

Crab Orchard-MacArthur Public Service District  
Sewerage System Refunding Revenue Bonds, Series 2008 A

Date Of Closing: March 27, 2008

Approving Opinion

**BOWLES RICE McDAVID GRAFF & LOVE, LLP**  
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CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A

Closing Date: March 27, 2008

TRANSCRIPT OF PROCEEDINGS

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# State of West Virginia



## Certificate

*I, Betty Ireland, 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 2007  
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*

March 24, 2008

*Betty Ireland*  
Secretary of State

**ARTICLE 13A**  
**PUBLIC SERVICE DISTRICTS FOR WATER,  
SEWERAGE AND GAS SERVICES**

**Section**

- 16-13A-1. Legislative findings.  
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16-13A-4. Board chairman; members' compensation; procedure; district name.  
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16-13A-7. Acquisition and operation of district properties.  
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16-13A-18. Operating contracts.  
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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.

**Administrative Code References**

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

**§ 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 ensure 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.

**Library References**

**Key Numbers**

Counties ⇨18.  
 Municipal Corporations ⇨5 to 6.  
 Public Utilities ⇨145.  
 Westlaw Key Number Searches: 104k18;  
 268k5 to 268k6; 317Ak145.

**Encyclopedias**

C.J.S. Counties §§ 31 to 33.  
 C.J.S. Municipal Corporations § 12.  
 C.J.S. Public Utilities §§ 18, 65 to 67.

**Notes of Decisions**

**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 wa-

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## § 16-13A-1

### 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)

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 ⇨ 278(2)

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 ⇨ 300(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 ⇨ 56

### 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 And Environment ⇨ 4

### 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

## PUBLIC HEALTH

only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power 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 ⇨

Condemnation by public service district is not a taking of private property for private use 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 ⇨ 194

### 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 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

## WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-1a

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

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 legisla-

ture 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

### 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

#### Key Numbers

Public Utilities ⇨ 145.

Westlaw Key Number Search: 317Ak145.

#### Encyclopedias

C.J.S. Public Utilities §§ 18, 65 to 67.

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

§ 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.

# WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-1c

## Library References

### Key Numbers

Counties §§ 18, 47.

Westlaw Key Number Searches: 104k18;  
104k47.

### Encyclopedias

C.J.S. Counties §§ 31 to 33, 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, enforcement 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 storm-water 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

## Key Numbers

Counties ⇨18.  
 Gas ⇨12.  
 Municipal Corporations ⇨5 to 6, 270 to 271, 711, 715.  
 Waters and Water Courses ⇨183.5.  
 Westlaw Key Number Searches: 104k18; 190k12; 268k5 to 268k6; 268k270 to 268k271; 268k711; 268k715; 405k183.5.

## Encyclopedias

C.J.S. Counties §§ 31 to 33.  
 C.J.S. Gas §§ 43 to 45.  
 C.J.S. Municipal Corporations §§ 12, 1540.  
 C.J.S. Waters § 243.

**§ 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. 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, enlarge-

ment, 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 shall 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 operation.

# WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-2

Note 2

tions: 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.

## Library References

### Key Numbers

Counties ⇨47.  
Municipal Corporations ⇨5 to 6.  
Westlaw Key Number Searches: 104k47;  
268k5 to 268k6.

### Encyclopedias

C.J.S. Counties §§ 70 to 73.  
C.J.S. Municipal Corporations § 12.

## Notes of Decisions

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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 ⇨ 56

### 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

### 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)

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

## § 16-13A-2

## PUBLIC HEALTH

### Note 2

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

### 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 requirements 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)

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

## § 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

**WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-3**

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 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, 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 and 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 appointment 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

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).

**Library References**

**Key Numbers**

Counties ⇨18.  
Municipal Corporations ⇨6.  
Westlaw Key Number Searches: 104k18;  
268k6.

**Encyclopedias**

C.J.S. Counties §§ 31 to 33.  
C.J.S. Municipal Corporations § 12.

**Notes of Decisions**

**In general 1**  
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**Standard of care 2**

**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. Howley, Op. Atty. Gen., July 14, 1988.

**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

**4. 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,

## § 16-13A-3

Note 4

1987, 365 S.E.2d 395, 179 W.Va. 115. Counties  
⊕ 60

### § 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

##### Key Numbers

Counties ⊕45.  
Public Utilities ⊕145.  
Westlaw Key Number Searches: 104k45;  
317Ak145.

##### Encyclopedias

C.J.S. Counties § 67.  
C.J.S. Public Utilities §§ 18, 65 to 67.

#### Notes of Decisions

Criminal responsibility of members 1  
Ministerial officers, generally 2  
Sufficiency of evidence 3

##### 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 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

##### 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 contin-

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ued 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. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and the change is effective from the filing of an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located and with the public service commission. 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.

**Library References**

**Key Numbers**

Counties ⇨68, 87.  
 Municipal Corporations ⇨161 to 170.  
 Westlaw Key Number Searches: 104k68;  
 104k87; 268k161 to 268k170.

**Encyclopedias**

C.J.S. Counties §§ 107 to 108, 128.  
 C.J.S. Municipal Corporations §§ 369 to 405.

Notes of Decisions

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. Howley, Op.Atty.Gen., July 14, 1988.

§ 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

Key Numbers

Counties ☞65, 68.

Municipal Corporations ☞149, 161.

Westlaw Key Number Searches: 104k65; 104k68; 268k149; 268k161.

Encyclopedias

C.J.S. Counties §§ 101 to 103, 107 to 108.

C.J.S. Municipal Corporations §§ 361, 372 to 373, 376, 378, 384 to 385, 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**

**Key Numbers**

Counties ☞65, 68, 87.  
 Municipal Corporations ☞149, 161, 170.  
 Westlaw Key Number Searches: 104k65;  
 104k68; 104k87; 268k149; 268k161;  
 268k170.

**Encyclopedias**

C.J.S. Counties §§ 101 to 103, 107 to 108.  
 C.J.S. Municipal Corporations §§ 361, 372, 373, 376, 378, 384 to 385, 390 to 400.

**§ 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 a 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 or 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 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**

**Key Numbers**

Counties ☞107.  
 Municipal Corporations ☞711.  
 Public Utilities ☞114.

Westlaw Key Number Searches: 104k1268k711; 317Ak114.

**Encyclopedias**

C.J.S. Counties § 147.

C.J.S. Public Utilities §§ 6 to 10, 73 to 75.

**§ 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 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 any territory 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**

**Key Numbers**

Counties ⇨ 103 to 104.  
 Eminent Domain ⇨ 6, 16.  
 Municipal Corporations ⇨ 221, 224.  
 Westlaw Key Number Searches: 104k103 to 104k104; 148k6; 148k16; 268k221; 268k224.

**Encyclopedias**

C.J.S. Counties §§ 143 to 144, 148.  
 C.J.S. Eminent Domain § 22.  
 C.J.S. Municipal Corporations §§ 873 to 881

**Notes of Decisions**

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rel. *McMillion v. Stahl*, 1955, 89 S.E.2d 69, 141 W.Va. 233. Taxation ⇨ 194

**2. In general**

Statute providing that private property may be taken or damaged for a number of specific purposes amounts to legislative declaration of public purposes within meaning of laws, and 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 ⇨ 70.1(8)

**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 any decision that are inherent in eminent domain proceeding. *Sexton v. Public Service Commission*, 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 specific 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

**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)

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

## WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-9

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 fur-

nished 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)

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)

### 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

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, and 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 such 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 hereunder. The schedule of such rates, fees and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; 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. 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 thereof. 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. All new applicants for service shall deposit a minimum of 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. 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 minimum deposit of fifty dollars has been remitted to the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided are delinquent and the owner, user and property are liable at law until such time as all such rates, fees and charges are fully paid: Provided, That the property owner shall be given notice of any said delinquency by certified mail, return receipt requested. 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: Provided, however, That upon written request of the owner or owners of the premises, the board shall shut off and discontinue water and gas services where any rates, fees, rentals, or charges for services or facilities remain unpaid by the user of the premises for a period of sixty days after the same became due and payable.

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 such 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

**WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-9**

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.

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 bureau of public health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any such sewer facilities, where sewage will flow by gravity or be transported by such other methods approved by the bureau of public 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 such houses, dwellings or buildings into such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, dwellings and buildings where there is such gravity flow or transportation by such other methods approved by the bureau of public 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 such houses, dwellings and buildings can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of such districts and of the state: Provided, That if the public service district determines that the property owner must connect with the sewer facilities even when sewage from such dwellings may not flow to the main line by gravity and the property owner must incur 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 such 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 bureau of public health; maintenance and operation costs for such extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of such petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near such sewer facility, and the engineer for the district has certified that such sewer facilities are available to and are adequate to serve such owner, tenant or occupant, and sewage will flow by gravity or be transported by such other methods approved by the bureau of public health from such house, dwelling or building into such sewer facilities, the district may charge, and such 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.

Whenever any district has made available a stormwater system to any owner, tenant or occupant of any real property located near such stormwater system and where stormwater from such real property affects or drains into such stormwater system, it is hereby found, determined and declared that such owner, tenant or occupant is being served by such stormwater system, and it is further hereby found, determined and declared that the mandatory use of such stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of such district and of the state. The district may charge, and such 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.

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, stormwater systems or stormwater management systems or gas facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. In addition to the other remedies provided in this section, public service districts are hereby 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 a 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.

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. 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; 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, surveys; other expenses necessary or incident to determining the feasibility and 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

# WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-9

Note 3

operation, and the performance of the things herein required or permitted, in connection with any thereof.

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.

## 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).

## Library References

### Key Numbers

Gas ⇨ 14.6.  
Municipal Corporations ⇨ 712(7)-712(8).  
Waters and Water Courses ⇨ 203.  
Westlaw Key Number Searches: 190k14.6;  
268k712(7) to 268k712(8); 405k203.

### Encyclopedias

C.J.S. Gas §§ 84 to 86.  
C.J.S. Municipal Corporations § 1538.  
C.J.S. Waters § 284.

## Notes of Decisions

Notice of availability of sewer service 5  
Public service district liens 3  
Rates and charges for service 4  
Takings 2  
Validity 1

v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233.  
Constitutional Law ⇨ 70.1(8)

### 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

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,

### 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 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 ⇨ 300(1)

### 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(10)

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

## § 16-13A-9

### Note 3

1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇨ 222

#### 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-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 ⇨ 11

Duty imposed on public service district, public corporation and political subdivision state, to establish rates and charges sufficient pay cost of maintenance, operation and depreciation of properties of district and principal and interest on all bonds issued by district 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 of apartment had received notice that public service district 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. Rhoads v. Malden Public Service Dist., 1983, 3 S.E.2d 601, 171 W.Va. 645. Mandamus ⇨ 1

### § 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 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 to it 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 behalf of any such district 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

##### Key Numbers

Gas ⇨ 14.6.  
Municipal Corporations ⇨ 712(7)-712(8).  
Waters and Water Courses ⇨ 203.  
Westlaw Key Number Searches: 190k14.6;  
268k712(7) to 268k712(8); 405k203.

##### Encyclopedias

C.J.S. Gas §§ 84 to 86.  
C.J.S. Municipal Corporations § 1538.  
C.J.S. Waters § 284.

### § 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 a

## WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-11

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.

### 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.

### § 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 person 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

##### Key Numbers

Counties ☞158.

Municipal Corporations ☞883.

Westlaw Key Number Searches: 104k158;  
268k883.

##### Encyclopedias

C.J.S. Counties § 198.

C.J.S. Municipal Corporations §§ 1626, 1631.

### § 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 to 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 as 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

## WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-15

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

#### Key Numbers

Counties ⇨174.

Municipal Corporations ⇨911.

Westlaw Key Number Searches: 104k174;  
268k911.

#### Encyclopedias

C.J.S. Counties § 220.

C.J.S. Municipal Corporations § 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

### § 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; 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.

### § 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**

**Key Numbers**

Counties Ⓒ183.  
 Municipal Corporations Ⓒ950(15).  
 Westlaw Key Number Searches: 104k183;  
 268k950(15).

**Encyclopedias**

C.J.S. Counties § 222.  
 C.J.S. Municipal Corporations §§ 1708 to  
 1709.

**§ 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**

**Key Numbers**

Counties Ⓒ186.5.  
 Municipal Corporations Ⓒ951.  
 Westlaw Key Number Searches: 104k186.5;  
 268k951.

**Encyclopedias**

C.J.S. Counties § 226.  
 C.J.S. Municipal Corporations §§ 1704 to  
 1705.

**WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-17**

**§ 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**

**Key Numbers**

Counties ☞ 188.

Municipal Corporations ☞ 937, 955.

Westlaw Key Number Searches: 104k188;  
268k937; 268k955.

**Encyclopedias**

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-11, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 15 S.E.2d 102, 151 W.Va. 207. Mandamus ⇐ 11

§ 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

Key Numbers

Counties ⇐ 114.  
Municipal Corporations ⇐ 328.  
Westlaw Key Number Searches: 104k114;  
268k328.

Encyclopedias

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

**WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-19**

Note 1

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.

**Key Numbers**

Counties ⇨110.  
Municipal Corporations ⇨225.  
Westlaw Key Number Searches: 104k110;  
268k225.

**Library References**

**Encyclopedias**

C.J.S. Counties §§ 148 to 149.  
C.J.S. Municipal Corporations § 882.

**§ 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.

**Key Numbers**

Counties ⇨183.  
Municipal Corporations ⇨950(15).  
Westlaw Key Number Searches: 104k183;  
268k950(15).

**Library References**

**Encyclopedias**

C.J.S. Counties § 222.  
C.J.S. Municipal Corporations §§ 1708 to  
1709.

**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

**§ 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**

**Key Numbers**

Counties ⇨175.  
Municipal Corporations ⇨913.  
Westlaw Key Number Searches: 104k175;  
268k913.

**Encyclopedias**

C.J.S. Counties § 218.  
C.J.S. Municipal Corporations §§ 1651, 1652

**§ 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**

**Key Numbers**

Counties ⇨18.  
Municipal Corporations ⇨5 to 6.  
Westlaw Key Number Searches: 104k18;  
268k5 to 268k6.

**Encyclopedias**

C.J.S. Counties §§ 31 to 33.  
C.J.S. Municipal Corporations § 12.

# WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-22

## 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 ⇨ 278(2)

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 ⇨ 56

### 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

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)

## § 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**

**Key Numbers**

Counties ⇨18.  
 Municipal Corporations ⇨5 to 7.  
 Westlaw Key Number Searches: 104k18;  
 268k5 to 268k7.

**Encyclopedias**

C.J.S. Counties §§ 31 to 33.  
 C.J.S. Municipal Corporations §§ 12 to 13.

**§ 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**

**Key Numbers**

Counties ⇨47.  
 Municipal Corporations ⇨166.  
 Westlaw Key Number Searches: 104k47;  
 268k166.

**Encyclopedias**

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

**§ 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

## WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-25

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

#### Key Numbers

Counties ⇄ 149.

Municipal Corporations ⇄ 864(3).

Westlaw Key Number Searches: 104k149;  
268k864(3).

#### Encyclopedias

C.J.S. Counties §§ 185, 187.

C.J.S. Municipal Corporations § 1589.

### Notes of Decisions

#### In general 1

##### 1. In general

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

note, is permissible borrowing under this section. Matko, Op. Atty. Gen., May 6, 1988.

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

Notwithstanding any other provisions of this article to the contrary, a public service district shall 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. 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, evidence of compliance 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 in the past two years requiring engineering services; or (2) completion of a construction project within the past two years requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver. 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 provisions of chapter twenty-four of this code, when a public service district is seeking to acquire or construct public service property.

Thirty days prior to making formal application for the certificate, the public service district shall prefile with the public service commission its plans and supporting information for the project and shall publish a Class II legal advertisement in a newspaper or newspapers of general circulation in each city, incorporated town or municipal corporation if available in the public service district, which legal advertisement shall state:

(a) The amount of money to be borrowed, or the amount of revenue bonds to be issued: Provided, That if the amount is an estimate, the notice may be stated in terms of an amount "not to exceed" a specific amount;

(b) The interest rate and terms of the loan or bonds: Provided, That if the interest rate is an estimate, the notice may be stated in terms of a rate "not to exceed" a specific rate;

(c) The public service properties to be acquired or constructed, and the cost of the public service properties;

(d) The anticipated rates which will be charged by the public service district: Provided, That if the rates are an estimate, the notice may be stated in terms of rates "not to exceed" a specific rate; and

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the public service commission. The public service commission may grant its consent and approval for the certificate, or any other request for approval under this section, subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four of this code, or may withhold such consent and approval for the protection of the public interest.

In the event of disapproval, the reasons for the disapproval shall be assigned in writing by the commission.

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

**Library References**

**Key Numbers**

Counties ⇨114, 153, 176.  
 Municipal Corporations ⇨328, 869, 917.  
 Public Utilities ⇨145.  
 Westlaw Key Number Searches: 104k114;  
 104k153; 104k176; 268k328; 268k869;  
 268k917; 317Ak145.

**Encyclopedias**

C.J.S. Counties §§ 161, 186, 221.  
 C.J.S. Municipal Corporations §§ 1027 to 1029, 1609, 1658 to 1660.  
 C.J.S. Public Utilities §§ 18, 65 to 67.

**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-24-2-11, 24-2-11(a). *Sexton v. Public Service Com'n*, 1992, 423 S.E.2d 914, 188 W.Va. 30 Municipal Corporations ⇨ 708

**2. Certificate of public convenience and necessity**

Public Service district must obtain certificate of public convenience and necessity before

**WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-25**

Note 2

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

*West's*  
**Annotated Code  
of West Virginia**



*Using the Classification and  
Numbering System of the  
1931 Code of West Virginia,  
as Amended*

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Chapter 16

2007  
Cumulative Annual Pocket Part

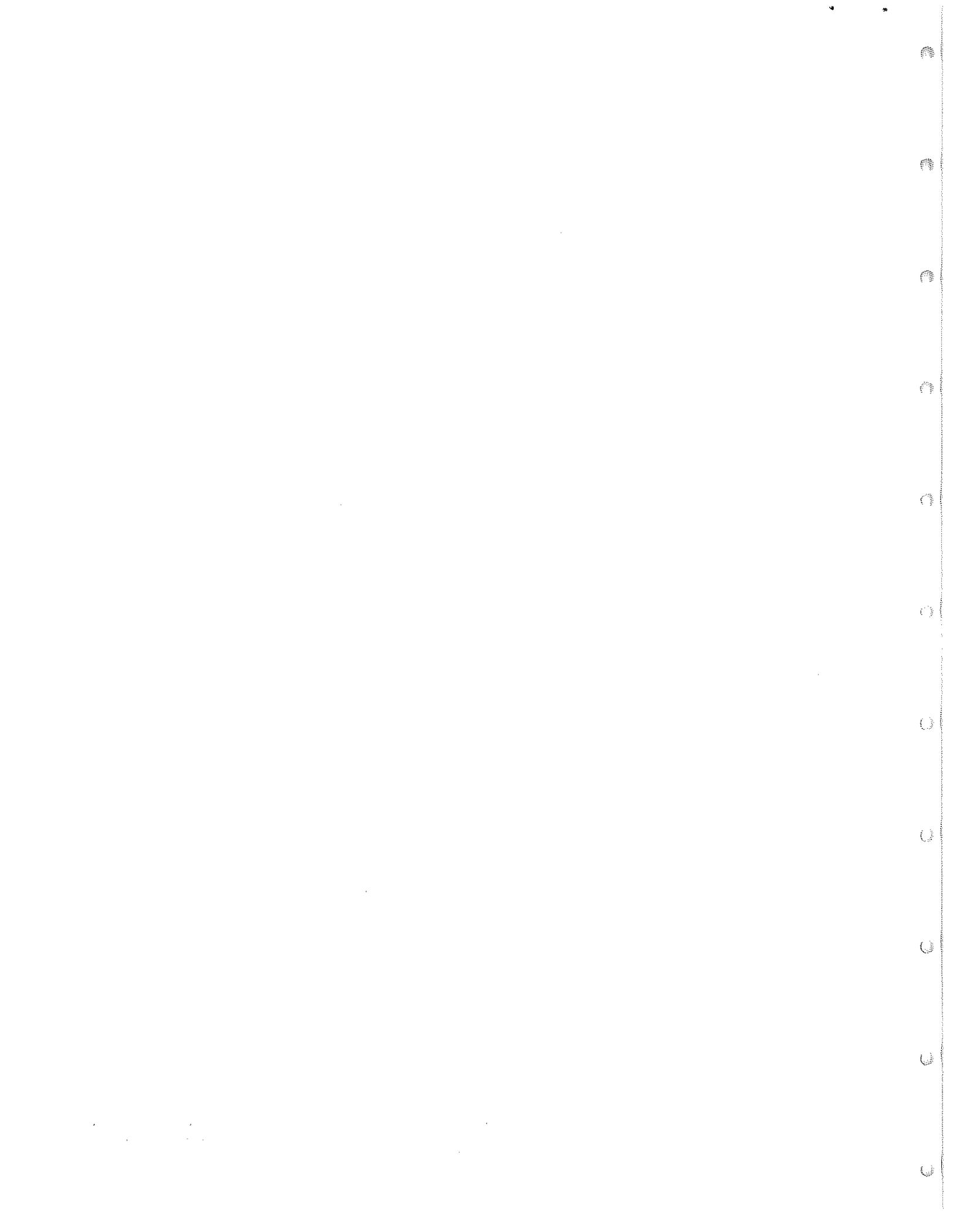
Replacing 2006 Pocket Part supplementing 2002 Main Volume

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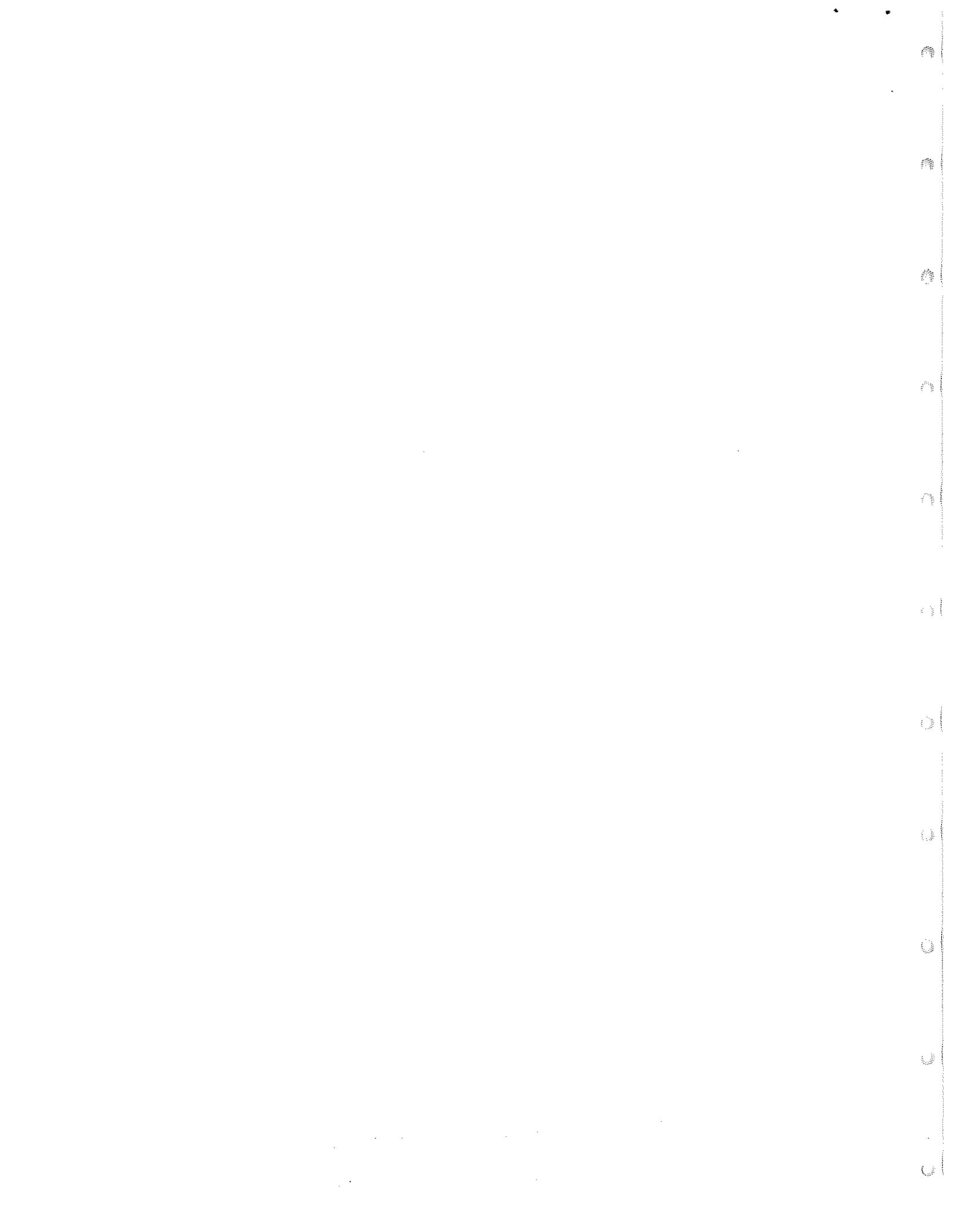
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§ 16-13A-1. Legislative findings

Notes of Decisions

2. In general

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 but may not use such funds for matching purpose under any other federal-aid program. 55 W. Op. Atty. Gen. 116 (June 27, 1973) 1973 WL 1591

§ 16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, et infringing upon powers of county commission; filing list 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 the territory 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 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 operation. *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, 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.

Notes of Decisions

Referendum 7

ue or be abolished. 52 W.Va. Op.Atty.Gen. 3 (August 11, 1966) 1966 WL 87428.

7. Referendum

A public service district, once created by county court, not subject to referendum on issue to contin-

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

Law Review and Journal Commentaries

"Yes, West Virginia, there is a special priority for the purchase money mortgage." The recognition of purchase money mortgage priority in West

Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

Notes of Decisions

Removal of members 3.5

Sale of water 5

W.Va. Op.Atty.Gen. 564 (November 10, 1965) 1965 WL 92492.

5. Sale of water

3.5. Removal of members

Public Service District board member can be removed by majority vote of registered voters. 51

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.

§ 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.

**§ 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 service 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 lien on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipal 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 cost 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**

"Yes, West Virginia, there is a special priority for the purchase money mortgage." The recognition of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

**§ 16-13A-13. Revenue bonds**

**Notes of Decisions**

**1. In general**

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.

#### § 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.

Research References

ALR Library

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

ARTICLE 13E

COMMUNITY ENHANCEMENT ACT

Section		Section	
16-13E-1.	Short title.		thereof; community enhancement boards.
16-13E-2.	Definitions.	16-13E-7.	Provisions for construction of a project.
16-13E-3.	Power and authority of counties and municipalities to create and establish community enhancement districts.	16-13E-8.	Notice to property owners of assessments; correcting and laying assessments; report on project completion; credits.
16-13E-4.	Petition for creation or expansion of community enhancement district; petition requirements.	16-13E-9.	Exemption of public property from assessments.
16-13E-5.	Notice to property owners before creation or expansion of community enhancement district and construction or acquisition of project; form of notice; affidavit of publication.	16-13E-10.	Assessment bonds; sinking fund for assessment bonds; tax exemption.
16-13E-6.	Creation of community enhancement district; community enhancement district to be a public corporation and political subdivision; powers	16-13E-11.	Indebtedness of assessment district.
		16-13E-12.	Payment of assessments to sheriff; report to community enhancement district; collection of delinquent assessments.
		16-13E-13.	Liens; recording notice of liens; priority; release of lien; notice to future property owners.
		16-13E-14.	Liberal construction.

§ 16-13E-1. Short title

This article shall be known and may be cited as the "West Virginia Community Enhancement Act".

Acts 2003, 2nd Ex. Sess., c. 14, eff. June 12, 2003.

§ 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.

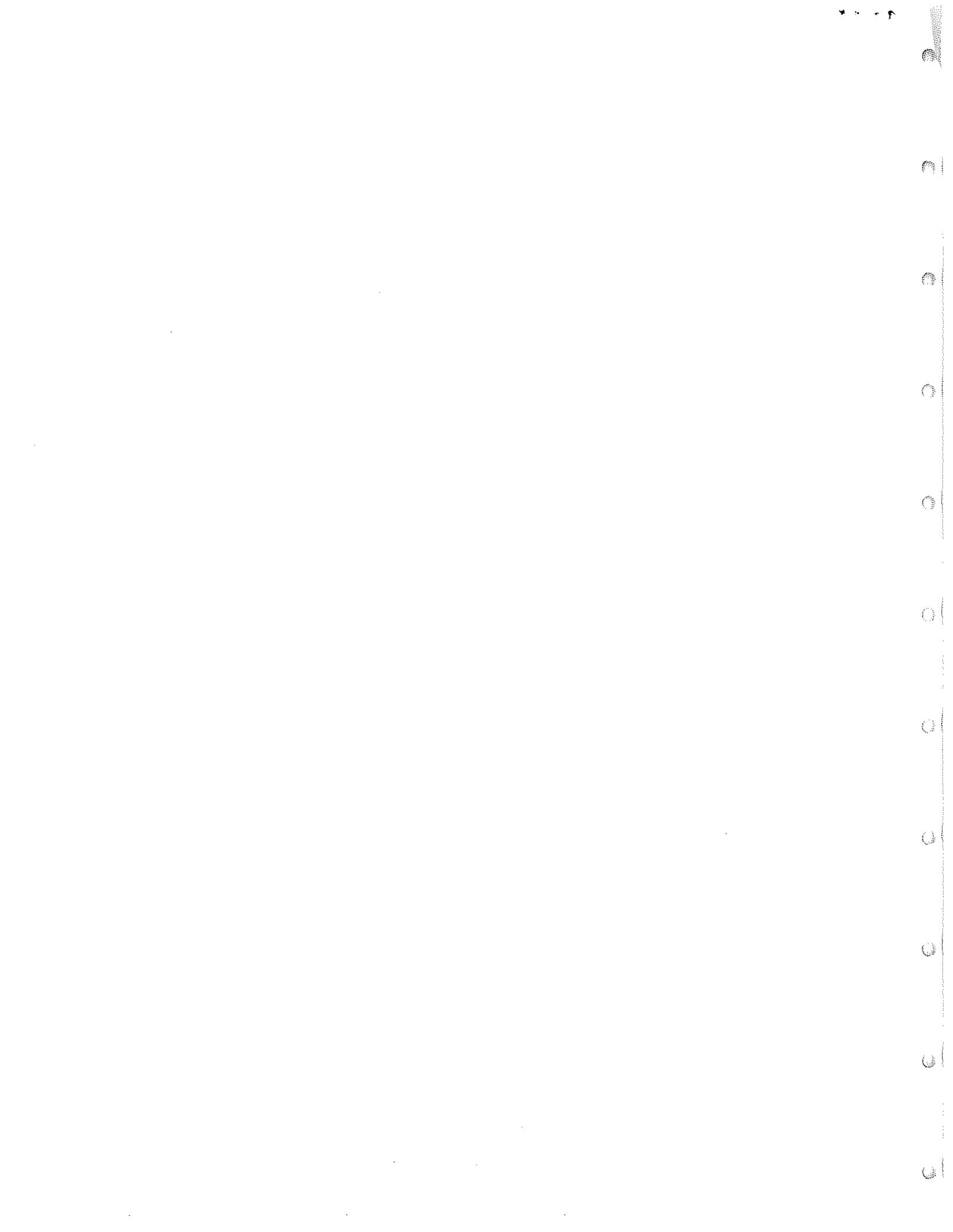
(b) "Assessment" means the fee, including interest, paid by the owner of real property located within a community enhancement district to pay for the cost of a project or projects constructed upon or benefitting or protecting such property and administrative expenses related thereto, which fee is in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

(c) "Board" means a community enhancement board created pursuant to this article.

(d) "Code" means the Code of West Virginia, one thousand nine hundred thirty-one, as amended.

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

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PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

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Entered: July 13, 2004

**FINAL**

8-2-04

CASE NO. 04-0251-PSD-PC

RALEIGH COUNTY COMMISSION

Petition for consent and approval to expand the boundaries of Crab Orchard-MacArthur Public Service District to include the Town of Lester.

RECOMMENDED DECISION

On February 6, 2004, the Raleigh County Commission (County Commission or Petitioner) filed an unexecuted resolution adopted January 20 2004, to expand the boundaries of the Crab Orchard-MacArthur Public Service District (District), in accordance with West Virginia Code §16-13A-2. The expansion will enlarge the District's territory to encompass the Town of Lester (Town). Accompanying the resolution was a copy of the Notice of the County Commission's hearing scheduled for February 17, 2004, to be published in Raleigh County.

On February 10, 2004, the County Commission filed the affidavit of publication for the notice of its hearing. On February 13, 2004, the County Commission filed an Affidavit from the General Manager of Crab Orchard-MacArthur Public Service District, verifying that the required postings of the notice of hearing had occurred.

On February 18, 2004, the County Commission filed an executed copy of its Order of February 17, 2004, approving the boundary enlargement of Crab Orchard-MacArthur Public Service District to encompass the Town of Lester.

On March 30, 2004, Staff Attorney Meyishi Blair filed an Initial Joint Staff Memorandum, to which was attached the Initial and Final Internal Memorandum prepared by Mr. Nathan J. Nelson, Utilities Analyst I, Water and Wastewater Division. In its resolution, the Raleigh County Commission approved the boundary enlargement necessary for the purpose of providing reliable sewage collection and treatment services to the residents of Lester. The Town passed an ordinance on November 4, 2003, supporting the expansion and agreeing to cooperate with and assist the District in any reasonable manner. The Town of Lester does not currently own or operate a sewage collection system or treatment facility, but desires to make reliable sewage treatment services available to as many residents and citizens of the Town as is reasonably possible. The District is amenable to taking the necessary steps to enlarge its territorial boundaries and expand its service territory to include and encompass the Town for the purpose of providing the Town sewage

collection and treatment services. Staff further pointed out that the Raleigh County Commission had supplied an unsigned resolution and ordinance with its filing. Staff recommended that the County Commission provide a signed and certified copy of the January 20, 2004 resolution and order.

On April 6, 2004, the County Commission filed an executed copy of the January 20, 2004 Order; an executed copy of the Ordinance adopted by the Town Council of the Town of Lester on November 4, 2003, consenting to the boundary change; and a map showing the area of expansion.

Also on April 6, 2004, the Commission entered its Referral Order, referring this matter to the Division of Administrative Law Judges for a decision to be rendered on or before September 16, 2004.

On April 14, 2004, Staff Attorney Blair filed a Final Joint Staff Memorandum. Staff indicated that it had received, on April 6, 2004, the signed copy of the resolution and order proposing the enlargement of the Crab Orchard-MacArthur Public Service District and a signed copy of the Town ordinance consenting to the boundary expansion. Since the Raleigh County Commission had substantially satisfied the requirements of West Virginia Code §16-13A-2, Staff recommended that this matter be set for hearing.

By Order dated May 24, 2004, this matter was set for a hearing to be held in Raleigh County, on June 29, 2004, in accordance with the provisions of West Virginia Code §16-13A-2. The County Commission was directed to publish a notice of hearing.

On June 14, 2004, the County Commission filed the affidavit of publication for the notice of the Commission hearing to be held on June 29, 2004,

The hearing was held as scheduled. The Raleigh County Commission was represented by its Counsel, Mr. John Stump, Esquire. Commission Staff was represented by Staff Attorney Meyishi Blair. No one appeared in protest to the application. (See, Tr., p. 6). The County Commission stipulated to Staff's Initial and Final Joint Staff Memoranda which were introduced by Staff as Staff Exhibits Nos. 1 and 2. (See, Tr., pp. 6-7). No further evidence was presented and the matter was submitted as an unopposed case.

#### FINDINGS OF FACT

1. On February 18, 2004, the Raleigh County Commission petitioned for consent and approval of an order adopted on February 17, 2004, to expand the boundaries of the Crab Orchard-MacArthur Public Service District, in accordance with West Virginia Code §16-13A-2. The expansion will enlarge the District's territory to encompass the Town of Lester. (See, Petition filed February 18, 2004).

2. A hearing was scheduled to be held in this case on June 29, 2004. Said Order also provided that the Raleigh County Commission publish a

Notice of Hearing, once, in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Raleigh County. (See, Order dated May 24, 2004).

