is provided herewith, establishes the Series 2011 A Bond Reserve Account with the Municipal Bond Commission. Debt service payments will be paid by the District directly to the Bondholder.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

kwiktag® 069 128 253



WATER REVENUE BOND
(RISER RIDGE/LAUREL FORK/ OAK GROVE/GRIEVES RUN
EXTENSION PROJECT),
SERIES 2011 A
CLAYWOOD PARK PUBLIC SERVICE DISTRICT

\$2,530,000

Date: April 15, 2011

COPY
No. AR-1

COPY

CLAYWOOD PARK PUBLIC SERVICE DISTRICT (the "Issuer"), for value received, promises to pay to the order of the United States of America, (the "Purchaser"), or its registered assigns, at its National Finance Office, St. Louis, Missouri, 63103, or at such other place as the Purchaser may hereafter designate in writing, the principal sum of \$2,530,000.00, plus interest on the unpaid principal balance at the rate of three and five-eighths per cent (3.625%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only commencing 30 days following delivery of the Series 2011 A Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof and \$10,247.00, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Series 2011 A Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount hereof is not advanced at the time of closing, the proceeds hereof shall be advanced to Issuer as requested by Issuer and approved by the Purchaser and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made hereon shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Refunds and extra payments, as defined in the regulations of the Purchaser according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Series 2011 A Bond and shall not affect the obligation of Issuer to pay the remaining installments as scheduled herein.

If the United States of America at any time assigns this Series 2011 A Bond and insures the payment thereof, Issuer shall continue to make payments to the United States of America as collection agent for the holder.

While this Series 2011 A Bond is held by an insured lender, prepayments made by Issuer may, at the option of the Purchaser, be remitted by the Purchaser to the Holder promptly or, except for final payment, be retained by the Purchaser and remitted to the Holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Issuer, except payments retained and remitted by the Purchaser on an annual installment due date basis, shall be the date of the United States Treasury check by which the Purchaser remits the payment to the Holder. The effective date of any prepayment retained and remitted by the Purchaser to the Holder on an annual installment due date basis shall be the date of the prepayment by Issuer and the Purchaser will pay the interest to which the Holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the Holder.

Any amount advanced or expended by the Purchaser for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Purchaser shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Issuer to the Purchaser without demand. Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Purchaser.

Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing rates and terms in or near its community for loans for similar purposes and periods of time.

This Series 2011 A Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing such funds for financing all or part of the costs of construction of repairs, replacements, expansions and improvements to the waterworks system (the "System") of the Issuer, is payable solely from the Revenues to be derived from the operation of the System after there have been first paid from such Revenues the reasonable current costs of operation and maintenance of the System. This Series 2011 A Bond does not constitute an indebtedness of the Issuer within any constitutional or statutory provision or limitation.

Registration of this Series 2011 A Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Secretary of the Issuer, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Resolutions hereinafter described, and upon surrender and cancellation of this Series 2011 A Bond. Upon such transfer a new Series 2011 A Bond or Series 2011 A Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Series 2011 A Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of

the State of West Virginia, but may only be transferred by transfer of registration hereof with the Secretary of the Issuer.

This Series 2011 A Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (herein called the "Act") and Resolutions of the Issuer adopted on December 27, 1979, December 1, 1993, April 3, 1995, August 18, 1997, January 23, 1998, December 17, 2002, May 20, 2003, June 26, 2006, May 6, 2008, June 8, 2010, and April 13, 2011.

If at any time it shall appear to the Purchaser that the Issuer may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Issuer will, at Purchaser's request, apply for and accept such loan in sufficient amount to repay the Purchaser.

This Series 2011 A Bond is given as evidence of a loan to Issuer made or insured by the Purchaser pursuant to the Consolidated Farmers Home Rural Development Act. This Series 2011 A Bond shall be subject to the present regulations of the Farmers Home Administration and its successors and assigns and to future regulations not inconsistent with the express provisions hereof.

This Series 2011 A Bond is issued on a parity in all respects with the Series 1975 Bond, the Series 1979 Bond, the Series 1993 B Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1998 Bond, the Series 2002 Bond, the Series 2003 Bonds, the Series 2006 A Bond, the Series 2006 B Bond, the Series 2006 C Bond, and the Series 2008 A Bond, and senior and prior to the Series 2010 A Bonds, the foregoing bonds being further described in the Resolutions above described.

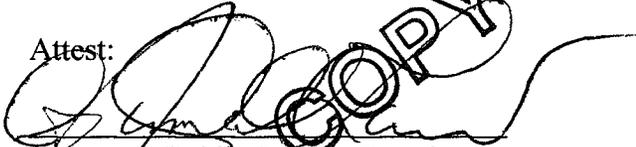
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COPY

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Series 2011 A Bond will be in default should any proceeds of the Series 2011 A Bond be used for a purpose that will contribute to excessive erosion of highly erodible land or the conversion of wetlands to produce an agricultural commodity.

CLAYWOOD PARK
PUBLIC SERVICE DISTRICT
By:  **COPY**
Chairman, Public Service Board

[CORPORATE SEAL]

Attest:  **COPY**
Secretary, Public Service Board

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$146,500.00	April 15, 2011	(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	
TOTAL \$			

(No writing on this Series 2011 A Bond except by the Issuer as Registrar.)

Date of
Registration

April 15, 2011

In Whose Name
Registered

United States of America
Post Office Box 678
Morgantown, West Virginia 26505

Signature of
Secretary or Registrar



ASSIGNMENT

Pay to the Order of

UNITED STATES OF AMERICA

By: _____

(Title)