3. At the hearing held on June 29, 2004, no one appeared in protest to the County Commission's Order. (See, Tr., p. 6).

4. Staff recommended approval of the Order of the Raleigh County Commission. (See, Tr., p. 7 and Staff Exhibit Nos. 1 and 2).

5. A proper affidavit of publication were filed by the County Commission reflecting that the Notice of Hearing was published in accordance with the Commission's requirements in the Beckley Newspapers on June 9, 2004. (See, affidavit of publication filed June 14, 2004).

#### CONCLUSION OF LAW

Since the Raleigh County Commission gave proper notice of the hearing to be held on its Order in accordance with the Commission's requirements and no one appeared at the hearing to protest the Order, the Order of the Raleigh County Commission dated February 17, 2004, expanding the boundaries of the Crab Orchard-MacArthur Public Service District to encompass the Town of Lester, be, and the same hereby is, approved.

#### ORDER

IT IS, THEREFORE, ORDERED that the Order of the Raleigh County Commission dated February 17, 2004, be, and the same hereby is, approved.

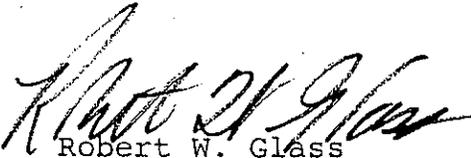
The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby 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 order 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 order 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 Order by filing an appropriate petition in writing with the 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 Order or Decision the order of the

Commission sooner than five (5) days after approval of such waiver by the Commission.

  
Robert W. Glass  
Administrative Law Judge

RWG:jas  
04025lab.wpd

## TOWN OF LESTER

AN ORDINANCE APPROVING, AUTHORIZING AND CONSENTING TO THE ENLARGEMENT OF THE TERRITORIAL BOUNDARIES AND EXPANSION OF THE SERVICE TERRITORY OF CRAB ORCHARD - MACARTHUR PUBLIC SERVICE DISTRICT TO INCLUDE THE TOWN OF LESTER

WHEREAS, the Town of Lester (the "Town") is a municipal corporation and political subdivision of the State of West Virginia and currently does not own or operate a sewerage collection system or treatment facility pursuant to W.Va. Code, Chapter 16, Article 13 or Chapter 8, Article 20;

WHEREAS, Crab Orchard - MacArthur Public Service District (the "District") is a public service district and public corporation created by Order of The County Commission of Raleigh County and currently owns and operates a sewerage collection and treatment system (the "System") pursuant to the provisions of W.Va. Code Chapter 16, Article 13A;

WHEREAS, the District is in the process of designing certain improvements to the System, including, but not limited to, a sanitary sewer collection system to serve some or all of the individuals and businesses within the municipal boundaries of the Town (the "Residents");

WHEREAS, the Town acknowledges that it does not own or operate a sewerage collection system or treatment facility, but desires to make reliable sewerage collection and treatment services available to some or all of the Residents of the Town;

WHEREAS, the Town acknowledges that the District will incur significant expense associated with the design, construction, operation and maintenance of the facilities necessary to provide sewerage collection and treatment services to some or all of the Residents of the Town;

WHEREAS, the District, in an effort to provide reliable sewerage collection and treatment services to as many people as possible, has agreed to take the necessary steps to enlarge its territorial boundaries and expand its service territory to include and encompass the Town for the purpose of providing said sewerage collection and treatment services;

WHEREAS, the Town agrees to cooperate with the District, and take all necessary steps to assist the District, in obtaining all necessary approvals from all local, State and Federal governmental or regulatory entities and/or agencies with respect to the District providing sewerage collection and treatment services to some or all of the Residents of the Town;

WHEREAS, the Town has determined and hereby determines that it is in the best interest of the Residents of the Town for the Town to approve, authorize and consent to the enlargement of the District's boundaries and expansion of the District's service territory to include and encompass the Town for the purpose of providing sewerage collection and treatment services to some or all of the Town's Residents;

WHEREAS, W. Va. Code Section 16-13A-2 requires 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” and the Council desires to effectuate such consent through the enactment of this ordinance and adhering to the more rigorous requirements of an ordinance as compared to a resolution; and

WHEREAS, it is now deemed desirous by the Town Council to enact an ordinance approving, authorizing and consenting to the enlargement of the District’s boundaries and expansion of the District’s service territory to include and encompass the Town for the purpose of providing sewerage collection and treatment services to some or all of the Residents of the Town, authorizing the Mayor and the Town Recorder to execute and deliver all agreements, documents and certificates required or desirable in connection with the enlargement of the District’s boundaries and expansion of the District’s service territory to include and encompass the Town, authorize and vest the Mayor and the Town Recorder with the appropriate authority to take any and all actions necessary to complete enlargement of the District’s boundaries and expansion of the District’s service territory to include and encompass the Town and to sanction, approve and confirm all lawful actions taken by all parties and their counsel to effectuate and complete the enlargement of the District’s boundaries and expansion of the District’s service territory to include and encompass the Town.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF LESTER:

Section 1. That the Town hereby approves, authorizes and consents to the enlargement of the District’s boundaries and expansion of the District’s service territory to include and encompass the Town for the purpose of providing sewerage collection and treatment services to some or all of the Residents of the Town.

Section 2. That the Mayor and the Town Recorder are hereby authorized and directed to execute and deliver all agreements, documents and certificates required or desirable in connection with the enlargement of the District’s boundaries and expansion of the District’s service territory to include and encompass the Town.

Section 3. The Mayor and the Town Recorder are hereby vested with the appropriate authority to take any and all actions necessary to complete the enlargement of the District’s boundaries and expansion of the District’s service territory to include and encompass the Town.

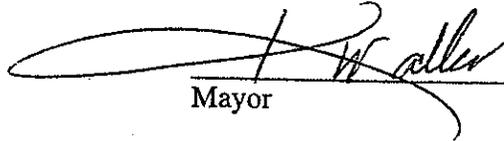
Section 4. That the Town hereby sanctions, approves and confirms all lawful actions taken by all parties and their counsel to effectuate and complete the enlargement of the District’s boundaries and expansion of the District’s service territory to include and encompass the Town.

Section 5. That this Ordinance shall serve as a “resolution of the governing body of the city, incorporated town or other municipal corporation consenting” to the enlargement of the District’s boundaries and expansion of the District’s service territory to include and encompass the Town, as required under W. Va. Code Section 16-13A-2(d).

Section 6. This Ordinance shall be effective immediately upon enactment hereof.

Passed on First Reading: October 21, 2003

Enacted on Final Reading: November 4, 2003

  
\_\_\_\_\_  
Mayor

ATTEST:

Xavier Bell  
Town Recorder

08/29/03  
194740/00004

CH623787.1

**CRAB ORCHARD - MACARTHUR PUBLIC SERVICE DISTRICT  
ENLARGEMENT OF TERRITORY AND SERVICE AREA**

**I. TOWN OF LESTER<sup>1</sup>**

1. Post Notice and Purpose of meeting of Council 72 business hours prior to meeting. (W. Va. Code §6-9A-3).
  - Agenda item: Consider and act upon 1st reading of ordinance approving and consenting to the enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass the Town.
2. Meeting of Council.
  - 1st reading of ordinance approving and consenting to the enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass Town. (W. Va. Code §8-11-4(a)(1));
3. Post Notice and Agenda for meeting of Council 72 business hours prior to meeting. (W. Va. Code §6-9A-3).
  - Agenda item: Consider and act upon 2nd reading of ordinance approving and consenting to the enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass Town.
4. Meeting of Council.
  - 2<sup>nd</sup> reading of ordinance approving and consenting to the enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass Town. (W. Va. Code §8-11-4(a)(1));

**II. THE COUNTY COMMISSION OF RALEIGH COUNTY**

1. Post Notice and Agenda for meeting of County Commission 72 business hours prior to meeting. (W. Va. Code §6-9A-3).
  - Agenda item: Consider and Act upon resolution proposing the enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass the Town of Lester and setting a date for hearing.

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1

Steps for the Town of Lester presumes that the Town's Charter does not contain additional/different requirements than those contained in the W. Va. Code.

2. Meeting on Resolution/Order of County Commission proposing the enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass the Town of Lester and setting a date for hearing. (W. Va. Code §16-13A-2(c)).
  - \* hearing date "shall be not more than 40 days nor less than 20 days from the date of the action". (W. Va. Code §16-13A-2(c)).
3. Entered Order of County Commission proposing the enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass the Town of Lester and setting hearing date must be sent to PSC at least 10 days prior to hearing. (W. Va. CSR §150-17-6.1).
4. Publish Notice of the enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass the Town of Lester and setting Public Hearing as a Class I Legal Advertisement (W. Va. Code §16-13A-2(c)). Notice must be published at least 10 days prior to hearing.
5. Post in at least 5 conspicuous places within the municipal limits of the Town of Lester, a notice containing the same information as contained in the published notice. (W. Va. Code §16-13A-2(d)) Notice must be posted more than 10 days prior to hearing.
6. Post Notice and Agenda for meeting of County Commission 72 business hours prior to meeting. (W. Va. Code §6-9A-3).
  - Agenda item: Consider and Act upon resolution approving and authorizing the enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass the Town of Lester.
7. Meeting of County Commission - Public Hearing and Order of County Commission regarding enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass the Town of Lester. (W. Va. Code §16-13A-2(e)).
8. Within 10 days of entry of Order of the County Commission regarding enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass the Town of Lester, Order must be filed for review and approval by PSC. (W. Va. Code §16-13A-2(f)) and (W. Va. CSR §150-17-6.2).

### **III. PUBLIC SERVICE COMMISSION**

1. PSC hearing held in Raleigh County on the enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass the Town of Lester. (W. Va. CSR §150-17-6.4)

2. After public comment and hearing, PSC shall order, approve, disapprove, or modify County Commission Order regarding enlargement and expansion of Crab Orchard - MacArthur PSD's territorial boundaries and service territory to include and encompass the Town of Lester. (W. Va. CSR §150-17-6.4).

08/27/03  
194740/00004

CH623602.1

OCTOBER 21, 2003

MAYOR SAM ALLEN CALLED THE MEETING TO ORDER AT 7:17 P.M.

PRESENT ARE MAYOR SAM ALLEN, RECORDER XAVIER BELL.  
COUNCIL MEMBERS: DOUG MCGHEE, REBECCA MCGHEE, BRIAN  
JOYCE AND EARL LESTER.

REBECCA MCGHEE MADE A MOTION TO ACCEPT THE MINUTES  
AS READ. SECONDED BY DOUG MCGHEE. IT WAS PROPERLY  
MOVED AND ACCEPTED. ALL VOTING YES.

REBECCA MCGHEE MADE A MOTION TO ACCEPT THE FINANCIAL  
STATEMENT AS READ. SECONDED BY BRIAN JOYCE. IT WAS  
PROPERLY MOVED AND ACCEPTED. ALL VOTING YES.

ANNEXATION: 2 OR 3 AREAS THAT ARE BORDER LINE WITH THE  
CITY. LILLY LAND ADDITION, WHO WHO HALLOW AND ALE  
WILL FIND OUT WHERE WE STAND WITH ALE. (HAS TO GO BEFORE  
THE COUNTY COMMISSION TO DETERMINE THE B&O FOR ALE). WILL  
CHECK FURTHER INTO THE 3 AREAS THAT WANT TO BE ANNEX.

Rt.54

THE FIRST READING OF THE ORDINANCE APPROVING, AUTHORIZING  
AND CONSENTING TO THE ENLARGEMENT OF THE TERRITORIAL  
BOUNDARIES AND EXPANSION OF THE SERVICE TERRITORY OF CRAB  
ORCHARD- MACARTHER PUBLIC SERVICE DISTRICT TO INCLUDE THE  
TOWN OF LESTER. THE NEXT READING WILL BE AT THE COUNCIL  
MEETING IN NOVEMBER. DOUG MCGHEE MADE A MOTION TO ACCEPT  
THE 1ST READING OF THE SEWER ORDINANCE ( CRAB ORCHARD -  
MACARTHER PSD). SECONDED BY BRIAN JOYCE. IT WAS PROPERLY  
MOVED AND ACCEPTED. ALL VOTING YES.

RECEIVED NO BIDS ON THE 1987 CHEVY TRUCK. CONSIDERING RUNNING  
THE AD AGAIN.

THERE IS NO NEW/OLD BUSINESS.

NO PUBLIC COMMENTS.

REBECCA MCGHEE MADE A MOTION TO ADJOURN THE MEETING.  
SECONDED BY EARL LESTER. IT WAS PROPERLY MOVED AND  
ACCEPTED. ALL VOTING YES.

NOVEMBER 4, 2003

MAYOR SAM ALLEN CALLED THE MEETING TO ORDER  
AT 7:15 p.m.

PRESENT ARE MAYOR SAM ALLEN, RECORDER XAVIER  
BELL. COUNCIL MEMBERS: BRIAN JOYCE, REBECCA  
MCGHEE AND EARL LESTER.

REBECCA MCGHEE MADE A MOTION TO ACCEPT THE  
MINUTES AS READ. SECONDED BY BRIAN JOYCE. IT  
WAS PROPERLY MOVED AND ACCEPTED. ALL VOTING  
YES.

REBECCA MCGHEE MADE A MOTION TO ACCEPT THE  
FIANANCIAL STATEMENT AS READ. SECONDED BY EARL  
LESTER. IT WAS PROPERLY MOVED AND ACCEPTED. ALL  
VOTING YES.

THE SECOND READING OF THE ORDINANCE APPROVING,  
AUTHORIZING AND CONSENTING TO THE ENLARGEMENT  
OF THE TERRITORIAL BOUNDARIES AND EXPANSION OF  
THE SERVICE TERRITORY OF CRAB ORCHARD- MACARTHUR  
PUBLIC SERVICE DISTRICT TO INCLUDE THE TOWN OF  
LESTER. BRIAN JOYCE MADE A MOTION TO ACCEPT THE  
2nd READING OF THE SEWER ORDINANCE (CRAB ORCHARD  
MACARTHUR PSD). SECONDED BY EARL LESTER. IT WAS  
PROPERLY MOVED AND ACCEPTED. ALL VOTING YES.

THERE IS NO NEW/OLD BUSINESS.

NO PUBLIC COMMENT.

REBECCA MCGHEE MADE A MOTION TO ADJOURN THE  
MEETING. SECONDED BY BRIAN JOYCE. IT WAS PROPERLY  
MOVED AND ACCEPTED. ALL VOTING YES.

BEFORE THE COUNTY COMMISSION OF RALEIGH COUNTY

ORDER APPROVING THE ENLARGEMENT OF THE  
TERRITORIAL BOUNDARIES OF CRAB ORCHARD-  
MACARTHUR PUBLIC SERVICE DISTRICT TO INCLUDE  
AND ENCOMPASS THE TOWN OF LESTER

WHEREAS, Crab Orchard-MacArthur Public Service District (the "District") is a public service district and public corporation created by Order of The County Commission of Raleigh County and currently owns and operates a sewerage collection system and treatment facility pursuant to the provisions of W.Va. Code Chapter 16, Article 13A;

WHEREAS, the Town of Lester (the "Town") is a municipal corporation and political subdivision of the State of West Virginia and currently does not own or operate a sewerage collection system or treatment facility pursuant to W.Va. Code, Chapter 16, Article 13 or Chapter 8, Article 20;

WHEREAS, the Town has acknowledged that it does not own or operate a sewerage collection system or treatment facility, but desires to make reliable sewerage treatment services available to as many residents and citizens of the Town as reasonably possible;

WHEREAS, the District, in an effort to provide reliable sewerage collection and treatment services to as many people as is reasonably possible, has indicated that it is amenable to taking the necessary steps to enlarge it's territorial boundaries and expand it's service territory to include and encompass the Town for the purpose of providing said sewerage collection and treatment services;

WHEREAS, the District is in the process of designing certain improvements to its existing sewerage system including, but not limited to, an extension of a sewer main line to serve currently unserved residents and citizens within the municipal boundaries of the Town;

WHEREAS, the Town has acknowledged that the District will incur significant expense associated with the design, construction, operation and maintenance of that portion of the District's system which will provide sewerage collection and treatment services to the residents and citizens of the Town;

WHEREAS, the Town has agreed to cooperate with the District, and take all reasonable steps to assist the District, to obtain all necessary approvals from all local, State and Federal governmental or regulatory entities and/or agencies with respect to the

District providing sewerage collection and treatment services to the residents and citizens of the Town;

WHEREAS, the Town enacted an ordinance on November 4, 2003, approving, authorizing and consenting to the enlargement of the District's boundaries and expansion of the District's service territory to include and encompass the Town for the purpose of providing reliable sewerage collection and treatment services to the residents and citizens of the Town;

WHEREAS, The County Commission of Raleigh County (the "County Commission") adopted a resolution and order on January 20, 2004, proposing the enlargement of the District's boundaries and expansion of the District's service territory to include and encompass the Town for the purpose of providing reliable sewerage collection and treatment services to the residents and citizens of the Town;

WHEREAS, the County Commission, after considerable deliberation and a public hearing conducted this 17th day of February, 2004, has determined that the enlargement of the District's boundaries and expansion of the District's service territory to include and encompass the Town for the purpose of providing reliable sewerage collection and treatment services to the residents and citizens of the Town is necessary for the preservation of the public health, comfort and convenience for the residents and citizens of the Town; and

WHEREAS, it is now deemed desirable by the County Commission to order the enlargement of the District's boundaries and expansion of the District's service territory to include and encompass the Town for the purpose of providing reliable sewerage collection and treatment services to the residents and citizens of the Town, all of which is subject to the approval of the Public Service Commission of West Virginia.

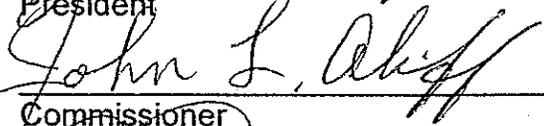
NOW, THEREFORE, BE IT, AND IT IS, HEREBY, RESOLVED AND ORDERED by The County Commission of Raleigh County as follows:

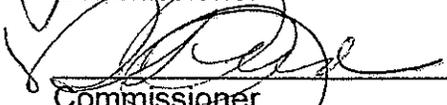
1. That The County Commission of Raleigh County, West Virginia, upon its own motion, subject to the approval of the Public Service Commission of West Virginia, hereby approves and orders the enlargement of the District's boundaries and expansion of the District's service territory to include and encompass the Town.

2. That the Clerk of The County Commission of Raleigh County shall cause a copy of this Order to be filed with the Executive Secretary of the Public Service Commission of West Virginia within ten (10) days of its entry into the permanent record of Raleigh County, West Virginia.

ENTERED into the permanent record of Raleigh County, West Virginia, this  
17th day of February, 2004.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner

ATTEST:

  
\_\_\_\_\_  
Clerk

01/16/04  
194740/00004

CH624036.1

16-27-62

I, BETTY RIFFE, Clerk of the County Commission of Raleigh County, West Virginia, hereby certify that the foregoing is a true copy from the records of my office.

In Testimony Whereof, I hereunto place my hand and affix my seal of said Commission this the <sup>4<sup>th</sup></sup> day of June, 1962.

BETTY RIFFE, Clerk  
By Sue Tate, Deputy

IN RE: CREATION OF THE PROPOSED CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT.

This being the date fixed by prior action of the County Court for conducting the public hearing on the creation of the proposed Crab Orchard-MacArthur Public Service District, as contemplated and provided for in an order heretofore passed by this Court on the 11th day of October, 1962, the President announced that all persons residing in, or owning, or having any interest in property in such proposed public service district desiring to be heard for or against the creation would be heard, and all such interested persons desiring to be heard were given full opportunity. Among those present at the meeting were Mr. G. O. Fortney, Chief Engineer with the State Health Department, W. Beverly Hume, County Sanitarian, Raleigh County, Dennis M. Leary, Jr., Engineer, W. H. File, Jr., Attorney, and several residents and property owners from the proposed district. Mr. Fortney said his department was "very happy" to see the people take it upon themselves to rid their communities of health hazards such as inadequate sewers.

The County Court, having further discussed and considered the feasibility of the creation of the proposed district, is of the opinion that in the public interest, the said district should be created.

Thereupon, H. G. Farmer, Commissioner, moved the passage of the following resolution and order, which motion was duly seconded by John C. Ward, President, in the absence of A. J. Lilly, Commissioner, and passed unanimously by said Court:

WHEREAS, the County Court of Raleigh County, West Virginia, did heretofore, by an order passed on the 11th day of October, 1962, fix a date for a public hearing on the creation of the proposed Crab Orchard-MacArthur Public Service District, and in and by said order, provide that all persons residing in or owning, or having any interest in property in the proposed public service district might appear before the County Court at this meeting and have the opportunity to be heard for and against the creation of said district; and

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WHEREAS, notice of this hearing was duly given in the manner provided and required by said order and by Article 13a of Chapter 16 of the Code of West Virginia, and all interested persons have been afforded an opportunity of being heard for and against the creation of said district, but no written protest has been filed by the requisite number of qualified voters registered and residing within said proposed public service district, and said County Court has given due consideration to all matters for which such hearing was offered; and

WHEREAS, it is now deemed desirable by said County Court to adopt a resolution and order creating said district;

NOW, THEREFORE, Be It Resolved and Ordered by the County Court of Raleigh County, West Virginia, as follows:

Section 1. That a public service district within Raleigh County, West Virginia, is hereby created, and such district shall have the following described boundaries:

Beginning at the intersection of West Virginia State Route 18 and West Virginia State Route 25; thence in a southwesterly direction and with West Virginia State Route 25 approximately  $\frac{3}{4}$  mile to its intersection with a point of latitude and longitude N 37° 43' 15", W 81° 11' 00"; thence in a due west course approximately 3  $\frac{1}{2}$  miles to a position of latitude and longitude N 37° 43' 15", W 81° 15' 00"; thence in a northerly direction approximately 1  $\frac{1}{2}$  miles to a point of latitude and longitude N 37° 44' 40", W 81° 15' 30", said point being the intersection of West Virginia State Route 54 and West Virginia State Route 18/3; thence with said State Route 18/3 in a general northerly direction approximately 1  $\frac{1}{4}$  miles to its intersection with West Virginia State Route 18; thence with West Virginia State Route 18 in a northwesterly direction approximately 1 mile to its intersection with West Virginia State Route 17/6; thence in a northwesterly direction approximately 3 miles to a position of latitude and longitude N 37° 48' 15", W 81° 15' 00"; thence in a northeasterly direction approximately .4 mile to a point of latitude and longitude N 37° 48' 30", W 81° 14' 40", said point being approximately .3 mile north of West Virginia State Route 3; thence in a general southeasterly direction approximately 2  $\frac{3}{4}$  miles and parallel with West Virginia State Route 3 to a point .3 mile north and east of West Virginia State Route 3 to the northwest corporate line of the City of Beckley; thence in a southwesterly direction approximately 1.1 miles to the southwesternmost point on the corporate line to the City of Beckley; thence continuing with said corporation line in a

southeasterly direction .4 mile to the common corner of the City of Beckley and the Town of Mabscott, said corner being at the intersection of West Virginia State Route 3/21; thence continuing in a general southeasterly direction approximately 3/4 mile and with the westernmost corporate line of the Town of Mabscott and West Virginia State Route 3/21 to its intersection of West Virginia State R 3/18; thence with the corporate line of the Town of Mabscott approximately 1 mile and with West Virginia State Route 3/18 to its point of intersection with the north westernmost corner of the Shady Spring Public Service District #1; thence continuing in a general southeasterly direction and with the western boundary of the Shady Spring Public Service District #1 approximately 4 1/2 miles to the point of beginning.

Section 2. That said public service district so created shall have the name and corporate title of "Crab Orchard-MacArthur Public Service District" and shall constitute a public corporation and political subdivision of the State of West Virginia, having all of the rights and powers conferred on public service districts by the laws of the State of West Virginia, and particularly Article 13a, Chapter 16, of the Code of West Virginia.

Section 3. That the County Court of Raleigh County, West Virginia, has determined that the territory within said county, being in Town District, is so situated that the construction or acquisition by purchase or otherwise, and the maintenance, operation, improvement and extension of properties supplying sewerage or water services or both within such territory by said public service district will be conducive to the preservation of public health, comfort and convenience of such area.

10/11/63

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IN RE: RESOLUTION AND ORDER PROPOSING THE  
CREATION OF A PUBLIC SERVICE DISTRICT WITHIN RALEIGH COUNTY,  
WEST VIRGINIA.

The following proposed resolution and order was introduced and caused to be read:

"A Resolution and Order Proposing the Creation  
of a Public Service District within Raleigh County,  
West Virginia, and Providing for the Establishment  
of a Date of a Public Hearing Thereon and for Publication  
of a Notice of such Public Hearing;"

and moved that all rules otherwise requiring deferred consideration be suspended and the adoption of said proposed resolution and order. A. J. Lilly seconded said motion, and after due consideration the President called for a vote upon said motion with the following result:

For the Motion: John C. Ward, President  
H. G. Farmer, Commissioner  
A. J. Lilly, Commissioner

Against the motion: None

The said resolution and order follows:

I, BETTY RIFFE, Clerk of the County Commission of Raleigh  
County, West Virginia, hereby certify that the foregoing is  
a true copy from the records of my office.

In Testimony Whereof, I hereunto place my hand and affix  
my seal of said Commission this the 27<sup>th</sup> day of June, 1991

BETTY RIFFE, Clerk  
By Sue Tate, Deputy

"WHEREAS, the County Court of Raleigh County, deeming it to be in the public interest, on its own motion proposes the creation of a public service district within Raleigh County, West Virginia; and

"WHEREAS, pursuant to the provisions of Article 13A of Chapter 16 of the Code of West Virginia, a public hearing is required to be held relative to the creation of the proposed public service district;

"NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the County Court of Raleigh County, West Virginia, as follows:

"Section 1. That the County Court of Raleigh County, West Virginia, deeming it to be in the public interest, hereby proposes the creation of a public service district within Raleigh County, West Virginia, as provided by Article 13A of Chapter 16 of the Code of West Virginia.

"Section 2.

"a) The name and corporate title of said public service district shall be the Crab Orchard-MacArthur Public Service District.

"b) The territory to be embraced in the public service district shall be as follows:

Beginning at the intersection of West Virginia State Route 18 and West Virginia State Route 25; thence in a southwesterly direction and with West Virginia State Route 25 approximately 3/4 mile to its intersection with a point of latitude and longitude N 37° 43' 15" W 81° 11' 00"; thence in a due west course approximately 3 1/2 miles to a position of latitude and longitude N 37° 43' 15" W 81° 15' 00"; thence in a northerly direction approximately 1 1/2 miles to a point of latitude and longitude N 37° 44' 40" W 81° 15' 30", said point being the intersection of West Virginia State Route 54 and West Virginia State Route 18/3; thence with said State Route 18/3 in a general northerly direction approximately 1 1/4 miles to its intersection with West Virginia State Route 18; thence with West Virginia State Route 18 in a northwesterly direction approximately 1 mile to its intersection with West Virginia State Route 17/6; thence in a northwesterly direction approximately 3 miles to a position of latitude and longitude N 37° 48' 15" W 81° 15' 00"; thence in a northeasterly direction approximately .4 mile to a point of latitude and longitude N 37° 48' 30" W 81° 14' 40", said point being approximately .3 mile north of West Virginia State Route 3; thence in a general southeasterly direction 2 3/4 miles and parallel with West Virginia State Route 3 to a point .3 mile north and east of West Virginia State Route 3 to the northwest corporate line of the City of Beckley; thence in a southwesterly direction approximately 1.1 miles to the southwesternmost point on the corporate line to the City of Beckley; thence continuing with said corporation line in a southeasterly direction .4 mile to the common corner of the City of Beckley and the Town of Mabscott, said corner being at the intersection of West Virginia State Route 3/21; thence continuing in a general southeasterly direction approximately 3/4 mile and with the westernmost corporate line of the Town of Mabscott and West Virginia State Route 3/21 to its intersection

of West Virginia State R 3/18; thence with the corporate line of the Town of Mabacott approximately 1 mile and with West Virginia State Route 3/18 to its point of intersection with the north westermost corner of the Shady Spring Public Service District #1 approximately 4 1/2 miles to the point of beginning.

Reference for the above description was taken from a map of Raleigh County, revised January 1, 1957, published by the State Road Commission of West Virginia.

"c) The purpose of said public service district shall be to construct or acquire by purchase or otherwise and maintain, operate and improve and extend properties supplying sewerage or water services or both within such territory.

"d) The territory described above does not include within its limits the territory of any public service district organized under Article 13A of Chapter 16, Code of West Virginia, nor does such territory include within its limits any city, incorporated town, other municipal corporation, or any part thereof.

"Section 3. That on the 13th day of November, 1962, at the hour of 1:30 P.M. this County Court shall meet in the County Courtroom in the courthouse at Beckley, West Virginia, for the purpose of conducting a public hearing on the creation of the proposed public service district, at which time and place all persons residing in or owning or having any interest in property in the proposed public service district may appear and shall have an opportunity to be heard for and against the creation of said district, and, at such hearing, the County Court shall consider and determine the feasibility of the creation of the proposed public service district.

"Section 4. That the Clerk of this Court is hereby authorized and directed to cause notice of such hearing in substantially the form hereinafter set out to be published on October 25, 1962, in The Beckley Post-Herald, a newspaper of general circulation published in Raleigh County."

**"NOTICE OF PUBLIC HEARING ON CREATION OF CRAB ORCHARD-  
MACARTHUR PUBLIC SERVICE DISTRICT**

"Notice is hereby given that deeming it to be in the public interest the County Court of Raleigh County, West Virginia, on its own motion, has proposed the creation of a public service district within Raleigh County for the purpose of constructing or acquiring by purchase or otherwise and the maintenance, operation and extension of public service properties supplying sewerage or water services or both within the district hereinafter described, to be named Crab Orchard-MacArthur Public Service District and having the following description:

Beginning at the intersection of West Virginia State Route 18 and West Virginia State Route 25; thence in a southwesterly direction and with West Virginia State Route 25 approximately 3/4 mile to its intersection with a point of latitude and longitude N 37° 43' 15" W 81° 11' 00"; thence in a due west course approximately 3 1/2 miles to a position of latitude and longitude N 37° 43' 15" W 81° 15' 00"; thence in a northerly direction approximately 2 1/2 miles to a point of latitude and longitude N 37° 44' 40" W 81° 15' 30", said point being the intersection of West Virginia State Route 54 and West Virginia State Route 18 1/2; thence with said State Route 18 1/2 in a general northerly direction approximately 1 1/4 miles to its intersection with West Virginia State Route 18; thence with West Virginia State Route 18 in a northwesterly direction approximately 1 mile to its intersection with West Virginia State Route 17 1/2; thence in a northwesterly direction approximately 3 miles to a position of latitude and longitude N 37° 48' 15" W 81° 15' 00"; thence in a northeasterly direction approximately .4 mile to a point of latitude and longitude N 37° 48' 53" W 81° 14' 40", said point being approximately .3 mile north of West Virginia State Route 5; thence in a general southeasterly direction approximately 2 1/4 miles and parallel with West Virginia State Route 5 to a point .3 mile north and east of West Virginia State Route 5 to the northwest corporate line of the City of Beckley; thence in a southwesterly direction approximately 3.1 miles to the south westernmost point on the corporate

line to the City of Beckley, thence continuing with said corporate line in a southeasterly direction .4 mile to the common corner of the City of Beckley and the Town of Mabscott, said corner being at the intersection of West Virginia State Route 3/21; thence continuing in a general southeasterly direction approximately 3/4 mile and with the westernmost corporate line of the Town of Mabscott and West Virginia State Route 3/21 to its intersection of West Virginia State R 3/18; thence with the corporate line of the Town of Mabscott approximately 1 mile and with West Virginia State Route 3/18 to its point of intersection with the north westernmost corner of the Shady Spring Public Service District # 1; thence continuing in a general southeasterly direction and with the western boundary of of the Shady Spring Public Service District # 1 approximately 4 1/2 miles to the point of beginning.

Reference for the above description was taken from a map of Raleigh County, revised January 1, 1957, published by the State Road Commission of West Virginia.

ALL persons residing in or owning or having any interest in property in said proposed public service district are hereby notified that the County Court of Raleigh County will conduct a public hearing on the 13th day of November, 1962, at 1:30 o'clock p.m. in the County Courtroom in the Court House at Beckley, West Virginia, at which time and place all interested persons may appear before the County Court and shall have an opportunity to be heard for and against the creation of the proposed public service district. By order of the County Court this 11th day of October, 1962.

ATTEST: C. G. Smith, Jr.  
Clerk of the County Court of  
Raleigh County, West Virginia

1-16-96

IN RE: CRAB ORCHARD PSD PETITION, PAUL ROOP, ATTY.

There was no opposition at the public hearing to the petition to change the boundary lines to include Midway with Crab Orchard-MacArthur PSD, the hearing was closed and the motion was made by Commissioner Barley to approve the petition, seconded by Commissioner Humphrey, motion was unanimously approved by the Commission.

~~DRAFT~~

IN THE COUNTY COMMISSION OF RALEIGH COUNTY, WEST VIRGINIA

IN RE: JOINT PETITION OF RALEIGH COUNTY PUBLIC SERVICE DISTRICT AND CRAB ORCHARD-MacARTHUR PUBLIC SERVICE DISTRICT FOR MODIFICATION OF BOUNDARIES

JOINT PETITION

Comes now the Raleigh County Public Service District and the Crab Orchard-MacArthur Public Service District and jointly petition the County Commission for an Order modifying the boundaries of the said Public Service Districts so as to reassign certain property in and around the Community of Midway from the Raleigh County Public Service District to the Crab Orchard-MacArthur Public Service District, as more fully set forth below:

1. The Raleigh County Public Service District is a public service district organized under Title 16, Article 13A of the West Virginia Code and is subject to the jurisdiction of the Raleigh County Commission with respect to the modification of its boundaries.
2. The Crab Orchard-MacArthur Public Service District is a public service district organized under Title 16, Article 13A of the West Virginia Code and is subject to the jurisdiction of the Raleigh County Commission with respect to the modification of its boundaries.
3. Currently, there is included within the boundaries of the Raleigh County Public Service District land described as follows:

BEGINNING at a point on the existing boundary line of the Crab Orchard-MacArthur Public Service District, said point being at latitude and longitude N 37° 43' 15", W 81° 13' 37"; thence leaving the existing boundary line in a due south direction approximately 3,340 feet to a point of latitude and longitude N 37° 42' 42", W 81° 13' 37"; thence in a due west direction approximately 5,765 feet to a point of latitude and longitude N 37° 42' 42", W 81° 14' 49"; thence in a due north direction approximately 2,640 feet to a point of latitude and longitude N 37° 43' 08", W 81° 14' 49"; thence in a due west direction approximately 890 feet to a point of latitude and longitude N 37° 43' 08", W 81° 15' 00"; thence in a due north direction approximately 700 feet to a point of latitude and longitude N 37° 43' 15", W 81° 15' 00", said point being on the existing boundary line; thence in a due east direction following the existing boundary line at latitude N 37° 43' 15" an approximate

I, BETTY RIFFE, Clerk of the County Commission of Raleigh County, West Virginia, hereby certify that the foregoing is a true copy from the records of my office.

In Testimony Whereof, I hereunto place my hand and affix my seal of said Commission this the 4<sup>th</sup> day of June, 1997

BETTY RIFFE, Clerk  
By Eric Barley, Deputy

distance of 6,655 feet to a point of latitude and longitude N 37° 43' 15", W 81° 13' 37", the place of beginning, and containing approximately 457 acres or 0.71 square miles.

4. The Crab Orchard-MacArthur Public Service District boundaries currently adjoin those described in Paragraph 3, above.

5. The Crab Orchard-MacArthur Public Service District proposes to extend its lines so as to provide sewage service to the residents of the portion of the County described in Paragraph 3, above, which is more feasible at this time than extending service from the Raleigh County Public Service District.

6. Both the Raleigh County Public Service District and the Crab Orchard-MacArthur Public Service District agree that the transfer of the portion of the County described in Paragraph 3, above, from the control of the Raleigh County Public Service District to the Crab Orchard-MacArthur Public Service District is in the public interest and desirable to all parties concerned.

7. The Raleigh County Public Service District proposes reducing its boundaries by transferring that portion of the county described in Paragraph 3, above, from the control of the Raleigh County Public Service District to the Crab Orchard-MacArthur Public Service District.

WHEREFORE, the Raleigh County Public Service District and the Crab Orchard-MacArthur Public Service District, Petitioners herein, pray that the Commission enter an Order allowing the Raleigh County Public Service District to abandon its authority over that portion of the County described in Paragraph 3, above, and grant authority for the regulation of said area to the Crab Orchard-MacArthur Public Service District for those matters described in Title 16, Article 13A, §1, *et seq.*, of the West Virginia Code. The Parties further pray that the Commission schedule a public hearing with respect to this matter.

RALEIGH COUNTY PUBLIC SERVICE DISTRICT  
By Counsel

~~DRAFT~~  
\_\_\_\_\_  
John D. Wooton  
Wooton, Wooton & Fragile  
Post Office Box 1733  
Beckley, West Virginia 25801

CRAB ORCHARD-MacARTHUR PUBLIC SERVICE DISTRICT  
By Counsel

~~DRAFT~~  
\_\_\_\_\_  
Parmer Roop II  
R.M. Higgins & Associates  
1800 Harper Road  
Beckley, West Virginia 25801

IN THE COUNTY COMMISSION OF RALEIGH COUNTY, WEST VIRGINIA

IN RE: JOINT PETITION OF RALEIGH COUNTY PUBLIC SERVICE  
DISTRICT AND CRAB ORCHARD-MacARTHUR PUBLIC  
SERVICE DISTRICT FOR MODIFICATION OF BOUNDARIES

AFFIDAVIT OF BARRY MILAM

STATE OF WEST VIRGINIA,

COUNTY OF RALEIGH, TO-WIT:

BARRY MILAM, being first duly sworn, deposes and says:

1. My name is Barry Milam, I am competent to give this Affidavit based upon my personal knowledge, and I am the general manager of the Crab Orchard-MacArthur Public Service District.

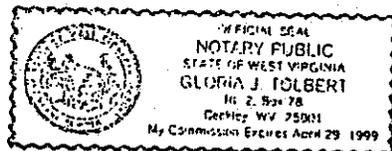
2. On or before December 28, 1995, I posted copies of the attached Notice in five (5) conspicuous places in and around Midway, West Virginia, all five (5) of which points were within the boundaries of the property affected by the above-styled Petition now pending before the Raleigh County Commission to modify the boundaries of the Crab Orchard-MacArthur Public Service District and Raleigh County Public Service District.

FURTHER the affiant saith not.

Barry Milam  
BARRY MILAM

Taken, subscribed and sworn to before the undersigned authority this 16<sup>th</sup> day of January 1996.

My Commission Expires: April 29, 1999



Gloria J. Tolbert  
Notary Public

**LEGAL NOTICE**  
**Crab Orchard - MacArthur Public Service District**  
**Midway Sewer Extension Project**

Notice is hereby given pursuant to the requirements of West Virginia Code §16-13A-25 and 24-2-11 of the intention of the Crab Orchard - MacArthur Public Service District, a public corporation, to file an application for a Certificate of Public convenience and necessity to extend its existing wastewater collection system to the community of Midway, including construction of one (1) 50 gallons per minute and one (1) 180 gallons per minute pump stations, two (2) collection systems consisting of eight-inch (8") and six-inch (6") collection lines with manholes and other appurtenant items necessary for an operable system.

The proposed Midway system will serve approximately 325 customers. The District's existing system currently serves approximately 2,800 customers.

The project is estimated to cost Three Million Twenty Thousand Dollars (\$3,020,000.00) and will be financed as follows: Small Cities Block Grant of Seven Hundred Fifty Thousand Dollars (\$750,000.00) and Water Development Authority Loan of Two Million Two Hundred Seventy Thousand Dollars (\$2,270,000.00).

The amount of money to be borrowed will not exceed the following: Water Development Authority Two Million Five Hundred Thousand Dollars (\$2,500,000.00) at an interest rate not to exceed seven percent (7%) and a term not to exceed thirty-eight (38) years.

The District anticipates rates not to exceed the following: First 2,000 gallons used per month, \$6.36 per 1,000 gallons; Next 3,000 gallons used per month, \$6.21 per 1,000 gallons; Next 10,000 gallons used per month, \$6.16 per 1,000 gallons; Next 15,000 gallons used per month, \$6.06 per 1,000 gallons; All usage over 30,000 gallons per month, \$5.96 per 1,000 gallons.

Residential minimum bill (5/8" by 3/4" meter): 0 - 2,000 gallons, \$12.72.

Delayed Payment Penalty: The above proposed tariff is net. On all accounts not paid in full within twenty (20) days of bill, ten percent (10%) will be added to net amount shown. The delayed payments penalty is not interest and shall be charged once for each bill where applicable.

Customer Security Deposit: Each applicant desiring sewer services shall pay a security deposit of Fifty Dollars (\$50.00) at the time application for service is made.

Tapping fees for New Service: There shall be a charge of One Hundred Fifty Dollars (\$150.00) for installing any new service.

A disconnection/reconnection fee shall be charged whenever water service has been disconnected for non-payment of sewer bills, as follows: disconnection fee of Twenty Dollars (\$20.00) shall be charged, and a reconnection fee of Twenty Dollars (\$20.00) shall also be charged.

Formal application for a Certificate of Public Convenience and Necessity, for approval of financing and for approval of proposed rates and charges will be filed with the Public Service Commission on or after March 18, 1995.

Anyone desiring to protest the application should do so within thirty (30) days in writing briefly stating the reason for the protest and addressing same to Secretary, Public Service Commission of West Virginia, Post Office Box 812, Charleston, West Virginia 25323. If no protest is received, the Commission may waive formal hearing and grant the application based on the evidence submitted with the application.

Arlie Porter, Chair  
Crab Orchard - MacArthur PSD

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Beginning at a point on the existing boundary line of the Crab Orchard-MacArthur Public Service District, said point being at latitude and longitude N37°43'15", W 81°13'37"; thence leaving the existing boundary line in a due south direction approximately 3,340 feet to a point of latitude and longitude N37°42'42", W81°13'37"; thence in a due west direction approximately 5,765 feet to a point of latitude and longitude N37°42'42", W81°14'49"; thence in a due north direction approximately 2,640 feet to a point of latitude and longitude N37°43'08", W81°14'49"; thence in a due west direction approximately 890 feet to a point of latitude and longitude N37°43'08", W81°15'00"; thence in a due north direction approximately 700 feet to a point of latitude and longitude N37°43'15", W81°15'00", said point being on the existing boundary line; thence in a due east direction following the existing boundary line at latitude N37°43'15" an approximate distance of 6,655 feet to a point of latitude and longitude N37°43'15", W81°13'37", the place of beginning, and containing approximately 457 acres or 0.71 square miles.



DUNN ENGINEERS, INC.  
CHARLESTON, WEST VIRGINIA

CRAB ORCHARD-MACARTHUR  
PUBLIC SERVICE DISTRICT  
PROPOSED  
BOUNDARY ADJUSTMENT

DRAWING

SCALE





# County Commission of Raleigh County

P O BOX 2518  
116 1/2 NORTH HEBER STREET  
BECKLEY, WEST VIRGINIA 25802-2518

September 3, 2003

Mr. Gerald Miller  
P O Box 124  
Bolt, WV 25817

Dear Mr. Miller:

We are pleased to inform you that on September 2, 2003, in a regular meeting, the Raleigh County Commission appointed you to the Crab Orchard – MacArthur Public Service District Board to fill the vacancy created by the death of Arlie Porter. The appointment is effective September 2, 2003 with an expiration date of December 31, 2008.

Please stop by the County Clerk's office at your earliest convenience to take the oath of office.

We appreciate your willingness to serve the citizens of Raleigh County in this manner.

Respectfully,

Handwritten signature of John D. Humphrey in black ink.

John D. Humphrey, President

Handwritten signature of John L. Aliff in black ink.

John L. Aliff, Commissioner

Handwritten signature of Pat Reed in black ink.

Pat Reed, Commissioner

cc: Crab Orchard – MacArthur PSD



# County Commission of Raleigh County

P O BOX 2518  
116 1/2 NORTH HEBER STREET  
BECKLEY, WEST VIRGINIA 25802-2518

January 4, 2005

Mr. Tom Ayres  
212 Oak Grove Road  
Beckley, WV 25801

Dear Mr. Ayres:

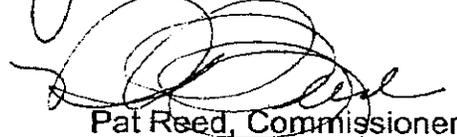
We are pleased to inform you that the County Commission, at their meeting on January 4, 2005, reappointed you to the Crab Orchard/MacArthur PSD and your new term will expire December 31, 2010.

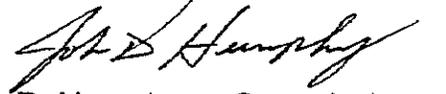
Please stop by the County Clerk's office at your earliest convenience to take the oath of office.

We appreciate your past service and continued willingness to serve the citizens of Raleigh County in this manner.

Respectfully,

  
John L. Aliff, President

  
Pat Reed, Commissioner

  
John D. Humphrey, Commissioner

cc: Crab Orchard/MacArthur PSD

Phone (304) 255-9146

Fax (304) 255-9166

ralcom@raleighcounty.com

# County Commission of Raleigh County



P O BOX 2518  
118 1/2 NORTH HEBER STREET  
BECKLEY, WEST VIRGINIA 25802-2518

January 23, 2007

Mr. Zino Sparks  
P O Box 255  
Midway, WV 25878

Dear Mr. Sparks:

We are pleased to inform you that the County Commission, at their meeting on January 23, 2007, reappointed you to the Crab Orchard – MacArthur Public Service District and your new term will expire December 31, 2012.

Please stop by the County Clerk's office at your earliest convenience to take the oath of office.

We appreciate your past service and continued willingness to serve the citizens of Raleigh County in this manner.

Respectfully,

Pat Reed, President

John D. Humphrey, Commissioner

John L. Aliff, Commissioner

cc: Crab Orchard – MacArthur Public Service District



OATH

STATE OF WEST VIRGINIA }  
COUNTY OF RALEIGH } ss.

I, *Sherald Miller*, do solemnly swear that I will support the constitution of the United States

and the constitution of this State and that I will faithfully discharge the duties of my office of *Clerk of the Court*

*Marshall's Purchase Survey District Road*

to the best of my skill and judgment, so help me God.

*Sherald Miller*

Subscribed and sworn to before the undersigned, this the *8th* day of *September*, *1920*

*Petty Riffe*  
Clerk County Commission, Raleigh County, W. Va.

# OATH

STATE OF WEST VIRGINIA }  
COUNTY OF RALEIGH }

ss.

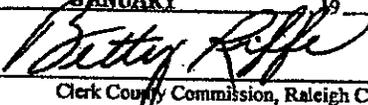
I, THOMAS EDWARD AYERS, do solemnly swear that I will support the constitution of the United States and the constitution of this State and that I will faithfully discharge the duties of my office of \_\_\_\_\_

CRAB ORCHARD / MACARTHUR PUBLIC SERVICE DISTRICT

to the best of my skill and judgment, so help me God.

Subscribed and sworn to before the undersigned, this the 6TH day of JANUARY 19 2005

OATH BOOK 8 PAGE 72

  
Clerk County Commission, Raleigh County, W. Va.

# OATH

STATE OF WEST VIRGINIA }  
COUNTY OF RALEIGH } ss.

I, Zeno Sparks, do solemnly swear that I will support the constitution of the United States  
and the constitution of this State and that I will faithfully discharge the duties of my office of  
Crab Orchard-MacArthur PSD Board Member  
to the best of my skill and judgment, so help me God.

*Zeno Sparks*

Subscribed and sworn to before the undersigned, this the 27<sup>nd</sup> day of February, 2008

*Betty Riffel, Clerk*  
Clerk County Commission, Raleigh County, W. Va.



## **RULES OF PROCEDURE**

### **CRAB ORCHARD MACARTHUR PUBLIC SERVICE DISTRICT**

#### **ARTICLE I**

##### **NAME AND PLACE OF BUSINESS**

Section 1. Name: CRAB ORCHARD MACARTHUR PUBLIC SERVICE DISTRICT.

Section 2. The principal office of this Public Service District will be located on 196 Glenview Road, Crab Orchard, Raleigh County, West Virginia.

Section 3. The Common Seal of the District shall consist of two concentric circles between which circles shall be inscribed Crab Orchard MacArthur Public Service District, and in the center shall be inscribed the Corporate Seal.

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

#### **ARTICLE II**

##### **PURPOSE**

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

#### **ARTICLE III**

##### **MEMBERSHIP**

Section 1. The members of the Public Service Board of this District shall be those persons appointed by The County Commission of Raleigh County, West Virginia, 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 Public Service Board resign or otherwise become legally disqualified to serve as a member of the Public Service Board, the Secretary 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 Public Service Board, the Secretary 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 Public Service Board.

## ARTICLE IV

### MEETINGS OF THE PUBLIC SERVICE BOARD

Section 1. The members of the Public Service Board of this District shall hold regular monthly meetings on the second and fourth Tuesday of each month, 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 Public Service Board may be called at any time by the Chairman or by a quorum of the Board.

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

Section 3. Unless otherwise agreed, notice to members of regular meetings shall not be required. Unless otherwise waived, notice of each special meeting of the membership shall be given to all members by the Secretary by fax, telephone, mail or other satisfactory means at least three (3) days 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 thereat, and no business other than that stated in the notice or incidental thereto shall be transacted at any such special meeting.

### PUBLIC NOTICE OF MEETINGS

Section 4. Pursuant to Section 3, Article 9A, Chapter 6 of the West Virginia Code of 1931, as amended (1999 Revision), notice of the date, time, place and agenda of all regularly scheduled meetings of such Public Service Board, and the date, time, place and purpose of all special meetings of such Public Service Board, shall be made available, in advance, to the public and news media (except in the event of an emergency requiring immediate action) as follows:

A. Regular Meetings. A notice shall be posted and maintained by the Secretary of the Public Service Board of the Public Service District at the front door or bulletin board of the Raleigh County Courthouse and at the front door or bulletin board of the place fixed for regular meetings of the Public Service Board of the date, time and place fixed and entered of record by the Public Service Board for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same locations by the Secretary of the Public Service Board not less than 72 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is cancelled or postponed, a notice of such cancellation or postponement shall be posted at the same locations as soon as feasible after such cancellation or postponement has been determined.

B. Special Meetings. A notice shall be posted by the Secretary of the Public Service Board at the front door or bulletin board of the Raleigh County Courthouse and at the front door or bulletin board of the place fixed for the regular meetings of the Public Service Board not less than 72 hours before a special meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is

cancelled, a notice of such cancellation shall be posted at the same locations as soon as feasible after such cancellation has been determined.

## ARTICLE V

### OFFICERS

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

Section 2. The officers of the Public Service Board shall be elected each year by the members at the first meeting held in such 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 Public Service Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the following January meeting of the Board when their successors shall be elected hereinabove provided.

## ARTICLE VI

### DUTIES OF OFFICERS

Section 1. When present, the Chairman shall preside as Chairman at all meetings of the Public Service Board. The Chairman shall, together with the Secretary, sign the minutes of all meetings at which he or she shall preside. The Chairman shall attend generally to the executive business of the Board and exercise such powers as may be conferred by the Board, by these Rules of Procedure, or as prescribed by law. The Chairman shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements or other papers 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. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. The Secretary shall, together with the Chairman, sign the minutes of the meetings at which he or she is present. The Secretary shall have charge of the minute book, be the custodian of the Common Seal of the District and all deeds and other writings and papers of the Board. The Secretary shall also perform such other duties as he or she may have under law by virtue of the office or as may be conferred from time to time by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 3. The Treasurer shall be the lawful custodian of all funds of the District and shall disburse funds of the District on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. He shall perform such other duties as may be required of him by law or as may be conferred upon him by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 4. If the Chairman, Secretary or Treasurer is absent from any meeting, the remaining members of the Board shall select a temporary chairman, secretary or treasurer, as necessary, who shall have all of the powers of the absent officer during such period of absence.

## ARTICLE VII

### AMENDMENTS TO RULES OF PROCEDURE

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

These Rules of Procedure shall replace any and all previous rules of procedure, bylaws or similar rules heretofore adopted by the District.

Adopted this 18<sup>th</sup> day of July, 2006.

## **RULES OF PROCEDURE**

### **CRAB ORCHARD MACARTHUR PUBLIC SERVICE DISTRICT**

#### **ARTICLE I**

##### **NAME AND PLACE OF BUSINESS**

**Section 1.** Name: CRAB ORCHARD MACARTHUR PUBLIC SERVICE DISTRICT.

**Section 2.** The principal office of this Public Service District will be located on 196 Glenview Road, Crab Orchard, Raleigh County, West Virginia.

**Section 3.** The Common Seal of the District shall consist of two concentric circles between which circles shall be inscribed Crab Orchard MacArthur Public Service District, and in the center shall be inscribed the Corporate Seal.

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

#### **ARTICLE II**

##### **PURPOSE**

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

#### **ARTICLE III**

##### **MEMBERSHIP**

**Section 1.** The members of the Public Service Board of this District shall be those persons appointed by The County Commission of Raleigh County, West Virginia, 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 Public Service Board resign or otherwise become legally disqualified to serve as a member of the Public Service Board, the Secretary 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 Public Service Board, the Secretary 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 Public Service Board.

## ARTICLE IV

### MEETINGS OF THE PUBLIC SERVICE BOARD

**Section 1.** The members of the Public Service Board of this District shall hold regular monthly meetings on the second and fourth Tuesday of each month, 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 Public Service Board may be called at any time by the Chairman or by a quorum of the Board.

**Section 2.** At any meeting of the Public Service Board of the District, two (2) members shall constitute a quorum. Each member of the Public Service Board shall have one vote at any membership meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

**Section 3.** Unless otherwise agreed, notice to members of regular meetings shall not be required. Unless otherwise waived, notice of each special meeting of the membership shall be given to all members by the Secretary by fax, telephone, mail or other satisfactory means at least three (3) days 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 thereat, and no business other than that stated in the notice or incidental thereto shall be transacted at any such special meeting.

### PUBLIC NOTICE OF MEETINGS

**Section 4.** Pursuant to Section 3, Article 9A, Chapter 6 of the West Virginia Code of 1931, as amended (1999 Revision), notice of the date, time, place and agenda of all regularly scheduled meetings of such Public Service Board, and the date, time, place and purpose of all special meetings of such Public Service Board, shall be made available, in advance, to the public and news media (except in the event of an emergency requiring immediate action) as follows:

A. **Regular Meetings.** A notice shall be posted and maintained by the Secretary of the Public Service Board of the Public Service District at the front door or bulletin board of the Raleigh County Courthouse and at the front door or bulletin board of the place fixed for regular meetings of the Public Service Board of the date, time and place fixed and entered of record by the Public Service Board for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same locations by the Secretary of the Public Service Board not less than 72 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is cancelled or postponed, a notice of such cancellation or postponement shall be posted at the same locations as soon as feasible after such cancellation or postponement has been determined.

B. **Special Meetings.** A notice shall be posted by the Secretary of the Public Service Board at the front door or bulletin board of the Raleigh County Courthouse and at the front door or bulletin board of the place fixed for the regular meetings of the Public Service Board not less than 72 hours before a special meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is

cancelled, a notice of such cancellation shall be posted at the same locations as soon as feasible after such cancellation has been determined.

## ARTICLE V

### OFFICERS

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

Section 2. The officers of the Public Service Board shall be elected each year by the members at the first meeting held in such 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 Public Service Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the following January meeting of the Board when their successors shall be elected hereinabove provided.

## ARTICLE VI

### DUTIES OF OFFICERS

Section 1. When present, the Chairman shall preside as Chairman at all meetings of the Public Service Board. The Chairman shall, together with the Secretary, sign the minutes of all meetings at which he or she shall preside. The Chairman shall attend generally to the executive business of the Board and exercise such powers as may be conferred by the Board, by these Rules of Procedure, or as prescribed by law. The Chairman shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements or other papers 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. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. The Secretary shall, together with the Chairman, sign the minutes of the meetings at which he or she is present. The Secretary shall have charge of the minute book, be the custodian of the Common Seal of the District and all deeds and other writings and papers of the Board. The Secretary shall also perform such other duties as he or she may have under law by virtue of the office or as may be conferred from time to time by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 3. The Treasurer shall be the lawful custodian of all funds of the District and shall disburse funds of the District on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. He shall perform such other duties as may be required of him by law or as may be conferred upon him by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 4. If the Chairman, Secretary or Treasurer is absent from any meeting, the remaining members of the Board shall select a temporary chairman, secretary or treasurer, as necessary, who shall have all of the powers of the absent officer during such period of absence.

## ARTICLE VII

### AMENDMENTS TO RULES OF PROCEDURE

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

These Rules of Procedure shall replace any and all previous rules of procedure, bylaws or similar rules heretofore adopted by the District.

Adopted this 18<sup>th</sup> day of July, 2006.

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7/13/2006

CH823308.1



# **Crab Orchard MacArthur Public Service District**

Thomas E Ayres, Chairman  
Zeno Sparks, Secretary-Treasurer  
Gerald Miller, Board Member

PO Box 278  
Crab Orchard WV  
25827-0278

## SEMI MONTHLY MEETING January 8, 2008

Present: Thomas E Ayres, Chairman; Zeno Sparks, Secretary; Gerald Miller, Board Member; Barry Milam, General Manager and Treasurer; Frosty Green, Plant Manager; Karen Metrick, Office Manager and Recording Secretary.

Mr. Ayres opened the meeting in the best interest and concerns of the customers and employees of the Crab Orchard MacArthur Public Service District.

Mr. Sparks made a motion to accept the last meeting's minutes as read. Motion seconded by Mr. Miller. Motion made and carried to accept the last meeting's minutes as read. The vote was three in favor of the motion.

Visitors: Fred Hypes, Dunn Engineering, Inc.

Mr. Sparks nominated Barry Milam as Treasurer. The vote was three in favor of the nomination.

Mr. Miller nominated Karen Metrick as Recording Secretary. The vote was three in favor of the nomination.

Mr. Miller nominated Zeno Sparks as Secretary. The vote was three in favor of the nomination.

Mr. Sparks nominated Thomas E Ayres as Chairman of the Board. The vote was three in favor of the nomination.

**Lester Project:** Service is available through manhole A-19 up Hoo Hoo Hollow. With no more funds available after manhole 23 and manhole 24, there will be a walk-thru scheduled. There are a few issues pending reclamations.

**Helen Project:** Revisions are being made concerning the comments from WV DEP. Norfolk Southern Railroad allowed the wastewater treatment plant to be built on their property.

**Slab Fork:** The District's linemen have repaired and replaced many lines on the Slab Fork system. Susan Riggs is working with WV Public Service Commission to rush the proposal to charge the customers of Slab Fork the same rates currently being charged to existing customers of the District.

**Amigo:** There will be a meeting with the Upper Guyandotte Watershed Association January 22, 2008 at 6:00pm concerning Amigo.

**Ury:** There was some discussion on sewer service possibilities for the Ury area using an existing plant from Lester Elementary. There are approximately twelve existing homes in this area.

**Sophia:** WV DEP is currently performing Sophia's annual inspection.

# **Crab Orchard MacArthur Public Service District**

Thomas E Ayres, Chairman  
Zeno Sparks, Secretary-Treasurer  
Gerald Miller, Board Member

PO Box 278  
Crab Orchard WV  
25827-0278

**Marsh Fork Sewer Project:** Mr. Sparks made a motion to accept and sign the Engineering Agreement for the Marsh Fork Sewer Project between the Crab Orchard MacArthur PSD and Dunn Engineering. Motion made and carried to accept and sign the Engineering Agreement for the Marsh Fork Sewer Project between the Crab Orchard MacArthur PSD and Dunn Engineering. The vote was three in favor of the motion.

Mr. Sparks made a motion to continue providing the same reimbursements to employees for health care expenses not covered under PEIA, maximum reimbursements will be \$700.00 for single employees and \$1,000.00 for employees with spouse and children still covered under PEIA. Motion seconded by Mr. Miller. Motion made and carried to continue providing the same reimbursements to employees for health care expenses not covered under PEIA, maximum reimbursements will be \$700.00 for single employees and \$1,000.00 for employees with spouse and children still covered under PEIA. The vote was three in favor of the motion. The reimbursements will continue to be for health care only and will not include any cosmetic procedures. The Board will continue to review this every January.

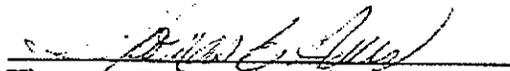
Mr. Sparks made a motion to accept the 2006-2007 Audit report. Motion seconded by Mr. Miller. Motion made and carried to accept the 2006-2007 Audit report. The vote was three in favor of the motion.

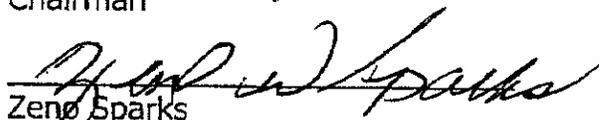
The policy of the Board of Directors is to grant one leak adjustment per year, based on the time when the last leak adjustment was made. Mr. Richard Janney has requested a leak adjustment for August, September, October, November and part of December for a mobile home park in Cabell Heights. The Board agreed that one leak adjustment will be made on the highest bill after the average consumption is acquired from Beckley Water Co before considering additional adjustments.

There will be a special meeting for an employee's annual evaluation Tuesday January 22, 2008 at 12:30pm.

Mr. Sparks made a motion to pay the outstanding bills as presented. Motion seconded by Mr. Miller. Motion made and carried to pay the outstanding bills as presented. The vote was three in favor of the motion.

Mr. Ayres adjourned the meeting.

  
Thomas E. Ayres  
Chairman

  
Zeno Sparks  
Secretary

  
Gerald Miller  
Board Member

January 8, 2008  
Tuesday, 1:00 pm  
Crab Orchard MacArthur PSD



**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 24th day of March, 2008.

CASE NO. 08-0276-PSD-PC

**CRAB ORCHARD-MACARTHUR  
PUBLIC SERVICE DISTRICT**

a public utility, Crab Orchard, Raleigh County.

Petition for consent and approval for District to refund its  
Sewerage System Refunding Revenue Bonds, Series 1996A  
with its Sewerage System Refunding Revenue Bonds, Series 2008A

**COMMISSION ORDER**

By this Order, the Commission grants the petition of Crab Orchard-MacArthur Public Service District (District) to refund its Sewerage System Refunding Revenue Bonds, Series 1996A with its Sewerage System Refunding Revenue Bonds, Series 2008A.

**BACKGROUND**

On February 29, 2008, the District filed its petition seeking the Commission's permission and consent to refund its Sewerage System Refunding Revenue Bonds, Series 1996A with its Sewerage System Refunding Revenue Bonds, Series 2008A. The District alleged that it would benefit from this refinancing by reducing the 125% debt service coverage on the Series 1996A bonds to a debt service coverage of 115% on the Series 2008A bonds. The District would also reap the benefit of a lower interest rate—3.91% for the Series 2008A bonds, compared with 5.489921% required for the existing Series 1996A bonds. The District would enjoy these benefits without experiencing a change in the maturity date of the bonds or any other adverse effect.

In its March 6, 2008 Initial and Final Joint Staff Memorandum, Staff concluded that the District's proposed funding change will serve the public interest and recommended that the District's petition be granted. The Commission agrees.

**FINDING OF FACT**

The District's refunding of its Sewerage System Refunding Revenue Bonds, Series 1996A with its Sewerage System Refunding Revenue Bonds, Series 2008A would result in the District realizing a substantial financial benefit without experiencing a change in the maturity date of the bonds or any other adverse effect.

**CONCLUSION OF LAW**

Given that the District will realize a substantial financial benefit without experiencing any adverse consequences, it is reasonable to grant the District's Petition for consent and approval for the District to refund its Sewerage System Refunding Revenue Bonds, Series 1996A with its Sewerage System Refunding Revenue Bonds, Series 2008A.

**ORDER**

IT IS THEREFORE ORDERED that the District's Petition is granted.

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

A True Copy, Teste:

  
Sandra Squire  
Executive Secretary

RWC/klm  
080276c.wpd



CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT

REFUNDING BOND RESOLUTION

**Adopted**  
**March 25, 2008**

**CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT**

**BOND RESOLUTION**

RESOLUTION AUTHORIZING THE ISSUANCE BY CRAB-ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT OF NOT MORE THAN FOUR MILLION DOLLARS (\$4,000,000.00) IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008A FOR THE PURPOSE OF DEFEASING CERTAIN OUTSTANDING OBLIGATIONS OF THE CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT DESIGNATED AS CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1996A, WHICH ALONG WITH OTHER FUNDS AND MONIES OF, OR AVAILABLE TO, THE CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT MAY BE LAWFUL EXPENDED FOR SUCH PURPOSE, TO MAKE PROVISION FOR, SUCH REFUNDING; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REFUNDING REVENUE BONDS; FUND A RESERVE ACCOUNT FOR THE REFUNDING BONDS AND PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT WITH BRANCH BANKING AND TRUST COMPANY RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT:

**ARTICLE I**

**STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS**

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. Crab Orchard-MacArthur Public Service District (the "Issuer") is a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State.

B. The Issuer presently owns and operates a public sewerage system. The acquisition and construction of the System were financed in part with the proceeds of prior bond and note issues of the Issuer, including \$3,685,177 in principal amount of the Issuer's Sewer Revenue Bonds, Series 1986A (the "1986A Bonds"), which were secured by a first lien on the net revenues of the System, and \$161,688 Sewer Revenue Bonds, Series 1986B (the "1986B Bonds"), which were secured by a lien of the net revenues of the System which lien is now a first lien.

C. The 1986A Bonds were defeased by the proceeds from the Issuer's \$4,925,000 Sewage System Refunding Revenue Bond, Series 1996A (the "1996A Bonds") issued on August 28, 1996 authorized by a Refunding Bond Resolution adopted by the Issuer on July 23, 1996, as supplemental and amended by a Supplemental Resolution adopted on August 7, 1996 (collectively the "Prior Resolution").

D. The Issuer derives revenues from the System, and, are pledged to secure and pay the debt service for the 1996 A Bonds and the following bonds:

	<u>Lien Position</u>
(i) Sewer Revenue Bonds, Series 1986B, dated May 29, 1986, issued in the original aggregate principal amount of \$161,688 (the "Series 1986B Bonds");	First Lien
(ii) Sewerage System Refunding Revenue Bonds, Series 1996A, dated July 16, 1996, issued in the original aggregate principal amount of \$4,925,000 (the "Series 1996A Bonds");	First Lien <b>[TO BE DEFEASED ON CLOSING 2008 A BONDS]</b>
(iii) Sewerage System Revenue Bonds, Series 1997A (West Virginia SRF Program), dated June 5, 1997, issued in the original aggregate principal amount of \$250,000 (the	First Lien

- |        |   |            |
|--------|---|------------|
|        | “Series 1997A Bonds”);  | First Lien |
| (iv)   | Sewerage System Revenue Bonds, Series 1997B (West Virginia Infrastructure Fund), dated June 5, 1997, issued in the original aggregate principal amount of \$1,774,300 (the “Series 1997B Bonds”); |            |
| (v)    | Sewerage System Design Revenue Bonds, Series 1999 (West Virginia SRF Program), dated December 16, 1999, issued in the original aggregate principal amount of \$478,630 (the “Series 1999 Bonds”); | First Lien |
| (vi)   | Sewer Revenue Bonds, Series 2001A (West Virginia SRF Program), dated October 3, 2001, issued in the original aggregate principal amount of \$6,818,600 (the “Series 2001A Bonds”);                | First Lien |
| (vii)  | Sewer Revenue Bonds, Series 2006A (West Virginia SRF Program), dated September 7, 2006, issued in the original aggregate principal amount of \$1,314,606 (the “Series 2006A Bonds”); and          | First Lien |
| (viii) | Sewer Revenue Bonds, Series 2006B (West Virginia Infrastructure Fund), dated September 7, 2006, issued in the original principal amount of \$5,852,000 (the “Series 2006B Bonds”).                | First Lien |

The Series 1986B Bonds, Series 1997A Bonds, Series 1997B Bonds, the Series 1999 Bonds, the Series 2001A Bonds, the Series 2006A Bonds and the Series 2006B Bonds are hereinafter collectively referred to as the “Prior Bonds.”

E. The Series 1996A Bonds are currently outstanding in the aggregate principal amount of \$3,810,000. The Issuer may now refund the 1996A Bonds at a savings to the Issuer and obtain relief under certain covenants and, therefore, such refunding is in the best interests of the Issuer. The 1996 A Bonds will be refunded with the proceeds of the Series 2008 Bonds, together with funds of the Issuer made available by the refunding of the 1996A Bonds (the “Refunding”).

F. After the issuance of the Series 2008A Bonds, the Prior Bonds and the Series 2008A Bonds will be secured by a shared first lien on the net revenues of the System.

G. The estimated revenues to be derived in each year after completion of the Refunding and the defeasing of the Series 1996A Bond from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest, if any, on the Series 2008A Bonds and the Prior Bonds and all sinking funds, reserve accounts and other payments provided for herein and in the Prior Resolution.

H. It is further deemed necessary for the Issuer to issue the Series 2008A Bonds in the total aggregate principal amount of not more than \$4,000,000.00 to finance a portion of the costs of refunding the Series 1996A Bonds. Said costs shall be deemed to include amounts which may be deposited in the Series 2008A Bonds Reserve Account, if any; legal expenses; other expenses necessary or incident issuance of the Series 2008A Bonds, administrative expense, commitment fees, discount, fees for the services of registrars, paying agents, depositories, escrow agents, or trustees or other costs in connection with the sale of the Series 2008A Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2008A Bonds, or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Refunding, as hereinafter defined.

I. The Series 2008A Bonds are not private activity bonds as defined in the Code.

J. Ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the Series 2008A Bonds will be used for local government activities of the Issuer.

K. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2008A Bonds.

L. The Series 2008A Bonds will not be federally guaranteed within the meaning of Section 149(b) of the Code.

M. It is in the best interest of the Issuer that its Series 2008A Bonds be issued and sold to the Branch Banking and Trust Company ("BB&T") pursuant to the terms and provisions of a commitment letter dated February 13, 2008, as ultimately reflected in a bond purchase agreement by and among the Issuer, and BB&T, the execution, delivery and form of which are ratified and approved herein and/or in a Supplemental Resolution.

N. The Issuer has met the requirements of the Prior Resolution for the issuance of the Series 2008A Bonds on a parity with the 1986B Bonds. Prior to the issuance of the Series 2008A Bonds, the Issuer will obtain (1) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds have been met and (2) the written consent from the Holders of the Prior Bonds to issue the Series 2008A Bonds on a parity with the lien on the Net Revenues of the Holders of the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or other obligations of the Issuer which are secured by revenues or assets of the System. The Series 2008A Bonds shall be issued with a lien on the Net Revenues, as hereinafter defined, on parity with the lien thereon held by the Holders of the Prior Bonds.

O. The Issuer has complied with all requirements of West Virginia law and the Bond Purchase Agreement relating to authorization of the issuance of the Series 2008A Bonds, or will have so complied prior to issuance thereof, including, among other things, the

obtaining 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 has expired or has been waived by all necessary parties prior to the issuance of the Series 2008A Bonds.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Bonds by those who shall be the registered owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the registered owners of any and all of such Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

“Act” means collectively Chapter 16, Article 13A of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

“Authorized Officer” means the Chairman of the Governing Body of the Issuer or any temporary Chairman duly appointed by the Governing Body.

“BB&T” means Branch Banking and Trust Company the original purchaser of the Series 2008A Bonds.

“Bondholder,” “Holder of the Bonds,” “Holder” or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

“Bond Legislation,” “Resolution,” “Bond Resolution” or “Local Act” means this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

“Bond Purchase Agreement” shall mean the Commitment Letter of BB&T dated February 13, 2008 providing for the purchase of the Series 2008A Bonds from the Issuer by BB&T, the form of which is attached hereto as Exhibit A together with the Debt Service Schedule subsequently prepared and attached to the Commitment Letter as herein and by the Supplemental Resolution approved and authorized.

“Bond Registrar” means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

“Bonds” means the Prior Bonds, the Series 2008A Bonds and, where appropriate, any bonds on a parity therewith subsequently issued hereunder or pursuant to another resolution of the Issuer.

“Certificate of Authentication and Registration” means the certificate of authentication and registration on the Series 2008A Bonds in substantially the form set forth in the bond form contained herein.

“Chairman” means the Chairman of the Governing Body of the Issuer.

“Closing Date” means the date on which there is an exchange of the Series 2008A Bonds for the proceeds representing the original purchase prior thereof.

“Code” means the Internal Revenue Code of 1986, as amended, and the Regulations promulgated thereunder.

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

“Costs” or “Costs of Issuance” means those costs.

“Depository Bank” means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of the FDIC.

“Escrow Agreement” means the separate agreement between the Issuer, and an escrow agent or trustee, substantially in the form of the agreement attached hereto as Exhibit B and by this reference made a part of hereof, relating to the refunding or defeasances of the 1996 Bonds.

“Escrow Fund” means the fund created by Paragraph 2 of the Escrow Agreement.

“Event of Default” means any occurrence or event specified in Section 9.01.

“FDIC” means the Federal Deposit Insurance Corporation and any successor to the functions of the FDIC.

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

“Governing Body” or “Board” 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, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations,

the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

“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, purchased pursuant to Section 8.01 hereof) or any Tap Fees, as hereinafter defined.

“Herein,” “hereto” and similar words shall refer to this entire Bond Legislation.

“Independent Certified Public 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.

“Investment Property” shall mean any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, or residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

“Issuer” means Crab Orchard-MacArthur Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia, in Raleigh County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Net Proceeds” means the face amount of the Series 2008A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 2008A Bonds Reserve Account, if any. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2008A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

“Nonpurpose Investment” means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Series 2008A Bonds and is not acquired in order to carry out the governmental purpose of the Series 2008A Bonds.

“Operating Expenses” means the reasonable, proper and necessary costs of repair, maintenance and operation of the System (excluding depreciation) and includes, without limiting

the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, fees and expenses of fiscal agents, the Depository Bank, Registrar and Paying Agent (all as herein defined), other than those capitalized as part of the Costs, 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, 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.

"Outstanding," when used with reference to Bonds as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X and (iv) for purposes of consents or other action by a specified percentage of Bondholders, Bonds registered to the Issuer.

"Parity Bonds" means the Prior Bonds and any additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the West Virginia Municipal Bond Commission, or such entity or authority as may be designated by the Issuer by Supplemental Resolution.

"Prior Bonds" means the bonds of the Issuer listed in Section 1.02 D. of this Resolution.

"Prior Resolutions" means, collectively the resolutions of the Issuer authorizing the Prior Bonds.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state of local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"PSC" means the Public Service Commission of West Virginia.

"Qualified Investments" means and includes any of the following:

- (a) Government Obligations;
- (b) 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;

(c) 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;

(d) 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;

(e) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (d) above;

(f) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (d) 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;

(g) 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; and

(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" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Registered Owner," "Bondholder," "Holder" or any similar term means whenever used herein with respect to an outstanding Bond the person in whose name such Bond is registered.

"Registrar" means the Bond Registrar.

"Regulations" means temporary and permanent regulations promulgated under the Code, or any predecessor thereto.

“Renewal and Replacement Fund” means the Renewal and Replace fund established by the Prior Resolutions and continued hereby.

“Reserve Accounts” means collectively, the respective reserve accounts established for the Series 2008A Bonds and the Prior Bonds.

“Reserve Requirements” means collectively, the respective amounts required to be on deposit in the reserve account for the Series 2008A Bonds and the Prior Bonds..

“Revenue Fund” means the Revenue Fund established by the Prior Resolutions.

“Secretary” means the Secretary of the Governing Body of the Issuer.

“Series 1996A Bonds Redemption Date” means the date or dates established by a Supplemental Resolution for the redemption of the Prior Bonds.

“Series 1996A Resolution” means the Bond Resolution, and all supplements thereto, adopted by the Public Service Board of the Issuer on July 23, 1996, authorizing the issuance of the Series 1996A Bonds.

“Series 2008A Bonds” means the Sewerage System Refunding Revenue Bonds, Series 2008A of the Issuer, authorized by this Resolution.

“Series 2008A Bonds Reserve Account” means the Series 2008A Bonds Reserve Account established by Section 4.02 hereof.

“Series 2008A Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2008A Bonds in the then current or any succeeding year.

“Series 2008A Bonds Sinking Fund” means the Series 2008A Bonds Sinking Fund established by Section 4.02 hereof.

“Sinking Funds” means, collectively, the respective sinking funds established for the Series 2008A Bonds and the Prior Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution, ordinance or order of the Issuer supplementing or amending this Resolution and, when preceded by the article “the,” refers specifically to the Supplemental Resolution authorizing the sale of the Series 2008A Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2008A Bonds and not so included may be included in another Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Series 2008A Bonds,

the Prior Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

“System” means the complete existing sewerage system now owned by the Issuer, consisting of a sewerage system in its entirety or any integral part thereof, for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, and shall include the Project and any further extensions, additions, betterments and improvements thereto hereafter acquired or constructed for said sewerage system from any sources whatsoever, both within and without the Issuer.

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

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof,” and any similar terms refer to this Resolution; and the term “hereafter” means after the date of enactment of this Resolution.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

## ARTICLE II

### AUTHORIZATION FOR REFUNDING 1996A BONDS

Section 2.01. Authorization for Refunding 1996A Bonds. (a) the 1996 Series A Bonds outstanding as of the date of issuance of the Series 2008A Bonds hereby are ordered to be refunded pursuant to the terms of the Escrow Agreement, and the lien of said 1996A Bonds imposed by the 1996 Resolution on the revenues of the System is hereby ordered terminated, discharged and released upon the payment into the Escrow Fund from the proceeds of said Series 2008A Bonds, together with other moneys available therefore, including those moneys transferred as provided below, of the following: (a) an amount equal to the fiscal and paying agent charges, and (b) an amount which will be simultaneously invested in United States Treasury Obligations bearing interest and having maturities sufficient to provide (i) for the payment of the principal of the Prior Bonds as the same mature on each principal payment date established with respect thereto prior to the 1996A Bonds Redemption Date, if any, established for such 1996A Bonds, (ii) for the payment of the redemption price of the 1996A Bonds outstanding on the 1996A Bond Redemption Date, if any, established for such 1996A Bonds, and (iii) for the payment of the interest on the 1996A Bonds as the same becomes due. Contemporaneously with the deposit proceeds of the Series 2008A Bonds into the Escrow Fund, and as prescribed by the Escrow Agreement, the amounts on deposit in the sinking fund created and maintained on behalf of the 1996A Bonds shall be deposited into the Escrow Fund and simultaneously invested as provided in the Escrow Agreement. Upon the refunding of the 1996A Bonds, the amounts on deposit in the renewal and replacement fund created and maintained under the 1996A Resolution with respect to the 1996A Bonds shall be transferred to the Renewal and Replacement Fund created under this Resolution or Prior Resolutions.

## ARTICLE III

### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF BOND PURCHASE AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of refunding all of the outstanding Series 1996A Bonds, there shall be issued the Sewerage System Refunding Revenue Bonds, Series 2008A of the Issuer. The proceeds of the Series 2008A Bonds shall be used additionally for funding the Series 2008A Bonds Reserve Account, paying certain costs of issuance of the Series 2008A Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2008A Bonds of the Issuer, in an aggregate principal amount of not more than \$4,000,000.00. The Series 2008A Bonds shall be issued in one series, to be designated "Sewerage System Refunding Revenue Bonds, Series 2008A," and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2008A Bonds shall be issued in such principal amount; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Bond Purchase Agreement. The Series 2008A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2008A Bonds, if any, shall be paid by check or draft of the Paying Agent mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2008A Bonds shall be issued in the form of a single bond, fully registered to BB&T, with a record of advances and debt service schedule attached, representing the aggregate principal amount of the Series 2008A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2008A Bonds shall be exchangeable at the option and expense of the Holder for other fully registered Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that BB&T shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution or by another resolution of the Issuer. Such Bonds shall be dated as of the date specified in a Supplemental Resolution or by another resolution of the Issuer and shall bear interest, if any, from such date.

Section 3.03. Execution of Bonds. The Series 2008A Bonds shall be executed in the name of the Issuer by the Chairman, and the seal of the Issuer shall be affixed thereto or

imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed any of the Series 2008A Bonds shall cease to be such officer of the Issuer before the Series 2008A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2008A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Series 2008A Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2008A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.09 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2008A Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2008A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting any of said Series 2008A Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bond shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Series 2008A Bonds remain Outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain the books for the registration and transfer of the Series 2008A Bonds.

The registered Series 2008A Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2008A Bonds or transferring the registered Series 2008A Bonds are exercised, Series 2008A Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2008A Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2008A Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection

therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 2008A Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2008A Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Series 2008A Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2008A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2008A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of any of the Series 2008A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2008A Bonds or the interest thereon, if any.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position With Respect to Prior Bonds. The payment of the debt service of all the Series 2008A Bonds shall be secured 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 Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2008A Bonds and the Prior Bonds and to make the payments into the Sinking Funds and the Reserve Accounts therein are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2008A Bonds and the Prior Bonds as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2008A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2008A Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than BB&T, a list of the names in which the Series 2008A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2008A Bonds to the original purchasers;

- C. An executed and certified copy of the Bond Legislation;
- D. A certified copy of the Bond Purchase Agreement; and
- E. An approving opinion of bond counsel on the Series 2008A Bonds.

Section 3.10. Designation of Bonds as “Qualified Tax-Exempt Obligations”. The Issuer hereby designates the Series 2008A Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3)(B) of the Code and covenants that the Series 2008A Bonds do not constitute private activity bonds as defined in Section 141 of the Code, and that not more than \$10,000,000 in aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from the gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the 2008A Bonds, have been or shall be issued by the Issuer, including all subordinate entities of the Issuer, during the calendar year 2008.

Section 3.11. Form of Series 2008A Bonds. The text of the Series 2008A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof;

[Form of Series 2008A Bond]

**UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REFUNDING REVENUE BOND,  
SERIES 2008A**

No. AR-\_\_\_\_\_

\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to \_\_\_\_\_ (the "Bank") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), in monthly installments on the \_\_\_\_ day of each month on \_\_\_\_\_, 2008, as set forth on the "Debt Service Schedule" attached as Exhibit A hereto and incorporated herein by reference, without interest.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the \_\_\_\_\_, \_\_\_\_\_, West Virginia (the "Paying Agent"), or directly to the owner, if so approved by the Paying Agent

This Bond may only be redeemed prior to its stated date of maturity in whole or in part upon the terms and conditions prescribed by, and otherwise in compliance with, the Bond Purchase Agreement among the Issuer and the Bank, dated March \_\_\_\_\_, 2008.

This Bond is issued (i) to refund all of the outstanding Series 1996A Bonds; (ii) to fund the Series 2008A Bonds Reserve Account; and (iii) to pay certain costs of issuance hereof and related costs. The existing public sewerage facilities of the Issuer and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), a Resolution duly adopted by the Issuer on March \_\_\_\_\_, 2008 and a Supplemental Resolution duly adopted by the Issuer on March \_\_\_\_\_, 2008 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other securities provided for the Bonds of this Series (the "Bonds") under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE FOLLOWING OUTSTANDING SEWER REVENUE BONDS OF THE ISSUER:

	<u>Lien Position</u>
(i) Sewer Revenue Bonds, Series 1986B, dated May 29, 1986, issued in the original aggregate principal amount of \$161,688 (the "Series 1986B Bonds");	First Lien
(ii) Sewerage System Refunding Revenue Bonds, Series 1996A, dated July 16, 1996, issued in the original aggregate principal amount of \$4,925,000 (the "Series 1996A Bonds");	First Lien
(iii) Sewerage System Revenue Bonds, Series 1997A (West Virginia SRF Program), dated June 5, 1997, issued in the original aggregate principal amount of \$250,000 (the "Series 1997A Bonds");	First Lien
(iv) Sewerage System Revenue Bonds, Series 1997B (West Virginia Infrastructure Fund), dated June 5, 1997, issued in the original aggregate principal amount of \$1,774,300 (the "Series 1997B Bonds");	First Lien
(v) Sewerage System Design Revenue Bonds, Series 1999 (West Virginia SRF Program), dated December 16, 1999, issued in the original aggregate principal amount of \$478,630 (the "Series 1999 Bonds");	First Lien
(vi) Sewer Revenue Bonds, Series 2001A (West Virginia SRF Program), dated October 3, 2001, issued in the original aggregate principal amount of \$6,818,600 (the "Series 2001A Bonds");	First Lien
(vii) Sewer Revenue Bonds, Series 2006A (West Virginia SRF Program), dated September 7, 2006, issued in the original aggregate principal amount of \$1,314,606 (the "Series 2006A Bonds"); and	First Lien
(viii) Sewer Revenue Bonds, Series 2006B (West Virginia Infrastructure Fund), dated September 7, 2006, issued in the original principal amount of \$5,852,000 (the "Series 2006B Bonds").	First Lien

The Series 1986B Bonds, Series 1997A Bonds, Series 1997B Bonds, the Series 1999 Bonds, the Series 2001A Bonds, the Series 2006A Bonds and the Series 2006B Bonds are hereinafter collectively referred to as the "Prior Bonds."

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of the Net Revenues in favor of the holders of the Prior Bonds and the Series 2008A

Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Series 2008A Bonds (the "Series 2008A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon except from said special fund provided from the Net Revenues, the moneys in the Series 2008A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds, provided however, that so long as there exists in the Series 2008A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds or junior to the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of \_\_\_\_\_, Charleston, West Virginia as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision 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.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to the payment of the Costs of the Project and the costs of issuance described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does

not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated \_\_\_\_\_, 2008.

CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT

[SEAL]

\_\_\_\_\_

Chairman

ATTEST:

\_\_\_\_\_

Secretary

(Form of)

**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This Bond is one of the Series 2008A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2008.

\_\_\_\_\_  
as Registrar

By: \_\_\_\_\_  
Its: Authorized Officer

**EXHIBIT A**

**DEBT SERVICE SCHEDULE**

(Form of)  
ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

## ARTICLE IV

### FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolution) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund (established by the Prior Resolutions).
- (2) Renewal and Replacement Fund established by the Prior Resolutions.

Section 4.02. Establishment of Funds and Accounts with Commission and Paying Agent. A. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolution) and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 2008A Bonds Reserve Account.

B. The following special funds are hereby created with and shall be held by the Paying Agent separate and apart from all other funds or accounts of the Paying Agent and the Issuer and from each other:

- (1) Series 2008A Bonds Sinking Fund; and
- (2) Costs of Issuance Fund.

Section 4.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order of priority:

(1) The Issuer shall first, each month, pay from the Revenue Fund all current Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission for deposit in the Series 1999 Bonds

Sinking Funds, the amount of the interest required by the Prior Resolutions for payment of interest on the Series 2008A and Series 1999 Bonds on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission for deposit in the respective Sinking Funds, the amount of principal required to meet debt service on the Prior Bonds and the Series 2008A Bonds.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, if not fully funded upon the issuance of the Series 2008A Bonds, for deposit in the 2008A Bonds Reserve Account, an amount equal to 1/120th of the Series 2008A Bonds Reserve Requirement (and for the reserve account of any of the Prior Bonds until such time as all Prior Bond reserve accounts have been fully funded); provided that, no further payments shall be made into the Series 2008A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2008A Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, from the monies remaining in the Revenue Fund, transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Resolutions and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements shall be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Moneys in the Series 2008A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2008A Bonds as the same shall become due. Moneys in the Series 2008A Bonds Reserve Account shall be used only for the purposes of paying principal of and interest on the Series 2008A Bonds as the same shall become due, when other moneys in the Series 2008A Bonds Sinking Fund are insufficient therefore, and for no other purpose.

Any withdrawals from the Series 2008A Bonds Reserve Account which result in a reduction in the balance therein to below the Series 2008A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2008A Bonds and the Prior Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefore.

The Issuer shall not be required to make any further payments into the Series 2008A Bonds Sinking Fund or the Series 2008A Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2008A Bonds then Outstanding and all interest to accrue until the maturity thereof.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges and fees then due.

D. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in all funds and accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 4.03 and Prior Resolutions, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

F. All remittances made by the Issuer to the Depository Bank, the Commission and the Paying Agent shall clearly identify the fund or account into which each amount is to be deposited.

System. G. The Gross Revenues of the System shall only be used for purposes of the

## ARTICLE V

### APPLICATION OF BOND PROCEEDS

Section 5.01. Application of Bond Proceeds. From the moneys received from the sale of the Series 2008 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2008A Bonds, there shall first be deposited with the Commission or the Escrow Trustee, the amount required to be deposited in the Escrow Agreement which, together with other moneys simultaneously deposited therein, shall be sufficient to accomplish the refunding and prepayment of the Series 1996A Bonds.

B. Next, there shall be deposited with the Commission in the Series 2008A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2008A Bonds Reserve Account.

C. Next, there shall be deposited with the Paying Agent in the Costs of Issuance Fund, the balance of the proceeds of the Series 2008A Bonds and any moneys released by the Commission. The Issuer shall first pay all costs of issuance of the Series 2008A Bonds and miscellaneous costs of refunding for the Series 1996A Bonds. All costs of issuance shall be paid upon delivery of the Series 2008A Bonds. The remaining funds, if any, shall be applied solely to capital improvements of the System and shall be fully expended within one year from the date of delivery of the Series 2008A Bonds.

## ARTICLE VI

### ADDITIONAL COVENANTS OF THE ISSUER

Section 6.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2008A Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2008A Bonds as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Series 2008A Bonds or the interest thereon is Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Series 2008A Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any of the Series 2008A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay said Bonds or the interest thereon, if any.

Section 6.03. Bonds Secured by Pledge of Net Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service of the Series 2008A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System, on parity with the lien on such Net Revenues in favor of the Holders of the Prior Bonds. Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest, if any, on the Series 2008A Bonds and the Prior Bonds and to make the payments into the sinking funds, including the reserve accounts therein, and all other payments provided for in the Bond Legislation and the Prior Resolution are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Series 2008A Bonds and the Prior Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 6.04. Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Bond Purchase Agreement. The schedule of rates and charges for the services and facilities of the System, a copy of which is attached hereto as Exhibit D and incorporated herein and which rates have been approved and are described in the Commission Order of the PSC entered October 29, 2007 in Case No. 07-1746-PSD-T are hereby adopted, ratified, approved and affirmed.

So long as any of the Series 2008A Bonds are Outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the

Bond Legislation and in compliance with the Bond Purchase Agreement. In the event the schedule of rates and charges initially established for the System in connection with the Series 2008A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Bond Purchase Agreement, the Issuer hereby covenants and agrees that it will, to the extent and in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Bond Purchase Agreement.

Section 6.05. Sale of the System. So long as any of the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System or any part thereof, except as provided in the Prior Resolution. Additionally, 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 all the Prior Bonds and the Series 2008A Bonds, or to effectively defease this Bond Legislation in accordance with Section 9.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2008A Bonds and Prior Bonds, immediately be remitted to the Commission for deposit in Series 2008A Bonds Sinking Fund and the Prior Bonds Sinking Fund, respectively, *pro rata* with respect to the principal amounts of the Series 2008A Bonds and the Prior Bonds then outstanding, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Series 2008A Bonds and Prior Bonds. Any balance remaining after the payment of all the Series 2008A Bonds and Prior Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, and subject to the Prior Resolution so long as any of the Prior Bonds remain Outstanding, 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 \$10,000, 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. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. 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 \$10,000 but not in excess of \$100,000, 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 upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$100,000, shall be deposited in the Renewal and Replacement Fund. Such payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said fund by other

provisions of this Bond Legislation. 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 \$100,000 and insufficient to pay all Prior Bonds and the Series 2008A 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 Prior Bonds and Series 2008A 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 Prior Bonds and Series 2008A Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 6.06 and in Section 6.07, so long as any of the Series 2008A Bonds are 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 2008A Bonds. All obligations issued by the Issuer after the issuance of the Series 2008A Bonds 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 2008A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the sinking funds, reserve accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current. 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 2008A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2008A Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

Section 6.07. Parity Bonds. So long as any of the Prior Bonds are outstanding, the limitations on the issuance of obligations on a parity with the Prior Bonds set forth in the Prior Resolution 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 2008A Bonds pursuant to this Bond Legislation, 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 2008A Bonds.

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 any outstanding Bonds, or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus

the 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 such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

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

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the said Independent Certified Public Accountants on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds 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 Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

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 liens of the Series 2008A Bonds 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 2008A Bonds.

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 Resolution with respect to the Series 2008A Bonds and Prior 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 6.08. Books, Records and Audit. 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 a Bond or Bonds issued pursuant to this Bond Legislation 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 and safeguards to the extent allowed and as prescribed by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body 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 Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation with respect to said Bonds and the status of all said funds and accounts.
- (C) The amount of any Bonds or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and in compliance with the applicable OMB Circular and the Single Audit Act or successor thereto, in effect at the time, to the extent required and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds, and shall submit said report to the original purchaser of the Bonds, within ninety (90) days of the end of the Fiscal Year. Such audit report shall include a statement that the Issuer is in compliance with the terms and provisions of the Bond Purchase Agreement and this Bond Legislation, and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service and reserve requirements.

Section 6.09. Rates. Prior to the issuance of the Series 2008A Bonds, equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created or continued hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Series 2008A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2008A Bonds, including the Prior Bonds.

Section 6.10. Operating Budget and Monthly Financial Report. 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 unanimous consent and approval of the Governing Body, may 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 without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall, within 30 days of adoption thereof, mail copies of such annual budget to any Holder of any Bonds 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.

Section 6.11. 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, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 6.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, 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 20 days after the same shall become due and payable, the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, 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 of the System and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 6.13. 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 of the Issuer shall avail itself 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 6.14. Insurance. A. The Issuer hereby covenants and agrees that so long as any of the Series 2008A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) 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 Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Bond Purchase Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) 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.

(3) WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR: AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting 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 the Project in compliance with West Virginia Code Chapter 38, Article 2, Section 39.

(4) 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.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

(6) FIDELITY BONDS, will be provided for 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 6.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house,

dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 6.16. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2008A Bonds, 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, shall take effect immediately upon delivery of the Series 2008A Bonds and shall be for the equal benefit of all Holders of the Series 2008A Bonds, on parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

Section 6.17. Compliance With Bond Purchase Agreement and Law. The Issuer shall perform, satisfy and comply with all terms and conditions of the Bond Purchase Agreement.

The Issuer also agrees to comply with the Act and all applicable laws, rules and regulations issued by state, federal or local bodies in regard to the operation, maintenance and use of the System.

Section 6.18. Securities Laws Compliance. The Issuer will provide the original purchaser, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Issuer may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 6.19. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2008A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2008A Bonds during the term thereof is, under the terms of the Series 2008A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect to any property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series

2008A Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2008A Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2008A Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 2008A Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 2008A Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2008A Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure that tax-exempt status of the Series 2008A Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it so that the interest on the Series 2008A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions, the result of which would adversely affect such exclusion.

## ARTICLE VII

### INVESTMENT OF FUNDS

Section 7.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such moneys for the purposes set forth herein, and the specific restrictions and provisions set forth in this Section 7.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank, or such other bank or national banking association, as the case may be, 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 the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year (or more often if reasonably requested by the Issuer), a summary of such funds, accounts, and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2008A Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest, if any, on the Series 2008A Bonds from gross income for federal income tax purposes.

Section 7.02. Certificate as to Arbitrage. The Issuer shall deliver a certificate as to arbitrage or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2008A Bonds as a condition of issuance of the Series 2008A Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2008A Bonds as may be necessary in order to maintain the status of the Series 2008A Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2008A Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, as the case may be, from which the proceeds of the Series 2008A Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as

shall be deemed necessary by the Issuer, to ensure compliance with the covenants and agreements set forth in this Section 7.02, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

## ARTICLE VIII

### DEFAULT AND REMEDIES

Section 8.01. Events of Default. Each of the following events shall constitute an “Event of Default” with respect to the Series 2008A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 2008A Bonds; or

(2) If default occurs in the Issuer’s observance of any of the covenants, agreements or conditions on its part relating to the Series 2008A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2008A Bonds 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 Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of 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.

(4) If default occurs with respect to the Prior Bonds or the Prior Resolution.

Section 8.02. Remedies. Upon the happening and continuance of any Event of Default, any registered Owner of the Series 2008A Bonds 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 Holders of the Bonds including the right to require the Issuer to perform its duties under the Act and the Bond Legislation 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 Bonds, (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 Holders of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds or the rights of such Holders of the Bonds, provided however, that all rights and remedies of the Holders of the Series 2008A Bonds shall be on a parity with those of the Holders of the Prior Bonds.

Section 8.03. Appointment of Receiver. Any Holder of the Series 2008A Bonds may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and 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 Bonds any Holder of 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 Bond Legislation 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 Bond Legislation 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 Bond Legislation 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 any Bonds 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 Holder of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, 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 IX

### PAYMENT OF BONDS

Section 9.01. Payment of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Series 2008A Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2008A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

## ARTICLE X

### MISCELLANEOUS

Section 10.01. Amendment or Modification of Bond Legislation. Prior to the issuance of the Series 2008A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following the issuance of the Series 2008A Bonds, no material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Holders of the Bonds shall be made without the consent in writing of the Holders of the Series 2008A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Holder thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications.

Section 10.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Holders of the Series 2008A Bonds and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 10.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Supplemental Resolution, or the Series 2008A Bonds.

Section 10.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

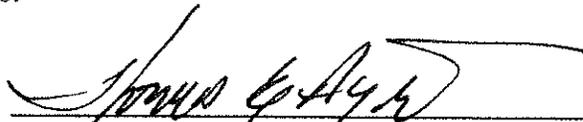
Section 10.05. Conflicting Provisions Repealed. All orders or resolutions and or parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed, provided that, in the event of any conflict between this Resolution and the Prior Resolution (so long as the Prior Bonds are Outstanding) the more restrictive provision shall control. However, nothing in this Bond Legislation is intended to or is to be construed as relieving the Issuer of any obligation under any of the Prior Resolutions prior to the defeasance of any such series of bonds.

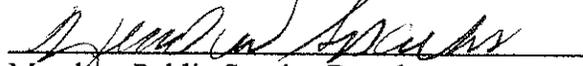
Section 10.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular 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, Secretary and members of the Governing Body were at all times when

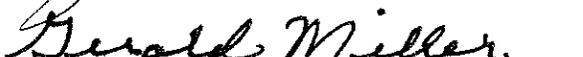
any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 10.07. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 25<sup>th</sup> day of March, 2008.

  
\_\_\_\_\_  
Chairman, Public Service Board

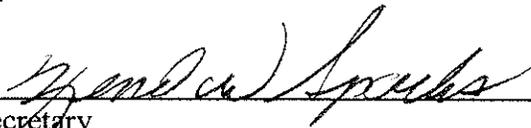
  
\_\_\_\_\_  
Member, Public Service Board

  
\_\_\_\_\_  
Member, Public Service Board

**CERTIFICATION**

Certified a true copy of a Resolution duly adopted by the Public Service Board of CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT on the 27<sup>th</sup> day of March, 2008.

Dated: MARCH 27, 2008.

  
\_\_\_\_\_  
Secretary

[SEAL]

**EXHIBIT A**

**BOND PURCHASE AGREEMENT**

[See transcript document no. 9]

**EXHIBIT B**

**RATES AND CHARGES**

**CRAB ORCHARD - MACARTHUR PUBLIC SERVICE DISTRICT**  
a public utility

OF

CRAB ORCHARD, WEST VIRGINIA

RATES, RULES AND REGULATIONS FOR FURNISHING

SEWERAGE AND SEWAGE DISPOSAL SERVICE

RECEIVED  
DEC - 7 AM 9:17  
VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

(C) at Crab Orchard, MacArthur, Holly Hills/Westwood Subdivision near Fairdale, Glen White-Lester, Harper Heights, Circle View and Harper Road, Raleigh County, West Virginia

Filed with THE PUBLIC SERVICE COMMISSION  
of  
WEST VIRGINIA

Issued November 20, 2007

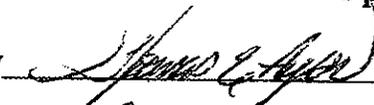
Effective for service rendered on and after October 11, 2007  
or as otherwise provided herein

Issued by authority of orders of The Public Service  
Commission of West Virginia in Case No.  
05-0675-PSD-CN final December 19, 2005  
and Case No. 07-1746-PSD-T final October 29, 2007  
or as otherwise provided herein

Issued by CRAB ORCHARD - MACARTHUR PUBLIC SERVICE DISTRICT,  
a public utility

(C) Indicates change in text

By



Chairman  
Title

CRAB ORCHARD - MACARTHUR PUBLIC SERVICE DISTRICT

P.S.C. W.Va. Tariff No. 8  
Original Sheet No. 1

RULES AND REGULATIONS

- I. Rules and Regulations for the Government of Sewerage Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission

CRAB ORCHARD - MACARTHUR PUBLIC SERVICE DISTRICT (Sewer)

P.S.C. W. Va. No. 8

Original Sheet No. 2

APPLICABILITY

Applicable within the entire territory served

(C) AVAILABILITY

Available for general domestic, commercial and industrial service.

(I) RATES (customers with metered water supply)

First	2,000 gallons used per month	\$8.24	per 1,000 gallons
Next	3,000 gallons used per month	\$8.01	per 1,000 gallons
Next	10,000 gallons used per month	\$7.93	per 1,000 gallons
Next	15,000 gallons used per month	\$7.79	per 1,000 gallons
All Over	30,000 gallons used per month	\$7.62	per 1,000 gallons

(I) MINIMUM CHARGE

No bill will be rendered for less than \$16.49 per month, which is the equivalent of 2,000 gallons of usage with a 5/8" meter.

(I) FLAT RATE CHARGE (customers with non-metered water supply)

Per customer, \$33.99 per month

DELAYED PAYMENT PENALTY

The above schedule 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.

TAP FEE

The following charges are to be made whenever Crab Orchard-MacArthur Public Service District installs a new tap to serve an applicant.

A tap fee of \$175.00 will be charged to customers applying for service before construction is completed adjacent to customer's premises. This pre-construction tap fee will be invalid after the completion of construction adjacent to the 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.

(C) Indicates change in text

(I) Indicates increase

CRAB ORCHARD - MACARTHUR PUBLIC SERVICE DISTRICT (Sewer)

P.S.C. W. Va. No. 7  
Original Sheet No. 3

(C) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement, a disconnection fee of \$20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water utility, an administrative fee of \$20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement, is reconnected, a reconnection fee of \$20.00 shall be charged.

(C) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the utility up to a maximum of \$15.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the annual estimated charge for residential or other sewer service, or fifty dollars, whichever is greater.

(I) LEAK ADJUSTMENT

\$1.05 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

DIRECT PAYMENT PLAN

Customers may choose to pay their bills using the direct payment plan which allows a bill to be deducted from a designated bank account on the fifteenth (15<sup>th</sup>) day of each month (if the 15<sup>th</sup> falls on a weekend or holiday, the bill will be deducted on the first business day following the 15<sup>th</sup>). A fee of \$0.25 per month will be charged and will be included in the monthly deduction.

- (C) Indicates change in text
- (I) Indicates increase

SURFACE OR GROUND WATER SURCHARGE

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

APPLICABILITY

Whenever the utility has discovered that a customer's roof drain, downspout, storm sewer or similar facilities conducting surface water have been connected to the Crab Orchard-MacArthur Public Service District sewer system and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the District in accordance with the Rules of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

S = the surcharge in dollars

A = the area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet

R = the measured monthly rainfall, in inches

.0006233 = a conversion factor to change inches of rain x square feet of surface to thousands of gallons of water

C = the utility's approved rate per thousand gallons of metered water usage

The District shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing or on-site inspection that rain or surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules of the Public Service Commission of West Virginia.

SURCHARGE FORMULA TO BE APPLIED TO A CUSTOMER PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$C_i = V_o V_i + B_o B_i + S_o S_i$$

$C_i$  = charge to unusual users per year

$V_o$  = average unit cost of transport and treatment chargeable to volume, in dollars per gallon

$V_i$  = volume of wastewater from unusual users, in gallons per year

$B_o$  = average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound

$B_i$  = weight of BOD from unusual users, in pounds per year

$S_o$  = average unit cost of treatment (including sludge treatment) chargeable to total solids in dollars per pound

$S_i$  = weight of total solids from unusual users, in pounds per year

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the Crab Orchard-MacArthur Public Service District should not be introduced into the sewer system, need not be handled by it. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefore, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of the Crab Orchard-MacArthur Public Service District's records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the Crab Orchard-MacArthur Public Service District, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.



CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWER REFUNDING REVENUE BONDS, SERIES 2008 A

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO BRANCH BANKING AND TRUST COMPANY, INC.; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING THE PREPAYMENT AGREEMENT; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Crab Orchard-MacArthur Public Service District (the "Issuer") has duly and officially adopted a Bond Resolution on March 25, 2008 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ISSUANCE BY CRAB-ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT OF NOT MORE THAN FOUR MILLION DOLLARS (\$4,000,000.00) IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A FOR THE PURPOSE OF DEFEASING CERTAIN OUTSTANDING OBLIGATIONS OF THE CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT DESIGNATED AS CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1996 A, WHICH ALONG WITH OTHER FUNDS AND MONIES OF, OR AVAILABLE TO, THE CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSE, TO MAKE PROVISION FOR, SUCH REFUNDING; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REFUNDING REVENUE BONDS; FUND A RESERVE ACCOUNT FOR THE REFUNDING BONDS AND PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT WITH BRANCH

BANKING AND TRUST COMPANY RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein;

WHEREAS, the Resolution provides for the refunding of the Issuer's Sewerage System Revenue Refunding Bonds, Series 1996 A, dated July 16, 1996 (the "Series 1996 A Bonds"), and the issuance of the Sewerage System Refunding Revenue Bonds, Series 2008 A, of the Issuer, in an aggregate principal amount not to exceed \$4,000,000 (the "Series 2008 A Bonds" or the "Bonds"), for the purposes of paying a portion of the costs of such refunding, funding a reserve account for the Series 1996 A Bonds and paying the costs of issuance thereof, all in accordance with Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"); and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Prepayment Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds are proposed to be purchased by Branch Banking and Trust Company, Inc., Charleston, West Virginia, pursuant to a commitment letter dated February 13, 2008; and

WHEREAS, the Governing Body deems it essential and desirable that this resolution (the "Supplemental Resolution") be adopted, that the Escrow Agreement be approved, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewerage System Refunding Revenue Bonds, Series 2008 A, of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of \$3,712,815. The Bonds shall be dated the date of delivery, shall finally mature October 1, 2025, and shall bear interest at the rate of 3.91% per annum. Interest shall be calculated using a 30 days/360-day year. The principal of and interest on the Bonds shall be payable on the 1<sup>st</sup> day of each month, commencing May 1, 2008, in the amounts set forth in the "Debt Service Schedule" incorporated in and made a part of the Bonds. A copy of the Commitment Letter is annexed hereto as Exhibit A and of the Debt Service Schedule as Exhibit B' both being incorporated by reference. The Bonds shall be

subject to a prepayment penalty of 1%, if the District prepays for the purpose of refunding the Bonds.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Resolution.

Section 3. The Issuer hereby approves and accepts the Escrow Agreement by and between the Issuer and the West Virginia Municipal Bond Commission (the "Commission"), and United Bank, Inc., the paying agent for the Series 1996 A Bonds, to be dated as of the date of delivery of the Bonds, substantially in the form submitted to this meeting, and the execution and delivery (in multiple counterparts) by the Chairperson thereof shall be and the same are hereby authorized, approved and directed.

Section 4. The Issuer hereby appoints and designates Branch Banking and Trust Company, Inc., Charleston, West Virginia, to serve as Registrar (the "Registrar") and Paying Agent (the "Paying Agent") for the Bonds under the Resolution and approves and accepts the Registrar and Paying Agent Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar and Paying Agent, and the execution and delivery of the Registrar and Paying Agent Agreement by the Chairperson, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 5. The Issuer hereby appoints and designates Branch Banking and Trust Company, Inc., Charleston, West Virginia, to serve as Depository Bank under the Resolution.

Section 6. The Issuer hereby approves and accepts the offer of Branch Banking and Trust Company, Inc., Charleston, West Virginia (the "Original Purchaser"), to purchase the Bonds at a purchase price of \$3,712,815 (100% of par value), there being no interest accrued thereon.

Section 7. The proceeds of the Bonds in the amount of \$3,638,300 shall be deposited with United Bank, Inc., as Escrow Trustee, together with \$283,414.90 of funds of the Issuer in the Series 1996 A Sewer Refunding Revenue Fund and \$27,753.77 from the Issuer's 1996 A Sewer Refunding Reserve Fund (\$311,168.67) on deposit at the Commission which \$311,168.67 shall be wired to the Escrow Trustee for deposit in the Series 1996 A Sewer Revenue Escrow Account, to accomplish the prepayment and refunding of the Series 1996 A Bonds.

Section 8. The funds of the Issuer on deposit at the Commission in the amount of \$293,419.61 shall remain on deposit with the Commission and transferred to the Series 2008 A Bonds Reserve Account.

Section 9. The remaining proceeds of the Bonds in the amount of \$74,515.00 shall be deposited with the Paying Agent in the Costs of Issuance Fund for payment of the costs of issuance of the Bonds. All such costs of issuance shall be paid upon delivery of the Bonds.

Section 10. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 11. Surplus funds\* remaining at the Commission is the amount of \$20,635.21 shall be paid over to the District.

Section 12. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Bonds may be delivered to the Original Purchaser on or about March 27, 2008.

Section 13. The prepayment and refunding of the Series 1996 A Bonds and the financing thereof in part with proceeds of the Bonds will result in present value debt service savings and provide other benefits of value including covenant relief for the Issuer, are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 14. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1996, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and the Regulations to be promulgated thereunder.

Section 15. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 25th day of March, 2008.

  
\_\_\_\_\_  
Chairperson and Member

  
\_\_\_\_\_  
Member

  
\_\_\_\_\_  
Member

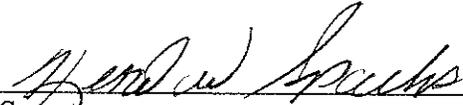
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\*Investment Income from the Series 1996 A Bonds.

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Crab Orchard-MacArthur Public Service District on the 25<sup>th</sup> day of March, 2008.

Dated this 27<sup>th</sup> day of March, 2008.

  
Secretary

[SEAL]

501 Tennessee Avenue  
Charleston, West Virginia 25302  
(304) 353-1635  
Fax (304) 340-4702

February 13, 2008

David Kirby  
Financial Advisor  
Scott and Stringfellow  
300 Summers Street, 5<sup>th</sup> Floor  
Charleston, West Virginia 25301

Dear Mr. Kirby:

Branch Banking and Trust Company ("BB&T") is pleased to offer this proposal for the financing requested by Crab Orchard – MacArthur Public Service District ("District").

- (1) **Project:** Revenue Refunding Bond, Series 2008
- (2) **Amount To Be Financed:** Not to Exceed \$ 3,900,000.00
- (3) **Interest Rates, Financing Terms and Corresponding Payments:**

<u>Maturity</u>	<u>Rate</u>
October 1, 2025	3.91%

Payments shall be monthly in arrears, as requested.

The interest rate stated above is valid for a closing not later than 45 days after today. Closing of the financing is contingent upon completing documentation acceptable to BB&T. We shall review your most recent financial statements before final approval and funding this transaction. Additionally, we shall require a debt service reserve equal to one year of debt service. The District shall verify the impact on revenues of a February, 2008 rate increase for BB&T prior to funding.

Remuneration for our legal review expenses and underwriting for this financing transaction shall be \$3250.00. All applicable expenses, costs of counsel for the District and any other costs shall be the District's responsibility and separately payable by the District. The financing documents shall allow prepayment of the principal balance in whole on a scheduled payment date with a 1% prepayment premium if the District is refinancing. If the District maintains excess operational cash for prepayment, from that source the financing documents shall allow prepayment of the principal balance in whole on a payment date without a prepayment premium.

The stated interest rate assumes that the District expects to borrow less than \$10,000,000 in calendar year 2008 and that the financing shall comply with the IRS Code Sections 141, 148, 149(e) and Section 265(b)(3) that pertain to the Revenue Refunding Bond according to West Virginia State statutes. BB&T reserves the right to terminate its interest in this bid or to negotiate a mutually acceptable rate if the financing is not a qualified tax-exempt financing.

**(4) Financing Documents:**

It shall be the responsibility of the District to retain and compensate counsel to appropriately structure the Revenue Refunding Bond according to Federal and West Virginia State statutes. BB&T shall also require the District to provide an unqualified bond counsel opinion. BB&T reserves the right to review the Revenue Refunding Bond and all documentation shall be acceptable to BB&T and its counsel.

**(5) Security:**

The Bond will be Revenue Refunding Bond, secured by the moral obligation of the District along with a pledge of the system's net revenues.

\* \* \* \* \*

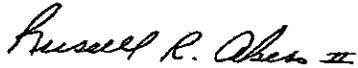
BB&T appreciates the opportunity to make this financing proposal and requests to be notified within ten days of this proposal should BB&T be the successful proposer.

BB&T shall have the right to cancel this offer by notifying the District of its election to do so (whether or not this offer has previously been accepted by the District) if at any time prior to the closing there is a material adverse change in the District's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the District or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to BB&T. We reserve the right to negotiate our interest in this transaction should we be the successful proposer.

Please call me at (304) 353-1635 with your questions and comments. We look forward to hearing from you.

Sincerely,

BRANCH BANKING AND TRUST COMPANY



Russell R. Akers II  
Vice President

## BOND DEBT SERVICE

Crab Orchard-MacArthur Public Service District  
Series 2008A Current Refunding Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
03/27/2008						3,712,815.00	3,712,815.00
05/01/2008	10,741.03	3.910%	13,710.60	24,451.63		3,702,073.97	3,702,073.97
06/01/2008	12,389.04	3.910%	12,062.59	24,451.63		3,689,684.93	3,689,684.93
07/01/2008	12,429.41	3.910%	12,022.22	24,451.63		3,677,255.52	3,677,255.52
08/01/2008	12,469.91	3.910%	11,981.72	24,451.63		3,664,785.61	3,664,785.61
09/01/2008	12,510.54	3.910%	11,941.09	24,451.63		3,652,275.07	3,652,275.07
10/01/2008	12,551.30	3.910%	11,900.33	24,451.63	146,709.78	3,639,723.77	3,639,723.77
11/01/2008	12,592.20	3.910%	11,859.43	24,451.63		3,627,131.57	3,627,131.57
12/01/2008	12,633.23	3.910%	11,818.40	24,451.63		3,614,498.34	3,614,498.34
01/01/2009	12,674.39	3.910%	11,777.24	24,451.63		3,601,823.95	3,601,823.95
02/01/2009	12,715.69	3.910%	11,735.94	24,451.63		3,589,108.26	3,589,108.26
03/01/2009	12,757.12	3.910%	11,694.51	24,451.63		3,576,351.14	3,576,351.14
04/01/2009	12,798.69	3.910%	11,652.94	24,451.63		3,563,552.45	3,563,552.45
05/01/2009	12,840.39	3.910%	11,611.24	24,451.63		3,550,712.06	3,550,712.06
06/01/2009	12,882.23	3.910%	11,569.40	24,451.63		3,537,829.83	3,537,829.83
07/01/2009	12,924.20	3.910%	11,527.43	24,451.63		3,524,905.63	3,524,905.63
08/01/2009	12,966.32	3.910%	11,485.32	24,451.64		3,511,939.31	3,511,939.31
09/01/2009	13,008.56	3.910%	11,443.07	24,451.63		3,498,930.75	3,498,930.75
10/01/2009	13,050.95	3.910%	11,400.68	24,451.63	293,419.57	3,485,879.80	3,485,879.80
11/01/2009	13,093.47	3.910%	11,358.16	24,451.63		3,472,786.33	3,472,786.33
12/01/2009	13,136.14	3.910%	11,315.50	24,451.64		3,459,650.19	3,459,650.19
01/01/2010	13,178.94	3.910%	11,272.69	24,451.63		3,446,471.25	3,446,471.25
02/01/2010	13,221.88	3.910%	11,229.75	24,451.63		3,433,249.37	3,433,249.37
03/01/2010	13,264.96	3.910%	11,186.67	24,451.63		3,419,984.41	3,419,984.41
04/01/2010	13,308.18	3.910%	11,143.45	24,451.63		3,406,676.23	3,406,676.23
05/01/2010	13,351.55	3.910%	11,100.09	24,451.64		3,393,324.68	3,393,324.68
06/01/2010	13,395.05	3.910%	11,056.58	24,451.63		3,379,929.63	3,379,929.63
07/01/2010	13,438.70	3.910%	11,012.94	24,451.64		3,366,490.93	3,366,490.93
08/01/2010	13,482.48	3.910%	10,969.15	24,451.63		3,353,008.45	3,353,008.45
09/01/2010	13,526.41	3.910%	10,925.22	24,451.63		3,339,482.04	3,339,482.04
10/01/2010	13,570.49	3.910%	10,881.15	24,451.64	293,419.60	3,325,911.55	3,325,911.55
11/01/2010	13,614.70	3.910%	10,836.93	24,451.63		3,312,296.85	3,312,296.85
12/01/2010	13,659.07	3.910%	10,792.57	24,451.64		3,298,637.78	3,298,637.78
01/01/2011	13,703.57	3.910%	10,748.06	24,451.63		3,284,934.21	3,284,934.21
02/01/2011	13,748.22	3.910%	10,703.41	24,451.63		3,271,185.99	3,271,185.99
03/01/2011	13,793.02	3.910%	10,658.61	24,451.63		3,257,392.97	3,257,392.97
04/01/2011	13,837.96	3.910%	10,613.67	24,451.63		3,243,555.01	3,243,555.01
05/01/2011	13,883.05	3.910%	10,568.58	24,451.63		3,229,671.96	3,229,671.96
06/01/2011	13,928.29	3.910%	10,523.35	24,451.64		3,215,743.67	3,215,743.67
07/01/2011	13,973.67	3.910%	10,477.96	24,451.63		3,201,770.00	3,201,770.00
08/01/2011	14,019.20	3.910%	10,432.43	24,451.63		3,187,750.80	3,187,750.80
09/01/2011	14,064.88	3.910%	10,386.75	24,451.63		3,173,685.92	3,173,685.92
10/01/2011	14,110.71	3.910%	10,340.93	24,451.64	293,419.59	3,159,575.21	3,159,575.21
11/01/2011	14,156.68	3.910%	10,294.95	24,451.63		3,145,418.53	3,145,418.53
12/01/2011	14,202.81	3.910%	10,248.82	24,451.63		3,131,215.72	3,131,215.72
01/01/2012	14,249.09	3.910%	10,202.54	24,451.63		3,116,966.63	3,116,966.63
02/01/2012	14,295.52	3.910%	10,156.12	24,451.64		3,102,671.11	3,102,671.11
03/01/2012	14,342.10	3.910%	10,109.54	24,451.64		3,088,329.01	3,088,329.01
04/01/2012	14,388.83	3.910%	10,062.81	24,451.64		3,073,940.18	3,073,940.18
05/01/2012	14,435.71	3.910%	10,015.92	24,451.63		3,059,504.47	3,059,504.47
06/01/2012	14,482.75	3.910%	9,968.89	24,451.64		3,045,021.72	3,045,021.72
07/01/2012	14,529.94	3.910%	9,921.70	24,451.64		3,030,491.78	3,030,491.78
08/01/2012	14,577.28	3.910%	9,874.35	24,451.63		3,015,914.50	3,015,914.50
09/01/2012	14,624.78	3.910%	9,826.85	24,451.63		3,001,289.72	3,001,289.72
10/01/2012	14,672.43	3.910%	9,779.20	24,451.63	293,419.61	2,986,617.29	2,986,617.29

## BOND DEBT SERVICE

Crab Orchard-MacArthur Public Service District  
Series 2008A Current Refunding Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
11/01/2012	14,720.24	3.910%	9,731.39	24,451.63		2,971,897.05	2,971,897.05
12/01/2012	14,768.20	3.910%	9,683.43	24,451.63		2,957,128.85	2,957,128.85
01/01/2013	14,816.32	3.910%	9,635.31	24,451.63		2,942,312.53	2,942,312.53
02/01/2013	14,864.60	3.910%	9,587.03	24,451.63		2,927,447.93	2,927,447.93
03/01/2013	14,913.03	3.910%	9,538.60	24,451.63		2,912,534.90	2,912,534.90
04/01/2013	14,961.62	3.910%	9,490.01	24,451.63		2,897,573.28	2,897,573.28
05/01/2013	15,010.37	3.910%	9,441.26	24,451.63		2,882,562.91	2,882,562.91
06/01/2013	15,059.28	3.910%	9,392.35	24,451.63		2,867,503.63	2,867,503.63
07/01/2013	15,108.35	3.910%	9,343.28	24,451.63		2,852,395.28	2,852,395.28
08/01/2013	15,157.58	3.910%	9,294.05	24,451.63		2,837,237.70	2,837,237.70
09/01/2013	15,206.97	3.910%	9,244.67	24,451.64		2,822,030.73	2,822,030.73
10/01/2013	15,256.52	3.910%	9,195.12	24,451.64	293,419.58	2,806,774.21	2,806,774.21
11/01/2013	15,306.23	3.910%	9,145.41	24,451.64		2,791,467.98	2,791,467.98
12/01/2013	15,356.10	3.910%	9,095.53	24,451.63		2,776,111.88	2,776,111.88
01/01/2014	15,406.14	3.910%	9,045.50	24,451.64		2,760,705.74	2,760,705.74
02/01/2014	15,456.33	3.910%	8,995.30	24,451.63		2,745,249.41	2,745,249.41
03/01/2014	15,506.70	3.910%	8,944.94	24,451.64		2,729,742.71	2,729,742.71
04/01/2014	15,557.22	3.910%	8,894.41	24,451.63		2,714,185.49	2,714,185.49
05/01/2014	15,607.91	3.910%	8,843.72	24,451.63		2,698,577.58	2,698,577.58
06/01/2014	15,658.77	3.910%	8,792.87	24,451.64		2,682,918.81	2,682,918.81
07/01/2014	15,709.79	3.910%	8,741.84	24,451.63		2,667,209.02	2,667,209.02
08/01/2014	15,760.98	3.910%	8,690.66	24,451.64		2,651,448.04	2,651,448.04
09/01/2014	15,812.33	3.910%	8,639.30	24,451.63		2,635,635.71	2,635,635.71
10/01/2014	15,863.85	3.910%	8,587.78	24,451.63	293,419.61	2,619,771.86	2,619,771.86
11/01/2014	15,915.54	3.910%	8,536.09	24,451.63		2,603,856.32	2,603,856.32
12/01/2014	15,967.40	3.910%	8,484.23	24,451.63		2,587,888.92	2,587,888.92
01/01/2015	16,019.43	3.910%	8,432.20	24,451.63		2,571,869.49	2,571,869.49
02/01/2015	16,071.63	3.910%	8,380.01	24,451.64		2,555,797.86	2,555,797.86
03/01/2015	16,123.99	3.910%	8,327.64	24,451.63		2,539,673.87	2,539,673.87
04/01/2015	16,176.53	3.910%	8,275.10	24,451.63		2,523,497.34	2,523,497.34
05/01/2015	16,229.24	3.910%	8,222.40	24,451.64		2,507,268.10	2,507,268.10
06/01/2015	16,282.12	3.910%	8,169.52	24,451.64		2,490,985.98	2,490,985.98
07/01/2015	16,335.17	3.910%	8,116.46	24,451.63		2,474,650.81	2,474,650.81
08/01/2015	16,388.40	3.910%	8,063.24	24,451.64		2,458,262.41	2,458,262.41
09/01/2015	16,441.79	3.910%	8,009.84	24,451.63		2,441,820.62	2,441,820.62
10/01/2015	16,495.37	3.910%	7,956.27	24,451.64	293,419.61	2,425,325.25	2,425,325.25
11/01/2015	16,549.11	3.910%	7,902.52	24,451.63		2,408,776.14	2,408,776.14
12/01/2015	16,603.04	3.910%	7,848.60	24,451.64		2,392,173.10	2,392,173.10
01/01/2016	16,657.14	3.910%	7,794.50	24,451.64		2,375,515.96	2,375,515.96
02/01/2016	16,711.41	3.910%	7,740.22	24,451.63		2,358,804.55	2,358,804.55
03/01/2016	16,765.86	3.910%	7,685.77	24,451.63		2,342,038.69	2,342,038.69
04/01/2016	16,820.49	3.910%	7,631.14	24,451.63		2,325,218.20	2,325,218.20
05/01/2016	16,875.30	3.910%	7,576.34	24,451.64		2,308,342.90	2,308,342.90
06/01/2016	16,930.28	3.910%	7,521.35	24,451.63		2,291,412.62	2,291,412.62
07/01/2016	16,985.45	3.910%	7,466.19	24,451.64		2,274,427.17	2,274,427.17
08/01/2016	17,040.79	3.910%	7,410.84	24,451.63		2,257,386.38	2,257,386.38
09/01/2016	17,096.32	3.910%	7,355.32	24,451.64		2,240,290.06	2,240,290.06
10/01/2016	17,152.02	3.910%	7,299.61	24,451.63	293,419.61	2,223,138.04	2,223,138.04
11/01/2016	17,207.91	3.910%	7,243.72	24,451.63		2,205,930.13	2,205,930.13
12/01/2016	17,263.98	3.910%	7,187.66	24,451.64		2,188,666.15	2,188,666.15
01/01/2017	17,320.23	3.910%	7,131.40	24,451.63		2,171,345.92	2,171,345.92
02/01/2017	17,376.66	3.910%	7,074.97	24,451.63		2,153,969.26	2,153,969.26
03/01/2017	17,433.28	3.910%	7,018.35	24,451.63		2,136,535.98	2,136,535.98
04/01/2017	17,490.09	3.910%	6,961.55	24,451.64		2,119,045.89	2,119,045.89
05/01/2017	17,547.08	3.910%	6,904.56	24,451.64		2,101,498.81	2,101,498.81

## BOND DEBT SERVICE

Crab Orchard-MacArthur Public Service District  
Series 2008A Current Refunding Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
06/01/2017	17,604.25	3.910%	6,847.38	24,451.63		2,083,894.56	2,083,894.56
07/01/2017	17,661.61	3.910%	6,790.02	24,451.63		2,066,232.95	2,066,232.95
08/01/2017	17,719.16	3.910%	6,732.48	24,451.64		2,048,513.79	2,048,513.79
09/01/2017	17,776.89	3.910%	6,674.74	24,451.63		2,030,736.90	2,030,736.90
10/01/2017	17,834.82	3.910%	6,616.82	24,451.64	293,419.61	2,012,902.08	2,012,902.08
11/01/2017	17,892.93	3.910%	6,558.71	24,451.64		1,995,009.15	1,995,009.15
12/01/2017	17,951.23	3.910%	6,500.40	24,451.63		1,977,057.92	1,977,057.92
01/01/2018	18,009.72	3.910%	6,441.91	24,451.63		1,959,048.20	1,959,048.20
02/01/2018	18,068.40	3.910%	6,383.23	24,451.63		1,940,979.80	1,940,979.80
03/01/2018	18,127.27	3.910%	6,324.36	24,451.63		1,922,852.53	1,922,852.53
04/01/2018	18,186.34	3.910%	6,265.29	24,451.63		1,904,666.19	1,904,666.19
05/01/2018	18,245.60	3.910%	6,206.04	24,451.64		1,886,420.59	1,886,420.59
06/01/2018	18,305.05	3.910%	6,146.59	24,451.64		1,868,115.54	1,868,115.54
07/01/2018	18,364.69	3.910%	6,086.94	24,451.63		1,849,750.85	1,849,750.85
08/01/2018	18,424.53	3.910%	6,027.10	24,451.63		1,831,326.32	1,831,326.32
09/01/2018	18,484.56	3.910%	5,967.07	24,451.63		1,812,841.76	1,812,841.76
10/01/2018	18,544.79	3.910%	5,906.84	24,451.63	293,419.59	1,794,296.97	1,794,296.97
11/01/2018	18,605.22	3.910%	5,846.42	24,451.64		1,775,691.75	1,775,691.75
12/01/2018	18,665.84	3.910%	5,785.80	24,451.64		1,757,025.91	1,757,025.91
01/01/2019	18,726.66	3.910%	5,724.98	24,451.64		1,738,299.25	1,738,299.25
02/01/2019	18,787.67	3.910%	5,663.96	24,451.63		1,719,511.58	1,719,511.58
03/01/2019	18,848.89	3.910%	5,602.74	24,451.63		1,700,662.69	1,700,662.69
04/01/2019	18,910.31	3.910%	5,541.33	24,451.64		1,681,752.38	1,681,752.38
05/01/2019	18,971.92	3.910%	5,479.71	24,451.63		1,662,780.46	1,662,780.46
06/01/2019	19,033.74	3.910%	5,417.89	24,451.63		1,643,746.72	1,643,746.72
07/01/2019	19,095.76	3.910%	5,355.87	24,451.63		1,624,650.96	1,624,650.96
08/01/2019	19,157.98	3.910%	5,293.65	24,451.63		1,605,492.98	1,605,492.98
09/01/2019	19,220.40	3.910%	5,231.23	24,451.63		1,586,272.58	1,586,272.58
10/01/2019	19,283.03	3.910%	5,168.60	24,451.63	293,419.60	1,566,989.55	1,566,989.55
11/01/2019	19,345.86	3.910%	5,105.77	24,451.63		1,547,643.69	1,547,643.69
12/01/2019	19,408.89	3.910%	5,042.74	24,451.63		1,528,234.80	1,528,234.80
01/01/2020	19,472.13	3.910%	4,979.50	24,451.63		1,508,762.67	1,508,762.67
02/01/2020	19,535.58	3.910%	4,916.05	24,451.63		1,489,227.09	1,489,227.09
03/01/2020	19,599.23	3.910%	4,852.40	24,451.63		1,469,627.86	1,469,627.86
04/01/2020	19,663.10	3.910%	4,788.54	24,451.64		1,449,964.76	1,449,964.76
05/01/2020	19,727.16	3.910%	4,724.47	24,451.63		1,430,237.60	1,430,237.60
06/01/2020	19,791.44	3.910%	4,660.19	24,451.63		1,410,446.16	1,410,446.16
07/01/2020	19,855.93	3.910%	4,595.70	24,451.63		1,390,590.23	1,390,590.23
08/01/2020	19,920.63	3.910%	4,531.01	24,451.64		1,370,669.60	1,370,669.60
09/01/2020	19,985.53	3.910%	4,466.10	24,451.63		1,350,684.07	1,350,684.07
10/01/2020	20,050.65	3.910%	4,400.98	24,451.63	293,419.58	1,330,633.42	1,330,633.42
11/01/2020	20,115.99	3.910%	4,335.65	24,451.64		1,310,517.43	1,310,517.43
12/01/2020	20,181.53	3.910%	4,270.10	24,451.63		1,290,335.90	1,290,335.90
01/01/2021	20,247.29	3.910%	4,204.34	24,451.63		1,270,088.61	1,270,088.61
02/01/2021	20,313.26	3.910%	4,138.37	24,451.63		1,249,775.35	1,249,775.35
03/01/2021	20,379.45	3.910%	4,072.18	24,451.63		1,229,395.90	1,229,395.90
04/01/2021	20,445.85	3.910%	4,005.78	24,451.63		1,208,950.05	1,208,950.05
05/01/2021	20,512.47	3.910%	3,939.16	24,451.63		1,188,437.58	1,188,437.58
06/01/2021	20,579.31	3.910%	3,872.33	24,451.64		1,167,858.27	1,167,858.27
07/01/2021	20,646.36	3.910%	3,805.27	24,451.63		1,147,211.91	1,147,211.91
08/01/2021	20,713.63	3.910%	3,738.00	24,451.63		1,126,498.28	1,126,498.28
09/01/2021	20,781.13	3.910%	3,670.51	24,451.64		1,105,717.15	1,105,717.15
10/01/2021	20,848.84	3.910%	3,602.80	24,451.64	293,419.60	1,084,868.31	1,084,868.31
11/01/2021	20,916.77	3.910%	3,534.86	24,451.63		1,063,951.54	1,063,951.54
12/01/2021	20,984.92	3.910%	3,466.71	24,451.63		1,042,966.62	1,042,966.62

## BOND DEBT SERVICE

Crab Orchard-MacArthur Public Service District  
Series 2008A Current Refunding Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
01/01/2022	21,053.30	3.910%	3,398.33	24,451.63		1,021,913.32	1,021,913.32
02/01/2022	21,121.90	3.910%	3,329.73	24,451.63		1,000,791.42	1,000,791.42
03/01/2022	21,190.72	3.910%	3,260.91	24,451.63		979,600.70	979,600.70
04/01/2022	21,259.77	3.910%	3,191.87	24,451.64		958,340.93	958,340.93
05/01/2022	21,329.04	3.910%	3,122.59	24,451.63		937,011.89	937,011.89
06/01/2022	21,398.54	3.910%	3,053.10	24,451.64		915,613.35	915,613.35
07/01/2022	21,468.26	3.910%	2,983.37	24,451.63		894,145.09	894,145.09
08/01/2022	21,538.21	3.910%	2,913.42	24,451.63		872,606.88	872,606.88
09/01/2022	21,608.39	3.910%	2,843.24	24,451.63		850,998.49	850,998.49
10/01/2022	21,678.80	3.910%	2,772.84	24,451.64	293,419.59	829,319.69	829,319.69
11/01/2022	21,749.43	3.910%	2,702.20	24,451.63		807,570.26	807,570.26
12/01/2022	21,820.30	3.910%	2,631.33	24,451.63		785,749.96	785,749.96
01/01/2023	21,891.40	3.910%	2,560.24	24,451.64		763,858.56	763,858.56
02/01/2023	21,962.73	3.910%	2,488.91	24,451.64		741,895.83	741,895.83
03/01/2023	22,034.29	3.910%	2,417.34	24,451.63		719,861.54	719,861.54
04/01/2023	22,106.08	3.910%	2,345.55	24,451.63		697,755.46	697,755.46
05/01/2023	22,178.11	3.910%	2,273.52	24,451.63		675,577.35	675,577.35
06/01/2023	22,250.38	3.910%	2,201.26	24,451.64		653,326.97	653,326.97
07/01/2023	22,322.88	3.910%	2,128.76	24,451.64		631,004.09	631,004.09
08/01/2023	22,395.61	3.910%	2,056.02	24,451.63		608,608.48	608,608.48
09/01/2023	22,468.58	3.910%	1,983.05	24,451.63		586,139.90	586,139.90
10/01/2023	22,541.79	3.910%	1,909.84	24,451.63	293,419.60	563,598.11	563,598.11
11/01/2023	22,615.24	3.910%	1,836.39	24,451.63		540,982.87	540,982.87
12/01/2023	22,688.93	3.910%	1,762.70	24,451.63		518,293.94	518,293.94
01/01/2024	22,762.86	3.910%	1,688.77	24,451.63		495,531.08	495,531.08
02/01/2024	22,837.03	3.910%	1,614.61	24,451.64		472,694.05	472,694.05
03/01/2024	22,911.44	3.910%	1,540.19	24,451.63		449,782.61	449,782.61
04/01/2024	22,986.09	3.910%	1,465.54	24,451.63		426,796.52	426,796.52
05/01/2024	23,060.99	3.910%	1,390.65	24,451.64		403,735.53	403,735.53
06/01/2024	23,136.13	3.910%	1,315.50	24,451.63		380,599.40	380,599.40
07/01/2024	23,211.51	3.910%	1,240.12	24,451.63		357,387.89	357,387.89
08/01/2024	23,287.14	3.910%	1,164.49	24,451.63		334,100.75	334,100.75
09/01/2024	23,363.02	3.910%	1,088.61	24,451.63		310,737.73	310,737.73
10/01/2024	23,439.15	3.910%	1,012.49	24,451.64	293,419.59	287,298.58	287,298.58
11/01/2024	23,515.52	3.910%	936.11	24,451.63		263,783.06	263,783.06
12/01/2024	23,592.14	3.910%	859.49	24,451.63		240,190.92	240,190.92
01/01/2025	23,669.01	3.910%	782.62	24,451.63		216,521.91	216,521.91
02/01/2025	23,746.13	3.910%	705.50	24,451.63		192,775.78	192,775.78
03/01/2025	23,823.51	3.910%	628.13	24,451.64		168,952.27	168,952.27
04/01/2025	23,901.13	3.910%	550.50	24,451.63		145,051.14	145,051.14
05/01/2025	23,979.01	3.910%	472.62	24,451.63		121,072.13	121,072.13
06/01/2025	24,057.14	3.910%	394.49	24,451.63		97,014.99	97,014.99
07/01/2025	24,135.53	3.910%	316.11	24,451.64		72,879.46	72,879.46
08/01/2025	24,214.17	3.910%	237.47	24,451.64		48,665.29	48,665.29
09/01/2025	24,293.07	3.910%	158.57	24,451.64		24,372.22	24,372.22
10/01/2025	24,372.22	3.910%	79.41	24,451.63	293,419.60		
	3,712,815.00		1,422,027.92	5,134,842.92	5,134,842.92		



CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT

Sewerage System Refunding  
Revenue Bonds, Series 2008A

EXCERPT OF MINUTES OF ADOPTION OF BOND  
RESOLUTION AND SUPPLEMENTAL RESOLUTION

The undersigned SECRETARY of the Public Service Board of Crab Orchard-MacArthur Public Service District hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the said Public Service Board:

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The Public Service Board of Crab Orchard-MacArthur Public Service District met in regular session, pursuant to notice duly posted, on March 24, 2008, in Crab Orchard, West Virginia, at the hour of 1:00 p.m.

PRESENT:	Chairman	- Thomas Ayers
	Secretary/Treasury	- Zeno Sparks
	Board Member	- Gerald Miller

ABSENT: None

Thomas Ayers, Chairman, presided, and Zeno Sparks, 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 BY CRAB-ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT OF NOT MORE THAN FOUR MILLION DOLLARS (\$4,000,000.00) IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A FOR THE PURPOSE OF DEFEASING CERTAIN OUTSTANDING OBLIGATIONS OF THE CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT DESIGNATED AS CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1996 A, WHICH ALONG WITH OTHER FUNDS AND MONIES OF, OR AVAILABLE TO, THE CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSE, TO MAKE PROVISION FOR, SUCH REFUNDING; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID

REFUNDING REVENUE BONDS; FUND A RESERVE ACCOUNT FOR THE REFUNDING BONDS AND PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT WITH BRANCH BANKING AND TRUST COMPANY RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by Mr. Sparks and seconded by Mr. Miller, it was unanimously ordered that the said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the Chairman presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO BRANCH BANKING AND TRUST COMPANY, INC.; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING THE PREPAYMENT AGREEMENT; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by Mr. Sparks and seconded by Mr. Miller, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date thereof.

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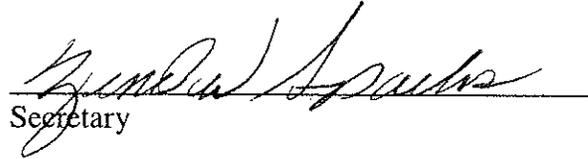
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There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of CRAB ORCHARD-MACARTHUR Public Service District and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 24 day of March, 2008

  
Secretary



UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REFUNDING REVENUE BOND,  
SERIES 2008A

No. AR-1

\$3,712,815

KNOW ALL MEN BY THESE PRESENTS: That CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to BRANCH BANKING AND TRUST COMPANY (the "Bank") or registered assigns the sum of THREE MILLION SEVEN HUNDRED TWELVE THOUSAND EIGHT HUNDRED FIFTEEN DOLLARS (\$3,712,815), in monthly installments on the 1<sup>st</sup> day of each month commencing on May 1, 2008, as set forth on the "Debt Service Schedule" attached as Exhibit A hereto and incorporated herein by reference, without interest.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Branch Banking and Trust Company, Charleston, West Virginia (the "Paying Agent"), or directly to the owner, if so approved by the Paying Agent

This Bond may only be redeemed prior to its stated date of maturity in whole or in part upon the terms and conditions prescribed by, and otherwise in compliance with, the Bond Purchase Agreement among the Issuer and the Bank, dated March 25, 2008.

This Bond is issued (i) to refund all of the outstanding Series 1996A Bonds; (ii) to fund the Series 2008A Bonds Reserve Account; and (iii) to pay certain costs of issuance hereof and related costs. The existing public sewerage facilities of the Issuer and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), a Resolution duly adopted by the Issuer on March 25, 2008 and a Supplemental Resolution duly adopted by the Issuer on March 25, 2008 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other securities provided for the Bonds of this Series (the "Bonds") under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE FOLLOWING OUTSTANDING SEWER REVENUE BONDS OF THE ISSUER:

Lien Position

- (i) Sewer Revenue Bonds, Series 1986B, dated May 29, 1986, issued in the original aggregate principal amount of \$161,688 (the "Series 1986B Bonds"); First Lien
- (ii) Sewerage System Revenue Bonds, Series 1997A (West Virginia SRF Program), dated June 5, 1997, issued in the original aggregate principal amount of \$250,000 (the "Series 1997A Bonds"); First Lien
- (iii) Sewerage System Revenue Bonds, Series 1997B (West Virginia Infrastructure Fund), dated June 5, 1997, issued in the original aggregate principal amount of \$1,774,300 (the "Series 1997B Bonds"); First Lien
- (iv) Sewerage System Design Revenue Bonds, Series 1999 (West Virginia SRF Program), dated December 16, 1999, issued in the original aggregate principal amount of \$478,630 (the "Series 1999 Bonds"); First Lien
- (v) Sewer Revenue Bonds, Series 2001A (West Virginia SRF Program), dated October 3, 2001, issued in the original aggregate principal amount of \$6,818,600 (the "Series 2001A Bonds"); First Lien
- (vi) Sewer Revenue Bonds, Series 2006A (West Virginia SRF Program), dated September 7, 2006, issued in the original aggregate principal amount of \$1,314,606 (the "Series 2006A Bonds"); and First Lien
- (vii) Sewer Revenue Bonds, Series 2006B (West Virginia Infrastructure Fund), dated September 7, 2006, issued in the original principal amount of \$5,852,000 (the "Series 2006B Bonds"). First Lien

The Series 1986B Bonds, Series 1997A Bonds, Series 1997B Bonds, the Series 1999 Bonds, the Series 2001A Bonds, the Series 2006A Bonds and the Series 2006B Bonds are hereinafter collectively referred to as the "Prior Bonds."

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of the Net Revenues in favor of the holders of the Prior Bonds and the Series 2008A Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Series 2008A Bonds (the "Series 2008A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer

within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon except from said special fund provided from the Net Revenues, the moneys in the Series 2008A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds. The Issuer may prepay the principal balance in whole on any payment date subject to a prepayment premium of 1%, if the Issuer is refinancing. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of Branch Banking and Trust Company, Charleston, West Virginia as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond is hereby designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

Subject to the registration requirements set forth herein, this Bond, under the provision 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.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to the payment of the Costs of the Project and the costs of issuance described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

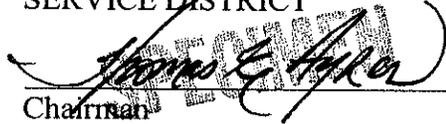
IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated March 27, 2008.

CRAB ORCHARD-MACARTHUR PUBLIC  
SERVICE DISTRICT

[SEAL]

  
Chairman

ATTEST:

  
Secretary

**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This Bond is one of the Series 2008A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: March \_\_\_\_, 2008.

\_\_\_\_\_  
as Registrar

**SPECIMEN**

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

Its: Authorized Officer

BOND DEBT SERVICE

**SPECIMEN**

Crab Orchard-MacArthur Public Service District  
Series 2008A Current Refunding Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance
03/27/2008						3,712,815.00
05/01/2008	10,741.03	3.910%	13,710.60	24,451.63		3,702,073.97
06/01/2008	12,389.04	3.910%	12,062.59	24,451.63		3,689,684.93
07/01/2008	12,429.41	3.910%	12,022.22	24,451.63		3,677,255.52
08/01/2008	12,469.91	3.910%	11,981.72	24,451.63		3,664,785.61
09/01/2008	12,510.54	3.910%	11,941.09	24,451.63		3,652,275.07
10/01/2008	12,551.30	3.910%	11,900.33	24,451.63	146,709.78	3,639,723.77
11/01/2008	12,592.20	3.910%	11,859.43	24,451.63		3,627,131.57
12/01/2008	12,633.23	3.910%	11,818.40	24,451.63		3,614,498.34
01/01/2009	12,674.39	3.910%	11,777.24	24,451.63		3,601,823.95
02/01/2009	12,715.69	3.910%	11,735.94	24,451.63		3,589,108.26
03/01/2009	12,757.12	3.910%	11,694.51	24,451.63		3,576,351.14
04/01/2009	12,798.69	3.910%	11,652.94	24,451.63		3,563,552.45
05/01/2009	12,840.39	3.910%	11,611.24	24,451.63		3,550,712.06
06/01/2009	12,882.23	3.910%	11,569.40	24,451.63		3,537,829.83
07/01/2009	12,924.20	3.910%	11,527.43	24,451.63		3,524,905.63
08/01/2009	12,966.32	3.910%	11,485.32	24,451.64		3,511,939.31
09/01/2009	13,008.56	3.910%	11,443.07	24,451.63		3,498,930.75
10/01/2009	13,050.95	3.910%	11,400.68	24,451.63	293,419.57	3,485,879.80
11/01/2009	13,093.47	3.910%	11,358.16	24,451.63		3,472,786.33
12/01/2009	13,136.14	3.910%	11,315.50	24,451.64		3,459,650.19
01/01/2010	13,178.94	3.910%	11,272.69	24,451.63		3,446,471.25
02/01/2010	13,221.88	3.910%	11,229.75	24,451.63		3,433,249.37
03/01/2010	13,264.96	3.910%	11,186.67	24,451.63		3,419,984.41
04/01/2010	13,308.18	3.910%	11,143.45	24,451.63		3,406,676.23
05/01/2010	13,351.55	3.910%	11,100.09	24,451.64		3,393,324.68
06/01/2010	13,395.05	3.910%	11,056.58	24,451.63		3,379,929.63
07/01/2010	13,438.70	3.910%	11,012.94	24,451.64		3,366,490.93
08/01/2010	13,482.48	3.910%	10,969.15	24,451.63		3,353,008.45
09/01/2010	13,526.41	3.910%	10,925.22	24,451.63		3,339,482.04
10/01/2010	13,570.49	3.910%	10,881.15	24,451.64	293,419.60	3,325,911.55
11/01/2010	13,614.70	3.910%	10,836.93	24,451.63		3,312,296.85
12/01/2010	13,659.07	3.910%	10,792.57	24,451.64		3,298,637.78
01/01/2011	13,703.57	3.910%	10,748.06	24,451.63		3,284,934.21
02/01/2011	13,748.22	3.910%	10,703.41	24,451.63		3,271,185.99
03/01/2011	13,793.02	3.910%	10,658.61	24,451.63		3,257,392.97
04/01/2011	13,837.96	3.910%	10,613.67	24,451.63		3,243,555.01
05/01/2011	13,883.05	3.910%	10,568.58	24,451.63		3,229,671.96
06/01/2011	13,928.29	3.910%	10,523.35	24,451.64		3,215,743.67
07/01/2011	13,973.67	3.910%	10,477.96	24,451.63		3,201,770.00
08/01/2011	14,019.20	3.910%	10,432.43	24,451.63		3,187,750.80
09/01/2011	14,064.88	3.910%	10,386.75	24,451.63		3,173,685.92
10/01/2011	14,110.71	3.910%	10,340.93	24,451.64	293,419.59	3,159,575.21
11/01/2011	14,156.68	3.910%	10,294.95	24,451.63		3,145,418.53
12/01/2011	14,202.81	3.910%	10,248.82	24,451.63		3,131,215.72
01/01/2012	14,249.09	3.910%	10,202.54	24,451.63		3,116,966.63
02/01/2012	14,295.52	3.910%	10,156.12	24,451.64		3,102,671.11
03/01/2012	14,342.10	3.910%	10,109.54	24,451.64		3,088,329.01
04/01/2012	14,388.83	3.910%	10,062.81	24,451.64		3,073,940.18
05/01/2012	14,435.71	3.910%	10,015.92	24,451.63		3,059,504.47
06/01/2012	14,482.75	3.910%	9,968.89	24,451.64		3,045,021.72
07/01/2012	14,529.94	3.910%	9,921.70	24,451.64		3,030,491.78
08/01/2012	14,577.28	3.910%	9,874.35	24,451.63		3,015,914.50
09/01/2012	14,624.78	3.910%	9,826.85	24,451.63		3,001,289.72
10/01/2012	14,672.43	3.910%	9,779.20	24,451.63	293,419.61	2,986,617.29

BOND DEBT SERVICE

**SPECIMEN**

Crab Orchard-MacArthur Public Service District  
Series 2008A Current Refunding Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance
11/01/2012	14,720.24	3.910%	9,731.39	24,451.63		2,971,897.05
12/01/2012	14,768.20	3.910%	9,683.43	24,451.63		2,957,128.85
01/01/2013	14,816.32	3.910%	9,635.31	24,451.63		2,942,312.53
02/01/2013	14,864.60	3.910%	9,587.03	24,451.63		2,927,447.93
03/01/2013	14,913.03	3.910%	9,538.60	24,451.63		2,912,534.90
04/01/2013	14,961.62	3.910%	9,490.01	24,451.63		2,897,573.28
05/01/2013	15,010.37	3.910%	9,441.26	24,451.63		2,882,562.91
06/01/2013	15,059.28	3.910%	9,392.35	24,451.63		2,867,503.63
07/01/2013	15,108.35	3.910%	9,343.28	24,451.63		2,852,395.28
08/01/2013	15,157.58	3.910%	9,294.05	24,451.63		2,837,237.70
09/01/2013	15,206.97	3.910%	9,244.67	24,451.64		2,822,030.73
10/01/2013	15,256.52	3.910%	9,195.12	24,451.64	293,419.58	2,806,774.21
11/01/2013	15,306.23	3.910%	9,145.41	24,451.64		2,791,467.98
12/01/2013	15,356.10	3.910%	9,095.53	24,451.63		2,776,111.88
01/01/2014	15,406.14	3.910%	9,045.50	24,451.64		2,760,705.74
02/01/2014	15,456.33	3.910%	8,995.30	24,451.63		2,745,249.41
03/01/2014	15,506.70	3.910%	8,944.94	24,451.64		2,729,742.71
04/01/2014	15,557.22	3.910%	8,894.41	24,451.63		2,714,185.49
05/01/2014	15,607.91	3.910%	8,843.72	24,451.63		2,698,577.58
06/01/2014	15,658.77	3.910%	8,792.87	24,451.64		2,682,918.81
07/01/2014	15,709.79	3.910%	8,741.84	24,451.63		2,667,209.02
08/01/2014	15,760.98	3.910%	8,690.66	24,451.64		2,651,448.04
09/01/2014	15,812.33	3.910%	8,639.30	24,451.63		2,635,635.71
10/01/2014	15,863.85	3.910%	8,587.78	24,451.63	293,419.61	2,619,771.86
11/01/2014	15,915.54	3.910%	8,536.09	24,451.63		2,603,856.32
12/01/2014	15,967.40	3.910%	8,484.23	24,451.63		2,587,888.92
01/01/2015	16,019.43	3.910%	8,432.20	24,451.63		2,571,869.49
02/01/2015	16,071.63	3.910%	8,380.01	24,451.64		2,555,797.86
03/01/2015	16,123.99	3.910%	8,327.64	24,451.63		2,539,673.87
04/01/2015	16,176.53	3.910%	8,275.10	24,451.63		2,523,497.34
05/01/2015	16,229.24	3.910%	8,222.40	24,451.64		2,507,268.10
06/01/2015	16,282.12	3.910%	8,169.52	24,451.64		2,490,985.98
07/01/2015	16,335.17	3.910%	8,116.46	24,451.63		2,474,650.81
08/01/2015	16,388.40	3.910%	8,063.24	24,451.64		2,458,262.41
09/01/2015	16,441.79	3.910%	8,009.84	24,451.63		2,441,820.62
10/01/2015	16,495.37	3.910%	7,956.27	24,451.64	293,419.61	2,425,325.25
11/01/2015	16,549.11	3.910%	7,902.52	24,451.63		2,408,776.14
12/01/2015	16,603.04	3.910%	7,848.60	24,451.64		2,392,173.10
01/01/2016	16,657.14	3.910%	7,794.50	24,451.64		2,375,515.96
02/01/2016	16,711.41	3.910%	7,740.22	24,451.63		2,358,804.55
03/01/2016	16,765.86	3.910%	7,685.77	24,451.63		2,342,038.69
04/01/2016	16,820.49	3.910%	7,631.14	24,451.63		2,325,218.20
05/01/2016	16,875.30	3.910%	7,576.34	24,451.64		2,308,342.90
06/01/2016	16,930.28	3.910%	7,521.35	24,451.63		2,291,412.62
07/01/2016	16,985.45	3.910%	7,466.19	24,451.64		2,274,427.17
08/01/2016	17,040.79	3.910%	7,410.84	24,451.63		2,257,386.38
09/01/2016	17,096.32	3.910%	7,355.32	24,451.64		2,240,290.06
10/01/2016	17,152.02	3.910%	7,299.61	24,451.63	293,419.61	2,223,138.04
11/01/2016	17,207.91	3.910%	7,243.72	24,451.63		2,205,930.13
12/01/2016	17,263.98	3.910%	7,187.66	24,451.64		2,188,666.15
01/01/2017	17,320.23	3.910%	7,131.40	24,451.63		2,171,345.92
02/01/2017	17,376.66	3.910%	7,074.97	24,451.63		2,153,969.26
03/01/2017	17,433.28	3.910%	7,018.35	24,451.63		2,136,535.98
04/01/2017	17,490.09	3.910%	6,961.55	24,451.64		2,119,045.89
05/01/2017	17,547.08	3.910%	6,904.56	24,451.64		2,101,498.81

BOND DEBT SERVICE

Crab Orchard-MacArthur Public Service District  
Series 2008A Current Refunding Bonds

**SPECIMEN**

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance
06/01/2017	17,604.25	3.910%	6,847.38	24,451.63		2,083,894.56
07/01/2017	17,661.61	3.910%	6,790.02	24,451.63		2,066,232.95
08/01/2017	17,719.16	3.910%	6,732.48	24,451.64		2,048,513.79
09/01/2017	17,776.89	3.910%	6,674.74	24,451.63		2,030,736.90
10/01/2017	17,834.82	3.910%	6,616.82	24,451.64	293,419.61	2,012,902.08
11/01/2017	17,892.93	3.910%	6,558.71	24,451.64		1,995,009.15
12/01/2017	17,951.23	3.910%	6,500.40	24,451.63		1,977,057.92
01/01/2018	18,009.72	3.910%	6,441.91	24,451.63		1,959,048.20
02/01/2018	18,068.40	3.910%	6,383.23	24,451.63		1,940,979.80
03/01/2018	18,127.27	3.910%	6,324.36	24,451.63		1,922,852.53
04/01/2018	18,186.34	3.910%	6,265.29	24,451.63		1,904,666.19
05/01/2018	18,245.60	3.910%	6,206.04	24,451.64		1,886,420.59
06/01/2018	18,305.05	3.910%	6,146.59	24,451.64		1,868,115.54
07/01/2018	18,364.69	3.910%	6,086.94	24,451.63		1,849,750.85
08/01/2018	18,424.53	3.910%	6,027.10	24,451.63		1,831,326.32
09/01/2018	18,484.56	3.910%	5,967.07	24,451.63		1,812,841.76
10/01/2018	18,544.79	3.910%	5,906.84	24,451.63	293,419.59	1,794,296.97
11/01/2018	18,605.22	3.910%	5,846.42	24,451.64		1,775,691.75
12/01/2018	18,665.84	3.910%	5,785.80	24,451.64		1,757,025.91
01/01/2019	18,726.66	3.910%	5,724.98	24,451.64		1,738,299.25
02/01/2019	18,787.67	3.910%	5,663.96	24,451.63		1,719,511.58
03/01/2019	18,848.89	3.910%	5,602.74	24,451.63		1,700,662.69
04/01/2019	18,910.31	3.910%	5,541.33	24,451.64		1,681,752.38
05/01/2019	18,971.92	3.910%	5,479.71	24,451.63		1,662,780.46
06/01/2019	19,033.74	3.910%	5,417.89	24,451.63		1,643,746.72
07/01/2019	19,095.76	3.910%	5,355.87	24,451.63		1,624,650.96
08/01/2019	19,157.98	3.910%	5,293.65	24,451.63		1,605,492.98
09/01/2019	19,220.40	3.910%	5,231.23	24,451.63		1,586,272.58
10/01/2019	19,283.03	3.910%	5,168.60	24,451.63	293,419.60	1,566,989.55
11/01/2019	19,345.86	3.910%	5,105.77	24,451.63		1,547,643.69
12/01/2019	19,408.89	3.910%	5,042.74	24,451.63		1,528,234.80
01/01/2020	19,472.13	3.910%	4,979.50	24,451.63		1,508,762.67
02/01/2020	19,535.58	3.910%	4,916.05	24,451.63		1,489,227.09
03/01/2020	19,599.23	3.910%	4,852.40	24,451.63		1,469,627.86
04/01/2020	19,663.10	3.910%	4,788.54	24,451.64		1,449,964.76
05/01/2020	19,727.16	3.910%	4,724.47	24,451.63		1,430,237.60
06/01/2020	19,791.44	3.910%	4,660.19	24,451.63		1,410,446.16
07/01/2020	19,855.93	3.910%	4,595.70	24,451.63		1,390,590.23
08/01/2020	19,920.63	3.910%	4,531.01	24,451.64		1,370,669.60
09/01/2020	19,985.53	3.910%	4,466.10	24,451.63		1,350,684.07
10/01/2020	20,050.65	3.910%	4,400.98	24,451.63	293,419.58	1,330,633.42
11/01/2020	20,115.99	3.910%	4,335.65	24,451.64		1,310,517.43
12/01/2020	20,181.53	3.910%	4,270.10	24,451.63		1,290,335.90
01/01/2021	20,247.29	3.910%	4,204.34	24,451.63		1,270,088.61
02/01/2021	20,313.26	3.910%	4,138.37	24,451.63		1,249,775.35
03/01/2021	20,379.45	3.910%	4,072.18	24,451.63		1,229,395.90
04/01/2021	20,445.85	3.910%	4,005.78	24,451.63		1,208,950.05
05/01/2021	20,512.47	3.910%	3,939.16	24,451.63		1,188,437.58
06/01/2021	20,579.31	3.910%	3,872.33	24,451.64		1,167,858.27
07/01/2021	20,646.36	3.910%	3,805.27	24,451.63		1,147,211.91
08/01/2021	20,713.63	3.910%	3,738.00	24,451.63		1,126,498.28
09/01/2021	20,781.13	3.910%	3,670.51	24,451.64		1,105,717.15
10/01/2021	20,848.84	3.910%	3,602.80	24,451.64	293,419.60	1,084,868.31
11/01/2021	20,916.77	3.910%	3,534.86	24,451.63		1,063,951.54
12/01/2021	20,984.92	3.910%	3,466.71	24,451.63		1,042,966.62

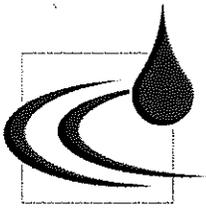
BOND DEBT SERVICE

**SPECIMEN**

Crab Orchard-MacArthur Public Service District  
Series 2008A Current Refunding Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance
01/01/2022	21,053.30	3.910%	3,398.33	24,451.63		1,021,913.32
02/01/2022	21,121.90	3.910%	3,329.73	24,451.63		1,000,791.42
03/01/2022	21,190.72	3.910%	3,260.91	24,451.63		979,600.70
04/01/2022	21,259.77	3.910%	3,191.87	24,451.64		958,340.93
05/01/2022	21,329.04	3.910%	3,122.59	24,451.63		937,011.89
06/01/2022	21,398.54	3.910%	3,053.10	24,451.64		915,613.35
07/01/2022	21,468.26	3.910%	2,983.37	24,451.63		894,145.09
08/01/2022	21,538.21	3.910%	2,913.42	24,451.63		872,606.88
09/01/2022	21,608.39	3.910%	2,843.24	24,451.63		850,998.49
10/01/2022	21,678.80	3.910%	2,772.84	24,451.64	293,419.59	829,319.69
11/01/2022	21,749.43	3.910%	2,702.20	24,451.63		807,570.26
12/01/2022	21,820.30	3.910%	2,631.33	24,451.63		785,749.96
01/01/2023	21,891.40	3.910%	2,560.24	24,451.64		763,858.56
02/01/2023	21,962.73	3.910%	2,488.91	24,451.64		741,895.83
03/01/2023	22,034.29	3.910%	2,417.34	24,451.63		719,861.54
04/01/2023	22,106.08	3.910%	2,345.55	24,451.63		697,755.46
05/01/2023	22,178.11	3.910%	2,273.52	24,451.63		675,577.35
06/01/2023	22,250.38	3.910%	2,201.26	24,451.64		653,326.97
07/01/2023	22,322.88	3.910%	2,128.76	24,451.64		631,004.09
08/01/2023	22,395.61	3.910%	2,056.02	24,451.63		608,608.48
09/01/2023	22,468.58	3.910%	1,983.05	24,451.63		586,139.90
10/01/2023	22,541.79	3.910%	1,909.84	24,451.63	293,419.60	563,598.11
11/01/2023	22,615.24	3.910%	1,836.39	24,451.63		540,982.87
12/01/2023	22,688.93	3.910%	1,762.70	24,451.63		518,293.94
01/01/2024	22,762.86	3.910%	1,688.77	24,451.63		495,531.08
02/01/2024	22,837.03	3.910%	1,614.61	24,451.64		472,694.05
03/01/2024	22,911.44	3.910%	1,540.19	24,451.63		449,782.61
04/01/2024	22,986.09	3.910%	1,465.54	24,451.63		426,796.52
05/01/2024	23,060.99	3.910%	1,390.65	24,451.64		403,735.53
06/01/2024	23,136.13	3.910%	1,315.50	24,451.63		380,599.40
07/01/2024	23,211.51	3.910%	1,240.12	24,451.63		357,387.89
08/01/2024	23,287.14	3.910%	1,164.49	24,451.63		334,100.75
09/01/2024	23,363.02	3.910%	1,088.61	24,451.63		310,737.73
10/01/2024	23,439.15	3.910%	1,012.49	24,451.64	293,419.59	287,298.58
11/01/2024	23,515.52	3.910%	936.11	24,451.63		263,783.06
12/01/2024	23,592.14	3.910%	859.49	24,451.63		240,190.92
01/01/2025	23,669.01	3.910%	782.62	24,451.63		216,521.91
02/01/2025	23,746.13	3.910%	705.50	24,451.63		192,775.78
03/01/2025	23,823.51	3.910%	628.13	24,451.64		168,952.27
04/01/2025	23,901.13	3.910%	550.50	24,451.63		145,051.14
05/01/2025	23,979.01	3.910%	472.62	24,451.63		121,072.13
06/01/2025	24,057.14	3.910%	394.49	24,451.63		97,014.99
07/01/2025	24,135.53	3.910%	316.11	24,451.64		72,879.46
08/01/2025	24,214.17	3.910%	237.47	24,451.64		48,665.29
09/01/2025	24,293.07	3.910%	158.57	24,451.64		24,372.22
10/01/2025	24,372.22	3.910%	79.41	24,451.63	293,419.60	
	3,712,815.00		1,422,027.92	5,134,842.92	5,134,842.92	





WEST VIRGINIA

**Water Development Authority**

*Celebrating 34 Years of Service 1974 - 2008*

March 27, 2008

CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT

Sewerage System Refunding Revenue Bonds, Series 2008A

**To Whom It May Concern:**

In reliance upon the certificate of Akers & Associates, A.C., the independent certified public accountants, and the opinion of Bowles Rice McDavid Graff & Love, LLP, bond counsel, stating that the coverage and parity tests have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority (the "Authority"), as registered owner of the entire issue of certain bonds of the Issuer as set forth in Annex A attached hereto and incorporated by reference, for itself and on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council") and the West Virginia Department of Environmental Protection ("DEP"), all such bonds collectively referred to as the "Prior Bonds" does herewith for the Authority, the Council and DEP, consent to the issuance of the Sewerage System Refunding Revenue Bonds, Series 2008A, in the original aggregate principal amounts of \$3,712,815, by Crab Orchard-MacArthur Public Service District (the "Issuer"), under the terms of the resolution authorizing the Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's Prior Bonds as set forth in Annex A.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY



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Chris E. Jarrett – Executive Director

## ANNEX A

Bonds	<u>Lien Position</u>
(i) Sewer Revenue Bonds, Series 1986B, dated May 29, 1986, issued in the original aggregate principal amount of \$161,688 (the "Series 1986B Bonds");	First Lien
(ii) Sewerage System Refunding Revenue Bonds, Series 1996A, dated July 16, 1996, issued in the original aggregate principal amount of \$4,925,000 (the "Series 1996A Bonds");	First Lien-TO BE DEFEASED ON CLOSING 2008A BONDS
(iii) Sewerage System Revenue Bonds, Series 1997A (West Virginia SRF Program), dated June 5, 1997, issued in the original aggregate principal amount of \$250,000 (the "Series 1997A Bonds");	First Lien
(iv) Sewerage System Revenue Bonds, Series 1997B (West Virginia Infrastructure Fund), dated June 5, 1997, issued in the original aggregate principal amount of \$1,774,300 (the "Series 1997B Bonds");	First Lien
(v) Sewerage System Design Revenue Bonds, Series 1999 (West Virginia SRF Program), dated December 16, 1999, issued in the original aggregate principal amount of \$478,630 (the "Series 1999 Bonds");	First Lien
(vi) Sewer Revenue Bonds, Series 2001A (West Virginia SRF Program), dated October 3, 2001, issued in the original aggregate principal amount of \$6,818,600 (the "Series 2001A Bonds");	First Lien
(vii) Sewer Revenue Bonds, Series 2006A (West Virginia SRF Program), dated September 7, 2006, issued in the original aggregate principal amount of \$1,314,606 (the "Series 2006A Bonds"); and	First Lien
(viii) Sewer Revenue Bonds, Series 2006B (West Virginia Infrastructure Fund), dated September 7, 2006, issued in the original principal amount of \$5,852,000 (the "Series 2006B Bonds").	First Lien



CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES, DELIVERY AND PAYMENT
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. PREPAYMENT OF SERIES 1996 A BONDS
10. MEETINGS
11. SPECIMEN BOND
12. CONFLICTS OF INTEREST
13. IRS INFORMATION RETURN
14. RELIANCE
15. CERTIFICATIONS WITH RESPECT TO THE ORIGINAL PURCHASER
16. COUNTERPARTS

We, the undersigned CHAIRPERSON and the undersigned SECRETARY of the Public Service Board of Crab Orchard-MacArthur Public Service District (the "Issuer") and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Crab Orchard-MacArthur Public Service District Sewerage System Refunding Revenue Bonds, Series 2008 A, numbered AR-1, dated the date hereof, in the principal amount of \$3,712,815 (the "Bonds" or the "Series 2008 A Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined shall have the same meaning set forth in the Bond Resolution duly adopted by the Issuer on March 25, 2008, and the Supplemental Resolution duly adopted by the Issuer on March 25, 2008 (collectively, the "Resolution").

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, sale and delivery of the Bonds, the prepayment and refunding of the Series 1996 A Bonds, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or the Board thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the issuance, sale or delivery of the Bonds, the prepayment and refunding of the Series 1996 A Bonds, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds.

3. GOVERNMENTAL APPROVALS: All applicable approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the operation of the System and the issuance of the Bonds have been duly and timely obtained and

remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer as of the date hereof.

The Series 2008 A Bonds shall be issued on a parity with the Prior Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements of the Prior Bonds and the resolutions authorizing the Prior Bonds and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. The Issuer has obtained (i) a certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the Prior Bonds have been met; and (ii) the written consent of the Holders and/or the agent of the Holder of the Prior Bonds to the issuance of the Series 2008 A Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

5. SIGNATURES, DELIVERY AND PAYMENT: The undersigned Chairperson and Secretary are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Chairperson did officially sign all of the Bonds, consisting upon original issuance of a single Bond, dated the date hereof, by his or her manual signature; the undersigned Secretary did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature; and the Registrar did officially authenticate and deliver the Bonds to a representative of the Original Purchaser of the Bonds. At the time of delivery of the Bonds, \$3,712,815, the agreed purchase price of the Bonds, was paid to the Issuer (or others, on behalf of the Issuer) by the Original Purchaser.

6. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the PSC order entered March 24, 2008, in Case No. 08-0276-PSD-PC, approving the issuance of the Bonds for the purpose of refunding the Series 1996 A Bonds. The time for appeal of the PSC order has not expired prior to the date hereof. However, the parties to the PSC order have stated that they will not appeal such order. The Issuer hereby certifies that it will not appeal such order. Such order is not subject to appeal, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to the original application.

7. RATES: The rates for the System, as approved by the PSC, are in full force and effect.

8. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Crab Orchard-MacArthur Public Service District", and it is a public service district organized and existing under the laws of, and a public corporation and political subdivision of, the State of West Virginia in Raleigh County of said State. The governing body of the Issuer is

its Board, consisting of three members, whose names and dates of termination of their current terms are as follows:

<u>Name</u>	<u>Date of Termination of Office</u>
Gerald Miller	December 31, 2008
Tom Ayers	December 31, 2008
Zeno Sparks	December 31, 2008

The duly elected or appointed officers of the Board for 2008 are as follows:

Tom Ayers	- Chairperson
Zeno Sparks	- Secretary - Treasurer

The duly appointed and acting attorney for the Issuer is John F. Rist, II, Esquire, Beckley, West Virginia.

9. PREPAYMENT OF SERIES 1996 BONDS: The funds on deposit with United Bank, Inc. ("UBI") pursuant to the Escrow Agreement by and among the Issuer, UBI, the paying agent of the Series 1996 A Bonds, and the Commission, dated as of the date hereof, are sufficient to fully pay the entire outstanding principal of, the redemption premium and all interest accrued on the Series 1996 A Bonds on April 1, 2008, the Redemption Date. As of the date of hereof, the Series 1996 A Bonds have been prepaid and refunded and the liens and pledges securing the Series 1996 A Bonds have been discharged and defeased.

10. MEETINGS: All actions, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the refunding of the Series 1996 A Bonds were authorized or adopted at meetings of the Board duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of the Board, and a quorum of duly appointed, qualified and acting members of the Board was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

11. SPECIMEN BOND: Attached hereto as Exhibit A is a specimen of the Bond which, except as to execution and authentication, is identical in all respects with such Bond this day delivered to the Purchaser and being substantially in the form prescribed in the Resolution.

12. CONFLICTS OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or the sale of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bonds and the Resolution, including, without limitation, with respect to the Original Purchaser. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest

amounting to more than 5% of the particular business enterprise or contract.

13. **IRS INFORMATION RETURN:** On the date hereof, the undersigned Chairperson did officially sign a properly completed IRS Form 8038-G and will cause such executed Form 8038-G to be filed in a timely manner. The information set forth in such Form 8038-G is true, correct and complete in all respects.

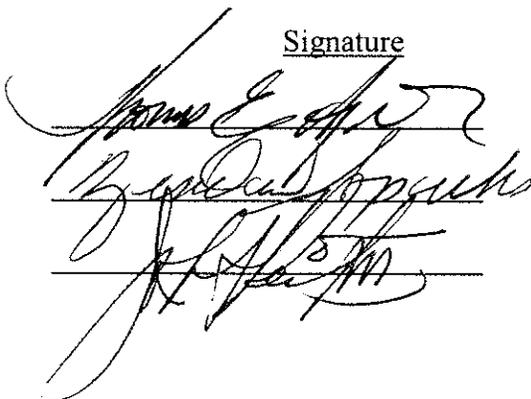
14. **RELIANCE:** The undersigned acknowledge that it is intended that interest on the Bonds be exempt from federal income tax in the hands of the owners thereof, that the firm of Bowles Rice McDavid Graff & Love LLP is rendering opinions on the date hereof to said effect and with respect to other matters, and that in rendering said opinions, said firm is relying, among other things, upon the statements made herein.

15. **CERTIFICATIONS WITH RESPECT TO THE ORIGINAL PURCHASER:** The Issuer hereby represents and warrants that (i) all taxes, if any, are current; (ii) except as otherwise disclosed, there is not pending litigation in which the Issuer is named as a defendant; and (iii) all financial information is true, correct and accurate, including the financial position of the Issuer and the results of the operations for the periods covered thereby. None of the information disclosed by the Issuer in connection with the loan contains any untrue statement of facts or omits to state any fact necessary in order to have made the statement therein not misleading.

16. **COUNTERPARTS:** This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of Crab Orchard-MacArthur Public Service District on this 27<sup>th</sup> day of March, 2008.

[SEAL]

Signature  


Official Title

Chairperson

Secretary

Attorney *(To the best of my knowledge, information and belief)*



CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A

CERTIFICATE AS TO ARBITRAGE

The undersigned Chairperson of the Public Service Board of Crab Orchard-MacArthur Public Service District in Raleigh County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of \$3,712,815 Sewerage System Refunding Revenue Bonds, Series 2008 A, of the Issuer, dated March 27, 2008 (the "Bonds"), hereby certifies as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 A, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"). I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meaning as set forth in the Bond Resolution duly adopted by the Issuer on March 25, 2008 (the "Bond Resolution"), authorizing the Bonds.

2. This certificate may be relied upon as the certificate of the Issuer.

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer that may not certify its bonds or the certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on March 27, 2008, the date on which the Bonds are to be physically delivered in exchange for the purchase price of the Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. In the Bond Resolution pursuant to which the Bonds are issued, the Issuer has covenanted that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Bonds) so that the interest on the Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion. The Issuer has, therefore, covenanted to not intentionally use any portion of the proceeds of the Bonds to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except as otherwise allowed under Sections 103 and 148 of the Code.

6. The Bonds were sold on March 27, 2008, to Branch Banking and Trust Company, Inc., Charleston, West Virginia (the "Purchaser") for an aggregate purchase price of \$3,712,815 (100% of par value). No accrued interest has been or will be paid on the Bonds.

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs necessary to current refund the Issuer's Sewer Refunding Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds"); (ii) funding a reserve account for the Bonds; and (iii) paying certain costs of issuance of the Bonds and related costs.

8. The Series 1996 A Bonds were issued for the purpose of currently refunding the Issuer's 1986 A Bonds, including premium.

9. The sources and uses of the proceeds of the Bonds and the moneys in the Series 1996 A Bonds Sinking Fund, the Series 1996 A Bonds Reserve Account and the accumulated investment income from the 1996 A Series Reserve Fund (collectively, "Issuer's Funds") are as follows:

SOURCES

Series 2008 A Bonds Proceeds	\$3,712,815
1996 A Debt Service Reserve	\$341,808.59
1996 A Debt Service Fund	\$168,693.00
Surplus Funds (accumulated investment income)	\$114,721.90
Total Sources	<u>\$4,338,038.49</u>

USES

Prepay Series 1996 A Bonds	\$3,949,468.67
Fund Series 2008 A Bonds Reserve Account	\$293,419.61
Pay Costs of Issuance	\$74,515.00
Surplus Funds	\$20,635.21
Total Uses	<u>\$4,338,038.49</u>

10. The Issuer has entered into an Escrow Agreement (the "Escrow Agreement"), dated March 27, 2008, with the West Virginia Municipal Bond Commission (the "Commission"), and United Bank, Inc. ("UBI") the paying agent of the Series 1996 A Bonds. Provision will be made for the payment of the Series 1996 A Bonds by depositing with UBI, cash in the amount of \$3,949,468.67 consisting of 1) \$3,638,300.00 from the proceeds of the Bonds and 2) \$311,168.67 from the Issuer's Funds, which will provide sufficient funds to pay the Redemption Price of the Series 1996 A Bonds on the Redemption Date.

11. The Series 2008 A Bonds Sinking Fund is created under the Resolution. Moneys deposited in the Series 2008 A Bonds Sinking Fund will be spent within a 13-month

period beginning on the date of deposit and will be depleted at least once a year, except for a reasonable carryover amount not in excess of the greater of 1/12th of annual debt service on the Bonds. The Bonds all bear interest at a fixed interest rate and the average maturity of the Bonds is in excess of 5 years. The Series 2008 A Bonds Sinking Fund is intended primarily to achieve a proper matching of the Issuer's revenues and debt service on the Bonds each year. All moneys held in the Series 2008 A Bonds Sinking Fund will be used to pay debt service on the Bonds. The Series 2008 A Bonds Sinking Fund qualifies as a bona fide debt service fund and moneys in such fund will be invested without restriction as to yield and are not subject to rebate.

12. The Series 2008 A Bonds Reserve Account is created under the Resolution in an amount equal to the maximum amount of principal and interest which will become due on the Bonds (the "Series 2008 A Bonds Reserve Requirement"). The Series 2008 A Bonds Reserve Account is being funded from the Debt Service Reserve Fund for the Series 1996 A Bonds \$293,419.61. The Series 2008 A Bonds Reserve Requirement is equal to the maximum annual principal and interest requirements of the Bonds, is not in excess of 10% of the stated principal amount of the Bonds and is not in excess of 115% of the average annual principal and interest requirements of the Bonds. The moneys in the Series 2008 A Bonds Reserve Account will be invested without restriction as to yield. All earnings on amounts deposited in the Series 2008 A Bonds Reserve Account will, to the extent the yield thereon exceeds the yield on the Bonds, be subject to rebate.

Other than the Series 2008 A Bonds Sinking Fund and the Series 2008 A Bonds Reserve Account, there are no other funds or accounts of the Issuer which (i) are reasonably expected to be used to pay debt service on the Bonds or which are pledged as collateral to secure repayment of debt service on the Bonds and (ii) for which there is reasonable assurance that amounts therein will be available to pay debt service on the Bonds.

13. The Costs of Issuance Fund is created under the Resolution, to be funded from proceeds of the Bonds in the amount of \$74,515, which will be used to pay costs of issuance of the Bonds. All costs of issuance shall be fully paid within 60 days from the date hereof. The remaining funds shall be applied solely to capital improvements of the System and shall be fully expended within 1 year from the date hereof. Pending such disbursement, such moneys may be invested without restriction as to yield and are not subject to rebate.

14. The amount designated as cost of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

15. No more than 10% of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than 5% of the proceeds of the Bonds or \$5,000,000 have been or will be used to make or finance loans to, any person who is not a governmental unit.

16. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue, except to the extent any such proceeds are required for rebate to the United States.

17. The Issuer shall use the proceeds of the Bonds solely to prepay and current refund the Series 1996 A Bonds, to fund the Series 2008 A Bonds Reserve Account and to pay the costs of issuance thereof.

18. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and the Regulations promulgated or to be promulgated thereunder in order to assure that the interest on the Bonds is excluded from gross income for federal income tax purposes.

19. The Bonds are not, and will not be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

20. The Issuer will rebate to the United States the amount, if any, required by the Code and take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay the required rebate amount and any and all penalties and other amounts from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

21. The Issuer has retained the right to amend the Bond Resolution authorizing the issuance of the Bonds if such amendment is necessary to assure compliance with Section 148(f) of the Code or as may otherwise be necessary to assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

22. The Issuer shall comply with the yield restriction on the proceeds of the Bonds as set forth in the Code.

23. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds and the interest thereon. In addition, the Issuer has covenanted to comply with all Regulations from time to time in effect and applicable to the Bonds as may be necessary in order to fully comply with Section 148(f) of the Code and has covenanted to take such actions, or refrain from taking such actions, as may be necessary to fully comply with Section 148(f) of the Code and the Regulations, regardless of whether such actions may be contrary to any of the provisions of the Resolution authorizing issuance of the Bonds.

The Issuer has further covenanted to calculate, annually, the rebatable arbitrage, determined in accordance with Section 148 (f) of the Code. Upon completion of each such annual calculation, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which shall be paid from investment earnings on the underlying fund or account established in the Resolution and on which such rebatable arbitrage was earned or from other lawfully available sources. The Issuer has further

covenanted to pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148 (f) of the Code and the Regulations. The Issuer shall remit payments to the United States at the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by the Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefore.

24. The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds and the interest thereon. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, or payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal of, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Code.

25. The Bonds are a fixed yield issue. No interest or other amount payable on the Bonds (other than in the event of an unanticipated contingency) is determined by reference to (or by reference to an index that reflects) market interest rates or stock or commodity prices after the date of issue.

26. None of the Bonds has a yield-to-maturity more than one-fourth of one percent higher than the yield on the Bonds determined by assuming the Bonds are retired on the date that when used in computing the yield on the Bonds produces the lowest yield.

27. No portion of the proceeds of the Bonds will be used, directly or indirectly to acquire higher yielding investments, or to replace funds which were used, directly or indirectly, to acquire higher yielding investments, all within the meaning of Section 148 of the Code.

28. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same source of funds or will have substantially the same claim to be paid out of substantially the same source of funds as the Bonds.

29. The transaction contemplated herein does not represent an exploitation of the difference between taxable and tax-exempt interest rates and the execution and delivery of the Bonds is not occurring sooner than otherwise necessary, nor are the Bonds in principal amounts greater than otherwise necessary or to be outstanding longer than otherwise necessary.

30. On the basis of the foregoing, it is not expected that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

31. On the date hereof, the undersigned Chairperson did officially execute a properly completed IRS Form 8038-G in connection with the Bonds and will cause such executed IRS Form 8038-G to be filed in a timely manner pursuant to Section 149(e) of the Code with the applicable Internal Revenue Service Center. The information contained in such executed Form 8038-G is true, correct and complete.

32. The Issuer does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations (other than private activity bonds and bonds issued to currently refund any obligation of the Issuer) during the calendar year 2008 and hereby and in the Resolution designates the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

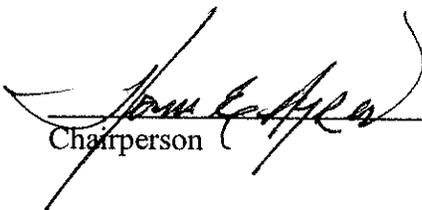
33. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

34. Bowles Rice McDavid Graff & Love LLP, Bond Counsel, is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Bonds.

35. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS my signature on this 27<sup>th</sup> day of March, 2008.

CRAB ORCHARD-MACARTHUR  
PUBLIC SERVICE DISTRICT

  
Chairperson



CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A

CERTIFICATE OF SECRETARY  
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

The undersigned duly appointed Secretary of Crab Orchard-MacArthur Public Service District (the "Issuer") hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the \$3,712,815 Crab Orchard-MacArthur Public Service District Sewage System Refunding Revenue Bonds, Series 2008 A (the "Bonds") are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted or approved by the Public Service Board (the "Board") of the Issuer and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, recession, supersedence, amendment or modification is also listed below:

1. Orders of the County Commission of Raleigh County Creating and Enlarging the Issuer.
2. Orders of the County Commission of Raleigh County Appointing the Members of the Board.
3. Oaths of Office of the Board Members.
4. Rules of Procedure.
5. Minutes of Current Year Organizational Meeting.
6. Public Service Commission Order.
7. Bond Resolution.
8. Supplemental Resolution.
9. Minutes of the Board Meeting regarding Adoption of Bond Resolution and Supplemental Resolution.
10. WDA Consent.
11. Escrow Agreement.
12. Bank Commitment Letter.

WITNESS my signature and the official seal of the Issuer on this 27th day of  
March, 2008.

CRAB ORCHARD-MACARTHUR  
PUBLIC SERVICE DISTRICT

  
Secretary



# **AKERS & ASSOCIATES, A.C.**

**CERTIFIED PUBLIC ACCOUNTANTS**

**111 Main Street  
Beckley, WV 25801**

**Phone: (304) 253-8366**

**Fax: (304) 253-8376**

## **ACCOUNTANT'S CERTIFICATE**

March 12, 2008

Crab Orchard – MacArthur Public Service District  
Sewerage System Refunding Revenue Bonds, Series 2008A

Crab Orchard – MacArthur Public Service District  
Crab Orchard, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Department of Environmental Protection  
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council  
Charleston, West Virginia

Bowles, Rice, McDavid, Graff & Love LLP  
Charleston, West Virginia

Branch Banking & Trust Co.  
Charleston, WV

Ladies and Gentlemen:

Based upon the rates and charges set forth in the Commission Order of the Public Service Commission of West Virginia entered October 29, 2007, in Case No. 07-1746-PSD-T and projected operating expenses and anticipated customer usage as furnished to me by Dunn Engineers, Inc., it is my opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system (the "System") of Crab Orchard – MacArthur Public Service District (the "Issuer"), will provide for all Operating Expenses of the System and will leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal and interest, if any, on the (i) Sewerage System Refunding Revenue Bonds, Series 2008A, (the "Series 2008A Bonds") and (ii) all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2008A Bond, including the Issuer's (i) Sewer Revenue Bonds, Series 2006A (West Virginia SRF Program), issued in the original aggregate principal amount of \$1,314,606, (ii) Sewer Revenue Bonds, Series 2006B (West Virginia Infrastructure Fund), issued in the original aggregate principal amount of \$5,852,000, (iii) Sewer Revenue Bonds, Series 1986B, issued in the original aggregate principal amount of \$161,688, (iv) Sewerage System Revenue Bonds, Series 1997A (West Virginia SRF Program), issued in the original aggregate principal amount of \$250,000, (v) Sewerage System Revenue Bonds, Series 1997B (West Virginia Infrastructure Fund), issued in the original principal amount of \$1,774,300, (vi) Sewerage System Design Revenue Bonds, Series 1999 (West Virginia SRF Program), issued in the original principal amount of \$478,630, and (vii) Sewer Revenue Bonds, Series 2001A (West Virginia SRF Program), issued in the original aggregate principal amount of \$6,818,600 (collectively, the "Prior Bonds").

It is my further opinion that the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the 2008A Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the issuance of the 2008A Bonds, are, so long as the Prior Bonds are outstanding, 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 Series 2008A Bonds. The Issuer has met the coverage and parity test requirements of the respective Bond Resolutions authorizing the issuance of the Prior Bonds. There will usually be differences between the forecasted and actual results because events and circumstances frequently do not occur as expected, and those differences may be material. We have no responsibility to update this letter for events and circumstances occurring after the date of this letter.

Very truly yours,

A handwritten signature in cursive script that reads "Michael R. Akers". The signature is written in dark ink and is positioned above a horizontal line.

Michael R. Akers, CPA



\$3,712,815

CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT SEWERAGE  
SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A

RECEIPT FOR BOND

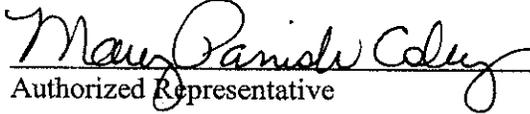
The undersigned authorized representative of Branch Banking and Trust Company, Charleston, West Virginia (the "Original Purchaser"), for and on behalf of the Original Purchaser, hereby certifies as follows:

1. On the 27<sup>th</sup> day of March, 2008, in Charleston, West Virginia, the Original Purchaser received the Sewerage System Refunding Revenue Bonds, Series 2008 A, of Crab Orchard-MacArthur Public Service District (the "Issuer"), in the principal amount of \$3,712,815, numbered AR-1, issued in the form of one bond, fully registered to the Original Purchaser, and dated March 27, 2008 (the "Bonds").

2. At the time of such receipt of the Bonds, they had been executed by the Chairman of the Issuer and attested by the Secretary of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 27<sup>th</sup> day of March, 2008.

BRANCH BANKING AND TRUST COMPANY

  
Authorized Representative



\$3,712,815  
CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A

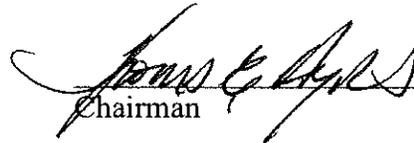
RECEIPT FOR BOND PROCEEDS

The undersigned Chairman of Crab Orchard-MacArthur Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

On the 27th Day of March, 2008, the Issuer received and hereby acknowledges receipt from Branch Banking and Trust Company, Inc., Charleston, West Virginia (the "Original Purchaser"), as the original purchaser of the \$3,712,815 Sewage System Revenue Refunding Bonds, Series 2008 A, dated March 27, 2008 (the "Bonds"), of the sum of \$3,712,815, being the principal amount of the Bonds. Certain proceeds of the bonds will be deposited in the Escrow Account and will be used together with other funds of the Issuer to defease the Issuer's Sewage System Revenue Refunding Bonds, Series 1996 A on April 1, 2008. The remaining proceeds of the Bonds will be advanced to the Issuer as the Issuer requisitions pursuant to the Supplemental Resolution.

WITNESS my signature on this 27th day of March, 2008.

CRAB ORCHARD-MACARTHUR  
PUBLIC SERVICE DISTRICT

  
Chairman



\$3,712,815  
CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

Branch Banking and Trust Company, Inc. , as Registrar  
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith:

1. Bond numbered AR-1, constituting the entire original issue of Crab Orchard-MacArthur Public Service District Sewage System Refunding Revenue Bonds, Series 2008 A, dated March 27, 2008, in the aggregate principal amount of \$3,712,815 (the "Bonds"), executed by the Chairman and Secretary of Crab Orchard-MacArthur Public Service District (the "Issuer"), by their manual signatures and bearing the official seal of the Issuer, authorized to be issued under and pursuant to the Resolution enacted on March 25, 2008, and a Supplemental Resolution adopted by the Issuer on March 25, 2008, (collectively, the "Resolution").

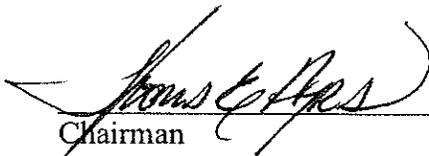
2. A copy of the Resolution authorizing the bonds, duly certified by the Secretary of the Issuer.

3. An approving legal opinion of nationally recognized bond counsel.

You are hereby requested and authorized to deliver the Bonds to Branch Banking and Trust Company, Inc., as the Original Purchaser of the Bonds, upon payment to the Issuer of the Bond Proceeds equal to \$3,712,815 to be deposited in the Escrow Account. Prior to such delivery of the Bonds, you should authenticate and register the Bonds in accordance with the form of Certificate of Authentication and Registration thereon.

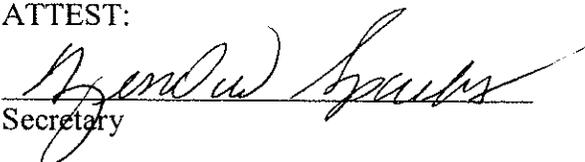
WITNESS our signatures on the 27th day of March, 2008

CRAB ORCHARD-MACARTHUR  
PUBLIC SERVICE DISTRICT

  
Chairman

[SEAL]

ATTEST:

  
Secretary



\$3,712,815  
CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 27th day of March, 2008, by and between Crab Orchard-MacArthur Public Service District, a public corporation (the "Issuer"), and Branch Banking and Trust Company, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$3,712,815 Sewage System Revenue Refunding Bonds, Series 2008 A, dated March 27, 2008 (the "Bonds") in the form of the bond, in fully registered form, pursuant to a Resolution adopted by the Issuer on March 25, 2008 and a Supplemental Resolution adopted by the Issuer on March 25, 2008 (collectively, the "Resolution");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Resolution, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Resolution provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Resolution this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Resolution and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Resolution such duties including, amount other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so in accordance with any rules and regulations promulgated by the United State Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation heretofore agreed by the parties and set forth in the attached invoice.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Resolution with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Supplemental Ordinance, the terms of the Supplemental Ordinance shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Resolution will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

ISSUER:

Crab Orchard-MacArthur Public Service District  
Post Office Box 278  
Crab Orchard, WV 25827-0278  
Attention: General Manager

REGISTRAR:

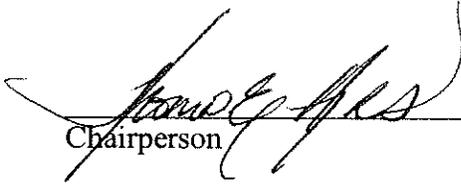
Branch Banking and Trust Company  
5130 Parkway Plaza Boulevard, Building #9  
Charlotte, North Carolina 28217

The Issuer and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate, register and deliver the Bonds in accordance with the Resolution.

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first written above.

CRAB ORCHARD-MACARTHUR  
PUBLIC SERVICE DISTRICT



---

Chairperson

BRANCH BANKING AND TRUST  
COMPANY, INC.

---

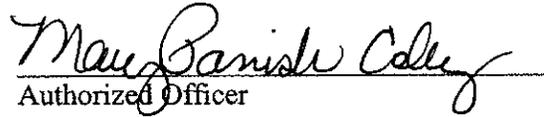
Authorized Officer

CRAB ORCHARD-MACARTHUR  
PUBLIC SERVICE DISTRICT

---

Chairperson

BRANCH BANKING AND TRUST  
COMPANY

  
Authorized Officer

**EXHIBIT A**

See Resolution

See Supplemental Resolution

\$3,712,815

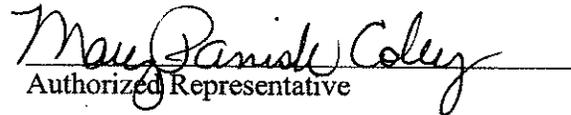
CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A

ACCEPTANCE OF DUTIES OF REGISTRAR

Branch Banking and Trust Company, a state banking corporation, hereby accepts appointment as Registrar in connection with the Resolution of the Branch Banking and Trust Company enacted March 25, 2008, and the Supplemental Resolution adopted March 25, 2008 (collectively the "Resolution") authorizing issuance of the Crab Orchard-MacArthur Public Service District Sewage Systems Revenue Refunding Bonds, Series 2008 A, dated March 27, 2008, in the aggregate principal amount of \$3,712,815 (the "Bonds") and agrees to perform all duties of Registrar in connection with such Bonds, all as set forth in said Resolution.

WITNESS my signature as of this 27th day of March, 2008.

BRANCH BANKING AND TRUST  
COMPANY

  
Authorized Representative



\$3,712,815

CRAB ORCHARD-MACARTHUR PUBLIC SERVICE DISTRICT SEWERAGE  
SYSTEM REFUNDING REVENUE BONDS, SERIES 2008 A

CERTIFICATE OF REGISTRATION OF BONDS

Mary Parrish Coley, Vice President of Branch Banking and Trust Company, as Registrar (the "Registrar"), hereby certifies that on the date hereof, the single, fully registered Sewerage System Revenue Bonds, Series 2008 A, of the Crab Orchard-MacArthur Public Service District (the "Issuer"), dated March 27, 2008, in the principal amount of \$3,712,815, numbered AR-1, was registered as to principal and interest in the name of Branch Banking and Trust Company in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature on this 27<sup>th</sup> day of March, 2008.

BRANCH BANKING AND TRUST COMPANY

  
\_\_\_\_\_  
Mary Parrish Coley - Vice President



101 South Queen Street  
Martinsburg, West Virginia 25401  
(304) 263-0836

7000 Hampton Center, Suite K  
Morgantown, West Virginia 26505  
(304) 285-2500

333 West Vine Street, Suite 1700  
Lexington, Kentucky 40507-1639  
(859) 252-2202



# Bowles Rice

McDAVID GRAFF & LOVE LLP

ATTORNEYS AT LAW

600 Quarrier Street  
Charleston, West Virginia 25301

Post Office Box 1386  
Charleston, West Virginia 25325-1386  
(304) 347-1100

[www.bowlesrice.com](http://www.bowlesrice.com)

480 West Jubal Early Drive  
Suite 130  
Winchester, Virginia 22601  
(540) 723-8877

5th Floor, United Square  
501 Avery Street  
Parkersburg, West Virginia 26101  
(304) 485-8500

Edward D. McDevitt  
Telephone — (304) 347-1711  
Facsimile — (304) 343-3058

March 28, 2008

E-Mail Address:  
[emcdevitt@bowlesrice.com](mailto:emcdevitt@bowlesrice.com)

Internal Revenue Service Center  
Ogden, Utah 84201

**CERTIFIED MAIL**  
**NO. 7007 0710 0003 5846 3641**  
**RETURN RECEIPT REQUESTED**

Re: Crab Orchard-MacArthur Public Service District  
Sewerage System Refunding Revenue Bonds, Series 2008 A

Ladies and Gentlemen:

Please find enclosed Form 8038G, Information Return for Tax-Exempt Governmental Obligations, submitted in connection with the above-referenced bond issue.

Also enclosed, please find a copy of said Form 8038G which has been stamped "COPY" in the upper right-hand corner. It would be greatly appreciated if you would stamp said copy acknowledging the receipt of the subject Form 8038G and indicate the date on which said Form 8038G was received by your office. Please then return said copy to the undersigned in the enclosed self-addressed, postage prepaid, envelope.

If you have any questions or comments regarding the foregoing, please contact the undersigned at your convenience. Thank you for your cooperation.

Very truly yours,

  
Edward D. McDevitt

EMD/vla  
Enclosures

**Information Return for Tax-Exempt Governmental Obligations**

Under Internal Revenue Code section 149(e)  
 See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

**Part I Reporting Authority**

If Amended Return, check here

1 Issuer's name  
Crab Orchard-MacArthur Public Service District

2 Issuer's employer identification number  
55 0621644

3 Number and street (or P.O. box if mail is not delivered to street address)  
P.O. Box 278

4 Report number  
3 01

5 City, town, or post office, state, and ZIP code  
Crab Orchard, West Virginia 25827

6 Date of issue  
03/27/2008

7 Name of issue  
Sewerage System Refunding Revenue Bonds, Series 2008A

8 CUSIP number  
NONE

9 Name and title of officer or legal representative whom the IRS may call for more information  
Barry Milam, General Manager

10 Telephone number of officer or legal representative  
(304) 252-0604

**Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule**

11 <input type="checkbox"/> Education	11	
12 <input type="checkbox"/> Health and hospital	12	
13 <input type="checkbox"/> Transportation	13	
14 <input type="checkbox"/> Public safety	14	
15 <input checked="" type="checkbox"/> Environment (including sewage bonds)	15	<u>3,712,815.00</u>
16 <input type="checkbox"/> Housing	16	
17 <input type="checkbox"/> Utilities	17	
18 <input type="checkbox"/> Other. Describe	18	

19 If obligations are TANS or RANS, check box  If obligations are BANS, check box

20 If obligations are in the form of a lease or installment sale, check box

**Part III Description of Obligations. Complete for the entire issue for which this form is being filed.**

(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21 10/01/2025	\$ 3,712,815.00	\$ 3,712,815.00	9.7955 years	3.9420 %

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

22 Proceeds used for accrued interest	22	
23 Issue price of entire issue (enter amount from line 21, column (b))	23	3,712,815.00
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	74,515.00
25 Proceeds used for credit enhancement	25	
26 Proceeds allocated to reasonably required reserve or replacement fund	26	293,419.61
27 Proceeds used to currently refund prior issues	27	3,949,468.67
28 Proceeds used to advance refund prior issues	28	
29 Total (add lines 24 through 28)	29	4,317,403.28
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	-604,588.28

**Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)**

31 Enter the remaining weighted average maturity of the bonds to be currently refunded 10.4324 years

32 Enter the remaining weighted average maturity of the bonds to be advance refunded \_\_\_\_\_ years

33 Enter the last date on which the refunded bonds will be called 03/27/2008

34 Enter the date(s) the refunded bonds were issued 10/01/2005

**Part VI Miscellaneous**

35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) 35

36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions) 36a

37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units 37a

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box  and enter the name of the issuer \_\_\_\_\_ and the date of the issue \_\_\_\_\_

38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(iii) (small issuer exception), check box

39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box

40 If the issuer has identified a hedge, check box

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Sign Here

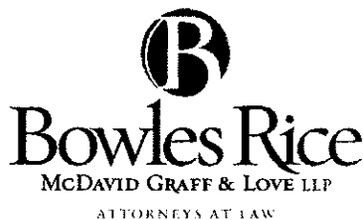
Barry Milam 03/27/08 Barry Milam, General Manager  
 Signature of issuer's authorized representative Date Type of print name and title



101 South Queen Street  
Martinsburg, West Virginia 25401  
(304) 263-0836

7000 Hampton Center, Suite K  
Morgantown, West Virginia 26505  
(304) 285-2500

333 West Vine Street, Suite 1700  
Lexington, Kentucky 40507-1639  
(859) 252-2202



600 Quarrier Street  
Charleston, West Virginia 25301

Post Office Box 1386  
Charleston, West Virginia 25325-1386  
(304) 347-1100

[www.bowlesrice.com](http://www.bowlesrice.com)

March 27, 2008

Closing Item No. D-1

480 West Jubal Early Drive  
Suite 130  
Winchester, Virginia 22601  
(540) 723-8877

5th Floor, United Square  
501 Avery Street  
Parkersburg, West Virginia 26101  
(304) 485-8500

Crab Orchard-MacArthur Public Service District  
Crab Orchard, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

Branch Banking and Trust Company  
Charleston, West Virginia

Re: Crab Orchard-MacArthur Public Service District  
Sewerage System Refunding Revenue Bonds, Series 2008 A

Ladies and Gentlemen:

We have served as bond counsel to Crab Orchard-MacArthur Public Service District (the "Issuer") in connection with the issuance of its Sewerage System Refunding Revenue Bonds, Series 2008 A, dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the authorization of the Bonds to be purchased by Branch Banking and Trust Company (the "Original Purchaser"), pursuant to its commitment letter dated February 13, 2008. The Bonds are issued in the principal amount of \$3,712,815, in the form of one bond, registered as to principal and interest to the Original Purchaser, with interest at the rate of 3.91% per annum, and with principal and interest payable monthly on the 1<sup>st</sup> day of each month, commencing May 1, 2008, all as set forth in the debt service schedule incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), for the purposes of (i) paying a portion of the costs necessary to current refund the Issuer's Sewerage System Refunding Revenue Bonds, Series 1996 A (the "Series 1996 Bonds"); (ii) funding a reserve account for the Bonds; and (iii) paying certain costs of issuance and related costs.

Crab Orchard-MacArthur Public Service District  
West Virginia Water Development Authority  
Branch Banking and Trust Company  
March 27, 2008  
Page 2

We have also examined the applicable provisions of the Act and a Bond Resolution duly adopted by the Issuer on March 25, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on March 25, 2008 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Bonds are authorized and issued. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein.

In connection with the issuance of the Bonds, the Issuer has executed a Certificate as to Arbitrage, dated as of the date hereof (the "Certificate as to Arbitrage"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the Bonds from gross income for federal income tax purposes, are and will continue to be met.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, as follows:

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to refund the Series 1996 Bonds, to operate and maintain the System, to adopt the Resolution and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bonds. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof.

3. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Original Purchaser and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Resolution and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewer Revenue Bonds, Series 1986 B, Sewerage System Refunding Revenue Bonds, Series 1996 A, Sewerage System Revenue Bonds, Series 1997 A (West Virginia SRF Program), Sewerage System Revenue Bonds, Series 1997 B, (West Virginia Infrastructure Fund) and Sewerage System Design Revenue Bonds, Series 1999 (West Virginia SRF Program), Sewer Revenue Bonds, Series 2001 A (West Virginia SRF Program), Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program) and the Sewer Revenue Bonds, Series 2006 B

Crab Orchard-MacArthur Public Service District  
West Virginia Water Development Authority  
Branch Banking and Trust Company  
March 27, 2008  
Page 3

(West Virginia Infrastructure Fund), (collectively, the "Prior Bonds"), all in accordance with the terms of the Bonds and the Resolution. Based upon the certificate of Akers & Associates, A.C., Certified Public Accountants dated March 12, 2008, the Issuer has met the coverage requirements for issuance of parity bonds of the Prior Bonds and the resolutions authorizing the Prior Bonds. The Issuer has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature.

4. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Bonds (a) is excludable from gross income of the owners thereof for federal income tax purposes pursuant to the Code and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations under the Code. It should be noted, however, that interest on the Bonds is included in the adjusted current earnings of certain corporations for purposes of computing the alternative minimum tax that may be imposed with respect to corporations. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Code that must be satisfied subsequent to issuance of the Bonds for interest thereon to be or continue to be excludable from gross income for federal income tax purposes and all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bonds set forth in the Resolution and the Certificate as to Arbitrage, and other certificates delivered in connection with the issuance of the Bonds. The Issuer has covenanted to comply with all such requirements. Failure to comply with certain of such Code provisions or such certifications, covenants and representations could cause the interest on the Bonds to be includable in gross income retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Bonds, except as expressly set forth in paragraph 5.

5. The Issuer has designated the Bonds as "qualified tax-exempt obligations" for purposes of the Code, and has covenanted that it does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations (other than private activity bonds and obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligations) during the calendar year 2008. Therefore, the Bond is a tax qualified obligation within the meaning of Section 265(b)(3) of the Code.

6. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

7. The Series 1996 Bonds have been paid within the meaning and with the effect expressed in the 1996 Resolution authorizing same, and the covenants, agreements

Crab Orchard-MacArthur Public Service District  
West Virginia Water Development Authority  
Branch Banking and Trust Company  
March 27, 2008  
Page 4

and other obligations of the Issuer to the holders of the Series 1996 Bonds have been satisfied and discharged. In rendering the opinion set forth in this paragraph, we have relied upon the Verification Report of the Arbitrage Group, relating to the sufficiency of the moneys on deposit with the Escrow Trustee to provide for the full payment of the entire outstanding principal of, the redemption premium and all interest accrued on the Series 1996 Bonds on April 1, 2008, the Redemption Date.

No opinion is given herein as to the effect upon the enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or the exercise of judicial discretion or principles of equity in appropriate cases.

We have examined the executed and authenticated Bond numbered AR-1 and in our opinion, the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,  
*Bowles Rice / David Graff & Love LLP*



**RIST, HIGGINS & ASSOCIATES, P.L.L.C.**

ATTORNEYS AT LAW  
1800 HARPER ROAD  
BECKLEY, WEST VIRGINIA 25801

TELEPHONE NO. 304-255-1400/255-4849  
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JAMES C. HIGGINS  
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E-Mail: [tsiri@peoplepc.com](mailto:tsiri@peoplepc.com)

March 27, 2008

Crab Orchard-MacArthur Public Service District  
Sewerage System Refunding Revenue Bonds, Series 2008 A

Re:Crab Orchard-MacArthur Public Service District  
Sewerage System Refunding Revenue Bonds, Series 2008 A

Crab Orchard-MacArthur Public Service District  
Crab Orchard, West Virginia

Branch Banking and Trust Company, Inc.  
Charleston, West Virginia

Bowles Rice McDavid Graff & Love LLP  
Charleston, West Virginia  
Ladies and Gentlemen:

We are counsel to Crab Orchard-MacArthur Public Service District, a public service district, in Raleigh County, West Virginia (the "Issuer"). As such counsel, we have examined a copy of the approving opinion of Bowles Rice McDavid Graff & Love LLP, as bond counsel, a purchase commitment for the above-captioned bonds (the "Bonds"), dated February 13, 2008, including all schedules and exhibits attached hereto (the "Bond Purchase Agreement", by and among the Issuer, the Branch Banking and Trust Company, Inc. (the "Purchaser"), the Bond Resolution duly adopted by the Issuer on March 25, 2008, as supplemental by the Supplemental Resolution duly adopted by the Issuer on March 25, 2008 (collectively, the "Resolution"), orders of The County Commission of Raleigh County, West Virginia, relating to the Issuer and the appointment of members of the Public Service Board of the Issuer, and other documents, papers, agreements, instruments and certificates relating to the Bonds. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution and the Loan Agreement when used herein.

We are of the opinion that:

1. The Issuer is duly created and validly existing as a public service district and as a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to adopt the Resolution, all under the Act and other applicable provisions of law.

2. The members and officers of the Public Service Board of the Issuer have been duly, lawfully and properly appointed and elected, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.

3. The Bond Purchase Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the other parties thereto, constitutes a valid and binding agreement of the Issuer, enforceable in accordance with its terms.

4. The Resolution has been duly adopted by the Issuer and is in full force and effect.

5. The execution and delivery of the Bonds and the Bond Purchase Agreement and the consummation of the transactions contemplated by the Bonds, the Bond Purchase Agreement and the Resolution and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any order, resolution, agreement or other instrument to which the Issuer is a party, and of which we are aware, or by which the Issuer or its properties are bound or any existing law, regulation, court order or consent decree to which the Issuer is subject.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the operation of the System and the imposition of rates and charges for use of the System and has taken any other action required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges.

7. To the best of our knowledge, there is no litigation, 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 transactions contemplated by the Bonds, the Bond Purchase Agreement, the Resolution, the operation of the System, the validity of the Bonds or the collection of the Gross Revenues or the pledge of the Net Revenues for the payment of the Bonds.

We express no other opinions other than those expressly stated hereinabove. Without limiting the generality of the foregoing sentence, we express no opinion as to the tax, bond or securities laws of the United States or of any state thereof.

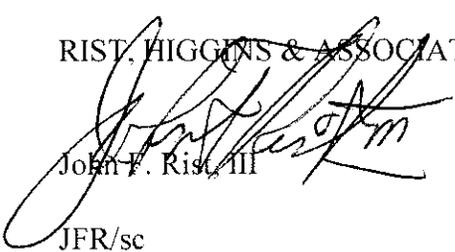
It is to be understood that the rights of the various parties to the transaction and the enforceability of the instruments and agreements may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights (to the extent constitutionally applicable), and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

Crab Orchard-MacArthur Public Service District, et al.  
March 27, 2008  
Page Three

This opinion is rendered only for the benefit of the addresses and may not be relied upon by other parties without prior written consent. No attorney-client privilege is waived or intended to be waived this opinion.

Very truly yours,

RIST, HIGGINS & ASSOCIATES, PLLC



John F. Rist, III

JFR/sc



WEST VIRGINIA MUNICIPAL BOND COMMISSION

Suite 500  
8 Capitol Street, Charleston, WV 25301  
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: 3/25/2008

ISSUE: Crab Orchard - MacArthur Public Service District Refunding Revenue Bonds, Series 2008A

ADDRESS: 196 Glenview Road, Crab Orchard, West Virginia 25827 COUNTY: Raleigh

PURPOSE OF ISSUE: New Money \_\_\_\_\_  
 Refunding  Refunds issue(s) dated: 15-Jul-96

ISSUE DATE: March 27, 2008 CLOSING DATE: March 27, 2008

ISSUE AMOUNT: \$3,712,815 RATE: 3.91%

1st DEBT SERVICE DUE: May 1, 2008 1st PRINCIPAL DUE: May 1, 2008

1st DEBT SERVICE AMOUNT: \$ 24,451.63 PAYING AGENT: BB&T, Charleston, Wva

BOND COUNSEL: Bowles Rice McDavid Graff & Love UNDERWRITERS COUNSEL: Private placement

Contact Person: Edd McDevitt, Esq. Contact Person: \_\_\_\_\_  
 Phone: 304-347-1711 Phone: \_\_\_\_\_

CLOSING BANK: \_\_\_\_\_ ESCROW TRUSTEE: United Bank, Inc.  
 Contact Person: \_\_\_\_\_ Contact Person: Kathy Smith, Assistant Vice President  
 Phone: \_\_\_\_\_ Phone: 304-348-8427

KNOWLEDGEABLE ISSUER CONTACT: OTHER: Financial Advisor

Contact Person: Barry Milam Contact Person: David Kirby  
 Position: General Manager Position: Vice President  
 Phone: 304-252-0604 Phone: 304-357-6508

DEPOSITS TO MBC AT CLOSE: \$293,419.61 Accrued Interest: \$ \_\_\_\_\_  
 By \_\_\_\_\_ Wire \_\_\_\_\_ Capitalized Interest: \$ \_\_\_\_\_  
 \_\_\_\_\_ Check  Reserve Account: \$ \$ 293,419.61  
 In-house Transfer \_\_\_\_\_ Other: \_\_\_\_\_

REFUNDS & TRANSFERS BY MBC AT CLOSE:

By  Wire  To Escrow Trustee: \$ \$ 311,168.67  
 \_\_\_\_\_ Check \_\_\_\_\_ To Issuer: \$ \_\_\_\_\_  
 \_\_\_\_\_ IGT \_\_\_\_\_ To Cons. Invest Fund \$ \_\_\_\_\_  
 \_\_\_\_\_ To Other: \_\_\_\_\_

NOTES: Additionally, the Commission is asked to apply the balance of \$20,635.21 remaining in the 1996A RESERVE FUND to the District's various reserve funds where requirements have not been met.

FOR MUNICIPAL BOND COMMISSION USE ONLY:  
 Documents Required: \_\_\_\_\_  
 Transfers Required: \_\_\_\_\_



## ESCROW AGREEMENT

THIS AGREEMENT, made and entered into as of the 27<sup>th</sup> day of March, 2008, by and among THE CRAB ORCHARD – MACARTHUR PUBLIC SERVICE DISTRICT (hereinafter referred to as the “Issuer”), the WEST VIRGINIA MUNICIPAL BOND COMMISSION (hereinafter referred to as the “Commission”) and UNITED BANK, INC., Charleston, West Virginia, a state banking corporation having and exercising full and complete trust powers, duly organized and existing under the laws of the State of West Virginia (hereinafter referred to as the “Escrow Trustee” or “Escrow Agent”).

WHEREAS, the Issuer, pursuant to a resolution dated July 23, 1996, (the “Prior Resolution”), authorizing the issuance of not more than \$5,300,000 Sewer Refunding Revenue Bonds, issued its Sewer Refunding Revenue Bonds, Series 1996 A, dated July 15, 1996, issued in the original principal amount of \$4,925,000 and currently outstanding in the principal amount of \$3,810,000; (the “Series 1996 A Bonds”);

WHEREAS, the Series 1996 A Bonds mature on the dates and bear interest at the rates set forth in Schedule A hereto;

WHEREAS, the Issuer has determined to issue its Sewerage System Refunding Revenue Bonds, Series 2008 A (the “Series 2008 A Bonds”), pursuant to a Resolution passed on March 25, 2008, as supplemented by resolution adopted on March 25, 2008, (the “Resolution”), the proceeds of which, together with other funds available to the Issuer, will be used to refund the Series 1996 A Bonds;

WHEREAS, the Issuer has made arrangements for the Escrow Trustee to hold in trust the proceeds of the Series 2008 A Bonds and other available moneys, the principal of which, when due, without consideration of any reinvestment of such maturing principal and interest, will provide sufficient moneys to enable the Escrow Trustee:

(i) to redeem \$3,810,000 in principal amount of the Series 1996 A Bonds, at the earliest optional redemption date of April 1, 2008, at a redemption price equal to 101% of the principal amount thereof, and

(ii) to pay as the same shall become due and payable the interest, if any, to accrue on the Series 1996 A Bonds to the date of redemption, as set forth in the preceding clause (i) of this recital;

WHEREAS, the Issuer has found it desirable to appoint the Escrow Trustee, and the Commission has agreed to such appointment, for the purposes of holding title, as trustee for the Issuer of the bond proceeds and other funds of the Issuer in cash (non-interest bearing) to accomplish the optimal redemption; and

WHEREAS, the Commission, at the request of the Issuer, has taken all action necessary to appoint and designate United Bank, Inc., Charleston, West Virginia, as the Escrow Trustee to accomplish such purposes;

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

1. Receipt of true and correct copies of the Resolution and the 1996 Prior Resolution are hereby acknowledged by the Commission and the Escrow Trustee. Reference herein to or citation herein of any provisions of either the Prior Resolution or the Resolution shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if the same were fully set forth herein.

2. There is hereby created and established with the Escrow Trustee a special and irrevocable trust fund designed the "The Crab Orchard MacArthur Public Service District, 1996 A Sewerage System Revenue Bonds Escrow Fund (hereinafter referred to as the "Escrow Fund"), to be held in the custody of the Escrow Trustee, separate and apart from other funds of the Issuer, the Commission or the Escrow Trustee. The deposit of moneys in trust for, without any income or interest being earned thereon, shall be applied to the payment of the principal of, premium and interest on the Series 1996 A Bonds on April 1, 2008.

3. Concurrently with the delivery of the Series 2008 A Bonds, the Issuer shall deposit \$3,638,000 from the proceeds of sale of the Series 2008 A Bonds, and \$311,168.67 from the sinking fund, including the reserve account therein, created and maintained on account of the Series 1996 A Bonds into the Escrow Fund with the Escrow Trustee (total deposit \$3,949,468.67), and the Escrow Trustee shall keep funds in cash, non-interest bearing. The Arbitrage Group, Inc., has certified, in its letter dated March 27, 2008, attached hereto as Schedule B, that sum will be sufficient to pay the principal of, premium and interest on the Series 1996 A Bonds on April 1, 2008.

4. The 3,949,468.67 shall be credited to the Escrow Fund. The cash shall not be invested or earn interest while held in the Escrow Fund.

5. The Escrow Trustee shall deposit directly with the paying agent or agents therefore, in immediately available funds, from the amounts held in the Escrow Fund on April 1, 2008 set forth on Schedule A hereto the amounts required to comply with the payments of principal, premium and interest on the Series 1996 A Bonds in accordance with the terms of the fourth recital hereto.

6. The holders of the Series 1996 A Bonds shall have an express lien on all moneys in the Escrow Fund until paid out, used and applied in accordance with this Agreement.

7. After the payment of all the Series 1996 A Bonds, and the premium and interest thereon, the amounts remaining in the Escrow Fund, if any, shall be transferred to the Sinking Fund established under the Resolution.

8. The Commission is not rendering any service under this Agreement and shall not be entitled to any fees under this Agreement. The Escrow Trustee shall be responsible for all acts required of the Commission under the 1996 Prior Resolution. Notwithstanding any provisions to the contrary in the Prior Resolutions, the Series 1996 A Bonds or other documents

relating to the Series 1996 A Bonds, as of the date hereof, all responsibility and liability of the Commission for the Series 1996 A Bonds is terminated. All duties performed by the Commission for the Series 1996 A Bonds are terminated. All duties performed by the Commission as fiscal agent, whether assigned or assumed, including but not limited to, authorizing the publication of all optional and/or mandatory redemption notices, taking reasonable actions to reconcile statements of the paying agents for the Series 1996 A Bonds, handle lost coupon and bond inquiries, and other administrative matters, are henceforth assumed by the Escrow Trustee hereunder.

Concurrently with the delivery of the Series 2008 A Bonds, the Escrow Trustee shall be paid its acceptance fee and expenses incurred with respect to this Agreement. Any future fees and expenses of the Escrow Trustee and the paying agents for the Series 1996 A Bonds shall be promptly paid by the Issuer from the net revenues of the System described in the Resolution as they accrue.

In no event, however, shall the Escrow Trustee or the paying agents have any lien whatsoever upon any of the moneys in the Escrow Fund, for the payment of such fees or expenses.

9. The Issuer and the Escrow Trustee independently hereby covenant that no part of the moneys or funds at any time in the Escrow Fund, shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause any of the Series 2008 A Bonds to be "arbitrage bonds" as defined in Section 148 of the Internal Revenue Code of 1986, as amended.

10. Neither the Commission nor the Escrow Trustee shall have any responsibility in respect of the validity or sufficiency of this Agreement. The liability of the Escrow Trustee for the payment of the principal of and the interest on the Series 1996 A Bonds shall be limited to the application of the moneys available for such purposes in the Escrow Fund. Neither the Commission nor the Escrow Trustee shall be liable or responsible because of the failure of the Issuer to perform any act required of it by this Agreement or because of the loss of any moneys arising through the insolvency or the act or default or omission of any depository, other than the Escrow Trustee, in which such moneys shall have been deposited.

11. If any outstanding Series 1996 A Bonds are not presented for payment when due, and moneys are held by the Escrow Trustee for payment thereof but not including any funds held by the paying agent for the Series 1996 A Bonds, such moneys shall be held for such purposes for a period of four (4) years from the date such payment was due, at which time such moneys shall be paid to the Issuer. Prior to such repayment by the Escrow Trustee to the Issuer, the Escrow Trustee shall notify the national securities depository, if an, or any similar organization that said moneys remain unclaimed and that after a date named in said notice, which date shall be the date of such repayment and shall not be less than thirty (30) days after the date of such notice, such moneys shall be paid to the Issuer as its absolute property and free from trust. The Issuer shall pay any costs incurred with respect to such notice.

12. Concurrently with the execution of this Agreement and the defeasance of the lien of the Series 1996 A Bonds, the Commission, at the express direction of the Issuer, shall pay from the funds held by it in the respective sinking funds, including the reserve accounts

therein, created and maintained under the 1996 Prior Resolution the sum of \$311,168,67 into the Escrow Fund, and the Issuer will cause \$3,638,300 (the 2008 Bond proceeds) to be deposited into the Escrow Fund.

13. If any one or more of the covenants or agreements provided in this Agreement to be performed on the part of any of the parties hereto should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

14. The duties and responsibilities of the Escrow Agent shall be limited to those expressly set forth in this Agreement. No implied duties of the Escrow Agent shall be read into this Agreement and the Escrow Agent shall not be subject to, or obliged to recognize any other agreement between, or direction or instruction of, any or all the parties hereto even though reference thereto may be made herein.

15. The Escrow Agent may rely, and shall be protected in acting or refraining from acting, upon any instrument furnished to it hereunder and believed by it to be genuine and believed by it to have been signed or presented by the appropriate party or parties (including without limitation, with respect to any party which is a corporation, any instrument purporting to have been signed on its behalf by an authorized officer). The Escrow Agent shall not be responsible for the sufficiency or accuracy, or the form, execution, validity or genuineness, of documents or securities now or hereafter deposited or received hereunder, or of any endorsement thereon, or for any lack of endorsement thereon, or for any description therein, nor shall it be responsible or liable in any respect on account of the identity, authority or rights of any person executing, depositing or delivering or purporting to execute, deposit or deliver any such document, security or endorsement or this Agreement, or on account of or by reason of forgeries, false representations, or the exercise of its discretion in any particular manner, not shall the Escrow Agent be liable for any mistake of fact or of law or any error of judgment, or for any act or omission, except as a result of its negligence or willful malfeasance.

16. The Issuer shall at all times indemnify the Escrow Trustee from all liabilities, claims, causes of action, costs and expenses (including, without limitation, reasonable attorney's fees and expenses) imposed upon or asserted against the Escrow Trustee, except as a result of its negligence or willful misconduct, on account of actions taken or omitted to be taken by the Trustee relating to or arising out of this Escrow Agreement, the Resolution or the Bonds at the request or with the consent of the Issuer. This indemnification shall survive the termination of this agreement.

17. The Escrow Agent may consult with legal counsel of its own choosing and shall be fully protected in acting or refraining from acting in good faith and in accordance with the opinion of such counsel.

18. It is understood that the Escrow Agent reserves the right to resign as the Escrow Agent at any time by giving written notice of its resignation, specifying the effective date thereof, to each other party hereto. Within thirty (30) days after receiving the aforesaid notice, the other party or parties hereto shall appoint a successor Escrow Agent to which the Escrow

Agent shall distribute the property then held hereunder. If a successor Escrow Agent has not been appointed and has not accepted such appointment by the end of such thirty (30) day period, the Escrow Agent may apply to a court of competent jurisdiction for the appointment of a successor Escrow Agent and the fees, costs and expenses (including counsel fees and expenses) which it incurs in connection with such proceeding shall be paid by the Issuer.

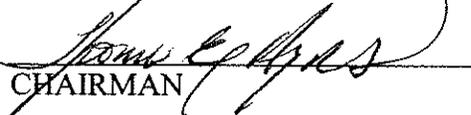
19. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

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

21. This Agreement shall terminate on the earlier of the date on which all the outstanding Series 1996 A Bonds have been paid and discharged in accordance with the respective provisions of the Prior Resolution or, as described in Paragraph 11, above, four (4) years after the last date on which payment on the Series 1986 A Bonds is due. Cash in the Escrow Fund shall be transferred as provided in Paragraph 7 hereof.

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

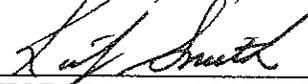
CRAB ORCHARD - MACARTHUR  
PUBLIC SERVICE DISTRICT

By   
CHAIRMAN

WEST VIRGINIA MUNICIPAL BOND  
COMMISSION

By   
EXECUTIVE DIRECTOR

UNITED BANK, INC., as Escrow Trustee

By   
VICE PRESIDENT, CORPORATE TRUST

SCHEDULE A

See Attached.

## PRIOR BOND DEBT SERVICE

Crab Orchard-MacArthur Public Service District  
Series 2008A Current Refunding BondsDated Date 03/27/2008  
Delivery Date 03/27/2008Sewerage System Refunding, Revenue Bonds 1996A (1996A)

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
04/01/2008			103,672.50	103,672.50		3,810,000	3,810,000
10/01/2008	130,000	4.950%	103,672.50	233,672.50	337,345.00	3,680,000	3,680,000
04/01/2009			100,455.00	100,455.00		3,680,000	3,680,000
10/01/2009	135,000	5.050%	100,455.00	235,455.00	335,910.00	3,545,000	3,545,000
04/01/2010			97,046.25	97,046.25		3,545,000	3,545,000
10/01/2010	145,000	5.150%	97,046.25	242,046.25	339,092.50	3,400,000	3,400,000
04/01/2011			93,312.50	93,312.50		3,400,000	3,400,000
10/01/2011	150,000	5.250%	93,312.50	243,312.50	336,625.00	3,250,000	3,250,000
04/01/2012			89,375.00	89,375.00		3,250,000	3,250,000
10/01/2012	160,000	5.500%	89,375.00	249,375.00	338,750.00	3,090,000	3,090,000
04/01/2013			84,975.00	84,975.00		3,090,000	3,090,000
10/01/2013	170,000	5.500%	84,975.00	254,975.00	339,950.00	2,920,000	2,920,000
04/01/2014			80,300.00	80,300.00		2,920,000	2,920,000
10/01/2014	180,000	5.500%	80,300.00	260,300.00	340,600.00	2,740,000	2,740,000
04/01/2015			75,350.00	75,350.00		2,740,000	2,740,000
10/01/2015	185,000	5.500%	75,350.00	260,350.00	335,700.00	2,555,000	2,555,000
04/01/2016			70,262.50	70,262.50		2,555,000	2,555,000
10/01/2016	200,000	5.500%	70,262.50	270,262.50	340,525.00	2,355,000	2,355,000
04/01/2017			64,762.50	64,762.50		2,355,000	2,355,000
10/01/2017	210,000	5.500%	64,762.50	274,762.50	339,525.00	2,145,000	2,145,000
04/01/2018			58,987.50	58,987.50		2,145,000	2,145,000
10/01/2018	220,000	5.500%	58,987.50	278,987.50	337,975.00	1,925,000	1,925,000
04/01/2019			52,937.50	52,937.50		1,925,000	1,925,000
10/01/2019	230,000	5.500%	52,937.50	282,937.50	335,875.00	1,695,000	1,695,000
04/01/2020			46,612.50	46,612.50		1,695,000	1,695,000
10/01/2020	245,000	5.500%	46,612.50	291,612.50	338,225.00	1,450,000	1,450,000
04/01/2021			39,875.00	39,875.00		1,450,000	1,450,000
10/01/2021	260,000	5.500%	39,875.00	299,875.00	339,750.00	1,190,000	1,190,000
04/01/2022			32,725.00	32,725.00		1,190,000	1,190,000
10/01/2022	275,000	5.500%	32,725.00	307,725.00	340,450.00	915,000	915,000
04/01/2023			25,162.50	25,162.50		915,000	915,000
10/01/2023	290,000	5.500%	25,162.50	315,162.50	340,325.00	625,000	625,000
04/01/2024			17,187.50	17,187.50		625,000	625,000
10/01/2024	305,000	5.500%	17,187.50	322,187.50	339,375.00	320,000	320,000
04/01/2025			8,800.00	8,800.00		320,000	320,000
10/01/2025	320,000	5.500%	8,800.00	328,800.00	337,600.00		
	3,810,000		2,283,597.50	6,093,597.50	6,093,597.50		

ESCROW REQUIREMENTS

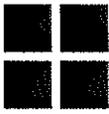
Crab Orchard-MacArthur Public Service District  
 Series 2008A Current Refunding Bonds

Sewerage System Refunding Revenue Bonds 1996A (1996A)

Period Ending	Interest	Principal Redeemed	Redemption Premium	Total
04/01/2008	101,368.67	3,810,000.00	38,100.00	3,949,468.67
	101,368.67	3,810,000.00	38,100.00	3,949,468.67

SCHEDULE B

Verification Report  
from  
The Arbitrage Group, Inc.



# The Arbitrage Group, Inc.

3401 Louisiana Street  
Suite 238  
Houston, Texas 77002

Telephone 713 522 8527  
Facsimile 713 522 8471

www.thearbitragegroup.com

March 27, 2008

Crab Orchard-MacArthur Public Service District  
Crab Orchard, West Virginia

Bowles Rice McDavid Graff & Love  
Charleston, West Virginia

Scott & Stringfellow, Inc.  
Charleston, West Virginia

United Bank, Inc.  
Charleston, West Virginia

**\$3,712,815**  
**Crab Orchard--MacArthur Public Service District**  
**Raleigh County, West Virginia**  
**Sewerage System Refunding Revenue Bonds,**  
**Series 2008A**

The Crab Orchard--MacArthur Public Service District (the "District") proposes to issue the above referenced bonds (the "Bonds") dated March 27, 2008 on March 27, 2008.

A portion of the proceeds of the Bonds will be placed in an irrevocable trust as an initial cash deposit to be used solely to refund all of the District's Sewerage System Refunding Revenue Bonds, Series 1996A (the "Refunded Bonds") described below:

<u>Series</u>	<u>Amount Issued</u>	<u>Original</u>	<u>Amount to be Refunded</u>	<u>Maturities to be Refunded</u>	<u>Maturities to be Optionally Redeemed</u>	<u>Optional Redemption Date and Price</u>
1996	\$4,925,000	07-15-1996	\$3,810,000	10-01-2008 - 10-01-2025, Inclusive	10-01-2008 - 10-01-2025, Inclusive	03-27-2008 @ 101%



Crab Orchard--MacArthur Public Service District

March 27, 2008

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At your request, we have independently verified the arithmetical accuracy of the computations provided to us by Scott & Stringfellow, Inc. which indicate the sufficiency of the initial cash deposit to pay to and at early redemption the principal, interest and early redemption premium on the Refunded Bonds.

The original computations, along with certain assumptions and information, were furnished to us by Scott & Stringfellow, Inc. on behalf of the District. We have relied solely on the assumptions and information provided to us and have not made any study or evaluation of them, except as noted below. We express no opinion on the reasonableness of the assumptions, or the likelihood that the debt service requirements of the Refunded Bonds will be paid as described in the accompanying Exhibits.

In the course of our engagement, we were furnished by Scott & Stringfellow, Inc. with excerpts from the Official Statement for the Refunded Bonds and the Bond for the Bonds. We compared the information contained in the schedules provided by Scott & Stringfellow, Inc. with certain information set forth in such documents with respect to prices, principal payment dates and amounts, interest payment dates and rates, yields, and redemption dates and prices. We found that the information contained in such schedules provided to us by Scott & Stringfellow, Inc. was in agreement with the above-mentioned information set forth in such documents.

In our opinion, based on the assumptions and information provided by Scott & Stringfellow, Inc. on behalf of the District, the computations in the accompanying Exhibits prepared by us and comparable schedules provided to us are arithmetically accurate and indicate that an initial cash deposit of \$3,949,468.67 will be sufficient to pay to and at early redemption the principal, interest and early redemption premium on the Refunded Bonds.

The terms of our engagement are such that we have no obligation to update this report or to verify any revised computation because of events and transactions occurring subsequent to the date of this report. This report is issued solely for your information and assistance in connection with the issuance of the Bonds. This report is not to be quoted or referred to without our prior written consent.

Very truly yours,

*The Arbitrage Group, Inc.*

# Exhibits

A. Escrow Cash Flow

B-1. Debt Service Requirements of the Refunded Bonds to Maturity

B-2. Debt Service Requirements of the Refunded Bonds to Early Redemption

# Escrow Cash Flow

*Crab Orchard--MacArthur Public Service District*

<u>Date</u>	<u>Beginning Cash Balance</u>	<u>Debt Service Requirements of the Refunded Bonds to Early Redemption</u>	<u>Ending Cash Balance</u>
03/27/08	\$3,949,468.67	\$3,949,468.67	\$0.00

# Debt Service Requirements of the Refunded Bonds to Maturity

*Crab Orchard--MacArthur Public Service District*

<u>Date</u>	<u>Principal</u>	<u>Coupon Rate</u>	<u>Early Redemption Premium</u>	<u>Interest</u>	<u>Debt Service Requirements of the Refunded Bonds to Maturity</u>
04/01/08				\$103,672.50	\$103,672.50
10/01/08	\$130,000.00	4.950%	1.000%	103,672.50	233,672.50
04/01/09				100,455.00	100,455.00
10/01/09	135,000.00	5.050%	1.000%	100,455.00	235,455.00
04/01/10				97,046.25	97,046.25
10/01/10	145,000.00	5.150%	1.000%	97,046.25	242,046.25
04/01/11				93,312.50	93,312.50
10/01/11	150,000.00	5.250%	1.000%	93,312.50	243,312.50
04/01/12				89,375.00	89,375.00
10/01/12	160,000.00	5.500%	1.000%	89,375.00	249,375.00
04/01/13				84,975.00	84,975.00
10/01/13	170,000.00	5.500%	1.000%	84,975.00	254,975.00
04/01/14				80,300.00	80,300.00
10/01/14	180,000.00	5.500%	1.000%	80,300.00	260,300.00
04/01/15				75,350.00	75,350.00
10/01/15	185,000.00	5.500%	1.000%	75,350.00	260,350.00
04/01/16				70,262.50	70,262.50
10/01/16	200,000.00	5.500%	1.000%	70,262.50	270,262.50
04/01/17				64,762.50	64,762.50
10/01/17	210,000.00	5.500%	1.000%	64,762.50	274,762.50
04/01/18				58,987.50	58,987.50
10/01/18	220,000.00	5.500%	1.000%	58,987.50	278,987.50
04/01/19				52,937.50	52,937.50
10/01/19	230,000.00	5.500%	1.000%	52,937.50	282,937.50
04/01/20				46,612.50	46,612.50
10/01/20	245,000.00	5.500%	1.000%	46,612.50	291,612.50
04/01/21				39,875.00	39,875.00
10/01/21	260,000.00	5.500%	1.000%	39,875.00	299,875.00
04/01/22				32,725.00	32,725.00
10/01/22	275,000.00	5.500%	1.000%	32,725.00	307,725.00
04/01/23				25,162.50	25,162.50
10/01/23	290,000.00	5.500%	1.000%	25,162.50	315,162.50
04/01/24				17,187.50	17,187.50

# Debt Service Requirements of the Refunded Bonds to Maturity

*Crab Orchard--MacArthur Public Service District*

<u>Date</u>	<u>Principal</u>	<u>Coupon Rate</u>	<u>Early Redemption Premium</u>	<u>Interest</u>	<u>Debt Service Requirements of the Refunded Bonds to Maturity</u>
10/01/24	305,000.00	5.500%	1.000%	17,187.50	322,187.50
04/01/25				8,800.00	8,800.00
10/01/25	320,000.00	5.500%	1.000%	8,800.00	328,800.00
	<u>\$3,810,000.00</u>			<u>\$2,283,597.50</u>	<u>\$6,093,597.50</u>





## Governmental Finance

5130 Parkway Plaza Boulevard  
Charlotte, NC 28217  
(704) 954-1700  
Fax (704) 954-1799

Closing Item No. E-3

March 27, 2008

Crab Orchard-MacArthur Public Service District  
Crab Orchard, West Virginia

Bowles Rice McDavid Graff & Love LLP  
Charleston, West Virginia

Re: Crab Orchard-MacArthur Public Service District  
Sewerage System Refunding Revenue Bonds, Series 2008 A

Ladies and Gentlemen:

The undersigned Mary Parrish Coley, Vice President of Branch Banking and Trust Company (the "Purchaser"), on behalf of the Purchaser in connection with its purchase of the \$3,712,815 aggregate principal amount of the Crab Orchard-MacArthur Public Service District Sewerage System Refunding Revenue Bonds, Series 2008 A (the "Bonds"), issued by Crab Orchard-MacArthur Public Service District (the "Issuer") on the date hereof, pursuant to a Resolution passed by the Issuer on March 25, 2008, as supplemented by a Supplemental Resolution adopted by the Issuer on March 25, 2008 (collectively, the "Resolution"), hereby makes the following representations and warranties to you that:

1. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of tax exempt obligations, to be able to evaluate the risks and merits of the investment represented by our purchase of the Bonds, and our net worth and available assets are such that we are able to bear the economic risk of our purchase of the Bonds.

1. We understand that the entire principal of and interest on the Bonds are payable by the Issuer solely from and secured by a first lien on the Pledged Revenues on parity as to lien with the Prior Bonds (as defined in the Resolution); that the Bonds are special and limited obligations of the Issuer and are not general obligations or secured by any obligation or pledge of any monies received or to be received by the Issuer other than the Pledged Revenues described above; and that the Bonds do not now and shall never constitute

Crab Orchard-MacArthur Public Service District  
Bowles Rice McDavid Graff & Love LLP  
March 27, 2008

an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation.

1. We understand that no official statement, prospectus, offering circular or other offering statement containing material information with respect to the Issuer or the Bonds is being issued, that the Bonds are unrated, and that in due diligence, we have made our own inquiry and analysis with respect to the Issuer, the Bonds and the security therefor, and other material factors affecting the security for and payment of the Bonds, and are relying solely on such inquiry and analysis in our purchase of the Bonds.

1. We acknowledge that during the course of the transaction and prior to the sale of the Bonds, we have requested or have had access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and we have had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer, the Bonds and the security therefor, so that as a reasonable investor, we have been able to make our decision to purchase the Bonds. No such information requested by us has been denied to us.

1. Because of our experience in financial and business matters, we feel that we are qualified to make the inquiry and analysis described in paragraph 3 and to understand fully the documents and information described in paragraph 4.

1. We understand that the Bonds (a) are not being registered under the Securities Act of 1933, as amended, and are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (b) will not be listed on any stock or other securities exchange, (c) will carry no rating from any rating service, and (d) may be resold only to purchasers who meet the criteria set forth herein and who, as a condition to such purchase, deliver an executed letter substantially in the form hereof to Bowles Rice McDavid Graff & Love LLP, Charleston, West Virginia.

1. We are purchasing the Bonds for investment in our own account and do not intend to divide the Bonds purchased by us nor to resell or otherwise dispose of all or any part of the Bonds purchased by us, except as permitted by law on a basis of full disclosure to any subsequent holder of the Bonds and subject to applicable securities laws and regulations thereunder.

Crab Orchard-MacArthur Public Service District  
Bowles Rice McDavid Graff & Love LLP  
March 27, 2008

8. The Bonds, the Resolution and the other certificates, opinions and documents delivered in connection with the issuance of the Bonds contain such terms and are in such form that are acceptable to the Purchaser.

9. We have had the opportunity to consult with and be advised by legal counsel as to the significance of this letter and we have satisfied ourselves that the Bonds are a lawful investment for us under all applicable laws.

Very truly yours,

BRANCH BANKING AND TRUST COMPANY

A handwritten signature in cursive script that reads "Mary Parrish Coley". The signature is written in black ink and is positioned above the printed name.

Mary Parrish Coley, Vice President



**Notice of Optional Redemption to the Holders of**

**\$4,925,000 Crab Orchard – MacArthur Public Service District Raleigh County,  
West Virginia Sewerage System Refunding Revenue Bonds, Series 1996A**

**Dated: February 29, 2008**

NOTICE IS HEREBY GIVEN by the Crab Orchard – MacArthur Public Service District (the “Issuer”) to the holders of its outstanding Sewerage System Refunding Revenue Bonds, Series 1996A (the “Bonds”) that the Bonds have been ordered by the Issuer to be redeemed on April 1, 2008 (the “Redemption Date”), at the redemption price of par, plus premium in the amount of one percent (1%), (the “Redemption Price”), plus interest accrued to the Redemption Date in accordance with the provisions of the Bond Resolution authorizing issuance of the Bonds.

**SUCH REDEMPTION HOWEVER, TO BE CONDITIONAL UPON SETTLEMENT AND TO THE DEPOSIT WITH THE PAYING AGENT OF MONEYS SUFFICIENT TO EFFECT SUCH REDEMPTION NOT LATER THAN MARCH 31, 2008, THIS NOTICE TO BE OF NO EFFECT UNLESS SUCH MONEYS ARE DEPOSITED.**

Each of the Bonds referred to above are to be surrendered to the designated agency office of United Bank, Inc., Charleston, West Virginia, (as “Paying Agent”) for the principal of the Redemption Price thereof and interest accrued thereon to the Redemption Date, by mailing such Bonds by registered or certified mail to the following address:

United Bank, Inc. 500 Virginia Street, East Third Floor,  
Corporate Trust Department Charleston, West Virginia  
25301

**Interest Maturity Bond Cusip Rate Date Date Number**

4.95%	October 1, 2008	July 15, 1996	2241BAM5
5.05%	October 1, 2009	July 15, 1996	2241BAN3
5.15%	October 1, 2010	July 15, 1996	22410BAP8
5.25%	October 1, 2011	July 15, 1996	22410BAQ6
5.50%	October 1, 2025	July 15, 1996	22410BAR4

**The Issuer certifies, based upon the Verification Report prepared by the Arbitrage Group, Inc., that there has been deposited with United Bank, Inc., Charleston, West Virginia, as Escrow Trustee for the Bonds, an amount sufficient to pay, on the Redemption Date, the Redemption Price. On April 1, 2008, which is the date fixed for redemption, interest will cease to accrue on the bonds.**

**NOTICE: Withholding of 31% gross redemption proceeds of any payment made within the United States may be required by the Interest and Dividend Tax Compliance Act of 1983 unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your securities.**

**\*The Issuer and Escrow Trustee shall not be responsible for the use of the CUSIP numbers selected, nor is any representation made as to its correctness in this notice or as printed on any Bond. It is included solely for the convenience of the holders.**

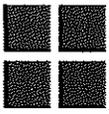
**Crab Orchard – MacArthur Public Service District  
as Issuer**

**By: \_\_\_\_\_  
It's Chairman**

**United Bank, Inc., Charleston, West Virginia  
as Escrow Trustee**

**By: \_\_\_\_\_  
It's Vice President**





# The Arbitrage Group, Inc.

3401 Louisiana Street  
Suite 238  
Houston, Texas 77002

Telephone 713 522 8527  
Facsimile 713 522 8471

www.thearbitragegroup.com

March 27, 2008

Crab Orchard-MacArthur Public Service District  
Crab Orchard, West Virginia

Bowles Rice McDavid Graff & Love  
Charleston, West Virginia

Scott & Stringfellow, Inc.  
Charleston, West Virginia

United Bank, Inc.  
Charleston, West Virginia

**\$3,712,815**

**Crab Orchard--MacArthur Public Service District  
Raleigh County, West Virginia  
Sewerage System Refunding Revenue Bonds,  
Series 2008A**

The Crab Orchard--MacArthur Public Service District (the "District") proposes to issue the above referenced bonds (the "Bonds") dated March 27, 2008 on March 27, 2008.

A portion of the proceeds of the Bonds will be placed in an irrevocable trust as an initial cash deposit to be used solely to refund all of the District's Sewerage System Refunding Revenue Bonds, Series 1996A (the "Refunded Bonds") described below:

<u>Series</u>	<u>Amount Issued</u>	<u>Original</u>	<u>Amount to be Refunded</u>	<u>Maturities to be Refunded</u>	<u>Maturities to be Optionally Redeemed</u>	<u>Optional Redemption Date and Price</u>
1996	\$4,925,000	07-15-1996	\$3,810,000	10-01-2008 - 10-01-2025, Inclusive	10-01-2008 - 10-01-2025, Inclusive	03-27-2008 @ 101%



Crab Orchard--MacArthur Public Service District

March 27, 2008

Page 2

At your request, we have independently verified the arithmetical accuracy of the computations provided to us by Scott & Stringfellow, Inc. which indicate the sufficiency of the initial cash deposit to pay to and at early redemption the principal, interest and early redemption premium on the Refunded Bonds.

The original computations, along with certain assumptions and information, were furnished to us by Scott & Stringfellow, Inc. on behalf of the District. We have relied solely on the assumptions and information provided to us and have not made any study or evaluation of them, except as noted below. We express no opinion on the reasonableness of the assumptions, or the likelihood that the debt service requirements of the Refunded Bonds will be paid as described in the accompanying Exhibits.

In the course of our engagement, we were furnished by Scott & Stringfellow, Inc. with excerpts from the Official Statement for the Refunded Bonds and the Bond for the Bonds. We compared the information contained in the schedules provided by Scott & Stringfellow, Inc. with certain information set forth in such documents with respect to prices, principal payment dates and amounts, interest payment dates and rates, yields, and redemption dates and prices. We found that the information contained in such schedules provided to us by Scott & Stringfellow, Inc. was in agreement with the above-mentioned information set forth in such documents.

In our opinion, based on the assumptions and information provided by Scott & Stringfellow, Inc. on behalf of the District, the computations in the accompanying Exhibits prepared by us and comparable schedules provided to us are arithmetically accurate and indicate that an initial cash deposit of \$3,949,468.67 will be sufficient to pay to and at early redemption the principal, interest and early redemption premium on the Refunded Bonds.

The terms of our engagement are such that we have no obligation to update this report or to verify any revised computation because of events and transactions occurring subsequent to the date of this report. This report is issued solely for your information and assistance in connection with the issuance of the Bonds. This report is not to be quoted or referred to without our prior written consent.

Very truly yours,

*The Arbitrage Group, Inc.*

# Exhibits

A. Escrow Cash Flow

B-1. Debt Service Requirements of the Refunded Bonds to Maturity

B-2. Debt Service Requirements of the Refunded Bonds to Early Redemption

# Escrow Cash Flow

*Crab Orchard--MacArthur Public Service District*

<u>Date</u>	<u>Beginning Cash Balance</u>	<u>Debt Service Requirements of the Refunded Bonds to Early Redemption</u>	<u>Ending Cash Balance</u>
03/27/08	\$3,949,468.67	\$3,949,468.67	\$0.00

# Debt Service Requirements of the Refunded Bonds to Maturity

*Crab Orchard--MacArthur Public Service District*

<u>Date</u>	<u>Principal</u>	<u>Coupon Rate</u>	<u>Early Redemption Premium</u>	<u>Interest</u>	<u>Debt Service Requirements of the Refunded Bonds to Maturity</u>
04/01/08				\$103,672.50	\$103,672.50
10/01/08	\$130,000.00	4.950%	1.000%	103,672.50	233,672.50
04/01/09				100,455.00	100,455.00
10/01/09	135,000.00	5.050%	1.000%	100,455.00	235,455.00
04/01/10				97,046.25	97,046.25
10/01/10	145,000.00	5.150%	1.000%	97,046.25	242,046.25
04/01/11				93,312.50	93,312.50
10/01/11	150,000.00	5.250%	1.000%	93,312.50	243,312.50
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10/01/12	160,000.00	5.500%	1.000%	89,375.00	249,375.00
04/01/13				84,975.00	84,975.00
10/01/13	170,000.00	5.500%	1.000%	84,975.00	254,975.00
04/01/14				80,300.00	80,300.00
10/01/14	180,000.00	5.500%	1.000%	80,300.00	260,300.00
04/01/15				75,350.00	75,350.00
10/01/15	185,000.00	5.500%	1.000%	75,350.00	260,350.00
04/01/16				70,262.50	70,262.50
10/01/16	200,000.00	5.500%	1.000%	70,262.50	270,262.50
04/01/17				64,762.50	64,762.50
10/01/17	210,000.00	5.500%	1.000%	64,762.50	274,762.50
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10/01/21	260,000.00	5.500%	1.000%	39,875.00	299,875.00
04/01/22				32,725.00	32,725.00
10/01/22	275,000.00	5.500%	1.000%	32,725.00	307,725.00
04/01/23				25,162.50	25,162.50
10/01/23	290,000.00	5.500%	1.000%	25,162.50	315,162.50
04/01/24				17,187.50	17,187.50

# Debt Service Requirements of the Refunded Bonds to Maturity

*Crab Orchard--MacArthur Public Service District*

<u>Date</u>	<u>Principal</u>	<u>Coupon Rate</u>	<u>Early Redemption Premium</u>	<u>Interest</u>	<u>Debt Service Requirements of the Refunded Bonds to Maturity</u>
10/01/24	305,000.00	5.500%	1.000%	17,187.50	322,187.50
04/01/25				8,800.00	8,800.00
10/01/25	320,000.00	5.500%	1.000%	8,800.00	328,800.00
	<u>\$3,810,000.00</u>			<u>\$2,283,597.50</u>	<u>\$6,093,597.50</u>

# Debt Service Requirements of the Refunded Bonds to Early Redemption

*Crab Orchard--MacArthur Public Service District*

<u>Date</u>	<u>Principal</u>	<u>Coupon Rate</u>	<u>Early Redemption Premium</u>	<u>Interest</u>	<u>Debt Service Requirements of the Refunded Bonds to Early Redemption</u>
03/27/08	\$3,810,000.00	*	\$38,100.00	\$101,368.67	\$3,949,468.67
	=====		=====	=====	=====

\* Coupon rates are as shown in the Debt Service Requirements of the Refunded Bonds to Maturity.



**Crab Orchard – MacArthur Public Service District  
Sewerage System Refunding Revenue Bonds,  
Series 2008A  
Closing Memorandum**

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To: Barry Milam  
Edward D. McDevitt, Esq.  
Sara L. Boardman  
Tripp Sheldon

Kathy Smith  
Rusty Akers  
John Stump

From: David Kirby

Re: Sources, uses and transfer of funds

Date: March 24, 2008

At nine o'clock, on Thursday morning, March 27, 2008, Branch Banking and Trust (BB&T) will wire transfer \$3,638,300 to United Bank, Inc., Charleston, West Virginia, as Escrow Agent for the Crab Orchard MacArthur Public Service District Sewerage System Refunding Revenue Bonds, Series 1996A Bonds, (the "1996 Bonds"). Wire instructions to the Escrow Agent are: United Bank, Inc., ABA No.051900395, Attn: Trust Department, A/C #800-5682, Contact: Julie Rhodes (304) 424-8894.

The West Virginia Municipal Bond Commission (the "Commission") will combine the entire balance of \$283,414.90 in the Crab Orchard - MacArthur Public Service District 96-A Sewer Ref Revenue Fund with \$27,753.77 of the total amount in the Crab Orchard – MacArthur Public Service District 96-A Sewer Ref Reserve Fund and wire \$311,168.67 to the Escrow Agent. Of the \$314,054.82 remaining in the Crab Orchard – MacArthur Public Service District 96-A Sewer Ref Reserve Fund, \$293,419.61 will be deposited with the Commission into the Crab Orchard – MacArthur Public Service District 2008A Sewer Ref Reserve Fund. The balance remaining, \$20,635.21, at the Commission will be applied by the Commission to the District's various reserve funds where requirements have not been met.

The Escrow Agent will combine the wire from BB&T with the wire from the Commission, totaling \$3,949,468.67 (the "Escrow Deposit") into the Escrow Account, to satisfy the requirement to refund the Crab Orchard MacArthur Public Service District Sewerage System Refunding Revenue Bonds, Series 1996A Bonds, (the "1996 Bonds") on Tuesday, April 1, 2008 (the "Redemption Date").

The Escrow Deposit will be held in cash to the Redemption Date, at which time the funds will be applied to defease the 1996 Bonds.

BB&T will also wire transfer \$74,515, representing the costs of issuance to United Bank, Inc., using the above referenced wire instructions. United Bank, Inc. will then make wire transfers and issue checks according to invoices submitted to them.

(continued on next page)

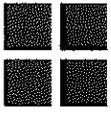
Sources of funds:

2008 bond proceeds	\$3,712,815.00
Cash on hand at the Commission:	
1996A Revenue Fund – P&I	168,693.00
Accumulated investment income at the Commission	114,721.90
1996A Debt Service Reserve Fund	<u>341,808.59</u>
Total sources	<u>\$4,338,038.49</u>

Uses of funds:

Deposit to 1996A Escrow Fund	\$3,949,468.67
Deposit to 2008A Reserve Fund	293,419.61
Costs of issuance	74,515.00
Surplus funds at the Commission released to the District	<u>20,635.21</u>
Total uses	<u>\$4,338,038.49</u>

If anyone has any questions, please feel free to contact me at 304-357-6508.



The Arbitrage Group, Inc.

**\$3,712,815**

**Crab Orchard--MacArthur Public Service District  
Raleigh County, West Virginia  
Sewerage System Refunding Revenue Bonds,  
Series 2008A**

